
**Cabinet Member for Cabinet Member for Jobs, Regeneration and Climate Change -
Councillor J O'Boyle** **15th July 2021**

Director Approving Submission of the report:
Director Property Services and Development

Ward(s) affected:
St Michaels

Title:
Surrender of Existing Lease and Simultaneous Re-grant of a New 150 Year Lease in Relation to
49-51 Corporation Street, Coventry

Executive Summary:

As part of the Cultural Capital Investment Programme (investment in the city's infrastructure creating a legacy and ensuring that the benefits of UK City of Culture 2021 are felt by future generations) the Council have awarded £5m of programme funding to the Belgrade Theatre Capital Project, which consists of three phases.

The Belgrade is Coventry's largest producing theatre, seating 850 in its main auditorium. It is the premiere space for live performing arts in the City Centre.

The Cultural Capital investment in the Belgrade Theatre has enabled the Belgrade Theatre Trust to refurbish the main auditorium and to extend and rebrand the café, including a redevelopment of the Burbidge room creating much needed conference and workshop space. The final (third) phase will see the redevelopment of the Jaguar pub in Corporation Street which will deliver a new digital space for young people and enable the creation of shared working space/workshop/small conferencing space and two apartments.

The former Jaguar pub (51 Corporation Street) has been closed for several years and the long leasehold interest of 49-51 Corporation Street was acquired by Complex Development Projects (CDP) in 2017. It was acquired following discussions between CDP and the Belgrade Theatre Trust.

CDP and the Belgrade Theatre Trust have approached the Council seeking to end the current lease of the premises and the granting of a new 150 year lease, to be consistent with the Belgrade's main lease, with a request that the Council forgo the capital lease premium value of the new lease in return for a commensurate, but deferred reduction in grant funding from the City Council. This would make it affordable for the Belgrade and allow the proposed third phase of the development programme to proceed.

The Council is therefore being requested to forgo the capital sum of £129,885 which would otherwise be payable immediately as a premium for the grant of a new long lease, in order to allow CDP to grant the new sublease to the Belgrade at only £650 per annum.

Recommendations:

Cabinet Member is recommended to:

1. Accept the surrender of the existing leasehold interest and authorise the simultaneous grant of a new 150 year lease to CDP for a £11,365 premium and £650 annual ground rent in respect of the premises known as 49-51 Corporation St, Coventry and shown on the plan attached to Appendix 1 of this report.
2. Forgo the sum of £129,885 which would otherwise be due, in order to allow CDP to grant a sublease to the theatre at £650 per annum, subject to a commensurate reduction in grant funding from the City Council once the final phase of the development works is operational and generating income.
3. Delegate authority to the Director of Business Investment and Culture, and Director of Finance, in consultation with the Cabinet Member for Strategic Finance and the Cabinet Member for Housing and Communities, to agree the timing and value of a future grant reduction, which will take into account the operating environment and financial business plan of the Belgrade Theatre Trust once the project has been implemented.
4. Delegate authority to the Director of Property Services & Development following consultation with the Director of Finance and the Director of Law and Governance to undertake the necessary due diligence and complete all necessary legal documentation to facilitate the completion of the transaction.
5. Delegate authority to the Director of Property Services & Development following consultation with the Cabinet Member for Jobs, Regeneration and Climate Change and the Cabinet Member for Strategic Finance and Resources for any subsequent variation in terms.

List of Appendices included:

Annex 1: Site plan for the acquisition of the interest.

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

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1. Context (or background)

