

TRAFFORD COUNCIL

DELEGATED EXECUTIVE MEMBER DECISION REPORT

Report to: Executive Member for Investment, Regeneration and Strategic Planning
Date: 28th November 2018
Report for: Decision
Report of: Corporate Director, Place

Report Title

Proposal for Trafford Fab Lab

Summary

The report provides an update on the current position with regards to Trafford Fab Lab and the planned withdrawal of The Manufacturing Institute from the project. It details the proposal by Altrincham Open Studios CIO (Charitable Incorporated Organisation) to take over the premises and equipment of the Trafford Fab Lab operating from the ground floor of Altrincham Library in Clarendon House.

Recommendation(s)

That the Executive Member:

- 1) Approves the proposal to grant a lease as detailed in the report;
- 2) Approves the proposal to grant a Tenancy at Will as detailed in the report;
- 3) Approves the asset transfer proposal as detailed in the report;
- 4) Delegates authority to the Corporate Director of Place and the Corporate Director of Governance and Community Strategy to agree the terms for the grant of the Tenancy at Will and the lease.

Contact person for access to background papers and further information:

Name: Martin Ledson
Extension: 4137

Background Papers: None

Relationship to Corporate Priorities	The project fits with the following Corporate Priorities: <ul style="list-style-type: none"> • Economic Growth and Development • Excellence in Education
Relationship to GM Policy or Strategy Framework	The proposal is supported by the GM Strategy, Our People, Our Place. The facility will encourage “ideas and invention” which is a key part of the vision. It also addresses needs relating to education and skills, health and wellbeing and economic growth.
Financial	The Council will forego a rental for the ground floor of the premises on the basis of the expected Community benefit. AOS will be required to pay service charges towards a proportion of the day to day running costs plus 100% of the business rates and BID Levy bills for the ground floor area which is already assessed separately. The Council will remain responsible for the running costs of the first floor which will become vacant once the library has moved to new premises later this year. This may result in a short term financial pressure as an element of the budget will be needed to cover the costs of the new library accommodation.
Legal Implications:	Granting the tenancy at will prior to obtaining the requisite approvals from the landlord will be a breach of the Council’s lease and could result in a claim for forfeiture of the Council’s lease. Legal advice will be sought in the preparation and finalisation of all necessary legal documentation, Legal advice will be sought in respect of any staff consultation required.
Equality/Diversity Implications	‘Not applicable’
Sustainability Implications	‘Not applicable’
Resource Implications e.g. Staffing / ICT / Assets	The asset management implications are set out in the report
Risk Management Implications	The main risk is that Open Studios do not generate enough income to cover the costs of running the building. To provide protection, the Council will ensure that all relevant legal documents contain provisions which allow the Council to terminate the arrangements: after 2 years; if Open Studios fall into significant arrears on the running costs; or Open Studios cease to trade.
Health & Wellbeing Implications	Open Studios has an ‘Accessibility for All’ approach and they specifically work with people who are autistic, have mental health issues and people on low incomes.
Health and Safety Implications	Open Studios have supplied information about the procedures and Health and Safety Policies they will adopt.

1. **Background**

- 1.1 Trafford Fab Lab (“the Fab Lab”) opened in 2016 from the ground floor of Altrincham Library in Clarendon House and was delivered by The Manufacturing Institute (“TMI”) in partnership with Trafford Council. TMI was contracted to manage the Altrincham Fab Lab for the first three years of operation through a Grant Funding Agreement between the Council and TMI that set out the details of Council’s contribution and timing of grant payments, as well as the outputs / targets to be delivered. The term of the agreement was from 1st December 2015 to 30th November 2018.
- 1.2 The costs of setting up and running the Fab Lab over the three year contract period was funded from section 106 contributions (relating to the Broadheath Asda), High Street Renewal Award (government grant), Trafford College, Trafford Housing Trust, as well as a Trafford Council revenue contribution. The Fab Lab model was based on the facility becoming self-financing by the end of year three, through securing commercial revenue from paid usage of the Fab Lab.
- 1.3 The Council’s contribution consisted of a proportion of the costs of Clarendon House, that included a notional cost relating to the estimated foregone market rent.

