

<b>Item No.</b> 13.	<b>Classification:</b> Open	<b>Date:</b> 7 February 2012	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Livesey Museum Update and Options	
<b>Ward(s) or groups affected:</b>		Livesey Ward	
<b>Cabinet Member:</b>		Councillor Veronica Ward, Culture, Leisure, Sport and the Olympics	

## **FOREWORD - CABINET MEMBER FOR CULTURE, LEISURE, SPORT AND THE OLYMPICS**

The Livesey Childrens Museum, closed in February 2008, was a popular resource for children and young people for the community in Peckham and beyond.

In 2010, the theatre organisation, which won a previous bidding round to seek organisations who can meet the terms of the charitable trust, was unable to raise the sum required to create the resource that they had planned and announced that they could not use the building after all. The council however wants to see this building continue to be used as an educational and community resource and agreed in 2011 to seek a further alternative user who is able to meet the terms of the Trust. The following report sets out the results of this exercise.

## **RECOMMENDATIONS**

1. That officers be instructed to progress negotiations with an end user for the Livesey building within the Objects of the Trust, as identified by the call for expressions of interest and subsequent assessment in October 2011, with the requirements that:
  - The end user's proposal must meet the original objectives of the trust, i.e. a free public library, or any other objectives of an educational or cultural nature, in keeping with the proposed amended charitable objectives.
  - The end user's proposals must be financially viable with secure and robust revenue arrangements as well as funding for any associated capital works that schemes may require.
  - The end user's proposal is subject to second round of financial assessment and organisation checks in January 2012.
2. That, subject to a satisfactory outcome of detailed checks in January 2012, officers report back to Cabinet on the outcomes of the negotiations with the preferred user and Charity Commission in April 2012.

## **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 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.
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 consultation process resulted in the Cabinet agreeing to progress the proposals of Theatre Peckham. The proposals included the creation of dance studios, a conservatory on the garden area with cafe 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. The financial plan provided included realistic levels of income through secured grants and achievable additional income through hires of refurbished space at the Livesey.
10. 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.

11. This was a disappointing outcome for both the Council and Theatre Peckham. Subsequent to the withdrawal of the Theatre Peckham proposal, officers held discussions with a range of potential building users. These included:
  - The Museum of Childhood at Bethnal Green
  - London College of Communications
  - Morley College
  - Community activists
12. Discussions were held with each of these organisations, and most viewed the building. The Museum of Childhood confirmed that the Livesey would not fit their current strategy. The London College of Communications expressed an interest in temporary use of the building for student shows only. Morley College viewed the building and confirmed that it was not suitable for their intended purposes. At this stage, no formal proposals were submitted by any of the organisations.
13. 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.
14. Officers were then instructed to open a formal call for expressions of interest for a long-term user for the building in June 2011. In July 2011, a formal brief was issued for a user for the Livesey Museum with a call for expressions of interest to be submitted by 30<sup>th</sup> September 2011. The call for expressions of interest was sent out to cultural and community networks locally, regionally, nationally. All organisations who had previously expressed an interest in using the building, or who had viewed it, were circulated with the brief and the details of how to submit a proposal. The key criteria were as for the previous calls, with key criteria of:
  - A use that is in keeping with the charitable objectives and that actively benefits communities in Peckham and Camberwell (original parish of Camberwell) and contributes the social and cultural development of the local area.
  - Financially sustainable proposals with revenue and capital funding identified.
15. Subsequent to the call-out being issued through key networks, 45 requests were received for the expressions of interest pack, which contained the brief, guidance on submission of proposals, plans of the building, and the condition survey. Interested parties had the opportunity to view the building prior to submission of proposals. Three eligible proposals were received.
16. Three submissions were assessed:
  - Treasure House (London) CIC
  - Igmusic Ltd
  - People Empowering People Ltd

Of these, two proposals are considered to be viable, subject to further investigation of financial plans; the agreement of the Charity Commission and Property Services regarding disposal of property in respect of leases over seven years, and in respect of the amendments to the Objects of the Trust.

## KEY ISSUES FOR CONSIDERATION

17. The assessment of the proposals is set out below. The shortlisting evaluation was based on a 50% weighting for the financial offer, and 50% for the quality of the proposal. Each criteria was assessed on a scale of 3 = strong; 2 = acceptable; 1 = risks perceived; 0 = unacceptable. Organisations were asked to set out their offer for the Livesey building, identifying why they wanted to be based there, how they would operate and maintain the building, their proposal over 10 years, and how their activities would benefit communities in Camberwell and Peckham. The financial offer required organisations to demonstrate their track record in delivering projects to budget; financial standing and sources of funding; plans for achieving capital funding if required; a 10 year business plan, the financial strength of the organisation, and provision of an experienced staff team.
18. A summary of the assessment of each proposal is set out below:

### **Treasure House (London) CIC**

Treasure House (London) is a Community Interest Company established in December 2010, but which has been operating successfully since 2009 in providing spaces and resources for young people who have fallen behind in mainstream education. It is currently based in the Lilian Baylis Community Hub in SE11 on the Southwark – Lambeth border, but seeking a permanent base with D1 use.

