

ABERDEEN CITY COUNCIL

COMMITTEE: **Education, Culture and Sport**

DATE: **2 June 2011**

DIRECTOR: **Annette Bruton**

TITLE OF REPORT: **Lease Agreements for Voluntary Organisations
Occupying Woodside Fountain Centre**

REPORT NUMBER: **ECS/11/015**

1. PURPOSE OF REPORT

This report seeks direction from the Committee regarding the legal and management options to address key challenges regarding the management of the Woodside Fountain Centre which has developed from a leased community centre into a multi-occupancy building providing various services to the local community.

2. RECOMMENDATION(S)

It is recommended that the committee:-

- (a) agrees that the User Group, which contains representatives from all four voluntary organisations (tenants) within the building, manages the overall operation of building;
- (b) agrees that each tenant within the building continues to be responsible for their own programme, activity and service;
- (c) agrees that all tenants and City Council Services within the building pay a proportion of the property costs pertaining to the whole building, with the aggregate of those proportions totalling 100%;
- (d) agrees that the relevant proportions be calculated by City Council officers in relation to the floorspace exclusively occupied by the tenants and City Council Services, with those occupying a larger proportion of the floorspace paying a larger proportion of the property costs;
- (e) agrees to begin recovering these costs be from the occupants from April 2011.
- (f) agrees that areas of the community centre should be made available for let, by the community centre, to other tenants of the building when they are not in use by the community centre. i.e. games hall, coffee bar, kitchen, small hall and garage.

- (g) Instructs officers to negotiate the amount of development grant payable to Woodside Community Centre Management Committee to ensure that the level of grant reflects the change in circumstances while ensuring the Management Committee is not disadvantaged financially by the changes (subject to the Development Grant amount not exceeding £10,565 per annum.).

3. FINANCIAL IMPLICATIONS

The Council has made a capital investment of some £1.4m in the extension and refurbishment of the Woodside Community Centre building. This has seen the creation of Woodside Fountain Centre which includes not only the existing leased community centre facilities but a host of other services provided by the Council and other third sector organisations. The Council services are a Housing Office and a Customer Access Point and the four third sector organisations are Woodside Community Centre, St Machar Credit Union, Fersands & Fountain Community Project and Fersand's Mini Market.

Woodside Fountain Centre has been occupied by these services since November 2009 and work has been ongoing since this date to agree and finalise lease and management arrangements for all building occupants. It was agreed at Council on 25 April 2007 that the cost for operating the building should be met from within the current budgets of all stakeholders, however officers had interpreted this such that the rental income from tenants had to meet the operating costs of the building. This negated the existing budget allocation for Woodside Community Centre and has resulted in there being great difficulty in agreeing the financial terms of the leases. The budget allocation for premises costs for Woodside Community Centre has been £21,500 for the previous two financial years.

The operating costs for the Centre have already been met from existing Council budgets for the 2009/10 and 2010/11 financial years. Given that the financial terms have been a major delay in progressing the lease there is an intention that there will be no charge placed on the occupants for this period.

The operating costs for the Woodside Fountain Centre were £48,253, which includes repairs and maintenance, for the 2010/11 financial year. This excludes the development grant and capital financing.

In order that the operation of the centre does not increase revenue budgets for Education Culture & Sports the Centre has to be operated in a way that is revenue cost neutral. It is intended that after existing budgets have been taken into consideration, the costs are recovered proportionally from all Centre occupiers, based on the respective floorspace each of them occupy, with the aggregate of the proportions totalling 100%.

The Council services occupying the building will also meet the proportion of the operating costs based upon the floorspace occupied by the Council.

The four third sector organisations have formed a User Group which will manage the operation of the Centre as a whole. This User Group is similar to the management committees for leased community centres in that its membership is drawn from the third sector organisations that occupy the building. The User Group can work to reduce the costs of operating the building, and maximise the revenue earning potential of the building to further reduce those costs.

