

<b>Title of Report:</b>	<b>Newbury Cinema – Financial Considerations</b>	<b>Item 14</b>
<b>Report to be considered by:</b>	<b>Executive</b>	
<b>Forward Plan</b>		
	EX0882	

<b>Corporate Plan Priority:</b>	<b>CP1 – Providing strong community leadership CP10 – Creating attractive and vibrant town centres</b>
The proposals contained in this report will help to achieve the above Corporate Plan priorities by: Providing a vibrant cultural and leisure quarter within the Town Centre in keeping with Newbury 2025 whilst at the same time responding to a clearly identified community need.	

**Purpose of Report:** To agree a financial contribution to a new cinema in Newbury Town Centre and to outline how it will be funded.

**Recommended Action:**

- (1) To approve an annual payment of £100,000 per annum to William Ewart Ltd for a period of five years; subject to an annual assessment of the Kennet Centre’s accounts to determine whether the payment is required to make good any financial loss incurred by the cinema owner, and subject to the further conditions set out in paragraph 4.2.
- (2) That the payment is met from the additional car parking income generated by the cinema as set out in paragraph 3.2.
- (3) That the Corporate Director Strategy and Commissioning be authorised to conclude legal agreements covering (a) the payment and (b) the management arrangements covering the use and maintenance of the Kennet Centre Car Park.

**Reason for decision to be taken:** To enable a cinema to be provided in Newbury Town Centre for the benefit of residents in West Berkshire in accordance with Newbury 2025.

**List of other options considered:** Options concerning the possible development and location of a cinema in Newbury were debated by the original Cinema Working Group. The proposal outlined in this report is based on their final recommendation.

**Key background documentation:**

- A Cinema in the Newbury Area – Executive (July 2002)

- Application no 02/02331/OUTMAJ – Newbury Area Planning Sub-Committee (March 2003)
- Newbury Cinema Progress Report – Executive (October 2003)
- Application no 04/00334/COMIND – Newbury Area Planning Sub-Committee (June 2004)

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## **Implications**

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<b>Policy:</b>	The establishment of a cinema in Newbury is in line with Council policy and is reflected in Newbury 2025.
<b>Financial:</b>	The financial implications are set out in the report. There will be no negative net effect on the Council's revenue budget.
<b>Legal:</b>	The Council has legal powers to provide a subsidy to a commercial venture through the Local Government Act 2000 and the general power of well being.
<b>Environmental:</b>	These have been considered as part of the planning application.
<b>Equalities:</b>	The provision of a cinema in Newbury will provide additional cultural facilities for the entire population and avoid residents having to travel outside the District to visit such a facility.
<b>Property:</b>	None although the Management Agreement will have an impact on the evening car parking arrangements for the Kennet Centre Multi Storey Car Park which the Council lease from the owner of the Kennet Centre.
<b>Risk Management:</b>	No significant risks to the Council have been identified at present.

