

BROMSGROVE DISTRICT COUNCIL

CABINET

6th April 2011

BROMSGROVE MUSEUM

Relevant Portfolio Holder	Councillor M. J. A. Webb
Relevant Head of Service	J. Godwin - Leisure and Cultural Services
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 This report follows on from a report submitted to Cabinet in December 2010 and updates members of the Cabinet in relation to the negotiations to dispose of the Bromsgrove Museum building.
- 1.2 Members are being asked to consider granting a 12 month option to purchase the Museum building in Birmingham Road to the Norton Collection Museum Trust on terms to be agreed.

2. RECOMMENDATIONS

- 2.1 **Cabinet is asked to note the recent negotiations with the Norton Collection Museum Trust (previously the Friends of the Norton Collection Charitable Trust) and to consider and determine whether to grant the Trust an option to purchase Birmingham Road for the sum of £285,000 on terms to be agreed.**
- 2.1 **Authority be delegated to the Head Of Legal Equalities and Democratic Services in consultation with the Leader to determine the terms of the Option to Purchase recognising that it would be for a definite period of 12 months from the date that the option is granted.**

3. BACKGROUND

- 3.1 In December 2010 the Cabinet approved the sale of the museum building at the market value of £285,000 to the Friends of the Norton Collection.
- 3.2 Members are advised that in February 2011 the Friends of the Norton Collection Charitable Trust changed its name through the Charity Commission to the Norton Collection Museum Trust. For members information one of the original trustees is no longer registered and the objects of the Trust remain as they were originally cited.
- 3.3 In recent discussions with the Trust it has become apparent that to enable third parties to properly commit funds to this project that a more secure option to purchase would be required by the Trust. Furthermore the Trust

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- has indicated that they would need 12 months to achieve this and that they would wish this to commence from the date of the option.
- 3.4 In addition to this officers have been negotiating with the former donor of the Norton Collection to reach an agreed position with regards to the status of the artefacts and the historic terms of the trust deed.
- 3.5 Members will recall that as part of the original trust deed the Council undertook to catalogue the artefacts and that for numerous reasons this has not been possible.
- 3.6 Members will also recall that officers are working with the Trust to resolve the issues surrounding the cataloguing and that these matters will need to be resolved by the completion of the sale.
- 3.7 It is fair to say that the negotiations with the Trust and the original donor have been very positive and that were members minded to approve entering into a formal option to purchase that this could now become conditional upon the donor signing a waiver in respect of any claim that he may have on the Council in relation to any alleged breached of Trust Deed and that the Transfer of the Artefacts to the Trust would occur simultaneously with the transfer of the museum building.
- 3.8 At their meeting on 7th October 2009 and the 1st December 2010 Cabinet members acknowledged the value of the museum and their desire to maintain the provision thereof to the community of Bromsgrove.
- 3.9 Members are advised that there are still a number of smaller terms that would need to be agreed in relation to the storage of the artefacts and access to the museum building prior to the formal transfer for the purposes of undertaking the cataloguing.
- 3.10 If members are minded to approve granting a formal option to purchase then a delegation would be necessary to the Head of Legal Equalities and Democratic Services in consultation with the Leader to enable these terms to be agreed upon but that in any event the option would run for a period of 12 months from the date of its completion.

4. KEY ISSUES

- 4.1 The Cabinet has previously agreed to the sale of the building and the sale of the building is in line with the Council's priority to develop and regenerate the Town Centre.

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- 4.2 The Cabinet has determined through the business plan provided by the Friends of the Norton Collection (now the Norton Collection Museum Trust) that the proposed project would benefit the Town Centre and enable the Council to further the objects of the Museum Trust.
- 4.3 It is essential that members consider the costs associated with continuing to store, maintain and catalogue these items and the risks, which have previously been reported to members of disposing of the collection in relation to cost, time and reputation.
- 4.4 Indeed in every respect the reputational issue maybe challenging as a considerable number of the items have been donated since the collection came into the control of the Council. It is understood that a number of which are of considerable value –financial and / or sentimental – and that they will have been donated with the intention of being for the benefit of the people of Bromsgrove. The donors or their relatives may see the disposal of their donations for money as unacceptable and disrespectful of their wishes. Returning items may be difficult because of the terms on which they were donated and time consuming in terms of investigating whether those making a claim for the item had a genuine entitlement; returning items will amount to disposal of charitable assets and must be undertaken in accordance with charity law.
- 4.5 The current market valuation of the building is £285,000. The ‘Trust’ is interested in purchasing the building for that sum.
- 4.6 Members must also consider that the building itself is not currently delivering any of the Council’s priorities or achieving its worth within the context of the assets management plan. In addition there are considerable running costs including business rates.
- 4.7 If the Collection is to be disposed of it is estimated that the work of listing, pricing and photographing would approach 140 days to complete the work based on 80 items a day. At £200 per day this would cost £28,000. This does not include the cost of materials and cameras. Furthermore after all this work there is not a guarantee that the items will sell. There are also costs associated with the continued housing of the dormant collection whilst the museum remains closed together with the officer time in ensuring that cataloging of artifacts it undertaken.
- 4.8 Taking these points into consideration together with the likely positive impact that a museum would have on the regeneration of the Town Centre, a matter which is at the fore of Council priority, members may wish

to consider that being released from the current burdens of general upkeep that a disposal at this time might be advantageous.

