



CHELtenham

BOROUGH COUNCIL

Notice of a special meeting of Cabinet

Friday, 28 October 2016

5.00 pm

Municipal Offices, Promenade, Cheltenham, GL50 9SA

Membership	
Councillors:	Steve Jordan, Flo Clucas, Chris Coleman, Rowena Hay, Peter Jeffries, Andrew McKinlay and Roger Whyborn

Agenda

	SECTION 1 : PROCEDURAL MATTERS	
1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	PUBLIC AND MEMBER QUESTIONS AND PETITIONS These must be received no later than 12 noon on Monday 24 October 2016.	
	SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE <i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i>	
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
4.	OAKLEY RESOURCE CENTRE Report of the Leader	(Pages 3 - 10)
	SECTION 6 : BRIEFING SESSION <ul style="list-style-type: none">• Leader and Cabinet Members	

5.		BRIEFING FROM CABINET MEMBERS	
		SECTION 7 : DECISIONS OF CABINET MEMBERS Member decisions taken since the last Cabinet meeting	
		SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	
		SECTION 9 : LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS	
6.		<p>LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS The Cabinet is recommended to approve the following resolution:-</p> <p>“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 3 and 5, Part (1) Schedule (12A) Local Government Act 1972, namely:</p> <p>Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p>Paragraph 5; Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	
7.		PROPERTY MATTER Report of the Cabinet Member Finance	(Pages 11 - 30)
		Section 10: BRIEFING NOTES Briefing notes are circulated for information with the Cabinet papers but are not on the agenda	

Contact Officer: Rosalind Reeves, Democratic Services Manager, 01242 774937
Email: democratic.services@cheltenham.gov.uk

**Cheltenham Borough Council
Cabinet – 28 October 2016
Oakley Resource Centre**

Accountable member	Leader, Cllr. Steve Jordan
Accountable officer	Strategy and Engagement Manager, Richard Gibson,
Ward(s) affected	Oakley, plus neighbouring wards; Pittville, Prestbury, Battledown, All Saints
Key/Significant Decision	Yes
Executive summary	<p>Cheltenham Borough Council owns the freehold of the Oakley Resource Centre. The building is leased out in its entirety to Oakley Regeneration Partnership (ORP), who then sub-let the building to Oakley Neighbourhood Project (ONP) who in turn sub-let it to Cheltenham Borough Homes and Gloucestershire Care Services. ONP also deliver a range of community activities from the building and hire the meeting rooms out for external use. The building provides a valuable resource for the local community with an estimated footfall of 7,500 visitors per annum.</p> <p>On 14 September 2016, the joint trustees of ORP and ONP announced that they are undertaking the managed closure of both organisations. As part of this process, ONP staff have been put on notice with contracts terminating on 31.10.16.</p> <p>The council wishes to take steps to ensure that the community-side of the building remains open to the public from 1 November 2016 and this report sets out the following recommendations:</p>
Recommendations	<p>Cabinet resolves to:</p> <ol style="list-style-type: none"> 1. Agree to the early surrender of the lease between Cheltenham Borough Council and Oakley Regeneration Partnership to enable the Council to assume operational responsibility of the building from 1.11.16. 2. Delegate authority to the Head of Property Services to enter into a surrender agreement with Oakley Regeneration Partnership that protects the council's interests with regard to dilapidations, that permits entry for CBC staff onto the premises from 1 November 2016 and that ensures all rents paid in advance are divided appropriately between ONP and CBC. 3. If the surrender agreement is not in a position to be signed by 31.10.16, agree that CBC can take possession of the building from 1.11.16. 4. Delegate authority to the Head of Property Services to agree terms with Cheltenham Borough Homes Ltd and Gloucestershire Care Services to secure occupation by those

organisations until the expiry date of their existing sub-underleases, upon substantially the same terms as those in the existing sub-underleases granted by ONP to Cheltenham Borough Homes Ltd and Gloucestershire Care Services.

