

Report of The Head of Resources**GLAMIS HALL****1 Purpose of report**

To enable members to consider whether, and on what terms, to effect a community asset transfer of Glamis Hall and its contents to Glamis Hall for All (GHfA), an organisation which will undertake to continue to provide similar services and develop the premises into a community facility.

2 Executive summary

At its meeting on 16 September 2014 Resources Committee considered all the information available to it in relation to Glamis Hall, both new and old. A recommendation was made at that meeting that the building be closed with effect from 1 January 2015 and, with it, the day centre. At the same time, it was recommended that the council consider options put forward by organisations with proposals for running the services contained within the building. Full council resolved on 7 October 2014 to follow the recommendation.

This report outlines a possible approach to the provision of day care and other community services in the borough by Glamis Hall for All, being the only organisation which has shown sustained interest and commitment to the opportunity.

3 Appendices

Appendix A: Glamis Hall for All (GHfA) risk register

Appendix B: GHfA: who the service is aimed at

Appendix C: Community asset transfer summary

Appendix D: business case from Glamis Hall for All (exempt)

Appendix E: Redundancy and early retirement (exempt)

4 Proposed action:

The committee is invited to RECOMMEND the Council to:

- 4.1 **Transfer Glamis Hall and its contents, its car park, and associated vehicles, to Glamis Hall for All on a date to be agreed once it has become a charitable incorporated organisation;**
- 4.2 **To determine to**
 - (a) **transfer the property asset at long leasehold for nil rent at an undervalue; or**

- (b) transfer the freehold at an undervalue; or**
- (c) transfer the property on a leasehold basis at nil rent at an undervalue, with security of tenure for three or five years, and an undertaking that the council will sell the freehold at the end of the lease at an undervalue if the charitable organisation has demonstrated that it continues to operate successfully and has a sound business plan for meeting the council's objectives in terms of the provision of community facilities for local people;**
- 4.3 Delegate the negotiation of the actual terms of the transfer to the Chief Executive in conjunction with the Leader and Deputy Leader, taking into account the requirement to effect the transfer at a level significantly below market value;**
- 4.4 Amend the capital programme to include a grant of no more than £250,000 to Glamis Hall for All (once incorporated) specifically for the purpose of repairing and refurbishing the building and its car park;**
- 4.5 Receive reports from Glamis Hall for All, quarterly during the first year, and annually thereafter so that the council can satisfy itself that its investment continues to provide appropriate services for the local community, and that the organisation remains viable and therefore capable of delivering such services;**
- 4.6 Enable Glamis Hall for All trustees, employees and contractors to access the building in order to start works (agreed in advance with the council) before the transfer is effected;**
- 4.7 Agree that eligible employees based at Glamis Hall receive pension scheme benefits from their redundancy (and therefore their retirement) dates, in accordance with the provisions of Regulation 26 of The Local Government Pension Scheme Regulations 1997.**

5 Background

- 5.1** A decision was made to close Glamis Hall and the services it contained by Resources Committee on 25 June 2014. Members were concerned about investing further in a building which was towards the end of its economic life. The fact that it was not a statutory service and made a significant demand on the revenue budget also influenced members' decision.
- 5.2** Further information in relation to the options for the building and its services came to light after the decision was made by Resources Committee. At an Extraordinary meeting of the Council on 2 September a petition was presented to members. At the same meeting, taking into account the fact that further information had become available, the decision to close Glamis Hall was referred back to Resources Committee.
- 5.3** At Resources Committee on 16 September 2014 members were provided with a wide range of information; some they had received before, but some information was new. This included details of the condition and costs of the building; the financial commitment of running the discretionary service; what other provision was available for older people in the borough; and an independent assessment of the service.

- 5.4 Following detailed consideration of all the facts, members of Resources Committee recommended that the building close on 31 December 2014 because of the capital and revenue commitment required. They also recommended, however, that the council enter into discussions with any interested party who may wish to run a day centre service. Finally, officers were asked to help other users of the hall to find alternative accommodation.
- 5.5 The Council resolved on 7 October 2014 to follow the recommendation.
- 5.6 It was agreed at the meeting on 16 September that officers should start informal discussions immediately with any parties who may be interested in providing day centre facilities at Glamis Hall, with a view to reporting back to Resources Committee as soon as practicable.
- 5.7 After discussions with a number of organisations it became clear that only one had decided to pursue the option of providing services from Glamis Hall. This was the "Save Glamis Hall for All Committee" who had now formed a new organisation named "Glamis Hall for All", (GHfA) with the intention of becoming a charitable incorporated organisation.
- 5.8 GHfA made an informal presentation, to which all members were invited, on 27 October 2014. This gave them an opportunity to explain their strategy and answer questions.
- 5.9 This report provides a summary of the proposal from GHfA, together with issues for consideration by members when making a decision about the future of Glamis Hall.

