



Lease of African Caribbean Centre

Decision to be taken by: City Mayor
Decision to be taken on: 21 March 2023
Lead director: Matthew Wallace
Sean Atterbury

Useful information

- Ward(s) affected:
- Report author: Kathryn Ellis / Lee Warner
- Author contact details: 37 2578 / 37 3542
- Report version number plus Code No from Report Tracking Database: 1

1. Purpose of report

- 1.1 Following a consultation on the future running of the African Caribbean Centre (ACC) a decision taken in May 2022 to dispose of the ACC and seek community organisations who may wish to take over the running and maintenance of the ACC under the Council's Community Asset Transfer policy. An open market procurement exercise has been undertaken based on the provision of a core business case evidencing financial and governance criteria to provide an expanded community offer from the centre ensuring that any organisation applying has the means to run and maintain the centre at nil cost to the Council. The applications received have been assessed for consideration of the granting of the Council's CAT lease, with African Heritage Alliance being the successful bidder.

2. Summary

- 2.1 Following a consultation on the future running of the African Caribbean Centre (ACC) a decision taken in May 2022 to seek community organisations to take over the running of the ACC under the Council's Community Asset Transfer policy. A bidding process has been undertaken based around provision of business cases evidencing financial and governance criteria to provide an expanded community offer from the centre. The applications received have been assessed for consideration of the granting of the Council's standard CAT lease, with African Heritage Alliance being the successful group.

3. Recommendations

- 3.1 It is recommended that African Heritage Alliance be granted a 5 year full repairing and insuring lease for the African Caribbean Centre premises for a peppercorn rent (£1 pa if demanded) . This ensures the full responsibility of the running costs, maintenance, and insurance is transferred to the AHA for the full period of the lease.
- 3.2 Approval is sought to release £60k from the Black Lives Matter policy provision as a capital grant contribution towards the cost of maintaining the centre.

- 3.2 It is recommended to reflect the revenue saving of £150k in the approved budgets and budget strategy and reduce the budgets accordingly from April 2024.

4. Report:

- 4.1 A public consultation was undertaken between Tuesday 12th October 2021 and Sunday 21st November 2021 with the wider community, partners, and stakeholders to obtain further information on how the ACC is used and to seek views on how the centre should be run in the future. With regard to the future running of the centre, the majority of respondents who expressed a preference (53%) said they would prefer community organisations to be given the opportunity to take on the lease and running of the centre.
- 4.2 A decision was taken on 31st May 2022 to approve the African Caribbean Centre disposed of by way of a lease to community organisations under the Council's Community Asset Transfer policy.
- 4.3 Following initial introductory workshops submission of business cases were requested by 18th September 2022. The deadline was extended by two weeks until 2nd October 2022 due to a period of national mourning. Workshops were held with officers from Neighbourhood Services, Estates and Building Services and Voluntary Action Leicester (VAL) to help clarify the Council's requirements and to provide business planning support to community groups. A set of criteria was provided against which bids would be assessed.
- 4.4 By the closing date two organisations had submitted business cases for the property. These were assessed by Estates and Building Services and Neighbourhood Services officers against the principles of the Council's CAT policy and the specific criteria provided.
- 4.5 Following assessment of the applications African Heritage Alliance has been selected as the preferred bidder to be offered suitable lease terms.
- 4.6 African Heritage Alliance (AHA) are a constituted Community Interest Company (CIC) with a business plan concentrating on serving the needs of the African and Caribbean heritage community and strengthening the ongoing connection of the African and Caribbean Community with the building and community through the provision of education, support and welfare facilities. The organisation will support existing users of the community centre and encourage expanded community use and benefits with opportunities for user groups to book hire rooms to meet their needs. The AHA will also promote and deliver new community initiatives such as social activities and the establishment of health and wellbeing, food, education support and childcare related services.
- 4.7 The site is to be offered on a 5-year full repairing and insuring lease with the organisation for a peppercorn rent at £1 pa (if demanded). The business

- case supporting the lease will be reviewed annually to ensure the group are meeting their obligations under the lease and continuing to provide the benefits to the community highlighted within the business case.
- 4.8 The Council will make a grant contribution of £60k towards the running and maintenance costs of the ACC during the first year of the lease. This is to enable the AHA to build a sustainable income stream from the operation of the building community room in year 1, provide for the smooth handover of a complex building and to become fully self-sustaining from year 2 of the lease.
- 4.9 The Council's position in protecting the continuation of availability of this site for existing and new community users will be ensured through the inclusion of the group's stated business plan in the lease. In addition the user clause will ensure that these buildings remain accessible to the whole community with any failure to comply with the ethos of transfer resulting in the activation of a landlord break clause to end the lease if the organisation fails to deliver the services offered in the bid, or alternatively the rent may revert to a market level to reflect any reduced compliance. Additionally, the arrangement will be monitored and the building inspected in line with ensuring compliance with the lease and stated business aims annually.
- 4.10 The proposed letting is at less than best consideration as the property has not been fully available in the marketplace with only community organisations being invited to bid based upon a restrictive user clause. The General Disposal Consent enables the Executive to undertake such lettings based upon the social wellbeing benefits they would support provided that they meet certain criterion within the Localism Act 2011.
- 4.11 A revenue saving of £150k will be made by Council from April 2024 from the release of building running and staffing costs for the ACC.
- 4.12 Next steps will be to enter into practical discussions with the AHA to arrange for the handover of the ACC building within a reasonable timescale. This is anticipated be between 6 – 9 months to conclude.

