



## Report of City Development

### Executive Board

Date: 14 May 2008

Subject: Main street, Thorner – Over 55's Association

#### Electoral Wards Affected:

Harewood

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

### EXECUTIVE SUMMARY

- .1 The purpose of the report is to advise Members of the position regarding occupation of the above property and to seek support for a Less Than Best consideration disposal of a Council owned property for the provision of services to Older People.
- .2 The Thorner Over 55's Association has received Council support since 1961 by provision of a plot of land in Thorner at a nominal rent, upon which has been erected and run a small day centre for Older People on a voluntary basis. Therefore there has been considerable ongoing financial support for the organisation and the existing lease needs reviewing.
- .3 The Association requested a new long lease as security for fundraising to improve the property. The necessary £36,000 funding was raised on the offer of a 50 year lease and the improvements have been completed, but the Association feels that it is entitled to transfer of the freehold for this 'Community Asset'.
- .4 The property has a freehold market value of £180,000, which is anticipated could be realised if the organisation ceased to operate and the land sold as a cleared site for a single residential development plot. Therefore a 50 year lease at nil rent is recommended in order to continue the rental subsidy, in line with the basis upon which funds were secured, but also to protect the Council's interest in the event that the organisation should close sometime in the future.

## **Purpose Of This Report**

- .1 The purpose of the report is to advise members of the discussions that have taken place with the over 55's Association and seek support for transfer of a 'Community Asset' as a Less Than Best Consideration disposal on the terms recommended herein.

## **Background Information**

- .1 Thorner Old People's Welfare Association (now known as Thorner over 55's Association) was granted a lease of the land edged black on the attached plan by the Wetherby Rural District Council from 1 May 1961. Therefore the Association has received Council support for over 45 years by provision of a plot in Thorner at a nominal rent, upon which has been erected and run a small day centre for Older People on a voluntary basis.
- .2 The land was acquired for housing purposes but was undeveloped prior to grant of the lease to the Thorner Over 55's Association for community purposes. It adjoins a small number of housing properties managed by Leeds East and North East Homes.
- .3 In November 2003 the Association recognised the need to modernise the property to facilitate its use and to comply with the Disability Discrimination Act. In order to provide security fundraising the Association requested that the Council grant them a long lease at a peppercorn rent. A figure in the region of £36,000 was required for the project.
- .4 It was agreed with officers of the former Neighbourhoods and Housing Department to deal with the matter under the Council's Community Lettings Policy, whereby a market rent, restricted to community levels would be payable, but it would be grant funded by the sponsoring department in order to be transparent but cost neutral.
- .5 On 13 February 2004 the then Acting Director of Neighbourhoods and Housing Department agreed that a long term lease could be offered on terms to be agreed by the Director of Development. On 30 July he further agreed that the proposed market rent of £285 per annum could be grant funded.
- .6 In line with the scale of fundraising required, terms were offered on 12 October 2004 by City Development for a 25 year lease, supported by a grant funding agreement for the rental from Environment and Neighbourhoods for the full term of the lease. The Association considered that a 25 year lease was not sufficient for their proposed continued use and subsequently a 50 year lease was approved in November 2004 by the Director of Neighbourhoods and Housing to support their fundraising.
- .7 On the basis of the lease offered, the Council's North East (Outer) Area Committee approved capital expenditure of £20,500 towards the modernisation project on 17 February 2005 for improvements and an extension to the existing building so that the premises could be accessed by a larger elderly group. The report indicated that the Association and the Parish Council had already secured the remaining funding for the project at the time on the same basis.
- .8 Work commenced on site as soon as the Council funding was released in April 2005 and was completed within 6 months, which brought the property to a good condition and fit for purpose. The Association have confirmed that there is no need for further

capital fundraising in the foreseeable future. In the circumstance a 50 year lease, as offered, is considered reasonable.

- .9 Unfortunately the lease could not be completed as planned because it was recognised that the Director of Environment and Neighbourhoods could not commit to a fifty year grant funding agreement at a peppercorn rent. Under the Council's Community Lettings Policy, leases are usually granted for 6 years and if a grant is payable, it is reviewed every year.
- .10 Therefore a 50 year lease at nil rent through the 'Less Than Best Consideration' route was considered to be most appropriate, although it might be possible to consider if an alternative option of a nil value freehold transfer to which the Association feel the Council should now be committed. They say that fundraising promises were made on the understanding that the freehold would be transferred, but as noted above a 50 year lease would fulfil any funding conditions.

## **Main Issues**

- .1 The Quirk proposals for transfer of Community Asset ownership to Third Sector organisations were considered by the Asset Management Group on 6 July 2007, and there are a number of criteria by which Community Asset transfer applications need to be evaluated. The DCLG guidance recommends that authorities consider a range of tenure transfer options from freehold and leasehold or simply management arrangements for community assets, depending upon the extent to which the activities are aligned to corporate priorities and upon the capacity within the organisation for long term business planning, financial sustainability, organisational, professional and other skills.
- .2 The Director of Environment and Neighbourhoods is of the view that the Association delivers very worthwhile support services to older people in the village of Thorner. Apart from the rental subsidy, the Council does not make any ongoing revenue contributions to their costs and although accounts have not been asked for, there is no suggestion that the Association is not sustainable financially.
- .3 However the area of disagreement is around the length or type of tenure to be granted and this centres on the following issues, which are part of the evaluation criteria:
  - .3.1 Need for ability to raise capital – The full amount of capital required has already been raised on the basis of a 50 year lease and with the experience of lottery and other funding bodies, a 25 year lease would satisfy the level of funding involved. Therefore no additional leverage of capital is made available by making the freehold or longer lease term available.
  - .3.2 Organisational objectives and capacity – The Association has advised that it is a voluntary body, but is not a charity and its representatives have no aims to become a charity due to the stringent obligations which go with that status. Because they serve the older age range, they do not allow use of the facility by the wider community and because there are other facilities available in the village.
  - .3.3 Overall risk assessment - The Association has been operating successfully for a long period and has raised capital to keep the building in good condition, nevertheless there is a risk that if the key volunteers are unable to continue for health or other reasons, the organisation may cease to operate. If the decision is made to transfer the freehold then in these circumstances, it is estimated that the

