



Date: Wednesday, 21 March 2018

Time: 12.30 pm

Venue: Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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Report of the Director of Adult Services

Contact: Andy Begley Tel: 01743 258911

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Committee and Date

Cabinet

21st March 2018

Ludlow Assembly Rooms – Lease Review, Community Asset Transfer and Improvement Works

Responsible Officer Chris Edwards, Head of Infrastructure and Communities
e-mail: Chris.edwards@shropshire.gov.uk Tel: 01743 255478 Fax:

1. Summary

- 1.1. As part of the Council's core objective to strengthen our local towns and villages, the Strategic Asset Management team are working with town and parish councils, as well as the voluntary sector, to enable the transfer of suitable land and buildings to community groups and organisations. The Community Asset Transfer (CAT) policy provides a framework and guidance to assess which transfers are viable and implement their transfer.
- 1.2. The policy contributes to the Council's objectives as set out in the Asset Management Strategy Section 5: Commission and work in partnership to empower communities. Release where appropriate through freehold transfer or leasehold transfer, properties to communities reducing revenue or maintenance burdens for non-core assets.
- 1.3. A report summarising the assessment of an application made by Ludlow and District Community Association Limited (LAR) in respect of Ludlow Assembly Rooms, 1 Mill Street, Ludlow, SY8 1AZ has been considered by the Director of Place and Enterprise and the recommendation is to progress to transfer by way of a two part 125 - year lease which, in accordance with the CAT policy, is subject to Cabinet approval.

2. Recommendations

- 2.1. That LAR are granted a 30 – year lease (Lease1) as explained in 4.3, of the whole building on terms which as far as possible mirror the existing 1992 lease in terms of user restrictions and repairing obligations, with delegated authority to the Head of Business

Enterprise and Commercial Services to agree final terms of the lease and to complete the transaction.

- 2.2. That the Landlord and Tenant will, within 3 months of satisfactory completion of the said three projects highlighted within the report, enter into a 123 year CAT lease (Lease 2) on full repairing and insuring terms, with the Head of Business Enterprise and Commercial Services to agree final terms of the lease and to complete the transaction.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1. There has been the desire to transfer the Ludlow Assembly Rooms to LAR for many years. Two issues have previously prevented the transfer to date, namely modernising/putting the building into a good state of repair and secondly the lack of capital funding to redevelop the ground floor section of the building which fronts onto Castle Square to include a new box office and café/restaurant.
- 3.2. An ERDF grant funded project of £1.34m has been awarded to the Council for the modernisation of the mechanical and electrical equipment within the building and this project is programmed for completion by June 2019.
- 3.3. In addition to the ERDF project, Shropshire Council as Landlord is contributing up to £250k to undertake necessary structural repairs to the roof, drains and walls etc.
- 3.4. Additionally, LAR have also been awarded £350k from Arts Council England as part of a £615k project to create a new café and box office on the ground floor.
- 3.5. The coming together of various funding streams and projects have provided the opportunity to consider the transfer of the asset to a local community organisation in accordance with the CAT process, which can then develop a range of arts, community and commercial activities which can sustain and make the building viable and sustainable for the future.
- 3.6. Full project and risk management governance/processes are in place to oversee the delivery of these projects.
- 3.7. The continuation of the use of the building and its availability for local groups will mean its accessibility continues into the future for the whole community.