- 1.1 In 2016, in preparation for Coventry's bid for the UK City of Culture 2021 title, a visit to Newcastle was organised which was attended by Chief Executive of CDP and Executive Director of the Belgrade Theatre Trust). One of the visits was to Live Theatre, an organisation that had successfully removed its reliance on public funding to become a sustainable organisation with capacity to support other arts groups. Their success was largely based on taking on additional property close to the theatre and developing this, with support from Government grants, allowing them to grow wider income streams.
- 1.2 Following the visit, it was agreed between the parties to explore the development of a similar model to support the Belgrade Theatre. When the leasehold interest became available for the former Jaguar pub, CDP stepped in and brought the lease on the Belgrade Theatre's behalf, due to them not having the available funds.
- 1.3 The Belgrade Theatre has been working closely with the Cultural Capital Investment Programme team in the Council to raise the required funding to enable the project. This has been very successful, with all three phases of the project now being fully funded. The first two phases have now been delivered, successfully supporting City of Culture activity and presenting a positive image of the city and its facilities and providing a long term legacy.
- 1.4 Phase 3 will develop a new digital space in the former Jaguar pub in Corporation Street and is the final phase of this capital project. The development will see the creation of shared working space/workshop/small conferencing space and two apartments. This space will enable the Belgrade to deliver a ground-breaking 5G digital space for Coventry and a much-needed safe space for at-risk young people to benefit from emerging technologies. It will integrate digital and physical interaction, providing young people with opportunities to meet and learn whilst forming a pipeline into employment opportunities. This will create a fully flexible 'plug and play' venue that engages with local, regional and global communities, education and business.
- 1.5 The various capital developments, together with their recovery from the recent pandemic closures will inform the Trust's operating and financial planning position in the short to medium term.

Property Details

- 1.6 49-51 Corporation Street comprises two distinctive parts; Unit 51 - The former Jaguar pub – basement, part ground, first and second floor. The property is currently vacant and has not been occupied for several years since the public house closed.
- 1.7 Unit 49 is let on a long sub lease with 42 years remaining and comprises a ground floor restaurant, trading as Sushi Pa Pa with offices above, the premises was originally occupied by Abbey National.
- 1.8 The lease of the whole building is currently held by Complex Development Projects on a 99 years long leasehold from the Council which started 27th February 1965 with an annual ground rent of £650 per annum.
- 1.9 The Belgrade Theatre has developed a £600k grant funded project to refurbish and upgrade the premises as required to facilitate their operation of the property under a proposed

sublease of part. This project falls within the Cultural Capital Investment Programme overseen by the City Readiness Board.

2. Options and recommended proposal

Option 1 – Proceed with the grant of a new lease (Recommended)

- 2.1 CDP are seeking a new 150 year lease over the whole property with a wider user clause to facilitate the Belgrade Theatre's use. The current ground lease rent of £650 per annum will be paid for the whole of the 150 year term.
- 2.2 CDP propose to grant a new long sub lease of 150 years less 3 days to The Belgrade Theatre. On a normal commercial transaction, the sub tenant would be expected to pay a commercial rent or a premium payment for the benefit of this interest. CDP have agreed not to charge the Belgrade a premium or an annual market rent for this long lease interest.
- 2.3 The Council is therefore being asked to support the work of the Belgrade by forgoing the premium for the lease extension for the accommodation to be sub-let to the Belgrade.
- 2.4 Independent property advisors, Lambert Smith Hampton (LSH), have been engaged in order to consider the value of the new 150 year lease interest which has been used to inform the amount which the Council is being asked to forgo.
- 2.5 LSH state that the premium payable over the whole premises for the benefit of the new lease interest including the widening of the user clause to facilitate the Belgrade's use, would be £141,250.00.
- 2.6 The valuation confirms that the proportion of this premium applicable to number 49, should be £11,365. This relates to the extension of the current 42 year interest to 150 years and the removal of the rent review clause in the new lease. CDP has agreed to pay this element.
- 2.7 The balance of the premium assessed by LSH for the new lease to accommodate the Belgrade Theatre is £129,885 which is the value the Council is being asked to forgo.
- 2.8 LSH have further confirmed that the existing ground rent of £650 per annum is the current market ground rent and should be applied to the new rent across both units under the one lease for the duration.
- 2.9 The refurbishment of the subject property will improve the visual appearance of this building and the street scene, and potentially encourage associated arts uses in the area.
- 2.10 The tenant would continue to pay the appropriate business rates for the property subject to a revised valuation by the Valuation Office Agency for the new proposed uses.
- 2.11 This proposal will support the Belgrade Theatre's aspirations to become more financially sustainable and less reliant on public funding, utilising the commercial opportunities presented in this new facility and allowing them to generate further income streams, such they they will be able to reduce their reliance on Council Funding.

