

Item No. 7.	Classification: Open	Date: 11 December 2018	Meeting Name: Cabinet (Livesey Trust) Committee
Report title:		Transfer of Title	
Ward(s) or groups affected:		Old Kent Road	
From:		Director of Law and Democracy	

RECOMMENDATION

1. That the committee agrees the council enters a declaration of trust to enable the trust to irrevocably acquire from the council the equitable title in a wall at 684- 698 Old Kent Road, London SE15 running along the south eastern boundary of 682 Old Kent Road, London SE15 1JF (the "Property").

BACKGROUND INFORMATION

2. 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.
3. On 12 April 2013 the Charity Commission approved a 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").
4. 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.
5. As with all other executive functions it is for the Leader to determine who will exercise the function in question. This report is intended to enable the Leader to agree that the Trust acquires the beneficial title in the wall which runs along the south eastern boundary of the property.

KEY ISSUES FOR CONSIDERATION

6. It is intended that a lease of the property be granted by the council as trustee of the trust to Treasure House (London) CIC, and it is further intended that the wall which runs along the south eastern boundary be included in this lease.
7. At present the legal and beneficial title in the wall is owned by the council and not the trust. A copy of the council's title to the wall (Title TGL66428) is enclosed marked Appendix A.

8. In order to incorporate the wall into the proposed lease to Treasure House (London) CIC it will be necessary for the beneficial title in the wall to be transferred by the council to the trust. A declaration of trust is recommended whereby the council will irrevocably declare it holds the legal title in the wall on trust for the trust in equity. Thereafter the council can (i) apply to enter a restriction against Title TGL66428 to protect the beneficial interest of the trust under the title and (ii) apply to the Charity Commission to amend the schedule of trust property to include the beneficial interest in Title TGL66428.
9. Once the above has been completed the council acting as trustee of the trust will be able to grant a lease to Treasure House (London) CIC incorporating the above title. A copy of the proposed declaration of trust is enclosed in Appendix B.
10. Officers confirm that wall does not have any positive monetary value.
11. The trust has the power under statute to acquire property. The power is subject to any restrictions in the instrument setting up the charity. Officers can advise that the terms of the original indenture contain no restrictions on the trust acquiring new land.
12. There are no formal requirements in charity legislation that the trust have to comply with in order to acquire the beneficial title in the wall. The acquisition does not fall within the categories of acquisitions which require consent of the Charity Commission. The trustees are under a duty to use reasonable degree of skill and care when deciding whether to enter into any transaction to acquire land. However as this wall in question has nil consideration the usual factors which are likely to be relevant in considering whether to buy land such as whether the price is at or below the market price are not relevant here.
13. As the wall is to be incorporated into the proposed lease to Treasure House (London) CIC, and that wall maintenance is to be a tenant responsibility under the lease. Officers do not anticipate any immediate or ongoing liabilities for the Trust in acquiring the beneficial title in the wall.

Community impact statement

14. 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

15. There are no financial implications.

Legal implications

16. The legal implications have been outlined by the report author in the body of the briefing.

BACKGROUND DOCUMENTS

Background Papers	Held at	Contact
None		

APPENDICES

No.	Title
Appendix A	A copy of the council's title (Title TGL66428)
Appendix B	A copy of the proposed declaration of trust

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Law and Democracy	
Report Author	Norman Coombe, Head of Corporate Team, Legal Services	
Version	Final	
Version Date	26 November 2018	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director of Finance and Governance	No	No
Cabinet Member	No	No
Final Report Sent to Constitutional Team	26 November 2018	