

OFFICER DECISION RECORD

This form records an officer decision and is published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the Openness of Local Government Bodies Regulations 2014.

Officer name and title:	Ashley Curzon, Assistant Director of Regeneration
Directorate/Service:	Regeneration Directorate, Property Service
Subject of decision:	Sale of former Shanklin library building, Victoria Avenue, Shanklin
Type of decision (tick as appropriate):	1. Key Decision 2. Material Decision 3. Significant Decision
Divisions affected:	Library Service
Subject to call-in (yes/no):	No
Source of delegated power (specific authorisation or scheme of delegation):	Officer scheme of delegation
Decision taken (specify details, including any grant of permission/licence; whether affecting the rights of an individual; or awarding a contract/incurring expenditure materially affecting the council's financial position):	<p>To accept the offer of £100,000 submitted by Shanklin Theatre and Community Trust, on the basis of equal annual payments of £10,000, payable on the anniversary of completion of the transfer</p> <p>As part of its rationalisation of services, the Isle of Wight Council entered into negotiations with a number of community library groups in 2011 to ensure the ongoing delivery of library services in a number of locations across the Island from which the Council was proposing to withdraw. One such location was Shanklin where Shanklin Theatre and Community Trust took over the delivery of library services with continued use of the Shanklin Library building on Victoria Avenue. Occupation of this building was under a beneficial lease at a peppercorn rent, in recognition of the service being delivered.</p> <p>The lease, dated 4 April 2014, was for a term of 40 years from 22 July 2011, and the permitted use was as a public library with ancillary education and community use together with Shanklin Town Council use. As the lease was on beneficial terms, granted specifically for the purpose of a public lending library, a clause was included within the lease to ensure that this use continued on site and that if this use transferred elsewhere and the library use ceased at the</p>

Victoria Avenue building the lease would terminate.

The public lending library has recently been relocated to purpose built/refurbished premises at Falcon Cross, a more central location within the town which is more convenient for library users. The tenant, Shanklin Theatre and Community Trust, is aware that this is, effectively, a breach of the lease and could lead to termination, so has approached IWC with a proposal to purchase the freehold to ensure continued and expanded community use of the building.

Ordinarily, IWC would be reluctant to agree a freehold disposal, as policy is to retain buildings and generate an income by letting them to tenants, however, there are a number of issues relating to this property which make a freehold transfer of potential interest. Firstly, the property is of varying construction types (some quite poor) and is in fairly poor condition in places, indeed the lease is subject to a schedule of condition whereby the tenant does not have to keep in any better repair than at lease commencement. The cost of bringing the building to good and substantial repair and condition would be significant (probably in excess of £100,000) and this level of investment would not be recovered in rent, so is unviable from IWC's perspective.

Secondly, the building is used for community purposes and, whilst the principal community use has relocated, it is probable that alternative non-community uses may not be acceptable from a Planning perspective. Notwithstanding such a constraint, an independent valuation of the freehold indicates that the value restricted to community purposes is likely to be the same as any unrestricted value, both being £100,000.

Shanklin Theatre and Community Trust has, independently, sought valuation advice and has offered £100,000 for the freehold interest, but this offer is subject to staged payments of £10,000 per annum. The reason for this is that the Trust would seek to invest substantially in the structure and is unable to do so if it has to pay the full purchase price on completion.

The staged payments would be as follows. The first payment of £10,000 would be upon completion of the purchase. Thereafter, there

	would be equal annual payments of £10,000 paid on the anniversary of completion, until the full purchase price had been paid. IWC would take a first charges over the property, and Legal Services have commissioned external legal advice to ensure that IWC is able to properly protect its interests and document the transaction in a robust manner.
Reasons for the decision (including reference to relevant council policy):	To support the proposals for ongoing and extended community use; to dispose of a property that would otherwise require a significant capital investment by IWC without generating a sufficient return in rental value; and to provide a capital receipt to support the council's essential service delivery objectives
Alternative options considered and rejected:	Consideration has been given to forfeiting the lease for breach of covenant and 'evicting' Shanklin Theatre and Community Trust, and then marketing the opportunity on a leasehold or, possibly, freehold basis. However, notwithstanding the potential adverse reputational issue of evicting the Trust, the building requires significant capital investment which would not increase rents sufficiently to be repaid within a suitable period of time. If offered on a freehold basis, the capital receipt achievable is unlikely to be any higher than the current offer (albeit payable on completion, and not by staged payments). Consideration has also been given to amending the user clause within the existing lease to enable the Trust to remain in occupation under the terms of that lease, however, this would not enable the Trust to commit to the substantial investment into the structure that it is planning, and if IWC required a market rent for the building the Trust would not be willing to proceed on this basis
Persons/organisations consulted and their comments:	The following have been consulted with and have approved this approach: Deputy Leader Stuart Hutchinson. Rob Jones, Library Service. Town Councillor Richard Priest.
Any conflicts of interests declared by any member consulted and any dispensations granted in respect of any declared conflict:	Cllr Chris Quirk is a Trustee of Shanklin Theatre and Community Trust and to avoid any potential conflict has, therefore, not been involved in the negotiations for the property, these being undertaken by another Trustee.
Background reports/information considered and attached (legal, personnel, financial implications, etc):	Finance Services have confirmed that even with staged payments of £10,000 per annum this constitutes a capital disposal. Legal Services is consulting with external lawyers to ensure that the sale contract is worded

	suitably to facilitate stage payments and a first charge over the property in favour of the Council.
Consideration of the Public Sector Equality Duty and relevant Equality, Environmental and/or Community Impact Assessments:	Externalisation of the library service to a Community Library took place many years ago, and the relocation of the service to a more central location within Shanklin was the decision of the Community Library. The purpose of this decision is to support ongoing community provision from the building, following the relocation of the library.
Risk analysis:	Having reviewed the title plan there appears to be an error on the northern boundary, as shown on the registered title, which may be an error at registration, or an error in drafting of the original transfer. The Trust is aware of this error (it appears they may have been aware when they entered into the 40 years lease) and is willing to proceed on the basis that IWC uses its best endeavours to rectify the error.
Any information exempt from publication:	Not applicable
Date:	23/09/2020