

Joint Executive (Cabinet) Committee

Forest Heath & St Edmundsbury councils

West Suffolk
working together

Title of Report:	Guildhall and 79 Whiting Street, Bury St Edmunds	
Report No:	CAB/JT/18/010	
Report to and date:	Joint Executive (Cabinet) Committee	25 June 2018
Portfolio holder:	Cllr Joanna Rayner SEBC Portfolio Holder for Leisure and Culture Tel: 07872 456836 Email: Joanna.rayner@stedsbc.gov.uk	
Lead officer:	Alex Wilson Director Tel: 01284 757695 Email: alex.wilson@westsuffolk.gov.uk	
Purpose of report:	To seek authority to complete the governance changes associated with the Guildhall project.	
Recommendation:	It is <u>RECOMMENDED</u> that a Deed of Variation be prepared and signed to enable the transfer of the managing trustee role for the Guildhall and 79 Whiting Street, Bury St Edmunds from St Edmundsbury Borough Council to the Bury St Edmunds Heritage Trust.	
Key Decision: (Check the appropriate box and delete all those that do not apply.)	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
<i>The decisions made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed. This item is included on the Decisions Plan.</i>		

Consultation:	<ul style="list-style-type: none"> Bury St Edmunds Heritage Trust, Guildhall Feoffment, Portfolio Holder. Consultation on the project itself is managed by the Trust. 		
Alternative option(s):	<ul style="list-style-type: none"> It has already been agreed to transfer the management of the properties to a third party as part of the project, and the options for doing that have been assessed by the Heritage Trust in consultation with its funders and partners, including the Council and Guildhall Feoffment. 		
Implications:			
Are there any financial implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> There are no new financial implications to report in relation to this decision. 		
Are there any staffing implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> 		
Are there any ICT implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> 		
Are there any legal and/or policy implications? <i>If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> Deed of Variation to be prepared. 		
Are there any equality implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> 		
Risk/opportunity assessment: <i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>			
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Community management transfer not achieved as agreed at outset of project	Low	Continue to support project including governance changes. Prepare Deed of Variation.	Low
Role is transferred to an inappropriate third party	Low	Project partners assess options and seek advice, and ensure necessary governance is in place in receiving body.	Low
Charity Commission do not agree to transfer	Low	Seek advice of the Commission on the method of transfer	Low
Ward(s) affected:			
Principally Abbeygate (but indirectly all wards)			
Background papers: <i>(all background papers are to be published on the website and a link included)</i>			
Cabinet reports: <ul style="list-style-type: none"> D333 – 27 March 2013 CAB/SE/16/028 -14 June 2016 CAB/SE/17/060 – 14 November 2017 			
Documents attached:			
None			

1. Key issues and reasons for recommendation(s)

- 1.1 In 2013, the Council formed a partnership, through a Memorandum of Understanding (MOU), with the Bury St Edmunds Heritage Trust Limited (BSEHT) and Guildhall Feoffment Trust to deliver a project to restore the Guildhall and establish it as an exhibition and heritage centre.
- 1.2 The project has been extremely successful and is now nearly complete; the Guildhall will be reopening to the public in July 2018.
- 1.3 The 2013 MOU (reviewed in 2016) provided that, on completion of the project, the managing trustee role for the Guildhall, and the associated property 79 Whiting Street, transfers from the Borough Council to a new management vehicle. The properties are already owned by the Guildhall Feoffment Trust but, under the terms of an 1894 charity scheme, the Borough Council is the managing trustee. One of the aims of the project has always been to transfer management of the properties to the community and, as it is clear when the project will be completed, it is appropriate to put in place the necessary steps to effect that transfer of role.
- 1.4 Having taken advice, including from the project funders, the BSEHT has concluded that it is best placed to take on the managing trustee role itself, since it is already constituted to do so, which means a new charity or equivalent does not need to be formed. This means that, under the terms of the 2013 MOU, the BSEHT will perform the envisaged role of "Guildhall Management Company". The BSEHT will review its governance arrangements to reflect the new responsibilities, and has already employed a manager and other staff to run the new facility day-to-day. Its business plan for the new centre was rigorously tested through funding applications.
- 1.5 As the two parties to the 1894 Scheme, the Council has met with the Guildhall Feoffment to discuss the transfer, and the Feoffment is also supportive of the BSEHT's proposal. All three bodies involved have also previously passed formal resolutions to approve the principle of the transfer.
- 1.6 However, when the matter was last considered by Cabinet in November 2017 it was believed that a formal application would have to be made to the Charity Commission to effect the transfer, as it involved amending the original charity scheme. Subsequently the Commission has advised that the rules regarding amending schemes are the same as amending the governing document of any other unincorporated charity. As such, all unincorporated charities can use the statutory power of amendment (section 280 of the Charities Act 2011) to amend their administrative provisions. The Commission is now clear that this includes amending trustee provisions and this includes using the power to change and appoint the charity's trustee or trustees.
- 1.7 Accordingly, to formalise the transfer it is suggested that a simple Deed of Variation to the 1894 scheme is prepared and signed with the other two parties.
- 1.8 Pending that being completed, the BSEHT will occupy and operate the two properties under licence from the Council in accordance with the terms of the original Memorandum of Understanding.