

Cabinet (Resources) Panel

6 September 2023

Report title	Acquisition and Redevelopment of Newhampton Arts Centre	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Paula Brookfield Governance & Equalities	
Key decision	Yes	
In forward plan	Yes	
Wards affected	Park	
Accountable Director	Julia Nock, Deputy Director of Assets	
Originating service	City Assets	
Accountable employee	Stuart Rutherford	Head of Assets
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Report to be/has been considered by	City Assets Leadership Team	9 August 2023
	Leaders Briefing	29 August 2023
	Strategic Executive Board	28 July 2023

Recommendations for decision:

The Cabinet (Resources) Panel is recommended to:

1. Approve the acquisition of freehold interest of the one half of the Newhampton Arts Centre currently in the ownership of Wolverhampton College.
2. Delegate authority to the Cabinet Member for Governance and Equalities in consultation with the Director of Finance and the Deputy Director of Assets, to approve the negotiated acquisition and contract of the freehold interest of the one half of the Newhampton Arts Centre currently in the ownership of Wolverhampton College. This would be subject to full due diligence e.g. condition surveys etc to understand the liabilities and risks to the Council
3. Delegate authority to the Cabinet Member for Governance and Equalities in consultation with the Chief Operating Officer and Deputy Director of Assets, to approve the long-term lease / community asset transfer of the entire building (subject to approval of the acquisition of the part owned by Wolverhampton College) to the Newhampton Arts Centre.

Recommendations for noting:

The Cabinet (Resources) Panel is asked to note:

1. The current condition and reasons for acquiring the building.
2. The progress with emergency work to allow existing tenants to remain in the building.
3. Supplementary budget approval was granted by Individual Executive Decision Notice in July 2023.

1.0 Purpose

- 1.1 To inform Cabinet (Resources) Panel of the project change and to provide a background to the Towns Fund Arts Park Newhampton Art Centre project.
- 1.2 To seek authority to purchase the share of the building in ownership of the College (Site Plan included in Appendix 1) and to provide an update on the current condition of the building.
- 1.3 To seek approval to initiate the immediate emergency work to the building.
- 1.4 To recommend a long lease/community asset transfer to Newhampton Art Centre.

2.0 Background

- 2.1 On 3 March 2021 the Department for Levelling Up, Housing and Communities (DLUHC) announced the outcome of the Towns Fund (TF) bidding process which resulted in the City of Wolverhampton being awarded a funding offer of £25 million for the Towns Funds projects submitted as part of the Wolverhampton Investment Plan.
- 2.2 Cabinet on 9 December 2020 approved delegations to Individual Executive Decision Notice (IEDN) for the acceptance of Towns Fund grant terms and conditions, entering into any necessary agreements to receive and distribute the grant and to create the supplementary capital and revenue budgets for projects subject to the successful receipt of the Towns Fund grant. To secure the £25 million grant award each project has submitted a S151 signed off business case to DLUHC for approval through various gateway submissions in 2021-2022.
- 2.3 The original scheme identified for Arts Park and approved by the Towns Fund Board was for the expansion of the Grand Theatre on Lichfield Street which was to be enabled through the acquisition of the neighbouring property at 66 – 70 Lichfield Street. Following the failure to negotiate the acquisition of the property and legal advice that cautioned against a Compulsory Purchase Order, it was determined that funds should be redirected to an alternative project that could be defrayed in line with the expenditure commitment and meet some or all of the same committed outputs. This approach has been discussed fully with key fund contacts at DLUHC and agreed in principle subject to relevant governance.
- 2.4 A project adjustment request form was submitted to DLUHC on 17 May 2023 following the approval from Strategic Executive Board to change from The Grand Theatre to Newhampton Arts Centre. Representatives from the Department for Business, Energy and Industrial Strategy (BEIS) who administer the grant, visited the site and received a presentation on 16 May 2023 which received a positive in principle endorsement to the change control being progressed. The project adjustment request form was approved by DLUHC 6 July 2023.
- 2.5 Newhampton Arts Centre (NAC) is a multi-space and multi-user arts and cultural centre operating on a site located within Whitmore Reans, just north of the Wolverhampton ring road, a five minutes' walk from the city centre.

- 2.6 NAC occupies a former school building on a site facing onto Newhampton Road, opposite West Park. The buildings are arranged in a rough quadrangle around a central courtyard that is used as car parking, and in the summer as the site of the New Horizons stage-tent. Access to the site is currently from an entrance on Dunkley Street- a cul-de-sac to the side of the main road frontage.
- 2.7 The school that occupied the older buildings on the site closed in 1989 and the site was developed by City of Wolverhampton Council and City of Wolverhampton College as a joint creative industries and creative education site.
- 2.8 The site is still owned by both of these bodies; the main former school buildings and newer theatre block are owned by the College with the Council owning the rest of the site which includes the studio block and buildings to the north of the site. The courtyard is divided equally between the two owners.
- 2.9 NAC is constituted as a charity and company limited by guarantee. It was set up specifically for the council-owned half of the site to begin with- to run a programme of live events, courses and classes, and then, when the College vacated the site in 2015, NAC took on management of the College half of the site too, letting former classrooms to a range of artists and organisations.
- 2.10 The programme managed by NAC has a number of elements: approximately 120 live music and theatre events per year in the theatre and New Horizons stage tent, weekly courses and classes, a community and education programme and activities run by its resident artists/ organisations (of which there are about twenty). Courses and classes include subjects as varied as youth theatre, yoga, English for Speakers of Other Languages (ESOL), visual art and keep fit.
- 2.11 NAC is one of five Arts Council National Portfolio Organisation (NPOs) in Wolverhampton. Wolverhampton was included in the Arts Council England's list of 54 priority areas for increased investment in the coming decade.
- 2.12 The last significant capital investment in the site came twenty years ago in the development that brought NAC into being. Since then, investment has been limited to routine maintenance. The condition of the building is now in need of capital investment.
- 2.13 The building is now in urgent need of further significant capital investment. As well as the urgent requirement to update and replace major building services installations (e.g. boilers), fittings at the end of their life and major fabric repairs, the time is ripe to architecturally appraise the whole site and buildings in view of its current uses, given that the site is being used for purposes and to an extent never envisaged 25 years ago.
- 2.14 As NAC have no formal legal interest in the building (currently out of lease), they have little remit nor responsibility to invest in the fabric of the building, nor would they be able to bring in any external capital funding without a legal interest.

3.0 Project progress and proposals

- 3.1 To progress the early stages of the project and understand the challenges and opportunities with the building NAC commissioned a feasibility study by APEC which included extensive stakeholder engagement completed in Q1 of 2023.
- 3.2 The Council's City Assets Team have had discussions with the College and their interest in selling their owned part of the building to establish one owner of the property.
- 3.3 The project will act as an opportunity to reduce the Council's Carbon footprint, continue providing employment opportunities and key community assets for the community.
- 3.4 The Council commissioned Bruton Knowles to provide a valuation for the part of the site that is owned by the College. The valuation was determined at £XXX, however due to the immediate remediation works that are required, the valuation has been adjusted by Bruton Knowles to £XXX. It is acknowledged that the College are likely to want to negotiate on the acquisition price and therefore an assumption of £XXX has been made. This forms part of the funding package outlined below in paragraph 3.6.
- 3.5 Subject to approval, further condition surveys will be required prior to entering into negotiations with the owner Wolverhampton College in order to agree the terms of the purchase. The condition surveys will establish the required capital investment and long term ongoing building maintenance liabilities of the building.
- 3.6 Any additional contingency has been added to the total acquisition value as detailed in Table 1 to allow for any changes in market conditions up to the point of purchase along with an allowance for Stamp Duty Land Tax (SDLT) (value to be and included in the Individual Executive Decision Notice) bringing the required total budget for the project and acquisition to £1.5 million.

Table 1 – Estimated costs	
	£
Freehold purchase costs	XXX
Surveys	XXX
Design & Development	XXX
Asbestos Removal	XXX
Boiler	XXX
Renovation	XXX
Contingency XXX	XXX
Total	1,500,000

- 3.7 To maintain a strong and disciplined control on project costs and programme, in addition to the provision of internal resources, an external team of professional consultants will be appointed to lead the project after obtaining planning consent and for monitoring

purposes. This will offer assurance during the development stages of the project and robust contract management during the delivery stage.

- 3.8 The Council will need to undertake a procurement for the proposed development and associated goods, works and services. It will need to adhere to its Contracts and Procedure Rules and the law relating to Subsidy Control.
- 3.9 The following are key milestones to help understand the roadmap to delivering the overall project based on the preferred option evaluated in section 4.0:

Cabinet Resource Panel	6 September 2023
Removal of asbestos in boiler room	October/November
Acquisition of building	November
Long term lease agreement	November
Royal Institute of British Architects (RIBA) 2 completion	October
Boiler replacement	December
Immediate renovation work	Q4 2023 – Q1 2024
NAC apply for grant funding	Q4 2023
Phase 1 completion	March 2024

- 3.10 To reduce the ongoing financial risk to the Council and funders and maintain an ambitious but affordable project, the following activities are proposed as conditions:
1. Simultaneous acquisition of freehold and transfer by way of a community asset transfer to NAC on terms to be agreed. The NAC have provided a letter of intent to enter into a community asset transfer which is shown in Appendix 2.
 2. Grant funding is secured to cover costs.
 3. Cost would be managed and risks would be mitigated by undertaking full surveys and a complete RIBA Stage 2 design. Specialist consultants will be engaged to both manage and coordinate the maintenance works. The costs shown above are estimated and the full market rates will be established once the procurement strategy has been undertaken. There is also a XXX project contingency budget established within the above estimated costs for the already identified works. The works to be undertaken will be managed within the available budget and therefore the scope may need to be reduced should the costs be higher than estimated.
 4. Planned support to NAC in the grant funding applications to secure capital funding for remaining parts of the building.

4.0 Evaluation of alternative options

- 4.1 The Council could choose to not proceed with the acquisition of the property and carry out emergency work. Whilst evaluating the options and determining the preferred option in the outline business case, it was imperative to ensure good value for money, maximising outputs from the asset with job creation and addressing community needs with the provision for NAC to continue delivering their activities in support for Wolverhampton.

- 4.2 **Option 1: Do Nothing** – The project team started by looking at the option of doing nothing. This option would result in NAC ceasing operations as not able to secure a long term lease from two property owners and with the failing heating plant unable to keep current tenants and run events. The grant funding would also be returned to DLUHC.
- 4.3 **Option 2: Preferred option** – Acquire the College owned part of the building and undertake essential repairs. Complete community asset transfer to NAC.

Advantages

- One property owner instead of two.
- NAC able to secure long term lease and apply for grant funding.
- Heating system to be updated and full rent to tenants can be obtained.
- Essential repair work can commence to secure the running of the facility and provide security for its tenants and community attending training and events.
- Jobs are secured for the future.

Disadvantages

- Current funding will only cover essential repair work.
- Risk of cost overrun.

5.0 Reasons for decision

- 5.1 It is recommended to begin negotiations with the owner Wolverhampton College to sell their part to avoid the building falling further in disrepair.
- 5.2 The building represents a significant, ongoing financial liability to both the Council and the College, if retained in current ownership without a long-term lease to NAC.
- 5.3 A long-term lease will allow NAC to pursue further capital grant funding to invest in the building.
- 5.4 Immediate repair work will strengthen NAC's position in the next phase of the renovation/restoration of a local listed building.

6.0 Financial implications

- 6.1 Following the decision that the original Town Fund project, Arts Park was not viable as detailed in the report a project change request was submitted to deliver this alternative project, Newhampton Arts Centre, with approval received 6 July 2023. This secures the grant for Wolverhampton and therefore ensures delivery of outcomes in line with the grant terms and conditions.
- 6.2 This report requests the approval for the purchase of the property, which will be funded from the supplementary capital budget for the Newhampton Arts Centre project. The budget was approved through the Council's Individual Executive Decision Notice (IEDN) process in July 2023.

- 6.3 The estimated project cost is £1.5 million, the costs include the acquisition, legal and surveyor fees and immediate renovation / restoration work, as detailed in the table at 3.6 above; this includes a robust contingency of £XXX and will be fully funded through the Towns Fund grant. It should also be noted that the scope of works can, if required be adjusted to manage delivery within the approved project budget.
- 6.4 The proposal is a back to back purchase of the College's half of the building and the community asset transfer of the property to Newhampton Arts Centre, this will remove the risk to the Council of any issues arising during the period before the ownership is transferred. The ongoing financial commitment required to maintain the asset will also transfer under the lease, therefore there will not be a revenue cost of maintenance for the Council.
- 6.5 The financial risks of the project are mitigated through ongoing monitoring of project costs through the Council's quarterly reporting processes and the robust project contingency, which if not required to cover unexpected / increased costs, this will be used to carry out further refurbishment works to ensure full use of the grant and delivery of required outputs. It should be noted that at this time capital project costs are being impacted by the high rates of inflation and therefore there is a risk costs could increase.
[HM/18082023/C]

7.0 Legal implications

- 7.1 As part of the Local Government Act 1972, the Council is permitted to acquire land for the purposes of any of its functions, benefit, improvement or development of its area. The purpose of the acquisition is detailed in the report. In the event of the Council acquiring the freehold interest in the property there will be stamp duty land tax payable together with professional fees and Land Registration fees payable by the Council.
- 7.2 To give effect to the recommendations in this report, the Council will need to enter into a deed of surrender, sale contracts and transfer together with other ancillary agreements, which may be required as part of the negotiations between the Council and the landlord.
- 7.3 The Council's Legal Services is able to provide advice in this transaction as the matter progress.
[TC/24082023/A]

8.0 Equalities implications

- 8.1 An equalities analysis has established that this project is relevant to the Council's duty to advancing equality of opportunity. The Senior Equality Diversity and Inclusion Officer has been satisfactorily consulted on this matter and no implications have been highlighted whilst jointly reviewing the Equality Analysis Form.

9.0 All other implications

- 9.1 The selection of award of the professional team and construction works will be fully tendered and compliant with the Council's and public procurement rules and policies. A clear procurement and contract strategy are to be developed as part of the project in consultation with the Councils procurement team.

10.0 Schedule of background papers

- 10.1 Individual Executive Decision Notice - Towns Fund Towns Fund Arts Park Project Capital Budget

11.0 Appendices

- 11.1 Appendix 1: Site Plan
- 11.2 Appendix 2: Letter of Intent from NAC