

## **CABINET**

**15th January, 2008**

Cabinet Members  
Present:-

Councillor Ahmed  
Councillor Blundell  
Councillor Foster  
Councillor Mrs. Johnson  
Councillor Noonan  
Councillor O'Neill  
Councillor Sawdon  
Councillor Taylor (Chair)

Non-Voting Opposition

Representatives present:- Councillor Benefield  
Councillor Duggins  
Councillor Mutton  
Councillor Nellist

Employees Present:-

H. Abraham (Head of Democratic Services)  
S. Brake (Head of Policy and Business [Community Services])  
R. Brankowski (Customer and Workforce Services Directorate)  
A. Burton (Finance and Legal Services Directorate)  
B. Butterworth (City Development Directorate)  
N. Chamberlain (Finance and Legal Services Directorate)  
F. Collingham (Chief Executive's Directoate)  
A. Davey (Community Services Directorate)  
C. Green (Director of Children, Learning and Young People)  
R. Haigh (City Development Directorate)  
S. Lal (Customer and Workforce Services Directorate)  
J. Lewis (Finance and Legal Services Directorate)  
S. Manzie (Chief Executive)  
A. Maqsood (Community Services Directorate)  
N. McChesney (City Development Directorate)  
J. McGuigan (Director of City Development)  
J. Parry (Assistant Chief Executive)  
S Pickering (Director of City Services)  
C. West (Director of Finance and Legal Services)  
N. Weyman (City Development Directorate)  
M. Yardley (City Development Directorate)

Apologies:-

Councillor Ridley  
B. Messinger (Director of Customer and Workforce Services)  
K. Rice (Head of Legal Services)

## **Recommendations**

### **175. Declarations of Interest**

Councillor Blundell declared a personal interest in the matter referred to in Minute 176 below, headed "Coventry Heritage and Arts Trust Transfer". He remained in the meeting during the consideration of this matter.

### **176. Coventry Heritage and Arts Trust Transfer**

Further to Minute 89/06 from the meeting on the 3rd October, 2006, in which the future management options for The Herbert were considered and the recommendation of Trust Management agreed, the Cabinet considered a report of the Director of Community Services seeking approval for detailed work towards the transfer of a range of facility management and associated services into a new Heritage and Arts Trust.

The report indicated that an internal project team and the Cabinet Member Advisory Panel established pursuant to the above Minute have been working to progress this work.

External lawyers (LG Solicitors) have been appointed to provide legal support to the project, again in line with the recommendations referred to above.

The report outlined the suite of transfer documents, listed below, and implications of these:

- Scope of Services for Transfer
- Form of Trust, Name of Trust
- Memorandum and Articles of Association for the new Trust
- Transfer Agreement
- Funding and Management Agreement
- Equipment Agreement
- Loan Agreement
- Leases
- Pension Arrangements
- Support Services Agreement

The proposed name for the new Trust is The Coventry Heritage and Arts Trust and its proposed form is a company limited by guarantee, with the intention to seek charitable registration with the Charity Commission.

The appendix to the report submitted outlined the function of each key transfer document and its implications for the City Council.

The report itself expanded some of the key documents, one of which is the Memorandum and Articles of Association for the new organisation and this has been based on a model document for charitable companies. However, it has been adapted to ensure that it is "fit for purpose" for this particular project and incorporates the Council's objectives in terms of objects, flexibility, accountability and Board composition. Importantly, it has also been updated to ensure it incorporates the most recent changes introduced in

relation to the Companies Act 2006 and the Charities Act 2006, thus reflecting modern charity and company law, as well as best practise. The proposed structure is for a Board of between 11 and 15, including two nominated representatives from the local authority and one nominated representative from the staff.

The other key document is the funding and management agreement, which will set out the terms on which funding will be made available to the new charity, the terms and conditions of that funding, the Council's requirements in terms of services to be provided, the monitoring and review provisions and also the consequences of poor or non performance. It will also set out in what circumstances the funding agreement can be terminated and the consequences of termination, including the exit routes and hand-over arrangements.

Trustee recruitment to form a Shadow Board ready for transfer was undertaken in November 2007, following best practise guidance from a variety of sources. This included an open day to explain the opportunities, and an application process. Eight Shadow Board members have been appointed, pending references.

The new Trust will be responsible for delivering a range of facility management and associated services currently directly provided by the City Council. A business plan has been constructed to demonstrate how the Trust may deliver its obligations from the clearly-identified funding available (which will be within the current net revenue position). The plan has been compiled on the basis that there will be no additional net revenue commitment to the City Council, other than identified as part of the Policy Priorities and Resources (PPR) budget-setting process.

The report also detailed the legal and Transfer of Undertakings (Protection of Employment) Regulations implications of the project.

