

REPORT TO:		Cabinet	
DATE:		29th July 2015	
PORTFOLIO:		Cllr Clare Cleary – Asset Management	
REPORT AUTHOR:		Ian Marfleet, Regeneration Projects Manager	
TITLE OF REPORT:		Disposal of Churchfield House to Churchfield House Ltd.	
EXEMPT REPORT:	No	No	
KEY DECISION:	No	If yes, date of publication:	

1. Purpose of report

- 1.1 To seek Cabinet approval for the disposal by long lease of Churchfield House, Great Harwood, to Churchfield House Ltd.

2. Recommendations

That Cabinet:

- 2.1 Notes and welcomes the progress that Churchfield House Ltd. have made running Churchfield House since Cabinet authorised the grant of a short term lease on 30th July 2014.
- 2.2 Endorses the business plan prepared by Churchfield House Ltd. for the future management of Churchfield House (Appendix 1).
- 2.3 Authorises the Executive Director (Legal and Democratic Services) to apply to the Charity Commission for a scheme or order to permit the grant of a further lease of Churchfield House to Churchfield House Limited in the terms of the draft lease appended to this report, subject to such amendments as the Charity Commission may require.
- 2.4 Delegates authority to the Executive Director (Legal and Democratic Services) (subject to the grant of a scheme or order permitting the same) to grant a further lease of Churchfield House to Churchfield House Limited in the terms of the draft lease appended to this report (Appendix 2), subject to such amendments as the Charity Commission may require.

3. Reasons for Recommendations and Background

- 3.1 The Council is trustee of charity number 221950, the Milton Haydock Bequest (“the charity”), which comprises Churchfield House and associated grounds in Great Harwood, and envisages use of Churchfield House as a public free library. The Council is subject to a legal duty to act in the best interest of the charity at all times. On the 30th July 2014 Cabinet authorised a short term lease of Churchfield House,

not exceeding 24 months, to Churchfield House Ltd. The Cabinet report of 30th July 2014 included extensive information relating the Councils management of the building, the objects of Churchfield House Ltd., the Milton Haydock Bequest of Churchfield House and the Councils role as charity trustee of Churchfield House. The purpose of this report relates to Churchfield House only, and does not in any way affect the present management arrangements for the grounds of Churchfield House.

- 3.2 Churchfield House has been significantly underused for many years. The books located in the reading room (the library) have deteriorated to such a level that they have become a health and safety hazard and many are now beyond economic repair. It is also evident that many of the books have been removed over the course of years and their whereabouts is now unknown. The remaining books are also of a type that is unlikely to have appeal to a modern-day readership. The purpose of the reading room has therefore become lost and the room has become unused. The remaining rooms have been used for meetings, approximately 22 hours per month.
- 3.3 During 2013 the Great Harwood Civic Society expressed its view that the building should be brought back onto more productive use for the benefit of the community in Great Harwood. To effect this outcome the Civic Society formed an independent not-for-profit company called Churchfield House Ltd. The objects of Churchfield House Ltd. are to sustainably manage Churchfield House for the benefit of the local community. To expedite matters, on the 30th July 2014 Cabinet authorised the grant of a short term lease of Churchfield House to Churchfield House Ltd. The purpose of the short term lease was to permit Churchfield House Ltd. the opportunity of managing the building for a limited period of time, and to prepare a sustainable business plan for the building's long term management and usage. Section 3.4 outlines the functions and events that have taken place for the duration of the short lease. Section 3.5 outlines the improvements that have been made to Churchfield House by Churchfield House Ltd. over the duration of the short lease. A business plan has been prepared by Churchfield House Ltd and is appended to this report (Appendix 1). The Business Plan shows that income generated through community based activities, and some commercial letting of office space on the first floor, will enable the operation of the building to become sustainable.
- 3.4 Brief details of events held at Churchfield House and details of organisations using the building over the past 18 months:-

Hiring Organisations

Camera Club weekly
NHS healthy lifestyle weekly
Yoga weekly
Arthritis care monthly
Derian House monthly
Hypnotherapist monthly for two days
Natural Healing weekly
Meditation group monthly
Speech and drama

All political groups at various times.

