

CARDIFF COUNCIL CYNGOR CAERDYDD

CABINET MEETING: NOVEMBER 18 2021

OLD LIBRARY AND NORWEGIAN CHURCH

Cllr Russell Goodway – Cabinet Member for Investment and Development

Cllr Peter Bradbury - Cabinet Member for Culture & Leisure

AGENDA ITEM:

Appendices 3, 4, 5 and 7 of this report are not for publication as they contain exempt information of the description contained in paragraphs 14 of part 4 and paragraph 21 of part 5 of Schedule 12A of the Local Government Act 1972.

Reason for this Report

1. To update Cabinet of the Council's progress in securing the future of Cardiff's heritage buildings.
2. To seek authority for the long leasehold disposal of the property known as The Old Library, Trinity Street, Cardiff.
3. To update Cabinet on proposals to transfer the assets of the Norwegian Church Charitable Trust to a new charitable body led by the Welsh Norwegian Society, including transferring the current lease of the Norwegian Church.
4. To delegate authority to the Director of Economic Development to progress and conclude the transfer of the Norwegian Church Charitable Trust.
5. To approve to write off of any outstanding debt of the Norwegian Church Charitable Trust.

Background

6. The Securing the Future of Cardiff's Heritage Buildings report presented to Cabinet in November 2018 outlined the Council's approach to securing investment into the city's heritage buildings. The report noted that Cardiff Council has several significant heritage assets which are predominantly

public buildings. As a result of significant maintenance liabilities and high operating costs the report noted increasing cost implications to the Council in operating and maintaining these buildings. The age of the buildings and their status also meant that the cost of addressing the maintenance backlog is difficult to predict and manage. Subsequently it was identified that the city's historic assets are becoming a growing financial liability for the Council.

7. Nonetheless, the report also outlined that it is clear heritage buildings are an important part of the city's infrastructure and make an outstanding contribution to the quality of place enjoyed in the city. As such, the Council recognises its responsibility to ensure that the historical assets under its custodianship are well maintained and looked after in order to encourage assets in private ownership to be equally well maintained.
8. The report noted a need, on a case-by-case basis, to consider the future operating model of each of the Council's heritage assets to fully reflect their value and potential. Capital Ambition, which outlines the political administration's vision for the city, includes a commitment to "Bring forward a business-led strategy designed to address the backlog in maintenance of the city's most historic buildings and equipping them with the technology required to enable us to find new uses which will contribute to the delivery of the Council's economic development agenda."
9. The November 2018 report noted both the Old Library and the Norwegian Church as key buildings within the Council's control that required consideration. This report provides an update on progress relating to these two buildings.

The Old Library

10. The Old Library opened in 1882 having been designed by James, Seward and Thomas. A prime example of Victorian architecture, the property is listed with a Grade 2 star status. The primary areas of the building are currently occupied by the Council funded Museum of Cardiff and a commercial lease to Virgin Money. The upper floors are currently partially occupied by the Welsh Language Centre. The building has benefitted from a comprehensive up-grade in recent years through grants from various sources including the Heritage Lottery Fund for the Museum of Cardiff and Welsh Government in support of the Welsh Language Centre. Nonetheless, the age of the building necessitates an on-going maintenance requirement, and the backlog is substantial.
11. The Old Library is also operating at a deficit, largely due to the low rental income derived from the existing tenant base. Excepting the occupation by the Cardiff Museum, occupation is by way of commercial leases which expire on 30th November 2021, with no automatic right of renewal. This presents the Council with an opportunity to consider ways to mitigate the cost of ongoing repair and maintenance of this heritage asset. Therefore, in May 2021, the Council commenced a marketing exercise to seek offers to take a leasehold interest in the property. Marketing particulars were

prepared (**attached as Appendix 2**) and any interested parties were asked to submit offers in a prescribed form.

The Norwegian Church

12. The Norwegian Church occupies a prime location in Cardiff Bay and has become an iconic building on the Cardiff waterfront.
13. The freehold owner of the Church was Associated British Ports until 2019 when the Council acquired the Britannia Park area. By virtue of the acquisition, the Council is now the freeholder of the site which is subject to a 25 year lease to the Council as Sole Trustees of the Norwegian Church Preservation Trust. The lease expires in 2027.
14. At present, the building is not maximising its commercial potential to the extent that it currently requires a subsidy from the Council to operate. In the current budgetary climate this is not sustainable, and given its prime location is also not necessary. To meet its full potential the building also requires investment both in the fabric of the building and its immediate surrounds.
15. Whilst being mindful of the current Trust arrangements, Cabinet resolved to provide authority for officers to explore the potential to attract a tenant that will invest in the Church and the adjacent area to remove the maintenance backlog and operating subsidy.
16. As a result of the above issues, it was resolved at the November 2018 Cabinet meeting to: *delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Investment and Development and relevant officers to explore the various approaches set out in the report and to return to future meetings of Cabinet for final decisions on each opportunity.*
17. At the meeting it was further resolved to: *Delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Investment and Development and relevant officers to secure a tenant for the Norwegian Church subject to any issues relating to its current Trust status being appropriately resolved.*

