

Item No. 15.	Classification: Open	Date: 21 June 2011	Meeting Name: Cabinet
Report title:		Livesey Museum Update and Options	
Ward(s) or groups affected:		Livesey	
Cabinet Member:		Councillor Veronica Ward Culture, Leisure, Sport and the Olympics	

FOREWORD – VERONICA WARD, CABINET MEMBER FOR CULTURE, LEISURE, SPORT AND THE OLYMPICS

I believe now is the right time to review the decision taken in 2008 to close the Livesey Museum for Children. The museum provided a stimulating educational experience for all children in Southwark. Unfortunately Theatre Peckham was unable to take up use of the building when offered in 2008. Since May 2010 we have sought to find organisations that may be interested in re-creating a community based educational centre and have kept in touch with the Friends of the Livesey Museum for Children, who wish to see continued community education and cultural use for this building. We believe that enough interest has now been raised to re-open the search for an alternative user for this building which can work within the terms of the Trust.

RECOMMENDATIONS

1. That officers be instructed to re-open the search for an alternative user for the building within the Objects of the Trust, with the requirements that:
 - Proposals must meet the original objectives of the Trust, i.e. a free public library or any other objectives of an educational or cultural nature
 - Proposals must be financially viable with secure and robust revenue arrangements as well as funding for any associated capital works that schemes may require
2. That officers report back to Cabinet on the outcomes of the search for an alternative user and options for the way forward.

BACKGROUND INFORMATION

3. The London Borough of Southwark is the Trustee of the building on the Old Kent Road now known as the Livesey Museum for Children. The Museum 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 conveyance states that *“the said commissioners shall hold the said hereditaments and premises upon Trust to permit the same to be used for the purposes of a Public Free Library for the benefit of and by the ratepayers, inhabitants and residents of the Parish of Camberwell”*. Southwark became the legal owner and Trustee of the building by means of statutory devolution. The Trust did not provide any revenue support for the running of the library. The beneficiaries are people living within the original geographical

boundary of the Parish of Camberwell which includes the area known both now and at the time as Peckham, and is considerably larger than the area now known as Camberwell.

4. The Charity Commission has indicated that it is acceptable to extend the Objects of the Trust to include a broader educational benefit.
5. During budget setting in February 2008, the Council took the decision to close the Livesey Museum for children alongside a series of other service reductions.
6. The Council, as Trustee of the building is obliged to find an appropriate use for the assets of the Trust, which are the land and the buildings of the "Livesey" site at 682 Old Kent Road.
7. The Council relocated its library provision to a nearby site in 1966 and the building closed to the public. The use of the building then changed from a public library to a Museum for Children when it reopened in 1974. At this stage, the Council became in breach of the Trust conditions.
8. Following closure of the Livesey, the Council undertook a consultation process, with a view to approaching the Charity Commission with a cy-pres scheme seeking to alter the objectives of the Trust, which would allow the building to be used for educational or cultural use. It is known as a "cy-pres" scheme as the Charity Commission expected the Council to produce a scheme which would be as near as possible to the original objectives of the Trust. These are set out in full in paragraph 3 above.
9. As part of this process, the Council undertook an exercise to identify potential users of the building following a consultation plan approved through the IDM process in September 2008. The following were identified as key criteria in considering bids submitted in response:
 - Proposals must meet the original objectives of the Trust, i.e. a free public library or any other objectives of an educational or cultural nature
 - Proposals must be financially viable with secure and robust revenue arrangements as well as funding for any associated capital works that schemes may require
10. The following interested bodies were contacted as part of the consultation on the future of the Livesey.
 - Museums, Libraries and Archives Council London
 - Arts Council London
 - Dept of Culture, Media and Sports (DCMS)
 - Southwark Council Children's Service
 - Southwark Council Library Service
 - Theatre Peckham
 - Community Councils (Peckham, Camberwell and Rotherhithe)
 - Friends of the Livesey Museum for Children
11. Three proposals were received and after careful consideration, the Executive agreed to progress the proposals of Theatre Peckham.

