

Cheltenham Borough Council
Cabinet– 15th October 2013
3rd Sector Assessment for the Gardens Gallery CIC
Proscenium Building, Montpellier

Accountable member	Councillor John Rawson
Accountable officer	David Roberts
Ward(s) affected	Lansdown
Key Decision	No
Executive summary	The Gardens Gallery is a Community Interest Company which provides art education and exhibition opportunities to the residents of Cheltenham and further afield
Recommendations	<p>It is recommended that Cabinet:</p> <ul style="list-style-type: none"> • Approves the grant of a Lease to the Gardens Gallery Community Interest Company for a term of 25 years at market rent and delegates authority to the Head of Property and Asset Management, in consultation with the Director of Resources and Borough Solicitor to negotiate such other terms of the lease as he considers necessary or advisable • Approves the 100% rental discount in accordance with the content of the 3rd Sector report attached as appendix 1

Financial implications	<p>Market rent is currently subsidised by a grant in accordance with the council's third sector policy. Should this continue there would be no financial impact on the General Fund. Vacant property costs would be incurred should the recommendations not be agreed.</p> <p>Contact officer: Nina Philippidis, nina.philippidis@cheltenham.gov.uk, 01242 775221</p>
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Legal implications	<p>The Council has to advertise the intended lease of the building in order to consider any objections to the proposal. This has been done and no objections have been received.</p> <p>Where the Council is disposing of land by way of lease for more than 7 years, it has to do so at the best consideration that can reasonably be obtained, although (subject to conditions) there is an exception to this where the Council considers the disposal to be for the economic, social or environmental well-being of its area or the inhabitants of it. It is proposed that the Lease be prepared on the basis of a full market rent, but a rebate will be awarded (if and so far as approved by Cabinet, and for so long as the tenant qualifies)</p> <p>Contact officer: Rose Gemmell, rose.gemmell@tewkesbury.gov.uk, 01684 272014</p>
HR implications (including learning and organisational development)	<p>None associated with this report</p> <p>Contact officer: Julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
Key risks	<p>If Cabinet does not approve the conclusion of the 3rd Sector report the Gardens Gallery may have to reconsider its occupation of the Proscenium Building leaving the Council with the liability of an unoccupied building</p>
Corporate and community plan Implications	<p>Leasing the premises to the gardens Gallery supports the Council's objective of community involvement.</p>
Environmental and climate change implications	

1. Background

- 1.1 On 1st June 2007, The Gardens Gallery CIC was granted a lease of the Proscenium Building for a term of three years. The lease permitted the organisation to use the building as an art gallery and exhibition venue. The organisation was presented a grant by the council which in effect netted off the rent for the property, so no payments of grant or rent were ever made or received. The Gardens Gallery CIC has been holding over on the lease since 31st May 2010
- 1.2 The use of the building has thus-far proved successful and the organisation has made a successful bid to Gloucestershire Environmental Trust for the installation of air-source heat pumps; a green energy solution that will reduce energy usage at the building. As part of the structure of the grant is that the Gardens Gallery be granted a lease of the premises for a further term of 15 years, it is recommended that the Council offer the tenant a term of 25 years at market rent, subject to a tenant break clause at year 15. Reviews of the 3rd Sector undertaking shall be taken in line with the rent review provisions of the lease; namely every 5 years.

2. Reasons for recommendations

- 2.1 The Gardens Gallery CIC provide a valued service to the people from Cheltenham and further a-field. The 3rd Sector summary which is attached to this report at Appendix 2 outlines the objectives the council expects from its 3rd sector tenants and the report highlights that the Gardens Gallery suitably fulfils these.

3. Alternative options considered

- 3.1 The Proscenium building had remained vacant and unused for some considerable time, refusing to agree the continuation of occupation by Gardens Gallery would result in the building becoming vacant, possibly for some considerable time, resulting in maintenance and repair costs, upkeep and commercial rates payments.

4. Consultation and feedback

- 4.1 Ward members have been appraised of the proposed renewal of the lease and no objections to the proposal were received. The statutory advertisement has appeared in the local press for two consecutive weeks and no objections were received.

5. Performance management –monitoring and review

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Appendices	1. Risk Assessment 2. 3 rd Sector Assessment
Background information	1.

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
	Rent abatement is rejected			5	1	5	Accept	No provision of rent abatement could result in the building being vacated, exposing the council to on-costs		DR	
	The tenant could fail to comply with its obligations under the lease.			3	1	3	Accept	The Council would require the tenant to comply with the lease or it could risk forfeiture		DR	
	The tenant could fail to maintain its compliance with the terms of the 3 rd Sector submission			4	1	4	Accept	The Council would seek to ensure that the tenant continued to offer a service commensurate with its obligations		DR	
	If the tenant fails to comply with the 3 rd sector assessment or support is withdrawn by the Council, the tenant would become liable for rent			5	1	5	Accept	If rent arrears were to accrue, the Council would be required to seek possession of the premises.		DR	

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

Guidance

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;
- Potential adverse equality impacts from the decision;
- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision
- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

Risk ref

If the risk is already recorded, note either the corporate risk register or TEN reference

Risk Description

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

Risk owner

Please identify the lead officer who has identified the risk and will be responsible for it.

Risk score

Impact on a scale from 1 to 5 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

Control

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

Action

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring or new controls or actions may also be needed.

Responsible officer

Please identify the lead officer who will be responsible for the action to control the risk.

For further guidance, please refer to the [risk management policy](#)

Transferred to risk register

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on