

<b>Item No.</b> 8.	<b>Classification:</b> Open	<b>Date:</b> 20 November 2012	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Future of Livesey Museum	
<b>Ward(s) or groups affected:</b>		Livesey	
<b>Cabinet Member:</b>		Councillor Veronica Ward, Culture, Sport, the Olympics and Regeneration (South)	

## **FOREWORD – COUNCILLOR VERONICA WARD, CABINET MEMBER FOR CULTURE, SPORT, THE OLYMPICS AND REGENERATION (SOUTH)**

This building has been much loved over a long time by the community and the closure of the Children’s Museum in 2008 left a gap in this part of Peckham. Sadly a previous exercise in finding a good use for the building did not end in a new use and new developments. The Livesey building is tied to the terms and conditions of its charitable foundation and any user and use must be agreed by the Charity Commission. I am confident that having initiated another bidding round we now have an organisation which will meet the terms of the trust, using the building for broad educational purposes and developing community facilities. We look forward to working with Treasure House on the next stages of bringing this building back to life.

## **RECOMMENDATIONS**

1. That Cabinet confirms Treasure House as the preferred organisation for future use of the former Livesey Museum subject to a cy-pres scheme being agreed by the Charity Commission.
2. That officers be instructed to progress negotiations to grant a lease for the former Livesey Museum to the Treasure House organisation for the purposes set out in paragraphs 24-33 below.

## **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”*.
4. 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 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.

5. The Council relocated its library provision to a nearby site in 1966 and the Livesey 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.
6. 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.
7. 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.
8. Following the closure of the Livesey, the Council undertook a consultation process, with a view to approaching the Charity Commission with 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. Since then, the Council has been seeking to identify an alternative user based on the following two key criteria:
  - Proposals must meet the original objectives of the trust
  - Proposals must be financially viable with secure and robust revenue arrangements as well as funding for any associated capital works that schemes may require.

## **KEY ISSUES FOR CONSIDERATION**

10. Following an earlier unsuccessful attempt to secure a user, a more recent call for expressions of interest was sent out in September 2011 and three responses were received and considered by an officer panel. Information on each of the expressions of interest is set out below, whilst additional information is provided in the closed report.

### **Expressions of interest**

#### **IG UK**

11. IG is a private limited company (PLC), currently based in Hackney. The organisation has operated for over ten years, offering vocal and music tutoring, song writing, training for teacher INSET, audio production and event management. It has an established track record of working in partnership with local authorities and in April 2011 was awarded "Outstanding" by OFSTED for work leading singing in schools and across a wide range of community groups in London.
12. IG has good links in Southwark having worked initially with Peckham Action Zone and then Excellence in Southwark. It has also delivered the "Sing inspiration" vocal programme working with the Southwark based Richard Mallett Arts Management organisation, involving approximately 6,500 Southwark schoolchildren and students since 2007.

13. The organisation also works to establish and develop choirs for adults. This includes delivering adult workshops and training days for teachers as well as leading adult choirs.
14. IG co-ordinates programmes culminating in performances at high status venues including the Royal Albert Hall, the Festival Hall, Goldsmiths College and others.

### **Proposal for the Livesey**

15. IG detailed proposals for the Livesey. Their service offer includes provision of a range of teacher training courses, delivery of a wide range of vocal programmes, musicianship training, music technology workshops and use of the building as a live music venue.
16. The proposal also includes provision of a community café at the rear of the building and hire of space as means of generating income.
17. The business plan identifies Southwark Schools as target customers. IG already works with a number of 25 Southwark schools and would look to increase this. The organisation would also continue to work with a range of partner organisations including Southwark Music Service, Hackney Music Service, Sing up London Community partnership and others.
18. The financial assessment is covered in the closed report.