KEY ISSUES FOR CONSIDERATION

Update on progress

12. Theatre Peckham's (TP) proposal for the building included the creation of dance studios and rehearsal spaces, a conservatory in the garden area with a café facility and safe play area for children and parents, changing and toilet facilities, meeting room, storage space and potentially a lift to the first floor.
13. A financial plan was submitted as part of the TP proposal. The financial information provided included realistic levels of income through secured grants and achievable additional income through hires of refurbished space at the Livesey.
14. It was acknowledged that a significant amount of capital investment would be required to implement the ambitions set out in the proposal. A number of potential funders had been identified and the proposal made reference to positive feedback from one major Trust.
15. A feasibility study identified a cost of £5 million to complete the work necessary to bring the building into use for Theatre Peckham's purposes.
16. After taking advice from their appointed consultants, Theatre Peckham advised officers in May 2010 that they felt it unlikely that they would be able to raise this sum. Theatre Peckham identified two main reasons for this:
 - The retention of ownership of the building by the Trust has a negative impact on some potential funders since Theatre Peckham would never own the building
 - Difficulties in securing major investment during the recession.
17. This is a disappointing outcome for both the Council and Theatre Peckham and an alternative solution to the future of the Livesey now needs to be identified.
18. Since the withdrawal of the Theatre Peckham proposal, officers have held discussions with a range of potential building users. These include:
 - The Museum of Childhood at Bethnal Green
 - London College of Communications (LCC)
 - Morley College
 - Community activists
19. Discussions have been held with each of these organisations and most have viewed the building. None have yet made a formal offer or proposal to occupy the building. The Museum of Childhood has confirmed that the Livesey would not fit with their current strategy and the community organisations have not made formal proposals.
20. The building was briefly illegally occupied, but Council possession was secured through action in the County Court and the building is now secured through participation in the Guardian scheme.
21. As the Theatre Peckham proposal is no longer viable, and given the range of interest in the Livesey over the last 12 months, it is proposed to

again invite formal expressions of interest in the building, in order to determine the most effective option for its future.

22. Should no suitable alternative user come forward, Cabinet will need to consider other options for the future of the Livesey. These are likely to be either disposal and the proceeds ring-fencing to the Objects of the Trust or re-opening as a Museum for Children.

Timetable for implementation

23. Should Cabinet approve the proposal to re-commence the formal search for a new user, then the indicative timetable for implementation is set out below. This timetable also assumes a successful search for a user for the building. Should this not be the outcome of the search a report would come to Cabinet in November 2011 setting out alternative options.

Cabinet approval	June 21 st 2011
Call for expressions of interest	July 2011
Applications received by	September 2011
Assessments undertaken and report produced	October 2011
Cabinet report with recommendations	November 2011
Organisation on site	January 2012

Financial implications

24. As stated in paragraph 1, the intention of the preferred option is that the user of the building does not rely on the Council for either revenue or capital funding, i.e. is self funding. This option is therefore intended to be cost neutral to the Council. The search for an alternative user will in itself add no additional cost to Council, as Council officers will conduct the exercise.

Community impact statement

25. The purpose of the Trust is to ensure benefit for people who live within the boundaries of the former Parish of Camberwell. The original focus of this was the provision of a public library and discussions with the Charity Commission have focussed on redefining the objects of the Trust to sustain an educational/cultural benefit.
26. Any search for an alternative building user would need to ensure that services delivered would fulfil the Objects of the Trust.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance (NC0311)

27. As Trustee, the Council is under a duty to carry out the objects of the Trust in accordance with the Trust Deed and to act with the utmost good faith in all its dealings in the affairs of the Trust. This means the Council is required to avoid undertaking activities that would place the assets and funds of the Trust at undue risk.

