

## Bath & North East Somerset Council

DECISION MAKER:	Councillor Richard Samuel, Deputy Council Leader and Cabinet Member for Resources	
MEETING/ DECISION DATE:	On or after 6 <sup>th</sup> May 2021	EXECUTIVE FORWARD PLAN REFERENCE: <b>E3275</b>
TITLE:	Mission Theatre – Community Asset Transfer	
WARD:	Kingsmead	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>  Appendix 1: Mission Theatre Business Plan (5 yr) Appendix 2: Mission Theatre Business Plan supporting documentation - Next Stage Theatre Company Cash flow summary (5 yr) Appendix 3: Mission Theatre Business Plan supporting documentation - Summary of Social and Economic Benefits (5yr) Appendix 4: Capitalised values – rent valuation and social and economic benefits Appendix 5: James A Baker Valuation Jan 2021 Appendix 6: CAT Stage 3 Assessment including assessment of social benefit Appendix 7a: Draft Heads of Terms Appendix 7b: Mission Theatre Lease plan		

### 1 THE ISSUE

- 1.1 This report relates to Next Stage Theatre Company (NSTC) who have applied for a Community Asset Transfer (CAT) for the Mission Theatre. The CAT transfer will enable the company to make some investment into the building as well as create new job opportunities and additional community activities.
- 1.2 NSTC have completed Stage 3 of the CAT process which requires submission of a full business plan and supporting documentation. Officers have undertaken an assessment which is set out in Appendix 6. The proposal meets the objectives of the Council's Community Asset Transfer Policy and has been approved by the Council's Property Board.

## **2 RECOMMENDATION**

The Cabinet Member is asked to delegate to the Head of Estates authority for;

- 2.1 completing the disposal of Mission Theatre by way of a lease in line with the draft Heads of Terms attached in Appendix 7a.
- 2.2 abating the rent to a peppercorn subject to Next Stage Theatre Company satisfying the Council that they will use the building for the purposes set out in their Business Plan.

## **3 THE REPORT**

- 3.1 NSTC have submitted a five year business plan (see Appendix 1) including supporting documents as required as part of the CAT application process. The business plan provides a model for which income is generated from various activities including membership fees from youth activities, income from show surpluses, bar sales and room hire, fundraising and grants. The CAT will enable NSTC to deliver this more sustainable business model approach, which will provide the enhanced social and economic benefits identified in this report. Further information relating to the income and expenditure is detailed in Appendix 2.
- 3.2 The Mission Theatre is a 200 year old Grade II listed building opposite Avon Street Car park in the centre of Bath. It was originally built as a Catholic Chapel and has had various uses since then. The Next Stage Theatre Company (NSTC) took a lease in 2010 for a term of 20 years. The theatre offers a space for up to 150 people and upstairs bar area which is also used for smaller performances, back stage area, changing rooms and small office.
- 3.3 NSTC have a well-established programme of arts based performances, local festivals and youth programme. Their ambition is to create new job opportunities to expand their youth programme, schools and community activities as well as adding additional venue space for increased performances.
- 3.4 The council will grant a new lease to NSTC for a term of 99 years under which all liabilities for repair and maintenance costs will be transferred. The rent will be abated to a peppercorn, subject to NSTC continuing to deliver against their business plan. A partnership agreement will form part of the lease which will set out the commitments that NSTC will be required to meet. Draft Heads of Terms can be found in Appendix 7a. At the same time the current lease will be surrendered.
- 3.5 An independent valuation was prepared by Chartered Surveyors, James A Baker for a 99 year lease, see Appendix 5. The valuation identifies the market value for an unrestricted use. In addition, it provides a restricted use value limited to existing use as a performance space.
- 3.6 RICS guidance criteria has been followed to assess the appropriateness of the disposal at less than market value. This takes account of the independent valuation and social and economic benefits identified by NSTC. The calculations can be found in Appendix 4 and has identified the following:

- 3.6.1 The open market unrestricted value is £695,000 for a long-term lease of 99 years.
- 3.6.2 The restricted use imposed on the leasehold interest will reduce the value to £152,500. The difference is £542,500.
- 3.6.3 The benefits achieved from this proposal come from social and economic benefits related to new employment opportunities, youth activities, school outreach programme, community activities and volunteering. These activities are detailed in the Business Plan Appendix 1 and Social and Economic benefits summarised in Appendix 3 and have been estimated at £459,353.60.
- 3.6.4 In addition, NSTC has identified the need for capital works valued at £110,000 which they have set out in their business plan. This transfer will result in avoidance of future liabilities for the council. This provides a total benefit of £569,353.60.
- 3.6.5 The assessment has identified that the proposal delivers sufficient social, economic and environmental benefits to meet the test set out in paragraph 4.3 below in relation to the General Consent Order.
- 3.7 The transfer of the building will be in accordance with the Heads of Terms in compliance with statutory responsibilities under s123 Local Government Act 1972, in pursuance of the recommendations of this report and in accordance with normal practice.
- 3.9 This proposal is in line with the Council's policy regarding Community Asset Transfers the aim of which is to help secure community benefits in line with the Council priorities and objectives.
- 3.10 The Council recognises that the Covid-19 pandemic may have an impact on NSTC's future plans which may require changes to their operational practices and proposals as set out in their business plan. The Council will work with them to ensure they are supported through this period.

