

**OVERVIEW AND SCRUTINY COMMITTEE
20 SEPTEMBER 2016**

PART 1 PUBLIC DOCUMENT

AGENDA ITEM No.

15

TITLE OF REPORT: COMMUNITY CENTRE LEASES

REPORT OF THE STRATEGIC DIRECTOR OF FINANCE, POLICY AND GOVERNANCE

EXECUTIVE MEMBERS: COUNCILLORS TERRY HONE AND TONY HUNTER

1. SUMMARY

- 1.1 To present to Cabinet an update on negotiations in relation to the community centre leases for Walsworth Community Centre (Hitchin), St Michaels Community Centre (Hitchin) and Coombes Community Centre (Royston).
- 1.2 To provide recommendations on next steps in relation to each of the three community centres.

2. RECOMMENDATIONS

- 2.1 That Cabinet note the progress in relation to the Coombes Community Centre and agree that negotiations continue with a view to completing a new lease before 30 November 2016.
- 2.2 That Cabinet agree to more time for negotiations to be continued and progressed in relation to St Michaels Mount Community Centre. Should there be no substantive progress by 30 November 2016 then Officers be authorised to consider alternative management arrangements and uses for the community centre. This could include closing the Centre if there is no cost effective way of keeping it open.
- 2.3 That Cabinet agree to more time for similar negotiations (to Coombes and St Michaels Mount) be undertaken with Walsworth Community Association. Should there be no substantive progress by 30 November 2016 then Officers be authorised to consider alternative management arrangements and uses for the community centre. This could include closing the Centre if there is no cost effective way of keeping it open.
- 2.4 That Cabinet note that the negotiations to date and recommendations contained in this report are consistent with ensuring that the community and social benefits were considered, and balanced against the Community Halls Strategy.

3. REASONS FOR RECOMMENDATIONS

- 3.1 Lease negotiations have been conducted in accordance with the District Council's adopted Community Halls Strategy. That strategy recognised that with the increasing pressures on Council finances, the ability of the Council to continue to be responsible for all repair and maintenance for Community centres was unsustainable in the longer term. In an effort to support the on-going provision of Community centres, the Council sought to negotiate new leases to make the Community Centres responsible for repairs, maintenance and insurances and deliver value for money to the local Council tax-payer.
- 3.2 The outcomes of negotiations have varied between Community Centres, some Centres more able to accept new lease terms than others. Negotiations have remained amicable and additional third party independent support has been provided at the authority's expense. It is felt that a point may soon be reached where productive negotiations will have been exhausted, and alternative managements and arrangements may need to be considered. This could include closing the Centres if there is no cost effective way of keeping it open.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Details of specific lease terms that broadly comply with the Community Hall Strategy have been delegated to the Strategic Director of Finance, Policy and Governance in consultation with the Executive Members for Finance & IT and Community Engagement & Rural Affairs. The options will continue to be considered.
- 4.2 In respect of St Michaels Mount and Walsworth, Officers are seeking authority to look at alternative options around management arrangements and uses. This will only be used if further negotiations do not lead to substantive progress being made. This could include closing the Centres if there is no cost effective way of keeping it open.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 The Community Halls Strategy was adopted by Cabinet on 27 September 2011. This followed consultation on the Strategy with numerous parties, including District Councillor Members, Community Centre Managers and the general public.
- 5.2 Local Ward members have also been contacted to seek any initial general views they may have with regard to those community centres where lease negotiations are ongoing.

6. FORWARD PLAN

- 6.1 This Report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on the 1 August 2014.

7. BACKGROUND

- 7.1 The purpose of the Community Hall Strategy was to define North Hertfordshire District Council's role in the operation of existing community halls, provide a strategy for supporting those facilities in a sustainable way, and advise on the construction and operational management of new builds in accordance with anticipated housing and infrastructure developments up to 2031. The strategy includes that "*When community centre leases come up for renewal the Council will seek opportunities to agree a renewal on a repairs basis that is appropriate for the operation of the facility and provides value for money to the local taxpayer*".

- 7.2 An update on lease negotiations was provided to Cabinet at its meeting on 30 March 2016. This detailed that for three community centres, various discussions had failed to provide proposals in regard to their preferred lease term or sliding scale of payments, moving towards a repairs lease agreed by Cabinet. These community centres were Walsworth Community Centre and St Michaels Community Centres, Hitchin and Coombes Community Centre, Royston.
- 7.3 Cabinet resolved that:
- Ways should be sought of enabling investment in necessary works... to ensure facilities are in a reasonable standard of repair for lease negotiations to progress
 - Throughout lease discussions, officers [should...] ensure that the social and community benefits afforded by community centres are evaluated alongside any benefit derived from securing a full repairing or alternative lease arrangement
 - Authority to agree the precise terms of any leases to be taken forward be delegated to the Strategic Director of Finance, Policy and Governance in consultation with the Executive Members for Finance & IT and Community Engagement & Rural Affairs, and that these Members, together with appropriate officers, continue with discussions with the Community Centre organisations with a view to offering them a package for the new leases which broadly complies with the existing policy on Community Halls and which can be agreed by both parties
 - The deadline for the conclusion of the discussions/negotiations referred... above be fixed as August 2016, and if no agreement between the parties is reached by then, the matter be reported back to Cabinet.