## Supporting Information

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### 1. Background

- 1.1 The Council agreed to support the principal of establishing a cinema in the Newbury area at the meeting of the Executive held on 4<sup>th</sup> July 2002. At the subsequent meeting the Executive noted the recommendations of the Cinema Working Group which concluded that a medium sized cinema in a town centre location offered the most favourable opportunity for the establishment of a successful cinema for the population of Newbury and the surrounding area. It believed that the programming and pricing policies outlined by the then Zoo Cinemas were those most likely to result in a cinema that would appeal to all sectors of the West Berkshire Community. The members of the Working Group welcomed the proposal for the development of a cinema on the corner of Cheap Street and Market Street. They believed that this had the potential to meet all of the evaluation criteria that had been identified for a scheme that could be recommended to West Berkshire Council.
- 1.2 The Newbury Area Planning Sub-Committee considered a planning application for the scheme on 5<sup>th</sup> March 2003. At that meeting the Head of Planning and Transport Strategy was authorised to grant conditional planning permission upon completion of a Section 106 Agreement in respect of transport and environmental matters. In the period between November 2002 and March 2003, Zoo Cinemas ceased to exist as a legal entity. Most of the cinema operating business was acquired by another cinema operator called City Screen. Whilst City Screen was interested in operating in Newbury they would not do so at the same rental level as Zoo Cinemas. As a result a significant subsidy would have been required for the original scheme to go ahead.
- 1.3 Shops etc, the then managing agents and part owners of the Kennet Centre therefore commissioned property consultants to seek out interest from other cinema operators. Only one operator, Apollo Cinemas appeared strongly placed to finalise a deal.
- 1.4 At its meeting in October 2003 the Executive received a report stating that the new operation would require a subsidy. It was subsequently agreed that the preferred option was to authorise officers to develop an 'in principle' agreement with Shops etc that provided them with an additional revenue stream to secure the development of a new cinema on the Kennet Centre site. A copy of the minutes are set out in Appendix 1.
- 1.5 One of the actions from that meeting was to approach other public bodies and funding organisations seeking their participation in the funding agreement. Three local councils subsequently agreed to support the project:
  - Newbury Town Council;
  - Thatcham Town Council;
  - Greenham Parish Council.
- 1.6 Apollo's requirements regarding a cinema on the Kennet Centre site differed from those of Zoo (primarily in requiring 7 rather than 5 screens although of similar overall capacity namely 800 seats) and as a result a new planning application had to be made. This was subsequently considered at the meeting of the Newbury Area Planning Sub-Committee on 16<sup>th</sup> June 2004. The application was approved with a range of conditions and a Section 106 agreement.

1.7 Since that time Plus Shops (ex Shops etc) who are now only managing agents for the Kennet Centre , ownership having transferred to William Ewart Ltd, have sought to attract tenants to the restaurants that will be located on the ground floor of the scheme. This has been successful and in October this year Plus Shops began discussions with Council officers with a view to agreeing a financial subsidy.

## **2. Financial Appraisal**

2.1 Plus Shops have provided detailed cost and income estimates for the scheme which have been subject to scrutiny by an external quantity surveyor (Francis Graves). Projected rental levels have been reviewed by the Council's own Estates Team.

2.2 On the basis that the Council's financial contribution was only ever meant to provide the landowner with sufficient additional income to make the operation break even, officers concluded that an annual payment of £100,000 over 5 years would be needed. This has been offered to the landowner, William Ewart through their agents Plus Shops and has been accepted subject to legal agreement. This is separate to the funding required through the Section 106 Agreement.

2.3 The provisional financial offer is being made to the landowner subject to the following conditions;

- (1) The accounts for the Kennet Centre are subject to an annual audit to determine that the Council's contribution is still required to ensure the cinema can 'break even' financially.
- (2) The payment is only made once the lease with Apollo is signed (just prior to the cinema opening)– and then annually on the anniversary date of the lease subject to (1) above.
- (3) The payment is only made if the cinema remains open to the public.
- (4) The last payment is made on the fifth anniversary of the lease with Apollo being signed subject to (1) and (3) above.

## **3. Funding arrangements**

3.1 Officers have sought to ensure that the Council's time limited payment is effectively secured through the additional economic activity that the cinema will generate. It was seen as essential that the cinema project did not create an additional burden on the Council's revenue budget and thereby the Council Tax payer.

3.2 Officers have identified two major opportunities for providing the means to make the financial payment;

- (1) The cinema will be constructed on the Mall Car Park. The Council's lease of this car park comes to an end in March 2005. It will then return to the landowner (William Ewart) and become a private car park. The Council will lose the car park income. In constructing the cinema the car parking will be displaced. It has been assumed that 80% will be displaced into the surrounding public car parks. The Mall Car Park currently generates £100,000 of income (gross) per annum. It has therefore been assumed that the Council will accrue an additional £80,000 of car park income annually through the construction of the cinema and the subsequent loss of the private car park. This additional income would not be available to the Council if the cinema was not being built. There is sufficient capacity within the Town Centre car parks to accommodate the displaced vehicles.