4. Current and Proposed Leases

- 4.1 The upper floors and part of the ground floor amounting, to 74% of the building, is currently leased to LAR ("the 1992 lease"). The 1992 lease runs from 1st October 1992 to 1st October 2042, for a term of 50 years. The 1992 lease was subsequently varied to remove the rent payments over the term by way of a one-off capital payment of £120,000 to the Council. Under the terms of the 1992 lease (for 74% of the building), Shropshire Council remains responsible for the external/structural repairs and maintenance, but the Council is entitled to recharge 74% of the building repair/maintenance and insurance cost to the tenant.
- 4.2 In order to facilitate the two significant capital refurbishment projects funded by ERDF and Arts Council England, a new 25 year lease, granted in two stages, is proposed for the whole building.
- 4.3 Initially this report recommends that LAR are granted a 30 year lease (Lease 1) of the whole building (100%) on terms which as far as possible mirror the existing 1992 lease in terms of user restrictions and repairing obligations. The 1992 lease would be surrendered. Lease 1 will enable LAR to secure £350,000 Arts Council England funding to create the new box office and café on the ground floor of the building.
- 4.4 The Council as Landlord will prepare a schedule of significant existing structural defects (which does not include routine repairs to render, plasterwork, redecoration etc.) and any repairs carried out to these defects during the first two years will be paid for by the Landlord and not recharged to the tenant. The cost of such repairs (and surveys) will not in any event exceed a combined sum of £250,000. Any spending on existing significant structural defects in excess of £250,000 would be agreed with the tenant and be subject to the recharging conditions contained within Lease 1.
- 4.5 Any Landlord spending on repairs which are not covered by the schedule mentioned in 4.4 above would be agreed with the tenant and be subject to the recharging conditions contained within Lease 1 but any works which are funded by ERDF grants will not be subject to any recharges.
- 4.6 During the first two years of Lease 1, the Landlord will complete the proposed ERDF funded project and the Tenant, working alongside the landlord, will complete the ACE funded project. Upon satisfactory completion of these two projects plus any repairs as referred in 4.4, it is proposed that the Landlord and Tenant will, within 3 months of completion of the projects, enter into a 123 year CAT lease (Lease 2) on Full Repairing and Insuring terms.

4.7 Lease1 will be at a peppercorn rent for the first two years to reflect the community nature of the user restrictions but LAR will still be permitted to have a commercial sub-letting of the proposed new café area. At the end of two years, if the Landlord and Tenant do not enter into the CAT lease, Lease 2, then the rent under Lease1 will be reviewed as follows:-

- Until 2042, there will be no charge for the accommodation included in the 1992 lease as this has already been covered by a commuted payment. Any accommodation not included in the 1992 lease will be subject to a market rent reflecting the condition of the property excluding any works completed as part of the Arts Council England funded project. This rent can be subsequently reviewed in accordance with the provisions of the lease.
- From 2042 to the end of the lease, the entire premises will be subject to a market rent.

5. Financial Implications

5.1 The ERDF funded project to modernise the mechanical and electrical equipment within the building is made up of the following elements:-

ERDF Approved Funding	£ 803,704
LAR Match Funding Contribution	£ 50,000
Shropshire Council Match Funding	£ 485,802
TOTAL	£1,339,506

5.2 Shropshire Council as Landlord is contributing up to £250,000 in order to undertake necessary structural repairs to the roof etc. in order to put the fabric of the building in good order. See paragraph 4.4 above.

5.3 Shropshire Council is not funding any of the works to create the new café and box office on the ground floor of the building. This project is being funded by LAR and is made up of the following elements:-

Arts Council England Grant	£350,000
LAR Reserves	£100,000
Fundraising Activities	£135,000
Donation	£ 30,000
TOTAL	£615,000

5.4 Since 2009 Shropshire Council has provided a revenue grant to LAR in order to support the delivery of arts and community programmes. The current level of grant is £73,810 per annum. The development of the new café on the ground floor will generate new revenue income streams for LAR and as part of the Community Asset Transfer Process, it has been agreed that Shropshire Council will only make one more revenue grant of up to £73,810 available to LAR.

5.5 Rent from LAR in respect of the new 123 years lease, Lease2, is proposed below market value at a rent of £1 if demanded, as LAR will not be operating the facility on a commercial basis. (Any commercial returns from running productions, cinema, room hire, café etc. will be reinvested back into the repair and maintenance of the building and arts/community activities)

6. Additional Information

6.1. The proposed transfer complies with State Aid. LAR will provide services for the local community and as such are not the subject of competition across Europe.

