

## Lancaster City Council | Report Cover Sheet

<b>Meeting</b>	Cabinet		<b>Date</b>	27 October 2020
<b>Title</b>	Arrangements for repair of Lodge Street premises			
<b>Report of</b>	Director for Economic Growth and Regeneration			
<b>Purpose of the Report</b>				
To confirm the council's intention to enter into a long term lease with the Musicians Cooperative, subject to a viable business plan and to endorse the Letter of Intent to be provided.				
<b>Key Decision (Y/N)</b>	<b>N</b>	<b>Date of Notice</b>		<b>Exempt (the report is public – the appendix is exempt)</b>
<b>Report Summary</b>				
This report is to advise on arrangements required in order to proceed with the agreed essential major capital repairs to the council's premises at 1 Lodge Street, Lancaster and to request that Cabinet confirms it's intention regarding long term lease arrangements, subject to a viable business plan.				
<b>Recommendations</b>				
<b>It is recommended that Cabinet:</b>				
<b>Confirms its intention that the council enters into a long term lease arrangement with the Musicians Cooperative, subject to a viable business plan</b>				
<b>Endorses the council's Letter of Intent (Appendix A) to accompany the Deed of Surrender that is required for the works to commence.</b>				
<b>Agrees that lease arrangements including any potential funding options will be detailed for consideration in a further report once a viable business plan is available</b>				
<b>Relationship to Policy Framework</b>				
Proposals in this report are in line with the council's policies, procedures and legal requirements for asset management. Carrying out the essential repair works to Council assets demonstrates sound asset management and optimisation of Council assets. Once the work is completed the Council will then be able to bring the improved building back into productive use. This also links to the Councils "A thriving and Prosperous economy"				
<b>Conclusion of Impact Assessment(s), where applicable</b>				
<b>Climate</b> As the project involves a complete re-roof of the property, this will enable us to put effective insulation in place, which will significantly reduce heat loss.	<b>Wellbeing &amp; Social Value</b>			
<b>Digital</b>	<b>Health &amp; Safety</b> – The current state of the building means there are safety issues, particularly in relation to the roof. The most high-risk elements have been addressed but there are props installed			

	to ensure the stability of the roof and these cannot be deemed a long, or even medium, term solution.
Equality	Community Safety
<b>Details of Consultation</b>	
<p>Legal Services, Property Group, Economic Development, Arts and Culture, and Planning and Conservation have all been involved from a Council perspective and are aware of the plans and reasons behind them. We have also been in close liaison with the existing tenants (Lancaster Musician's Co-Op) to ensure the work can be carried out in the safest way at the best time. Planning permission has been granted.</p>	
<b>Legal Implications</b>	
<p>The council's legal officers have advised on all legal arrangements pertaining to property, tenancy and lease arrangements and will continue to do so as future lease arrangements develop. Should the Musicians Coop refuse to enter into a Deed of Surrender to necessitate the works, the Council will have no option but to take back control and possession of the property by terminating the tenancy or, in the event of emergency, by commencing legal proceedings to gain possession.</p>	
<b>Financial Implications</b>	
<p>Financial implications at this stage relate to the costs and risks associated of delivering the works. Future financial implications associated with the lease will be considered in a later report.</p>	
<b>Other Resource or Risk Implications</b>	
<p>Delay to the works contract could result in additional costs and further deterioration of the building, which may render it unsafe for use. Bad weather risks during the winter months may also affect progress and/ or costs. Early progress will help to mitigate these risks.</p>	
<b>Section 151 Officer's Comments</b>	
<p>The S151 Officer has been consulted and has no further comments</p>	
<b>Monitoring Officer's Comments</b>	
<p>The Monitoring Officer has been consulted and has no further comments</p>	
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<b>Links to Background Papers</b>	

## 1.0 Report

- 1.1 At its meeting in September, Cabinet discussed the planned repairs to the council's property at 1 Lodge Street, Lancaster and resolved to delegate the decision to the Leader and portfolio holders on whether to use the capital budget of £486,450 to undertake the necessary work to repair the building and bring it into a lettable condition (*minute 46 refers*).

