

**HORTON CHAPEL**

<u>Report of the:</u>	Head of Legal and Democratic Services
<u>Contact:</u>	Simon Young
<u>Urgent Decision?(yes/no)</u>	No
<u>If yes, reason urgent decision required:</u>	N/A
<u>Annexes/Appendices (attached):</u>	Annexe 1 - Assessment Summary
<u>Other available papers (not attached):</u>	Previous reports to committee Title Documents, and associated documents Agreements under which funding was provided. Project papers (various)

**REPORT SUMMARY**

**This report seeks the approval of the Committee to the selection of a preferred bidder for the refurbishment of Horton Chapel for community use.**

**RECOMMENDATION (S)**

- 1) That Horton Chapel Arts & Heritage Society (“the Society”) be selected as the preferred bidder for the refurbishment of Horton Chapel for community use.**
- 2) That, subject to the Society being successful in its bid for funding to the Heritage Lottery Fund, officers be authorised to conclude an agreement with the Society on such terms as they think fit covering matters related to the above, to include:**
  - a) Terms for the release of up to £1.45million in grant funding to support the refurbishment of the Chapel.**
  - b) Terms for the transfer of the Chapel to the Society, for nil consideration.**

*Notes*

## **1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy**

- 1.1 Resolving the long running issue of what to do with Horton Chapel is relevant to the Council's key priorities of Managing Our Resources, and Supporting Our Community.

## **2 Background**

- 2.1 The Council has, for several years, been grappling with the issue of how to bring Horton Chapel into community use. Details of what has been done over the years were set out in previous reports to committee. Most recently, in January 2016, the Committee gave approval to a bid process prioritising at first bids from those wishing to refurbish the Chapel for a community purpose.
- 2.2 A report in June 2016 set out the progress which had been made and put draft assessment criteria before members for consideration. This report outlines the outcome of that bid process and seeks a decision to take the project to the next stage.

## **3 Proposals**

- 3.1 Four proposals have been submitted, from the following:
  - 3.1.1 Horton Chapel Arts & Heritage Society
  - 3.1.2 Hindu Mauritian Sabha (UK) Limited
  - 3.1.3 Oasis Church
  - 3.1.4 Councillor Omer Kokou-Tchri (Horton International Creative & Design Centre – from "Epsom First")
- 3.2 Each of these has been evaluated against the criteria which the committee considered at the meeting on 21 June 2016. A summary of the proposal and assessment of each bid is attached at Annexe 1.
- 3.3 As a result, the highest scoring bid is that from the Horton Chapel Arts & Heritage Society.
- 3.4 The main assumption in scoring this bid is in relation to the availability of funding. It has been assumed that the Society will be successful in obtaining funding from the Heritage Lottery Fund. Acceptance of the bid is proposed conditionally on that funding being secured. If it is not, then we will approach the second highest scoring bid, or, failing that, report back to Committee.

#### 4 Asset Management Plan

- 4.1 Appendix 4 to the Plan deals with acquisitions and disposals.
- 4.2 In summary, the disposal criteria are set out below, with a comment as to the position in this case:

Criteria	Comment
Compliance with section 123 (best consideration), including consideration of non-financial benefits	This has been considered as part of this report.
Land declared surplus to requirements	This property has always been considered surplus to the Council's requirements.
Community Asset Transfer/share	This is in effect what is being proposed in this case.
S&R agree best means of disposal	This and previous reports have considered the best means of disposal.
Consider overage	Not applicable in this instance, as the use of the property is restricted and the benefit of those restrictions lies with others. It is likely that further restrictions will be imposed in respect of the use of the premises, to protect the Council's position in the event that the proposed use by the Society fails for whatever reason.
S & R Final approval to the deal	This report seeks authority for officers to finalise the precise terms of the deal with the preferred bidder. This is so that we can be responsive to any matters which arise, for example requirements of the Heritage Lottery Fund. The main proposal which this report highlights is that the transfer to the Society, if it proceeds, will be at nil consideration.

#### 5 Financial and Manpower Implications

- 5.1 Full details of the funds held and information about their source and use are not set out in this report, as these are considered to be exempt information. Full information was provided to an earlier meeting. Members will be aware from other reports regarding the Council's financial position, including in relation to capital expenditure, that the Council's resources are stretched. It is therefore not considered that any further funds could or should be allocated to be spent on Horton Chapel, given the other competing demands on the Council's finances.
- 5.2 At the meeting on 27 January 2016 members decided that the following funding should be made available:
- 5.2.1 Up to £450,000 to be available to any purchaser to be expended on the refurbishment and renovation of Horton Chapel;