5. FINANCIAL IMPLICATIONS

- 5.1 As previously reported to members the cost of staff undertaking the itemising of the collection could be considerable as they will have to list, photograph and price between 15– 17,000 items. The time required to do this work will also be extensive. The Council would have to consider whether it had the capacity to do this work, if it did not agency staff would need to be engaged. The collection would have to be advertised in the trade press and if the Council did not receive offers for the collection it would have to enter into a contract with an auctioneer to dispose of the items. It has been agreed previously that the Council will make a contribution towards the cost of this work and that the contribution be limited to £10,000 and that the payment be conditional upon the Council securing an indemnity from Mr. Norton that he will not seek to make any claim against the Council at any time in relation to any alleged breaches of Trust obligations.
- 5.2 The current valuation of the building is £285,000. The Council has agreed previously to dispose of the same to the 'Trust' are interested for that sum this report seeks to enable that previous resolution to be varied to the extent that it would now become a formal Option to Purchase the building on the conditions outlined within the main body of the report.
- 5.3 If a transfer of the collection is not achieved as proposed to the Trust and the Council has to consider the disposal of the collection it is estimated that the work of listing, pricing and photographing would approach 140 days to complete the work based on 80 items a day. At £200 per day this would cost £28,000. This does not include the cost of materials and cameras. Furthermore after all this work there is not a guarantee that the items will sell. Members will be aware that the transfer of the collection is dependent on the Trust being able to purchase the museum building.
- 5.4 The combination of non-business rates (amounting to approximately £13,000 per annum), work on preparing the items for sale, the reputational damage and the other associated costs leads to the proposed Option to Purchase being a preferred way of achieving a simultaneous disposal of the property and the transfer of the Collection.
- 5.5 There is a risk that if negotiations are terminated with the 'Trust' the Council may face legal action which would involve the Council incurring legal costs to defend the Council's position.

- 5.6 If the sale is approved any budgets currently associated with the provision of the museum building will be included as savings within the medium term financial plan.

6. LEGAL IMPLICATIONS

- 6.1 It is a legal requirement that any transfer of the Collection is made to a charity or charitable trust with objects which are substantially similar to those of the Norton Collection.

7. POLICY IMPLICATIONS

- 7.1 The Council must ensure that all assets are managed in accordance with its priorities and the wider assets management plan. This report is proposing a sale at market value.

8. COUNCIL OBJECTIVES

- 8.1 The Council has identified the regeneration of the Town Centre as a priority and the museum falls within the Town Centre.

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 9.1 Members are advised that although the restrictive covenant articulates the Council's intention that the building continue to be used as a museum that it may be challenged in a tribunal environment.

10. CUSTOMER IMPLICATIONS

- 10.1 The museum is a facility that would become open to the public and would rely on customer support for its future.

11. EQUALITIES AND DIVERSITY IMPLICATIONS

- 11.1 The building is not currently accessible for persons with physical disabilities.

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

- 12.1 By continuing to operate the museum as it was previously the Council would not be demonstrating value for money – visitor numbers were low

and as a result the cost per visitor were high. The Museum does not directly contribute towards the achievement of the Council's objectives and priorities and as such doesn't represent value for money.

12.2 The challenge in relation to value for money is the need to secure a best value return on the sale of the building while balancing this against the costs incurred from the maintenance of the building and the payment of nondomestic rates on an empty building.

12.3 A further value for money consideration is the costs incurred in disposing of the items compared with transfer of the items to a trust. It is suggested that if negotiation can be successfully concluded with the trust based on an agreed market value for the building and transfer of items then and if an agreed market value can be achieved and transfer secured to a trust this would release resources to the Council and remove any revenue implications.

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

13.1 None associated directly with this report

14. HUMAN RESOURCES IMPLICATIONS

14.1 None associated directly with this report

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

15.1 None associated directly with this report

16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998

16.1 None associated directly with this report

17. HEALTH INEQUALITIES IMPLICATIONS

17.1 None associated directly with this report

18. LESSONS LEARNT

18.1 None associated directly with this report

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

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19.1 None associated directly with this report

20. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	Yes
Executive Director (S151 Officer)	Yes
Executive Director – Leisure, Cultural, Environmental and Community Services	Through CMT
Executive Director – Planning & Regeneration, Regulatory and Housing Services	Through CMT
Director of Policy, Performance and Partnerships	Through CMT
Head of Service	Through CMT
Head of Resources	Through CMT
Head of Legal, Equalities & Democratic Services	Author
Corporate Procurement Team	Through CMT

21. WARDS AFFECTED

All Wards

22. APPENDICES

None

23. BACKGROUND PAPERS

Cabinet report dated 7th October 2009

24. AUTHOR OF REPORT

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