### **People Empowering People**

19. People Empowering People (PEP) is a Company Limited by guarantee. At time of application the company was considering applying for charitable status.
20. PEP's proposal for the Livesey is to establish a "multi-use" centre providing a mother and toddler group, bingo club, kick boxing lessons, table tennis, netball meetings, youth dance, luncheon clubs, ICT classes, literacy and numeracy courses and a range of other activities as well as offering space for hire.
21. The application sets out a wide and ambitious range of services that PEP wishes to offer, but lacks detail or information about capacity to deliver the programme or experience in managing similar services elsewhere.
22. The application lists a number of projects that PEP has delivered with the support of Council funding. These include a range of community events focused primarily on the Unwin and Friary estates. More recently PEP was funded to deliver an event for Black History Month.
23. The financial assessment is covered in the closed report.

### **Treasure House**

24. Treasure House is a Community Interest Company (CIC) limited by guarantee and has been working since March 2009 with students aged 13-19 who have not been able to access mainstream school for a variety of reasons, including health or disability, but not including behavioural problems.
25. Young people aged 14-19 attend Treasure House study for GCSE and A -levels in core subjects, in small pupil: teacher ratios, including one to one tuition.

Capacity in the current location is for 8 young people. This would rise to 15 at the Livesey where a move from the current system of referrals to full time placements could be made.

26. The organisation has plans to establish a friends group as a charitable wing, enabling additional fund raising activity to take place.
27. Treasure House already has good links within Southwark, including with Children's Services, Education Welfare, Connexions and a range of individual schools.
28. Treasure House is currently and temporarily based in the old Lilian Baylis School in Lambeth but wishes to relocate in order to secure longer term and better premises and to expand and develop their service. Several of their current students are resident in Southwark.
29. The financial assessment is covered in the closed report.

### **Proposal for the Livesey**

30. In addition to expanding the core service offer, as set out in paragraphs 24-28 above, Treasure House would implement and develop a broader offer of community activity in order to fulfil the requirement of the Trust to benefit the residents of the former Parish of Camberwell in the wider sense.
31. An indicative programme of community activity has been submitted, including:-
  - Establishing a creative resource bank including textbooks, worksheets, course outlines and programmes, musical instruments, images, sound files, videos, reusable art materials and onsite facilities including pottery equipment and a photography darkroom
  - A specific project to collect memories of the Old Kent Road, through collecting oral, visual and printed materials
  - Offering a range of community learning opportunities in partnership with other providers, including adult literacy and numeracy, ESOL, etc.
  - Art classes for adults and children
  - Photography courses
32. The proposal to establish a creative resource available for use by local people relates closely to the original object of the Livesey Trust – that of provision of a free public library for residents of the former Parish of Camberwell.
33. Treasure House has indicated a wish to deliver the core business of tutoring children from the upper levels of the Livesey building, leaving the ground floor and rear grounds available for community use during the day time, with appropriate safeguarding systems in place. This includes making the entire building could be made available to the community for the 13 non-term weeks of each year and in addition to this, spaces not used to deliver the core business would be made available for hire in order to generate income.

### **Assessment of proposals**

34. A call for expressions of interest during 2011 resulted in three submissions being received. These were from IG UK, Treasure House and People Empowering People.
35. The first stage of the process was to carry out an assessment of the submissions for how the organisation proposed to operate and maintain the buildings, how they would develop over a ten year period, why they wanted to be based there and how their activities would benefit local people.
36. In addition to this, the organisations were required to demonstrate their track record of delivering projects to budget, how they would resource their plans for the Livesey and also the financial experience within their teams.
37. The scoring for each bid was based on an allocation of 50% weighting for the financial offer and 50% for the quality of the proposal. The initial assessment identified the Treasure House bid as being the strongest overall in terms of both quality and finance and as responding more strongly to the issues set out in the call for expressions of interest. The IG UK bid came in at second place.
38. Following this assessment, IG UK and Treasure House were invited to attend a meeting with an officer group to explore their proposals in more detail. A closer examination of the financial status of both organisations was also undertaken as well as being discussed in the meetings.
39. Both the IG UK and Treasure House applications offer clear community benefits.

