

Ongoing Maintenance Provision

Leechwell Garden Association

Community Spaces Grant Application (Stage 2)

URN: JWES-7VGG56

Supporting Document No. 9
Ongoing Maintenance Provision
and Draft Memorandum of Agreement

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This document contains:

- A copy of a letter from Alex Whish of South Hams District Council outlining the maintenance agreement for the Leechwell Garden.
- a draft of the Memorandum of Agreement between the landowner, South Hams District Council, the Leechwell Garden Association and the Totnes Development Trust

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Please reply to: Alex Whish
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Mr Jim Carfrae
Leechwell Garden Associate
1 Ashleigh
Kingsbridge Hill
Totnes
Devon TQ9 5SZ

Your Ref:
Our Ref: L&R/AW/P/PPS-56
Date: 21st April 2010

Dear Mr Carfrae

Leechwell Garden – Community Spaces Grant Application

Further to my letter dated 29th March, I am writing to confirm a number of additional enquires on behalf of South Hams District Council (SHDC) in relation to supporting the Leechwell Garden Association's Community Spaces application. The project involves the creation of specific, community led, garden improvements and delivery of an informal natural play space.

I can confirm that SHDC has allocated a contingency sum of up to £5 000 should the application be successful.

The Leechwell Garden is owned by SHDC and will be managed with the support of the Community in accordance with District wide protocols and policies. This will include:

- Formal Garden areas, woodland and all other parts. These will be inspected as part of our current schedules under Asset Management. All New installations will be inspected and agreed for receipt prior to use with the appointed contractor and subject to the Contract particulars.
- Informal Play Space - The District will ensure that a Post Installation Inspection will be carried out in accordance with current EN and RPII guidance. The play space will also be scheduled for an Annual Inspection and as a minimum, monthly Operational Inspections. Any maintenance or repair will be undertaken by the District Council or relevant qualified craftsman.
- All Community operations and activities will be agreed and accord with the District's relevant documentation on Risk Management, and Health and Safety requirements.

Please do not hesitate to contact me if you require any further information

Yours sincerely

Alexander Whish
Landscape Officer
Landscape and Recreation Team

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Memorandum of Agreement Leechwell Garden, Totnes

1. Definitions

2. Parties

The parties to this agreement are South Hams District Council (SHDC), the Leechwell Garden Association (LGA) and the Totnes Development Trust (TDT). The constitution of the Leechwell Garden Association is appended at Appendix A. The constitution of Totnes Development Trust is appended at Appendix B.

3. Purpose

The purpose of this memorandum is to establish the partnership arrangements for the joint management of the Leechwell Garden. The Memorandum sets out the scope for joint working between the District Council, LGA and TDT, alongside the detailed operational and management procedures.

4. Dates of operation

5. Aims and objectives

SHDC, LGA and TDT aim to work together to establish a high quality public park at Leechwell garden. The agreed joint aims of the parties are to:-

1. Establish and maintain a park broadly in line with the agreed joint masterplan given at Appendix C.
2. Provide for public benefit for all, through agreed management arrangements, a space that is attractive and inviting to all members of the community
3. In particular to provide space for food production, biodiversity, quiet contemplation, interpretation of historic built environment and informal play

6. Site

The site is known as 'Leechwell Garden' and is as shown red on the attached Appendix D.

7. Site ownership

The land is in the freehold ownership of South hams District Council. The ownership is understood to include up to the centre line of the adjacent boundaries.

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8. Background

At the time of drawing up this Memorandum, the District Council has recently had the site of Leechwell garden returned to it following a partial closure of the site to provide a site compound for Midas Homes Ltd (during the development of adjacent housing by Midas Homes). The Leechwell Garden Association was formed in order to take forward the community involvement in the creation and subsequent management of the Leechwell Garden.

