

Cabinet (Resources) Panel

13 December 2023

Report title	Transforming the Chubb Cinema to Boost City Centre Vibrancy	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Bhupinder Gakhal Visitor Experience	
Key decision	Yes	
In forward plan	Yes	
Wards affected	St Peter's	
Accountable Director	Ian Fegan, Director of Communications and Visitor Experience	
Originating service	City Assets	
Accountable employee	Julia Nock Tel Email	Deputy Director of Assets 01902 550316 Julia.nock@wolverhampton.gov.uk
Report to be/has been considered by	City Assets Leadership Team Core Services Leadership Team Cabinet Member Briefing Leader's Briefing	27 November 2023 29 November 2023 29 November 2023 4 December 2023

Recommendations for decision:

The Cabinet (Resources) Panel is recommended to approve:

1. New commercial plans to bring the Chubb Cinema back to life and bring a predicted 132,000 visitors a year to the venue, contributing to city centre vibrancy and the local economy when it opens in the Summer of 2024.
2. Entering into a lease agreement with experienced, commercial independent cinema operators PDJ Cinema Ltd (PDJ) for the Cinema space.
3. Entering into a lease agreement with Midlands Industrial Association (MIA) for Unit 5 within the Chubb building to be subsequently subleased to the cinema operator PDJ.

4. The Council and PDJ equally sharing the rental and service charge costs of Unit 5 within the Chubb Building on a full repairing lease arrangement.
5. The virement of £1.5 million from the Capital Corporate Provision and Contingency for Future Programmes to the Chubb Cinema in order that a contribution towards the refurbishment and fit out works of the cinema space, which will be paid in the form of a grant.
6. Delegate authority to the Cabinet Member for Equalities and Governance and in consultation with the Deputy Director of Assets, Section 151 Officer and Chief Operating Officer to approve the lease agreement and final Heads of Terms for the lease arrangements with the new operator and MIA.

1.0 Purpose

- 1.1 To provide details on how the Council owned space within the Chubb building will be bought back into use as a new four screen cinema with a new, experienced commercial operator who will help bring a predicted 132,000 visitors a year to the venue, contributing to city centre vibrancy and the local economy.
- 1.2 To seek approval to enter into a 30-year lease arrangement with PDJ to bring the Cinema back into beneficial use.
- 1.3 To seek approval to enter into a 30-year lease arrangement with MIA for Unit 5 within the Chubb building which will subsequently be sub leased to PDJ for their box office operation.
- 1.4 To seek approval for the allocation of £1.5 million from the Capital Corporate Provision and Contingency for Future Programmes to the Chubb Cinema project in order to contribute toward the refurbishment and fitout of the cinema space. This contribution will be paid in the form of a grant to PDJ
- 1.5 To seek approval to delegate authority to the Cabinet Member for Equalities and Governance and in consultation with the Deputy Director of Assets, Section 151 Officer and Chief Operating Officer to approve the lease agreement and final Heads of Terms for the 30-year lease arrangement both with PDJ and MIA.

2.0 Background

- 2.1 The former Lighthouse Cinema ceased to trade in November 2022. The Council received the formal notice of insolvency from the Administrators in January 2023 and the keys to the building were formally handed back to the Council on 9 February 2023. Prior to this, the Council had provided significant support to the venue.
- 2.2 Following the collapse of the Lighthouse, the Council was determined to bring this vital heritage space back into use as a cinema.
- 2.3 The Cinema space is situated within the historic and award-winning Grade II listed Chubb Buildings. City of Wolverhampton Council owns the freehold interest in the Chubb Building and has granted a long leasehold interest to Midlands Industrial Association Limited (MIA). The Cinema is excluded from the long leasehold interest.
- 2.4 Located on Fryer Street, the Cinema is well positioned within the City Centre and is in close proximity to Wolverhampton's main retail and leisure district and is convenient for the travel interchange - bus station, Wolverhampton Train Station and the West Midlands Metro Line providing access across the City, Black Country, West Midlands and beyond.
- 2.5 At present, the Cinema comprises two screens, projection rooms, toilet facilities, training room, ancillary office accommodation, editing room, green room, server room, kitchenette and multiple storerooms. The Cinema is dated throughout and in generally poor condition with poor quality facilities and heating systems. Feedback from Cinema operators has demonstrated that in its current condition and layout, the Cinema is not suitable for occupation or viable commercial use.

