

**THE OLD LIBRARY AND THE NORWEGIAN CHURCH: PRE-DECISION
SCRUTINY**

Appendices 3, 4, 5 and 7 of the Cabinet Report are not for publication as they contain exempt information of the description contained in paragraph 14, Part 4 and paragraph 21, Part 5 of Schedule 12A of the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose of the Report

1. To give Members background information to aid the scrutiny of the draft report to Cabinet regarding the Old Library and the Norwegian Church, which is due to be considered by Cabinet at their meeting on 18 November 2021.
2. Members should note that **Appendices 3, 4, 5 and 7** of the Cabinet report are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors.

Scope of Scrutiny

3. At their meeting on 18 November 2021, the Cabinet will consider a report that updates Cabinet on proposals regarding the Old Library and the Norwegian Church. The report seeks Cabinet authority to dispose of the long leasehold for the Old Library, and Cabinet approval to write off any outstanding debt of the Norwegian Church Charitable Trust and to delegate authority to the Director of Economic Development to progress and conclude the transfer of the Norwegian Church Charitable Trust to the newly established Norwegian Church Cardiff Bay Charity.

4. During this scrutiny, Members can explore:
 - i) The proposals regarding the Old Library
 - ii) The proposals regarding the Norwegian Church
 - iii) Whether there are any risks arising for the Council
 - iv) The Financial Implications for the Council
 - v) The timeline and next steps for delivering these proposals
 - vi) The recommendations to Cabinet.

Structure of the meeting

5. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the issues and papers that are in the public domain; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to **Appendices 3, 4, 5 and 7**.
6. Members will hear from Councillor Peter Bradbury (Cabinet Member – Culture & Leisure), Councillor Russell Goodway (Cabinet Member – Investment and Development), Neil Hanratty (Director of Economic Development), Kathryn Richards (Head of Culture, Venues, Tourism & Events) and Jon Day (Operational Manager – Economic Policy). There will be a presentation taking Members through the proposals and recommendations to Cabinet, followed by Members questions.
7. Also in attendance will be Dr. Martin Price, Chair of the newly established charity for the Norwegian Church, Cardiff Bay. Dr. Price is a member of a co-operative of experienced third sector consultants and has held several senior management roles in the voluntary sector in Wales. He is Chair of Social Firms Wales, a Board Member of the Development Trusts Association Wales, and a Board Member of the UK Fundraising Regulator. He was Chair of The Institute of Fundraising Cymru for several years and a UK Trustee of the Institute and was Vice Chair of the BBC Wales Charity Advisory Forum. Further information is available at: [Martin Price | consultancy.coop](http://MartinPrice|consultancy.coop)

8. Members will then be able to decide what comments, observations, or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

Background

9. In November 2018, Cabinet considered a report titled '*Securing the Future of Cardiff's Heritage Buildings*' and approved its recommendations. These included the need to consider, on a case-by-case basis, the future operating model of each of the Council's heritage assets to fully reflect their value and potential. One recommendation tasked officers to secure a tenant for the Norwegian Church. These recommendations were made against the backdrop of increasing costs for the Council, due to significant maintenance liabilities and high operating costs, and recognition that the heritage buildings are an important part of the city's infrastructure and contribute to Cardiff's quality of place.
10. The Old Library currently operates at a deficit. It is currently occupied by the Museum of Cardiff, the Welsh Language Centre, University of Wales Trinity St. David's, and Virgin Money. Apart from the Museum of Cardiff and Virgin Money, the other leases are due to expire 30 November 2021, with no automatic right of renewal.
11. The Norwegian Church currently operates at a deficit. In 2019, the Council acquired the Britannia Park area, which included the freehold of the site of the Norwegian Church. The Council is also the leaseholder as Sole Trustees of the Norwegian Church Preservation Trust, with the lease due to expire in 2027.
12. The draft report to Cabinet entitled '*Old Library and Norwegian Church*' is attached at **Appendix A** and has **seven** appendices:
 - **Appendix 1** - Site Plan
 - **Appendix 2** - Marketing Particulars
 - **Confidential Appendix 3** – Preferred bidder offer form
 - **Confidential Appendix 4** – Preferred bidder Scheme Proposal
 - **Confidential Appendix 5** - Proposed Heads of Terms
 - **Appendix 6 - Income and Expenditure** – Norwegian Church Charitable Trust
 - **Confidential Appendix 7** - Norwegian Church Cardiff Bay Business Case

Issues identified in the Cabinet Report

13. **Points 19-31** of the report to Cabinet present the proposals for the Old Library.