### **Advice from the Charity Commission**

40. The Charity Commission has been advised of the recommended proposal for the Livesey Museum and will issue a cy-pres scheme dependant on its satisfaction with Treasure House, any proposed new scheme for the building and on the outcome of the consultation described in paragraph 41 below.
41. The Charity Commission has advised that it will consider preparation of a cy-pres scheme following further local consultation on the Treasure House proposals should they be approved by Cabinet. Should Cabinet agree the recommendations of this report, an open day will be held at the Livesey building in January 2013, giving local people an opportunity to see and discuss the proposals of Treasure House and to put ideas forward. Officers will capture feedback from participants to inform our response to the Charity Commission.

### **Community impact statement**

42. The former Livesey building has stood empty since April 2008. This is despite several attempts to secure an appropriate user.
43. Recommendation one, of this report to confirm Treasure House as the preferred organisation for future use of the former Livesey Museum will not only bring the building back into use but will have positive impacts on the surrounding community.

44. The provision of formal educational opportunities leading to examinations, for children otherwise unable to access mainstream education will offer some of the most vulnerable Southwark children the chance to complete their studies and to go on to either further education or the world of work. Treasure House's links with the Council's Children's Services, Education Welfare, Connexions and a number of individual schools will ensure that appropriate referrals are made and that children most likely to benefit from their service will be identified.
45. Proposals to establish a friends group for Treasure House will enable local people to participate in the planning, promotion and development of the Livesey and to ensure that local communities are consulted and involved in service planning and delivery.
46. Treasure House also proposes to establish a resource bank for local people including educational materials and facilities for arts activity which will be available to local people as part of the planned wider service offer. These facilities will enhance the learning, leisure and well-being opportunities of the local community.
47. No negative impacts on any community are envisaged should the recommendation to proceed with Treasure House be adopted.

### **Risk analysis**

48. The most significant risk to this proposal is the possibility of a major building failure following the granting of a full repairing lease. If such a failure occurred and was of a magnitude that Treasure House was unable to fulfil the repairing lease requirements, then the building would need to revert back to the Council.
49. Treasure House has commissioned an independent condition survey which will report shortly. The results of the survey will indicate the extent of any outstanding works required to the building, providing a full context for management of the premises.
50. There is a further risk that any organisation being granted a lease for the building may have revenue challenges that potentially lead to the surrender of the lease. Financial assessments of all three organisations are set out in the closed report.
51. The Charity Commission will issue a cy-pres scheme for the building subject to consideration of feedback from consultation. It is not envisaged that the services to be offered by treasure House would be problematic to the issuing a new scheme as they are not significantly different to those that were approved in the earlier Theatre Peckham Scheme. However, a low level residual risk remains.

### **Financial implications**

52. The Livesey Museum for Children closed in March 2008, following a decision to cut the entire budget of this service as part of a wider programme of savings. The budget for the Museum totalled £140,000 per annum.
53. There is no budget allocation against this building although costs have been incurred each year since the service closed. These are unavoidable costs relating to security, rates and essential building maintenance. In the last full financial year (2011/12) a total of £12,987 was expended on the building, which

had to be contained within the Arts and Heritage service budget. These costs would cease if a lease were to be granted to another organisation.

54. All organisations submitting proposals to take on the building were asked to submit financial details. There are some considerations regarding the financial sustainability of one of the organisations and these are examined in more detail in the closed report.
55. There are no capital or revenue implications foreseen, as a result of implementing the proposal, as it is envisaged that the occupier would be required to enter into a full repairing lease.
56. On conclusion of the negotiations with the preferred user, a full financial risk assessment will be carried out before making the final decision to grant the lease.

### **Property implications**

57. Negotiations to agree the terms of a lease have yet to commence, however the proposed rent will be at a peppercorn with the new tenant responsible for insuring and maintaining the building.
58. The term of the lease will need to balance the requirements of the new tenants and that of the trustees of the building. A suitable break clause may also be inserted.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Director of Legal Services (IM/15/10/12)**

59. 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.
60. 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 to the Charity Commission.
61. 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 have been re-started.