(2) By introducing a flat charge for evening parking in the Kennet Centre Car Park it is estimated that a further £30,000 of income will be generated. This is modelled on a car parking fee of £1 per evening although it should be pointed out that the Environment and Public Protection Select Committee will be undertaking a car parking review during 2005 and will consider the issue of charges at that time. This will ultimately be reported to the Executive. That said the Management Agreement with the cinema owner is likely to include a cap on the car park fee of £1 per evening with an annual increase linked to the RPI.

3.3 Taken together these two new income streams would provide enough to fund the £100,000 annual payment to the cinema owner. It should be noted that neither income stream makes any allowance for inflationary pressures over the following five year period. The figures also do not take account of the fact that the Council will benefit from the additional displaced car park income some 15-18 months prior to the first payment being made.

#### **4. Conclusions**

4.1 In negotiations with the cinema owner it has become clear that rising building costs have meant that a payment of £100,000 per annum to the owner is likely to be required over the next five years to ensure that the cinema does not operate at a loss. This sum can be adequately covered by the new car parking income that the cinema will generate.

4.2 It must be stressed that the annual payment will only be made to cover actual losses that the cinema operation actually incurs and will not exceed £100,000 per annum. The accounts for the cinema will be reviewed annually and if the payment is not required, either in full or in part, to cover any losses, then it will not be paid. The payment will only commence once the lease with the operator is signed (shortly before opening). It will only be paid if the cinema remains open to the public. It will not be paid beyond the fifth anniversary of the lease with Apollo being signed.

4.3 If the recommendations are approved officers will now formalise arrangements for the payment within a legal agreement and draw up a separate management agreement to cover issues relating to the car park in particular opening hours, maintenance and management considerations. Once this is done implementation and completion of the project will effectively be with the site owner.

#### **Appendices**

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Appendix 14 – Extract of the minutes of the Executive meeting held on 23<sup>rd</sup> October 2003 relating to the cinema.

#### **Consultation Responses**

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**Local Stakeholders:** No comments sought.

**Officers Consulted:** Head of Legal and Electoral Services, Head of Resources and Commissioning, Head of Culture and Youth, Asset Manager, Head of Highways and Engineering.

**Trade Union:** No comments sought.

### 107. NEWBURY CINEMA.

The Executive considered a report (Item 15) concerning the findings and recommendations of the sub-group established to consider the request for financial support of the project to develop a new cinema for Newbury. The Newbury Town Centre Task Group, at its meeting on 1<sup>st</sup> September 2003, resolved to form a small sub-group, to be made up of two representatives from the main task group together with a representative from Newbury Town Council to give further consideration to some of the possible options. During research into other cinema developments across the UK, it became apparent that only a very few sites generated full commercial viability. Following further analysis of the current position the conclusion was that without some form of incentive it would not be possible to attract a cinema developer and exhibitor to invest in Newbury.

Concern was expressed regarding a time limited subsidy without consideration being given to other options which Members felt should be investigated in more detail. Members were asked not to look at the cinema in isolation as it would ensure that the town centre would be populated by all ages which in turn would make the town centre more vibrant.

Members were advised that given that the current proposals for the cinema were different to those originally approved by the Newbury Area Planning Sub-Committee on 5 March 2003, a new planning application would have to be submitted.

#### **RESOLVED that:**

- (1) the need for a subsidy for a town centre cinema in Newbury be agreed and Officers authorised to enter into discussion with Shops etc to develop an in principle agreement;
- (2) the main terms of the agreement be reported to a future meeting of the Executive for consideration; and
- (3) the planning and architectural consultants engaged by Shops etc be requested to discuss the design details with Officers from West Berkshire Council's planning service at the earliest opportunity.