



Report to: Policy and Resources Committee, 8th June 2021

Report of: Corporate Director - Place

Subject: FUTURE HIGH STREETS PROGRAMME: ACQUISITION OF SCALA THEATRE AND PUBLIC REALM WORKS

1. Recommendation

That Policy and Resources Committee:

- 1.1 Approves the acquisition of the Scala Theatre on the terms set out in the private report;**
- 1.2 Authorises the Managing Director and the Deputy Director Governance to progress a funding agreement with Worcestershire County Council in respect of public realm works; and**
- 1.3 Authorises the expenditure of £170,000 of Future High Street Fund Grant towards advanced survey and design work for public realm schemes.**

2. Background

- 1.1 This report seeks authority to progress two of the interventions in the Future High Streets Fund programme: (i) Scala Theatre and (ii) public realm.

3. Acquisition of the Former Scala Theatre

- 3.1 The conversion of the Former Scala Theatre, currently occupied by Shipleys Amusement Centre, to create a new live performance venue in the town centre is key to the Council's FHSF proposals.
- 3.2 The Council has now completed the acquisition of the adjoining property, the former Corn Exchange, and the feasibility work commissioned confirms that the two properties together are capable of creating a new performance venue of 450 to 500 seats, together with ancillary facilities.
- 3.3 Shipleys are trading successfully from their current premises and have only been prepared to sell if suitable premises are available for the business to relocate to in an equivalent or more advantageous position, and the relocation is not a cost to the business. Furthermore, as their current premises are owned freehold, they have not been willing to consider leased premises as relocation opportunities.
- 3.4 Policy and Resources Committee has agreed the principle of using compulsory purchase powers for the acquisition of property interests required to deliver the FHSF proposals.

- 3.5 Unlike the former Corn Exchange and 8 Angel Street, which were both on the market for sale, Shipleys cannot be regarded as a willing vendor and the Council's approach to negotiations has been to agree terms that would be consistent with compensation payable under the compulsory purchase code. On this basis, the Council must have regard to the entitlement that Shipleys will have to the supplements payable on top of market value and 'disturbance compensation' covering any costs and/or loss of business reasonably incurred in relocating.
- 3.6 Furthermore, the MHCLG Guidance on Compulsory Purchase process advises that 'when offering financial compensation in advance of a compulsory purchase order, public sector organisations should, as is the norm, consider value for money in terms of the Exchequer as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publicly-funded schemes'.
- 3.7 Acquiring authorities can consider all of the costs involved in the compulsory purchase process when assessing the appropriate payments for purchase of land in advance of compulsory purchase. For instance, the early acquisition may avoid some of the following costs being incurred:
- Legal fees (both for the order making process as a whole and for dealing with individual objectors within a wider order, including compensation claims)
 - Wider compulsory purchase order process costs (for example staff resources)
 - The overall cost of project delay (for example, caused by delay in gaining entry to the land)
 - Any other reasonable linked costs
- 3.8 In order to reach early settlements, acquiring authorities should make reasonable initial offers and be prepared to work constructively with claimants about relocation issues.
- 3.9 A relocation opportunity for the Shipleys businesses has been identified in the city. The Council has indicated that it will pay the reasonable and proper costs of the relocation of the business in accordance with the provisions of the Compulsory Purchase Act 1965 and the Compensation Code, including:
- the agreed costs of fitting out the new premises
 - Other costs associated with the sale including stamp duty and other fees.
 - Non-recoverable VAT
- 3.10 Heads of Terms have been agreed for the purchase of the former Scala Theatre as set out in the private report based upon the following principles:
- Vacant possession to be given on completion
 - Subject to clean and marketable legal title
 - The grant of planning consent for the similar use of the relocated premises.

4. Public Realm Works

- 4.1 The FHSF Business Case includes proposals for extensive public realm improvements to support regeneration of the area including at Angel Street, the Cross, Nicholas Street, Trinity Street, Angel Place North, Foregate Street and Lower Broad Street. Funding identified in the business case submission amounted to £3.6m of FHSF grant and £0.2m of City Council resources from the City Plan fund.
- 4.2 Officers have discussed the proposed improvements with the County Council as highway authority. Given the existing arrangements for public realm improvements in the City Centre delivered by the County Council, often with funding contributions from the City Council, plus the benefits of a single design and delivery team offered by the County Council it is recommended that the County Council is engaged as the delivery partner for these works. This will require a funding agreement setting out the responsibilities of each party.
- 4.3 The delivery of such an extensive programme of public realm works in a 3-year period requires that surveys and design work are progressed as soon as possible. The City Council using FHSF grant monies will therefore need to commit £170,000 to surveys and design work to enable the programme to progress.

