

Name of meeting: Cabinet
Date: 9 February 2016

Title of report: Leasehold Asset Transfer of Chickenley Community Centre, Princess Road, Chickenley WF12 8QT.

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman – 29 January 2016
Is it signed off by the Director of Resources?	David Smith – 29 January 2016
Is it signed off by the Assistant Director - Legal & Governance?	Julie Muscroft – 29 January 2016
Cabinet member portfolio	Resources and Community Safety - Cllr Graham Turner

Electoral [wards](#) affected: Dewsbury East
Ward councillors consulted: Cllr Eric Firth, Cllr Cathy Scott, Cllr Paul Kane.

Public or private: Public

1. Purpose of report

- 1.1 This report sets out the proposal to transfer the land and buildings, on a long leasehold transfer, which currently make up Chickenley Community Centre Princess Road, Chickenley, WF12 8QT to the community association known as Chickenley Community Centre. The terms of the lease will include covenants to ensure that Chickenley Community Centre is a building that principally remains available for community use only.
- 1.2 Community Asset Transfer involves transferring land and buildings from a statutory body to a community organisation at 'less than best consideration' - that is at less than its full market value - in order to

further local social, economic and/or environmental objectives. The Council's Asset Advancement Policy was approved at Cabinet in 2013.

2. Key points

Background

- 2.1 Chickenley Community Centre located on Princess Road, Chickenley ("the Centre") is a vibrant venue. The community association known as Chickenley Community Centre ("the Community Association") was established in 1999, became a Company Limited by Guarantee January 2003 and obtained charitable status April 2008.

The Centre over the last few years has developed and improved the facilities for the community users and the Community Association has ambitious plans to develop the facilities further through the creation of a community gym with lottery funding.

- 2.2 The Centre is currently being managed by the Community Association and the Community Association is in occupation of the Centre under licence from the council. The current licence arrangements are for shared maintenance responsibilities and the Community Association has maintained the Centre to a high standard and has made considerable improvements to the fabric of the building during the term of the licence. Should the Community Asset Transfer be approved a new long lease will replace these arrangements.

The licence fee payable by the Community Association is approximately £11,000 per year. The full amount is gift aided back to the Community Association.

- 2.3 The centre is managed by Cathy Scott who is the local ward councillor. Paul Kane is a trustee of the Community Association and is also a local ward Councillor.

Asset Transfer

- 2.4 More recently members of the Community Association met with officers of Kirklees Council with a view to taking an asset transfer of the Centre on a freehold basis and have recently submitted a Community Asset Transfer application.

The Community Association aims to support local residents with a range of activities and events which help improve levels of health, education and wellbeing among local residents as well as reducing levels of isolation within the local community by providing a friendly and welcoming environment for local groups to meet. The Centre is well marketed and used over the weekend period for private parties.

- 2.5 The Community Association has submitted a robust application and business plan in line with the requirements of the Asset Transfer Policy, this includes development of policies, building running capacity, financial plans - this been assessed by the Communities and

Engagement Team, Locality, which is a third party who are working in partnership with the Council to support groups in capacity building and business planning to ensure a robust application and Corporate Landlord. The application was assessed using the Asset Transfer assessment tool which assesses 5 areas including a financial assessment, impact on community, risk, the asset and the strength of the organisation. This assessment was designed in line with the Hallmarks of an Effective Charity which is written and supported by the charity commission.

- 2.6 The Council's Asset Advancement Policy was developed in response to the Quirk review and subsequent localism agenda, and approved by Cabinet 8 October 2013. The policy allows for assets to be transferred either through long term leases or freehold transfer, but normally with covenants which restrict use to community use.

The decision options for this request for asset transfer are:

Refuse the Request for an Asset Transfer

Community Asset Transfer is one of the strands empowering communities to do more for themselves and is a key Council priority.