6 Discussion

- 6.1 Members made it clear at Resources Committee on 16 September that, although the council may not operate services from Glamis Hall in the future, it would like to consider ways in which others may be able to do so. Officers have therefore been holding discussions with GHfA, as the only organisation which has shown a definite interest in making a proposal.
- 6.2 At the same time the processes for closing the services run by the council at Glamis Hall have continued. This includes redundancy procedures for the staff affected which, in one case, requires a formal decision by the council. Details of this are set out in the exempt appendix (Appendix E).
- 6.3 A summary of the Glamis Hall for All proposal and business case is attached as exempt Appendix D, together with supporting documents at appendices A and B. Set out below are the key elements of the business case, with issues to be considered.
- 6.4 **Transfer of the property:** transfer of Glamis Hall and its car park could be effected as a community asset transfer (details in appendix C). If this is agreed in principle, members will need to make two decisions: first whether the transfer should be freehold or leasehold and, second, the value of the

transfer.

- a) A leasehold transfer could take one of two forms: a long lease (for example, 99 years) at a peppercorn/nil rent; or a short (three or five years) non-assignable lease with business security of tenure at a low rent. If GHfA was able to operate successfully during the term of the short lease the premises could then be sold to them at below best consideration. A lease would provide greater control for the council over how the premises are used, and it could be forfeit if the organisation were to fail, subject to the law about relief from forfeiture and whether GHfA are allowed to change or assign the lease. The council would also need to consider how much freedom to allow the charity in terms of demolishing or remodelling the building.
- b) A freehold transfer is likely to be more beneficial to GHfA as it means that they may be able to raise funds, which is not so likely if they simply hold a lease. GHfA have stated that a freehold transfer would be preferable because it would be seen as an opportunity for a sustainable future for the centre, with the community more likely to become involved in its refurbishment than if it were still council-owned. It would also provide more freedom in terms of making changes to the building.
- c) In terms of value – whether the transfer is leasehold or freehold – the council may agree to a transfer at significantly below best consideration. Community asset transfer allows for this and is detailed in Appendix C, and in section 7 below. Members will need to determine whether a community asset transfer at below best consideration is appropriate.

6.5 **Capital grant:** a capital grant may be made to GHfA in order to enable it to carry out refurbishment and repair work which would lengthen the life of the building whilst the charity established itself and its services. No additional capital receipts have become available to the council since June 2014, so members may have to re-prioritise the existing capital programme to facilitate this.

6.6 In addition to the specific requests set out in the business case, members will need to take account of the following general issues before reaching a decision.

6.7 **Financial:** before the council makes any decision to transfer property or approve a grant it must be satisfied that the organisation's business plan is financially viable. The trustees have put together a financial projection for the next four years which is based on their plan to refurbish the building and re-build services.

6.8 Based on the information available it appears that calculations have been based on actual costs incurred previously by the council, together with new calculations relating to a revised staffing structure and income from the new services to be run at Glamis Hall.

6.9 The council's Head of Finance has reviewed the financial statement and – based on available information – has confirmed that the assumptions are reasonable. No detailed analysis of the budgets prepared by GHfA has been carried out.

- 6.10 **Objectives:** the council must satisfy itself that GHfA intends to deliver the kind of service which meets the council's priorities and objectives. The organisation's objectives are set out in their business case, and these are in line with the council's desire to support a strong community-based service in the Queensway area which can benefit the whole borough. GHfA's proposal focuses on providing facilities for the elderly, community groups, sporting and leisure groups, and – potentially – children and young people. This appears to comply with members' vision, and any recommendation will need to be based on this.
- 6.11 **Future and development:** In order to be satisfied that GHfA's proposal is sustainable, members will need to understand and accept that the organisation has a strong vision for the future and plans which can be delivered. The business case does demonstrate that the organisation is clear in what it seeks to achieve, and how it will do so. It also shows an understanding of how it might develop its services over time.
- 6.12 In addition, members will need to take a view on what should happen if GhfA is no longer in a position to continue its services. The detail of how community provision is affected would need to be considered at the time, depending on circumstances, but the key issue for the council is to ensure that the land and property can be recovered. Potential solutions are outlined in section 9 below.
- 6.13 **Transition:** Documentation to effect a transfer, if agreed, may take some weeks, so GHfA have asked for access to the property after 1 January 2015, but before the transfer takes place. This would enable them to start refurbishment works and re-open in a timely fashion. The council can accede to this request but, until the transfer has taken place, any work carried out would require prior agreement with the council, and reassurance that proper insurance in relation to the building and its contents was in place.