University of the Third Age

Additional - Parties and events are now a regular income. In house catering is available.

Events

16th November 2013 John Mercer exhibition 5 primary schools with 146 children visited. 185 members of the public visited during the month. Material now on loan to schools

Scanning days - local history material scanned and archived for future generations.

Craft Fair every third month.

Art exhibition local artists annual event. High school and uniformed groups arrange visits. Open to public for free over 3 weeks.

Book talks by local authors. Dialect and poetry talks by Bob Dobson.

WW1 exhibition August 2014 September 2014. Huge number of visitors. 5 primary schools 200 plus children visited

Lancashire Day celebrated annually.

Other more Recent Events

Vintage pop up shop

Chalk painting classes

Felt, brick, and card folding classes

Grand Auction

History group event for Churchfield House history discussion and visit

Confirmed Future Events

Children's parties mid-summer and Halloween

On foot history treasure hunt

Murder dinner

Curry nights

Craft fairs

Wine tasting event

Local author visit

Poetry night

Courses

Spanish course over 8 weeks

Other courses to be added as needed

Volunteer Involvement

Princes Trust volunteered at the building twice for a 1 week project.

Opening Hours

Monday, Thursday, Friday 11am-2pm Sunday 11am-3pm.

3.5 Details of improvements made to Churchfield House by Churchfield House Ltd. over the last 18 months:-

- Disposal of several skips of waste and rubbish left from previous occupation.
- Removal of ground floor carpets in the 3 main rooms, all wooden floors sanded to a fine finish and varnished.
- Redecoration of walls and ceilings throughout.
- Ground floor kitchen extended into the small storage room by removal of a stud partition. Kitchen fully refurbished including white goods, cupboards, surfaces etc. Suspended ceiling replaced and fire boarded.
- Ground floor and first floor domestic boilers replaced with new boilers, radiators upgraded where needed.
- Basement fire boarded.
- New furniture provided throughout for purpose of hiring, functions and events.
- Installation of Wi-Fi system.

3.6 The Charities Act 2011 does not permit any part of the building to be leased for a period of greater than 2 years without obtaining a scheme or an order from the Charity Commission . The current lease will therefore expire shortly and it is proposed that Churchfield House Ltd be granted a further, longer lease of Churchfield House on the terms of the draft lease attached at this report. This lease has been agreed with Churchfield House Ltd.

3.7 Before granting the proposed lease to Churchfield House Ltd. the Council, as charity trustee, will need to be satisfied that the proposed lease is in the best interest of the charity.

The Council could properly consider the following in this regard:-

- Prior to the grant of the short term lease the building was significantly unused, at best only being used for 22 hours every month by paying community groups – ref. Cabinet report 30th July 2014.
- The Council inherited the role of charity trustee from the former Great Harwood Urban District Council in 1974. The whereabouts of most of the contents of the library and other specified items are unknown. A number of books remain, but many of these are in exceptionally poor condition. The intention is to donate the books that remain in economically repairable condition to a public library, assuming that a library is willing to take them.
- The business plan prepared by Churchfield House Ltd. indicates that the building will be financially sustainable, acting as a centre for local community

engagement and neighbourhood development. The former reading room will remain as a free community resource, for meetings and other such activities. The current and proposed usage of the building by Churchfield House Ltd could be seen as not wholly inconsistent with the spirit of the original bequest, as much of the activity is of an educational nature and secures usage of the building for the benefit of the local community. In the future, when resources permit, Churchfield House Ltd also propose to provide a computer and internet facility at Churchfield House to further the use of the building as a learning and education resource, consistent with the Milton Haydock bequest of a free public open library.

- The building will be open during the week Monday, Thursday, Friday 11am-2pm Sunday 11am-3pm.
- Churchfield House has been used for a wide range of community activities and events under the short term lease arrangements as detailed in Section 3.4. This is a significant improvement on the prior use and has benefited the local community.
- Churchfield House Ltd. has made significant investment in the building over the duration of the short lease detailed in Section 3.5, both in terms of invested time by volunteers and actual financial investment. It is unlikely that such a level of investment would have been forthcoming from the Council.
- Extensive consultation with local residents has taken place with a very positive outcome for the proposals – see Section 5.
- The terms of the proposed lease appear to be the best that can reasonably be obtained. The Council has obtained an independent valuation of Churchfield House from Taylor Weaver, chartered surveyors, a copy of which is attached to this report at Appendix 5. Cabinet will note that this concludes that the proposed peppercorn rent represents market value for the property subject to a requirement for community usage in accordance with the charitable bequest.