- 5.2.2 Up to a further £1 million to be available to any purchaser proposing a wholly community/charitable end use for the building;
- 5.2.3 Any mixed use incorporating community/charitable uses and commercial use to be entitled to a sum between the above figures depending on the nature of the mix proposed, with the intention that it be limited to a sum up to £500,000 in addition to the sum at 5.2.1
- 5.3 The Society's proposal will require all of the £1.45million to be committed to its scheme, and in giving approval for "preferred bidder" status, the Committee is authorising officers to commit those funds. The precise mechanism for release of the funds remains to be agreed. Officers intend to finalise those arrangements in discussion with the Society, having regard to the principles of good governance and the requirements of the cash-flow of the project and terms of any lottery grant funding.
- 5.4 Transfer of the Chapel to the Society for nil consideration means that the Council will be foregoing any capital receipt for transfer of the building. As set out elsewhere in the report, this is considered to be lawful. In all the circumstances this is also considered to be acceptable as the Council received the building for free, and has always contemplated its use for community purposes.
- 5.5 **Chief Finance Officer's comments:** *It is important that this project is completed without call being made on any funding other than that referred to above.*
- 5.6 *The financial elements of this decision were presented to this Committee on 27 January 2016 in the restricted papers. It was outlined at that stage that a number of the funds were not restricted to use only on Horton Chapel. There were a number of the funds c.£600k that could be released back into general reserves supporting the Council's services.*
- 5.7 *Should the recommendations be agreed the restricted funds should be used first ensuring that residual amounts from the funding are unrestricted and can be released into the Council's general reserves.*

## **6 Legal Implications (including implications for matters relating to equality)**

- 6.1 Under section 123 of the Local Government Act 1972, the Council can dispose of land in any manner it wishes, subject to certain constraints. A Council shall not, without the consent of the Secretary of State, dispose of land for a consideration less than the best which can reasonably be obtained.
- 6.2 The Secretary of State has issued the General Disposal Consent (England) 2003. This is Annexed to Circular 06/03, which contains further relevant guidance. The General Disposal Consent permits Councils to dispose of land for less than best consideration, provided that:

6.2.1 The Council considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of one or more of the following objects in respect of the whole or any part of the Borough, or of all or any persons resident or present in the Borough:

- The promotion or improvement of economic well-being;
- The promotion or improvement of social well-being; and
- The promotion or improvement of environmental well-being; and
- The undervalue (the difference between the unrestricted value – the market value - and the terms for the disposal), does not exceed £2million.

6.3 Under the terms of the General Consent, the unrestricted value is to be assessed in accordance with a Technical Appendix. This in turn effectively requires that a report be obtained from a qualified valuer (a member of the Royal Institution of Chartered Surveyors). This is emphasised in the Circular, which states that an authority “should ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.”

6.4 Officers previously obtained a professional independent valuation of the property, and a second valuation has recently been obtained in conjunction with the Society. .

6.5 The bid from the Society is proposing that the Chapel be transferred at nil consideration, which is clearly not the best cash price. However, this can still be assessed against the criteria above, most likely the improvement of social well-being. It is considered that securing the refurbishment of this historic building, for a use which will benefit the local community and others, will contribute to achieving the promotion and/or improvement of social well-being. The Arts & Heritage centre use is considered to meet that requirement.

6.6 It is clear from the valuation exercises which have been undertaken, that the “undervalue” would not exceed the £2million limit in the General Disposal Consent.

6.7 ***Monitoring Officer’s comments:*** *It is considered that the proposals in this report are lawful.*

## **7 Sustainability Policy and Community Safety Implications**

- 7.1 There are no sustainability or community safety implications arising from this report. Such matters will be considered as part of the planning application process assuming the Society succeeds in its bid for Heritage Lottery Funding and proceeds to develop its proposals for the Chapel.

## **8 Partnerships**

- 8.1 There are no implications for other partnerships arising from this report. If the recommendations in the report are agreed, the Council will work in partnership with the Society to assist the Society in realising its aims for the Chapel.

## **9 Risk Assessment**

- 9.1 The main risk arising from the recommendations is in relation to the financial position, though this also provides a significant opportunity. The Society's proposal has been thoroughly thought through and worked up. It is, however, dependent upon receiving Heritage Lottery Funding. The Council will not release funds to the Society unless and until such funding is secured. If funding is secured, the grant conditions imposed by the Heritage Lottery Fund will assist in ensuring proper governance of the refurbishment scheme. The Society is registered as a charity, and this also provides assurance that the Society and the project will be governed appropriately.
- 9.2 There are risks as to the future use and operation of the Chapel by the Society, but these are mitigated by the controls referred to above.

## **10 Conclusion and Recommendations**

- 10.1 In conclusion, it is considered that the proposal from the Society should be accepted in principle, that we should work with the Society as the Heritage Lottery application proceeds, and that officers should be authorised to conclude the necessary agreements with the Society in the event that the funding application is successful.

**WARD(S) AFFECTED: Court Ward; Ruxley Ward; Stamford Ward**