It aims to set up a Friends of Treasure House charity, led by Michael Hodge MBE to fundraise for its expansion.

The Treasure House programme covers the core curriculum (Key stages 3 – 5), with an extra emphasis on art and creativity, in a safe, calm and therapeutic environment. It is currently commissioned through schools on a placement basis to provide services for excluded young people, and works with Local Authorities to identify young people who require these services. It works with Walworth Academy, St Saviour's and St Olave's, the new Ark Academy, Camberwell and Evelina Hospital School, amongst others. The organisation has strong partnerships with education networks, including Special Educational Needs (SEN), Education other than School (EOTAS), and Looked After Children (LAC). It is quality assured by Children's Services. It also proposes to support a network of Home Educators, and develop a community resource bank. The Treasure House team is professionally qualified, and demonstrates strong partnerships and community links, as well as proposals for the full use of the Livesey building space.

### **Assessment**

The Treasure House proposal scored 56% overall, with 57% for its financial offer, and 55% for the quality of its proposals. Strengths of the Treasure House EOI were assessed to be: they have already worked in the area; they are educationally focussed and meet the Objects of the Charity; they addressed the building operation and future possible uses; good existing partnerships. Financially, a business plan was presented clearly breaking down identified funding streams. Weakness of the Treasure House proposal were assessed to be: as an educational organisation, the benefits for the wider community may be limited; there were risks associated with the 10 year proposal which need to

investigated further; there is no demonstration of capital funding in place immediately, and the financial operation is entirely reliant on grant funding.

### **Igmusic Ltd**

Igmusic is a private limited company registered in 2007, but in operation since 2001 providing educational services for young people and adults through schools and community education in music activities. Its key areas of expertise are vocal and music tutoring, songwriting, training for teacher INSET, audio production and event management. The igospel team has worked in Southwark for the last 10 years through the Peckham Education Action Zone and then Excellence in Southwark to deliver a 'sing inspiration' project for 4000 children and students since 2007. Igospel also have a decade of experience in establishing and leading choirs for adults and running workshops for adults. They have established education and community partnerships, and in April 2011 were assessed as 'outstanding' by OFSTED for their work leading singing in schools and across community groups in London. Their cultural partnerships include Southbank Centre and Southwark Music Service, Sing Up London, Hackney, Enfield, Wandsworth and Newham Music Services.

The proposal for the Livesey building is to develop a multi-purpose music venue with a small performance space, and to expand their existing vocal and music programme for schools and community groups. The short term offer, which could be run immediately from the building without any structural changes to the space, includes teacher training programmes; vocal training; musicianship training, music technology workshops (phases 1 and 2). The medium term includes a small live music venue, young artists' programme, and hiring facilities. The long-term proposal is for a media centre with music as the hub; which would include a music centre, performances, live streaming, video and recording facilities, and the development of a café and the courtyard garden.

### **Assessment**

The Igmusic Ltd proposal scored 55% overall, with 51% for its financial offer and 59% for the quality of its proposal. The strengths of the proposal were assessed to be the mixture of educational and cultural services, strong partnership links, a focused use for the Livesey building as a hub for community music, and proven track record in music services. The weaknesses of the proposal were assessed to be: insufficient information supplied about the operation and the maintenance of the Livesey building, no identification of capital funds, and risks in sustaining revenue funding.

### **People Empowering People**

People Empowering People Ltd was set up in September 2010. People Empowering People (PEP) is proposing to create a community hub based in the Livesey building and focused on the nearby Friary and Unwin estates, with activities that address issues faced by BME communities. It is proposing to set up a range of activities which include: reading and study for young people studying for GCSE's; numeracy and literacy classes; a media and internet training hub for young people; creativity and business activities; tackling unemployment; youth work; mother and child programmes; teenage pregnancy programmes; room hire; luncheon clubs, and various health and community safety partnership programmes. The proposal is based on the demographics of the local area.

PEP's stated partner organisations are: Peckham Voluntary Sector Forum; Community Action Southwark; Thames Outreach partnership; Southwark Works; Peckham Theatre; Youth provider Network; Safer Southwark partnership, Schools and youth strategy team and Transition Town Peckham. PEP's track record includes projects in the local community including: 'how to succeed in the music business'; tackling anti-social behaviour on the Unwin and Friary estates; JSI Senior Citizens' event; youth events on the estates; youth and family trips; estate lighting upgrades; and recycling projects. The proposal has a strong youth focus and is very local. PEP has proposed a broad steering group for the running of the centre. A generic, as opposed to specific, business plan for the operation of the Livesey building, was submitted.

