

**Minutes of the meeting of Desborough Town Council
held on Thursday 25 July 2019**

Councillors present: J Read (Chair), C Archer, L Burnham, S Draycott, G Holmes, I James, B Keys, B McElhinney, P Sawford, S Stroud, J Taylor, and J Watson.

Also present: G Thomson (Town Clerk), and 34 members of the community.

61./19 CHAIR'S WELCOME AND ANNOUNCEMENTS

The Chair welcomed those present to the meeting and referred to the extreme hot weather.

62./19 TO CONSIDER AND IF SO RESOLVED TO APPROVE APOLOGIES FOR ABSENCE.

The Town Clerk reported that no apologies for absence had been received.

63./19 TO NOTE ANY DECLARATIONS OF INTEREST FROM COUNCILLORS.

Cllrs Burnham, Draycott, Holmes, James, McElhinney, Read, and Taylor reminded the Council that they had declared interests and received dispensations to take part in minute 66./19 "To consider a request for funding from Desborough Library and Community Hub".

64./19 TO NOTE ANY REQUESTS FOR DISPENSATION

The Town Clerk reported that no requests for dispensation had been received.

65./19 TO HEAR REPRESENTATIONS FROM MEMBERS OF THE PUBLIC

65.1./19 RETENTION OF THE LIBRARY

A member of the public spoke about the services provided in the library which she considered to be both vital and better than available apps and online versions. She outlined what she thought would be the impact of closure on the community and urged the Council to save the library.

Another member of the community spoke about the benefits of retaining the library at a time of austerity. She spoke about the services provided, especially for children and during the holidays, and referred to the work of DLCH to fight closure. She urged Councillors to keep the best interests of the town at heart and to keep the library.

A further member of the community said he had supported the increase in the precept and agreed with spending that money. He asked what proportion of any future sale proceeds would be repaid to the Council and whether making a grant to DLCH created a taxation problem.

Another member of the public stated that she had an historical and personal interest in the site and that the purchase price asked was not as high as she had expected. She said that the Council should take then opportunity to buy the library.

65.2./19 MEETING TIMES

A member of the public said he had made a call for a town meeting and referred to a meeting of the Council which had started at 6pm of which 28 days' notice had not been given and no privacy notice had been issued therefore the meeting in his view was null and void.

66./19 TO CONSIDER A REQUEST FOR FUNDING FROM DESBOROUGH LIBRARY AND COMMUNITY HUB

Extracted from the report of the Town Clerk:

Background

A request has been received from Desborough Library and Community Hub (DLCH) for funding towards retaining library services at Desborough Library. As Members will recall, the Council's budget for 2019/20 contained a provision of £210,000 for the "preservation of library services".

It is well known that one of the responses of Northamptonshire County Council (NCC) to its financial difficulties was to attempt to significantly reduce the cost of the statutory library provision. The Northamptonshire library service was already one of the least expensive in terms of cost per visit when compared with other library services which demonstrates that cost cutting could not be achieved by further efficiencies alone and required a more fundamental reshaping of the service. Following a Judicial Review in August 2018, the decision to keep 15 libraries under NCC control and offer the other 21 to community groups to be run as independent libraries was quashed. In September 2018, the new Chief Executive of NCC conducted a new review of the library service, to make sure that NCC delivered its statutory duty to provide a "comprehensive and efficient" library service, whilst achieving the necessary savings for the Council by identifying opportunities to work with community groups to co-produce community managed libraries where possible.

Chair: _____

Following meetings with community groups, parishes, towns, Borough, and District councils, individual proposals were identified for nearly every library within the county.

Desborough Library and Community Hub (DLCH) was formed as a charitable incorporated organisation (CIO). Its intention was to take over the running of the library services at Desborough. DLCH has a board and a committee. Currently six of the Board are serving Desborough Town Councillors, and one further Councillor is a member of the Committee. All seven Councillors have sought and been granted dispensation under the Localism Act 2011 to allow them to participate in any discussion and vote on any matter relating to Desborough Library (including this item).