Rationale for forgoing the lease premium:

- 2.2.1 Forgoing the premium allows the commercialisation of the property so that the Belgrade Theatre can generate increased revenue through the premises, which is much needed in the wake of the impact of the pandemic which has prevented live audiences and impacted their income substantially.
- 2.2.2 It will provide high-tech performance and rehearsal space for live music and performance events which will supplement the existing offering of the Belgrade Theatre.
- 2.2.3 The refurbishment will optimise the 'live' performance experience with digital lighting, sound and visuals.
- 2.2.4 The proposal will use digital capacity to reduce the cost of hiring and running the space for a variety of community and small arts organisations and practitioners
- 2.2.5 The project will create ground-breaking 5G digital space and a much needed safe space for 'at risk' young people to benefit from emerging technologies and provide young people with opportunities to meet and learn whilst forming a pipeline into employment opportunities
- 2.2.6 The proposal will ensure that the investment in the project can drive the cultural benefits, showcasing the city's principle producing theatre and its facilities, and meets the expectations of audiences attending events during 2021 and afterwards
- 2.2.7 The project will bring back into operational use a commercial premises which has been closed and dilapidated for approximately 5 years.
- 2.2.8 The Trust would be able, once the new facility is operational, to generate commercial value, so that grant funding from the Council can be reduced

Option - 2 Not to proceed with the new long lease

- 2.3 Without the new 150 year lease, the long term stability of the theatre would be impacted by the loss of their rehearsal space some 50 years before the end of their occupational lease at the theatre.
- 2.4 The long term aspiration for the theatre is to be financially independent and therefore not granting the new long lease could have a detrimental impact on their future financial sustainability.
- 2.5 The remaining 42 years of the lease will continue to run, meaning that the Council would continue to receive the current ground rent of £650 per annum, and seek a premium for any other kind of redevelopment of the property at the relevant time.

3. Results of consultation undertaken

No public consultation has been undertaken

4. Timetable for implementing this decision

- 4.1 Subject to the approval of the recommendations contained in this report, it is advised that the lease would be ready for signature within 4 weeks. CDP has already committed to proceed with the refurbishment works at risk, as the secured grant funding will only be released when the sub lease of 51 Corporation Street to the Belgrade has been granted.

- 4.2 Planning consent has been granted for the change of use and alterations to the building.
- 4.3 The project is funded through the Cultural Capital Investment Programme which needs to comply with strict external funding conditions that require the project to be completed no later than the 31st August 2021 (the project has just been in receipt of an extension)

5. Comments from the Director of Finance and the Director of Law and Governance

5.1 Financial implications

- 5.1.1 The new proposed lease will provide the Council with a £650 per annum ground rent for the revised lease period of 150 years. This is the same amount that is being paid under the current lease due to be surrendered under the proposal, therefore there is no loss of ground rent.
- 5.1.2 Independent valuers, Lambert Smith Hampton, have considered the capital value for the granting of a new 150 year lease under the proposed terms and advise that the Council should receive a premium payment of the sum of £141,250. The premium attributed to 49 Corporation Street is £11,365 with the remaining sum of £129,885 being in respect of No 51. This is the one-off value of the interest the Council is being asked to forgo to secure the benefits outlined in the report.
- 5.1.3 In return for forgoing this one off sum, it is proposed that a commensurate reduction (c£8k per year) to the annual Grant Aid funding is agreed with the Belgrade Theatre Trust, deferred until the new facility is operational and generating income. The Trust are currently in receipt of £567k per year in financial support from the City Council.
- 5.1.4 It is noted that the Trust have recently experienced financial difficulties as a direct result of the pandemic and enforced closures, such that they will be in a financial recovery situation in the short term. Service and finance officers will work with the Trust to ensure that by the time the Jaguar pub scheme is implemented and operational and the Trust's forward Business Plan approved (by March 2023), the exact timing and value of grant reduction takes account of their prevailing financial performance.
- 5.1.5 For the Council's financial year 2019/20 the property generated business rates payable of £11,648. The conversion of the premises to a wider use could lead to an increase in business rates.
- 5.1.6 Notwithstanding the fact that the Trust have had a difficult 12 months due to the pandemic, by supporting this model for the Belgrade Theatre to become more financially self-sufficient, this could have a further long-term financial benefit by potentially allowing the future reduction of annual revenue grant support provided.