62. 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 Charities Act 2006. In this case because of the need for a cy-pres scheme, the consent of the Charity Commission will be required before the transfer can take place.
63. 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.
64. 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 case involving Dartford Borough Council, the Charity Commission found that it was appropriate for the council to remain as trustee of the continuing property of a trust, since it was effectively marooned within other council property.
65. 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.
66. Which ever scheme Cabinet decides upon, the Charity Commission would need to be satisfied that it is 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.
67. Treasure House is a community interest company ('CIC'). CIC's are governed by the Companies (Audit, Investigations and Community Enterprise) Act 2004 and set up under the formalities of the Companies Act 2006. It is a form of limited company (either limited by shares or by guarantee, either private or public).
68. A CIC must have the specific aim of providing a benefit to a community, and it must use its assets and profits to benefit that community i.e. for the public good. Throughout its lifetime it must meet this community interest test.
69. The Charity Commission needs to confirm that it is satisfied that the proposal for the Livesey Museum meet the objects of the Trust which will include confirming that Treasure House's objectives are wholly charitable in nature. Officers are currently in discussion with the Charity Commission in relation to both points.

#### **Strategic Director of Finance and Corporate Services (CR/F&CS/24/10/12)**

70. The report seeks Cabinet's confirmation that Treasure House be appointed as the preferred organisation for future use of the former Livesey Museum subject to a cy-pres scheme being agreed by the Charity Commission. It also seeks approval for the officers to be instructed to progress and conclude negotiations to grant a lease to the Treasure House organisation.



71. The Strategic Director notes the resource implications, including further financial and risk assessment work to be carried out before granting a lease. In the event that Treasure House do not take up a lease the council will need to revisit the long term viability of the building.
72. Officer time to effect the recommendations are contained within existing budgeted revenue resources.

### Head of Property Services

73. 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.
74. 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. The building will however require continued investment to maintain this asset or it will deteriorate with significant cost implications in the future.
75. It is likely that upon any proposed reopening, major 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. Treasure House are aware of this and have commissioned a specialist surveyor to advise on the current condition of the building and the cost implications of their proposed occupation and activities.
76. If Cabinet approves Treasure House as the preferred tenant for the Livesey building the Property team will agree appropriate terms for the lease. In particular the repair and maintenance obligations of the building will become the new tenant's responsibility.

### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Livesey Museum Consultation Plan IDM September 2008 <a href="http://moderngov.southwark.gov.uk/mglssueHistoryHome.aspx?IId=50000151&amp;Opt=0">http://moderngov.southwark.gov.uk/mglssueHistoryHome.aspx?IId=50000151&amp;Opt=0</a>	160 Tooley Street, London SE1	Adrian Whittle 020 7525 2388
Approval of cy-pres Scheme for the Livesey Museum Executive Report September 2009 <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=118&amp;MId=3065&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=118&amp;MId=3065&amp;Ver=4</a>	160 Tooley Street, London SE1	Adrian Whittle 020 7525 2388
Livesey Museum Update and Options Cabinet Report June 2011 <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=3813&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=3813&amp;Ver=4</a>	160 Tooley Street, London SE1	Adrian Whittle 020 7525 2388

Background Papers	Held At	Contact
Livesey Museum Update and Options Cabinet Report February 2012 Livesey Museum Update and Options Revised Recommendations <a href="http://modern.gov.southwark.gov.uk/ie/ListDocuments.aspx?CId=302&amp;MId=3820&amp;Ver=4">http://modern.gov.southwark.gov.uk/ie/ListDocuments.aspx?CId=302&amp;MId=3820&amp;Ver=4</a>	160 Tooley Street, London SE1	Adrian Whittle 020 7 525 2388

## APPENDICES

No.	Title
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Veronica Ward, Culture, Sport, the Olympics and Regeneration (South)		
<b>Lead Officer</b>	Deborah Collins, Strategic Director of Environment & Leisure		
<b>Report Author</b>	Adrian Whittle, Head of Culture, Libraries, Learning & Leisure		
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<b>Key Decision?</b>	Yes	If yes, date appeared on forward plan	January 2012
<b>CONSULTATION WITH OTHER OFFICERS /DIRECTORATES /CABINET MEMBER</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>	
Director of Legal Services	Yes	Yes	
Strategic Director of Finance and Corporate Services	Yes	Yes	
Head of Property Services	Yes	Yes	
<b>Cabinet Member</b>	Yes	Yes	
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