28. As set out in the report, the Council holds the building on a charitable Trust for use as a free public library but has been in breach of Trust since the 1960s when the building ceased to be used as a Library. At that time the Council became subject to an obligation to apply for a cy-pres scheme to alter the objects of the Trust and this can only be done by means of an application to the High Court or the Charity Commission.
29. This application to the Charity Commission for the purpose of remedying the breach of Trust has been made and negotiation with the Charity Commission as to the terms of the cy-pres scheme is currently underway.
30. With regard to the possible transfer of the building for use within the objects of the Trust, Cabinet is informed that land held by a charity or in Trust for a charity cannot be conveyed, transferred, leased or otherwise disposed of without the order of the Court or the Charity Commission unless the disposition is exempted under the Act. In this case because of the need for a cy-pres scheme, the consent of the Charity Commission would be required before the transfer can take place.
31. The Charity Commission's published guidance suggests that local authorities acting as sole Trustees should be asked to consider stepping aside to allow a representative and non-conflicted board of Trustees to take their place. However, in a recent case, the Charity Commission found that it was appropriate for Dartford Borough Council to remain as Trustee of the continuing property of a Trust, since it was effectively marooned within other Council property.
32. However, the court found that inadequate governance mechanisms were in place to deal with the Council's potential for conflicts of interest. It ordered that the committee responsible for managing the property should include a quorum of non-conflicted members who are not otherwise connected to the Council. Should we re-open the building or continue the Trust it is likely that we will have to address this issue and form a management committee.
33. Alternatively, if the Council did not wish to burden the charity with this debt, it could use the well being powers under Section 2 of the Local Government Act 2000 to incur the expenditure required to bring the Livesey back into use. Section 2 of the Local Government Act 2000 gives a power to the Council to do anything it considers would, among other things, achieve the promotion or improvement of the social well being of its area. This includes a power to incur expenditure, give financial assistance or enter into any arrangement or agreement with any person. In deciding whether or not to exercise this power, the Council is required to have regard to its community strategy. It is noted that one of the strategic aims of the Council is promote the unique history and culture of the borough by encouraging active participation in local arts, heritage or cultural events. The use of the Council's money for the restoration and running of the Livesey as a Museum therefore appears to be permitted under Section 2 of the above Act.
34. Which ever scheme Cabinet decides upon, the Charity Commission would need to be satisfied that it in the best interest of the charity and is as close to the original objects as possible. The Charity Commission would also wish to be satisfied that the new use of the building is suitable and effective in the light of the current social and economic circumstances.

Finance Director (JS0511)

35. This report recommends that the Council re-open the search for an alternative user for the Livesey Museum building within the Objects of the Trust, with a requirement that any proposals must be financially viable, both in revenue and capital terms. This search would be at no additional cost to Council. As highlighted in the comments of the Strategic Director Regeneration and Neighbourhoods the cost of the current “live in” guardian service is minimal but the cost of maintaining services and utilities to the building is significant.

Strategic Director Regeneration and Neighbourhoods (PD0311)

36. The Livesey building is currently occupied by “live in” guardians who provide security through occupation. Whilst the cost of this service is minimal the cost of maintaining services and utilities to the building is significant.
37. Since the closure of the Livesey Museum in 2008, this grade II listed building has incurred minimal expenditure with regard to ongoing repairs and maintenance. It is likely that upon any proposed re-opening, significant capital expenditure will need to be committed to make the building secure and compliant. Notwithstanding any adaptations that may also be necessary at that time.
38. The Livesey building was last valued by Drivers Jonas Deloitte, the Council’s external property advisors in August 2010. At that time they estimated the Market Value of the Freehold interest to be no less than £575,000.
39. A disposal of the property will incur fees to cover the sale and marketing. This is likely to be around 2% of the sale proceeds.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Executive Meeting - 16 December 2008 Report & Appendix : Livesey Museum - report on consultation and future options	160 Tooley Street, London SE1 2QH	Adrian Whittle Tel 020 7525 1577

AUDIT TRAIL

Cabinet Member	Councillor Veronica Ward, Culture, Leisure, Sport and the Olympics		
Lead Officer	Gill Davies, Strategic Director of Environment		
Report Author	Adrian Whittle, Head of Culture, Libraries, Learning & Leisure		
Version	Final		
Dated	9 June 2011		
Key Decision?	Yes	If yes, date appeared on forward plan	December 2010
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Communities, Law & Governance	Yes	Yes	
Finance Director	Yes	Yes	
Cabinet Member	Yes	Yes	
Date final report sent to Constitutional Team			9 June 2011