6.2 The proposed grant of the CAT lease, Lease 2, for a £1 is a sum that is less than market value for a lease of the building. The disposal by way of the grant of the lease at a nominal rent is covered by Circular 6/03 under the Local Government Act 1972 General Disposal Consent 2003. This consent allows for the disposal of a property at less than best consideration where the disposal contributes to the promotion or improvement of one or more of economic, social and environmental wellbeing in the Council's area and where the difference in value is less than £2 million.

6.3 The CAT lease, Lease 2, will be on a full repairing and insuring basis.

7. In Summary:

7.1 LAR states that its mission is to be a 'leading rural arts, entertainment and community centre, offering high quality, diverse and stimulating programmes, friending atmosphere and accessibility to all'.

7.2 LAR have many years' experience in running their organisation and of maintaining the building.

7.3 LAR are a charitable trust and a company limited by guarantee, with more than 500 members and approximately 150 active volunteers. It is governed by a strong and experienced Board of Trustees and has a highly skilled and dedicated staff team.

- 7.4 LAR has finished the last three financial years with cash surpluses and for the first time has accumulated modest reserves.
- 7.5 A report summarising the assessment of an application made by Ludlow and District Community Association in respect of Ludlow Assembly Rooms, has been considered by the Director of Place and Enterprise and the recommendation is to progress to transfer by way of a two part 125 -year lease, in accordance with the CAT policy. LAR has identified running costs and proposed income streams in their CAT application. LAR state that any surplus will be used to further the aims of the Charitable Trust operating from the Assembly Rooms, to include repairs and maintenance of the building. As part of the policy LAR meets the criteria as a qualifying organisation.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Shropshire Council Community Asset Transfer Policy

Formal Expression of Interest from LAR plus supporting correspondence

Cabinet Member (Portfolio Holder)

Cllr Steve Charmley – Portfolio Holder for Corporate Support

Local Members

Cllr Andy Boddington

Cllr Tracey Huffer

Cllr Vivienne Parry

Appendices



Committee and Date

Cabinet, 21st March 2018

Adult Services Personal Budgets contribution Policy 2018/2019: The Minimum Income Guarantee (MIG)

Responsible Officer: Andy Begley, Director of Adult Services

Email: Andy.begley@shropshire.gov.uk

Tel: 01743 258911

1. Summary

- 1.1 The Minimum Income Guarantee ("MIG") is the amount that a recipient of Adult Social Care services must be left with to pay for everyday living costs after they have contributed to the care they receive in a non-residential setting.
- 1.2 Since the implementation of the Care Act 2014, the Department of Health and Social Care circular issued each year stipulates the minimum values for the MIG.
- 1.3 The Government has increased state retirement pension by 3% and pension credit by 2.3% for 2018/19. Allowances and benefits for working age citizens have increased by variable amounts, for example Employment and Support Allowance by 1.3%. The Department of Health and Social Care, however, has not increased the statutorily required MIG since 2015.
- 1.4 The statutory minimum income is £189.00 per week for a single person and £144.30 per week for a member of a couple. Local authorities have the discretion to set its MIG at a higher rate than the statutory minimum and Shropshire Council's MIG for pension age people is currently set above the statutorily required levels. For 2017/18, MIG is £194.50 per week for a single person and £148.50 per week for a member of a couple. The Council's MIG for working age people is currently set at the statutory level.
- 1.5 The MIG affects the level of the non-residential care contribution levied by the Council, and therefore the level of income which the Council can receive. Further detail is provided on this below, but in summary, the lower the level of the MIG, the greater the income that can be levied by the Council in the form of non-residential care contributions from individuals.
- 1.6 Shropshire Council, like other local authorities, is facing a significant increase in the cost of adult social care due to increasing demand, demographic pressures and rising contract costs; the cost of adult social care purchasing expenditure is forecast to increase by an average of 8% per year over the next five years. In such circumstances

it is inevitable that the Council must seek to maximise its income in a fair and transparent manner.