5.2 Legal implications

Property

- 5.2.1 The Council has the power to dispose of the land pursuant to Section 123 of the Local Government Act 1972. This section provides that the Council can dispose of the land in any manner it wishes, except it is not permitted to dispose of land at less than the best consideration that can reasonably be obtained without obtaining Secretary of State consent.
- 5.2.2 The Secretary of State has issued a General Consent for disposal of land at an undervalue 'The Local Government Act 1972: General Disposal Consent (England) 2003' which permits

the Council to dispose of land at less than the best consideration reasonably obtainable at an undervalue of up to £2M where it considers that the purpose for which the land is to be disposed is likely to contribute to the promotion or improvement of economic well-being, social well-being or environmental well-being in respect of the whole or any part of its area, or of all or any persons resident or present in its area.

- 5.2.3 The Council is being asked to agree the grant of a new lease at a premium less than the market value to facilitate the ability for CDP to grant a sub-lease to the Belgrade Trust. In order to protect the Council's position and ensuring that this is achieved, CDP will be obliged under the terms of their new long lease, to grant a sublease of Number 51 Corporation Street to the Belgrade for 150 years less 3 days.
- 5.2.4 For Unit 49 where there is a pre-existing sublease, the benefit of the new 150 year lease cannot be realised by the developer until that sublease ends in 42 years time. Ordinarily a premium payment should be made for this benefit as it applies to the unit, but the existence of the sublease means the developer cannot do anything with the property until the lease ends or unless they buy out the sub lease.
- 5.2.5 Due to this sublease the benefit of the extension to CDP is deferred by 42 years and so the value of the premium applicable to unit 49 is significantly lower because the valuation is reduced to account for the present value of this future sum. In other words, receiving £11,365 today is equivalent to receiving £290,000 in 42 years time.
- 5.2.6 In view of the social value and benefits described under the executive summary of this Report, Legal Services can confirm that the criteria in point 5.2.2 above are satisfied.

State Aid Implications

- 5.2.7 Since 1 January 2021 the UK has followed the commitments on subsidy control set out in its Free Trade Agreements (FTAs) with the EU and other countries and the World Trade Organisation (WTO) rules on subsidies, as well as the relevant provisions relating to Northern Ireland contained in Article 10 of the Withdrawal Agreement with the EU. The Department for Business, Energy and Industrial Strategy have launched a consultation to seek views on the best way to design a subsidy control system that works for the UK economy, in the interim, granting authorities and recipients are still required to comply with their obligations on subsidy control despite a new regime not having been implemented as yet. These controls replace the State Aid Rules the UK was subject to whilst a member of the EU.
- 5.2.8 A disposal of land is capable of amounting to a subsidy. Legal Services will undertake a full subsidy control analysis prior to the agreements being entered into to ensure that any risks are properly mitigated.

6. Other implications

6.1 How will this contribute to achievement of the Council Plan?

Facilitating the conversion of the former public house to rehearsal and performance space along with visiting performer accommodation will help to realise the Council's ambitions for a more vibrant, economically prosperous and sustainable city centre.

6.2 How is risk being managed?

The risks around the delivery of the development is mitigated by the positive lease obligations to grant the sub lease to the Belgrade; the fact that planning permission has been

granted; and that CDP is funding the works at risk until the sub lease is granted. All of these things provide a level of certainty around delivery before the grant of the new lease is entered into between the parties.

6.3 What is the impact on the organisation?

The impact to the organisation is limited to the loss of the premium for the grant of the new long lease interest.

6.4 Equality Impact Assessment (EIA)

6.4.1 An Equality Impact Assessment has not been undertaken as the proposal concerns the granting of new long lease and no Council service or group will be impacted.

6.4.2 An equality impact assessment is a process designed to ensure that a policy project or service does not discriminate against any disadvantaged or vulnerable people. Section 149 of the Equality Act 2010 imposes an obligation on Local Authorities to carry out an equality impact assessment when the local authority is exercising a public function.

6.5 Implications for (or impact on) climate change and the environment

The Council's facilitation of the refurbishment of the property into upgraded commercial and modern residential accommodation will improve energy the efficiency of the building and result in an environmentally more efficient building.