NCC published proposals for individual libraries and with reference to Desborough stated:

“this would be a community managed library, supporting community need, providing a book lending service as well as additional services such as Blue Badge applications and bus pass renewals where appropriate, at [DLCH]’s discretion. Some universal children’s services currently provided in Desborough Library will continue to be delivered. This could mean changes to the current opening hours, either an increase or a decrease, but there will be an agreed minimum.

“As Desborough Library would remain part of the statutory provision, should it become unviable as a community-run library, NCC would seek to find alternative provision to ensure it continued to provide a statutory service. There is £2,000 Section 106 money available to invest in the development of this library.”

Building Purchase

DLCH has been successful in attracting a conditional grant of £150,000 towards the purchase of the library building from the Maud Elkington Charitable Trust (MECT). MECT has confirmed that it would not provide a grant to the Council for the same purpose. The cost of purchasing the building is £270,000 (plus any legal and other fees). NCC is understood to have used different approaches throughout the county with regard to the ownership of buildings. It is understood that leasing is not an option which has been pursued by NCC in Desborough.

The MECT grant of £150,000 is to be subject to a five year charge on the property. In effect, if the building is sold within five years, the full amount of the grant (£150,000) will automatically be repaid to MECT. The MECT charge on the property will expire after five years. Notwithstanding the origin of the contributions for the purchase, the ownership of the library building will be vested in the DLCH and not the Council or MECT.

Running Costs

It is currently anticipated that the purchase of the property will take place at the beginning of September 2019. For some time, DLCH has been staffing the library on Thursday afternoons and on Wednesdays. From the date of purchase, DLCH would be responsible for staffing and running the library services. NCC has put in place arrangements to help the community managed libraries by employing two community co-ordinators and will also provide a book restock service, access to the computer systems, and pay insurances. DLCH will be responsible for running costs from the date of purchase and before any significant opportunity for fundraising. It has requested that the Council grants the remaining budget provision (£90,000) on completion of the purchase as a contribution towards the ancillary purchase costs and running costs over a three-year period. This would give DLCH the security of knowing that essential costs would be covered (at least in part).

Powers

Local authorities are creatures of statute. Their rôle is defined in numerous different Acts of Parliament and Councils are unable to act unless given the power to do so by legislation. The General Power of Competence (Localism Act 2011) enables Councils to respond more effectively to their communities’ needs, encouraging innovation and assisting in shared service delivery. The Council has the General Power of Competence but for added clarity, the following powers would be available to the Council to enable the loan and grant to be made:-

- Local Government Act 1972 (Miscellaneous Provisions) Act 1976 s19
Power to provide and equip buildings for use of clubs having athletic, social or educational objectives*
- Local Government Act 1972, s133
Power to acquire, provide and furnish community buildings for public meetings and assemblies*
- Local Government Act 1972. s145
Provision of entertainment and support of the arts.*

Risks

The major risks to the Council are that DLCH fails to thrive possibly through lack of community support, loss of volunteers, or other reason, and it ceases to deliver library services in Desborough; and that a library authority (current or following local government reorganisation) wishes to take over services or deliver services in competition. Should this happen, it is likely that DLCH would seek to transfer the delivery of services to another body (another CIO or charity, a library authority, or a private company). In the event of interest from a library authority DLCH might seek to continue to provide library services alongside or in competition with the authority or alternatively to hand services back. In all these scenarios the ownership of the property would not necessarily change. Not all of the county's current libraries are in buildings owned by NCC and it pays rent to the owners of those outside of NCC control. There is no reason to suppose that should a library authority wish to, or have to, take over delivery of library services from DLCH that it would wish to do so in a different building, although the possibility of a mobile library service should not be ruled out. If a library authority wished to deliver services from the property then DLCH could either sell the building to the library authority or retain it and collect rent.