2.6 The previous occupier also let Units 1B, 4 and 5 from MIA which comprised a box office, café and event space. This ancillary space, particularly the box office will be essential to the success of any future operator. MIA are the landlords of this space and they have been included throughout this project.

3.0 Marketing Process for Future Operator

3.1 To ensure that the marketing process met with s123 of the Local Government Act 1972, the City of Wolverhampton Council appointed Bruton Knowles as letting agents to seek expressions of interest in the Cinema from suitably qualified occupiers. Following a diligent marketing campaign, including a direct marketing exercise to 17 parties, the Cinema received 16 enquiries and eight expressions of interest.

3.2 The Council, in conjunction with Bruton Knowles and MIA interviewed selected applicants across two separate stages and found PDJ Management Limited to be the Preferred Occupier based upon their experience, vision for the Cinema and capacity to deliver an excellent leisure facility for the benefit of Wolverhampton.

3.3 The Council must now agree terms with the Preferred Occupier and this will include a capped capital contribution of £1.5 million from the Council towards the refurbishment and fit out costs, estimated to be £2.0 million. Should the total cost increase, the Council will not contribute any further capital, and conversely should the cost decrease, the Council will contribute less (77.8% of the total costs). This capital contribution is necessary and the Council as a responsible landlord has the ability to bring the venue back into vibrant use and ensure the building is fit for purpose in the future and adheres to all relevant building regulations. In order to attract a future occupier, the Council would be required to invest in the asset regardless of securing a tenant due to the current condition and viability of the building. In addition capital contributions can incentivise new tenants in the leisure market.

3.4 The proposal contained within this report provides the opportunity to work in partnership with a suitable operator to ensure this is achieved and therefore preventing the building falling into further disrepair and becoming an increasing liability, Furthermore, investing in the Cinema now will attract increased footfall (projected to be 132,000) to the City centre which will benefit surrounding businesses. Independent RICS accredited Consultants are satisfied that the marketing process is compliant with s123 of the Local Government Act 1972. It is considered to be the best deal achievable in all the circumstances and is recommended for approval.

4.0 Proposal

4.1 The proposal is to enter into a 30 year lease with PDJ Management with:

- i. Initial rent of £XXX per annum, with upwards rent reviews based on CPI (subject to a cap) and tenant break options.
- ii. PDJ are equally contributing to the costs associated to Unit 5 (subject to a 30 year lease) including rent and service charge, in addition to the fixed rent for the cinema.
- iii. The Cinema space will be let on full repairing and insuring terms, with PDJ obligated to keep the property in a good and tenantable repair.
- iv. The Cinema lease will contain rights for PDJ to assign subject to Landlord approval not to be unreasonably withheld.

- v. On an assignment of the cinema space lease, this would automatically break the Unit 5 sub lease and the Council will have the ability either to break the lease with MIA or sub-let to a new operator.
 - vi. The lease will contain a 'force majeure' clause to take into account acts that occur outside of either parties' control
 - vii The 30 year lease agreement will be subject to the Landlord and Tenant Act 1954 providing PDJ security of tenure.
- 4.2 To ensure the success and to deliver a best in class cinema product, the City of Wolverhampton Council will be contributing a capped capital investment of £1.5 million by way of a grant towards the refurbishment of the cinema space. The total investment cost is £2.0 million. Given the Cinema's current condition, layout, and market conditions, this capital expenditure is considered essential to achieve a letting as is the rent free period. This applies not only to the Leisure and Cultural market but also Food and Beverage, Retail, Office, and Industrial markets. As freeholder, the Council would be required to invest significantly in the facility before being able to let the property.
- 4.3 The risk of costs exceeding £1.5 million will be carried by PDJ and any saving against this forecast cost will mean a saving on the required investment by the Council. The Council will not contribute any further capital, and conversely should the cost decrease, the Council will contribute less (if less, the Council's contribution will be limited to 77.8% of the total cost).
- 4.4 The Council will make payment to PDJ based on evidenced expenditure. A detailed specification will be agreed and payment of the £1.5 million will be made via tranches on PDJ reaching agreed milestones within the fit-out programme. With PDJ undertaking the works, the Council will not be subjected to comply with the PCR Procurement Regulations.
- 4.5 The Council have undertaken a recent condition survey which highlights an immediate maintenance liability of £212,000 and would need to be actioned in any event for the building to be bought back into a fit for purpose use. Following the £212,000 investment the building would still require a significant capital input to enable a cultural facility to operate. This has been factored into the capital investment of £1.5 million.
- 4.6 It is intended for the fit-out works to be completed by PDJ utilising their own design team whom are knowledgeable on a cinema specification and will prove cost effective in reducing timescales with the Council not needing to procure contractors and suppliers. The Council as part of its due diligence will consider whether such financial assistance together with the contribution towards the service charge is a subsidy before entering into the lease. This is reflected further within the Legal implications of the report.
- 4.7 The targeted opening for the new cinema is the Summer Holidays 2024 following the refurbishment and fit out works.
- 4.8 Further details on the organisation PDJ and the proposal for the Chubb cinema building can be seen in Appendix 1.