8. ISSUES

8.1 Coombes Community Centre, Royston

- 8.1.1 Negotiations have continued, and have included discussions around capital investment, relaxing of restrictions on use and election/ public meeting usage. The community association have been sent a draft lease so that they are fully aware of the starting position on the terms.
- 8.1.2 Officers have now received a letter from the community association that they will agree to a full repairing lease, subject to:
- The Council provides capital works in three priority areas i.e. new car park, new windows and a new floor in the Sports Hall
 - Greater flexibility in usage of the space so that they can use up to 50% of the space for serviced office rentals
 - Changes to the treatment for election and public meeting usage
- 8.1.3 The cost of the three priority capital areas is estimated to be around £100k. There is provision within the current capital programme for these works. If a lease were agreed subject to the Council taking responsibility for these works, then a side letter to the lease could be issued to that effect.
- 8.1.4 Officers suggested that the Council would be open to the greater flexibility of use, as this would support the commercial viability of the centre. The design of the building is well suited to part of it being used for office space. The 50% clause means that there is still a focus on community use.

- 8.1.5 The community association are seeking for the Council to reimburse the direct costs that they incur in making the community hall available for election usage. There will need to be further negotiations on this point to remove or minimise any additional costs to the Council.
- 8.1.6 Overall there seems to be a good likelihood of being able to achieve a lease in line with the previous resolutions, and Cabinet are asked to note this and agree that negotiations continue with a view to completing a new lease before 30 November 2016.

8.2 St Michaels Mount Community Centre, Hitchin

- 8.2.1 Negotiations have continued, and have included discussions around capital investment, relaxing of restrictions on use and break clauses.
- 8.2.2 Officers have recently received a letter from the community association. The community association have fully reviewed the proposed lease terms, and have provided comments on where they feel that they can and cannot meet them. Their main concern relates to the current state of the property and future repair costs. They are seeking a lease that makes them responsible for internal repairs, but not external works.
- 8.2.3 The community association have also been reassured that the lease includes break clauses that would allow them to end the arrangement if they felt that had over-committed.
- 8.2.4 Given that the community association have gone to a lot of effort to review the lease terms, there is still a reasonable likelihood of further progress being made. This could include looking at capital items that the Council could fund from the capital programme, including the £1m allocation for the refurbishment and improvement of community facilities. Cabinet are asked to agree to more time for negotiations to be continued and progressed. Should there be no substantive progress by 30 November 2016 then Officers be authorised to consider alternative management arrangements and uses for the community centre. This could include closing the Centre if there is no cost effective way of keeping it open.

8.3 Walsworth Community Centre, Hitchin

- 8.3.1 As reported previously, the Walsworth Community Centre building is not in a good state of repair due to its age. The council has commissioned a condition survey on the building which shows that there are just under £100k of medium and high priority works required within the next five years, and a further £120k of medium and high priority works required within the next 25 years. This report can be shared with relevant parties, but has not yet been shared with the community association.
- 8.3.2 The previous report to Cabinet also detailed that the community association were unable to find new trustees and therefore would struggle to take on a repairing lease. It noted that another group had come forward and it was believed that a joint tenancy solution could be found. Discussions with this other group have taken place but it is no longer an option. This has meant that the direct discussions with the community association have not progressed as far as with the other groups.

- 8.3.3 The community association have recently made an application to the Council for the centre to be listed as an 'asset of community value (AoCV)'. Should this listing be successful, then in the event that the Council considered disposal of the centre, the AoCV regime would apply. This could include a moratorium period of up to 6 months during which the Council could not sell the property or grant a long lease (more than 25 years) to any tenant other than a community interest group (as defined by the AoCV legislation). Lease negotiations with both Walsworth Community Association and any other prospective tenants could still take place during this period.
- 8.3.4 To be consistent with the negotiations with the other two centres, it is proposed that some additional time is allowed to talk to Walsworth Community Association about the potential for capital funding over the next year, and relaxations on building use. Should this be unsuccessful, then officers would look to alternative groups and uses for the community centre. This would be consistent with ensuring that the community and social benefits were considered. This could include closing the Centre if there is no cost effective way of keeping it open. Approval is sought from Cabinet for this approach to be adopted.