Officers are of the opinion that refusing the transfer request should not be the recommended option on the grounds that this would stifle the centre ambitions as they would not be able to apply for lottery grants and this would leave the Council with continuing onerous responsibilities under the licence that would cost more for the Council to discharge than any rent that would be received.

Transfer on a Freehold or Leasehold Basis

The Council's Asset Transfer Policy was approved in 2013: "and a transfer may take a number of legal forms. At one extreme, a transfer of the 'freehold' of a property would mean the entire ownership of the building would pass from the Council to the community based group. However, restrictions (called 'covenants') would normally ensure the property remained available to local people to use and prevent it being sold for development. At the other end of the spectrum, a 'licence' would allow a community based group to use a building, but sharing its use with other groups or individuals. In between these extremes, a 'lease' will give a community based group the exclusive right to use the property for the duration of the lease. A lease can run for any period - commonly from a few months, up to 999 years. At the end of the lease or licence the building will either return to Council control or a further lease or licence could be negotiated. Should the management of a building fail then the council would accept the building back into its portfolio regardless of the advancement basis".

Chickenly Community Centre shares a site with Orchard Primary Academy School. As well as having a shared boundary (see attached plan Appendix 1) and shared access to common areas the Community

Centre is located within a larger building which it also shares with the school. There are a number of services which are therefore shared e.g. heating, hot water and electricity. This means that it is more appropriate for there to be a leasehold asset transfer rather than a freehold asset transfer.

In addition, the advantage of a leasehold asset transfer is that it gives the council the potential ability to terminate the lease if the Community Association ceases to exist

The Community Association initially requested an asset transfer on a freehold basis, however in recent discussions the group have agreed to a leasehold asset transfer.

It should be noted that Orchard Primary Academy School have applied to the Education Funding Agency for a replacement boiler and at this stage it is expected that the physical separation of the two heating systems should take place. This will require the Community Association to seek funding to create a stand-alone system which will heat the Centre but take into consideration their future plans for a second floor extension for a Community Budget Gym.

To mirror previous freehold asset transfers (where the transfer has been on the basis of there being no payment or consideration payable), officers are of the opinion that the lease transfer should also take place at nil consideration.

Officers recommend that in this case the transfer takes the form of a grant of a long (125 year) lease at nil premium.

Transfer with or without covenants?

The Councils Asset Advancement Policy states “However, restrictions (called ‘covenants’) would normally ensure the property remained available to local people to use and prevent it being sold for development.”

- a. Transfer with a restrictive covenant.
Two of the three financial business models presented in the business case put forward plans to develop the existing bar and catering facilities and potential conference and office facilities to generate increased revenue income to support the community centre.
Officers are of the opinion that this should be the recommended option but that flexibility for up to 30% of the floor space is allowed for commercial activity to support the income of the Centre.
- b. Transfer the Centre without restrictive covenants in place.

Officers are of the opinion that this should not be the recommended option on the grounds that the future use of the

community venue could be lost to the local community without these covenants in place.

Costs

- 2.7 The most up to date (2009) Condition Survey identifies works totalling approximately £270,000 in the Centre. However this includes for the replacement boiler and heating distribution system for which some of the responsibility would fall to Orchard Primary Academy School and so the costs are difficult to split out. A more recent cost estimate for the creation of a new boiler room, boiler and heating distribution system servicing only the community centre of £80,000- £90,000 has been shared with the Community Association , however the Community Association have had cost estimates from external companies which are more favourable. The roof is also thought to be at the end of its useful life however due to the Community Association's intended first floor extension it is expected that this cost will be met by this project. The internal decorations, which are the group's responsibility, are in a good state of repair.
- 2.8 The current building running costs to the Council are £600 due to the lease currently holding over and having a shared responsibility for Repairs and Maintenance. The freehold transfer will result in a £600 saving to the Council but will avoid future Capital liabilities.
- 2.9 It is recommended that the lease be negotiated on a Full Repair and Insure (FRI) basis to release the Council from any future financial liabilities.