5.0 Need and Demand for a cinema operator within the City Centre

- 5.1 Wolverhampton does not currently have an independent Cinema; Cineworld are the only operator in Wolverhampton and their multiplex is located out of the City Centre at Bentley Bridge Retail Park. It is also worth noting the significant financial operating challenges that big multiplexes, like Cineworld have experienced of late. According to PDJ and their anecdotal market research, many Wulfrunians from the south and west of the City now visit cinemas in Dudley or Telford.
- 5.2 One of the challenges that large multi-plex cinema operators are finding, is that there has been a shift in consumer choices and demand within the cinema world, which aligns with the opinion of the applicants interviewed as part of the marketing process. Many of the applicants explained that cinemagoers now seek a unique and more personal experience. This is partly driven by the rise of online streaming services which provide easy access to films; for movie-watchers to be encouraged to leave the home they need to be offered a unique and quality experience.
- 5.3 In recent years, independent cinemas, who offer a personalised and quality experience have become increasingly popular. Consumers seeking a unique and personalised experience is not exclusive to the cinema industry. This trend is also seen in retail and hospitality, where consumers want to support smaller independent businesses who similarly provide a unique and personalised experience.
- 5.4 In summary, there is no direct competition to the PDJ's offering within Wolverhampton and their vision of "affordable luxury", providing a unique experience aligns with current consumer trends. Furthermore, the Cinema's excellent location and connectivity should attract visitors from throughout the City and beyond.

6.0 Benefits of the Proposal

- 6.1 The proposal contained within this report would provide the following benefits:
- i. PDJ forecasts 132,000 visitors a year. This increased footfall will help to support other businesses within the City Centre as Cinemagoers often combine their cinema experience with drinks or dinner thus supporting the City Centre economy. Utilising the economic impact methodology used for City Events an additional footfall of 132,000 could generate circa £500,000 - £1 million per annum into the City Economy and over the 30 years generating circa £15 - £30 million.
 - ii. The Council would own a significantly enhanced asset which at present is a liability with investment requirements.
 - iii. The new venue would be a significant footfall driver and cultural asset within the city centre, contributing to the wider city offer and enhancing the city's profile and reputation.
 - iv. Furthermore the increased footfall will provide natural surveillance around Broad Street and Lichfield Street.
 - v. Wulfrunians will have the benefit and enjoyment of an "affordable luxury" cinema, something not currently offered within the City.

- vi. Complements the Council's investment into the transport Interchange, which provides crucial connectivity to facilitate further growth.
- vii. The Cinema will provide greater access to films and the arts.
- viii. Opportunity to rejuvenate a significant City Centre landmark.
- ix. The Cinema will have a strong social value focus and an Equality, Diversity and Inclusion policy. PDJ intend to show autism friendly screenings and parent and child screenings, opening the Cinema to all. PDJ has a demonstrable history in providing such screenings
- x. There will be three full time permanent jobs and between 20-25 part time jobs created from the new cinema.

