



# REPORT TO EXECUTIVE

## PORTFOLIO AREA: COMMUNITY ENGAGEMENT

---

**Date of Meeting:** 22nd NOVEMBER 2011

---

**Public**

---

**Key Decision:** Yes

**Recorded in Forward Plan:** Yes

---

### Inside Policy Framework

---

**Title:** TULLIE HOUSE BUSINESS PLAN AND LEASE ARRANGEMENTS

**Report of:** The Assistant Director (Community Engagement)

**Report reference:** CD 22/11

### Summary:

This report considers the Tullie House Museum and Art Gallery Trust 2011- 2014 Business Plan and lease term issues.

It summarises the steps leading up to the establishment of the Trust in April 2011, the key milestones outlined in the draft Business Plan and financial and legal implications. It includes details of a proposed extension to the lease arrangements from the City Council for the property occupied by the Trust.

The draft Business Plan is included as a Part B (private) item as it is not for publication by virtue of paragraph 3 & 4 of Part 1 of Schedule 12A of the Local Government Act 1972

### Purpose of the report:

The purpose of this report is to allow prompt consideration of the Business Plan in order that the Council may in due course agree core funding for the Trust. This funding approval will be actually for 2012/13 and in principle for 2013/14 and 2014/15.

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None**

This is In line with Section 5 of the Partnership Agreement signed at the establishment of the Trust that the Business Plan submitted by the Trust to the City Council should be used as the basis agreeing funding (Section 5)

**Recommendations:**

It is recommended that Executive consider this report and the proposed Business Plan and agree its circulation to Overview and Scrutiny Panels for further consideration and comment.

**Contact Officer:** Keith Gerrard

**Ext:** 7350

## **1. CONTEXT AND BACKGROUND INFORMATION**

The Council on 14th December 2010 approved the principle of establishing a new Charitable Trust to run the Tullie House Museum and Art Gallery. Tullie House Museum and Art Gallery transferred from Carlisle City Council to an independent company on 5th May 2011.

The City Council's 12-month core funding grant to Tullie House Museum and Art Gallery Trust in 2011/12 is £1,314,420. In line with the Partnership Agreement between Tullie House Trust and Carlisle City Council core funding for future years, and specifically in this context 2012/13, 2013/14 and 2014/15, will be agreed by submission of the Trust Business Plan each year. To provide a secure and stable basis for medium-term planning, consideration will be made annually on core funding on a three year rolling cycle.

To this extent Partnership Agreement section 5.6 reads

'Core Funding for 2012/13, 2013/14 and 2014/15 will be agreed through a Business Plan submitted by MT<sup>+</sup> to Carlisle<sup>\*</sup> not later than 31 October 2011 and Core Funding for 2015/16 will be agreed through a Business Plan which covers the period 2013/14 to 2015/16 submitted by MT to Carlisle not later than 31 October 2012'.

(<sup>+</sup>Museum Trust <sup>\*</sup>Carlisle City Council)

The City Council's annual budget process requires that approval of core funding for 2013/14 and 2014/15 will be in principle.

### **1.1 Business Plan and monitoring arrangements**

In line with the Partnership Agreement signed at the establishment of the Trust, the Business Plan outlines the Trust proposals for developing its charitable and commercial operation in the coming years. The Partnership Agreement specifies that the Business Plan will be considered promptly and in a collaborative fashion (section 5.8). It also details the contents (amongst other things) of any Trust Business Plan.

The 2011-14 Business Plan submitted by the Trust to the City Council covers the following issues:

- Access development
- Organisational transformation

- Community involvement
- Partnership working
- Business development – investing in generating sustainable income
- City Council funding
- Commercial trading income
- Fund raising and sponsorship

Monitoring procedures to assess progress associated with the Business Plan include quarterly evaluation of all aspects of the Trust function.

Key performance measures are being finalised and agreed between City Council and Trust representative, these are likely to include:

- Social return on investment of core funding (indicators to be decided)
- Efficient use of core funding resources

Make up of market share:

- Geography of customers (gathered by survey)
- Economic segmentation of customers (gathered by survey)

Funding

- Grants
- Trading income
- Fund raising and sponsorship

Community involvement

- Outreach activity
- Young persons visits and learning activity
- Visits by protected characteristics - ethnicity, age, gender etc. (gathered by survey)
- Customer Feedback (qualitative information) – Tullie House will provide copies of customer comment cards.

Members of Executive are asked to consider the attached (Part B) Business Plan in the light of the above and also seek the views of Overview & Scrutiny Panel.

## **1.2 Lease Arrangements**

On 26 April 2011 Council granted consent to the leasing of Tullie House and the other museum premises for use by the Trust at peppercorn rents which were less than best consideration. (Report RD 84/10 refers). Advice in support of the decision was presented to the Council setting out the valuation implications on the basis of the leases being granted for a period of 25 years. The Trust has now requested that the term be extended to a period of 30 years, which will bring the leases into line with the arrangements for all the other Transfer Agreements and documentation.

Extending the leases for a further 5 years so that all documents are co terminus makes sound business sense for both parties. The Council is able to lengthen the leases so long as this is in accordance with Policy Framework, set out in the Asset Management Plan, and the statutory provisions of Section 123 of the Local Government Act 1972, which relates to the limitations on the transfer of assets at an undervalue.

Adding a further 5 years to the leases will have an impact on the Council's museum assets by reducing the freehold values from the figures previously set out in Report RD 84/10. The precise effect of the change is unknown at this stage, valuation advice will be required to inform Members on the position, but it is considered most unlikely that the impact on the Council's assets will be significant, or that the undervalue will exceed the threshold (£2 million) set out under the Local Government Act 1972. Further valuation advice will be sort to support the process and decision making going forward.

