

Grants Determination Sub-Committee Tuesday 6 th February, 2018	
Report of: Debbie Jones, Corporate Director, Children's Services.	Classification: Unrestricted
Renewal of Service Level Agreements with Mudchute Farm and Friends of Tower Hamlets Cemetery Park	

Lead Member	Cabinet Member for Culture and Youth
Originating Officer(s)	Alice Bigelow
Wards affected	Bromley South, Bromley North, Mile End, Blackwall & Cubitt Town, Island Gardens, Canary Wharf
Key Decision	Approval of 3 year service level agreements from Parks revenue budget for Mudchute Farm and Friends of Tower Hamlets Cemetery Park
Community Plan Theme	A great place to live, A healthy and supportive community

Executive Summary

Mudchute Farm and Tower Hamlets Cemetery Park are unique, important and much loved open spaces managed by charitable community based organisations. They form part of the borough's physical heritage and are extremely significant community assets. In both cases, although the land is owned by the Council, the management has been in the hands of the community. For the Mudchute, this has been the case since the land was won as a park in 1974. For the Cemetery Park, the management has been community led since the formation of the Friends group in 1990. In both cases the open space is much loved and well used.

Tower Hamlets Council has provided the Mudchute Farm and the Friends of Tower Hamlets Cemetery Park with funding from the Parks Department's revenue budget in the form of service level agreements to support the management and maintenance of these important open space sites for many years. When the government commissioners left Tower Hamlets, the Council's Legal Department advised that these service level agreements should be treated as a grant. The purpose of this report is to seek approval for three year service level agreements to come from the Parks Department's revenue budget for these two organisations.

The funding of these initiatives fits within the delivery of the Council's Community Plan priorities and contribute to its four themes:

1. **A Great Place to Live**
2. **A Fair and Prosperous Community**
3. **A Safe and Cohesive Community**
4. **A Healthy and Supportive Community**

The service level agreements will particularly contribute to themes 1 and 4, by promoting:

Effective management and maintenance of open space and ensuring these spaces are accessible and welcoming to all.

The service level agreements will also support several of the Council's cross cutting priorities. Specifically:

- **Empowering residents and building resilience** – through encouraging residents to take responsibility for management of open spaces, developing programmes and delivering them
- **Promoting healthier lives** – through supporting unique open spaces and providing a range of programmes encouraging people to use them and take exercise
- **Responding to population growth** – by protecting open spaces in areas where huge population growth is anticipated

Monitoring and evaluation

Service level agreements will be monitored on a quarterly basis against the organisations' annual management plans. These plans include specific objectives for the year.

Recommendations

The Grants Determination Sub-Committee is recommended to approve two Service Level Agreements (appended) for the Mudchute Farm (£31,000 per year from April 2018 to March 2021) and the Friends of Tower Hamlets Cemetery Park (£31,900 per year from April 2018 to March 2021).

1. REASONS FOR THE DECISION

- 1.1 Mudchute Farm and Tower Hamlets Cemetery Park are unique, important and much loved open spaces managed by charitable community based organisations.
- 1.2 For many years, Tower Hamlets Council has provided the Mudchute Farm and the Friends of Tower Hamlets Cemetery Park with funding from the Parks Department's revenue budget in the form of service level agreements to support the management and maintenance of these important open space sites.
- 1.3 When the government commissioners left Tower Hamlets, the Council's Legal Department advised that these service level agreements should be treated as a grant.

2. ALTERNATIVE OPTIONS

- 2.1 Cease providing support for the maintenance and management of these sites.** This would have a very negative impact on these organisations and the valuable services they provide. Although, as is pointed out in section 3, the Council's contribution to the organisations income does not represent a high percentage of their turnover, the support of the local authority is essential for unlocking other funding sources, and cessation of this support could potentially have a negative knock on effect resulting in the reduction (or loss) of other funding. These projects are extremely valued by local residents, and well embedded in the community, and cessation (or, indeed reduction) of this support is likely to elicit considerable protest from local residents.

