Options Appraisal: Transfer of the Old School to the Council

Purpose of Report

This report provides a comprehensive appraisal of the options for transferring the Old School to the Council, including governance, legal, financial, operational, and strategic considerations. It is intended to support informed decision-making by councillors and stakeholders.

Strategic Objectives

- Protect public funds and manage financial risk
- Secure long-term sustainability of the building
- Maximise community benefit and access
- Ensure robust governance and regulatory compliance
- Deliver an option proportionate to Council capacity
- Maintain flexibility for future changes

Statutory Powers and Legal Framework

The following legislation is relevant to the Council's consideration of the transfer and operation of the asset:

- Local Government (Miscellaneous Provisions) Act 1976 s.19 — power to provide and equip buildings for recreational and social purposes
- Local Government Act 1972 s.111 — power to do anything incidental or conducive to functions
- Local Government Act 1972 s.137 — power to incur expenditure for community benefit (subject to limit)
- Local Government Act 1972 s.134 — power to support charitable bodies
- Local Government Act 2003 — powers relating to borrowing (including Public Works Loan Board)
- Localism Act 2011 — General Power of Competence (if adopted)
- Public Contracts Regulations 2015 — procurement obligations
- Equality Act 2010 — Public Sector Equality Duty

- Health and Safety at Work etc. Act 1974 — operational duties
- Charities Act 2011 — if charity structure pursued
- Trustee Act 2000 — trustee duties (if applicable)
- Crime and Disorder Act 1998 s.17 — duty to consider crime and disorder implications
- Accounts and Audit Regulations — financial governance requirements

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Options Considered

Option 1 — Direct transfer to the Council from Highcliffe Residents Association CIC

Summary

The building transfers directly to the Council, which operates it as a community facility.

Advantages

- Quick transfer with relatively low legal complexity
- Full democratic accountability
- Integrated finance, audit, and governance
- Ability to fund via precept or Public Works Loan
- Direct operational control
- Simplified reporting (no separate entity)

Disadvantages

- Increased staffing and management burden
- Potential need for new committee structure
- Loss of cottage rental income
- Potential VAT charging on certain activities
- Limited grant eligibility
- Increased insurance costs
- Full liability for building condition and compliance

Key Risks

- Officer capacity constraints

- Financial exposure if costs escalate
- Public scrutiny over use of precept funds
- Procurement obligations for works and services

Option 2 — Creation of a CIO with Council as Sole Trustee

Summary

A new charitable incorporated organisation is established to own and operate the asset, with the Council acting as sole trustee.

Advantages

- Access to grant funding
- Cottage rental income retained within charity
- Potential VAT advantages for hall hire
- Separation of operational risk from Council finances
- Ability to appoint additional trustees

Disadvantages

- Longer and more complex setup
- Separate governance, banking, accounts, and reporting
- Additional administrative burden
- Council likely to provide ongoing financial support
- Complexity around conflicts of interest
- Trustee responsibilities and liabilities

Key Risks

- Governance complexity between Council and charity roles
- Resource demands to maintain compliance
- Charity sustainability dependent on Council support

Additional Options (for completeness)

- Lease to an independent charity (Council not trustee)

- Community trust with multiple stakeholders

Legal Considerations

- Confirmation of legal title and any restrictions or covenants
- Regulatory approvals required for transfer (received)
- Whether disposal is at undervalue and justification required (received)
- Charity law compliance (if applicable)
- Landlord obligations relating to cottage
- Procurement law compliance for future works
- Need for formal valuation

Financial Considerations

- Whole-life cost assessment (repairs, maintenance, utilities)
- 5–10 year financial forecast
- Funding strategy including borrowing implications
- Inflation and energy cost sensitivity
- Responsibility for major capital failure
- Grant dependency risks (Option 2)

Tax Considerations

- VAT registration and partial exemption issues
- Potential Stamp Duty Land Tax implications
- Corporation tax considerations for charity trading

Building Condition and Compliance

- Full building survey being undertaken
- Fire safety and accessibility compliance
- Asbestos assessment

