

Item No. 6.	Classification: Open	Date: 13 December 2016	Meeting Name: Cabinet (Livesey Trust) Committee
Report title:		The Livesey Trust, Annual report 2015-2016	
Ward(s) or groups affected:		All	
From:		Aileen Cahill , Head of Culture	

RECOMMENDATIONS

1. To note the report from Treasure House, Appendix 2, the current tenants of the Livesey Building.
2. That the Cabinet (Livesey Trust) Committee notes the draft head of terms for the lease of the Livesey building to Treasure House and agree to delegate the decision on the final heads of terms of the lease to the head of property.
3. That the Cabinet (Livesey Trust) Committee notes the proposals for making good the perimeter walls and the remains of a previous building in the garden and agree to delegate the decision to complete the repairs or agree to the proposed demolition of the old building in the garden to the head of property.
4. Agrees to take ownership of the south-eastern boundary wall by transfer from the council as local authority if it is declared as surplus to requirements by the council.

BACKGROUND INFORMATION

5. The Livesey building was bequeathed by George Livesey a local benefactor to the commissioners for public libraries and museums for the parish of Camberwell in 1890 as a free public library for the beneficiaries of the trust. The council became the legal owner and trustee of the building by way of statutory devolution. Over time the original objects of the trust have become defunct and the council therefore worked with the Charity Commission to expand the objects of the trust to include wider educational benefit for people in the local area.
6. On 12 April 2013 the Charity Commission approved the scheme for the Livesey Trust (No. 4038336). Under paragraph 4 of the scheme the trustee of the charity is the council of the London borough of Southwark ('the Council'). A copy of the scheme is attached to this report and marked Appendix 1.
7. The administration of the trust is an executive function. This is based on the fact that the relevant regulations, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that any function of the council is to be the responsibility of the executive (cabinet) unless specified otherwise by those regulations. There is nothing in the 2000 Regulations which states that the administration of a charity is not to be a function of the cabinet.

KEY ISSUES FOR CONSIDERATION

8. Assets of the Livesey Trust. The only assets of the trust are the land and building at 682 Old Kent Road (formerly known as the Livesey Museum for Children)
9. The building is used by a Community Interest Company Treasure House. Who occupy it under a tenancy at will at present.
10. The followings Heads of Terms have been provisionally agreed between the parties.

THE LANDLORD : **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK** of 160 Tooley Street London SE1 2QH **AS TRUSTEE OF THE LIVESEY TRUST**

THE TENANT : **TREASURE HOUSE (LONDON) CIC** incorporated and registered in England and Wales with Company Registration Number 07467487 whose registered office is at 7 Morley Street London SE1 7QZ

THE PREMISES : All that building known as the Livesey, 682 Old Kent Road London SE15 1JS including the roof foundations and exterior thereof and as shown edged red on the plan annexed hereto (the "Plan")

THE TERM : TEN years

THE RESERVED RENT : ONE PEPPERCORN per annum (if demanded)

THE RENT COMMENCEMENT DATE : The date hereof

THE PERMITTED USE : Uses for the advancement of education in the community including the holding of evening classes, community events and children's parties up to 10.00pm daily.

REPAIRS : The tenant to bear the cost of internal and external repairs

INSURANCE: The landlord will insure the property and charge the tenant the appropriate premium.

BREAK CLAUSE: The landlord can terminate the lease by serving a break notice, giving six month's notice, any time after the third anniversary of the lease. The tenant can do likewise after the fifth anniversary of the lease.

ALIENATION: The tenant is not permitted to assign, share, underlet or part with possession of the premises.

In relation to the proposed rent payable reference is made to the valuation report attached at Appendix 3.

A schedule of condition of the building has been compiled by prepared and will be appended to the lease. This was agreed between the parties.

11. **Treasure House.** Treasure House is a community interest company (CIC) that works with children aged 13-19 who are unable to access mainstream education due to disability, illness or other reasons. They have an excellent track record of delivering services to young people and have worked successfully with Southwark's children's services, education welfare, Connexions and local schools.
12. **Selection of Treasure House.** Treasure House was one of three organisations that came forward in response to a call for expressions of interest in September 2011. The call for expressions of interest made it clear that applications must:
 - Meet the original objectives of the trust,
 - Be financially viable with secure and robust revenue arrangements as well as funding for any associated capital works that schemes may require
 - Must have a community offer as part of their provision.
13. Following completion of the assessment of the applications, a report was presented to Cabinet in December 2012, recommending Treasure House as the preferred partner. This recommendation was approved by the Cabinet.
14. In addition to delivering their education service for children and young people Treasure House offer a range of services to the local community including educational and cultural programmes. (Appendix 2 Report of Treasure House programme and performance for 2016 to date)
15. **Repairs to external walls:**
16. The property is a listed building constructed in the late 1880's of traditional brick construction. The main building has been partly refurbished with new windows and interior decoration.
17. The garden is enclosed by a large brickwork perimeter wall that separates the property from a Kwik Fit garage and a wall shared with the Christ Church.
18. There are listed remains of a previous building in the rear garden.
19. Two perimeter walls and the remains of the previous building in the centre of the garden are in disrepair. The disrepair is extensive and requires remedial work. This is necessary to make the garden safe and usable for community activities and projects. The garden which is completely enclosed is ideal for many community and family activities but in its current state is unsafe and unusable.
20. Costed proposals to repair to the perimeter walls are being finalised.
21. The damage to the walls of the old building within the garden is very extensive and at present they are completely unsafe. The preferred option for dealing with these is demolition. This is currently being investigated in line with the requirements of listed building consent. This work would be subject to planning