- 1.7 It is proposed that the Council consult on reducing its current level of MIG for people of pensionable age to that of the statutory minimum.

2. Summary of recommendations

- 2.1 That a public consultation is carried out into the proposals set out below, following which a recommendation will be made to Cabinet:
- 2.2 The Personal Budgets Contribution Policy is updated for 2018/2019, reducing Shropshire Council's existing levels of Minimum Income Guarantee for pension aged individuals to the governments' statutory minimum of £189.00 per week for a single person and £144.30 per week for a member of a couple.
- 2.3 That, subject to a means tested assessment, we increase the non-residential care contribution charges to this group of individuals in line with the changes to the Minimum Income Guarantee.

3. Background

- 3.1 When a financial assessment is made for non-residential care services, the MIG is the amount that a person must be left with to pay for everyday living costs.
- 3.2 Prior to April 2015, Local Authorities applied this by adding a 25% buffer to specific components of a person's actual income or entitlement. This meant that for every £1 increase in their welfare benefits, they would be better off by 25p.
- 3.3 From April 2015 the minimum level of MIG has been determined by Government as an absolute figure (rather than a percentage). Councils are able to set their own MIG higher than the statutory minimum if they choose to do so.
- 3.4 Cabinet resolved in May 2016 that this Council would increase its MIG rate for pension aged Service Users to £194.50 a week for a single pensioner and £148.50 for one of a couple. These were £5.50 and £4.30 a week higher respectively than the legal minimum MIG set out by the Department of Health and Social Care. For working age service users the Council has always applied the statutory minimum.
- 3.5 In September 2017 Cabinet resolved that during 2017/18 the MIG rates would remain as per the previous year.
- 3.6 On 30 January 2018 the Department of Health and Social Care issued its circular advice that there will be no changes in the level of the Minimum Income Guarantee for 2018/2019.

- 3.7 The Department of Health and Social Care has frozen the fixed amount of MIG in 2016, 2017, and 2018 but at the same time has increased the basic state pension and means-tested Pension Credit as well as other benefits.
- 3.8 In January 2018, Cabinet approved a review of the MIG for Shropshire Council in order to increase income from charges for care.

4. Risks and opportunities

- 4.1 Shropshire Council, like all other local authorities, is facing a significant increase in the cost of adult social care. Demographic change, the ageing population and increasing complexity and cost of care mean that the cost to Shropshire Council of commissioning adult social care is forecast to increase by £7m in 2018/19, and by an average of £8.3 million per year over the next 5 years. This represents an increase in adult social care purchasing expenditure of 8% per year.
- 4.2 The growth model for Adult Services has also demonstrated that the proportion of care costs that Shropshire Council is recovering from individuals for their care is reducing, as costs are increasing at a faster rate than income is being received by the Council.
- 4.3 There is a risk that individuals will have less disposable income after paying the charges for their care. All charges to individuals are based on a financial assessment to ensure that they can afford to contribute to their care. If a person's income is very low (below the MIG) they are not be charged for their care. This financial assessment process protects the people who are most financially vulnerable.
- 4.4 There is a risk of challenge from individuals affected by increased charges for the cost of their care. The views of individuals affected by the proposals will be very carefully considered as part of the consultation process before any final recommendations are made. An Equalities and Social Inclusion Impact Assessment will be carried out.

5. Options appraisal

- 5.1 It is proposed that two options for retaining or reducing the current level of MIG are consulted upon with Option 2 currently being the preferred approach. The options are set out within Appendix 1 in detail and are summarised as follows:

- **Option 1** Retain existing MIG and increase care contributions in line with benefits increases. This would generate estimated additional income of approximately £250,000 per annum for the Council.

