

Committee: Cabinet

Date of meeting: 17 December 2020

Title of Report: Community Asset Transfer of the former Mirehouse Library – Grant of a Long Term Lease

Report by: Angela Jones, Executive Director – Economy & Infrastructure

Cabinet Member: Cllr David E Southward MBE, Cabinet Member for Economic Development & Property

Cllr Deborah Anne Earl, Cabinet Member for Public Health and Community Services

What is the Report About? (Executive Summary)

1. This report proposes a Community Asset Transfer as detailed below:

The grant of a long term lease (25 years) on a full repairing and insuring basis (FRI) of the former Mirehouse Library to Mirehouse Community Association Charitable Incorporated Organisation (CIO) (transfer at undervalue) for nil rent with an option for a future freehold conversion.

Recommendation of the Executive Director

2. Cabinet agree the grant of a long term lease (25 years) on a FRI basis of the former Mirehouse Library to Mirehouse Community Association CIO (Community Asset Transfer/Transfer at Undervalue) for nil rent.
3. Cabinet delegates authority to the Executive Director – Economy and Infrastructure in consultation with the Leader, Deputy Leader and Portfolio Holder, to finalise the detailed terms of and complete the long lease.

Community Asset Transfer Policy

4. Community Asset Transfer (CAT) means the management and/or ownership of public assets is transferred to community groups. For Cumbria County Council, this is one of the options available to support thriving communities who can benefit from assets owned by the authority that are now surplus to requirements. It can give local people and communities the opportunity to take greater control of assets in their local area.
5. Asset transfers will generally be by means of a long-term lease (between 25 and 99 years) or a freehold transfer, the terms of which will be agreed at the time of each individual transfer.
 - In some cases the Council will consider a short term lease (five years) to an organisation with a view to moving to a position where a long term lease would be sustainable or a freehold transfer where community benefit organisations can demonstrate enhanced community benefits.

6. When considering short tenancies, this is an Executive Director decision to be taken in accordance with section 123 of the Local Government Act 1972 and the power delegated in the Constitution.
7. The organisation taking ownership (leasehold or freehold) will be responsible for all issues associated with the use and operation of the property. For example:
 - Upkeep, repair and maintenance of the asset;
 - All running costs, including insurance;
 - Compliance with statutory and legislative requirements, including inspections and health and safety requirements and the Council's Safeguarding Policy.
8. In all cases involving transfer of ownership/occupation, appropriate mechanisms will be put in place to protect the financial and legal position of the Council, such as restrictions on use, clawback provisions and break clauses. For example, in the case of a long term lease we will write into such leases an appropriate provision (e.g. forfeiture or break clause) under which the asset would revert back to the Council, such as:
 - In the case of bankruptcy/insolvency;
 - In the case of corruption;
 - In case of non-payment of rent (if applicable);
 - In the case of non-performance of other terms such as breach of repairing obligations and unauthorised change of use (if applicable);
 - If the transfer agreement is breached;
 - If the organisation wishes to develop and move into bigger premises.
9. With freehold transfer of ownership the Council may also consider (in addition to the restrictions on use and clawback provisions referred to above), imposing a covenant on the asset limiting whether, when, how and to whom the asset may be sold on.
10. Alternatively in appropriate circumstances, the Council may agree to a business plan that sets out that the community group will sell the asset at some point and reinvest the proceeds in a more suitable asset. The position of the Council on such a disposal would be ensuring the benefits of the CAT would be improved by the proposed sale or transfer.
11. Qualifying Organisation/Group

A key consideration will be the sustainability of the organisation and its capacity to manage and develop the asset. The organisation shall:

- Be an appropriately constituted voluntary or community sector organisation which is a legal entity, or a legally constituted through a consortia agreement; (e.g. a registered charity, community interest company or charitable incorporated organisation, a not for profit company);