3. DETAILS OF REPORT

- 3.1** Tower Hamlets boasts two extraordinary, much loved and highly valued open space sites. Both of these sites are unusual in terms of what they offer, as well as that they are managed from within the community. The Mudchute Farm and Tower Hamlets Cemetery Park play unique roles within the open space portfolio of the borough. Both of these sites are owned by the local authority, but have both been managed by local charitable organisations for many years – in the case of the Mudchute, since the land was secured as a public park in 1974. In order to provide support to these organisations for the maintenance, upkeep and ongoing community access, the Council has had service level agreements with the Mudchute and Friends of the Cemetery Park over the past 20 years. Not only do these charitable community groups provide excellent value for money in the management of these unusual sites, but they increase the sense of community ownership and engagement with parks and open spaces.
- 3.2** In recent years, the government commissioners have paid particular attention to the Council's grants programme, and a number of questions have been raised since the commissioners have left about the way in which some funding should be treated. Although the funding for the service level agreements for these two sites comes from the normal Parks revenue budget, and there is no connection between this funding and the mainstream grants, the Council's Legal Department has advised that these service level agreements should be treated as grants.
- 3.3** The Mudchute Farm is one of the largest city farms in Europe, and in addition to offering a wide range of attractions for the local community, and is an area rich in wildlife and associated educational opportunities, it provides a uniquely untamed public open space in the heart of London's most developed area.
- 3.4** The Tower Hamlets Cemetery Park is one of London's 'Magnificent Seven' – a collection of 19th century graveyards constructed in a ring around what was at that time the centre of London. It is now a designated local nature reserve, open to the public. It resembles natural woodland, with many bird and insect species making it their home, although there are still a large amount of

gravestones and funerary monuments. It is currently managed by the Friends group.

Mudchute Farm Background

- 3.5 The Mudchute Park & Farm was established by the local community on the Isle of Dogs. Originally a piece of derelict land resulting from the spoil of construction from dredging Millwall Dock in the 19th century, this hidden natural wilderness of flora and fauna remained untouched for decades. In 1974 the site was earmarked by the Greater London Council for the construction of a high rise estate. The resulting public campaign against these plans reflected the affection that local people and those working on the Island felt for the Mudchute. Their success secured it as the "People's Park" for the area. Originally designated as land belonging to the Port of London Authority, the site passed into the ownership of Tower Hamlets Council.
- 3.6 In 1977 the Mudchute Association was formed to preserve and develop the area. It is a registered charity, governed by a Board of 15 Trustees who are all local people and represent the full range of interests of the local community. A lease was issued by Tower Hamlets to the Mudchute Association for the management of the land. In about 2000, a service level agreement was negotiated for the maintenance of the open space as a public asset.
- 3.7 The Mudchute currently runs an Equestrian Centre, an extensive educational programme, one of the largest inner City Farms in Europe, courses in a range of things from dog training to biodiversity and they work closely with Tower Habitats, the Biodiversity Partnership for the Borough of Tower Hamlets as well as wildlife charities such as Froglife to promote and conserve the site's wildlife.
- 3.8 Since the establishment of the Association, the Mudchute has steadily built a reputation for providing a variety of educational and leisure activities at the 32 acre site and currently employs almost 60 staff across various services. They estimate that they provide educational activity for over 12,000 children in 32 schools annually, involve 700 individual and 1200 corporate volunteers, run over 30 activity sessions and have over 15,000 visitors during the school holiday periods.
- 3.9 The Mudchute's annual income in the last financial year was about £1,261,000, of which just under £110,000 was in grants, the rest was self generated income. It should be noted that the SLA represents less than 2.5% of the Mudchute's income.

Tower Hamlets Cemetery Park Background

- 3.10 Tower Hamlets Cemetery Park is a historic cemetery located in Mile End. The cemetery opened in 1841 and closed for burials in 1966. It is regarded as one of the seven great cemeteries of the time (now known as the "Magnificent Seven"). It was originally named The City of London and Tower Hamlets

Cemetery but was called Bow Cemetery by locals. It is now a nature reserve, and other land has been added to the park, including "Scrapyard Meadow".

