

Cabinet Member for Finance

Agenda

Date: Monday, 19th August, 2013
Time: 10.00 am
Venue: Committee Suite 1 & 2, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relating to the work of the body in question. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

For requests for further information

Contact: Cherry Foreman

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4. **Listening Out Loud (LOL) Foundation - Disposal of 48 and 54 Lawton Street, Congleton** (Pages 1 - 6)

To approve the grant of a 25 year lease at a peppercorn rent to the Listening Out Loud (LOL) Foundation for the occupation of 48 and 54 Lawton Street, Congleton on terms and conditions to be determined by the Property Portfolio Manager and Head of Legal Services.

CHESHIRE EAST COUNCIL**Cabinet Member for Finance**

Date of Meeting: 19th August 2013
Report of: Property Portfolio Manager
Subject/Title: Listening Out Loud (LOL) Foundation - Disposal of 48 and 54 Lawton Street, Congleton
Portfolio Holder: Councillor Peter Raynes

1.0 Report Summary

1.1 The purpose of this report is to consider an expression of interest from the Listening Out Loud (LOL) Foundation to occupy numbers 48 and 54 Lawton Street, Congleton by way of a 25 year lease at a peppercorn rent.

2.0 Recommendation(s)

2.1 To approve the grant of a 25 year lease at a peppercorn rent to the Listening Out Loud (LOL) Foundation for the occupation of 48 and 54 Lawton Street, Congleton on terms and conditions to be determined by the Property Portfolio Manager and Head of Legal Services.

3.0 Reasons for Recommendation(s)

3.1 The disposal of the properties will minimise the Councils holding and operational costs relating to the said properties.

3.2 The disposal is supported by Local Members.

3.3 As detailed in 10.11 below the proposal by the LOL Foundation will assist with the provision of temporary housing within the Congleton area to ex-service personnel and is anticipated to have cost saving financial benefits to the Council.

4.0 Wards Affected

4.1 Congleton

5.0 Local Ward Members

5.1 Cllr Gordon Baxendale

Cllr David Brown

Cllr Roland Domleo

Cllr Andrew Thwaite

Cllr David Topping

6.0 Policy Implications (including carbon reduction and health)

6.1 The disposal will have a positive effect on the Councils carbon reduction targets.

7.0 Financial Implications (authorised by Director of Finance and Business Services)

7.1 The lease terms will seek to ensure that all related operational management costs (including all Repairs & Maintenance) will be borne by the LOL Foundation. Some insurance costs may be incurred by CEC however these will be recharged to LOL.

7.2 The disposal will result in a reduction of a holding costs relating to the Councils surplus properties. The 2013-14 revenue budget for 48 and 54 Lawton Street is £11,114 (FYE).

7.3 Through the grant of a 25 year lease the Council will forgo an immediate capital receipt of £100,000+ from the freehold disposal of the said properties which will have a negative effect on the 2013/14 Disposals Target of £12 million. However, the full year budget savings from a reduction in holding costs will contribute towards the savings target for accelerated disposal (£300k).

7.4 The Council will retain the asset value of the properties in question for potential disposal or otherwise when the Lease comes to an end.

8.0 Legal Implications (authorised by Borough Solicitor)

8.1 In accordance with section 123 of the Local Government Act 1972 the Council is under an obligation to obtain the best consideration reasonably obtainable upon the disposal of its property. A lease for a term of more than 7 years is a disposal.

8.2 Local authorities are able to dispose of land and buildings at less than the best consideration reasonably obtainable under the General Disposal Consent (England) 2003, if the difference between the unrestricted value of the land and the consideration for the disposal does not exceed £2 million and where the purpose for which the land is being disposed of is likely to contribute towards the achievement of the promotion or improvement of one or more of the following; economic well-being, social well-being and/or environmental well-being in respect of the whole or any part of its area or of all or any persons resident or present in its area.

8.3 As detailed in 10.11 below the proposal to provide accommodation by the LOL Foundation will assist with the provision of temporary housing within the

Congleton area to ex-service personnel and is anticipated to have cost saving financial benefits to the Council.