- Have a stable financial position and track record with a demonstrable financial plan. (The Council will wish to review copies of audited accounts and forward projections where appropriate);
- Exist for community/social/environmental/economic benefit;
- Be non-profit distributing – i.e. it must reinvest any surpluses to further its social aims/community benefits;
- Have stated community benefit objectives;
- Demonstrate strong governance by operating through open and accountable co-operative processes, with strong monitoring evaluation, performance and financial management systems; or where this is a newly constituted organisation demonstrating a robust governance framework;
- Demonstrate it has the skills and capacity within, or available to, its managing body to effectively deliver services and manage the asset;
- Have a specific plan on health and safety issues and compliance with legislation and any statutory requirements arising from transfer of the asset;
- Have a clear purpose and understanding of the activities it wishes to deliver and demonstrate how the asset transfer will enable and support these activities.

Background to the Proposal

12. This former Branch Library is in the centre of the Mirehouse area of Whitehaven surrounded by local facilities including churches, schools and neighbourhood shops. Mirehouse Community Association has been running a community café from this building since July 2018 following closure of the Library. The group has also used the building to host a series of short and long term community activities.
13. The Community Association have applied for a Community Asset Transfer because by having a long-term interest in the building it will allow them to obtain funding to carry out much needed alterations and improvements including a different heating system, new windows and a fit-for-purpose ventilation system.
14. Examples of the short and long-term community activities on offer by the Association from the building include:
 - Meal delivery to local social housing occupants.
 - Offering refreshments for the local Parkrun.
 - Volunteering opportunities for locals.
 - Providing a Men's Breakfast from the neighbouring St Andrew's Church.
 - Free soup for residents in food poverty.

- Running a Repair Café.
 - Weekly Knit and Natter group.
 - Hosting a men's weekly support group for which the Association received a West Cumbria Community Heroes Award in 2019.
 - During the Covid-19 outbreak the café has acted as a successful community food distribution hub.
15. Mirehouse Community Association's varied services from the former Mirehouse Library will contribute to Cumbria County Council's Council Plan 2018 – 2022.
 16. The proposal offers a link to Thriving Communities through joint working with Well Whitehaven and Public Health. Well Whitehaven aims to improve health and wellbeing in this area and will work with the Community Association to roll out a range of projects including a dementia café.
 17. Staff at the café are Mirehouse residents. They are well connected and 'look out' for their neighbours. A number of vulnerable people visit the café and enjoy the social aspect of being with other people in a friendly environment. The café provides support for health & wellbeing as well as offering activities to keep people happy and living safely in their community.
 18. This local community is designing and delivering solutions through Well Whitehaven and the social media group #MirehouseMatters. More than 2,000 residents access this platform and give feedback on ideas or identified needs in the community. These local needs and solutions to issues can be delivered through activities undertaken from this building.
 19. With a long-term lease Mirehouse Community Association will maintain and improve the building. The Association will also be responsible for compliance with statutory and legislative requirements, including inspections and health and safety requirements. Through the short-term arrangements they have had since 2018, the group have already demonstrated they can maintain and service the building.
 20. In accordance with the Council's Disposal Policy (incorporating Community Asset Transfers) the Local Committee for Copeland confirmed their support to the proposed transfer.
 21. It is recommended that the CAT is agreed on the basis of a 25 year lease with a freehold conversion option from the Council to Mirehouse Community Association.

Options Considered and Risks Identified

Option (a)

Cabinet to agree the leasehold disposal as proposed for nil consideration with an option to purchase the freehold

Option (b)

Cabinet does not agree the proposed CAT resulting in the following:

The former Mirehouse Library would be retained with ongoing revenue and capital liabilities or sold as a surplus property. The opportunity to support a local Charitable Incorporated Organisation who support the local community with their important services would be lost.

Risks

Option (a)

No risk identified and all maintenance liabilities transferred to the acquiring organisation/group.

Option (b)

Retention of this asset will result in ongoing revenue and capital (backlog maintenance) liabilities associated with maintaining the land and buildings.

