

**Name of meeting:** Cabinet  
**Date:** 31st July 2017  
**Title of report:** Freehold Asset Transfer of Birstall Community Centre and Library, Market Street, Birstall, WF17 9EN

**Purpose of report:** This report sets out the proposal to transfer the land and buildings on a freehold transfer, which currently makes up Birstall Community Centre and Library, Market Street, Birstall, WF17 9EN to Birstall Community Holdings Ltd or CIO. The conditions of the freehold transfer will include covenants to ensure that the Centre is a building that is not used for any other purpose than principally for community use.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>Yes</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	<b>Key Decision - Yes Private Report/Private Appendix - No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Yes</b>
<b>Date signed off by Strategic <u>Director</u> &amp; name</b>	<b>Naz Parkar - 20.07.17</b>
<b>Is it also signed off by the Service Director for Finance, IT, and Transactional Services?</b>	<b>Debbie Hogg - 20.07.17</b>
<b>Is it also signed off by the Service Director, Legal Governance and Commissioning?</b>	<b>Julie Muscroft - 20.07.17</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Graham Turner - Corporate</b>

**Electoral wards affected:** Birstall and Birkenshaw

**Ward councillors consulted:** Cllr Robert Light, Cllr Andrew Palfreeman, Cllr Elizabeth Smaje

**Public or private:** Public

## 1. Summary

- 1.1 Cabinet made the decision February 2015 to close the Public Halls due to budget reductions. Birstall Community Centre was one of the Halls listed. Local Councillors were invited to discuss the possibility of an Asset Transfer with their communities.

- 1.2 Cllrs Smaje and Palfreeman along with a member of the local community brought forward plans to seek an asset transfer of both the Community Centre and the Library. This paper sets out the background to their request and the Councils proposed response to the transfer.

## **2. Information required to take a decision**

### **Background**

- 2.1 Birstall Community Centre and Library is based on Market Street, Birstall. The Community Centre and Library is a venue that has been managed by Kirklees for a number of years. The Library is a vibrant space that is well used by children and families and the Community Centre has a good base of community use. Both areas of the site are self-contained.
- 2.2 Cllrs Smaje and Palfreeman have worked with a local resident and businessman to create Birstall Community Holdings Ltd (BCH). The Ltd Company entered into a lease of the Community Centre in April 2017 for 6 months. It's the intention then of Birstall Holdings Ltd to evolve into a Charitable Incorporated Organisation (CIO), which will have a wider community involvement. It is intended that the asset transfer of the whole building will go to the CIO if this can be completed within sufficient time to allow the transfer to complete.
- 2.3 BCH have successfully retained the majority of their current customers and are working with the local community to increase their customer base. BCH have undertaken one consultation and have committed to undertaking another public consultation before October 2017 to understand how the community would like to see the Community Centre and Library run, this second consultation should also assist in recruiting more community members to both the board of directors and to the management committee – which is essential in moving the transfer forward.
- 2.4 Once the CIO has been created the group then intend on creating a Management Committee from local community members to run the building on a daily basis. The committee members have not been finalised but will be confirmed before the completion of the freehold asset transfer.
- 2.5 BCH have submitted a partial but good application form and business case in line with the requirements of the 2017 Community Asset Transfer Policy, this includes the development of policies and capacity building which has been assessed by the Community and Engagement Team. It also includes financial planning and risk management which has been assessed by Locality, our third party partner who assists in supporting groups through Asset Transfer. Corporate Landlord have assessed the building related information and have in turn provided information to BCH that relates to the running of the Centre.

The application and business case is assessed using the Asset Transfer Assessment Tool which assesses 5 main areas: financial, community impact, risk, organisational strength and the asset. This has been designed in line with the Hallmarks of an Effective Charity which was written and supported by the Charity Commission.

BCH are yet to submit their financial projections for the next 3 years but have confirmed this will be in place before the legal completion of the transfer. All other aspects were confirmed as satisfactory.