5. Preferred Option

- 5.1 The preferred options outlined in this report are:
- The acquisition of the Former Scala Theatre, currently partially occupied by Shipleys amusements, will enable the re-use of this building and the adjacent Corn Exchange as part of a new Cultural Hub as envisaged through the objectives for the Worcester City Future High Street Fund programme.
 - The City Council progresses the delivery of public realm work through the County Council managed through a funding agreement and funds £170,000 of survey and advanced design works.

6. Alternative Options Considered

- 6.1 As regards the acquisition of the former Scale Theatre, as part of the development of the FHSF business case, alternative locations for a live performance venue were considered, but none of these would be able to be delivered within the timescales of the FHSF programme and were considered to be prohibitive in terms of cost. The former Scala Theatre represents a highly accessible central location for a performance venue this opportunity would be lost if the acquisition were not to proceed.
- 6.2 In terms of public realm works officers have considered alternative options to engage private sector design and construction organisations to deliver public realm works. However, the County as highway authority and with extensive experience in this field represent value for money and opportunity for speed in delivery.

7. Implications

7.1 **Financial and Budgetary Implications**

The acquisition costs of the Scala Theatre and the related relocation costs of Shipleys are within the overall budgeted costs and contingencies allowed for within the FHSF submission. These costs are within the profiled funding set out in the MOU, although the contingency element for 2021/22 will be exceeded and will require funds to be drawn forward from 2022/23. MHCLG have indicated that bringing forward elements of the capital funding can be approved through the annual negotiation process. However, in the event that this cannot be agreed, cashflows will be maintained through internal borrowing and subsequently reconciled.

While all costs identified in the report are within budgets and current contingencies, there may be a need to set revised contingencies as the project proceeds. Further assessments will be reported to committee in due course.

7.2 **Legal and Governance Implications**

7.2.1 The Council has powers under s120 Local Government Act 1972 to acquire land for the purpose of any of its functions or for the benefit, improvement, or development of its area. In addition, the Council has a power of general competence under s1-4 Localism Act 2011 to do anything an individual can do, subject to any statutory prohibitions which may be in place. The Council must nevertheless act reasonably in the exercise of these powers, having regard to its overall fiduciary duty and must ensure that any expenditure on property acquisitions represents best value. The Council must have regard to its own policy framework including its Development Fund and investment policies. The independent valuation advice that the Council has secured helps give assurance that the acquisition represents best value for money.

7.2.2 In respect of the proposed property acquisition, full legal due diligence will be undertaken prior to the exchange of contracts so that the rights and liabilities relating to the property are understood.

7.2.3 In respect of the public realm works, a funding agreement with the County Council will help ensure that the City Council can secure delivery of the relevant outputs for which it is accountable under its MoU with Government.

7.3 **Risk Implications**

7.3.1. The FHSF programme has developed a risk register that will be regularly updated as part of programme management. In respect of the Former Scala acquisition the principal risks are:

- Failure to obtain planning consent and appropriate licences for the relocation of the amusement arcade business.
- Substantial programme overruns on the refurbishment of the former Bright House property delays vacant possession of the Former Scala Theatre
- Legal due diligence reveals faults in the title to the Scala Theatre ownership.

7.3.2. The above risks will be addressed through the legal agreement associated with the purchase of Shipleys Amusements and by the programme board with appropriate liaison with planning and licencing colleagues.

7.4 **Corporate/Policy Implications**

7.4.1. The Future High Street Fund programme accords with the City Plan. In particular it will help to deliver on the following themes:

- A Prosperous City by increasing visitor numbers to the City Centre and providing new economic spaces.
- Stronger and Connected Communities – by providing new community assets in the form of a performance venue designed and appropriate for use by local communities.
- A Heritage City for the 21st Century - by protecting and supporting the re use of a number of heritage assets such as the Corn Exchange
- Sustaining and Improving Our Assets -through new public realm improvements.

7.5 **Equality Implications**

None directly arising from this report. The public realm works will be designed to comply with best industry standards in respect of accessibility and equalities.

7.6 **Human Resources Implications**

None directly arising from this report.

7.7 **Health and Safety Implications**

None.

7.8 **Social, Environmental and Economic Implications**

7.8.1 The FHSF programme will deliver the following.

- 140 new direct jobs.
- Gross Value Added to the Local Economy of £4.2m pa.
- Increased attendance at events of 70,000 per annum.
- over 4,000 sqm of new and refurbished cultural and business space.
- 50 additional residential units.
- 22,500 sqm of public realm improvements.

7.8.2 These outputs will deliver positive outcomes to the City of Worcester of including: greater diversity within the city centre; new places for leisure and entertainment; increased range and diversity of cultural events and activities; more attractive and coherent routes between city's functional areas; more city centre housing; increased footfall and dwell time; reduced vacancy rate, and increased private sector investment.

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Background Papers: None