5. Financial, legal and other implications

5.1 Financial implications (From decision to offer for CAT)

- 5.1.1 The proposed lease will result in annual revenue savings of £150k from April 2024 (with the potential for part year savings in 2023/24 depending on the final handover date). The building will be leased at less than best consideration, with the African Heritage Alliance taking on repairs and maintenance of the building as well as the day to day operational running costs. The Council will provide one-off support of £60k in the form of a grant, funded from the Black Lives Matter policy provision..

Stuart McAvoy, Acting Head of Finance

5.2 Legal implications

- 5.2.1 Following the Localism Act 2011, the Council adopted the Community Asset Transfer Policy to enable community groups the opportunity to have a greater control in their community governance. Any decision to dispose under the CAT Policy must ensure that the principles of the Policy are satisfied and that the Business Plan (agreed as part of the CAT Policy) forms the principal use.
- 5.2.2. In considering the disposals outlined in this report, the Council should have regard to its adopted Framework for Property Disposals to ensure the proposed disposal is compliant, and in addition the Council should ensure its fiduciary duty to its taxpayers is satisfied. The Council should also ensure that the deeds/leases contain appropriate provisions to ensure the site is used for the purposes of the disposal, particularly in respect of achieving any community benefits and that the respective business plans are complied with.
- 5.2.3. The proposal within this report recommends a lease of 5 years for a £1 peppercorn rent. The Council has a general legal obligation to dispose of land at the best consideration reasonably obtainable in accordance with s.123 of the Local Government Act 1972 (as amended). However, a lease of 5 years does not fall within the definition of disposal.
- 5.4.4. The Council also has the power to dispose of land and property at less than best consideration in accordance with the 2003 General Disposal Consent. In order to utilise the Consent, the Council must be satisfied that the proposed disposal will contribute to the social, economic or environmental well-being of the area in which the property is situated. The limit of the undervalue in respect of each individual site must not exceed £2m, which is unlikely to be the case with these proposals. On the basis of the information contained in this report, the proposed disposals would comply with the requirements of the Consent. If any proposed undervalue will exceed £2m then Secretary of State consent would be required for the disposal to proceed.

Zoe Iliffe, Acting Principal Lawyer, Legal Services – Ex 372180

- 5.4.5. There is the potential for the Transfer of Undertakings (Protection of Employment) ("TUPE") Regulations 2006 to apply to the transfer of the Centre.. If TUPE applies, then any organised grouping of employees assigned to providing the service at the Centre would transfer over to the community organisation on their existing terms and conditions. It will also be necessary for the organisation to offer the transferring employees continued access to the Local Government Pension Scheme.
- 5.4.6. Ongoing scoping work is currently being undertaken to ascertain the work of the staff engaged to work at the Centre to evaluate whether the TUPE Regulations will apply or any other staffing implications. It is

recommended that this work is completed prior to any transfer to ensure compliance with the statutory framework.

Julia Slipper, Principal Lawyer (Education & Employment), Tel: ext 6855

5.3 Climate Change and Carbon Reduction implications

5.3.1 There are limited climate emergency implications associated with this report, as it is not anticipated that the transfer of the centre to community control would significantly impact energy use and carbon emissions itself. However, it should be noted that the recent delivery of Salix-funded capital works to the centre, including LED lighting and window replacement, is already anticipated to significantly reduce the centre's carbon emissions and energy consumption and costs going forwards.

Aidan Davis, Sustainability Officer, Ext 37 2284

5.4 Equalities Implications

- 5.4.1 When making decisions, the Council must comply with the Public Sector Equality Duty (PSED) (Equality Act 2010) by paying due regard, when carrying out their functions, to the need to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act, to advance equality of opportunity and foster good relations between people who share a 'protected characteristic' and those who do not.
- 5.4.2 In doing so, the council must consider the possible impact on those who are likely to be affected by the recommendation and their protected characteristics. Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 5.4.3 This report recommends a Community Asset Transfer of the African Caribbean Centre to the African Heritage Alliance for a period of 5 years with supporting funds for the first year. Community run facilities can be more responsive to local need and can play a greater role in bringing together and furthering the social wellbeing or the social interests (cultural, recreational, or sporting interests) of the local community. Community-led ownership may offer additional opportunities to secure resources within a local area and to empower local citizens and communities.
- 5.4.4 The Council's Community Asset Transfer policy seeks to deliver benefits to the local community, benefits to the Council and other public sector service providers, and benefits for the organisation taking ownership.
- 5.4.5 An Equality Impact Assessment has been completed and identified areas to be mindful of with regards to the impact on protected characteristic

groups. From an equalities perspective, the most relevant consideration is that of benefits to the local community and in this case to ensure that the people accessing services there currently can continue to do so after the transfer. This has been captured in the EIA and subsequently in the service agreements. These equalities impacts identified should be monitored and any mitigating actions should be carried out.

Kalvaran Sandhu, Equalities Manager, Ext 37 6344

5.5 Other Implications – EBS property implications

- 5.5.1 As mentioned in Item 3.17, should the property become independently managed, EBS would seek reassurance of previous experience of management of a commercial property. The terms of a lease would detail which current landlord (Council) responsibilities would transfer to the tenant, and therefore knowledge of health and safety and other regulatory requirements, compliance and maintenance regimes would be an advantage. Careful and annual inspection that the group are meeting compliance in accordance with the law is essential.

6. Background information and other papers:

None

7. Summary of appendices:

None

8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

No

9. Is this a “key decision”?

No