- 2.6 BCH have submitted a 3 phase approach within their Business Case and one aspect of this is to create commercial space within the unused slipper baths on site. This commercial income will then be reinvested back into the building to allow for continued upgrades and essential works.
- 2.7 The site has historically been an Electoral Polling Station and the asset transfer will put in place arrangements so that the Centre can continue to be used as an Electoral Polling Station
- 2.8 In order to ensure the Council can continue to provide the Library Service from the building, the Council will be granted a lease back of part of the building. The lease will be for a period of 5 years but the Council will have the option to terminate the agreement at any time giving one months' notice. Although the 2017 Asset Transfer Policy does state that leaseback of space for a Council Service will be a nil rent an agreement was made with Birstall Community Holdings prior to the 2017 policy and following the 2015 Library review outlining that as this was a Town Library, under

the Library Decision made by Cabinet in September 2015, it would not be exempt from a hosting fee. The hosting fee will be in the form of a Service Charge and will be agreed along with the leaseback Heads of Terms.

## Asset Transfer

- 2.9 The Councils Community Asset Transfer Policy was revised in April 2017. The new Policy provides for additional financial support for groups requesting an Asset Transfer. The Policy continues to support groups to transfer assets from the Council at nil consideration in order to further local social, economic and environmental objectives.
- 2.10 The policy allows for assets to be transferred either through a long term lease or a freehold transfer, both options will normally have covenants that restricts use to community use with a possible exception of up to 30% commercial use.

The decision options for this transfer are:

- 2.10.1 Refuse the request for Transfer. BCH will cease to manage the Community Centre from October 2017 and the Centre will be closed to the community. The Library will continue to be managed by the Council until a decision is made on its future.

***Officers are of the opinion this should not be the recommended option on the grounds that the local community and the users of Birstall Community Centre would lose a valuable community asset.***

- 2.10.2 Transfer the asset either freehold or leasehold with restrictive covenants for community use with an exception of up to 30% commercial use in line with other Community Asset Transfers but with a requirement to lease back to the Council, at nil rent but subject to service charge, suitable and agreed space for the use of the Library and Information Centre.

***Officers are of the opinion that a freehold asset transfer with restrictive covenants for community use, with up to 30% commercial use and with a leaseback to the Council for nil rent but subject to a service charge, of suitable space for the Library and Information Centre should be the recommended option on the basis that the future use of the Centre would be retained for the local community.***

- 2.10.3 Transfer the asset without restrictive covenants in place. Whilst this approach has not been adopted before it is recognised that, subject to approval, this option does fit within the current Community Asset Transfer Policy, however, there is a risk that the Community Centres and Libraries future use as a community venue would be lost.

***Officers are of the opinion that this should not be the recommended option on the grounds that the future use of the overall site could be lost to the local community.***

## Costs

- 2.11 The building is in an acceptable state of repair, however, a 2009 Condition Survey identifies works required totalling £48,835. The areas of required investment are to the internal walls and doors which are estimated at £5009, the mechanical services which are estimated at £16,445 and the electrical services which are estimated at £26,824. As part of the business plan BCH have identified areas of investment. In transferring the asset possible Capital Repayment Costs circa. £3271 will be avoided.
- 2.12 The building running costs for 2016-2017 were £33,029; the transfer will therefore result in this being a revenue saving to the Council.

There will be a revenue cost to the Council for the Service Charge for the Library, if approved; this is yet to be negotiated.

2.13 BCH have requested 15% of the average of the previous 2 years running costs in line with the 2017 Community Asset Transfer Policy. This will have a one off revenue implication of £5,003.

## **2.14 Valuation**

### **Unrestricted Value**

The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms. It is the market value of the land as currently defined by the RICS Red Book (Practice Statement 3.2), except that it should take into account any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest (a "special purchaser"). When assessing unrestricted value, the valuer must ignore the reduction in value caused by any voluntary condition imposed by the authority. In other words, unrestricted value is the amount that would be paid for the property if the voluntary condition were not imposed (or it is the value of the property subject to a lease without the restriction).

**The unrestricted value of the Asset is: £300,000**

### **Restricted Value**

The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is defined in the same way as unrestricted value except that it should take into account the effect on value of any voluntary condition(s).

**The restricted value of the Asset is: £ Nil**

### **Voluntary Conditions**

A voluntary condition is any term or condition of the proposed transaction which the authority chooses to impose. It does not include any term or condition which the authority is obliged to impose, (for example, as a matter of statute), or which runs with the land. Nor does it include any term or condition relating to a matter which is a discretionary rather than a statutory duty of the authority.

**The value of voluntary conditions in the proposed transaction is: £ Nil**

### **Amount of discount given by the Council**

The difference between the unrestricted value of the land to be disposed of and the consideration accepted (the restricted value plus value of any voluntary conditions).