approval.

22. If agreement to demolish is not be achieved, repairs to the walls will have to be carried out.

Costings will be sought once the agreed way forward have been finalised. As the trust does not currently have any income, these costs will be met by the council as local authority and the funding thereby provided to the trust.

23. **Boundary Wall:**

The south eastern boundary wall which abuts the neighboring garage is registered in the ownership of the Mayor and Burgesses of the London borough of Southwark. It is registered under title number TGL66428 and is identified in bold in the attached ordnance survey extract at Appendix 3. It is proposed that this title is merged with the main land registry title of the Livesey Trust and included in the lease to Treasure House. The proposed transfer is subject to the council declaring this asset surplus to operational requirements and likewise authorising its transfer to the trust.

Policy implications

24. None

Community impact statement

25. The proposals set out in this report have no adverse impact on the community, nor do they disadvantage any equalities group or protected characteristic.

Financial Implications

26. The Annual Accounts of 2015-16 indicated expenditure of £1,099 on building repairs and maintenance, £501 on legal costs and £8,913 on depreciation, totaling £10,513 in 2015-16.
27. The proposed Head of Terms of the lease of the Livesey Building to Treasure House is on a peppercorn rent basis.
28. Under the proposed terms of the lease, the tenant is responsible for the internal and external repairs and the Council as Trustee of the Livesey Trust, will insure the property and the charge the tenant the appropriate premium.
29. Repairs to the external walls and the old building in the garden are being investigated. These costs once confirmed will be contained within existing departmental budgets.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

30. The object of the Livesey Trust is set out in the Charity Commissioner's scheme referred to in the background information above. This is (for the public benefit) the advancement of education of persons resident in the area of benefit in such ways as the trustee thinks fit.

31. In summary, the property must be used for the provision of a library or library services or if not required for these purposes for any other use in furtherance of the object as the council as trustee may from time to time decide.
32. The scheme requires the council as trustee to ensure that the property is being utilised effectively and in accordance with the object of the charity for the benefit of the public.
33. The scheme includes the requirement for the council as trustee at all times to take necessary steps to ensure that the charity is independent and exists to pursue its own purposes and not to carry out the policies or directions of the council or any other body.
34. This means that the committee is required to give consideration to the operation of the trust solely in its role as corporate trustee and in accordance with the object and interests of the trust.
35. As corporate trustee the council, in accordance with common law, has an overriding duty to promote the charitable purposes of the charity. It must carry out its responsibilities with reasonable diligence and conduct its affairs in the same manner as an ordinary prudent man of business would conduct his own affairs. A trustee must also take all reasonable and proper measures to maintain and secure any trust property.
36. It is noted that the trust has no income. There is no legal obligation on the Council as local authority to pay for the costs identified in the accounts and the legal costs in connection with the lease. However, in the absence of any other source of income there is no realistic alternative. A donation to the Trust from the Council as local authority will need to be authorised from a relevant Council budget so that this can be reflected in the trust's accounts.

Strategic Director of Finance and Governance

37. This report is requesting the cabinet committee to note the draft head of terms of the Livesey building to Treasure House and agree to delegate the decision on the final terms of the lease to the Head of Property.
38. The strategic director of finance and governance notes that the proposed Head of Terms of the lease is based on a peppercorn rent basis and the tenant (Treasure House) will be responsible for the internal and external repairs and liable for the insurance premium for the property.
39. It is noted that the repairs to the external walls and the building in the garden are being reviewed. The strategic director of finance and governance notes the comments from the director of law and democracy that the trust has no income and a donation will be required from council budgets to fund the related costs and this will be reflected in the trust's accounts. The financial implications indicate that this funding will be contained within existing departmental budgets.
40. Staffing and any other cost connected with this report to be contained within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix 1	The Charity Commission for England and Wales Scheme, The Livesey Trust
Appendix 2	Treasure House Report
Appendix 3	Ordnance Survey extract: Boundary Wall

AUDIT TRAIL

Lead Officer	Fiona Dean, Director of Leisure	
Report Author	Aileen Cahill, Head of Culture	
Version	Final	
Dated	1 December 2016	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes/	Yes
Date final report sent to Constitutional Team		1 December 2016