9. Membership

(status, termination, etc)

10. Information sharing

11. Responsibilities

South Hams District Council will retain the following responsibilities:

1. To retain ownership of the site as shown in Appendix D
2. To maintain general public liability insurance over the site and features on the site in accordance with its general insurance of public open spaces
3. To work with the Leechwell Garden Association, Totnes Development Trust and other community groups where appropriate.
4. To establish the site as a public park and to engender community ownership and responsibility for the site.
5. To draw up, in co-operation with the Leechwell garden Association and Totnes Development Trust, a Management Plan for this site to help guide the grounds maintenance and community involvement and to define the respective subsequent roles of SHDC, LGA and TDT.
6. To undertake grounds maintenance in relation to land and features on the site as agreed with the Leechwell Garden Association, Totnes Development trust and other community groups as appropriate (see paragraph 5 above).
7. To comply with all requirements of SHDC's Partnership Policy and Code of Corporate Governance

Leechwell Garden Association will assume the following responsibilities:

1. Manage its responsibilities in an orderly fashion in accordance with its constitution and all clauses and requirements therein.
2. Work constructively in co-operation with SHDC on the creation and subsequent management of the Leechwell Garden.
3. To undertake specified projects with the Leechwell Garden. These to be further defined but all such projects to be undertaken in accordance with the working protocol set out in Appendix E.
4. To undertake certain management works. These to be further defined and undertaken in accordance with the management protocol at Appendix F.
5. To maintain such insurance as is required to underwrite the projects or activities undertaken by the Leechwell Garden Association.

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The Locking and Control of the gates

LGA, and/or other community groups as agreed, shall be responsible for the locking of the gates between the following hours:

Totnes Development Trust will assume the following responsibilities:

1. To provide Trustee support at least to the completion of the project
2. To provide banking and administrative functions to the LGA
3. To accept residual responsibility for resolution if LGA ceases to exist

Joint and several responsibilities

(To include:

Communication, media contact, consultation etc)

12. Powers

13. Roles

14. Income

The initial development of Leechwell Garden is to be funded by the allocation of £155,000 of which £120,000 is to be from the S106 linked to the Midas homes development in Totnes Southern Area, £5,000 from Midas Homes for public art, and £30,000 from South Hams District Council 2008-2010 Capital Programme. The primary aim of this fund is to deliver the initial infrastructure of the Leechwell Garden. A programme of this infrastructure is to be agreed between SHDC, LGA and TDT. Any residual funds from £155,000 once initial infrastructure has been completed, is to be allocated to further projects within Leechwell Garden.

Funds for the initial infrastructure and subsequent projects from the £155,000 will be held by SHDC unless otherwise agreed.

The Leechwell Garden Association and the Totnes Development Trust, in conjunction with South Hams District Council, will seek to draw down additional funds to undertake specific further projects or activities in the Leechwell Garden. Such funds will be held by the Totnes Development Trust.

15. Project Procurement

SHDC is required to procure the infrastructure and subsequent projects in accordance with its financial regulations. At a minimum this would require three competitive quotations for any piece of work.

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Where LGA and TDT are procuring a project (either from the £155,000 or from subsequent funding) this should be done against an agreed “procurement monitoring and project delivery process” (see Appendix G) prior to commencement of the procurement and in agreement between the three parties. As a normal minimum, it should be done against an agreed written brief signed off by the relevant parties, prior to commencement of procurement and through the receipt and proper administration of a least three competitive quotations. If undertaken by SHDC, it shall be in accordance with SHDC financial regulations. If undertaken by TDT, it shall be TDT’s own financial regulations which would normally be expected to be in accordance with the SHDC financial regulations in relation to any specific procurement.

16. Expenditure

17. Meetings

(To include

- notice and frequency of meetings
- quorum rules
- chairing arrangements
- voting arrangements
- minutes and representation of other members)

18 Decision-making process

19. Timescales

20. Maintenance and review

There shall be an annual meeting between the parties called by LGA, at which the Memorandum of Agreement shall be reviewed and updated, where mutually agreed by the parties.

21. Amendments to partnership’s rules

22. Data protection

23. Redress, arbitration and penalties

24. Arrangements for dissolution

SH. 15.10.09