<p>Financial implications</p>	<p>The council currently foregoes a market rent of £48,000 on this property.</p> <p>ONP currently bring in rental income from CBH, Gloucestershire Care Services and a range of hire agreements for use of the meeting rooms. ONP also levy a service charge on tenants that recoups the running costs of the building. To 31 March 2017, the council will therefore gain 5 months rental and hire income from the building.</p> <p>To ensure that the council can ensure that the building is open to the public, a recruitment process has been started for a building supervisor, at a predicted cost of £8,000 to 31 March 2017. Initially, this will be funded via a budget virement from a salary underspend from within the Commissioning Division with a view that this will be compensated by income received once the lease is surrendered and rental income subsequently reverts to the council.</p> <p>Assuming that the council is able to recharge the majority of the running costs in service charges, it is estimated that taking on the building will bring a positive return to the general fund. The full financial implications of the decision will be captured in the budget setting report to Council in February 2017.</p> <p>Contact officer: Nina Phillipidis, Deputy s.151 Officer, GO Shared Services</p> <p>Nina.phillipidis@cheltenham.gov.uk, 01242 264121</p>
<p>Legal implications</p>	<p>CBC will put in place a binding agreement that if CBC does assume responsibility, ORP will honour the dilapidations. The trustees have indicated that they are willing to fund the dilapidations. Ideally the schedule of dilapidations should be completed prior to the surrender of the Lease so there remains no uncertainty as to the amount owed by the trustees on surrender.</p> <p>It is noted that there is an intention to provide custodian duties for the building. Although there are current employees of ONP that undertake custodian duties, this is not a substantial part of their main role, which is evidenced by timesheets and job functions. Therefore TUPE will not be triggered in this respect.</p> <p>Contact officer: Peter Lewis, Head of Law (Regulatory), One Legal</p> <p>Peter.lewis@teWKesbury.gov.uk, 01684 272012</p>

HR implications (including learning and organisational development)	<p>In order for the building to remain open and available to the local community, the council has commenced a recruitment process to recruit a Building Supervisor. This will be for a fixed term of 5 months to 31 March 2017. The post will sit within the Strategy and Engagement Team.</p> <p>Contact Officer: Carmel Togher, HR Business Partner</p> <p>Email: carmel.togher@cheltenham.gov.uk</p> <p>Tel: 01242 775215</p>
Key risks	<p>Unable to agree terms of surrender document with trustees</p> <p>Unable to agree dilapidations sum with trustees</p> <p>Unable to appoint suitable building supervisor by 31.10.16</p>
Corporate and community plan Implications	<p>A commitment to keeping the Oakley Resource Centre building open to the public will ensure that the council can continue to deliver the following outcome within the Oakley community:</p> <p>People live in strong, safe and healthy communities</p>
Environmental and climate change implications	<p>None identified</p>
Property/Asset Implications	<p>CBC currently does not receive any income from the ORP. By accepting the surrender and taking back the building CBC will receive income not only from the tenants, CBH and Glos. Care Services, but also from hiring out rooms to the community organisations that currently use the premises.</p> <p>However taking back the building will impact on cost and time in managing the property.</p> <p>Contact officer: David Roberts, Head of Property services</p> <p>David.Roberts@cheltenham.gov.uk</p> <p>01242 264151</p>

1. Background

- 1.1 Cheltenham Borough Council owns the freehold of the Oakley Resource Centre. The building is leased out in its entirety to Oakley Regeneration Partnership (ORP), who then sub-let the building to Oakley Neighbourhood Project (ONP) who in turn sub-let it to Cheltenham Borough Homes and Gloucestershire Care Services. ONP also deliver a range of community activities from the building and hire the meeting rooms out for external use. The building provides a valuable resource for the local community with an estimated footfall of 7,500 visitors per annum.
- 1.2 On 14 September 2016, the joint trustees of ORP and ONP announced that they are undertaking the managed closure of both organisations. As part of this process, ONP staff have been put on notice with contracts terminating on 31.10.16.
- 1.3 Therefore from 1.11.16 there will be no ONP staff present to open, close and

supervise the community part of the resource centre. CBH will continue to occupy the space on the first floor and to provide their reception desk on the ground floor.