**The amount of discount in the proposed transaction is: £300,000**

The Local Government Act 1972 General Disposal Consent means that specific consent of the Secretary of State is not required for the disposal of any interest in land/buildings at less than best consideration which an Authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. Following their assessment, the Council are confident that the transfer of the Birstall Community Centre and Library to Birstall Community Holdings CIO will be likely to promote social well-being in the Birstall and Birkenshaw area.

## **3. Implications for the Council**

### **3.1 Early Intervention and Prevention (EIP)**

The asset is being utilised as a community venue and library and jointly they offer and facilitate a number of different groups and services that support the local community. These include a range of activities such as – stay and play, nursery time, parent and toddler groups, senior clubs, slimming world, exercise classes and arts and craft classes.

### 3.2 Economic Resilience (ER)

The transfer of the asset will support the community and recognises the benefit of community organisations in sustaining the economic, health and wellbeing of the local community.

### 3.3 Improving Outcomes for Children

There are a number of sessions available across both the Community Centre and Library that assist in outcomes for children.

### 3.4 Reducing Demand of Services

There will be no impact.

### 3.5 Legal/Financial or Human Resources

The building running costs for 2016-2017 were £33,029; the transfer will therefore result in this being a revenue saving to the Council.

There will be a financial impact to the Council of £5003 in relation to the 15% running costs available to the group.

Transferring the asset will avoid direct future capital investment of £48,835, however if the asset was to be disposed of on the open market the Council could obtain a Capital Receipt of £300,000

There will be a revenue cost to the Council for the Service Charge for the Library, if approved; this is yet to be negotiated.

There will be no impact on Legal or Human Resources

## 4. Consultees and their opinions

The directors and members of Birstall Community Holdings Ltd and its Management Committee were consulted and the following comments were received:

*[A member of the group] is submitting the Business case which will include the financial projections and updated declarations regarding governance, including details of two additional community directors for the CIO. As we have previously explained the only reason that two Councillors are involved is to ensure that the transfer was conducted to the satisfaction of the Council. Within 12 months at least one of the Councillors will be replaced by additional community directors.*

*The Polling Station is in the Library, not the actual Community Centre. We have no problem continuing that arrangement but some provision will also be needed in the lease back to the Library.*

The Local Ward Councillors were consulted and the following comments were received:

#### **Cllr Andrew Palfreeman, Cllr Robert Light, Cllr Elizabeth Smaje**

*All three Ward Members fully support the transfer of the Community Centre and Library building to the local community in the way that is proposed in the briefing note. However Cabinet should note the interests of Councillors Palfreeman and Smaje as current directors of Birstall Community Holdings and future directors of the CIO.*

## 5. Next steps

- 5.1 Subject to the decision made by Cabinet, Officers from Physical Resources and Procurement will complete negotiations and agree terms of the transfer.

## **6. Officer recommendations and reasons**

- 6.1 Members are requested to authorise in principle the freehold transfer of Birstall Community Centre and Library to Birstall Community Holdings Ltd or CIO if created in sufficient time for nil consideration and to include covenants for community use with the exception of up to 30% commercial use, subject to Birstall Community Holdings Ltd providing information relating to the ongoing CIO governance, details of the Management Committee and its members and the outcome of their second round of consultation before the legal completion of the transfer.
- 6.2 Members are requested to authorise a requirement within the transfer to lease back part of the asset for use of the Library and Information Centre for a period of 5 years with a 3 month break clause at nil rent but with an agreed service charge.
- 6.3 Members are requested to require the asset transfer to contain arrangements that enable the Council to continue to use the Property as an Electoral Poling Station as this is not outlined in the 2017 Community Asset Transfer Policy.
- 6.4 Members are requested to delegate authority to the Service Director of Economy, Regeneration and Culture and Service Director of Legal Governance & Commissioning to negotiate and agree the terms and red line boundary of both the freehold transfer of the Centre and the leaseback for the Library to Birstall Community Holdings Ltd or CIO if created within sufficient time to complete the transfer.

## **7. Cabinet portfolio holder's recommendations**

The Portfolio Holder, Cllr Graham Turner recommends the freehold transfer of Birstall Community Centre and Library to Birstall Community Holdings Ltd or CIO for no premium/nil consideration subject to the restrictive covenants discussed in paragraph 2.10.2 – which states that the proposed Asset Transfer route, subject to approval, is to *Transfer the asset freehold with restrictive covenants for community use with an exception of up to 30% commercial use in line with other Community Asset Transfers but with a requirement to lease back to the Council, at nil rent but subject to service charge, suitable and agreed space for the use of the Library and Information Centre.*

Cllr Turner also recommends that the transfer contains arrangements to protect the site as a future Electoral Poling Station.

