

Finance and Resources Committee

10.00, Thursday, 1 December 2016

Festival Theatre – Proposed Acquisition of Solum of Former Shop at 13-17 Nicolson Street

Item number	7.12
Report number	
Executive/routine	Executive
Wards	

Executive Summary

This report seeks authority to acquire the solum of the former shop at 13-17 Nicolson Street, which forms part of the entrance foyer of the Festival Theatre.

The subjects are currently leased in by the Council, at a rental of £69,000 per annum, with a lease end date of 28 February 2017. Prior to this date the Council will need to enter into a new long lease with the landlord or, by 31 December 2016, exercise its option to purchase.

The Council has the opportunity to acquire the solum, with the purchase price of c. £1M funded through prudential borrowing. The rental charge to the Festival City Theatres Trust will be increased and this element of their rental package would be fixed at £86,000 per annum for 20 years to cover the borrowing cost.

Links

Coalition Pledges	P30, P31
Council Priorities	CP6, CP13
Single Outcome Agreement	N/A

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1. Recommendations

It is recommended that Committee:

- 1.1 Note the purchase of the solum of the former shop for £1M through prudential borrowing.
- 1.2 Refers the report to Full Council on 15 December 2016 to approve the prudential borrowing.

2. Background

- 2.1 In 1992, the Council refurbished and extended the former Empire Theatre in Nicolson Street to create the new Festival Theatre. Two shop premises located either side of the Empire Theatre were demolished to create the site of the new theatre's glass entrance foyer.
- 2.2 The owners of the two shops required for the project were not willing to sell to the Council at that time. To enable the Festival Theatre project to progress, the owners agreed to grant a 25 year lease of the shop premises to the Council. Both leases included an option in favour of the Council to purchase the solum of the shop premises at the expiry of the leases in 2017, subject to the Council providing written notice before 31 December 2016.
- 2.3 In 2013, the Council purchased one of the former shops, 23-27 Nicolson Street, on the same basis as proposed in this report for 13-17 Nicolson Street.

3. Main report

- 3.1 The Council entered into a 25 year lease of the former shop with effect from 1 March 1992. The current rent, with effect from 1 March 2014, is £69,000 per annum.
- 3.2 The Culture Service currently pays the rent and then recovers it from the Festival City Theatres Trust which leases the theatre premises from the Council.

- 3.3 Terms for the acquisition of the solum at 13-17 Nicolson have been provisionally agreed with the owner as follows:
- Purchase price £1,000,000
 - Legal & surveyors costs Each party will meet their own (Legal costs are estimated in the region of £1,500)
 - Land and Buildings Transaction Tax Calculated at approximately £35,250
- 3.4 A detailed business case was prepared and submitted to the Council's Finance Service. Confirmation that prudential borrowing funding can be made available to acquire the former shop solum has been received.
- 3.5 There is an option of not exercising this year's right to purchase and enter into another lease agreement with the landlord which would mean no increased rental for 3 years and a maximum 15 year lease agreement. This would mean a 25 year lease would not be possible, but the rent would remain the same for 3 years, and then increase as previously over the 15 year period offered by the landlord. The Festival City Theatres Trust requires at least a 25 year lease to allow capital development plans and associated funding requirements to be pursued and realised.
- 3.6 This opportunity to purchase would ensure that the site in its entirety is owned by the Council and that the associated costs of the site are not continually increasing. There will be no premium attached to exercising the option to purchase.
- 3.7 On concluding the purchase, the Trust will have the opportunity to negotiate a renewed lease agreement with the Council for both the Festival and King's Theatres which they require for future business planning stability and capital improvements.
- 3.8 The Festival City Theatres Trust is currently partly funded by the Council to deliver on strategic priorities. The venue is owned by the Council, and the Trust manages the venue on the Council's behalf. The repayment of the proposed borrowing will be covered as part of the agreement with the Trust and will be met by the Trust.
- 3.9 Initially, the cost to the Trust will be higher than the current lease agreement of £69,000. Over the 20 year period of prudential borrowing, as repayments are fixed, the real costs will be lower.

4. Measures of success

- 4.1 The successful conclusion of the purchase of the former shop before the end of the current lease and the full site footprint in Council ownership.
- 4.2 The report's recommendations contribute to the delivery of the following Culture Plan objectives:

- 4.2.1 ensure that everyone has access to world class cultural provision; and
- 4.2.2 develop and support the infrastructure which sustains Edinburgh's cultural and creative sectors.

5. Financial impact

- 5.1 The related costs of £1,036,750 can be met through prudential funding and the repayment through rental income from the Festival City Theatres Trust who lease the theatre premises from the Council.
- 5.2 The report outlines total capital expenditure plans of £1.037m. If this expenditure were to be funded fully by borrowing, the overall loan charges associated with this expenditure over a 20 year period would be a principal amount of £1.037m and interest of £0.684m, resulting in a total cost of £1.721m based on a loans fund interest rate of 5.2%. The annual loan charges would be £0.086m.
- 5.3 It should be noted that the Council's Capital Investment Programme is funded through a combination of General Capital Grant from the Scottish Government, developers and third party contributions, capital receipts and borrowing. The borrowing required is carried out in line with the Council's approved Treasury Management Strategy and is provided for on an overall programme basis rather than for individual capital projects. Following instruction from Members, notional loan charge estimates have been provided above, which it should be noted are based on the assumption of borrowing in full for this capital project.

6. Risk, policy, compliance and governance impact

- 6.1 Future risk could arise from Festival City Theatres Trust business failure. The Trust is monitored and audited as a Council Company. Likelihood of business failure is currently very low, and risk assessment is undertaken annually and mitigation measures are included in the detailed business case.

7. Equalities impact

- 7.1 There are no negative impacts on Equalities and Rights resulting from this report.

8. Sustainability impact

- 8.1 There are no negative impacts on Council sustainability policies, plans or strategies resulting from this purchase proposal.

9. Consultation and engagement

- 9.1 Council Officers have ensured full engagement with the Festival City Theatres Trust throughout this process.

10. Background reading/external references

- 10.1 http://www.edinburgh.gov.uk/download/meetings/id/35222/item_23_festival_theatre_-_proposed_acquisition_of_land

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11. Links

Coalition Pledges	P30 – Continue to maintain a sound financial position including long term financial planning P31 – Maintain our City's reputation as the cultural capital of the world by continuing to support and invest in our cultural infrastructure
Council Priorities	CP6 – a creative, cultural capital CP13 - Budget
Single Outcome Agreement	N/A
Appendices	N/A