

**BRIEFING NOTE on Issues included in the Forward Plan – 2005 /2006.
FORWARD PLAN SELECT COMMITTEE MEETING 26 JULY 2005**

SERVICE AREA: Finance & Corporate Resources

Report ref	Report title
Cor 04 /05-75	Youth & Community Centres – further update reports on Mahogany Arts and the Pakistan Workers Association
<p>Summary / Nature of Decision to be taken / Intended Outcome</p> <p><u>SUMMARY:</u> Information contained in Briefing Notes to this Select Committee on 06 January 2005 and 29 March 2005 is repeated below but updated to reflect the position as at 15 July 2005.</p> <p>A report: “Youth and Community Centres Review – Update” was presented to the Executive on 11th October 2004, when it was resolved:</p> <p>“(iii)(b) <u>Mahogany Arts</u>: it be noted that a separate report would be brought to the Executive when outstanding legal issues had been agreed and a way forward agreed with Mahogany Community Ventures Ltd;</p> <p>(c) <u>Pakistan Community Centre</u>: it be noted that a separate report would be brought to the Executive when the legal rights, if any, of the Pakistan Workers Association to the Pakistan Community Centre had been established and agreed by the Council and terms agreed with the trustees of the Pakistan Workers Association.”</p> <p><u>Mahogany Arts</u></p> <p>The freehold of 28 High Street Harlesden was acquired by the Council pursuant to a statutory Blight Notice in January 1995. A 99 year lease was immediately granted to Mahogany Arts Ltd (hereinafter referred to as MAL).</p> <p>MAL was formed as a charity in the form of a company limited by guarantee with the objectives of continuing the development of the carnival arts, through offering education and training opportunities to local people. The centre is used for the manufacture and sale of carnival art works both nationally and internationally. It was supported by grants from the Harlesden City Challenge which in turn was funded by the then Department of the Environment (DoE).</p> <p>Using DoE funds, MAL contracted with a building contractor to undertake works of refurbishment and adaptations. A dispute arose between MAL and the contractor, resulting in MAL withholding a sum of money. The contractor sued MAL in the County Court and won, forcing MAL into liquidation.</p> <p>The lease provided that in the event of MAL entering into liquidation, then the Council could forfeit the lease and re-enter the premises. The Council did not formally do this but owing to the lessee company’s liquidation, the lease became vested in the Treasury Solicitor’s Office “bonavacantia”.</p>	

Notwithstanding who now owned the lease, the occupants in the building remained much as before although now in the employ of a successor organisation to MAL known as Mahogany Community Ventures Ltd (MCVL). This new company and its employees remain in the building at present and they are seeking to have the former lease belonging to MAL signed over to them or a new 99 year lease granted to them. The Directors of MCVL blame the Council for the predicament of MAL's liquidation and believe it to be just and equitable for the Council to right this wrong by recognising MCVL's claim to a new long lease.

The legal background is complicated and consideration has been given to:

- the nature of the new organisation now seeking to continue in occupation and its connections with the former entity.
- the status of the original lease; and
- in the event that Members wish to grant a new lease to MCVL, then consideration needs to be given to possible management options, including the grant of a short or long lease and, as to rent, possible abatement provisions related to the community objectives of the organisation.

March 2005 Update

Brent's lawyers are seeking a declaration from the Treasury Solicitor's Office (in whom the existing lease is vested *bonavacantia*) that the said Office disclaims the lease (with its responsibilities). Once disclaimed, LB Brent as freeholder can lay claim to the lease and the property. However, the Council acknowledges the community work which both MAL and now MCVL undertake which benefit both Harlesden and Brent as a whole and negotiations continue with interested parties to seek a way forward which addresses the matters noted in the "bullet points" above.

July 2005 Update

The Treasury Solicitor's Office (TSO) have now been advised by the District Valuer that the lease vested in their Office has "considerable value" and accordingly they will not disclaim the lease and effectively return ownership in the property to LB Brent without payment. LB Brent does not agree with the District Valuer's opinion of value given the restrictions in the lease, limitations on alternative user and clawback to the DoE – now ODPM – in the event of sale. MCVL have in turn approached TSO to have the lease returned to them. For this to happen, MCVL will have to reinstate MAL to the Company Register, which would make them potentially liable once again for the debts of MAL. According to the directors of MCVL, TSO will hand the lease over to a reinstated MAL but the TSO wants an early decision, otherwise it will sell the lease to a highest bidder.

Two directors of MCVL and their financial advisor met the Deputy Leader and the Manager of Corporate Property during June to see if there was *either* a way of obtaining the lease without payment (of a premium by the Council or of the debts owing by MAL) *or* a way by which the Council would finance / fund MAL to repay the company's debts. After the meeting MCVL's financial advisor wrote to advise they were making arrangements to reinstate MAL, but they did not provide an update on their negotiations with TSO, nor have they written - as they said they would - to further substantiate their claim that their predicament was all the fault of Brent.

Officers await the letter from MCVL and a further response from TSO. In the meantime, Counsel has been instructed for further clarification on Brent Council's ability to grant a lease to MCVL in the event TSO agree terms with Brent over their disclaimer or release of the lease.

Unfortunately, officers consider it unlikely that there will be an early solution to this case.

Pakistan Community Centre

The report to the Executive on 11th October 2004 reported that The Pakistan Workers Association (the Association) was formed in 1967/68 and, in 1981, was granted a licence to occupy land owned freehold by the Council, originally part of the Willesden Green Station Goods Yard. A community centre was built, in part funded by the Urban Programme with a balance of £18,164 funded by the Council. An initial nine month licence to occupy the site was signed by the Association and a draft longer term licence was supplied in draft to the Association and acknowledged by them.

The Association maintain that it was always intended that the site would be transferred freehold to them for nil consideration and have provided affidavits to support that view.

The Council's Borough Solicitor has considered all the available papers and now advises that no sound basis can be discerned for the Association's contention.

It is understood that the Association may wish to seek funding for new works to its building and, to do so, may require a more substantial title to the premises than a mere licence.

The site is worth some £1m for residential development or up to £30,000 pa on the basis of use limited to community purposes. The Association has indicated previously that it is unwilling to pay any consideration. The Council cannot give its landed interests freely, except with the appropriate consent of the Secretary of State and then with due justification – although the Council has dispensation to sell at undervalue (or for less than Best Consideration) where it considers such a disposal will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. A disposal to a properly constituted community group providing real facilities and benefits to the community could come within the dispensation should the Council wish to sell at under value and should Members consider there to be suitable grounds for exercising such rights.

Negotiations between the Council and the present day trustees of the Association became stalled – with the Association maintained its position of claiming a right to the freehold for free – and with Council officers requiring some consideration for the grant of a formal interest in the centre to the Association.

March 2005 Update

A further meeting between Council officers and the trustees of the Association is being planned before the Easter holiday – to see if the parties can agree a compromise position.

July 2005 Update

Following further negotiations between the parties and acceptance by both that the original intentions of the parties over the land transaction would never come to light, terms have been agreed *subject to the approval of the Executive* to grant a lease of 99 years to the trustees of the PWA in return for a modest consideration payable as rent over the first 10 years of the lease. Full details of the terms will be included in a *confidential* report now planned to go to the Executive on 15 August 2005.

Timescale for decision:

A report on PWA, with status update on Mahogany, to the meeting of the Executive on 15 August 2005.

A report seeking approval to a transaction with Mahogany, to a meeting of the Executive: just as soon as matters are resolved, but this unlikely in the near future.

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