## **8. Contact officer**

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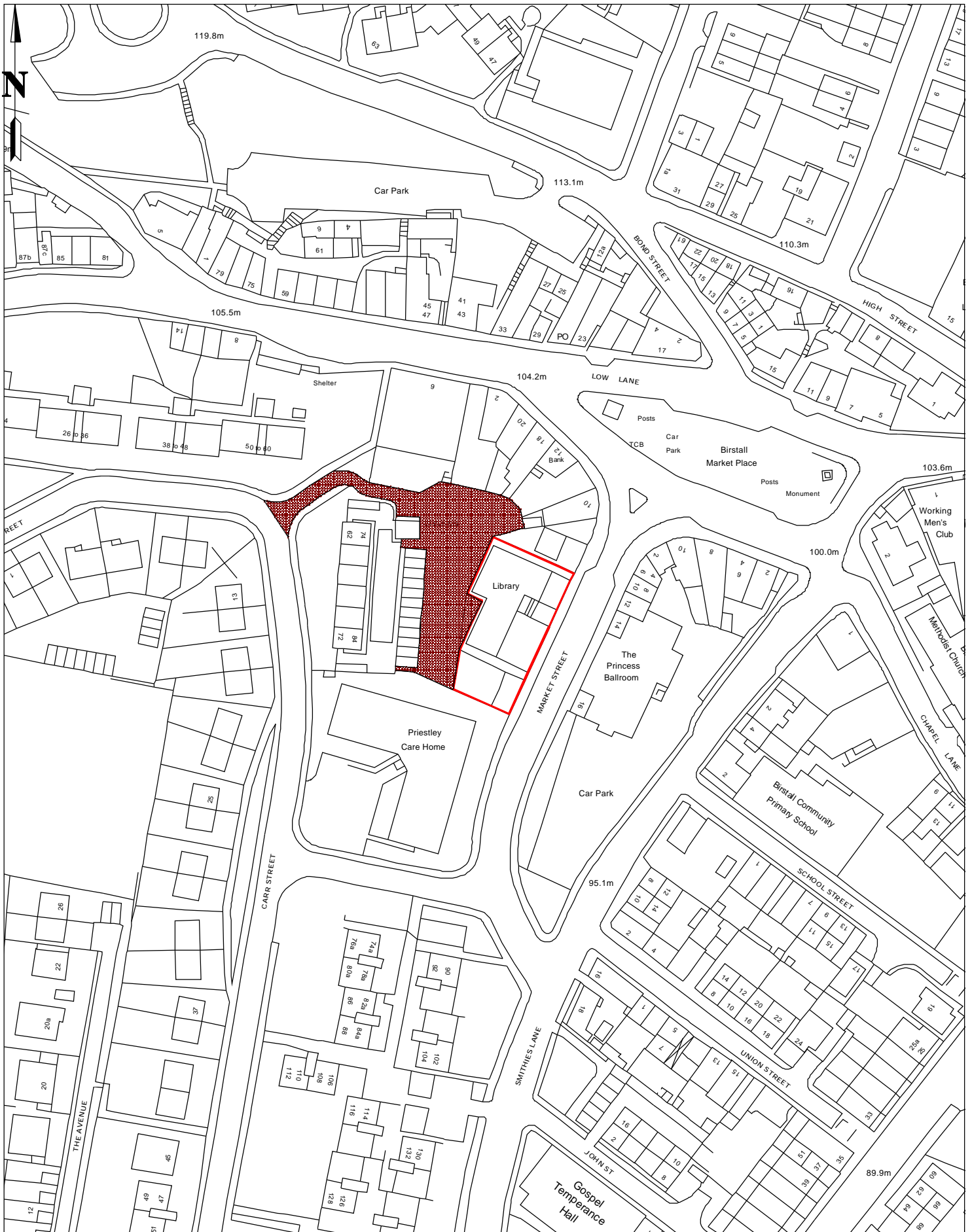
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## **9. Background Papers and History of Decisions**

## **10. Service Director Responsible**

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**PHYSICAL RESOURCES  
& PROCUREMENT**

Plan No: 17-0327

Scale: 1250

Required by:

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