- 1.2 In order to progress the works, a Deed of Surrender will need to be signed to surrender the current unsuitable and unclear tenancy agreement, give the council unrestricted access to the property and clarify risks and liabilities during the period when the works will take place. However, it is clear that the tenants, the Musicians Cooperative, quite understandably have concerns about vacating the building without firm reassurance that they will have a new lease arrangement in due course.
- 1.3 This is an important issue that needs to be resolved urgently as the planned works have already been delayed and a further delay will allow the building, which is in extremely poor condition, to continue to deteriorate further and additional costs will be incurred. At the point where the building is dangerous, the council has legal responsibilities that will require it to terminate the tenancy in order to gain access to the building to effect the repairs and make the building safe. In an emergency, the council may have to commence urgent legal proceedings to allow for earlier access to make the building safe. In addition, in its current condition, there is little prospect that the tenants will be able to use the building in any beneficial way. Ideally, this will be avoided and a positive solution agreed between the council and the tenants.

## **2.0 Proposal**

- 2.1 To find a positive way forward and facilitate Cabinet's decision at the September meeting, some comfort can be provided to the tenants that will hopefully give them the confidence to move ahead, enable the building repairs to be undertaken and the Musicians Coop to develop their business in very much improved premises.
- 2.2 It is unfortunately not possible to enter into a legally binding agreement or lease at this time and, in fact, the council cannot determine the terms of any such agreement or lease in the current circumstances. It is not possible to adequately quantify the criteria that the Musicians Coop would need to meet in order to trigger the grant of a new lease. A legally binding agreement to grant a lease in the future would need to have certainty of its term (so that it is possible to enforce the same). In the absence of such certainty of terms here, as the condition relates to the subjective consideration of a business plan, a legally binding agreement is not viable. In addition, it seems unlikely that the tenants are in a position currently to enter into a long term legally binding agreement although this is likely to change when their business plan is fully developed.
- 2.3 In these circumstances, this report recommends that Cabinet confirms its intention is to enter into a long term lease agreement with the Musicians Cooperative, subject to a viable business plan. A Letter of Intent is provided at Appendix A, which has already been issued by officers but once also endorsed by Cabinet would confirm the council's position in writing. The Appendix is exempt from publication by virtue of paragraph 3, of Schedule 12a of the Local

Government Act 1972 - (3) *Information relating to the financial or business affairs of any particular person (including the authority holding the information.)*

2.4.1 On the basis that the work can commence and the Musicians Cooperative business plan will be available in due course, a further report will be provided to Cabinet to consider the terms of a long term lease and any ongoing support.

### 3.0 Options and Options Analysis (including risk assessment)

<b>Option 1: Cabinet confirms its intention that the council enters into a long term lease arrangement with the Musicians Cooperative, subject to a viable business plan, to enable the works to proceed as soon as possible.</b>
<b>Advantages:</b> This will provide comfort to the Musicians Cooperative and potentially then enable the works to commence.  If the work can commence, it is likely that significant risks to the building and any further additional costs can be avoided.  Legal action to terminate the tenancy will not be necessary to proceed with the works provided that the Musicians Coop enter into a Deed of Surrender of the whole of the property
<b>Disadvantages:</b> None
<b>Risks:</b> This is the lowest risk option that will potentially allow for progress to be made, avoiding further risks to the building and potential health and safety issues.
<b>Option 2: Cabinet does not confirm its intention to enter into a long term lease arrangement with the Musician's Cooperative.</b>
<b>Advantages:</b> None, council is working positively to try to support the Musicians Cooperative and the development of a new music and cultural operation.
<b>Disadvantages:</b> Lost opportunity to provide reassurance to the Musicians Cooperative of the council's intentions.
<b>Risks:</b> Greater potential of further delays with all of the associate risks and costs for the both the Council and the Musicians Cooperative.

### 4.0 Officer Preferred Option (and comments)

4.1 The officer preferred option is Option One, which offers provide some firm reassurance to the Musicians Cooperative with a view to making positive progress for both parties