4. Alternative Options considered and Reasons for Rejection

Churchfield House has been successfully managed by Churchfield House Ltd. for a period of 18 months. The community involvement and engagement has been considerably greater than under the management of Hyndburn Borough Council. The Council will continue to monitor the use and financial management of the building and to provide officer support to Churchfield House Ltd. as needed.

The Council could resume management of the building, but this would very probably lead to a reduction in community usage of Churchfield House and would not further use of the property as a free public library given the state of the current book collection.

The building is not available for more commercial use given the terms of the charitable bequest and no other organisation or body has expressed an interest in operating the same as a community facility.

5. Consultations

5.1 In order to satisfy its obligations as charity trustee, the Council has completed an extensive public consultation in Great Harwood in respect of the proposed grant of a further lease of Churchfield House to Churchfield House Ltd. The following consultation was carried out:-

- A public meeting was held at Churchfield House to explain the proposals and seek public responses.
- Notices were displayed around Churchfield House, the park and town centre setting out the proposals, inviting comments and inviting residents to the consultation event at Churchfield House.
- A press release was sent to the local papers setting out the proposals, inviting comments and inviting residents to the consultation event at Churchfield House.
- Information was given on the Council's website in respect of the consultation event, the proposals and again seeking comments.

The public consultation event was held on the 27th November 2014. The event was attended by 19 members of the public. During the course of the consultation period 20 questionnaires were returned to the Council all favourable to the proposed transfer of Churchfield House to Churchfield House Ltd. Only one additional comment was received in the questionnaire, which stated *"It is essential that the building continues to be improved and made available to all of the Great Harwood Community"*. An example copy of the consultation questionnaire is attached at Appendix 3.

5.2 Churchfield House Ltd. has completed its own separate consultation independent to that completed by the Council. Between August 2014 and November 2014 Churchfield House Ltd. received 160 positive responses to the proposed lease. No negative responses were received during the consultation. An example copy of the consultation questionnaire is attached at Appendix 4.

6. Implications

Issue	Comments
Financial (including mainstreaming)	There are no financial considerations for the purpose of this report.
Legal (including Human Rights issues)	<p>Legal matters are covered in the main report and in the Cabinet report 30th July 2014 – Disposal of Churchfield House, Great Harwood, to Churchfield House Ltd.</p> <p>As the bequest of Churchfield House required the building to be used as a public free library it is possible that the Literary and Scientific Institutions Act 1854 and Reverter of Sites Act 1987 apply to the building if the use is changed. At the beginning of the nineteenth century individuals were give land for certain charitable purposes. Legislation was</p>

	<p>enacted that allowed land given for these purposes to revert to the original owner or their heirs if the land was no longer used for the purposes for which it was given. Following the Reverter of Sites Act 1987 such land is now held on a private trust for such persons when it ceases to be used for the original purposes. Accordingly, whilst any such heirs may now be hard to trace, potentially a claim could be made against the Council for breach of trust by the heirs of the original benefactor.</p> <p>The level of risk is reduced by the inclusion of a Landlord break option in the lease which could allow the building to be returned to the Council. A claim may still arise for loss of rents and profits and whilst it might be possible to insure against this risk this is not certain or cover all risks.</p>
<p>Assessment of Risk</p>	<p>The lease agreement between the Council and Churchfield House Ltd. will limit the Council's risk by ensuring that the building is insured, maintained, and repaired. Where required, the Council may request copies of the financial accounts, thereby ensuring the financial management of the building.</p> <p>There is also the risk of a claim under the Reverter of Sites Act 1987, as referred to above. The beneficiaries of the Milton Haydock estate may be entitled to financial losses such as damages and compensation or settlement, in addition to the costs incurred in resolving the position. The Council has introduced a break clause within the lease agreement, which could be used to break the agreement and recover the building should a beneficiary of the estate materialise. The Council will receive no income from the disposal of Churchfield House, and therefore there can be no financial claim against the Council, by a beneficiary, for loss in this respect. A claim against the Council by the beneficiary, for financial loss as a result of income received by Churchfield House Ltd., during the operational use of the building, may be difficult to establish since Churchfield House Ltd. is not for profit social enterprise; all income is reinvested directly back into the running of the building. It is possible to purchase reverter of rights insurance, however the cover is generally limited to:</p> <ul style="list-style-type: none"> • Damages or compensation awarded against the insured by the courts • Cost of altering, demolishing and/or reinstating

