

Request for approval in principle to a Community Asset Transfer and Independent Community Library offer for Cleveleys Library and Children's Centre, Rossall Road, Thornton-Cleveleys, Wyre, Lancashire FY5 1EE.

Background

Cleveleys Library and Children's Centre was declared surplus to requirements at the Cabinet meeting held on the 8 September 2016. Cabinet also endorsed the proposed model for an "Independent Community Library Offer".

A detailed application was submitted by UR Potential who propose to take over the running of the building through the Community Asset Transfer process. In accordance with the Community Asset Transfer Policy, the assessment of the detailed application to date has focussed on:

- The proposals for the use and maintenance of the asset
- Information about the organisation such as legal status and governance arrangements
- The capacity of the community based groups to manage (and insure) the asset
- Financial resources / disclosure of connections / bankruptcies etc.
- Risks and management
- Benefits to the Council, the community based group and the wider community of the proposed future use

The proposals for CAT were established on the basis that in the first instance a transfer would result in communities taking on the full costs of running the building and/or providing any services and as a result, no financial support or otherwise will be available from the County Council once a transfer is complete. Further guidance on the terms of transfer was agreed by Cabinet at its meeting in August 2017. Other users of the premises would also be restricted to the granting of short-term sessional use licences so that no commercial relationship of landlord and tenant nature arises.

Where communities are interested in taking on responsibilities for both library service provision and the building asset, the Council will provide some additional help to communities who have submitted an expression of interest to take on Council-owned buildings and who wish to use those for the continued delivery of a library service, to local people, for the benefit of the community, as an addition to the statutory library service.

The initial offer to communities to help them become established as Independent Community Libraries includes:

- A one-off payment of £5000 to help communities with any initial costs of setting up independent provision
- Providing shelving
- Providing an initial supply of books from the Council's bookstore
- Advice and guidance from a Community Library Development Officer. This will be a time limited role in place to 31/12/2018 and will be primarily focused on skills transfer to enable communities to sustain provision in the long term.

When independent community library provision is operational the Council will continue to provide support through:

- An annual grant of £1000 to help the community to provide some form of public internet access
- Access to the Council's stock request service, enabling people to request additional books from the Council's library catalogue and for those to be delivered to the Independent Community Library, on a weekly basis, if required.

This report outlines the application for consideration in determining whether it should progress. Discussions with the organisation indicates that the disposal to the organisation is likely to contribute to the promotion or improvement of the economic, social and environmental well-being of the area and its residents.

UR Potential

UR Potential was established over seven years ago and has existing premises in Blackpool, which they have managed for four years. Their Directors and trustees have knowledge and experience in managing the finances of their organisation, buildings management and buildings maintenance. The organisation has disclosed a series of successful and in progress grant and funding applications. They have also identified funding from their reserves for any improvement work or developments they may wish to make should the asset transfer go ahead.

The organisation forms part of the One Lancashire consortium and operates extensively across Fylde and Wyre, supporting people in the local community. Early advice from procurement indicates that there won't be state aid or procurement issues but this will be an element of ongoing investigation. The organisation understands that they cannot deliver any existing or future LCC contracts from the site in Cleveleys or apply for LCC funding in relation to the site should the application be successful. This condition would be detailed in the Heads of Terms agreed for the site.

UR Potential's overarching aim is to develop a youth and community provision for people living in Cleveleys and the surrounding area. Their vision for the site is to have a vibrant community hub that is a centre of excellence in community cohesion and education. They also intend to use the site to deliver a number of objectives around accessible, community-based learning, reducing digital exclusion and social

isolation. The proposal includes an Independent Community Library which will be a universal provision and includes a children's and families corner. UR Potential aim to offer volunteering opportunities and support for job seekers through skills development and strengthened partnerships with the local job centre.