7 Legal powers

- 7.1 Section 1 of the Localism Act 2011 gives the Council the power (subject to certain boundaries that do not apply here) to do anything that individuals generally may do.
- 7.2 Legal advice is that, provided the difference between the value of the property and the amount paid by the charitable organisation is less than £2m, the transaction proposed in this report is permitted by a General consent given by the Secretary of State for disposal at an under value and hence is an exception to the general rule in section 123 of the Local Government Act 1972 that disposals must be for best consideration. The building has been valued, taking into account a number of different options for disposal, and all valuations have been under £1m.

8 Financial and value for money implications

- 8.1 The approach outlined in this report has capital and revenue budget implications.

- 8.2 Any capital grant to the GHfA charitable organisation will need to be identified within the existing capital programme. This will mean that other lower priority projects may be removed from the current year's programme if sufficient funding cannot be found within existing resources. An asset transfer will also affect the total value of the council's property holdings; the value of the building from an asset management point of view (not a commercial valuation) is £380,000.
- 8.3 The agreement to close and the proposed transfer of Glamis Hall will have a positive effect on revenue budgets: the average annual cost to the council over the past three years is approximately £250,000. This amount will be removed from existing revenue budgets
- 8.4 The revenue budgets mentioned above are, in part, the responsibility of Wellingborough Norse (eg. for caretaking, repair etc of the building). This will affect the amount paid by the council to Wellingborough Norse, because the Glamis Hall elements will need to be removed.

9 Risk analysis

- 9.1 There are risks associated with transferring a property to a charitable organisation at less than best consideration. In summary, potential risks are:
- a) The organisation does not remain financially viable and the services it provides cannot be continued;
 - b) The organisation can only continue to provide services if it receives grant from an external organisation, such as the council;
 - c) The services delivered are not in accordance with the council's wishes, as required under the asset transfer and funding arrangements.
- 9.2 In order to mitigate these risks the following actions are recommended, if the council agrees to provide a capital grant and transfer the building to GHfA:
- a) include a clause in any lease that the premises be returned to the council if the charitable organisation becomes insolvent. A requirement can be included that the premises are used only for the provision of community facilities, together with a non-assignment covenant;
 - b) require GHfA to provide quarterly updates during year one to ensure that capital grant has been used for the purpose it was intended, and that the project to develop Glamis Hall into a community facility is meeting its objectives;
 - c) following year one, require an annual report to the council to demonstrate the achievements of the organisation, together with a summary of the accounts for the previous financial year;
 - d) agree with GHfA that the organisation may apply for grants and reliefs via any existing community grant procedures, but that a request for revenue funding outside of these procedures may not be made; this would be an indication that the organisation was not viable and proceedings to transfer the property back to the council would be initiated;
 - e) include a clause/covenant that the premises may not be used for any purposes other than those agreed at the point of transfer except by

- f) agreement with the council;
include a covenant (assuming a freehold transfer) that the property cannot be sold to anyone else without first offering it back to the council.

10 Implications for resources

It has been established that the service to be provided by GHfA will not be on the same basis as currently. There is the possibility that day care services may be built up again in future if there is sufficient demand, but this is not definite and timing is not yet known. For these reasons the council is of view that TUPE does not apply and the process to terminate Glamis Hall employees because of redundancy continues. As a result of this, one employee will be eligible to access pension on being made redundant because of age. Details of this are set out in Appendix E, and will require a resolution of the Council. Opportunities for redeployment within the council are being sought, but are minimal because of the particular skill set of the employees concerned.

11 Implications for stronger and safer communities

The ability of GHfA to continue to provide services from Glamis Hall would provide positive benefits for the community, as outlined in this report and the business case from GHfA.

12 Implications for equalities

An equalities impact analysis has been completed and was shared with members at the Resources Committee meeting on 16 September.

13 Author and contact officer

Bridget Lawrence, Head of Resources

14 Consultees

Senior Management Team
Principal Community Support Manager
District Law

15 Background papers

All correspondence relating to the closure of Glamis Hall, some of which will be exempt because of the commercial aspects or staffing details.

