

## CHESHIRE EAST COUNCIL

### REPORT TO PORTFOLIO HOLDER – REGENERATION & ASSETS

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**Report of:** Property Services Manager  
**Subject/Title:** Open Arms Youth Project  
**Date of Meeting:** 21<sup>st</sup> September 2015  
**Portfolio Holder:** REGENERATION & ASSETS

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#### 1.0 Report Summary

- 1.1 Open Arms Youth Project would like to sub-let part of their building to the Riverside Housing Association, who in turn would meet most of the costs incurred in occupying the premises.
- 1.2 If granted a sub-tenancy of part of the Open Arms Youth Project building, Riverside Housing Association would vacate their current office situated nearby, which would then be used as an affordable housing unit.

#### 2.0 Decision Requested

- 2.1 To simultaneously accept the surrender of the Open Arms Youth Project's lease and grant the Open Arms Youth Project a new twenty year lease on terms and conditions to be agreed by the Executive Director of Economic Growth and Prosperity.

#### 3.0 Reasons for Recommendations

- 3.1 The Open Arms Youth Project only have two years remaining on their existing twenty year lease and so are currently unable to sub-let part to the Riverside Housing Association for five years.
- 3.2 A simultaneous surrender and grant of a new twenty year lease, could allow the Open Arms Youth Project to sub-let part of their building to the Riverside Housing Association for a five year term.

#### 4.0 Wards Affected

- 4.1 Handforth

#### 5.0 Local Ward Members

- 5.1 Ward Members Cllr Burhill and Cllr Mahon were consulted and both in full support.

#### 6.0 Policy Implications including - Carbon reduction – Health

- 6.1 The opportunities for the local community would be greatly enhanced by retaining an estate based housing service and extend the use of the venue by hosting a range of additional facilities and services to form a robust Community Hub.

## **7.0 Financial Implications**

- 7.1 Granting a new twenty year lease on full repairing and insuring terms would ensure that the costs in maintaining, repairing and ensuring the building would be met by the tenant rather than by CEC.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers, however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.
- 8.2 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue is £2million or less, if the undervalue is higher than £2million consent to the disposal is required from the Secretary of State.
- 8.3 The Council has the power to grant a lease of the land pursuant to s123 of The Local Government Act 1972 subject to any disposal for 7 years or more being at the best consideration that can reasonably be obtained.
- 8.4 Notwithstanding the above powers the Council has a fiduciary duty to the taxpayers and must fulfil this duty in a way which is accountable to local people.
- 8.4 All disposals must comply with the European Commission's State Aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and the amount of the subsidy complies with State aid rules, failure to comply means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient. If the occupier receives less than approximately £155,000 (200,000 Euros) in state aid over a 3 year period then the De Minimis Regulation will apply (small amounts of aid are unlikely to distort competition).

## **9.0 Risk Management**

- 9.1 In accordance with legal advice above we perceive there to be no legal risk.

## **10.0 Background**

- 10.1 Open Arms Youth Project occupy their premises off Howty Close, Colshaw, Wilmslow (demise edged red on the attached plan appendix 1), by virtue of a twenty year lease which will expire on the 30th June 2017.
- 10.2 They requested Landlord's consent to sublet part of the building (area above the red line appendix 2), to Riverside Housing Association to use as a Housing Association Office. This request was authorised by way on an ODR dated 3rd October 2013 (appendix 3).

- 10.3 The Riverside Housing Association agreed to take on the maintenance liabilities of the building and take on most of the running costs of the building. This would allow Riverside Housing Association to vacate their current office and offer it as an affordable rental housing unit.
- 10.4 As Riverside Housing Association would be incurring costs in altering the building they would like a minimum term of five years to justify their expenditure. However as the Head Lease only has approximately two years left, The Open Arms Youth Project have requested a new twenty year lease to allow them to sublet to Riverside for a five year term.
- 10.5 The recommended method to progress matters would be to simultaneously accept the surrender of the Open Arms Youth Project's lease and grant the Open Arms Youth Project a new twenty year lease on terms and conditions to be agreed. As the request for the surrender and renewal has come from the Open Arms Youth Project we would expect them to be responsible for CEC's professional costs (including abortive costs if applicable), incurred as a consequence of the surrender and renewal.
- 10.6 The previously agreed ODR (appendix 3), provides that underlet be negotiated and agreed in accordance with the terms and requirements of the existing lease. The existing lease provided that during the first four years the rent was one peppercorn per year, then during the fifth year of the term a sum approved by the Surveyor (at his absolute discretion), not exceeding the sum of £5,337.00. This figure reviewed to today's date in accordance with RPI is £8,300.00. We propose negotiating market rent (subject to existing user and covenants), capped at £8,300.00 for the first five years, and reviewed to market rent every fifth anniversary of the lease, the cap being reviewed to RPI every fifth anniversary.
- 10.7 Under the Conveyance dated 5th August 1970, the County Council acquired the land "for educational purposes or such other purpose as will enable the purchaser to carry out its statutory duties and/or the provision of houses or flats but not for any other purpose whatsoever." Manchester City Council has a right of pre-emption should the land cease to be used for the original purposes, however they advised that in this instance that they do not wish to exercise their right.
- 10.8 The Open Arms Youth project are keen to further develop a range of activities to improve the facilities and services for youth provision to the local community and act as an integral delivery centre as part of the Community Hub.

An adult health clinic is well used at the centre and the proposed building designs will enhance the service provision for people requiring access to this facility.

Cheshire East Council Youth Support Service have been operating on the estate for a number of years, the improved layout of the building will support collaborative working with the housing provider to deliver new and improved services to impact on locally recognised priorities.

Vision Counselling services providing support to young people in the local area have plans to provide additional sessions at Open Arms with the immediate support of the housing provider.

## **11.0 Access to Information**

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

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