They set out the following:

- i) The budget deficit in recent years - £160,000 (2019/20), £134,000 (2020/21) and forecast £146,000 (2021-22).
- ii) In May 2021, the Council undertook a marketing exercise to seek offers to take a leasehold interest in the property. As a result of the marketing, two offers were submitted by the tender deadline.
- iii) Bidders were required to accommodate continued occupation by the Museum of Cardiff and Menter Caerdydd. In addition, Virgin Money have a commercial lease expiring February 2035.
- iv) The preferred party was selected based upon its all-round proposal for the future use of the building.

14. The Preferred Bidder is the Royal Welsh College of Music and Drama. The proposal is set out in **Confidential Appendix 4** and summarised at **Points 26-29**, including the following:

- i) Restore the building to showcase its original features
- ii) Use the building to facilitate the education and work of the College's students, providing performance, exhibition, and rehearsal spaces
- iii) Provide a public access 'city living room', housing a café/ creative workspace and performance space
- iv) Performances in the public realm in immediate facility of the building
- v) Promote and protect the Welsh language with a new partnership between the Welsh Language and Cultural Centre and the College.

15. The Heads of Terms are attached at **Confidential Appendix 5** and include a 99-year full repairing and insuring lease at a peppercorn rent that provides for the passing of commercial income receivable on the Virgin Money unit to the Council, and for the continued occupation of Cardiff Museum and Menter Caerdydd.

16. The report to Cabinet states that

'Whilst a peppercorn rent does not provide for a commercial income return, this is outweighed by the social, environmental and economic benefits outlined above.'

17. **Points 31- 42** of the report to Cabinet present the proposals for the Norwegian Church. They set out the following:

- i) The Council were elected as trustees to the Norwegian Church Preservation Trust in 2006
- ii) The Trust has operated at an average deficit of circa £20,000 per annum in the five years prior to the pandemic. The Council subsidises the operation of the Trust.
- iii) Following Cabinet approval of recommendations in the report to Cabinet in November 2018, expressions of interest were sought to manage and run the premises by way of a long lease.
- iv) The Welsh Norwegian Society (WNS) expressed their keen interest in having the opportunity to prepare a business case to take over the Church. The commercial market exercise was suspended to allow the WNS to develop a fuller business case.
- v) A new working group was established that included local businesspeople as well as individuals with experience of running and managing charitable organisations. The business case is attached as **Confidential Appendix 7**.
- vi) The WNS has created an Incorporated Charity known as the Norwegian Church Cardiff Bay. The proposal is to transfer the assets associated with the Norwegian Church Charitable Trust to the Norwegian Church Cardiff Bay and then dissolve the former.
- vii) The Council has provisionally agreed to offer a new 25-year lease to commence on the same terms as the existing upon expiry of the existing lease in 2027. The freehold will remain with the Council.
- viii) There are obligations on the Council to discharge, including ensuring the building is fit and proper before transfer.

18. The report to Cabinet also sets out that it is proposed the current deficit of the Trust is written off; this currently stands at £122,808.

19. The **Financial Implications** are at **Points 44-49** and include the following for the Old Library:

- i) The proposal for the Old Library has no requirement for a future operating subsidy from the Council
- ii) There is a rental income target for the Old Library of £125,000, in addition to the Virgin Money rental income, which would need to be managed within the overall revenue budget for the Directorate
- iii) Any costs identified by the planned building condition survey would need to be prioritised from existing capital and revenue budgets.
- iv) Further clarification is required on any VAT and land transaction tax implications.

20. With regards to the Norwegian Church, the financial implications include the following:

- i) The transfer of the Norwegian Church to the Norwegian Church Cardiff Bay charity is subject to receipt of a financially viable business case and due diligence exercise.
- ii) Works required to bring the building up to standard are currently estimated to be circa £90,000, and the funding source is still to be confirmed
- iii) The requested write-off amount of £122, 808 is as at the end of March 2021.
- iv) The revenue income target of £23,000 for the catering concession will need to be managed within the overall revenue budget for the Directorate.

21. The **Legal Implications** are at **Points 50- 61** and explain:

- i) Where the power comes from for disposing of the lease for the Old Library and for disposing of the lease for less than best consideration
- ii) The legal basis for transferring trust property for less than best consideration to another charity and for the Council to wind up the Charity

- iii) The Council's responsibilities regarding the Equality Act 2010, including the Socio-Economic Duty and Equality Impact Assessments, the Welsh Language (Wales) Measure 2011, the Welsh Language Standards, and the Wellbeing of Future Generations (Wales) Act 2015
- iv) The responsibility of the decision maker to be satisfied the proposal is within the Policy and Budgetary Framework.

