



Portfolio Holder Report

The portfolio holder will make a decision on this item after seven days have elapsed (including the date of publication).

Report of:	Portfolio Holder	Date of publication
Marianne Hesketh Service Director Performance and Innovation	Cllr Alan Vincent, Resources Portfolio Holder and Deputy Leader	20 October 2016

Fleetwood Museum - Lease Variation to Permit Assignment

1. Purpose of report

- 1.1 To agree that the existing lease for Fleetwood Museum is varied in order to permit assignment.

2. Outcomes

- 2.1 That the existing lease be assigned from Lancashire County Council (LCC) to the Fleetwood Museum Trust (The Trust).

3. Recommendation/s

- 3.1 That Option 2 (below) is agreed to permit LCC to assign the remainder of the term of the existing lease to The Trust.

4. Background

- 4.1 Wyre Council own the Freehold of the building at 6-7 Queens Terrace Fleetwood which is currently leased to LCC as a Museum (known as Fleetwood Museum) by way of a 125 year lease commencing from the 9 April 1993 at a peppercorn rent, with LCC being responsible for all the repair and maintenance at the property. The lease currently prohibits assignment and subletting to a third party.
- 4.2 LCC's Cabinet member for Environment, Planning and Cultural Services approved a decision to close the Museum to the public on the 30 September 2016. The approval allowed LCC to enter into negotiations with The Trust who are an organisation that wish to continue running the museum at the same location with a target date to transfer the running to them of the 31 December 2016.

- 4.3** LCC have supplied a copy of The Trust's Community Ownership of Assets and Community Service Provision Application Form which shows that the Trust will be funded by Fleetwood Town Council which raised the precept for 2016/2017 accordingly. This funding is subject to review on an annual basis.
- 4.4** Following the above decision, LCC's Estates Department put forward two proposals for consideration by Wyre Council regarding the transfer of its legal interest to The Trust.

The two options put forward are;

Option 1

Wyre Council to mutually agree a surrender with LCC and enter into a new lease with The Trust or;

Option 2

Vary the current lease to permit assignment in order that LCC can assign the lease to The Trust.

5. Key issues and proposals

- 5.1** Option 1 presents a number of issues for Wyre Council. One of the key issues is the cumulative amount of work that would need to be undertaken in a very short space of time which is highly likely to exceed the required target transfer date of the 31 December 2016.

This option would require the preparation, negotiation and agreement of a terminal schedule of dilapidations with LCC in addition to the simultaneous negotiation, agreement and documentation of new terms with The Trust.

A concern with this option would also be the financial uncertainty that the Council would be faced with in relation to the Trust's ability to carry out the ongoing maintenance, repairs / and dilapidations as a direct tenant of Wyre Council. As the funding appears to be subject to a review on an annual basis, there is the possibility that funding could be withdrawn at some point in the future potentially leaving Wyre Council with a significant maintenance liability. Whilst steps could be taken to protect the Council from bearing these costs, the risk is still considered to be higher than in Option 2 below.

- 5.2** Option 2 to vary the lease significantly reduces the work for the Council as this option only requires the drafting of a Deed of Variation between Wyre and LCC to permit LCC to assign the remainder of the term to The Trust. The Trust would then simply continue on the same terms as the existing lease therefore foregoing the requirement for a schedule of dilapidations or agreement for new lease terms and the drafting and completion of a new lease.

5.3 Unlike Option 1 which could put Wyre Council at financial risk if The Trust was unable to perform its obligations under the lease, Option 2 allows Wyre Council to include within the Deed of Variation a requirement that LCC guarantees the performance of the incoming Tenant (The Trust).

6. Delegated functions

6.1 The matters referred to in this report are considered under the following Executive Function delegated to the Resources Portfolio Holder (as set out in Part 3 of the Council’s Constitution): “To consider the Council’s strategic direction in relation to asset management including (a) any matters relating to the sale, lease or tenancy of land or buildings, or the grant of any other right over land, beyond the powers delegated to the Head of the Built Environment.

Financial and legal implications	
Finance	There are no direct financial implications. However, if Option 1 is chosen then there will be a burden on resources in the short-term to draft the necessary documentation and if The Trust discontinues or significantly reduces its financial commitment in the future there may be a financial burden in meeting any backlog of repairs and maintenance at the property.
Legal	None arising directly from this report however if the recommendations are approved the Council will need to enter into the appropriate legal agreements.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	✓
climate change	x
data protection	x

report author	telephone no.	email	date
Rowena Gornall	01253 88(7233)	rowena.gornall@wyre.gov.uk	6.10.2016

List of background papers:		
name of document	Date	where available for inspection
N/A	N/A	N/A

List of appendices

None

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