Notwithstanding its designation as a community-run library, NCC has currently classified Desborough Library as part of NCC's statutory offer. The reasonable expectation is that in the event that the community-run facility failed then some services would be run in Desborough. However, it is not at all clear that this designation of being part of the statutory service would remain (it is entirely arbitrary).

Provision is made in the recommendations for actions in the scenarios outlined above (amongst others). These provisions would secure the return of the building purchase loan if the property is sold so the Council would reclaim the capital sum of £120,000. Should DLCH cease to provide the library services from the building during the first three years provision should be made for the return of a fair proportion of the library running costs grant (see below).

Protection for the Council's Assets

The Council's budget for this proposal was derived from the Council Tax (known as the precept). Whilst it is important to protect the public money, the Council has no power to hold money for no purpose and the Internal Auditor advised the Council to consider a three to five year plan to reduce the unallocated reserves.

In order to prevent any profiteering it has been suggested that a charge be attached to the property for the building purchase loan of £120,000. This would mean that, like the MECT, any sale would result in the loan being repayable in full to the Council. It is understood that MECT's charge on the property will expire after five years; it is proposed that the loan from the Council should have a charge on the property in perpetuity, so a sale in the future would result in the return of the asset (see recommendations for further details).

The grant for the running costs is less easy to protect because the point is that the money will be spent as needed to preserve the library services in Desborough, is therefore not backed by an asset, and may therefore not be available to be repaid. However, it is proposed that the Council makes the grant on terms which would make it a preferential creditor so that if DLCH ceases to provide library services as proposed then the grant for running costs would be repayable to the Council ahead of any ordinary creditors. Obviously if DLCH is wound up then there may not be enough free funds to pay all creditors, but preferential creditors would have first call on any remaining cash. Given that the grant would be used through time as intended, the amount of any repayment in the event of failure (see recommendations for further details) should reduce over time on a monthly straight line reducing basis.

It is suggested that the grant be paid in two tranches in the current financial year: in September and March) and that the amount to be repaid is reduced by £2,500 each month. The grant would cease to be repayable after three years (September 2022). Details of the amounts which would have to be repaid are set out in Appendix B.

Other considerations

DTC Office: The Council is a tenant in the property and has a lease running until the end of November 2019. The siting of the Council's offices within the library building has been a success and accessibility and visibility have been significantly improved. There seems to be no appetite to relocate and it is therefore prudent to seek an early conclusion to renewing the lease. As a condition of any grant or loan the Council should require a continuation of the lease on broadly similar terms for a minimum of five years (to December 2024) with scope for only an inflation-related increase the at mid-term review.

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- Publicity:* The Council should also receive appropriate publicity and credit for the financial support given.
- Evidence:* The Council must be provided with evidence of the completion of the purchase. It should also be provided with a copy of the annual accounts of DLCH, and reports on activity should be provided to the Annual Town meeting each year, and to the Council on a quarterly basis.

RECOMMENDATIONS

If the Council is minded to approve the funding to DLCH in order to preserve library services in Desborough, then it is RECOMMENDED that:-