- 3.11 Tower Hamlets Council took over the ownership of the park in 1986. It was declared a Local Nature Reserve in May 2000 along with adjacent open land on Cantrell Road and Ackroyd Drive. It has also been designated as Site of Metropolitan Importance for Nature Conservation and a Conservation area. The high brick walls which surround it are on the national register of listed buildings as are 7 individual memorials (all Grade II).
- 3.12 The Friends of Tower Hamlets Cemetery Park (FoTHCp) are a group of local people who came together in 1990 because they were concerned over the increasing neglect of the site by successive owners. Their main objectives are to encourage greater use of this inner urban green space as a sanctuary for people and a place of biodiversity. The Friends manage the park under a service level agreement with the Borough.
- 3.13 A leaflet produced by the Friends guides visitors around the reserve and some of the more notable graves. The Friends estimate that they run 170 public events annually, involve 7000 school children a year learning about the environment and wildlife, receive 100 burial enquiries each year, and benefit from 3000 volunteers annually helping to undertake the grave recording, site maintenance and habitat management. The Cemetery Park is regarded by other historic cemeteries in London as the most effective at community involvement and wildlife management.
- 3.14 The project's total income for the year ending March 31st 2017 was approximately £141,500 with about £97,000 raised from grants and donations with the balance from self generated income, with the service level agreement representing approximately 25% of the organisation's turnover.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The report seeks the Grants Determination Sub-Committee approval to award an annual grant of £31,000 to Mudchute Farm and £31,900 to Friends of Tower Hamlets Cemetery Park for a period of 3 years from April 2018 to March 2021. If approved, the grant will continue to be funded through the renewal of the Service Level Agreement (SLA) with the two charitable community based organisations that manage open spaces within the borough.
- 4.2 Highlighted within the report are the benefits that the SLA provides the council contributing towards the community plan priorities, whilst providing the basis for objectives to be monitored. There is sufficient provision within the Parks budget to support the grants. However, the extent to which the grant funding of the community based organisations continues to remain a commitment will need to be considered alongside the Council's Medium Term Financial Strategy as part of the budget process in future years.

5. LEGAL COMMENTS

- 5.1 Whilst there is no strict legal definition of grant, a grant is in the nature of a gift and is based in trust law. However, grants are often given for a purpose so it is sometimes unclear whether a grant has been made or the arrangement is a contract for services.
- 5.2 There will be many grants which are made by the Council for the purpose of discharging one of its statutory duties. However, as a grant is in the nature of a gift, it is considered there must be some element of discretion on the part of the Council as grantor as to whom a grant is made to and whether this is made. If the Council is under a legal duty to provide a payment to a specific individual or organisation, and cannot lawfully elect not to make such a payment, then that should not amount to a grant.
- 5.3 In this case, the Council is not under a legal duty to make the payments and as the payments are discretionary, they are therefore considered to be grants.
- 5.4 There is a need to ensure that the Council has the power to make the grants in question. In that regard, the proposed grants are supported by the Council's general power of competence. Section 1 of the Localism Act 2011 gives the Council a general power of competence to do anything that individuals generally may do, subject to specified restrictions and limitations imposed by other statutes.
- 5.5 When considering whether or not to delegate the power to Corporate Director, Children's to make these payments, consideration should be given to the arrangements in place to ensure that the power that is exercised is consistent with its best value arrangements. The Council is obliged as a best value authority under section 3 of the Local Government Act 1999 to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness" (the Best Value Duty). Paragraph 7 below considers this. This means that the Council will have to ensure that any grant is made under terms that enable monitoring to demonstrate that the money achieves the appropriate outcomes for which it was given. This will be covered by the respective Service Level Agreements.
- 5.6 When implementing the scheme, the Council must ensure that no part of the funds issued represents a profit element to any of the recipients. The inclusion of profit or the opportunity of making a profit from the grant or third parties indicates that the grant is really procurement activity and would otherwise be subject to the Council's Procurement Procedures and other appropriate domestic and European law. This would mean therefore, that the Council would have failed to abide by the appropriate internal procedures and external law applicable to such purchases.

