

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO COMMUNITY COMMITTEE

Agenda Item No. 11

meeting date: 12 JANUARY 2010  
title: LICENCE TO NORTH WEST SOUND ARCHIVE  
submitted by: JOHN C HEAP, DIRECTOR OF COMMUNITY SERVICES  
principal author: CHRIS HUGHES, COMMUNITY DEVELOPMENT MANAGER

### 1 PURPOSE

- 1.1 To ask members to comment on the proposed licence to the North West Sound Archive for their occupation at Clitheroe Castle Museum
- 1.2 Relevance to the Council's ambitions and priorities
  - Council Ambitions - None
  - Community Objectives – Access for all, Culture
  - Corporate Priorities - None

### 2 BACKGROUND

- 2.1 As part of the re-development of the museum, it became necessary to re-locate the Sound Archive from the Old Steward's House to the top floor of the museum building.
- 2.2 With the development of the site completed, the North West Sound Archive moved to their newly refurbished premises prior to the opening at the end of May 2009.

### 3 CURRENT SITUATION

- 3.1 Committee has, for some time, expressed disappointment that the Borough Council's contribution in accommodating the North West Sound Archive is not well recognised, given that it is probably the biggest single contribution in the North West.
- 3.2 In the new licence, this contribution has been recognised and identified as payable. This will be offset by a separate SLA where the Borough Council will provide a grant to the North West Sound Archive.

### 4 RISK ASSESSMENT

The approval of this report may have the following implications:

- **Resources** – The value of the Council's contribution has been estimated at £27,940 and includes rent, rates, and utility costs.
- **Technical, Environmental and Legal** – The new lease will formalise what has been an informal arrangement in the past.

- **Political** – The new licence helps recognise the Council's contribution to the North West Sound Archive.
- **Reputational** – we need to ensure that the North West Sound Archive contributes in a positive manner to the future development of the site.

5 **RECOMMENDED THAT COMMITTEE**

Notes the contents of the report and comments on the contents of the enclosed Licence.

JOHN C HEAP  
DIRECTOR OF COMMUNITY SERVICES

For further information please ask for Chris Hughes 01200 414479

# Appendix to Agenda Item 11.

DATED

2009

## RIBBLE VALLEY BOROUGH COUNCIL

- and -

## NORTH WEST SOUND ARCHIVE

# LICENSE AGREEMENT

For occupation of The Second Floor, Clitheroe Castle Museum,  
Clitheroe,  
Lancashire.

THIS LICENSE AGREEMENT is made this                      day of

Two thousand and ten B E T W E E N R I B B L E V A L L E Y B O R O U G H  
COUNCIL of Council Offices Church Walk Clitheroe Lancashire BB7 2RA (hereinafter  
called "the Council") of the one part and NORTH WEST SOUND ARCHIVE Lancashire  
Records Office Bow Lane Preston Lancashire PR1 2RE (hereinafter called "the  
Licensee") of the other part \_\_\_\_\_

WHEREBY IT IS AGREED as follows:-

1. The Council shall grant this license and the Licensee shall occupy the whole of the Second Floor at Clitheroe Castle Museum (the "Museum") with a right to use storage areas within the rest of the Museum with the agreement of Lancashire Museum Service ("LMS"), such agreement not to be unreasonably withheld ("the Designated Space").
2. The License shall commence on the [    ] Two Thousand and Ten and shall continue for a period of 10 years thereafter or until determined by either party pursuant to clause 24 below ("the Term").
3. The Licensee shall pay to the Council the license fee of £27,940.00 (Twenty Seven Thousand Nine Hundred and Forty Pounds) per annum exclusive of VAT ("the License Fee"). The Licensee shall pay the first License Fee on 1 April 2010 and thereafter shall pay the License fee on 1 April in each remaining year of the Term. Subject to clause 4 below in each of these remaining years the License Fee shall rise with inflation equal to that published by the Office for National Statistics for September RPIX (All Items Retail Price Index excluding mortgage interest payments) ("RPI") as shall be notified annually to the Licensee in writing by the Council.

4. A rent review shall take place 6 months before the end of the 5<sup>th</sup> year of the Term. Any revised License Fee shall not be set at a level below that paid in the first five years of the Term. Following the rent review the License Fee shall then increase in each remaining year of the Term in accordance with RPI.
5. The Council will be responsible for paying all utility costs relating to the Designated Space, save for the telephone lines and equipment which are dealt with in clause 17 below.
6. The Licensee shall insure all of the contents of Designated Space, and shall ensure that a suitable public liability insurance policy is in place throughout the Term to the value of Five Million Pounds (£5,000,000). The Licensee shall produce the current certificate of insurance in respect to both of these policies upon the request of the Council.
7. Lancashire Museum Service ("LMS") will be responsible for all day-to-day operational issues relating to the whole of the Museum and the Licensee will liaise with LMS in this regard, and will follow and abide by the processes and procedures, which LMS have in place.
8. The Licensee will be responsible for keeping the interior of the Designated Space in good order. This shall include being responsible for the cleaning and décor of the Designated Space, to include but not limited to the toilets and windows.
9. The Licensee will have rights of access and egress to any common areas (i.e. main entrance, stairs, lifts etc).