	<p>all or any part of the property including any part of any building or other construction on or forming part of the property</p> <ul style="list-style-type: none"> • Reduction in market value • Abortive costs of works • Costs of settlement • Defence costs • Cost and expenses incurred with the insurer's consent <p>The property is not due to be altered or demolished, and remains in near identical condition to when it was bequeathed. Therefore the reinstatement liability and abortive costs of works does not exist for the purpose of needing insurance, and a potential claim for financial loss is very limited or does not exist for the reasons stated above. The risk to the Council is very low and the purpose of seeking reverter of rights insurance negligible.</p>
<p>Equality and Diversity <i>Officers should carry out a "Customer First Analysis" to ensure that all services and policies meet the diverse needs of its residents and other service users. What were the key outcomes from your Customer First Analysis?</i></p>	<p>A Customer First analysis is appended.</p>

**7. Local Government (Access to Information) Act 1985:
List of Background Papers –**

Cabinet 30th July 2014 – Disposal of Churchfield House, Great Harwood, to Churchfield House Ltd.
http://www.hyndburnbc.gov.uk/downloads/5b_Urgent_Cabinet_Decision_-_Disposal_of_Churchfield_House.pdf

8. Freedom of Information

The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

REPORT TO: Cabinet

DATE: 29th July 2015

PORTFOLIO: Cllr Clare Cleary – Asset Management

REPORT AUTHOR: Ian Marfleet, Regeneration Projects Manager

TITLE OF REPORT: Disposal of Churchfield House to Churchfield House Ltd.

Customer First Analysis

1. Purpose

- 1.1 The purpose of the report is to seek approval for the disposal by long lease of Churchfield House, Great Harwood, to Churchfield House Ltd.
- 1.2 On the 30th July 2014 Cabinet authorised a short term lease of not greater than two years of Churchfield House to Churchfield House Ltd. The purpose of the short lease was to permit Churchfield House Ltd. the opportunity of managing the building for a limited period of time, and to prepare a sustainable business plan for the building's long term management and usage. Prior to the grant of the short term lease the building was significantly unused, at best only being used for 22 hours every month by paying community groups. Following the successful management of Churchfield House during the period of the short lease, including a significant increase in the number of building users, it is proposed that the building be transferred by 25 year lease to Churchfield House Ltd.

2. Evidence

- 2.1 The Business Plan prepared by Churchfield House Ltd. appended to the cabinet report.
- 2.2 Two sets of community consultation, one completed by Hyndburn Borough Council and the other by Churchfield House Ltd. Both indicated the overwhelming support for the building transfer to Churchfield House Ltd.

3. Impact

- 3.1 The prior management of the building resulted in very low usage of the building. Following the short lease transfer of the building to Churchfield House Ltd, use of the building by the local community has increased dramatically. It is anticipated that use of the building will continue to gain momentum under the terms of the 25 year long lease. An example of this can be found through 2 events that were held at Churchfield House, one for John Mercer who invented cotton mercerisation, and the other a WWI exhibition. At the John Mercer event 185 member of the public attended, in addition to the 5 local primary schools with 146 school children.
- 3.2 Significant increase and use of Churchfield House by all members of the community.

4. Actions

- 4.1 Hyndburn Borough Council will continue to monitor usage and sustainability of Churchfield House through the terms and conditions of the 25 year lease agreement.
- 4.2 Endorsement by Cabinet of the business plan prepared by Churchfield House Ltd.

A handwritten signature in black ink, appearing to read 'Simon Prideaux', written in a cursive style.

Name: Simon Prideaux Signed:

Service Area Planning and Transportation Dated: