
Transferring the freehold of the Corn Exchange premises to the Corn Exchange (Newbury) Trust

Committee considering report:	Executive on 23 November 2017
Portfolio Member:	Councillor Dominic Boeck
Date Portfolio Member agreed report:	9 October 2017
Report Author:	Paul James, Culture and Libraries Manager
Forward Plan Ref:	EX3372

1. Purpose of the Report

- 1.1 To consider the transfer of the freehold of the Corn Exchange premises to the Corn Exchange (Newbury) Trust (CET) in order to strengthen the sustainability of the trust in the long-term.

2. Recommendations

- 2.1 The Executive resolves that: -
 - The Head of Public Protection & Culture shall, in consultation with Head of Finance & Property and Head of Legal, transfer the freehold of the Corn Exchange building to the CET for the sum of £5 subject to satisfaction of statutory provision in relation to disposal and negotiation and completion of appropriate legal documentation.
 - The Head of Public Protection & Culture to agree with the CET a list of any outstanding minor works that it is necessary for the council to carry out under the terms of the current lease with reference to the 2015 condition survey.
 - There is a 6 week period of public engagement in January/February 2018 to assess whether the proposal has any negative impacts for the public and the arts in West Berkshire.

3. Implications

- 3.1 **Financial:** The proposal delivers long-term revenue and capital savings for the council while strengthening the sustainability of the CET.
- 3.2 **Policy:** The proposal supports the policy Devolution in West Berkshire <http://info.westberks.gov.uk/index.aspx?articleid=34205>
- 3.3 **Personnel:** There are no implications for the council.
- 3.4 **Legal:** The Council has a broad power to dispose of property held in the general fund in any manner it wishes subject to an obligation to do so for the best consideration reasonable obtainable (s.123 Local Government Act 1972). The Council can dispose of property held in the general fund for less than market value

provided that consent is obtained from the Secretary of State unless the disposal meets the criteria set out in the General Disposal Consent (England) 2003 that allows disposal at an undervalue to promote economic, social or environment wellbeing. The difference between the market value and the consideration must not exceed £2 million, and a valuation as to likely amount of any such undervalue is sought from a professionally qualified valuer.

In consultation with colleagues in Finance and Property Services, the disposal should be subject to appropriate covenants, conditions and restrictions in relation to the current and future use of the premises and in respect of future disposals of the premises including possible overage/clawback provisions.

- 3.5 The CET has a lease that expires in 2099. The transfer of the freehold of the building will include conditions to ensure that it is used for community and arts purposes for the benefit of the residents of West Berkshire.
- 3.6 **Risk Management:** The risk of the CET failing to provide an arts service in the building in the foreseeable future is probably lower than the risk of the council being able to fund future capital maintenance repairs over the life of the building - because trusts have access to other sources of revenue and capital investment which are not available to the council.
- 3.7 **Property:** The freehold of the Corn Exchange building shall transfer to the CET. See Financial implications above. The proposal has been considered by the Asset Management Group on 30th June 2017 and agreed in principle subject to consideration and agreement by the Executive.
- 3.8 **Other:** Doing this demonstrates to the public, the CET, Arts Council England and other stakeholders that the council wishes to strengthen the position of the CET, in terms of their sustainability, to deliver an arts service for residents in the long-term. Although the CET would be taking on the capital costs of repairs, this proposal enables them to secure investment and support from other stakeholders and provide arts and cultural services for local people in the long-term.

4. Other options considered

- 4.1 Continue with the current 99 year lease with the CET under which the council is responsible for major capital maintenance costs throughout the term of the lease.
- 4.2 Disposal of the asset at a commercial value. This could only be achieved if there was no leaseholder in possession of the premises and change of use was to be granted.

Executive Summary

5. Introduction / Background

- 5.1 The CET is a registered charity (no. 1080567). The object of the charity is “the education of the public in the arts in West Berkshire and the surrounding districts”.
- 5.2 The council has a 5 year Service Level Agreement with the CET that expires on 31st March 2019.
- 5.3 The reduction of the council’s Revenue Support Grant from Government and the need to maintain statutory and front-line services in the face of ever higher demand meant that the council reduced its payments in the last 3 years of the Service Level Agreement by a total of £148,000. The council also decided not to revenue fund the CET after that.
- 5.4 The CET, Arts Council England and the council have been in discussions for over a year about a long-term relationship in the continuing period of austerity for public services.

6. Proposal

- 6.1 The outcome of these discussions (5.4 above) resulted in the management and trustees of the CET formally requesting that the council transfer the ownership of the premises on a freehold basis to the CET as that contributes to their sustainability in the long-term. See CET’s proposal / Appendix B / Supporting Information.

7. Conclusion

- 7.1 Transferring the freehold of the asset to the Corn Exchange has benefits for residents, the CET and the council in that it strengthens the sustainability of the CET in the long-term.