- (a) the Town Clerk be authorised to secure appropriate legal advice on any matter related to the proposals to protect the Council and its assets as set out in the report, and to act on advice given;*
- (b) a building purchase loan of £120,000 be made to DLCH in perpetuity as a first charge on Desborough Library, High Street, Desborough, NN14 2QS, ("the property");*
- (c) DLCH and the Town Council shall be responsible for their own legal and other fees in relation to this matter;*
- (d) in the event that the property is subsequently sold:-*
 - 1) if no other property in the Town Council's area is procured by with or for DLCH or any successor to provide library services then the building purchase loan (£120,000) shall be repayable to the Town Council immediately on the sale;*
 - 2) if another property in the Town Council's area is procured by with or for DLCH or any successor to provide library services using the proceeds of the sale of the current property then the building purchase loan will transfer to the new property on exactly the same terms;*
 - 3) if another property in the Town Council's area is procured by with or for DLCH or any successor to provide library services not using the proceeds of the sale of the current property then the building purchase loan shall become immediately repayable to the Town Council;*
- (e) if at any time DLCH wishes to return the building purchase loan to the Council irrespective of the ownership of the property it may do so in full at one time and the restrictions and protections afforded by the charge on the property shall be removed;*
- (f) in the event of the DLCH ceasing to provide library services from the building before the end of three years from the date of the payment of a library running costs grant:-*
 - 1) if there is a transfer of services and or assets to a statutory library authority then the library running costs grant shall be repayable to the Town Council as a preferential creditor in accordance with the schedule attached at Appendix B;*
 - 2) if there is a transfer of services and or assets to another CIO or registered charity based in Desborough Town Council's area then repayment requirements of the library running costs grant shall transfer to the new organisation in accordance with the schedule attached at Appendix B;*
 - 3) if there is no transfer of services and or assets to another CIO or registered charity based in Desborough Town Council's area then the library running costs grant shall become immediately repayable to the Town Council as a preferential creditor in accordance with the schedule attached at Appendix B;*
 - 4) if there is a transfer of services and or assets to any other organisation wheresoever based then the library running costs grant shall become immediately repayable to the Town Council as a preferential creditor in accordance with the schedule attached at Appendix B; and,*
- (g) it shall be a condition of any grant or loan that the Council's lease for the office accommodation in the property must be continued on broadly similar terms for a minimum of five years (to December 2024) with scope for only an inflation-related increase the at mid-term review.*

The Chair introduced the item and noted that the DLCH Business Plan had been made available. The Town Clerk explained that it was proposed to take the recommendations in three groups: a), c), g) - relating to legal advice, costs, and the lease of the Council's offices; then b), d), e) - relating to the proposed building purchase loan; and finally f) - relating to the proposed library running costs grant.

In response to a question relating to the legal costs, the Town Clerk explained that he had not been able to quantify the legal costs but the budget provision was £1,000.

On items a) c) and g) being put to the meeting a recorded vote was requested, and the voting on these matters was as follows:-

Councillors for the motion	Councillors abstaining	Councillors against the motion
C Archer	-	B Keys
L Burnham		S Stroud
S Draycott		
G Holmes		
I James		
B McElhinney		
J Read		
P Sawford		
J Taylor		
J Watson		

The Chair declared the motion carried as reflected in the resolution below (resolutions (i) to (iii) refer).

In response to a question about the proceeds of any future sale of the property the Chair explained that if there was a sale within five years owing to the demise of DLCH then £150,000 would be returned to MECT; £120,000 would be returned to DTC; the £90,000 discount would be returned to NCC; and any remaining proceeds would be used for charitable purposes in accordance with the charity trust.

On items b) d) and e) being put to the meeting a recorded vote was requested, and the voting on these matters was as follows:-

Councillors for the motion	Councillors abstaining	Councillors against the motion
C Archer	B Keys	-
L Burnham	S Stroud	
S Draycott		
G Holmes		
I James		
B McElhinney		
J Read		
P Sawford		
J Taylor		
J Watson		

The Chair declared the motion carried as reflected in the resolution below (resolutions (iv) to (vi) refer).

On item f) being put to the meeting an amendment was moved and seconded that the existing wording be deleted and replaced with the following:-

- “f1) a library running costs grant of £30,000 be made to DLCH after the completion of the purchase as a contribution towards the ancillary costs and running costs of the first year of operation;
- “f2) any further grant or loan to be decided as part of the Council’s annual budgetary process in future years; and,
- “f3) the remaining £60,000 budgetary provision be returned to the Council’s general reserves.”

It was noted that, if approved, the amendment would result in an equal share of purchase and pump-priming costs between the Council and MECT, and provided no commitment to any future funding.