## **2. CONSULTATION**

Consultation proposed.

Subject to approval by Executive, the Business Plan will be available to be considered by Community Overview and Scrutiny Panel on 24 November 2011 and Resources Overview and Scrutiny Panel on 6 December 2011.

## **3. RECOMMENDATIONS**

It is recommended that Executive consider this report and the proposed Business Plan and agree its circulation to Overview and Scrutiny Panels for further consideration and comment.

#### **4. REASONS FOR RECOMMENDATIONS**

The recommendations allow this report and the associated Business Plan to move forward for wider consultation, including Community and Resources Overview and Scrutiny Panels

#### **5. IMPLICATIONS**

- Staffing/Resources – None
  
- Financial – The MTFP currently assumes provision for the core funding of the Tullie House Trust in accordance with the Partnership and Funding agreement. Appendix E of the proposed Business Plan summaries the financial position for the next three years, and although the levels of core funding are broadly in line with expectations, further work is required to address minor issues such as any required inflationary increases for 2012/13. Members should also note that £100,000 has been included within the 2011/12 budget as the maximum sum the Council will fund for any potential redundancy costs incurred by the Trust within the first 12 months of operation.

Discussions will continue with the Trust to address any necessary changes which will be reported to Members as part of the consultation process.

- Legal – Disposal of Land (by Lease) at an Undervalue)
  - (1) The Council has already made the decision to let property to Tullie House Trust at an undervalue and the purpose of this report is to vary the term from 25 to 30 years to tie in with the overarching Trust Agreements. Nevertheless, it is worth rehearsing the criteria to be applied when disposing of land at an undervalue:
  - (2) The Council has power under Section 123 of the Local Government Act 1972 to dispose of land in any manner it wishes, including sale of a freehold interest, granting a lease or assigning any unexpired term of a lease, and granting easements. The only constraint on this power is that the disposal must be for the best consideration reasonably obtainable (except in the case of the disposal of short tenancies), unless the Secretary of State consents to the disposal being made at less than best consideration.

- (3) Consent from the Secretary of State can be given in one of two ways. It is automatically given if the disposal at less than best consideration falls within the terms of a general Consent given by the Secretary of State in 2003. An important caveat in this Consent, however, is that the under value for which the land is disposed of must not exceed two million pounds. If it is proposed to dispose of land at an under value exceeding two million pounds, then a specific consent must be obtained from the Secretary of State on a case by case basis.
- (4) It is therefore a matter for the Executive to consider whether they wish to recommend in each case that a particular piece of land be disposed of to the new Tullie House Museum and Art Gallery Trust at less than best consideration, including at a nominal value if it is satisfied that circumstances justify this. Each disposal should be considered on its own merits to ascertain whether the Executive is satisfied that a disposal at less than best consideration is justifiable and what the undervalue should be in each case. This will be dependent, partly, on negotiations between the Council and the proposed Trust providing the Executive has determined in any particular case that a disposal should be exempt from this tendering process. Ultimately, each parcel of land will require to be valued to ascertain what the value of the land is and what any discount on the sale price might be. If in any case it were to amount to a disposal in excess of two million pounds less than the market value then the consent of the Secretary of State would be required. If the discount was less than this figure then the Council has power itself to approve of any discounted disposal.
- (5) The relevant Government Circular guidance on the matter (General Disposal Consent (England) 2003) sets out that it is Government policy that Local Authorities should dispose of surplus land wherever possible. Whilst it is expected that land should be sold for the best consideration reasonably obtainable in general circumstances, the Circular recognises that there may be circumstances where an authority considers it is appropriate to dispose of land at an under value. Hence, the Consent regime referred to above has been put in place. The Guidance makes the point that, when disposing of land at an under value, Authorities must be aware of the need to fulfil their fiduciary duty in a way which is accountable to local people and make sure that they obtain the view of a professionally qualified valuer as to the likely amount of any under value, so that they are fully informed of

all the relevant circumstances, and the Property Services Manager therefore needs to advise on the market value of each parcel of land for Members to consider. It is a matter, therefore, for the Executive to consider how it wishes to proceed with any particular disposal in the light of the above circumstances.

- (6) The Council's current policy on disposals is that land should be sold at market value only. Any proposal to sell at less than this, therefore, would be a departure from current Council policy and would require the consent of the full Council that this policy be varied in the case of the parcels of land referred to in the report, so as to enable the Executive to proceed to dispose at less than market value.
- Approval of the Business Case - The Council has an Agreement with Tullie House which contains the mechanism for the approval of core funding as part of the Trust's Business Plan.
  - Corporate – None
  - Risk Management – Council Corporate and Operational risks associated with this Business Plan and Core Funding level have been assessed in line with the preparations of the 2012/13 Budget and MTFP.
  - Environmental – None
  - Crime and Disorder – None
  - Impact on Customers – Implications of this nature will be addressed in the monitoring arrangements for the proposed Business Plan
  - Equality and Diversity – See below. Also the proposed Business Plan seeks to address access and equality issues within the museum and art gallery premises and services offered.



## Impact assessments

Does the change have an impact on the following?

Equality Impact Screening	Impact Yes/No?	Is the impact positive or negative?
Does the policy/service impact on the following?		
Age	Yes	
Disability	Yes	
Race	Yes	
Gender/ Transgender	Yes	
Sexual Orientation	Yes	
Religion or belief	Yes	
Human Rights	Yes	
Health inequalities	Yes	
Rurality	Yes	

If you consider there is either no impact or no negative impact, please give reasons:

.....