

South Lakeland District Council
Cabinet
Wednesday, 18 January 2023
Long Lease of Market Cross Monument at Kirkby Lonsdale

Portfolio: Finance and Assets Portfolio Holder
Report from: Director of Customer and Commercial Services
Report Author: Estates Surveyor - Delivery and Commercial Services
Wards: Sedbergh & Kirkby Lonsdale;
Forward Plan: N/A

Links to Council Plan Priorities:

Delivering a balanced community – For the economy and culture, work with our communities to use and maintain our heritage assets.

1.0 Expected Outcome and Measures of Success

1.1 That the Council enters into a long term lease with Kirkby Lonsdale Town Council (KLTC) in respect of the Market Cross Monument in Market Square, on terms to be agreed with KLTC as set out in the draft heads of terms, which are designed to allow increased community interaction with the asset. The benefit of this to the Council will be reduced maintenance liability and for KLTC increased access and use of the asset.

2.0 Recommendation

2.1 It is recommended that the Council:-

- (1) Delegates authority to the Director of Customer and Commercial Services to negotiate terms for a 99 year lease for the Market Cross Monument with Kirkby Lonsdale Town Council in consultation with the Monitoring Officer and S151 Officer and;**
- (2) Delegates authority to the Monitoring Officer to enters into an appropriate 99 year lease with KLTC on the terms agreed with KLTC, as outlined in the draft heads of terms attached at Appendix 2, subject to such further amendments as are required in order to protect the Council's position.**

3.0 Background and Proposals

3.1 The location of the Market Cross Monument is shown edged red on the Location Plan attached at Appendix 1. One of the reasons that the Town Council wishes to have control of The Monument is its potential to be part of the living fabric of the town. The Town Council believe that the Monument should have increased public access in order to enhance its potential to be part of the living fabric of the town available at all times. It has been a static curiosity and currently contributes little to the character of the town and could be more than just a sitting area.

- 3.2 The Monument has the potential as a venue for a variety of activities including art displays, ensemble performances, information dissemination and as a covered area for small events which would be of public benefit.
- 3.3 I should be emphasised that anything the Town Council might use the Monument for would be of a temporary nature with totally reversible alterations. There will be no damaging or permanent changes allowed and the undertaking for the Town Council to restore the structure to how it was when the lease is agreed will be written into the lease. For example; some clear side screens could be used to weather-protect the interior during an art exhibition.
- 3.4 If the proposals are approved by the Council, the Estates Surveyor will instruct the Council's Legal services team to draft the lease based on the draft heads of terms. It is the view of the Council's Estates team that the proposed lease (on the basis of the attached draft Heads of Terms) will be at market value. This is based on the inability to profit commercially due to the nature of the user clause and the full repairing liability over the term of the agreement.
- 3.5 Officers recommend that Members approve the entering into of the 99 year lease on the draft terms as this will allow the Town Council to plan long term for the future use based on the draft heads of terms and allow them to plan future maintenance and the ability to raise funds.

4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Market Cross Monument - Location Plan
2 (Part II)	Market Cross Monument - Draft heads of terms to be agreed with KLTC
3	Market Cross Monument - Sustainability impact assessment

Please note that in accordance with Section 100B(2) of the Local Government Act 1972, copies of the appendix to this report are excluded from inspection by members of the public as they contain information as described in Schedule 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006, as follows:-

- Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Paragraph 3)

5.0 Consultation

- 5.1 Kirkby Lonsdale Town Council have been negotiating with the Council on the proposed terms of the Lease.

6.0 Alternative Options

- 6.1 An alternative option would be for the Council to continue with this asset as part of their portfolio and continue to maintain it into the future not allowing KLTC best and most efficient use of the asset.

7.0 Implications

Financial, Resources and Procurement

- 7.1 There are no financial or procurement resources required. The asset will be fully maintained by the proposed lessee KLTC as well as the requirement to keep and put into repair.
- 7.1.2 The lessee will cover the Councils reasonable legal fees in documenting this lease.

Human Resources

7.2.1 There are no human resource implications for the Council following the transfer of this asset.

Legal

7.3.1 This report seeks approval for the Council to enter into a lease with Kirkby Lonsdale Town Council in respect of the Market Cross Monument, Kirkby Lonsdale on the draft heads of terms (copy in Appendix 2).

7.3.2 The Council's Legal team will assist in the preparation of the required Lease.

7.3.3 In respect of this matter Officers have considered the Direction of the Secretary of State under section 24 of the Local Government and Public Involvement in Health Act 2007. This requires the Council to have the consent of the Westmorland and Furness Shadow Authority to, amongst other things, dispose of land if the consideration for the disposal exceeds £100,000. In turn the Westmorland and Furness Shadow Authority has issued a general consent meaning the Council does not need to apply for individual consent if the market value of the land does not exceed £2,000,000. In light of the market value of the land referred to above consent is not needed in this case.

Health and Sustainability Impact Assessment

7.4 Have you completed a Health and Sustainability Impact Assessment? Yes (attached at Appendix 3)

7.5 If you have not completed an Impact Assessment, please explain your reasons: N/A

7.6 Summary of Health and Sustainability Impacts

		Positive	Neutral	Negative	Unknown
Environment and Health	Greenhouse gases emissions		N/A		
	Air Quality		N/A		
	Biodiversity		N/A		
	Impacts of Climate Change		N/A		
	Reduced or zero requirement for energy, building space, materials or travel		N/A		
	Active Travel		N/A		
Economy and Culture	Inclusive and sustainable development		Yes		
	Jobs and levels of pay		N/A		
	Healthier high streets		N/A		
	Culture, creativity and heritage		Yes		
Housing and Communities	Standard of housing		N/A		
	Access to housing		N/A		

	Crime		N/A		
	Social connectedness		N/A		

Equality and Diversity

7.7 Have you completed an Equality Impact Analysis? No

7.8 If you have not completed an Impact Analysis, please explain your reasons: N/A

7.9 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"						
Age	P		0	X	N	
Disability	P		0	X	N	
Gender reassignment (transgender)	P		0	X	N	
Marriage & civil partnership	P		0	X	N	
Pregnancy & maternity	P		0	X	N	
Race/ethnicity	P		0	X	N	
Religion or belief	P		0	X	N	
Sex/gender	P		0	X	N	
Sexual orientation	P		0	X	N	
Armed forces families	P		0	X	N	
Rurality	P		0	X	N	
Socio-economic disadvantage	P		0	X	N	

Risk Management	Consequence	Controls required
Heads of Terms not agreed by SLDC and KLTC	No lease entered into and therefore the proposed cultural benefits to the community would be missed	Regular communication between all the parties.

Contact Officers:

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Background Documents Available

None

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	27/12/2022	06/01/2023
Monitoring Officer	09/01/2023	10/01/2023
CMT	27/01/2022	28/12/2022

Circulated to	Date sent
Lead Specialist	27/12/2022
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	27/12/2022
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	27/12/2022
Council	27/12/2022