6.6 Implications for partner organisations?

The project will develop a ground-breaking 5G digital space where the Belgrade Theatre can create a safe space for at-risk young people to benefit from emerging technologies. It will integrate digital and physical interaction, providing young people with opportunities to meet and learn whilst forming a pipeline into employment opportunities. This fully flexible 'plug and play' space will be an exciting new performance, education and rehearsal facility that will improve the future sustainability of the Belgrade, providing additional engagement and rehearsal space and new income streams. The project will enable the Belgrade Theatre to engage with local, regional and global communities, educators and businesses.

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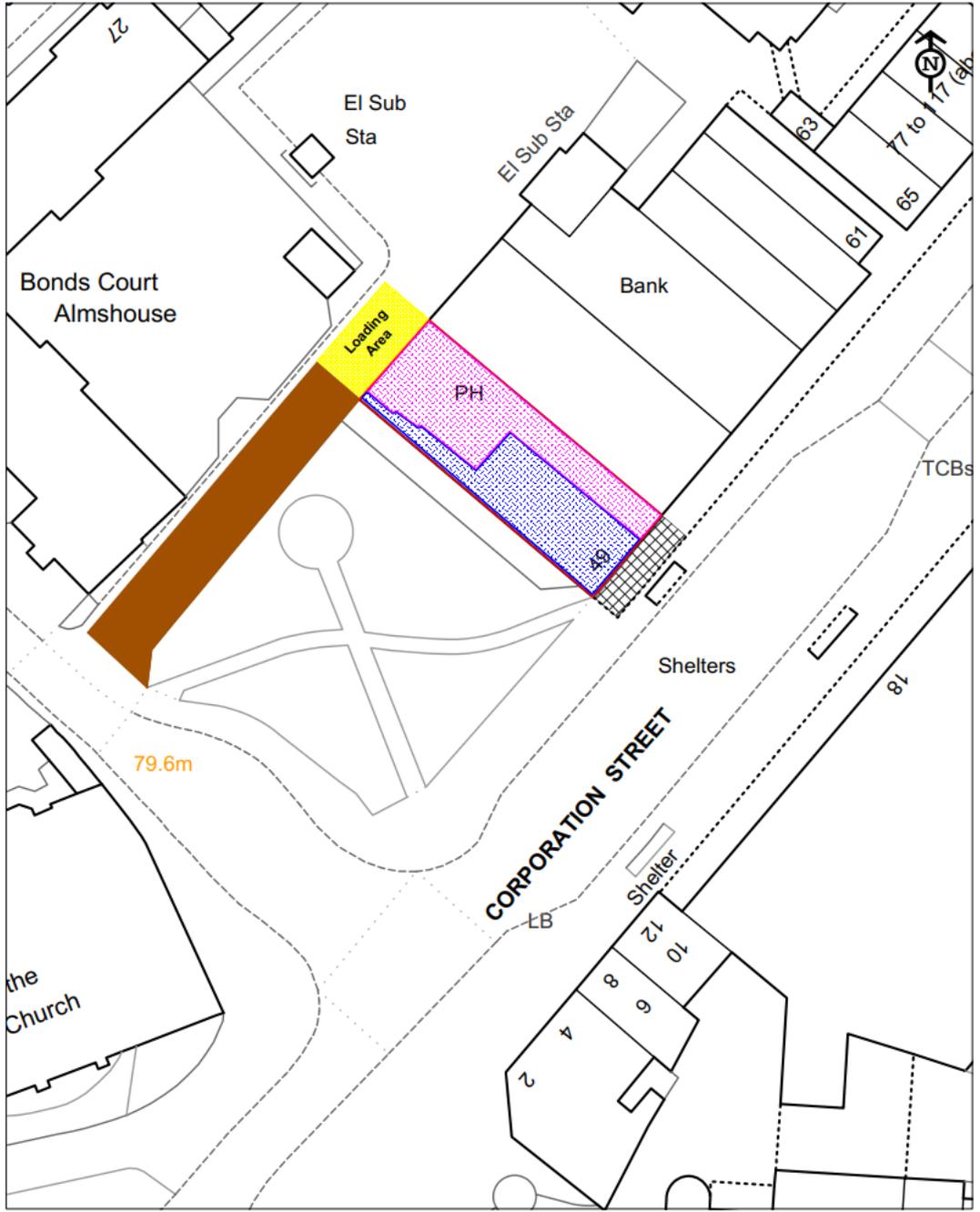
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