10. The Licensee may only use the Designated Space for archive purposes, as a recording studio, office, and for the storage of audio equipment.
11. The Licensee shall only allow public access to the Designated Space by appointment.
12. **Dispute Resolution**
  - (a) If either Party is dissatisfied with any point in this Agreement and/or in relation to services or payments which are the subject matter of this Agreement and that Party is not able to resolve its dissatisfaction in informal discussion with the other Party then it may at its option give notice to the other Party in writing of its intention to invoke the dispute procedure set out in clauses 12(b) to 12(i)
  - (b) Within 10 days of receipt of the said notice or any other period agreed between the Parties the *[[job title of officer]]* of the County Council and the *[[job title of officer]]* of the Borough Council shall meet together to attempt to resolve the said dispute
  - (c) In the event that the individuals referred to in clause 12(b) above fail to resolve the said dispute the *[[job title of officer]]* of the County Council and the *[[job title of officer]]* of the Borough Council shall meet within 10 days of the meeting referred to in clause 12(b) (or such other period agreed between the Parties) in a further attempt to resolve the dispute
  - (d) In the event that the individuals referred to in clause 12(b) above fail to resolve the dispute it shall be referred to mediation.

- (e) To initiate mediation, a Party must give notice in writing (the "**Mediation Notice**") to the other Parties to the dispute. Where mediation is initiated, the Parties will attempt to settle the dispute by mediation in accordance with Model Mediation Procedures ("the **Procedures**") published by the Centre for Effective Dispute Resolution, CEDSR Solve ("the **Service Provider**").
- (f) The Parties shall seek to agree the appointment of a mediator, but failing agreement within 28 days of the service of the Mediation Notice, either Party may ask the Service Provider to nominate a Mediator.
- (g) In the event that there are no such Procedures available for nominating a Mediator and the Service Provider is unable or unwilling to nominate a Mediator, either Party may ask the President of the Law Society of England and Wales (or its successor body) to nominate a Mediator and to recommend a mediation procedure. The Parties will accept such nomination under either this or the preceding sub-clause and also the recommended mediation procedure.
- (h) If either Party refuses at any time to participate in the mediation procedure and in any event if the dispute is not resolved within 60 days of the service of the Mediation Notice, then either Party may commence proceedings in accordance with clause [ ]
- (i) In the event that the Parties fail to resolve the dispute in accordance with clauses 12 (a-h) above then any dispute or difference between the Parties in connection with this Agreement shall be referred to a sole arbitrator ("the **Arbitrator**")
- (1) The Arbitration shall be held in Lancashire

- (2) The Arbitrator shall be appointed by the Parties or failing agreement shall be appointed by the President of the Chartered Institute of Arbitrators
  - (3) The Parties shall agree the procedure or failing agreement the Arbitrator shall determine it
  - (4) If either Party fails to comply with any procedural order made by the Arbitrator, the Arbitrator shall have the power to proceed in the absence of that Party and deliver that award.
13. The Council shall have responsibility for all maintenance relating to the structure of the Designated Space.
14. The Licensee shall be responsible for the provision of adequate consumables within the Designated Space, to include but not limited to toilet rolls, stationary, cleaning products and refreshments.
15. This License cannot be assigned by the Licensee to any other party and upon determination of the Agreement or otherwise the License shall be surrendered back to the Council.
16. The Licensee will not be permitted to carry out alterations to the Designated Space without the prior written approval of the Council. The Licensee must apply for such approval in writing.
17. All telephone lines and telephonic equipment shall be the responsibility of the Licensee. This shall include but not be limited to the cost of installation and all charges payable to the service provider.

18. The Licensee is responsible for the purchase and provision of all furnishings in the Designated Space.
19. The Licensee shall provide assistance and/or support to the Council and/or LMS with respect to any exhibitions to take place at the Museum as and when requested by either the Council and/or LMS.
20. The Council shall be responsible for the PAT testing of all equipment within the Designated Space.
21. All waste generated as a result of the operation of the Licensee shall be the responsibility of the Licensee who shall ensure that it is disposed of in the proper manner. The Licensee may store any refuse awaiting collection for a reasonable period of time in the store area marked in red on the attached plan.
22. THE Council hereby agrees with the Licensee that the Licensee paying the said License Fee and performing and observing the stipulations on his part herein contained shall during the period of this License quietly enjoy the Designated Space without interruption by the Council or any person lawfully claiming under or in trust for them subject to the terms of this License \_\_\_\_\_

**24. PROVIDED ALWAYS AND IT IS HEREBY AGREED AND DECLARED**

as follows:-

- (i) If any License Fee at any time be twenty-one days in arrears (whether the same is legally demanded or not) or if the Licensee shall fail to perform or observe any covenant or stipulation herein contained and on its part to be observed and performed or shall become insolvent or shall make any arrangements or composition with its Creditors the Council may at any time thereafter re-enter upon the Designated Space or upon any part thereof in the name of the whole and the License shall thereupon determine but without prejudice to the liability of

the Licensee to pay the said License Fee hereby reserved down to the date of such determination and without prejudice to any claim which the Council may have against the Licensee in respect of any antecedent breach of any covenant agreement or stipulation herein contained and on the part of the Licensee to be observed and performed\_\_\_\_\_

(ii) Subject to clause 24(i) above the License hereby granted shall be determinable by either Party giving to the other six months notice in writing to expire at any time\_\_\_\_\_

(iii) In the event of the Licensee failing to restore the Designated Space to its former condition before the expiration of this Agreement in accordance with the provisions hereinbefore contained the Council may at the cost of the Licensee so restore the Designated Space and recover any expense incurred in so doing from the Licensee as a debt\_\_\_\_\_

**IN WITNESS** whereof the Council have caused their Common Seal to be hereunto affixed and the Licensee has hereunto signed as a Deed the day and year first before written \_\_\_\_\_

**THE COMMON SEAL OF** )

**RIBBLE VALLEY BOROUGH** )

**COUNCIL** was hereunto )

affixed in the presence of:- )

Mayor

Chief Executive

SIGNED AS A DEED by the )

said \_\_\_\_\_ [ \_\_\_\_\_ ] )

in the presence of:-