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Officer delegated decision

Decision Due: 17th December 2014

Report title West Norwood Library and Nettlefold Hall Legal Agreements

Wards: Knights Hill and Gypsy Hill

Report Authorised by: Strategic Director Commissioning: Helen Charlesworth-May

Portfolio: Cabinet Member for Neighbourhoods: Councillor Jane Edbrooke

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Report summary

In April 2014, Lambeth's Cabinet approved the following recommendations with regard to the West Norwood Library and Nettlefold Hall site: to approve the principles of the Agreement to Lease set out in this report with final detailed agreement to be approved by the Strategic Director of Commissioning and the Strategic Director of Enabling. The Council and the Picturehouse commit to work in partnership on the redevelopment of the West Norwood Library and Nettlefold Hall site and that a further report be presented prior to the instigation of the construction phase of this project that will be subject to a business case, service outcomes and project cost analysis. This report aims to cover the first recommendation and seek approval to proceed to the exchange of the Agreement to Lease.

Finance summary

Financial risk has been included in the report and a further assessment that will include financial impact and commitment of the Council will be produced. A decision on whether to progress to the construction phase will be taken based on this assessment, which will include consideration of the Business case and risks. Further consultation with Cabinet may be required, in line with previous decision making on this project and the recommendation in April's Cabinet report. The Council may choose to cease this project at this time.

Recommendation

- (1) That the Picturehouse are provided with the go ahead to proceed to putting together detailed costings for the redevelopment project.
- (2) That the risks outlined in this briefing and associated appendix are considered and noted, and agreement is given to proceed with a full Business case that incorporates an analysis of the detailed project costs and the financial impact of risk.
- (3) That there is agreement to proceed to sign off and exchange of the Agreement to Lease, noting that there is an option to withdraw from future negotiations, once a Business case is completed.

1. Context

- 1.1 Interest in the West Norwood Library and Nettlefold Hall site was expressed by Picturehouse during the Co operative Libraries consultation process in early 2012. There was also interest from a supermarket chain that was considered and reported to Cabinet in October 2012. This option was discounted, as it did not meet the aims of the Council to deliver cultural and community provision as part of this site, including library services.
- 1.2 In addition, another cinema company also enquired about the site, however they did not progress their interest further than an enquiry letter. The decision to pursue the Picturehouse interest was taken by Cabinet in October 2012.
- 1.3 The final version of the Agreement to Lease, Lease and Underlease have been engrossed and await signing / sealing and exchange. The Agreement to Lease contains conditions which need to be discharged before the project can proceed to construction. These are listed below.
 - 1.3.1 Project redevelopment costs must be agreed by both parties. This condition includes how costs will be apportioned, as well as agreement to commit to the full project cost (jointly).
 - 1.3.2 Lambeth Council must commission removal any asbestos that will be disturbed by the proposed redevelopment.
 - 1.3.3 Planning & Premises license approvals must be sought and achieved by Picturehouse Ltd. A joint application for the former may be submitted.

2. Proposal and Reasons

- 2.1 At this point, a further assessment that includes the financial impact and commitment of the Council will again be made. A decision on whether to proceed to the construction phase will be taken based on this assessment, which will include consideration of the Business case and risks. Further consultation with Cabinet may be required, in line with previous decision making on this project and the recommendation in April's Cabinet report. The Council may choose to walk away from the deal at this point in time. Please see section titled 'Financial Risk to the Council' below for further details.
- 2.2 The Picturehouse Board and Lambeth Council Cabinet must give final approval to proceed to construction, once the above conditions have been discharged.

- 2.3 Staff at the Ritzy cinema have been engaged in a long running dispute with the Picturehouse regarding London Living Wage. The dispute was resolved but subsequent proposals for restructuring of the staffing led to further dispute. The Council has negotiated with the Picturehouse that, in line with Council policy, staff employed by the Picturehouse for the West Norwood cinema would be paid the equivalent of London Living Wage. Negotiations to strengthen this commitment will continue once it is known whether agreement to proceed to construction has been given.

3. Finance

- 3.1 It is estimated that the value of additional capital risk to the council will be in the region of £1m, which is due to inflation in construction, enabling works (removal of asbestos, reinstatement of electricity substation etc. and fitting out of the library space. The total project costs are expected to be within the £6m mark, with £2m coming from the Council. At present the capital costs for this project are being met from receipts, which are being generated through the Community Asset Management Plan.
- 3.2 If this additional capital pressure cannot be met through the receipts from the Community Asset Management Plan then officers are recommending the council undertake a full evaluation of the project and formal agreement by Cabinet as to the next steps, which must include an option not to pursue the project in its current format. If this is required, it is expected that a report would be prepared for Cabinet by July 2015.
- 3.3 The revenue risk at this time is no different than previously reported, the current allocation for West Norwood is £400K, if the library service provision is considered to be a town centre library provision. A final assessment of revenue costs will be known once the business case has been developed. The revenue budget will not be increased and any additional costs that may, or may not be incurred as a result of the project will be met through a reduction in funded service hours within the library.
- 3.4 If after the financial assessment is undertaken and the costs are deemed too high, there are three options available to the Council:
- 3.4.1 Renegotiation with the Picturehouse on the terms of the agreement, with a view to removing any future revenue commitment from the Council. The Library service would need to be converted to a community library model and delivered direct by the Picturehouse, in exchange for the increased up front contribution from Lambeth towards build costs.
- 3.4.2 If an alternative tenant cannot be found who will support the provision of a refurbished library the project will be referred back for a political steer from Cabinet Members.