7.0 Supporting Delivery of the Strategic Asset Plan

7.1 City Assets have developed a Strategic Asset Plan that was completed and approved by Cabinet on 17 October 2018. This provides the structure and management of the Council's land and property portfolio over the following five years, to 2023, and incorporates the "Our Assets" principle. The plan is structured into three parts:

- Asset Management Policy
- Asset Management Strategy
- Asset Management Action Plan

7.2 The Asset Management Policy establishes a clear mission with supporting principles for the management of land and buildings, ensuring it is fit for purpose and benefits the people of the City of Wolverhampton and to use land and buildings following rationalisation and disposal of land and buildings, that will enable a financial return to stimulate development and growth, support and encourage local businesses and promote joint-working.

7.3 The proposed lease with PDJ for the Chubb cinema building supports the policy as outlined and in particular delivery of items A1, A9 and B6 of the Action Plan.

8.0 Evaluation of alternative options

8.1 Option 1: The Council could continue to market the vacant cinema accommodation via specialist Property Agents and agree to invest in refurbishing the space in an attempt to attract a new occupier (cost to be confirmed). However, any refurbishment can only be limited because this sector is led by the market and branded therefore fit-out will always be required once a tenant/operator is identified. A full fit-out would require significant capital expenditure however, such investment would be very speculative with no guarantee that a deal would be achieved in the short term. In addition, an occupier would likely expect other incentives including rent free capital contribution and a likely lease break option to sign up to a 30 year lease or longer term.

8.2 Option 2: To leave the cinema accommodation in its existing and relatively poor condition and continue to market via specialist Property Agents. This option would however be unlikely to generate a letting in the short to medium term given the current market

conditions and the condition of the accommodation and will deteriorate further through lack of use, more costly to bring back into use and become increasingly less attractive to potential tenants whilst it remains empty.

9.0 Reasons for decisions

- 9.1 If the Council were to do nothing, the condition of the asset will continue to deteriorate, impacting upon an important and heritage asset within the City Centre. If the condition were to deteriorate further, it will only increase the capital expenditure required and will most likely make it more difficult to find a suitably qualified occupier. The Cinema, as it is, presents a liability to the City and requires significant investment to be brought back into beneficial use.
- 9.2 Based upon PDJ's forecast, the Cinema, at maturity is predicted to attract some 132,000 visitors to the City Centre which will help to support the local economy and protect jobs.

10.0 Financial implications

- 10.1 The cinema is currently empty after the former Lighthouse Cinema ceased trading. As the landlord, the Council is currently liable for holding costs such as utilities, gallery space, insurance and business rates which are in the region of £25,500 per annum.
- 10.2 The Council in conjunction with Bruton Knowles and the MIA interviewed applicants and found PDJ to be the preferred occupier. This report therefore seeks approval to enter into a lease agreement with PDJ for the operation of a cinema within the Chubb building.
- 10.3 This report also seeks approval for the Council to enter into a 30 year lease agreement with MIA for Unit 5 within the Chubb Building which is to be subsequently subleased to PDJ. PDJ will equally contribute to these costs. The Council will still retain responsibility for paying building insurance and gallery space service charges.
- 10.4 The operator will pay a starting fixed annual rent to the Council of £XXX, with rent reviews. This is linked upwards based on CPI and subject to a cap. In addition, the lease will include break options.
- 10.5 In order that the cinema can be brought back into use capital investment is required. The estimated total cost of the work is projected to be in the region of £2.0 million. As the landlord, the Council would be required to undertake works in order that it could be brought back into use and a suitable tenant can be found. As detailed in paragraph 4.3, a recent survey highlighted that immediate maintenance work in the region of £212,000 was required and, in addition, the Council would need to make significant investment above the £212,000 to enable a cultural facility to operate.
- 10.6 Negotiations have been ongoing with PDJ around the funding of the capital investment required. As detailed above, the projected costs are in the region of £2.0 million. It has been negotiated that the council will fund a capped £1.5 million of the refurbishments and fit out costs, with PDJ contributing the balance. If the capital costs are less than £2.0

million, the Council will fund 77.8% of the total cost. If the capital costs exceed £2.0 million, the Council's contribution is capped at £1.5 million.