The ability to offer a wider facility to the Whitehaven community from the building will not be delivered.

Reasons for the recommendation/Key benefits

22. Re-use of the former Mirehouse Library in the manner proposed will support the Council's Vision to be a Council that works with residents, businesses, communities and other organisations to deliver the best services possible within the available resources with particular reference to the aim that people in Cumbria are healthy and safe. As the demands on existing public services increase and budgets reduce, the ability of communities to design and deliver their own solutions on their own or jointly with organisations to meet their own particular needs will be increasingly vital to creating thriving communities.
23. Re-use of the former Mirehouse Library will support the Council's Vision to be a Council that provides leadership working effectively with communities and partners, to reform and integrate public services so that services are designed around the customer; and organisational and structural barriers are removed where possible. As the demands on existing public services increase and budgets reduce, the ability of communities to design and deliver their own solutions on their own or jointly with organisations to meet their own particular needs will be increasingly vital to creating thriving communities.

Financial – What Resources will be needed and how will it be funded?

24. The former Library building is currently owned by the Council and has a potential asset value of £0.030m. Should Cabinet agree to the proposed long-term lease (25 years) rather than disposal on the open market, then the potential capital receipt of £0.030m would be foregone by the Council.
25. Should Cabinet agree to the Community Asset Transfer at Nil consideration, the Council would not receive any lease income but could save approximately £0.010m per annum in revenue running costs of holding the building.

Legal Aspects – What needs to be considered?

26. The granting of a lease of more than 7 years and an option to purchase the freehold both constitute a disposal under section 123 of the Local Government Act 1972. Where the Council disposes of its assets, it is under a statutory duty pursuant to section 123 of the Local Government Act 1972 to do so at the best consideration (i.e. price) reasonably obtainable, unless a consent to a disposal at an undervalue has been obtained from the Secretary of State.
27. The Secretary of State has issued a general consent allowing local authorities to dispose of land at an undervalue where they consider that to do so will help to secure the promotion or improvement of the economic, social or environmental wellbeing of the area, provided the difference between the value of the land interest to be disposed of and the consideration being accepted by the authority (i.e. the undervalue) is £2,000,000 (two million pounds) or less and that the valuation process set out in the general consent has been complied with.
28. Cabinet may, therefore, rely on this general consent in relation to the disposal of its land if it considers that the wellbeing benefits outlined in the report justify the proposed disposal of the property. The Council's Disposal Policy states that any disposal at undervalue must be approved by Cabinet.

Health and Safety Aspects – What needs to be considered?

29. The County Council has a duty under the Health and Safety at Work Act 1974 to ensure that, as far as reasonably practicable, adequate health and safety management arrangements are in place for all County Council related services or assets.
30. This report includes consideration of health and safety responsibilities relating to a proposed community asset transfer. Paragraphs 7, 10 and 18 of the report includes reference that Mirehouse Community Association CIO will be responsible (via a long term lease arrangement) for compliance with statutory and legislative requirements, including inspections and health and safety requirements and responsibilities.

Council Plan Priority – How do the proposals contribute to the delivery of the Council's stated objectives?

31. To be a Council that works with residents, businesses, communities and other organisations to deliver the best services possible within the available resources.

What is the Impact of the Decision on Health Inequalities and Equality and Diversity Issues?

None identified.

Appendices and Background Documents

Appendix 1 – Site Plan: Former Mirehouse Library

Key Facts

Electoral Division(s): Mirehouse

Executive Decision	Key Decision Included in Forward Plan	Exempt from call-in	Exemption agreed by scrutiny chair	Considered by scrutiny, if so detail below	Environmental or sustainability assessment undertaken?	Equality impact assessment undertaken?
Y	Y	N	N	N	N	N

Approved by Cabinet Member/s on 03 December 2020

Previous relevant Council or Executive decisions

N/A

Consideration by Overview & Scrutiny

N/A

Background Papers

N/A

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