organisation could sell the unrestricted freehold of the building for residential purposes at an estimated value of £270,000. Restrictive covenants based on the usage can often be difficult to enforce and, even if successful, it is often the case that the full value in exchange for release is not achieved. A 50 year lease, on the other hand, benefits the Association by being long term but at the same time covenants can be inserted under which the land and property would revert to the Council if it ceased operation, thereby protecting the Council's position.

- .4 In summary both options would provide long term security of tenure without cost to the Association and each would satisfy the requirements of the Lottery or any other funding bodies. However the lease option protects the Council's interest in the event that the Association may cease to operate at some point in the future, or local circumstances or needs in the area change.
- .5 The recommended lease would be at nil rent for its full term. The Association would bear its own legal costs and there would be a user clause restricted to the use of the premises by the elderly.
- .6 The proposal to grant a 50 year lease on a Less Than Best Consideration was supported by the Asset Management Group at its meeting on 30 November 2007.
- .7 The following terms have been provisionally agreed to grant a lease of the subject site with the Thorner over 55's Association.
  - .7.1 TERM - 50 years. The lease to be contracted in to the provisions of the security of tenure provisions Landlord and Tenant Act, 1954.
  - .7.2 BREAK CLAUSE – None.
  - .7.3 RENT - A peppercorn if demanded.
  - .7.4 RENT REVIEW – None.
  - .7.5 USE - The premises are to be used as a meeting facility and function space for the elderly and to be operated by Thorner over 55's Association. This will include a meeting place for the elderly residents of Thorner plus administration and related functions.
  - .7.6 REPAIR - The land and building is leased on a full repairing and insuring basis on the part of the lessee.
  - .7.7 ASSIGNMENT AND SUBLETTING - Not to assign the lease unless it is to a similar like minded organisation with the same aims and objectives as the Thorner over 55's Association.
  - .7.8 TENANCY - The Tenancy is to be in the name of the Committee of the Thorner Over 55's Association, as elected in accordance with the constitution of the Thorner Over 55's Association.

## **Consultation**

- .1 One Ward Member has been actively supporting the Association's desire for a longer term lease, but in a recent meeting, having heard the case either way, the member recognised the concerns over a freehold transfer but was supportive of submitting options to Executive Board. No adverse comments have been received from the other ward members.

- .2 In its sponsorship role, Environment and Neighbourhoods remains supportive of the Association's activities and the offer of a long lease at nil rent.

### **Implications For Council Policy And Governance**

- .1 The proposal supports the Council's Corporate Governance Plan and the approach fits within the overall policy for community facility provision as set out in the Departmental Asset Management Plan and approved previously by Executive Board. More specifically, the proposal relates to the Corporate Priorities of:
- Making the most of People – The proposal will enable a much valued facility for the community of Thorner to continue in its current form, therefore showing the Council's commitment to the people in this thriving community.
  - Competing in a Global Economy – Granting of the lease will permit the continued provision of a variety of services in the area which may not otherwise be possible
  - Looking after the Environment – Continued use of the building and associated site will demonstrate the Council's commitment to the use of brownfield sites, thereby protecting the environment by relieving the pressure on Greenfield sites.
- .2 Previous involvement in this property has been through Environment and Neighbourhoods as the land is held for housing purposes, but it is agreed that it should become an Area Management responsibility in future as part of the community centre portfolio.
- .3 When considering this matter, Members are reminded of the Council's Statutory Obligation under S123 of the Local Government Act 1972 to obtain best consideration in respect of its land and property assets.
- .4 There are, of course, certain situations where it may be possible to accept an offer at less than best and this is discussed below at 6.0
- .5 The approach recommended fits within the overall policy for community facility provision as set out in the Departmental Asset Management Plan and approved previously by Executive Board.

### **Legal And Resource Implications**

- .1 The unrestricted value of the property for each option is:
- |      |   |          |
|------|---|----------|
| .1.1 | 50 year lease (as a building capable of conversion to a dwelling) | £ 70,000 |
| .1.2 | Freehold sale as a building                                       | £270,000 |
| .1.3 | Freehold sale as a development plot                               | £180,000 |
- .2 As mentioned above the Council is required under section 123 of the Local Government Act 1972 to obtain best consideration in connection with this property.

- .3 Consent E3.2 of The General Consents for the Disposal of Housing and Land, however, allows the Council to dispose of housing land for any consideration, provided that the land will be used for a purpose (other than as housing accommodation) that does not involve trading for profit and will be beneficial to persons the majority of whom will be local residents. Therefore, under this General Consent, the Council is empowered to dispose at less than best consideration on either a freehold or leasehold basis.

### **Conclusions**

- .1 In conclusion, there are a number of options available to the Council in connection with this property. These have been considered above and the subsequent recommendation is set out below.

### **Recommendations**

- .1 Is recommended that:
  - .1.1 A 50 year lease at nil rent be granted to the Thorner Over 55's Association and for the Council to continue the rental subsidy, in line with the basis upon which funds were granted by the Council and other bodies.