- 10.7 Payments to PDJ will be based on evidenced expenditure along with key milestones being achieved, as approved by the Council's monitoring surveyor, who's role is to ensure that the building is fitted out to the agreed specification.
- 10.8 The projected average annual borrowing costs based on an interest rate of 3.81% (the Council's current average borrowing rate) is in the region of £84,000. Over the 30 year period this is estimated to be in the order of £2.5 million.
- 10.9 The Capital Programme 2023-2024 to 2027-2028 Quarter Two report to Cabinet on 15 November 2023 included budget within the Corporate Provision and Contingency for Future Programmes to support the refurbishment costs of the Chubb building. This report therefore seeks approval to vire £1.5 million from this Corporate Provision and Contingency for Future Programmes to the Chubb Cinema project.
- 10.10 The table below summaries the annual average costs and income associated with the proposals outlined in this report.

Average Annual Costs / Income £000	
Average costs payable by the Council	
Gallery Service charge	XXX
Insurance	XXX
MIA rent and service Charge	XXX
Total projected average costs	XXX
Income to the Council	
Average projected rental income from PDJ	XXX
Contribution towards MIA rent and service rent	XXX
Total projected average income	XXX
Net income to the Council	
	XXX
Existing budgets no longer required	
	XXX
Average forecast borrowing costs	84
Projected overall cost per annum	18

- 10.11 The overall cost to the Council, after the projected income and including projected cost of borrowing, is in the region of £18,000 per year. These costs will be factored into the

Treasury Management budget. This is significantly less than the previous expenditure of £25,500 where the Council received very little benefit for this expenditure.

[AS/01122023/E]

11.0 Legal implications

- 11.1 Under section 123 of the Local Government Act 1972, the council has a duty to achieve best consideration from the disposal of its land and property. The grant of a lease constitutes a disposal and should therefore represent best consideration. As detailed in the report, subject to approval, the Council is intending to grant two leases and will be required to enter into a lease and related legal agreements to give effect to the Heads of Terms.
- 11.2 The Council must be satisfied that its proposal including any financial investments does not contravene the Public Contract Regulations 2015 (PCR), and its own Contract Procedure Rules.
- 11.3 If the Council were minded to agree that PDJ Cinema Ltd carry out the fit-out works the body of this report indicates that the Council will make a contribution towards the fit-out costs, the Council must consider whether such financial assistance together with the 50% share of the service charge and rent free period is a subsidy for the purposes of the Subsidy Control Act 2022 (the Act), such that it confers a specific economic advantage on one or more enterprises and is capable of having an effect on competition or investment in the UK or trade and investment between the UK and another country. Where any financial assistance is given directly or indirectly by a public body which confers an economic advantage and is capable of having an effect on competition and investment such financial assistance will be a subsidy and will require assessment against the Subsidy Control Principles set out in the Act. This would be a self-assessment carried out by the council. The proposal cannot proceed if it is in breach of subsidy control requirements.
- 11.4 An alternative to the above, would be for Council to carry out the fit-out works. In these circumstances the Council may decide to undertake a competitive tender as the Council is legally required to advertise public contract opportunities. Where the estimated value of a contract exceeds the relevant financial threshold, the procurement is subject to the full procedural requirements of Part 2 of the (PCR). The current threshold for works is £5,336,937. Where the contract opportunity is below threshold but exceeds £25,000 there is a requirement to publish the opportunity on Contracts Finder. This is also a requirement under the Council's own Contract Procedure Rules.
- 11.5 The Council shall seek external advice with regard to subsidy control as part of its due diligence.
- 11.6 In respect of virement the Council must comply with its fiduciary duties.
[JA/04122023/D]

12.0 Equalities implications

- 12.1 All development plans will consider and meet the needs of all people within the local community and an all-inclusive approach will be taken by City of Wolverhampton Council.
- 12.2 The proposed cinema operator, PDJ will be offering an inclusive and accessible cinema space to all. In addition a number of dedicated showings will be held for individuals who require additional needs.

13.0 Schedule of background papers

- 13.1 [Strategic Asset Plan 2018-2023](#) – Report to Cabinet on 17 October 2018 including:
- Asset Management Policy 2018-2023
 - Asset Management Strategy 2018-2023
 - Asset Management Action Plan

14.0 Appendices

- 14.1 Appendix 1 - PDF proposal