3.4.3 This will require an alternative tenant to be sought, including a full options appraisal of the site, including market testing for any other uses for the site, would be undertaken to agree a preferred option.

4. Legal and Democracy

4.1 Independent legal advice has been provided to the Council on the issue of State Aid. The advice provided indicates that there may be a risk of challenge based on the decision to enter into negotiations with the Picturehouse and the issue of a competitive process against a partnership approach. There are also risks about the value of the turnover rent being less than the market value of the site and the capital contribution being considered to be supporting a commercial use.

5. Consultation and co-production

5.1 Since approval to commence with this proposal by Cabinet the project has been developed via a project steering group, which is chaired by the Cabinet Member for Neighbourhoods and draws its membership from ward councillors, local community forums, business representatives, and the proposed commercial developer.

6. Risk management

6.1 The risk of challenge against these areas has been assessed as low, never the less, the risk to the Council has to be considered in line with the package of risks summarised below in the Appendices. Further advice will be sought once estimates of the turnover rent are known (these are currently being sought) and once project costs are known.

6.2 A detailed risk register was prepared and submitted to Cabinet as part of the report in April 2014. This has been updated by the Council's external legal advisors and is included as a Confidential Appendix to this report. The appended risk register should be considered alongside the summary provided in Appendix 1.

7. Equalities impact assessment

7.1 This project has been subjected to a full equalities impact assessment as part of the cooperative libraries programme, which was considered by Cabinet in 2013 prior to commencement of the project.

8. Community safety

8.1 It is general agreed by all parties that the proposed development will enhance community safety in an area of West Norwood, which has been problematic, by increased footfall and improved lighting.

9. Organisational implications

9.1 Environmental

None at this stage, but further analysis at business case stage will help inform the next stage of this project.

9.2 Staffing and accommodation

None at this stage, but further analysis at business case stage will help inform the next stage of this project.

9.3 Procurement

None

9.4 Health

None

10. Timetable for implementation

Once an Agreement to Lease is signed, the Picturehouse will develop detailed project costing and schedule of works. This will lead to a further period of negotiation to ensure that costs present value for money and that the apportionment of costs between parties is acceptable. Once costs are known (likely to be within 8 weeks of Agreement to Lease being signed) a further report will be made to the Strategic Directors for Commissioning and Enabling.

| Audit trail | | | | |
|------------------------------------------------------------------------------|-----------------------------------|------------------|----------------------|--------------------------|
| Consultation | | | | |
| Name/Position | Department or Organisation | Date Sent | Date Received | Comments in para: |
| Strategic Director | Commissioning | 10.12.14 | 15.12.14 | Throughout the report |
| Strategic Director | Enabling | 10.12.14 | 15.12.14 | Throughout the report |
| Councillor | Cabinet Member Neighbourhoods | 15.12.14 | 15.12.14 | Para 3.4.2 |
| For internal reports, list internal meetings where issue has been considered | | | | |

| Report history | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Original discussion with Cabinet Member | 01.12.14 |
| Report deadline | 17.12.14 |
| Date final report sent | 17.12.14 |
| Report no. | /13-14 Democratic Services to complete |
| Part II Exempt from Disclosure/confidential accompanying report? | Yes |
| Key decision report | No |
| Date first appeared on forward plan | 01.07.12 |
| Key decision reasons | Meets community impact test |
| Background information | Cabinet report on Cooperative Libraries July 2012 Cabinet report on community hubs July 2012 Cabinet report on Cooperative Libraries October 2012 Cabinet report on Cooperative Libraries Capital Investment December 2012 Cabinet report on West Norwood Library and Nettlefold Hall redevelopment April 2014 |
| Appendices If (in rare circumstances) appendices are essential to the understanding of the report, list titles here. Ensure that appendices have proper titles. | Appendices 1 [NB Appendix deemed commercially sensitive and therefore is not published with this report] |

APPROVAL IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have been consulted on this report:

Signature _____ **Date** _____

Post John Kerridge

Associate Director Commissioning

I approve the above recommendations:

Signature _____ **Date** _____

Post Helen Charlesworth-May

Executive Director Commissioning

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature _____ **Date** _____

Post Councillor Jane Edbrooke

CABINET MEMBER: Neighbourhoods

Any declarations of interest (or exemptions granted):

Issue

Interest declared

None.