
A separate report is submitted in the private part of the agenda in respect of this item, as it contains information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972 as amended. The grounds for privacy are that it refers to the identity, financial and business affairs of any particular person (including the authority holding that information) and it relates to information relating to an individual. The public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

Cabinet Member (Business, Enterprise and Employment)

20th October 2014

Name of Cabinet Member:

Cabinet Member (Business, Enterprise and Employment) – Councillor Maton

Director Approving Submission of the report:

Executive Director – Place

Ward(s) affected: St Michaels

Title: Land and Premises at Hertford Place Coventry

Is this a key decision?

No

Executive Summary:

The Council is the freeholder of the Henry Fry Centre, Hertford Place, Coventry (“the Centre”). The Council granted a 99 year ground lease in 1967 (“the Head lease”) to the Trustees of Coventry and Warwickshire Association for the Deaf (“CWAD”) who in turn granted the Council an under lease in 1976 of the whole of the building for the remainder of the 99 year term (“the Under lease”). These leases expire in fifty one years.

CWAD has continued to occupy the Centre since the under lease was granted. The Council previously provided social services direct from the Centre but withdrew services some time ago. Under the terms of the Under lease the Council is restricted in its use of the premises to that of a club for the deaf or for the delivery of social services.

Terms have been agreed whereby both the Head lease and the Under lease are surrendered by operation of law and a new 99 year lease is granted by the Council to CWAD with CWAD taking on full responsibility for the Centre. The 99 year lease will restrict use in the first instance to a non- residential institutional use.

As consideration for the Council passing on future liabilities to CWAD, the Council to make a one-off payment to CWAD. Thereafter the Council will no longer have any financial commitment in connection with the Centre under the terms of the Under lease. This proposal also has the benefit of allowing CWAD to continue using the Centre as a social and support facility for the deaf community in Coventry and Warwickshire, a role they are keen to continue.

Recommendations:

The Cabinet Member is recommended to:

1. Approve the one-off payment to CWAD, as detailed in the private report, subject to the surrender of both the Head lease and under lease and the grant of a new 99 year lease to CWAD.
2. Delegate authority to Executive Director Resources (Legal Services) to effect the surrender of the Head lease and Under lease complete the new 99 year lease and make the agreed one-off payment to CWAD as detailed in the private report.

List of Appendices included:

Appendix 1-Site Plan

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

1. Context (or background)

- 1.1 The Henry Fry Centre (“the Centre”) was constructed in 1966 by CWAD on land owned by the Council by way of a ground lease dated 18th September 1967 to the Trustees of CWAD for a term of 99 years from 1st April 1966 (“the Head lease”).
- 1.2 The Council took on responsibilities for running the building by way of an under-lease from CWAD dated 11th November 1976 of the whole of the building for the remainder of the 99 year term i.e. to 2066 (“the Under lease”). Despite the Council being a sub-tenant under the terms of the under lease, CWAD have continued to occupy the Centre as a club premises for the deaf.
- 1.3 Discussions have been taking place with representatives of CWAD in an attempt regularise their occupation of the Centre and terms have been agreed whereby both the Head lease and the Under lease are surrendered and a new 99 year lease is granted to CWAD under which CWAD take on full responsibility for the Centre. The lease would be restricted in the first instance to a non-residential institutional use but would include flexibility to move outside of this use. As consideration for the Council relieving itself of the on-going liability for the next 51 years under the terms of the Under lease the Council has agreed to make a one-off payment to CWAD. This on-going revenue saving will form part of the Strategic Property Review FSR savings target.
- 1.4 Your offices have delegated powers to accept surrenders where it’s in the Council’s best interest and grant new leases at best consideration. In view of the on-going annual saving officers consider this deal represents best consideration under the requirements set out under section 123 of the Local Government Act 1972.

2. Options considered and recommended proposal

- 2.1 The recommended option is to agree to the proposal, which involves the surrender of both the Head lease and the Under lease and the grant of a new 99 year lease to the Trustees of CWAD and make a one-off payment to CWAD. Not only does this option remove the Council from future contractual liabilities under the Under lease, it also allows CWAD to continue to run the Centre as a social and support facility for the deaf community in Coventry and Warwickshire, a role that it is keen to continue.
- 2.2 A second option would be to seek to establish the nature of CWAD’s occupation under Landlord and Tenant Act legislation through an application to the County Court with a view to the Court determining the terms of a lease that transferred responsibilities to CWAD. This process has commenced but the outcome is uncertain and would take at least 12 months to determine. At the end of the process CWAD could still walk away from the Centre and leave the Council with an on-going obligation and a restrictive lease. It is not recommended to pursue this option

2.3 A third option would be to do nothing and allowing the existing situation to continue with the Council continuing to have a contractual liability under the terms of the Under lease for the next 51 years. This option is not recommended.

2.3 It is recommended that the Council agree to the proposal and makes a one-off payment to CWAD in return for both the Head lease and the Under lease being surrendered and CWAD being granted a new 99 year lease.

3. Results of consultation undertaken

3.1 None undertaken.

4. Timetable for implementing this decision

4.1 Providing that Cabinet Member approval is secured it is expected that the payment will be made and the new lease completed within the next few months.

5. Comments from Executive Director of Resources

5.1 Financial implications

The annual on-going revenue saving will form part of the Strategic Property Review FSR savings target.

5.2 Legal implications

Officers consider that the proposed surrender and re-grant upon the terms detailed herein represent best consideration for the Council in accordance with the requirements under section 123 Local Government Act 1972

The Executive Director, Resources (officers within Legal Services) will complete the legal documentation in accordance with appropriate procedures and will make the payment to CWAD.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The saving outlined will contribute to the Council maintaining a balanced budget in the medium term thus helping to preserve services for the people of Coventry.

6.2 How is risk being managed?

The only risk is that CWAD do not complete the surrender and regrant. Until such time as it is the Council will continue with a court procedure to determine a lease in the absence of a voluntary agreement between the parties. .

6.3 What is the impact on the organisation?

The impact to the organisation will be minimal however it will generate additional work for officers within the Resources Directorate (Legal Services) in processing the case.

6.4 Equalities / EIA

An equality impact assessment is a process designed to ensure that a policy project or service does not discriminate against any disadvantaged or vulnerable people. Section 149 of the Equality Act 2010 imposes an obligation on Local Authorities to carry out an equality impact assessment when the local authority is exercising a public function.

No assessment has been undertaken as the proposal enables CWAD to continue to use the Centre as a social and support facility for the deaf community in Coventry and Warwickshire.

6.5 Implications for (or impact on) the environment None

6.6 Implications for partner organisations?

There are no partner implications

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Enquiries should be directed to the above person.

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Mark Godfrey	Deputy Director - Early Intervention & Social Care	People	30 th September 2014	1 st October 2014
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Finance: Phil Helm	Finance Manager - Place	Place Finance Team, Resources Directorate	30 th September 2014	30 th September 2014
Suzanne Bennett	Governance Services Team Leader	Resources	6 th October, 2014	6 th October, 2014
Director: Martin Yardley	Executive Director	Place	6 th October, 2014	6 th October, 2014
Members: Councillor Maton	Cabinet Member (Business Enterprise Employment)		6 th October, 2014	6 th October, 2014

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