In order to better understand and serve local needs, UR Potential have already engaged with the community through social media groups and through face to face meetings with relevant individuals and community groups. To ensure that the building will continue to engage with and serve the needs of the local community UR Potential intend to bring together key stakeholders to develop an implementation plan for the development and future delivery/success of the building.

Implications

In giving approval in principle to the community asset transfer of Cleveley's Library and Children's Centre, an estimated capital receipt of £175,000 would be forgone. An agreement in principle to Community Asset Transfer is subject to each applicant organisation satisfying further financial interrogation in relation to financial projections for the long term sustainability of the proposal; the new legal operating structure to satisfy minimum legal requirements of Community Asset Transfer; agreement and approval of property terms of transfer; where required an agreement and approval of a transfer agreement (terms upon which the 'undertaking' (business, assets, contracts, employees etc. is transferred), a funding agreement and any associated loan agreement (books etc.) and all other due diligence checks being satisfactorily concluded.

All proposals and supporting business plans submitted as part of the Community Asset Transfer process will be subject to financial interrogation as part of due diligence, including credit checks of the organisation and/or individuals involved. In this instance, further interrogation of the financial projections will be required before Cabinet can give final agreement to the transfer can occur.

Section 123(1) of the Local Government Act 1972 provides that subject to the further provisions of the section, a council may dispose of land held by them in any manner they wish. Section 123(2) of that Act stipulates that except with the consent of the Secretary of State, a council shall not dispose of land under Section 123, otherwise than by way of a short tenancy (generally a tenancy for less than 7 years), for a consideration less than the best that can be reasonably obtained.

By virtue of the Local Government Act 1972: General Disposal Consent (England) 2003, the Secretary of State has given consent generally to a disposal for a consideration less than the best that can reasonably be obtained in the circumstances ("The Well-Being Provisions").

The circumstances are that:

- a) The Authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one, or more of the following objectives in respect of the whole or any part of its area, or of all or any persons resident or present in its area:
 - (i) The promotion or improvement of economic well-being.
 - (ii) The promotion or improvement of social well-being.
 - (iii) The promotion or improvement of environmental well-being and

- b) The difference between the unrestricted value of the land to be disposed of and the consideration of the disposal does not exceed £2,000,000 (two million pounds).

In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not a proposal falls within the terms of the General Consent, the County Council should ensure that it complies with normal and prudent commercial practices, including obtaining a view of a professionally qualified valuer as to the likely amount of undervalue. If applicable, the authority should have regard to its community strategy when exercising the Well-Being Powers.

Legal

Whilst the County Council does not generally perceive that there will be state aid or TUPE implications in respect of the majority of the community transfer assets, specific consideration will be given on a case by case basis.

The terms of a transfer will also be considered in line with the Community Asset Transfer guidance as agreed at Cabinet in August 2017. Consideration for the transfer is usually a nominal sum be it a £1 or a peppercorn. Restrictions and obligations as to use will be included within the lease and transfer and protected by various methods such as a legal charge, deed of covenant, right of pre-emption and right of re-entry. Where a building is transferred under the community asset transfer policy it shall be used for the purpose identified within the approved business case. Any substantial deviation from this will be by consultation with the county council.

All organisations will also be expected to satisfy the minimum legal entity requirements of the Community Asset Transfer process.

Procurement

The future use of a property will be restricted to ensure that the beneficiary organisation is not able to use that property in connection with the delivery of services on a commercial basis to LCC. This needs to be done to ensure that such organisations can continue to bid for LCC contracts in a way that does not see them given an unfair advantage compared with other potential bidders.

Recommendations

1. To approve in principle the community asset transfer of Cleveleys Library and Children's Centre subject to successfully meeting the criteria set out in the Community Asset Transfer Policy including among other items VAT implications and clawback provisions subject to final approval of the Cabinet.
2. To approve in principle the establishment of an independent community library at Cleveleys Library and Children's Centre subject to successfully meeting the criteria set out in the Community Asset Transfer policy.