2. Current Position of the Trafford Fab Lab

- 2.1 The Fab Lab has been successful in its public engagement and the achievement of its Non-Financial KPI's, as per the Funding Agreement. Unfortunately, it has proven difficult for TMI to meet the commercial income targets for the Fab Lab to enable it to become sustainable. Due to this, TMI has confirmed it will not be able to continue operating the Fab Lab beyond the 30th November 2018.
- 2.2 The Fab Lab finds itself the victim of an evolving commercial landscape where, without significant investment, it is unable to keep pace with the advancements of technology, making it less attractive to the business community. Elsewhere, Fab Labs in Manchester, Ellesmere Port and Airedale (London) have all closed since the revenue required could not be secured. In terms of the current trading position of the Fab Lab, the financial risks to the Council of maintaining and running the operation would be significant.

3. Open Studios Proposal

- 3.1 The Fab Lab Advisory Group, led by a number of local businesses, has been exploring opportunities to find another operator for the Fab Lab once the TMI grant funding agreement expires at the end of November 2018. Altrincham Open Studios (AOS) was approached due to their charitable objectives being similar to those of the Fab Lab and their focus on working with people of all ages and capabilities to improve their skills through visual arts.
- 3.2 AOS is described as a "Creative Community Centre" providing workshops, studios and a gallery. It holds classes, workshops and groups in the arts for the community and also specialise in work with autism and those who are socially isolated. It runs two exhibitions each year - one for the members and the Hidden Altrincham Festival which displays artwork across the town centre.
- 3.3 AOS has produced a Business Plan (see Part 2 of the Report) which proposes taking over the Fab Lab premises and equipment to increase and enhance the services it offers to the local community and businesses through the design skills and expertise of their volunteer staff. The use of digital technology alongside the work of the artists and makers would help AOS support the creation of products to assist the establishment of start-up businesses. AOS believes that its current user base and extensive networks will generate the usage required to make their operation in the Fab Lab sustainable in the longer term.
- 3.4 The Business Plan identifies a break even model which assumes that the Council do not charge rent for the lifetime of the lease. AOS has requested a 5 year tenancy with 2 year break clause and that the tenancy starts immediately following the end of TMI's contact to enable continuity of the services that the Fab Lab provides and retain the existing user base.
- 3.5 AOS propose to generate income through memberships, gallery commission, cost of classes and space rental. They propose a funding model for the space whereby the public using the equipment pay for the costs of using it, through a daily/monthly fee or membership.

4. Proposed Council Offer of Support

- 4.1 TMI will cease managing the Fab Lab at the end of November 2018 and AOS wish to occupy the premises immediately after to enable an easy transition of service delivery

and to maintain the current client base. Due to the community benefits that AOS has identified in its Business Plan that would be provided from the premises, and the potential to support start-up businesses, it is proposed that the Council offers to lease the premises to the charity on a rent free basis. To enable AOS sufficient time to establish and run their operation, it is proposed that a 5 year lease is granted with 2 year termination provision.

- 4.2 The Council owns the freehold of Clarendon House (“the Premises”) which houses Altrincham Library but operates on leaseback basis to Lunar. It should be noted that the Landlord has an absolute right to refuse consent for subletting, so the Council would need to obtain Landlord’s Consent from Lunar to the proposed subletting of the ground floor space to AO. A planning application for Change of Use would be required since the current consent for the Fab Lab is B1 (Business) but the range of services delivered by AOS changes the use to include D1 (which includes galleries and educational space). The Council would also need consent from the Lunar to make the planning application.
- 4.3 The process of negotiating and finalisation of leases can take some time so, to promote continuity of service delivery for the local community, and subject to agreed Heads of Terms, it is proposed that AOS occupy the Premises on a ‘Tenancy at Will’ basis allowing AOS to move into the Premises on a temporary basis prior to a lease being finalised. A Tenancy at Will can be terminated “at will” should Planning Consent not be obtained or Landlord’s Consent not be granted. The ‘Tenancy at Will’ would require AOS to operate in line with the existing planning permission (i.e. B1), until the Change of Use to include D1 is granted.
- 4.4 The Tenancy at Will / lease agreement would be for AOS to occupy the ground floor space of Altrincham Library only (i.e. the space currently used for the Fab Lab). The first floor space will become vacant in December 2018 when the Library moves to its new location on Pott Street. AOS will be required to pay a contribution towards the running costs based on the ground floor area that they will occupy as a percentage of the total space currently occupied by the Library. The cost will be fixed based on 2018 bills / usage with an annual increase linked to the Retail Price Index (RPI). AOS will pay 100% of the business rates and BID Levy bills for the ground floor area which is already assessed separately.
- 4.5 The Council will remain responsible for the running costs of the first floor of the building until a new tenant / use is found. It is expected that these will reduce once the Library space is vacant (e.g. due to lower utility consumption) but may result in a short term financial pressure as an element of the budget will be needed to cover the costs of the new library accommodation.
- 4.6 There is a risk that AOS will not generate enough income to cover the running costs of the Premises. This will be mitigated by including provisions to terminate the Tenancy at Will / lease: at regular intervals through the term of the arrangement; if there are significant arrears on the running costs; or should AOS cease to trade. The risk shall be further mitigated by the proposed rent free period provided by the Council which will support AOS throughout its establishment phases and to generate the target income required