2. Current lease arrangements

- 2.1 ORP occupy under a full repairing lease and the surrender will be subject to payment by the ORP of a subsequent agreed sum for dilapidations.
- 2.2 CBH lease will remain in occupation of the majority of the building until at least the expiry date of their lease on 31 March 2020 and pay the rent directly to CBC.
- 2.3 Gloucestershire Care Services currently occupy two rooms on the ground floor. Their leases expired in November 2014 and CBC is seeking to establish if they wish to continue in occupation under a new lease.

3. Reasons for recommendations

- 3.1 There is a high degree of resident interest in ensuring that the building remains open to the public. This has led to the council exploring options for how best it ensure that the community-side of the building remains open to the public from 1 November 2016.

4. Alternative options considered

- 4.1 A second option considered was to hold the Trustees to the terms of the lease which state that a surrender would require four months' notice. This option would have introduced considerable uncertainty as to whether the building would remain open and was therefore dismissed.

5. Consultation and feedback

- 5.1 A motion was presented to Council on Monday 17 October:

This council notes the decision of Oakley Neighbourhood Project and Oakley Regeneration Partnership to close due to the current finances being unsustainable. It further notes the substantial benefit to residents the project has had in the ward, which has some of the highest indices of deprivation not only in Cheltenham but the whole County.

The loss of services, provided by the project, will have a significant negative effect on the local community, which will almost certainly create greater demand on statutory services.

Therefore, this Council - which is most closely associated with the project, should call a meeting of the statutory bodies, CCG, the County Council, the Police, Cheltenham Borough Homes and other relevant organisations with an interest in the local area to identify what services are required and how best to deliver them. That this meeting is called with some urgency to ensure residents have some continuity. That council also ensures that local councillors are fully involved in the discussions.

- 5.2 Elected members recognised the value of the support that these organisations and their volunteers provided to the local community and the motion was passed unanimously.

5.3 In addition, there is strong resident opinion that the building remains open to serve the local community. Three petitions were handed in at the Council meeting and these are currently being considered by the Democratic Services Manager.

6. Performance management – monitoring and review

6.1 If approved by Cabinet, interim arrangements will be put in place to ensure the community-side of the building remains open to the public. These arrangements will be reviewed at regular intervals.

6.2 In addition, CBC and CBH are working to pull together a workshop of local agencies, stakeholders, ward Councillors and the local residents association to begin the conversation about how best we meet the needs of the Oakley community in the future.

Report author	Contact officer: Richard Gibson Strategy and Engagement Manager Richard.gibson@cheltenham.gov.uk, 01242 235354
Appendices	1. Risk Assessment
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the council is unable to agree terms of surrender document with trustees by 31.10.16, this will mean that the building is still in the legal ownership of the trustees on 1.11.16 meaning that unless the council takes early possession the community-part of the building will be shut to the public.	Richard Gibson	17.10.16	4	3	12	Reduce	Close working between legal advisors working for both CBC and the Trustees	31.10.16	David Roberts	
	If the deed of surrender is not in a position to be signed on 31.10.16, and the Council is takes early-possession of the building to ensure that the community-part of the building is open to the public, CBC will effectively have accepted the surrender of the lease this may jeopardise the securing of a sum of money from the trustees to fund dilapidations caused by the tenant's occupation of the resource centre over the past 8.5 years. The council may well have to fund the any dilapidations from its own funds. The final sum could be in the region of £20k.	Richard Gibson	17.10.16	1	4	4	Reduce	Close working between legal advisors working for both CBC and the Trustees	31.10.16	David Roberts	
	If the council is unable to appoint suitable building supervisor by 31.10.16, this may mean that the council does not have the capacity to	Richard Gibson	17.10.16	4	2	8	Reduce	Recruitment process underway and the job opportunity has been shared on websites and on social media. If the	31.10.16	Richard Gibson	

	provide operational management and therefore the community-part of the building will be shut to the public.							traditional recruitment process does not work, we will use an agency to find a suitable supervisor.			
--	---	--	--	--	--	--	--	---	--	--	--

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close