Option 1 would effectively cancel out a service user's increased pension. A single older person receiving pension credit would receive a weekly increase of £7.15 in their income, and their contribution would increase by £6.39, leaving them with typically 76p additional income per week. One of a couple would receive £4.43 additional pension but would incur increased charges of £4.01, leaving them with typically 42p additional

income per week. Therefore, if Shropshire Council's MIG were to remain the same as in 2017/12018, the financial consequence for service users over retirement age would be that their weekly increase in pension would be absorbed almost entirely by the increase in their contribution to their care and support.

- **Option 2 – Decrease the MIG to the legal minimum therefore maximising care contributions.** This would generate approximately £467,000 per annum in additional income for the Council.

Under option 2, affected individuals will have an increase in their contribution that would see their actual income in 2018/2019 fall. This would be typically by £4.74 a week for a single person and £3.35 a week for one of a couple. Consultation will include contacting people who will be affected. This option will leave people who are charged for their care with less income than option one.

The cabinet resolution to raise the MIG in 2016 was only for pension aged service users therefore this recommendation does not refer to working age service users as the MIG for this group is already at the government statutory level. Option 2 effectively will ensure the equitable application of the MIG across all cohorts.

In summary, income to the council under Option 1 will be £20,839, and income to the Council under option 2 will be £38,947 per month.

Following public consultation a conclusive report will be collated and returned to Cabinet for final decision.

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</p> <p>Personal Budgets Contributions Policy 2016-17 Cabinet papers May 2016</p>
<p>Cabinet Member (Portfolio Holder) Cllr Lee Chapman, Portfolio Holder for Health and Adult Social Care</p>
<p>Local Member - All</p>
<p>Appendices Appendix 1 – Options for Retaining or Increasing the Minimum Income Guarantee</p>

Appendix 1 Options for Retaining or Reducing the Minimum Income Guarantee

Single Pensioner	17/18	18/19	
		Option 1: Retain Current MIG	Option 2: Reduce MIG
Total Income*	£277.45	£284.60	£284.60
DRE**	£25.50	£26.27	£26.27
MIG	£194.50	£194.50	£189.00
Contribution	£57.45	£63.84	£69.34
Change in Income		£7.15	£7.15
Change in Charge		£6.39	£11.89
Service User gains/loses		£0.76	-£4.74

One of a Couple	17/18	18/19	
		Option 1: Retain Current MIG	Option 2: Reduce MIG
Total Income***	£177.27	£181.70	£181.70
DRE**	£14.00	£14.42	£14.85
MIG	£148.50	£148.50	£144.30
Contribution	£14.77	£18.78	£22.55
Change in Income		£4.43	£4.43
Change in Charge		£4.01	£7.78
Service User gains/loses		£0.42	-£3.35

Option 1 Keep MIG at current level -

Summary		Estimated % who have contribution			Equates to this many Service users	Weekly increase in charge	Anticipated Annual Increase in Care Contributions
No. of single older people	850	80%			680	£6.39	£225,774
No of older couples	353	33%			116	£4.01	£24,290
total expected increase in income							£250,064

Option 2 Reduce MIG to legal minimum -

Summary		Estimated % who have contribution			Equates to this many Service users	Weekly increase in charge	Anticipated Annual Increase in Care Contributions
No. of single older people	850	80%			680	£11.89	£420,254
No of older couples	353	33%			116	£7.78	£47,111
total expected increase in income							£467,365

The numbers of cases affected are based on those pension age Service Users recorded on CareFirst receiving non-residential services and a 4% sample to determine those with a contribution.

*Based on typical service user income of £284.60, made up of pension credit of £163.00 + £57.30 attendance allowance + £64.30 single person disability living allowance (2018/19 weekly rates)

**2018/19 figure represents anticipated increase based on inflating typical constituent parts

*** Typical income for one of a pension age couple, made up of half of pension credit entitlement of £124.40 + £57.30 Attendance Allowance. As one of a couple they would not normally receive the Sever Disability Premium.