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 Chickenley Community Centre is: £150,000

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 Chickenley Community Centre 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: £150,000

In respect of *Local Government Act 1972 general disposal consents (England 2003) disposing of land for less than best consideration that can be reasonably obtained* the transaction does not require the Council to seek specific consent from the Secretary of State as the difference between unrestricted value of land to be disposed of and the consideration accepted is £2,000,000 or less.

3. Implications for the Council

- 3.1 The Local Government Act 1972 General Disposal Consent means that specific consent is not required for the disposal of any interest in land/buildings at less than best consideration which the 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, officers are confident that the grant of a lease of the Centre to the Community Association meets the economic and social factors for the local community.
- 3.2 The transfer of the Centre to the Community Association will support the community and recognises the benefit of these groups in sustaining the economic, health and wellbeing of the local community.
- 3.3 The wider site is shared with Orchard Primary Academy School.

As a consequence of the change of school organisation in May 2013 of the school from being a community school to being a foundation trust school, terms were agreed for the use of the shared facilities (that are identified in paragraph 2.5 above) and the apportionment of the costs of the running, repair and maintenance of these utilities. The Grant of the Lease will need to reflect the terms that have been agreed for the use of the shared facilities.

4. Consultees and Their Opinions

- 4.1 The Chair of Chickenley Community Association commented: The asset transfer of the community centre has been in the planning for a number of years and trustees are convinced that as a registered charity this will allow the community centre the opportunity to access external capital funds to improve and develop the existing building. This in turn will allow us to increase the facilities and activities that run from the centre to support the local community in a range of activities linked to education, health and well-being. In addition, by developing new revenue generating elements of the charity, this will increase the centre's financial viability and sustain it in the medium to long term.

Significant work has gone into developing an ambitious new business plan and trustees have helped develop a low, medium and high risk model which will guarantee the longevity of the centre even if the most ambitious elements of the plan are not realised.

- 4.2 Ward Cllrs (excluding Cllr Scott): Cllr Eric Firth commented - I do support the transfer on the terms recommended.

Cllr Paul Kane was invited to comment but no comment was received.

- 4.3 Moor End Academy Trust have commented: The transfer (of the school) from the Chickenley Foundation Trust has not yet been finalised so it seems premature to be talking about a further transfer.

5. Officer Recommendations and Reasons

- 5.1 Members are requested to authorise officers to grant a long (125 years), Full Repair and Insure leasehold of the building and land currently used for Chickenley Community Centre to the Community Association known as Chickenley Community Centre for no premium/nil consideration subject to the lease containing covenants that restrict the use of the Centre to community use but with the flexibility that up to 30% of the floor space of the existing building on the Centre can be used for commercial purposes.

- 5.2 Members are requested to note the Assistant Director of Physical Resources and Procurement and Assistant Director Legal Governance & Monitoring have delegated authority to negotiate and agree the terms of the lease that relate to the transfer of the Chickenley Community Centre.

6. Cabinet portfolio holder's recommendations

- 6.1 The Portfolio Holder, Cllr Graham Turner recommends the 125 year leasehold transfer of the Chickenley Community Centre to the Community Association known as Chickenley Community Centre for no premium/nil consideration subject to restrictive covenants but that flexibility for up to 30% of the floor space is allowed for commercial activity to support the income of the Community Centre.

7. Next Steps

- 7.1 Officers from Physical Resources and Procurement will complete negotiations and agree terms of the lease for the asset transfer to take place.