Issues

Old Library

18. A major aim of reviewing the Old Library's operating model is to mitigate the Council's ongoing exposure to the repair and maintenance of the building. The property has been running with a budget deficit in recent years of £160,000 (FY19/20); £134,000 (FY20/21); and £146,000 (FY21/22 – forecast).
19. Current occupiers of the property include the Museum of Cardiff, Menter Caerdydd, and the University of Wales Trinity St David. During marketing

of the property, bidders were required to accommodate continued occupation by the Museum of Cardiff and Menter Caerdydd.

20. In addition, Virgin Money occupy a self-contained ground floor unit accessed from Working Street, by way of a commercial lease expiring in February 2035.
21. The Museum of Cardiff is a Council operated museum currently operating from 10am to 4pm Wednesday to Saturday. The Museum tells the story of Cardiff and the people who have lived, worked and played here over the centuries. The Museum currently occupies the part ground floor and basement of the main building. The Museum will remain in situ.
22. In May 2021, the Council undertook an exercise to seek offers from the market via independent agents who were appointed to manage the process. As a result of the marketing, three interested parties undertook physical inspections, and four tender packs were requested.
23. Two offers were submitted by the tender deadline of 11 June 2021, and the bids were subsequently summarized. The preferred party was selected based upon its all-round proposal for the future use of the building.
24. The Preferred Bidder is Royal Welsh College of Music & Drama. The offer form submitted by the College is attached at **Confidential Appendix 3**, and its scheme proposal for the building at **Confidential Appendix 4**.
25. The Royal Welsh College of Music & Drama is part of the University of South Wales Group and a member of Conservatoires UK, Federation of Drama Schools, and the European Association of Conservatoires. It is the National Conservatoire of Wales and provides specialist practical and performance-based training in music and drama, enabling students to enter and influence the world of music, theatre, and related professions.
26. A comprehensive initial design proposal, prepared by Flanagan Lawrence Architects, aims to restore the building to showcase its original features whilst retaining the original building layout and respecting the building's Grade II* status. The College plans to return the Old Library to its original educational function and introduce a series of performance, exhibition, and rehearsal spaces into the existing rooms. The building will facilitate the education and work for the College's students whilst providing public access to a "city living room" on the ground floor, housing a café/creative workspace and performance space. The College aims to make "RWCMD at Old Library" a focal point for the performing arts in the city centre.
27. The College aims to bring the space to life with music, drama and a range of live performance as a magnet for local people and to draw people in, as a space for the public to enjoy immersive experiences and a diverse range of talents. This will also include performances in the public realm in the immediate vicinity to the building, providing daytime music and animation in the Hayes sensitive to and in keeping with the surrounding area. This is also all aimed at supporting the delivery of the city's Music Strategy.

28. An important aspect of the College's ambition for the location is to build on the foundations of recent work at the Old Library in respect of the Welsh language. The intention is for the Welsh Language and Cultural Centre's aims to promote and protect the Welsh language in the City to be taken forward in a newly compelling way through a partnership with the College. The College plans offer to continue to house the Welsh Language Centre at the Old Library and Menter Caerdydd and Menter Bro Morgannwg have stated that language provision in the arts is very important and that they are looking forward to developing such opportunities in this city centre location.
29. Additionally, alongside ambitions for their learning and public performance programme in future, the College is developing a living archive of Welsh language with Welsh music, and poetry and plays by Welsh writers. Going forward, the College intends to continue its showcase of Welsh artists and works, including innovative work from Welsh language writers, musicians and composers.
30. The Council's external agents have been negotiating terms with the College and the latest set of Heads of Terms are attached as **Confidential Appendix 5**. These terms comprise a new 99 year full repairing and insuring lease contracted inside the security of tenure provision of the Landlord and Tenant Act 1954 at a peppercorn rent that provides for the passing of commercial income receivable on the Virgin Money unit to the Council. The Heads of Terms also provides for the continued occupation of Cardiff Museum and Menter Caerdydd. Whilst a peppercorn rent does not provide for a commercial income return, this is outweighed by the social, environmental and economic benefits outlined above.