9. LEGAL IMPLICATIONS

9.1 Cabinet has within its terms of reference at paragraph 5.6.1 of the Constitution to prepare and agree to implement policies and strategies other than those reserved to Council. This report relates to the implementation of a Council strategy, namely the Community Halls Strategy.

9.2 The powers relevant to the options set out in this report are:

- (i) Under S19(1) of the Local Government (Miscellaneous Provisions) Act 1976 a local authority may provide such recreational facilities as it thinks fit and specifically under S19(1)(d) of the same act, premises for the use of clubs or societies having athletic, social or recreational objects.
- (ii) Section 123 of the Local Government Act 1972 permits a local authority to dispose of land held by them in any manner they wish provided that a local authority may not dispose of land otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained unless the local authority has the prior consent of the Secretary of State. A short tenancy is a tenancy of less than seven years.

A general consent has been issued which permits a disposal at less than best consideration subject to the condition that the undervalue does not exceed £2,000,000 and that the disposal is likely to achieve any one or more of the following objects:

- the promotion or improvement of economic well-being;
 - the promotion or improvement of social well-being;
 - the promotion or improvement of environmental well-being.
- (iii) S1 of the Localism Act 2011 provides a general power of competence and gives local authorities the power to do anything that individuals generally may do provided that it is not prevented from doing so by any pre-existing legislative provision.

- 9.3 The District Council served notices, in accordance with the Landlord and Tenant Act 1954, on the three groups discussed in the report terminating their leases with the offer of new leases where the groups were to be responsible for repairs and so on. The 1954 Act sets out time limits which allow the parties to negotiate the new lease. The groups failed to apply to the Court within the time limits and as a result they have lost the right to a new lease on this basis.
- 9.4 The occupation by the tenants of St Michaels Community Centre, Walsworth Community Centre and Coombes Community Centre is currently formalised by a Tenancy at Will. Tenancies at Will can be terminated at any time, on a minimum of four weeks notice, by either the District Council, as landlord, or by the tenant.
- 9.5 By signing a Tenancy at Will the occupation of St Michaels, Walsworth Community and Coombes Community Centres is regulated so that both parties (landlord and tenant) know their respective responsibilities and what to expect from each other. The tenants in these three community centres no longer benefit from security of tenure under the Landlord and Tenant Act 1954, Part II. The District Council therefore has sufficient legal flexibility to pursue and implement the option of leasing to alternative tenants, once any notices to quit are served on the existing occupiers and the occupiers have vacated the properties.

10. FINANCIAL IMPLICATIONS

- 10.1 The Council has already borne the additional cost of third party independent specialist advice and support provided to each centre via the Community Development Agency for Hertfordshire. It has also borne the cost of a condition survey for Walsworth Community Centre.
- 10.2 There are sums allocated within the capital programme for council property improvements following condition surveys. There is also a £1m, (over 4 years) capital budget allocated for the refurbishment and improvement of community facilities.
- 10.3 Each Community Centre requires considerable investment, and therefore the District Council is seeking arrangements by which its future liabilities are reduced and managed.

11. RISK IMPLICATIONS

- 11.1 The risks relating to the renewal of lease agreements has been included on Covalent, the District Council's Performance and Risk software. The risk is described as "there is a risk that the Council will fail to agree a lease renewal or reach an agreement with the community centres. This would mean that Council Tax payers would continue to subsidise the operation of the facility and this would not be in line with the Council's agreed strategy".

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1 October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5 April 2011. There is a General duty, described in paragraph 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.

- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 Whilst the impact of whichever option or options Cabinet advise officers to progress will be subject to further review, it is important to consider that the provision of community centres remains a service which the Council has discretion to provide, or may provide through alternate means including through community management arrangements or community transfer. These should be seen in an enabling capacity, and afford the local communities in each location an opportunity to take on and run a facility as they see best, provided of course they meet the terms of any lease agreed. In assessing capacity and availability of premises, it should also be borne in mind that the Council is far from the only provider of community facilities; there are at least 47 managed halls, village halls and community centres in the district. Alongside other tertiary facilities that provide community services such as church halls and schools. Indications are that they still retain sufficient capacity to meet community demands.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Public Services (Social Value) Act was passed at the end of February 2012. Under the Act, public bodies in England and Wales are required to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area.
- 13.2 As the recommendations made in this Report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraph 14.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 There are no direct Human Resource implications to this Report apart from consideration of the constraints of officer time since the lease negotiations thus far.

15. APPENDICES

None

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

- 17.1 Cabinet report dated 30 March 2016.