4. OTHER IMPLICATIONS

Woodside Community Centre was a leased community centre prior to the extension and refurbishment programme taking place. While the Woodside Community Centre Management Committee still continues to provide a range of social and recreational activities it is no longer the only occupant of the Centre. The Centre is occupied by two Council services and four voluntary or third sector, organisations. The management of the Centre has reverted to Council.

A single lease has been developed for the third sector organisations within the building, however the unique circumstances regarding the multiple occupancy of this building has required that this lease is different from the lease negotiations that are taking place with the leased community centres within the city.

While the management of the centre has reverted to the Council there is a commitment to local community control in a similar way to leased community centres. A User Group has been established that will hold the responsibility for the overall management of the building.

Prior to the extension being built Woodside Community Centre Management Committee was responsible for the overall management of the building. While the User Group will include representatives from Woodside Community Centre Management Committee the building is no longer managed exclusively by them.

Each occupant will still be responsible for providing and developing their own services and will have areas of the building that are wholly occupied by themselves. However, within the communal areas of the building, such as meeting rooms, there will be need for agreement with the User Group as the overall development and management of the building will be the responsibility of the User Group.

The formation of the User Group should help strengthen the community involvement in the management of the building as the User Group will consist of representatives from all four third sector organisations.

The User Group is concerned with the management of the building, not the activities of the tenants. Woodside Community Centre Management Committee will therefore still have full responsibility for their programme and activities and areas wholly occupied by them, however to maximise the use of the building they will need to be willing to let their centre space when not in use by themselves. This will not only help ensure the building

is working closer to its capacity, but will generate additional income for the Community Centre.

The building is not currently being used to its full potential and revenue income could be generated from offering serviced meeting space, in maximising income from lets and in developing a community café. Currently there is little interest from Woodside Community Centre Management Committee in developing these types of proposals and therefore other occupants could be offered lets from the Community Centre to develop these.

The development of the relationships between the four third sector organisations and the Council must be seen in the wider context of community capacity building, delivering on local needs, effective asset management, and budgetary considerations.

5. BACKGROUND/MAIN ISSUES

At the Council meeting on 25 April 2007 the Council agreed to the extension and refurbishment of Woodside Community Centre to extend the services available to the community.

To facilitate this it was agreed that:

- the existing lease be ended with Woodside Community Centre Management Committee and that the responsibility of the management of the building would be assumed by the Council;
- all current programmes and activities which are viable and meet the needs of the community will continue as present in the refurbished building; and
- management arrangements would be put in place with current and future services who will operate in the building.

The report also detailed that the estimated revenue costs for operating the refurbished and extended building would be no greater than the total of the separate costs for the occupiers and that therefore the revenue cost to the Council would be met from within existing budgets.

The works programme extended and developed the old Community Centre building into a modern multi-purpose building that's now occupied by two City Council Services and four third sector organisations.

Although all the six occupiers have their own dedicated space within the building, it also has common parts and circulation space used by all six and the general public who come to the Centre to use its facilities. The building has one set of utilities, such as electricity and power. It follows that, with the building now operational, it's impossible to accurately assess the amount of use each occupier makes of the utilities and the whole building, which leads us into a practical difficulty of assessing how the property costs can be fairly divided between the six.

Arrangements have been put in place to establish a User Group with representatives from each of the four third sector organisations to manage the building. This User Group is similar to the management committees for leased community centres in that its membership is drawn from the third sector organisations that occupy the building.

There are pressing legal, financial and insurance reasons for the City Council to agree formal leases with the four third sector organisations. Technically the City Council cannot grant leases to ourselves, so that the two City Council Services in occupation are required to commit themselves to occupy the Centre as if a lease was in place. Provisional negotiations have taken place to try and establish a common lease agreement with the four third sector organisations with property charges based upon the proportion of floorspace exclusively occupied by each organisation, plus the two City Council Services. The proposal is that all the proportions aggregate to 100% of property costs.

