

Item No.	Classification: Open	Date: July 29 2009	Meeting Name: Executive
Report title:		Approval of cy-pres scheme for the Livesey Museum	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment and Housing	

RECOMMENDATIONS

1. That the Executive, acting as Trustees, agree the Charity Commission proposals for a cy-pres scheme for the Livesey Museum as set out in paragraphs 11-19 below and at appendix 1.
2. That the Executive notes progress made by Theatre Peckham towards realising the proposals for the Museum, agreed at the Executive Meeting of December 16th 2008.
3. That the Executive notes the next steps in taking this scheme forward, specifically, the programme of consultation with key stakeholders set out in section 16 below.

BACKGROUND INFORMATION

4. The London Borough of Southwark is the Trustee of the Livesey Museum for Children on the Old Kent Road. 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 becomes the legal owner and Trustee of the building by means of statutory devolution.
5. 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 re-opened in 1974. The Council has been in breach of the Trust since then.
6. The Trust did not provide any revenue support for the running of the library. At the Executive meeting of February 2008, considering the budget the Council took the decision to close the Livesey Museum for Children alongside a series of other service reductions.
7. Following closure of the Museum an exercise was undertaken to identify potential future uses of the building following a consultation plan approved through the Individual Decision Making (IDM) process. This included consulting with appropriate statutory and sectoral organisations, appropriate Community Councils, other sections of the Council and the Friends of the Livesey Museum for Children.

8. Three potential providers came forward and at its meeting of December 16th 2008. Acting in its role of Trustee, the Executive agreed the transfer of the assets of the Livesey Trust to Theatre Peckham.
9. Theatre Peckham's proposal is to redevelop the building to be able to offer theatre, dance and other activities aimed primarily although not exclusively at young people, including activities leading to formal work based qualifications. The proposals will include upgrading the building and developing additional facilities including changing rooms, rehearsal spaces and the provision of refreshments.
10. A requirement of the Executive decision taken on December 18th 2008 was that Theatre Peckham and the Friends of the Livesey Museum should explore ways of working together to further enhance work at the Livesey.
11. Following careful consideration and selection of the Theatre Peckham proposals, the Council, as Trustee, was required to approach the Charity Commission with a cy-pres scheme seeking to alter the objectives of the Trust which would allow the building to be used as a Museum for Children or other associated educational or cultural use. It is known as a cy-pres scheme because the Charity Commission expects the Council to produce a scheme which is as near to the original objectives of the Trust as possible.

KEY ISSUES FOR CONSIDERATION

Cy-pres scheme and feedback from the Charity Commission for England and Wales

12. Since the December 2008 Executive meeting, officers have been working with the Charity Commission to progress an application for a cy-pres scheme based on Theatre Peckham's proposals. The Charity Commission has indicated that the proposals are acceptable to them under their proposed scheme and objects.
13. The full draft scheme is set out at Appendix 1, but the key features of the Charity commission proposals are as follows.

Definitions

14. "The area of benefit" means the Parish of Camberwell as in 1890. This means that there would be no change to the area of benefit which includes the areas now known as Peckham, Camberwell, Dulwich and parts of Rotherhithe.

Name of the Charity

15. The original name of the Charity was "George Livesey for a Public Library". The Charity Commission proposes that the Trust be renamed "The Livesey Trust".

Object of the Charity

16. The Charity Commission proposes that "the object of the charity is the advancement of education of persons in the area of benefit for the provision of a library or library services for the public benefit." The Charity Commission has advised that the Theatre Peckham proposals are acceptable under this object but do not wish to change the definition of the object to a wording that reflect a more general educational purpose as it wishes to give the Council the opportunity to re-provide library services from the building if it so wishes at some time in the future.

17. It has been made clear to the Charity Commission that this is extremely unlikely given the very close proximity of Peckham Library, which opened in 2000 and which has been the recipient of several awards and is the most visited library in Southwark.

Trustee

18. Southwark Council will remain the Trustee of the charity and will retain powers of Trustee including making rules and regulations consistent with the cy-pres scheme for the management of the charity.

Charity Property

19. The Council, as Trustee must retain land identified in the schedule produced by the Charity Commission to the scheme for use of the object of the charity. However, this does not preclude the future disposal of all or part of the land if:

- The Trustee decides the land is no longer required for use of the object of the charity; or
- The disposal is for the purpose of acquiring a new site on which to carry out the object of the charity.

20. The Charity Commission also sets out requirements for the use of income and capital relating to the charity requiring any such monies to first be applied to administering the costs of the charity and managing its assets and if after these costs have been met using any remaining monies to further the object of the charity.

Progress with Theatre Peckham's proposals

21. Since the December 2008 Executive meeting, Theatre Peckham have been progressing various funding bids to secure monies to carry out capital works at the Livesey. This includes approaching the appropriate Community Councils where with the support of the Executive Member, the following sums have been secured from Cleaner Greener Safer funding:

- Camberwell Community Council £5,000
- Dulwich Community Council £5,000
- Peckham Community Council £24,000 (allocated for capital works)

22. These funds will enable a feasibility study of the building to be carried out Theatre Peckham has already commissioned architects to do this work.

23. In addition to this, Theatre Peckham has been successful in securing funding from the Sainsbury Trust towards the cost of capital works. Other funding bids are also being progressed.

NEXT STEPS

24. Should the Executive agree to the proposals set out by the Charity Commission, further consultation will need to be undertaken on the new objects of the Charity. The Council is required to take note of responses received to further consultation before implementing any new scheme. The required duration of the consultation is one month.

COMMUNITY IMPACT STATEMENT

25. The implementation of Theatre Peckham's proposals will benefit the local Community through providing resources and activity particularly for young people and Children. This includes educational and diversionary activity that will be of interest to a diverse audience. Theatre Peckham currently serves a regular audience of over 5,000 young people, 70% of which are from Black Minority Ethnic (BME) communities.
26. Theatre Peckham has an excellent track record in supporting local young people to gain high quality arts education including Trinity Guildhall grade qualifications, improving the employability of participants.
27. The Theatre Peckham proposals also support key Council priorities relating to improving educational attainment, supporting young people into employment and providing diversionary activity as an alternative to crime and anti-social behaviour.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Comments from Head of Finance (Env/MW/29/06/09)

28. As the conditions set out by the Charity Commission for a cy-pres scheme for the Livesey Museum do not commit the Council to any revenue expenditure there would be no financial implications for the Council resulting from the approval of this document.

Comments from Director of Communities, Law and Governance

29. The Charity Commission has proposed an amendment to the cy-pres scheme replacing the Council's previous proposal to include in the new objects "cultural or culturally related activities" with "a preference for the provision of a library or library services for the public benefit". This is in order to ensure the charity remains as closely as possible within the original aims of the charity as stated in paragraph 4 above. The commission has assured the Council that this does not in any way fetter the Council's discretion with regard to the general object of "advancement of education of persons in the area of benefit" and more specifically has no effect on the resolution to approve the Theatre Peckham proposals.

APPENDICES

No.	Title
1.	Draft cy-pres scheme for the Livesey from the Charity Commission for England and Wales

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing	
Report Author	Adrian Whittle, Head of Culture, Libraries, Learning and Leisure	
Version	Final	
Dated	July 2009	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law, Communities, Law and Governance	Yes	Yes
Finance Director	No	No
Executive Member	Yes	Yes
Date final report sent to Constitutional Team		10 July 2009