- 5.7 When making grants decisions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). A proportionate level of equality analysis is required to discharge the duty and information relevant to this is contained in the One Tower Hamlets section of the report.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The service level agreements make a number of references to equalities. Organisations are required to have Equal Opportunities policies, and special requirements are contained within the SLA to ensure the organisations actively promote participation and ensure access for people from ethnic and disability communities.
- 6.2 These service level agreements actively promote the involvement of local residents in managing open space. It creates opportunities for people from different communities to work together around a shared enthusiasm for open space, wildlife, animals, ecology and so on. Research has demonstrated that communities with a greater 'stake' in their areas are more likely to feel a sense of engagement and participation. Enabling local community groups, run by local people, to manage open space is an important tool to helping individual and group empowerment.
- 6.3 Tower Hamlets is a borough with high levels of deprivation and high population density. Although the wards in which these two open spaces are located are not the most deprived in the borough, the borough is a patchwork of areas of high and low deprivation, so access to green space is relevant across the whole of the local authority. Moreover, the population of Tower Hamlets is set to grow exponentially, particularly on the Isle of Dogs, where the Mudchute is located. In this context open space is essential. Not only does it offer a green 'lung' for the area and help mitigate pollution, but it offers residents an opportunity to come together in an era when children can no longer play in the street and the absence of a traditional town centre deprives communities of shared space.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 These two organisations provide excellent value for money. With low overheads and effective mechanisms to lever external funding, both are able to deliver a much more extensive and effective service than if the Council were providing it direct.
- 7.2 Both organisations bring in significant additional funding to the borough, and the Council's contribution constitutes a maximum of 25% of the organisation's turnover.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 Both the Mudchute and the Tower Hamlets Cemetery Park are important resources for the environment. Not only do these spaces provide sites for biodiversity (the Cemetery Park is designated Local Nature Reserve, a Site of Metropolitan Importance for Nature Conservation, and a Conservation area). Both open spaces work with local partners to promote biodiversity and provide information and habitats for wildlife.
- 8.2 Tower Hamlets is a borough with high levels of deprivation and high population density. Although the wards in which these two open spaces are located are not the most deprived in the borough, the borough is a patchwork of areas of high and low deprivation, so access to green space is relevant across the whole of the local authority. Moreover, the population of Tower Hamlets is set to grow exponentially, particularly on the Isle of Dogs, where the Mudchute is located. In this context open space is essential. Not only does it offer a green 'lung' for the area and help mitigate pollution, but it offers residents an opportunity to come together in an era when children can no longer play in the street and the absence of a traditional town centre deprives communities of shared space.
- 8.3 Both the Mudchute and the Friends of the Tower Hamlets Cemetery Park offer extensive environmental education programme for children, both through working with schools and by offering family-child-friendly activities during school holidays.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 Both the Mudchute and the Friends of Tower Hamlets Cemetery Park are long standing organisations, with positive track records of delivery and management of their open spaces.
- 9.2 The service level agreements require the organisations to provide annual management/ work plans against which performance will be monitored. The agreements also make provision for quarterly monitoring and meetings.
- 9.3 There is provision within the service level agreements for termination should the organisations fail to deliver what has been provided in the annual management/work plan.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 Parks and open spaces are often seen as magnets for Anti Social Behaviour. Young people with no place else to go may hang out in parks, making other users feel threatened (often inadvertently). People seeking quiet corners to take drugs or drink can find these secluded areas in parks. It is recognised that one of the ways of combatting Anti Social Behaviour in parks is to increase the presence of staff. One of the consequences about the community management of these two sites is that the community is able to provide much

higher (and more visible) levels of staffing that is possible in most of the borough's parks.

- 10.2 Many young people are involved in these two open spaces – as volunteers, visiting with parents or school, or simply as a place to hang out. The fact that these sites are managed by the local community – and that many young people are active participants in some aspects of this management is a good mechanism for reducing the risk of vandalism.

11. SAFEGUARDING IMPLICATIONS

The service level agreement requires the organisations to require staff to have DBS checks, and to comply with best practice in safeguarding and other applicable legislation.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Appendix A – Service Level Agreement 2018 to 2021 with Mudchute Farm
- Appendix B – Management Plan-work programme for Mudchute Farm
- Appendix C – Map showing Mudchute Farm
- Appendix D – Service Level Agreement 2018 to 2021 with Friends of Tower Hamlets Cemetery Park
- Appendix E – Management Plan-work programme for Friends of Tower Hamlets Cemetery Park
- Appendix F – Map showing Tower Hamlets Cemetery Park

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

None

Officer contact details for documents

N/A