5. Assets

- 5.1 TMI owns the Fab Lab kit and has no objection to the equipment being sold to AOS. However as per the Funding Agreement with the Council, if TMI sells or gives away

the assets within the useful economic life of the assets then they must pay to the Council an “appropriate share of the net proceeds”. The Council can choose not to require this, if in all the circumstances the Council believes it would be inappropriate. Due to potential community and business benefit of AOS utilising the Fab Lab equipment, it is proposed that the Council does not seek a share of the net proceeds and agrees to the TMI selling the equipment to AOS for the nominal fee of one pound.

- 5.2 AOS have agreed with TMI that they will train staff to use the Fab Lab equipment, to enable them to train other users to operate the machines. TMI are also providing all information on the equipment including operating sheets and user manuals. The staff are already acquainted with most machines. Initially AOS will adopt the Fab Lab Health and Safety Policy to cover the new equipment, however there are some aspects that will be altered for different users. AOS will need to provide evidence of adequate levels of public liability insurance and insurance to use the equipment. It will be ensured through the Tenancy at Will and the Lease that there will be no liability to the Council arising from the use of the equipment and the premises.

6. **Best Value**

- 6.1 The proposed disposal of the ground floor of Altrincham Library on a rent free period for 5 years would be undervalue as it does not obtain the best value reasonably obtainable. Whilst the legislation allows leases of less than 7 years to be granted at undervalue, the Council’s constitution reserves all decisions on disposals at undervalue to the Executive Committee.
- 6.2 The Business Plan submitted by AOS identifies many positive social impacts particularly regarding health and wellbeing, which support an undervalue disposal. There is a particular focus on mental health and work includes community arts classes and groups for autistic and socially isolated people. AOS encourage ‘accessibility for all’ and want to encourage those on low incomes to use the services. AOS are now considering funding options for assisting people trying to build small businesses and young people interested in enterprising projects. AOS also hold an annual ‘Hidden Studios’ arts exhibition in multiple venues across the town centre, which the whole community can benefit from. In light of the above, it is considered that the social and economic benefits which will be provided by AOS at the Premises outweigh the estimated value of the foregone market rent.
- 6.3 Where a public body, or publicly-funded body, provides financial support to an undertaking (e.g. a business), it is necessary to consider whether such support constitutes State Aid. AOS have confirmed that the total financial support they have received from all publicly-funded sources during the last three years is below the de minimis limits of State Aid (i.e. over €200,000). It is therefore determined that there are no state aid requirements to be considered.

7. **Other Options**

- 7.1 If the Fab Lab were to close and the equipment dispersed, then a community and business benefit would be lost. In addition, there is no guarantee that a new tenant could be found to occupy the premises due to its configuration which could require substantial refurbishment costs to bring it to a specification to enable it to be marketed.

8. Consultation

- 8.1 TMI carried out consultation on the potential closure with the existing user base of the Fab Lab in September 2018 and there was support for the facility continuing.
- 8.2 Staffing consultation details are contained in Part 2 of the report.

9. Reasons for Recommendation

- 9.1 For the community benefits provided by the Fab Lab to continue, along with enhanced service provision to benefit residents and encourage business starts; the proposed rent-free period provided by the Council will play a key role in keeping the resource for the borough. By supporting AOS, the Council is illustrating its commitment to skills development, innovation and business support in Trafford.

10. Exempt Information

- 10.1 By virtue of Paragraphs 3 and 4 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by The Local Government (Access to Information) (Variation) Order, the following information has been excluded from Part 1 of this report and included in Part 2 of the report:

- Information relating to the financial or business affairs of any particular person (including the authority holding that information); and
- Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council and employees of the Council.

Urgency of Decision

This report should be considered as 'urgent business' and the decision exempted from the 'call-in' process for the following reason:

This will ensure AOS can take immediate occupancy of the premises following the departure of TMI and ensure continuity of services.

Key Decision: No

Finance Officer Clearance PC

Legal Officer Clearance DS

CORPORATE DIRECTOR'S SIGNATURE *(electronic)*



To confirm that the Financial and Legal Implications have been considered and the Corporate Director has cleared the report prior to issuing to the Executive Member for decision.