8. Appendices

- 8.1 Appendix A – Equalities Impact Assessment
- 8.2 Appendix B – Supporting Information

Appendix A

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:***
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;***
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:***
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;***
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;***
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.***
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.***
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”***

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Executive to make:	To transfer the freehold of the Corn Exchange to the Corn Exchange Trust (CET)
Summary of relevant legislation:	
Does the proposed decision conflict with any of the Council's key strategy priorities?	No
Name of assessor:	Paul James
Date of assessment:	09 October 2017

Is this a:		Is this:	
Policy	Yes	New or proposed	Yes
Strategy	No	Already exists and is being reviewed	No
Function	No	Is changing	Yes
Service	No		

1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	To transfer the ownership of the freehold of the Corn Exchange building to the Corn Exchange Trust (CET).
Objectives:	To protect an important local cultural asset and landmark Grade II Listed building for its continued use as an arts centre for people who live in, work in or visit West Berkshire.
Outcomes:	The CET has direct control of the asset so that they can attract further investment from bodies who do not fund local authorities.
Benefits:	The CET provide a more sustainable cultural organisation which benefits people who live in, work in and visit West Berkshire.

<p>2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.</p> <p>(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)</p>

Group Affected	What might be the effect?	The Information to support this
Age	The proposal has the potential to increase access to the arts/cultural events, activities and learning for this group.	<p>The CET is a registered charity. The object of the charity is <i>“the education of the public in the arts in West Berkshire and the surrounding districts”</i>.</p> <p>The CET reaches audiences of more than 125,000 each year and seeks to reach more.</p> <p>As well as managing the Corn Exchange auditorium, cinema & café it operates 101: the National Centre for Outdoor Arts creating large-scale outdoor performances with companies from across the world, an arts participation programme that works with over 12,000 local people each year, and from 2018 it will manage the new purpose-built gallery and making studios at Greenham Business Park.</p>
Disability	The proposal has the potential to increase access to the arts/cultural events, activities and learning for this group.	
Gender Reassignment	The proposal has the potential to increase access to the arts/cultural events, activities and learning for this group.	
Marriage and Civil Partnership	The proposal has the potential to increase access to the arts/cultural events, activities and learning for this group.	
Pregnancy and Maternity	The proposal has the potential to increase access to the arts/cultural events, activities and learning for this group.	
Race	The proposal has the potential to increase access to the arts/cultural events, activities and learning for this group.	
Religion or Belief	The proposal has the potential to increase access to the arts/cultural events, activities and learning for this group.	
Sex	The proposal has the potential to increase access to the arts/cultural events, activities and learning for this group.	
Sexual Orientation	The proposal has the potential to increase access to the arts/cultural events, activities and learning for	

	this group.	
Further Comments relating to the item:		
<p>The CET exists to promote access to the arts for all. The proposal will</p> <ul style="list-style-type: none"> • Enable the Council and the Trust to work collaboratively to protect an important cultural and community asset for the district • Demonstrate to the Trust's core funders, Arts Council England and Greenham Trust, that there is a commitment from the Council to support the long-term viability and sustainability of the organisation, despite the on-going financial challenges placed upon West Berkshire Council • Increase the Trust's assets ensuring that these outweigh the organisations current and future actuarial liabilities, thereby ensuring the Trust maintains its status as a 'going concern' • Enable the Trust to realise its current extension plans and raise funds from both charitable foundations and the corporate sector without the complications of a third-party freeholder • Allow the Trust to demonstrate a funding 'match' from the local authority through its gift of the asset • Ensure that the Trust benefits from all capital investments raised and that the widest possible range of Trusts and Foundations are prepared to give to future capital developments, as some will not donate if a building is not the charity's asset • Remove the revenue and capital liabilities of the Corn Exchange from the local authority at a time when funding from Central Government is reducing • Demonstrate to the local community that the Council wants to support the Trust to thrive for the benefit of the local community <p>This is likely to have a positive outcome for all groups.</p>		

3 Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	No
<p>Please provide an explanation for your answer: Given that local authority resources continue to decrease there is no guarantee that it will be able to assist in the delivery of the arts services by the CET in the future. On the balance of probability therefore the proposal is more rather than else likely to contribute to the sustainability of the CET and their work to provide an arts service that is accessible to all.</p>	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	No
<p>Please provide an explanation for your answer: It is recommended that a public consultation take place on the proposal so that we may consider any other aspects that may positively or negatively affect any groups.</p>	

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

4 Identify next steps as appropriate:	
Stage Two required	Given that a public consultation is recommended for such an important asset, and the consultation may identify aspects that have not been previously considered, a Stage 2 EIA should be undertaken.
Owner of Stage Two assessment:	Paul James
Timescale for Stage Two assessment:	After the public consultation. Date TBC

Name: PAUL JAMES

Date: 09/10/2017

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.