- 8.4 From the Councils experience of previous leases to charitable organisations there does not appear to be any potential difficulty or challenge available in relation to State Aid. Effectively the benefit of the Councils peppercorn rent will flow through the LOL Foundation on to the real beneficiaries who are members of the general public. The end beneficiaries themselves are not economic undertakings capable of receiving State aid and as such there is perceived to be no State aid issue. However officers will review this matter during the course of negotiations regarding the lease provisions.
- 8.5 In disposing of its assets the Council must behave prudentially to fulfill its fiduciary duty as a Local Authority.
- 8.6 The lease should restrict the use of the properties to that proposed by the LOL Foundation in accordance with its charitable objectives and the Council should require the right to break the lease in the event that the permitted use ceases to continue.
- 8.7 Officers will need to review the proposal of the LOL Foundation as to the type of temporary occupational sub-tenancies/ licences it will grant to satisfy themselves whether residents could have secure rights of occupancy when the lease to LOL expires or is terminated.

9.0 Risk Management Implications

- 9.1 The lease will be structured in such a manner that the properties will revert back to the Council in the event that the Lease terminates early for any reason and the LOL Foundation will not be permitted to assign or transfer the Lease..Dependant on the type of occupational sub-tenancies/ licences LOL will grant, residents could have secure rights of occupancy when the lease to LOL is terminated or expires.
- 9.2 The lease terms will ensure that all related operational management costs will be borne by the LOL Foundation.
- 9.3 There is a risk to the Council in that if it proceeds with the grant of a Lease at less than best consideration it could be challenged as to whether the grant of lease satisfies the “well being” powers which the Council would rely on in order to proceed in this manner.

10.0 Background and Options

- 10.1 The Listening Out Loud (LOL) Foundation is a charity which has been established to provide support with counselling needs, career support and long term housing issues to ex service personnel.

- 10.2 LOL Foundation is a registered charity, number 1149199, incorporated with Companies House number 08160106, registered address Bank House, Market Square, Congleton, CW12 1ET.
- 10.3 The LOL Foundation works predominantly within the Congleton, Macclesfield and the North Staffordshire area and supports ex-servicemen and women.
- 10.4 48 and 54 Lawton Street were purchased by the former Cheshire County Council in the 1980's as part of the linked provision of Social Services Day Care at the adjacent Carter House. The rationalisation process of the Building Based Review Project has resulted in these properties being declared surplus to the requirements of Adult and Children's Services, in addition to this the properties are not deemed suitable for the provision of other Council services.
- 10.5 Prior to the interest received in the properties from the LOL Foundation, 48 and 54 Lawton Street had been listed within the Council's Disposal Programme for 2013/14. It is anticipated that each of the properties would achieve a value of £50,000-£65,000 on the open market by way of sale at auction or tender.
- 10.6 The LOL Foundation is seeking to use 48 and 54 Lawton Street for the purpose of transitional housing for ex-servicemen and women. This involves the individuals moving from the initial assessment/emergency housing facility, it will be the first step towards independent living and will be achieved through the continuation of a support plan.
- 10.7 The properties will be converted into living space with individual bedrooms and common use areas such as bathrooms, lounges and kitchens.
- 10.8 Residents will occupy through formal tenancy arrangements. The Council will be required to approve the form of these tenancies.
- 10.9 The LOL Foundation has already secured accommodation through Adullam Homes in Canal Street, Congleton which provides temporary accommodation for six residents. They have plans to expand the level of provision to accommodate over 20 ex-service personnel.
- 10.10 The Strategic Housing Manager has been consulted on the request by the LOL Foundation and following liaison with associated strategic partner organisations it is considered that the scale of the proposed use does not create any detrimental resource issue to the existing support social and welfare infrastructure currently available within the Cheshire East area.
- 10.11 In relation to housing, ex service personnel are awarded priority under the housing act 1996 following an amendment in 2012. Ex service personnel do not have to demonstrate a local connection when presenting as homeless, therefore if the Council received a representation it would have to investigate and seek temporary accommodation and then if priority settled accommodation. There is a cost to this and research (York University) estimates that to take someone through the homelessness process costs in the region of £5k. If

accommodation is provided by the LOL this has the potential to save the Council costs as direct referrals can be made.

10.12 The LOL Foundation require a 25 year lease to enable them to justify the level of expenditure required for conversion and refurbishment for the intended use of the properties.

10.13 The proposed use of the properties will require planning permission for a change of the existing use of the properties. The grant of a lease of the properties to the LOL Foundation will be conditional upon planning permission being granted for change of use and compliance with all other all statutory requirements for the proposed use of the properties by the tenant.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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