Initialled by Chair: _____

On the amendment being put to the meeting a recorded vote was requested, and the voting on the amendment was as follows:-

Councillors for the motion	Councillors abstaining	Councillors against the motion
C Archer	-	S Stroud
L Burnham		
S Draycott		
G Holmes		
I James		
B Keys		
B McElhinney		
J Read		
P Sawford		
J Taylor		
J Watson		

The Chair declared the amendment carried. On item f) as amended being put to the meeting a recorded vote was requested, and the voting on the substantive motion was as follows:-

Councillors for the motion	Councillors abstaining	Councillors against the motion
C Archer	-	S Stroud
L Burnham		
S Draycott		
G Holmes		
I James		
B Keys		
B McElhinney		
J Read		
P Sawford		
J Taylor		
J Watson		

The Chair declared the motion carried as reflected in the resolution below (resolutions (vii) to (ix) refer).

RESOLVED that:-

- (i) **the Town Clerk be authorised to secure appropriate legal advice on any matter related to the proposals to protect the Council and its assets as set out in the report, and to act on advice given;**
- (ii) **DLCH and the Town Council shall be responsible for their own legal and other fees in relation to this matter;**
- (iii) **it shall be a condition of any grant or loan that the Council's lease for the office accommodation in the property must be continued on broadly similar terms for a minimum of five years (to December 2024) with scope for only an inflation-related increase the at mid-term review;**
- (iv) **a building purchase loan of £120,000 be made to DLCH in perpetuity as a first charge on Desborough Library, High Street, Desborough, NN14 2QS, ("the property");**
- (v) **in the event that the property is subsequently sold:-**
 - (1) **if no other property in the Town Council's area is procured by with or for DLCH or any successor to provide library services then the building purchase loan (£120,000) shall be repayable to the Town Council immediately on the sale;**
 - (2) **if another property in the Town Council's area is procured by with or for DLCH or any successor to provide library services using the proceeds of the sale of the current property then the building purchase loan will transfer to the new property on exactly the same terms;**
 - (3) **if another property in the Town Council's area is procured by with or for DLCH or any successor to provide library services not using the proceeds of the sale of the current property then the building purchase loan shall become immediately repayable to the Town Council;**
- (vi) **if at any time DLCH wishes to return the building purchase loan to the Council irrespective of the ownership of the property it may do so in full at one time and the**

Initialled by Chair: _____

.....
restrictions and protections afforded by the charge on the property shall be removed;

- (vii) a library running costs grant of £30,000 be made to DLCH after the completion of the purchase as a contribution towards the ancillary costs and running costs of the first year of operation;**
- (viii) any further grant or loan to be decided as part of the Council's annual budgetary process in future years;**
- (ix) the remaining £60,000 budgetary provision be returned to the Council's general reserves.**