- Health and safety obligations
- Planned maintenance programme

Governance Considerations

- Clear decision-making structures
- Conflict of interest management (especially if Council is trustee)
- Transparency and accountability
- Trustee training requirements
- Policy framework alignment

Operational Considerations

- Staffing model and capacity
- Booking and facilities management systems
- Safeguarding and risk management
- Maintenance responsibilities
- Volunteer involvement

Community and Stakeholder Considerations

- Public expectations regarding access and pricing
- Stakeholder engagement and communication
- Reputation and political risk
- Demonstrating community benefit

Insurance Considerations

- Property insurance
- Public liability
- Employer's liability
- Trustee indemnity (if charity route)

- Business interruption cover

Exit Strategy

- Ability to transfer or dispose in future
- Wind-up arrangements for any charity
- Flexibility for redevelopment or alternative use

Impact Assessment

Equalities Impact (Equality Act 2010 — Public Sector Equality Duty)

- Opportunity to improve accessibility and inclusive programming
- Need to ensure physical accessibility (step-free access, accessible toilets)
- Consider affordability of hire to avoid exclusion
- Engagement with protected groups recommended

Environmental Impact

- Opportunity to improve energy efficiency through retrofit
- Consider low-carbon heating and insulation upgrades in the future
- Potential to adopt sustainable procurement practices
- Encourage community use that supports local sustainability initiatives

Financial Impact

- Potential significant capital expenditure for repairs
- Ongoing revenue implications for staffing and maintenance
- Borrowing may affect future budget flexibility
- Risk of cost escalation without detailed survey

Resource Impact (Staffing and Capacity)

- Additional officer time required for governance and management
- Possible need to recruit facilities or administrative staff
- Training requirements for councillors/trustees

Risk Management Impact

- Asset ownership increases corporate risk exposure
- Need for robust policies, internal controls, and monitoring
- Requirement to maintain risk register and review regularly

Crime and Disorder Impact (Crime and Disorder Act 1998 s.17)

- Well-managed community facilities can support community cohesion
- Need to consider security measures, lighting, and safeguarding
- Potential to reduce anti-social behaviour through positive use

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Risk Register (Summary)

Risk	Likelihood	Impact	Mitigation
Cost escalation	Medium	High	Detailed survey and contingency budget
Governance complexity	Medium	Medium	Clear governance framework
Officer capacity	High	Medium	Resource planning and recruitment
Funding shortfall	Medium	High	Financial planning and reserves
Compliance failure	Low	High	Policies and regular review

Options Appraisal — Comparative Commentary

Option 1 provides maximum control and simplicity of governance but exposes the Council directly to financial and operational risk and limits access to grant funding.

Option 2 offers potential financial advantages through grants and rental income but introduces governance complexity, administrative burden, and potential conflicts of interest.

Recommendation

At this stage, it is recommended that the Council:

1. Continues to undertake detailed due diligence including legal review and building surveys before committing to any transfer.
2. Develops a full financial model including lifecycle costs.

3. Carefully considers whether it has sufficient capacity to manage either direct operation or a sole trustee role.
4. Gives preference to the option that best balances long-term sustainability with manageable governance complexity.

Subject to satisfactory due diligence, many councils favour direct ownership where capacity exists, as it provides clearer accountability and simpler governance; however, if grant funding is critical and resources allow, the charity route may be appropriate.

Key Decision Questions

- Which option best safeguards public funds?
- Which option delivers greatest community value?
- What level of risk is acceptable to the Council?
- Does the Council have capacity to manage the asset directly?
- How important is access to grant funding?
- Which option is most sustainable long term?

Next Steps

- Consider a preferred option and implementation plan.
- Obtain further legal and financial advice especially around VAT
- Await building survey
- Develop financial model
- Engage stakeholders

Conclusion

Both options are viable but carry different balances of control, risk, and administrative burden. A decision should be informed by the Council's risk appetite, resource capacity, statutory duties, and long-term strategic priorities.