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Ms. Jean Mary Hutton Charsley
Director
Belgrave Community Garden Ltd.
(By email)

Email: OPTS@kltr.gov.uk
Website: <http://www.kltr.gov.uk>

Our ref: BV 2104/19

Date: 23 July 2024

Dear Ms. Charsley,

**PLOT OF LAND TO THE REAR OF BELGRAVE TERRACE, GLASGOW -
"THE PROPERTY" CASE NUMBER: BV 2104/19**

A Notice of the King's and Lord Treasurer's Remembrancer's ("KLTR") decision under the Ownerless Property Transfer Scheme ("OPTS") in relation to the property is attached.

The KLTR has considered the application from Belgrave Community Garden Ltd. ("the Applicant") to acquire the Crown's interest in the property and is not satisfied that it meets the criteria set out in the Ownerless Property Transfer Scheme. The KLTR does not intend to progress the potential sale of the property to the Applicant under OPTS.

We appreciate this will be disappointing for the Applicant and unsuccessful applicants are encouraged to seek further feedback and/or discuss any concerns they have with the OPTS Casework Team in the first instance. Any applicant who wishes to make a formal complaint about the OPTS process should refer to our complaints policy: [KLTR Customer Complaints and Feedback Policy | KLTR](#). Please note our complaints procedure cannot be used to ask the KLTR to reconsider his decision.

The enclosed Notice sets out the reasons for the KLTR's decision. We would draw the Applicant's attention to the notes contained in the Notice providing information about the effect of this decision. A copy of this letter has been sent to Glasgow City Council for their information.

Yours sincerely,

PAUL MCGUIGAN
On behalf of the KLTR



Notice by the Kings and Lord Treasurers Remembrancer: Ownerless Property Transfer Scheme (OPTS)

The King's and Lord Treasurer's Remembrancer ("KLTR") has considered the application by Belgrave Community Garden Ltd. (SC747365) (the "Applicant") to acquire the Crown's interest in the plot of land to the rear of, Belgrave Terrace, Glasgow (the "Property"). The KLTR is not satisfied that the application meets the following OPTS criteria and, as a result, is not minded to transfer the property to the Applicant:

1. Intended Owner
2. Public Interest
3. Definition of Community
4. Community Interest and Support
5. Sustainable Development
6. Project Funding and Viability

The reasons for this decision are as follows:

1. Intended Owner - Satisfied

The Applicant is an appropriately constituted community body for the purposes of OPTS.

The KLTR is satisfied that this criterion is met.

2. Public Interest - Not Satisfied

The factors considered in relation to public interest do not demonstrate that a transfer of the Crown's interest in the property to the Applicant would be in the public interest for the following reasons:

While the application was broadly aligned to the aims and objectives of OPTS with the proposed use of the property as a community space, the KLTR shares the OPTS Advisory Panel's ("the Panel") concerns over the lack of evidence from the Applicant on community support, wider engagement with other groups, forward planning in terms of use (such as a business plan), activities, growth, sustainability of resource and ongoing financial details.

The KLTR also shares the Panel's view on having limited confidence that the Applicant can take forward the project in the longer term, given the lack of support available to the key member and, in particular, the concerns relating to Criterion 6 (Project Viability) below.

Given the above, the quality of the application and the Panel's lack of confidence in the Applicant taking forward its proposals, the KLTR is not satisfied that it is in the public interest to transfer the property to the Applicant.

The KLTR is not satisfied that the Public Interest criterion has been met.



3. Definition of Community - Satisfied

The application contained a list of 52 postcode units within the G12 postcode area to define the local community, accompanied by a map clearly showing the extent of the community boundary. These postcodes encompass properties within an approximate 400m radius from the property and the defined community comprises between 60 - 70% of the local Hillhead community.

The KLTR is satisfied that the Definition of Community criterion is met.

4. Community Interest and Support - Not Satisfied

The factors considered in relation to community interest and support do not demonstrate that a transfer of the Crown's interest in the property to the Applicant would be in the public interest for the following reasons:

- **Has the Applicant discussed plans with other local, regional or national organisations?**

The Applicant stated that the application was supported by a local Councillor, Glasgow City Council and two local residents' associations (Hillhead Area Residents Association (HARA) and Bank Street Area Residents and Traders Association (BARTA)). Letters of support from both Councillor Wardrope and GCC were provided in support of the proposal.

- **Is there demonstrable support for the project within the community? How has this been demonstrated?**

The Applicant provided very little information by way of demonstrating community interest and support for the application from within the defined community.

To demonstrate the wider community support, the applicant provided a flyer relating to a public meeting in 2008 and an appeal for assistance in relation to the garden distributed by Hillhead Community Council during the first quarter of 2024. This appeal elicited a reported fifty-two responses although only four responses were provided to the KLTR as evidence of support, 3 of whom were able to be confirmed as being members of the defined community. Despite numerous requests for further proof of support, no further evidence has been provided.

Section 4.4 on page 18 of the OPTS guidance indicates that community support must be secured within 6 months of the date on which the application is submitted. Any support relating to the 2008 public meeting is therefore irrelevant. Also, the KLTR notes that none of the four respondents evidenced were occupants of the adjoining tenements and no evidence was provided to suggest that those within these tenements, who would be most impacted by any proposals, had been consulted.