The meeting closed at 20:40

Signed by the Chair: _____

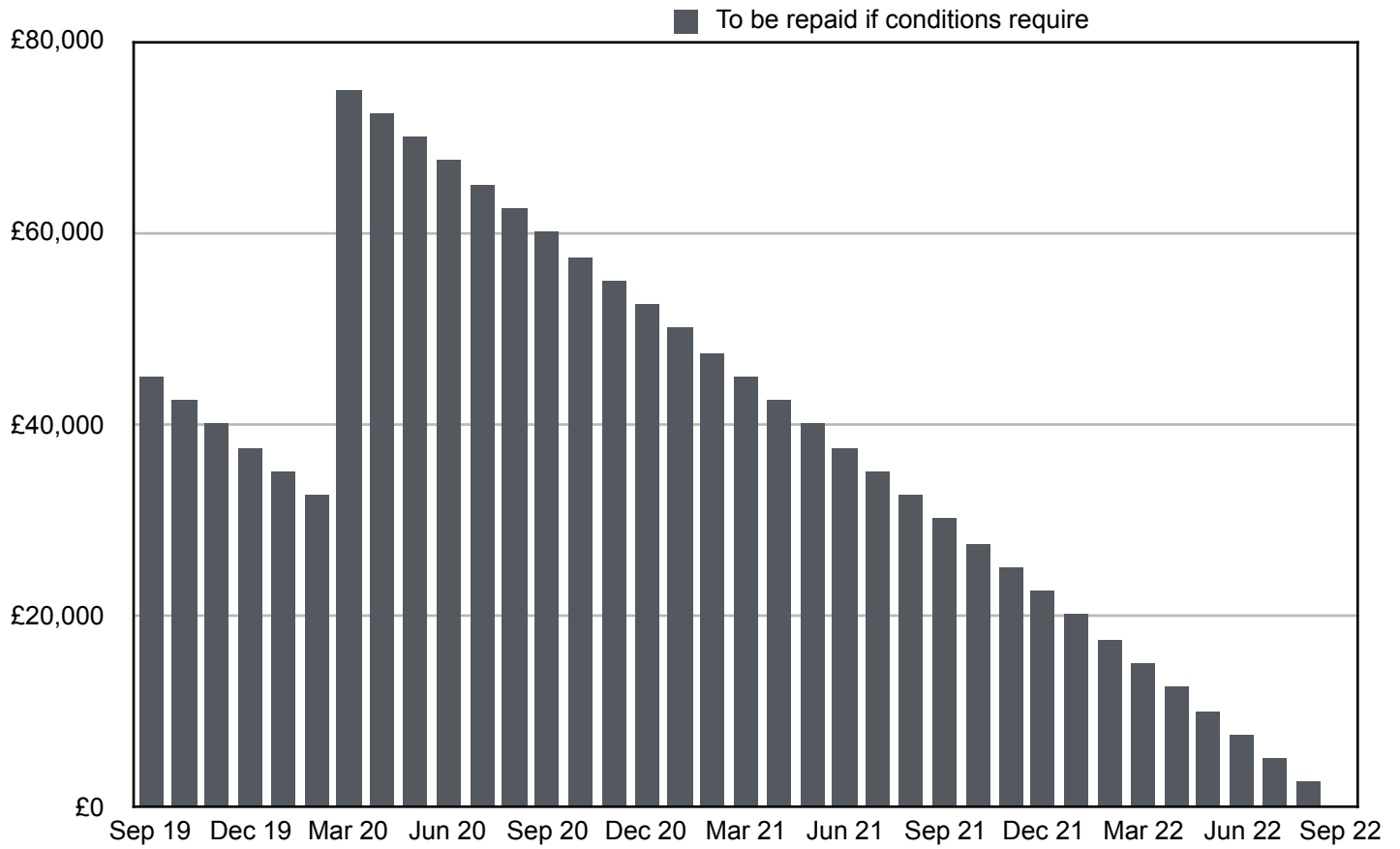
Date: _____

Initialed by Chair: _____

Library running costs grant repayment schedule

	To be repaid if conditions require	DTC Grant paid to DLCH
Sep 19	£45,000	£45,000
Oct 19	£42,500	
Nov 19	£40,000	
Dec 19	£37,500	
Jan 20	£35,000	
Feb 20	£32,500	
Mar 20	£75,000	£45,000
Apr 20	£72,500	
May 20	£70,000	
Jun 20	£67,500	
Jul 20	£65,000	
Aug 20	£62,500	
Sep 20	£60,000	
Oct 20	£57,500	
Nov 20	£55,000	
Dec 20	£52,500	
Jan 21	£50,000	
Feb 21	£47,500	
Mar 21	£45,000	
Apr 21	£42,500	
May 21	£40,000	
Jun 21	£37,500	
Jul 21	£35,000	
Aug 21	£32,500	
Sep 21	£30,000	
Oct 21	£27,500	
Nov 21	£25,000	
Dec 21	£22,500	
Jan 22	£20,000	
Feb 22	£17,500	
Mar 22	£15,000	
Apr 22	£12,500	
May 22	£10,000	
Jun 22	£7,500	
Jul 22	£5,000	
Aug 22	£2,500	
Sep 22	£0	

Initialed by Chair: _____



Initialled by Chair: _____