For properties in multiple occupancy under the management of the City Council, it is common practice that property costs are split in proportion to floorspace occupied. Alternative means of splitting property costs were examined and rejected by our officers following discussion with the occupants of the Centre. For example, as there are six occupiers, each of them could simply have been liable for one-sixth of property costs. This option was rejected by our officers as it would be demonstrably unfair on the St. Machar Credit Union, who only occupy two rooms in the building. Each of the occupiers use their part of the building to a greater or lesser extent at certain times of the day and at weekends. Given the virtual impossibility of determining all the occupiers level of use of the property, over time, proportion of floorspace has been fixed upon by our officers as the least unfair means of determining the split of property costs. The User Group can reduce their costs by reducing the property operating costs of the building and by maximising income through building lets and use of building facilities.

The lease on offer to the Woodside Community Centre Management Committee is very different to the lease they previously held (where virtually all property costs were met by the City Council) and very different to any lease that's been proposed for all other leased Community Centre Management Committees as part of the ongoing Community Centre Review.

It is noted that the circumstances of the Woodside Fountain Centre are a "one off" that shouldn't be considered to set a precedent for any other leased Community Centre. For the City Council to have any prospect of getting the agreement of all six occupiers to lease and management agreements, we require to offer all six the same "deal". Any proposed lease arrangement that makes any one occupier pay (or get relief from paying) property costs on a different basis to all the other occupiers, would be effectively unworkable as it would be seen by them as unfair. As such it would make it impossible to get unanimous agreement.

For the City Council to set up a lease and management agreement with all six occupiers, we require the Woodside Community Centre Management Committee to pay a proportion of property costs, the same as all other occupiers of the building. However the existing budget allocation for Woodside Community Centre Should be able to offset any costs that should be met by the Management Committee. At present, it has not been possible to provisionally negotiate a lease agreement that all four third sector organisations agree with.

The delay in negotiating the lease has partly been due to property costs. However using the existing community centre budget will reduce the costs for the occupants.

Another reason that it has not been possible to negotiate the lease agreement is due to there being disagreement between the third sector organisations as to the use of the coffee bar kitchen area, which is not currently being used to its full capacity. It is proposed that this area should be wholly occupied by Woodside Community Centre Management Committee. However in order to maximise the use of the building and the services available to the local residents the Management Committee should agree to let this space to other occupants of the building when not in use by the Management Committee. This will help maximise the use of the building and generate let income for the Woodside Community Centre Management Committee.

As Woodside Community Centre Management Committee is no longer solely responsible for the management of this building their operating costs have reduced and it may not be appropriate to continue to provide the same level of development grant.

It is recommended that negotiations take place with Woodside Community Centre Management Committee to agree a level of Development Grant that provides the same benefits as they previously experienced.

Negotiations between Officers and occupants of the Centre have been ongoing for a number of months. There has been considerable difficulty in obtaining a consensus with the occupants with regards to agreeing and signing any lease documents. It is hoped that the recommendations contained within this report will allow the leases to be progressed. If Officers cannot agree a lease with the Occupants over the summer recess then a report on other management arrangements may require to be presented to the Committee.

6. IMPACT

This Development of the Woodside Fountain Centre relates to the national priorities in the Combined Community Plan and Single Outcome Agreement as follows:

- We realise our full economic potential with more and better employment opportunities for our people.

- We are better educated, more skilled and more successful, renowned for our research and innovation.
- Our young people are successful learners, confident individuals, effective contributors and responsible citizens.
- Our children have the best start in life and are ready to succeed.
- We live longer, healthier lives.
- We have tackled the significant inequalities in Scottish society.
- We live our lives safe from crime, disorder and danger.
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.
- We take pride in a strong, fair and inclusive national identity.

This is likely to be of interest to the Public as

7. BACKGROUND PAPERS

Report Council 25 April 2007, Woodside Community Centre - Extension and Refurbishment.

8. REPORT AUTHOR DETAILS

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