**After due consideration of the options and proposals contained in the report and matters referred to at the meeting, the Cabinet decided to commend the proposals in the report to the Council for approval.**

**RESOLVED that the City Council be recommended:**

- (1) To authorise the transfer of the following facilities and associated services to a new Heritage and Arts Trust from the 1st April, 2008:**
  - (i) The Herbert**
  - (ii) The Priory Visitor Centre**
  - (iii) The Lunt Roman Fort**
  - (iv) Local Archives Service (in the form of a local history centre)**
- (2) To negotiate exclusively with the new Heritage and Arts Trust.**
- (3) To approve the delegated responsibilities for the detailed work on the suite of transfer documents and authorise the Head of Culture,**

**Leisure and Libraries and the Cabinet Member Advisory Panel, with the Acting Director of Community Services and with input from other appropriate officers and advisors, to finalise the details of the suite of transfer documents prior to transfer.**

- (4) To approve the lease to the new Trust, for 30 years, of the premises for the above facilities at a peppercorn rent, being a "disposal at less than best consideration" in accordance with the Local Government Act 1972 General Disposal Consent 2003, it being noted that the appendix to the report submitted (a) referred to a potential 25-year lease (which consultation has extended to 30 years) and (b) pointed out that, if the undervalue is over £2m in total, the General Disposal Consent will not apply and a Specific Disposal Consent will be required from the Department of Communities and Local Government (DCLG).**
- (5) To agree that the Herbert Collection be loaned to the new Trust for their care and management in line with the Acquisitions and Disposals Policy of the City Council.**
- (6) To agree that the detailed negotiation of the TUPE transfer be delegated to the Head of Culture, Leisure and Libraries and appropriate legal and HR officers.**
- (7) To agree to nominate Councillors Blundell and Skipper to the Board, in line with the Memorandum and Articles of Association.**

**177. Housing and Planning Delivery Grant (HPDG) – Proposed Allocation Mechanism, Consultation Paper**

The Cabinet considered a report of the Director of City Development proposing a response to a consultation paper on Housing and Planning Delivery Grant – Allocation Mechanism, published by the Department for Communities and Local Government in October 2007.

Scrutiny Board 3 considered a briefing note on the Council's draft responses at their meeting on the 5th December, 2007 (their Minute 64/07 refers). Their comments related to the quality of homes provided and flexibility according to the needs of the area, including family homes, supported housing and sustainable housing, and they asked that these be included in the report to the Cabinet and the Council setting out the response to the Government. Those comments have been incorporated in the response to question 11, Appendix 2 of the report submitted.

The report reminded members of a similar paper submitted to the Cabinet on the 11th September, 2007 (Minute 77/07 refers) setting out the recommended Council's response to the HPDG consultation paper. The Council, at their meeting on the 18th September, 2007 (their Minute 54/07 refers) decided that, whilst accepting that the aims of the HPDG had some value, expressed concern that the proposals not only placed a greater emphasis on housing delivery within the planning system compared to other objectives (for example, assisting job creation, encouraging viable local centres, etc.) but

also put forward rewards based on numbers rather than quality.

The Government have now published a further consultation paper and responses are required by the 17th January, 2008. The HPDG is a £510 million fund to encourage improved housing delivery, including more effective planning, to better address local needs. This current consultation seeks views on how the Government proposes to allocate this funding over the next three years, and Appendix 1 to the report submitted contains a detailed summary.

The Government's proposed allocation mechanism for HPDG will have the following implications for Coventry:

- 967 housing units will have to be built in Coventry before the City Council is eligible for the grant.
- The amount of grant received by the Council will depend upon the number of units that are delivered above floor targets nationally.
- No funding for development control planning.
- Coventry will be expected to demonstrate delivery of at least a minimum proportion of its existing stock, which is proposed to be at least 0.75% of the stock.

The report highlighted the key differences between the Housing and Planning Delivery Grant and the Government's Planning Delivery Grant, which it replaces, and it set out the overall timeframe for the allocation of the HPDG.

In terms of finance, while it is clear that the new HPDG will have financial implications, it is very difficult at this stage to forecast the potential grant available to Coventry to support its housing growth on the basis proposed. The methodology proposed in the consultation would mean that Coventry's share would depend not only on its own performance but also the performance of other authorities.

Coupled with the fallout of grant funding to support development control, which will be replaced by a proposed increase in planning fees to cover this shortfall (albeit with the added risk of being demand-based rather than performance-based), further financial analysis will be required as the situation becomes clearer.

After due consideration of the options and proposals contained in the report and matters referred to at the meeting, the Cabinet:

- (a) Thanked Scrutiny Board 3 for considering this consultation in detail and for their comments incorporated in the report submitted.
- (b) Noted that the report had also been sent to all elected members at the same time as to the Cabinet and that further comments from individual councillors had been invited, for reporting to the Cabinet for their consideration.

- (c) Subject to the incorporation of any other appropriate comments, Approved the draft response to the consultation as set out in Appendix 2 to the report submitted and commended it to the Council for their approval.

**RESOLVED that the City Council be recommended to agree that the response to the consultation, as set out in Appendix 2 to the report, be submitted to the Department of Communities and Local Government (DCLG).**