

Report of the Cabinet Member for Communities and Housing

Cabinet – 17 March 2015

TRANSFER OF GRAIGFELEN HALL TO CLYDACH COMMUNITY COUNCIL

Purpose:	To obtain Cabinet approval to grant Clydach Community Council a (99 year) lease on Graigfelen Hall for a peppercorn rent under the Authority's Wellbeing Powers.
Policy Framework:	Sustainable Swansea – Fit for the Future.
Reason for Decision:	Because the land to be disposed of is going to be on terms of less than best value, Cabinet authority needs to be obtained to approve terms of a Lease to be granted by the Council of Graigfelen Hall.
Consultation:	Legal, Finance and Access to Services.
Recommendation(s):	It is recommended that: 1) Cabinet authorises the grant of a Lease to Clydach Community Council on the terms set out in this report
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Legal Officer:	Wendy Parkin
Access to Services Officer:	Sherill Hopkins

1.0 Introduction

- 1.1 The Cwmni Clydach Development Trust (CCDT) obtained grant funding to build Graigfelen Hall on land leased from City & County of Swansea (CCOS). The CCDT, along with a local residents group, directly managed the hall and employed a caretaker to undertake premises duties.
- 1.2 The Trust went into administration on 25th September 2013 as it had a number of creditors which it was unable to pay. The Council immediately took over the temporary running of Graigfelen Hall, to ensure the facility remained in community use.

- 1.3 The Council paid a total of £12,500 to the administrators for Graigfelen Hall and the assets within Forge Fach on 29th November 2013. This was funded from the Community Regeneration Capital budget. The lease in favour of CCDT for the Hall and Forge Fach was surrendered by operation of law.

2.0 Future Management

- 2.1 Expressions of interest were invited by the Council on 13th February 2014 for the future management of Graigfelen Hall. Two parties formally expressed an interest in taking over the management of the building and following an evaluation process it was agreed that Clydach Community Council should be awarded the lease, and this recommendation was subsequently approved by the Head of Poverty & Prevention, the Chief Operating Officer and the Director of People, through delegated powers.

- 2.2 It is proposed that Clydach Community Council are granted a 99 year lease at a peppercorn rent under our wellbeing powers as this contributes to the promotion and improvement of the economic, social and environmental wellbeing of the area. Social factors will be addressed such as the encouragement of the voluntary sector, access to leisure and education opportunities, looking after the needs of children and young people and promotion of safe communities.

3.0 Equality and Engagement Implications

- 3.1 An EIA Screening has been undertaken with the results that a full EIA report is not required as this report refers to the process undertaken to transfer the asset and any accessibility issues will be covered within the lease.

4.0 Financial Implications

- 4.1 The building costs the Council approximately £10,000 per annum to run. The costs are being charged to the Poverty and Prevention Service; however there is no set budget provision, therefore this is putting significant financial pressure on the service.
- 4.2 It is proposed that the lease will be granted on a peppercorn rent as the Community Council will be fully responsible for the running and maintenance costs of the building.

5.0 Property Implications

- 5.1 The property was not advertised for sale or to let on the open market. However expressions of interest were invited by the Council for an operator who would use the property to reach some of the Council's operational goals.

- 5.2 The proposal is to grant to the Community Council a 99 year lease at a peppercorn rent. Therefore less than best consideration is being obtained on a lease for more than seven years; therefore the Council will need to rely upon the General Disposal Consent.
- 5.3 The market value of the property as at February 2015 to let for a term of 99 years at a peppercorn rent is estimated to be in the region of **£70,000 - £80,000**.

6.0 Legal Implications

- 6.1 It is proposed that a 99 year lease is granted to the Community Council at a peppercorn rent under the Authority's Wellbeing Powers. Under S.123 of the Local Government Act 1972, the Council is under a duty to obtain the best consideration reasonably obtainable on a disposal. Therefore, the proposed terms are a prima facie breach of that statutory duty. However the Council may utilise the General Disposal Consent (Wales) order 2003 to dispose at undervalue if it is in the interest of economic, social or environmental wellbeing of part of its area and is within certain financial limits. The Council will have to report to its external auditors within 28 days of the decision to dispose.
- 6.2 The European Commission's State Aid Rules must be complied with as effectively granting a lease at undervalue will mean that the Council is giving public assistance to an undertaking. However, the Head of Legal does not consider that the Community Council would be considered to be a business obtaining an advantage which has the potential to distort competition between member states and is not ultimately dealing with an activity traded between member states.

Background Papers: None

Appendices: None