As there was no confirmation in the application of the number of eligible residents



within the defined community, it was not possible to determine the level of support from the application itself. However, the population of the defined community is approximately 25,000 residents, therefore, this equates to 0.01% support evidenced in the application.

While section 4.4 of the OPTS Guidance (Demonstrating Community Support) does not explicitly set a specific level of community support to be achieved, it indicates that the KLTR can accept less than 25% support if the scoring for other criteria is particularly high. In this case, the Panel agreed that the evidence provided did not indicate a sufficient level of community interest and support for the proposal and more could have been done to engage the community to gain support.

The KLTR is not satisfied that the Community Interest and Support criterion is met.

5. Sustainability & Environmental Impact - Partly Satisfied

The evidence provided in relation to sustainable development does not demonstrate that a transfer of the Crown's interest in the property to the Applicant would be in the public interest for the reasons outlined below.

The KLTR has considered all 3 pillars relating to sustainable development - social, economic and environmental - as follows:

- **Social**

As indicated in the application, a community garden should provide positive benefits to the community now and in the future if the community's aspirations are successfully delivered. The application indicates that the property has been used by various community organisations as a community garden for more than 10 years and that the Applicant's intention is to continue with this use. The Applicant indicated that it is hoped that, by maintaining the use of the property as a garden, future generations will benefit from having access to a green space and will learn new skills ranging from increased social interaction to garden maintenance. It was also noted in the application that elderly/disabled residents would have ready access to a secure green space.

The KLTR is satisfied that this part of the Sustainable Development criterion could be met.

- **Economic**

In conjunction with criterion 6 below (Funding and Viability), entry to the garden is free and there is no evidence of how the project will be sustained financially in the longer term, such as income streams to cover running costs, e.g. maintenance, annual insurance, etc. This is a particular concern as the Scottish Land Fund does not normally provide funding for ongoing costs.



The KLTR is not satisfied that this part of the Sustainable Development criterion has been met.

- **Environmental**

Retaining the property for the same purpose as at present has limited development value but retaining a green space within an urban area will be positive for the environment. However, evidence submitted included a presentation delivered by a local resident to Hillhead Community Council and Glasgow City Council in 2016 highlighting air pollution issues in the surrounding areas, whereas a subsequent air pollution report published by Glasgow City Council in 2020 indicated the streets closest to the property were showing 'low' measures of pollutant levels. While the KLTR is not satisfied that the evidence provided accurately reflects the local situation regarding pollutants, the KLTR is satisfied that some environmental benefit could be accrued should the Applicant's aspirations be delivered.

The KLTR considers this pillar of the Sustainable Development criterion could be met.

Given the above, the KLTR agreed with the Panel's conclusion that a moderate level of evidence had been provided in support of this criterion, but questions were raised in relation to what the project outcomes would actually be and, if successful, how the project would improve the local area.

On balance, the KLTR is satisfied that two of the three pillars of the Sustainable Development criterion have been met and considers that this criterion has been partly met.

6. Project Funding and Viability - Not Satisfied

The factors considered in relation to project funding and viability do not demonstrate a transfer of the Crown's interest in the property to the Applicant would be in the public interest for the following reasons:

The evidence provided in the application in relation to project funding and viability does not demonstrate that a proposed transfer of the property to the Applicant would be good value for money and, therefore, be in the public interest. The Applicant's failure to provide clear and consistent budget information in the application has been key to determining a not satisfied score for this criterion.

While the application as originally submitted indicated the costs for delivering the Applicant's aspirations would be around £20k, later e-mails in support of the application indicated that the costs amounted to around £35k, which reflected the value provided in the corresponding funding application to the Scottish Land Fund.

However, subsequent e-mails after the OPTS application was received by the KLTR indicated the costs had increased significantly to around £100k. Despite attempting to clarify the reasons for the increases, no final budget details were provided by the



Applicant and therefore the budget for this project could not be accurately assessed. The key concern shared by the Panel is the financial risk to public funds in transferring such a high value property in these circumstances. These accounting concerns are also shared by the KLTR's Accountable Officer.

Also, no clear income stream was provided by the Applicant to address the ongoing sustainability of the project in relation to ongoing costs, such as maintenance, insurance, security, etc., and more detail and clarity was required, particularly on the generation of future income.

The KLTR is not satisfied that the Project Funding and Viability criterion has been met.

In conclusion, there was a general lack of robust or sufficient evidence in the application across most criteria, particularly in relation to community support, forward planning, funding/project viability, and limited confidence that the Applicant could successfully take this project forward.

The KLTR is of the view that the Application is significantly below the required criteria and, as a result, the application has been rejected.



NOTES

In determining that the proposed sale of the property to the Applicant would not satisfy the OPTS criteria, the KLTR has taken into account all of the information available to him at the time the decision was taken.

The KLTR is not obliged to deal with or sell *bona vacantia* in any particular way, or at all. When *bona vacantia* is brought to the attention of the KLTR, he can choose to assert Crown rights over it but is not required to do so. For the avoidance of doubt, the KLTR reserves the option to change approach to *bona vacantia* that has been brought to his attention where it appears to him to be in the Crown's interest to do so.