8. Contact Officer and Relevant Papers

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(01484) 221000

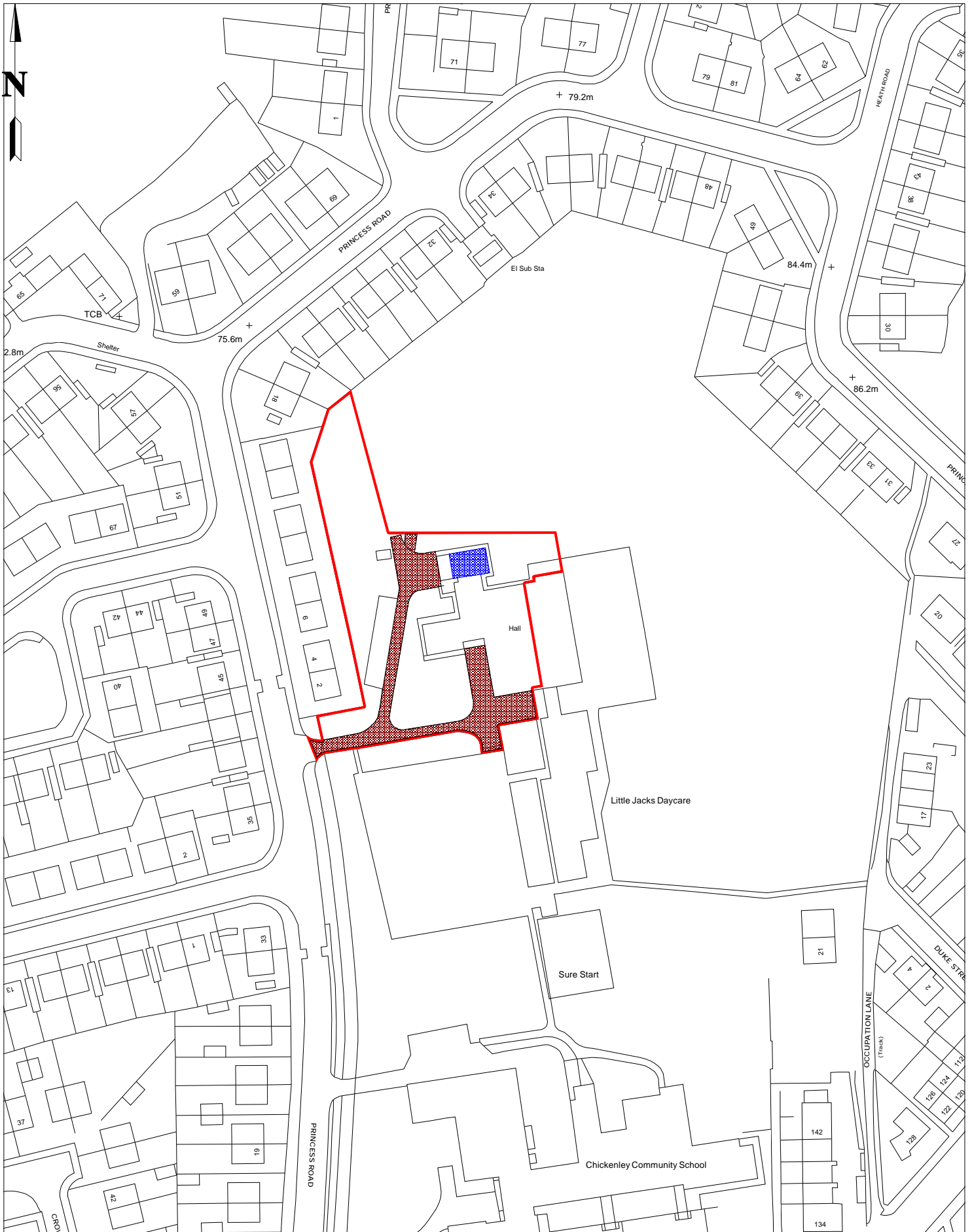
Jonathan Quarmby, Corporate Facilities Manager
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(01484) 221000

9. Assistant Director Responsible

Paul Kemp – Assistant Director Investment and Regeneration

10. Appendices

- 10.1 Chickenly Community Centre Red Line Boundary



PHYSICAL RESOURCES & PROCUREMENT

Plan No: 16-0066

Scale: 1250

Required by:

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