22. The **Property Implications** are at **Points 62-68** and include:

- i) Old Library - The short-term lease term available and the requirements to serve as a Welsh Language Centre have limited the pool of potential tenants, resulting in the inability to let the property effectively and fully with a consequence that income receivable is less than the costs to repair, maintain and run the building as a public building. The proposed letting will secure future public use of the building and mitigate the Council's ongoing repair and maintenance liability.
- ii) Norwegian Church – following discussions with legal colleagues and engagement with the Charity Commission, the proposed recommendations will ratify the governance around the Church, provided there is a robust business case for the future running of the Church. Consequently, the Council has confirmed their willingness to extend the lease to enable access to grant funding.

23. The HR Implications are at **Points 69-70** and state that there are no implications relating to the Old Library leasehold proposals or the transfer of assets re the Norwegian Church.

Proposed Recommendations to Cabinet

24. The report to Cabinet contains the following recommendations:

Cabinet is recommended to delegate authority to the Director of Economic Development, in consultation with the Cabinet Member for Investment & Development, the Section 151 Officer and the Legal Officer to:

- a) *Conclude the leasehold disposal of the property known as The Old Library, Trinity Street marked red on the site plan attached at Appendix 1 to the preferred bidder*

outlined in this report and in line with the Heads of Terms set out in Confidential Appendix 5.

- b) Transfer the assets of the Norwegian Church Preservation Trust to the Norwegian Church Cardiff Bay Charitable Incorporated Organisation as outlined in this report.*
- c) Write off any outstanding debts of the Norwegian Church Preservation Trust in advance of the transfer.*
- d) Dissolve the Norwegian Church Preservation Trust once the transfer of assets has taken place.*

Previous Scrutiny

25. In November 2018, this Committee undertook pre-decision scrutiny of the report to Cabinet titled '*Securing the Future of Cardiff's Heritage Buildings*'. Overall, Members were supportive of the recommendations to Cabinet, with the proviso that further reports would be brought to Cabinet on detailed proposals for all heritage buildings and that these would flesh out the financial assumptions.

Members stated that they:

- i) Were pleased to see a strong, upfront statement that there is resolute commitment to retain Council ownership of heritage buildings
- ii) Recognise the need to find alternative uses for these buildings that sustains their future whilst retaining these valuable cultural and historical assets for future generations
- iii) Stress the need to ensure that future uses do not dilute the heritage value of these buildings
- iv) Raised the possibility to use organisations with expertise and experience in securing heritage buildings, such as the National Trust and/or CADW and **recommend** the Council seek input from these organisations to gain their views on proposals and include these views in future reports to Cabinet
- v) Given these are significant buildings, maintenance costs and risks need to be considered alongside other risks including reputational risk to the Council if handover to other operators proves unsuccessful. Members note further work is required to understand the possible risks associated with listed building status, trust status, covenants, and grant conditions. Members expect these risk assessments to be detailed, with appropriate legal advice, in future reports to Cabinet.¹

¹ Extracts from the letter from the Chair, Councillor Nigel Howells, to Cabinet Members Councillor Peter Bradbury and Councillor Russell Goodway, dated 9 November 2018

26. A response was received from Councillor Goodway, Cabinet Member Investment & Development, dated 2 April 2019, which thanked Members for their support, noted the comment regarding the need to ensure input from organisations with expertise in securing heritage buildings is sought and committed to ensuring this took place and was referenced in future reports.

Way Forward

27. Councillor Peter Bradbury (Cabinet Member – Culture & Leisure) and Councillor Russell Goodway (Cabinet Member – Investment and Development) will be invited to make a statement. Neil Hanratty (Director of Economic Development), Kathryn Richards (Head of Culture, Venues, Tourism & Events), Jon Day (Operational Manager – Economic Policy) will attend to give a presentation. They and Dr. Price, Chair Norwegian Church Cardiff Bay, will be available to answer Members' questions on the proposals.

28. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 3, 4, 5 and 7**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

29. The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

30. The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting
- ii) Determine whether they would like to make any comments, observations, or recommendations to the Cabinet on this matter in time for its meeting on 18 November 2021, and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

11 November 2021