### **Assessment**

The PEP proposal scored 28% overall with 21% for financial proposals and 34% for the quality of its proposal. The strengths of the proposal were assessed as: strong local focus and connection with the area. The weaknesses of the proposal were assessed as: lack of clarity in the business plan; reliance on other partners; unclear about the building management and operation; the proposal does not meet the Objects of the Trust regarding the Library or other cultural or educational use.

19. The overall assessment of the proposals submitted as part of the Expression of Interest in September 2011 indicates that Treasure House (London) CIC and Igmusic Ltd both have proposals that would fulfil the Objects of the Trust. The Igmusic Ltd proposal was assessed as the strongest in terms of the educational and cultural offer (59%), but risks were perceived in terms of business planning and the ability to raise and sustain revenue income, and in terms of securing capital funding for building alterations in the longer-term. Treasure House (London) CIC was assessed as weaker than Igmusic in its proposal (54%) for the building. However, its presentation of its financial offer and funding options was assessed as stronger than Igmusic. It is judged that there is a level of financial risk with both proposals, and that both organisations will be subject to the pressures of the recession on their ability to secure grant-aid, commissions and any earned income.

### **Resource implications**

20. The agreed budget for the division has no capital or revenue provision for the Livesey Museum. Currently the Environment and Leisure Department is incurring annual running cost of about £8k on the building. No capital implications are foreseen, as it is envisaged that the occupier would be required to enter into a full repairing lease.
21. As stated in paragraph 2, the intention is to report back to cabinet in April 2012 after negotiations with the preferred user and the Charity Commission. At that stage a full financial risk assessment will be carried out and financial implications (if any) for the council will be reported.

### **Community impact statement**

22. 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. The search for an alternative building user has ensured that services

delivered by any preferred user would fulfil the Objects of the trust.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

23. 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.
24. 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.
25. An application to the Charity Commission for the purpose of remedying the breach of Trust was drafted and initial negotiations took place with the Charity Commission as to the terms of the cy-pres scheme during 2009 and early 2010. The negotiations with the Charity Commission were not progressed forward whilst the viability of the proposal from Theatre Peckham was investigated. As the proposal from Theatre Peckham did not ultimately proceed the cy-pres scheme to alter the objects of the Trust has not as yet been registered. The Charity Commission has indicated that they do not propose to take any action until the council come back to them with its proposals for a scheme. Negotiations with the Charity Commission as to the terms of the cy-pres scheme therefore need to be re-started.
26. 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.
27. With respect to the proposal that the building be re-opened, Cabinet is informed that the council would remain the Trustee of the Trust. However, as the use of the building for objectives of an educational or cultural nature is contrary to the objects of the Trust, a cy-pres scheme to allow the use of the building for these objectives would have to be approved by the Charity Commission.
28. 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.
29. 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.

30. 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 (NR/F&R/15/12/11)**

31. This report recommends that officers be instructed to progress negotiations with a preferred user for the Livesey building within the Objects of the Trust, as identified by the call for expressions of interest and subsequent assessment in October 2011, with various additional requirements.
32. The Finance Director notes the resource implication and future report due on the financial implications outlined in paragraphs 21 and 22. Budgetary pressures arising as a result of not appointing a shortlisted proposer to be contained by reallocating budgets within the Environment and Leisure Department. Officer time to effect the recommendations will be contained within existing budgeted revenue resources.

**Head of Property**

33. 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.
34. Since the closure of the Livesey museum in 2008, this grade II listed building has incurred little expenditure with regard to ongoing repairs and maintenance. It is likely that upon any proposed reopening, 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. A condition report commissioned by the Council in 2008 identified over £250,000 of works necessary to maintain the building in its current format and arrangement. It is imperative that any preferred user for the Livesey building fully appreciates the existing and ongoing liabilities associated with this grade II listed building. The preferred user will be required to enter into a full repairing and insuring lease.

**BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Executive report – 2008	160 Tooley Street, London SE1 2QH	Adrian Whittle Tel 020 7525 1577
Cabinet report 21 – June 2011	160 Tooley Street, London SE1 2QH	Adrian Whittle Tel 020 7525 1577
Livesey building expressions of interest application pack – July 2011	160 Tooley Street, London SE1 2QH	Anya Whitehead Tel 020 7525 3552
Livesey Building EOI proposals and assessment – October 2011	160 Tooley Street, London SE1 2QH	Anya Whitehead Tel 020 7525 3552



## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Veronica Ward, Culture, Leisure, Sport and the Olympics	
<b>Lead Officer</b>	Gill Davies, Strategic Director of Environment and Leisure	
<b>Report Author</b>	Anya Whitehead, Culture Manager; Arts & Heritage	
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Finance Director	Yes	Yes
Head of Property	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
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