## **4 STATUTORY CONSIDERATIONS**

- 4.1 Public health and inequalities: the Council has a statutory duty to promote the health and wellbeing of the inhabitants of its area and reduce inequalities amongst its population.
- 4.2 The land and premises are held under s120 of the Local Government Act.
- 4.3 Under s123 of the Local Government Act 1972, any disposal by the Council of an asset in excess of 7 years (including leasehold interests) must obtain "best consideration", unless the General Disposal Consent (England) 2003 can be applied or a specific consent is obtained. The General Consent allows specified circumstances where the consent can be applied:
- a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the

following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;

- i) the promotion or improvement of economic well-being;
- ii) the promotion or improvement of social well-being;
- iii) the promotion or improvement of environmental well-being; and;

b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

4.4 The Royal Institution of Chartered Surveyors (RICS) have set out guidance specifically to deal with the disposal of assets at less than best consideration which should be followed unless there are particular circumstances that mean that it is not appropriate. It puts in place an audit trail so that the decision is demonstrably robust. The guidance requires that:

- A valuation is undertaken to determine the unrestricted value of the land and premises being transferred. The unrestricted value is the best price or market value that is reasonably obtainable for the property.
- A further valuation is undertaken to establish the restricted value of the land. The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is defined in the same way as unrestricted value, except that it should take into account the effect on value of any voluntary condition., etc.
- The value of any voluntary conditions is identified. Their value is the total of the capital values of voluntary conditions imposed by the local authority as terms of the disposal, or under agreements linked to the disposal, that produce a direct or indirect benefit to the local authority that can be assessed in monetary terms.

4.5 The Council's Community Asset Transfer Policy sets out the criteria for which community assets are considered including the need to protect the asset, investment required and community services offered. The proposal is in line with these objectives.

4.6 When disposing of land at an undervalue, local authorities must remain aware of the need to fulfil their fiduciary duty in a way which is accountable to local people.

4.7 There are no current delegations or resolutions to allow these transfers to take place at less than best consideration; best consideration being based on market values. This report, therefore, seeks to give such authorisation to the Head of Estates, who otherwise has the delegated powers to enter into property transactions on behalf of the Council.

## **5. RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

5.1 The proposal is to lease the Mission Theatre to the NSTC for a 99 year term. NSTC's annual rent as at November 2020 is £15,603 per year. This will be

abated to nil subject to NSTC delivering the community benefits generated against their business plan.

- 5.2 The transfer will take place on the basis of the current condition of the building. Granting of the new lease will lead to the surrender of the current lease, and the council to forego the annual rent, as set out above in 5.1. NSTC has identified the need for capital works valued at £110,000 and this transfer will result in avoidance of future liabilities for the council.
- 5.3 Offering a long-term lease provides the NSTC security of tenure to raise funds to improve the building as well as develop their programme of activity and identify a new performance venue for further activities.

## 6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

## 7 CLIMATE CHANGE

- 7.1 The CAT will enable a local facility to be retained for the community in the long term. NSTC will be investing in the building to improve its energy efficiency.

## 8 OTHER OPTIONS CONSIDERED

- 8.1 A number of tenancy options have been explored with NSTC, however the Community Asset Transfer has been considered the most appropriate option to support the long term objectives of the NSTC and the Council's Corporate objectives.
- 8.2 This option enables the community to retain an important performing arts resource for the long term.

## 9 CONSULTATION

- 9.1 NSTC have undertaken their own consultation with members and key stakeholders regarding their future proposals. NSTC's steering group play a key role in inputting into the vision. Engagement with local schools has already taken place. Further information is set out in the Business Plan Appendix 1.

<b>Contact person</b>	Richard Long, Head of Estates
<b>Background papers</b>	Community Asset Transfer Policy - February 2019 <a href="https://www.bathnes.gov.uk/services/neighbourhoods-and-community-safety/connecting-communities/community-asset-transfers">https://www.bathnes.gov.uk/services/neighbourhoods-and-community-safety/connecting-communities/community-asset-transfers</a>

	<p>RICS Guidance Disposal of Land at less than best Consideration</p> <p><a href="https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/real-estate/rics-public-sector-property-asset-management-guidelines-2nd-edition.pdf">https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/real-estate/rics-public-sector-property-asset-management-guidelines-2nd-edition.pdf</a></p>
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