Norwegian Church

31. The Council were elected as trustees to the Norwegian Church Preservation Trust in 2006 and assisted with running the facility. The Norwegian Church Charitable Trust currently holds the lease for the Norwegian Church, in line with its charitable objectives which are:
 - *To advance the education of the public by promoting the permanent preservation and maintenance of the church as a museum; and*
 - *The provision of facilities for recreation and other leisure time occupation for the benefit of the inhabitants of Cardiff for the object of improving the conditions of life.*
32. The Trust is currently subsidised by the Council as a result of an operating deficit, and as part of the Heritage Cabinet report in 2018 officers were asked to review alternatives to secure a sustainable use for the building. For the five years prior to the pandemic the Trust operated at an average deficit of circa £20,000 per annum, as outlined in Appendix 6.
33. The majority of the income of the Norwegian Church Preservation Trust has come from the operation of the café concession, run by Cardiff

Council, which provides 12% gross turnover. As a result of the set gross turnover the cost of running the operation the Council also typically runs a loss on the concession. The Trust had also previously benefited from income streams associated with Cardiff Harbour Authority and the use by other Council teams that have supported the operation.

34. Given this, the 2018 Cabinet report authorised the Director of Economic Development in consultation with the Cabinet Member for Investment and Development and relevant officers to secure a tenant for the Norwegian Church subject to any issues relating to its current Trust status being appropriately resolved.
35. Subsequently local agents were appointed to seek expressions of interest in the opportunity to manage and run the premises by way of a long lease. The draft marketing material drew particular attention to the requirement for a sympathetic refurbishment and proposals to align with the aims of the Charitable Trust given.
36. During this time the Welsh Norwegian Society contacted the Council to express their keen interest in having an opportunity to prepare a business case to take over the Church. It was subsequently agreed that given the charitable aims of the Trust, and its alignment with the Welsh Norwegian Society, that the Council would allow for the Welsh Norwegian Society to develop a proposal for taking on the operation of the Norwegian Church.
37. Following this, the Welsh Norwegian Society undertook a crowdfunding exercise to raise funds to undertake a feasibility exercise to develop a business case to take on control and responsibility for the running of the Norwegian Church. The campaign successfully raised £4,000 that was match funded by the Architectural Heritage Fund.
38. Following the completion of the feasibility study, the Council agreed to continue to suspend any commercial market exercise to allow the Welsh Norwegian Society to develop a fuller business case that would outline how they would intend to govern, manage and operate the Norwegian Church. To do this a new working group was established that included local businesspeople, as well as individuals with experience of running and managing charitable organisations. The Welsh Norwegian Society also negotiated support from a local business. Subsequently, the WNS has prepared a business case which is attached as **Confidential Appendix 7**.
39. In preparation for any future transfer, the WNS have also created an Incorporated Charity known as the Norwegian Church Cardiff Bay Charitable Incorporated Organisation. Their proposal is to transfer the assets associated with the Norwegian Church Charitable Trust to the Norwegian Church Cardiff Bay Charitable Incorporated Organisation. This will include an inventory of fixture and fittings and the current lease which expires in 2027. In addition to this, charities normally seek lease commitments of 25 plus years and therefore 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. Note that the freehold for the building will remain with Cardiff Council in its capacity as

a local authority and that the transfer of trust assets primary concerns the transfer of the lease arrangements. Transferring the trust assets to a separate body will also assist the Council in managing any conflict of interests as freeholder and trustee tenant.

40. It is proposed that subject to the necessary due diligence that the Council will seek to undertake the process outlined in the paragraph above. In addition, there are obligations on the Council to discharge, including ensuring the building is fit and proper before transfer. It is proposed therefore that the Council will provide that the Church is in good working order prior to any transfer.
41. It is also proposed that the current deficit of the Trust is written off. The deficit currently stands at £122,808, and this would require Cabinet approval to be written off. It should be noted that, given the Norwegian Church is currently running at an operating deficit, it is unlikely in the short to medium term that this could be addressed through the current operating model.
42. Once the transfer has been concluded the Norwegian Church Charitable Trust will be dissolved as it will have no further purpose, with its charitable aims and objectives having been taken on by the Norwegian Church Cardiff Bay Charitable Incorporated Organisation.

Reason for Recommendations

43. To secure the long-term future of these historic heritage buildings and to preserve public access to them

Financial Implications

44. Both buildings which are the subject of the report have been operating in recent years at a revenue deficit.
45. The proposal at the Old Library is for a commercial lease with the tenant committing to investment in the building with a full repairing and insuring lease. There is no requirement for a future operating subsidy from the Council. In addition, the lease provides for the transfer of the rental income on the Virgin Money unit to the Council in line with the existing income target for the Investment Estate. The rental income target for the remainder of the Old Library at £125,000 would need to be managed within the overall revenue budget for the Directorate.
46. Whilst there are no works specified for the Council to undertake prior to any transfer at this stage, the planned building condition survey may highlight risks in this regard and any liabilities on the Council should be clearly identified and agreed as part of the final Heads of Terms. Any such costs would need to be prioritised from existing capital and revenue budgets. Further clarification is also required on any VAT and land transaction tax implications.

47. It is proposed that the Norwegian Church is transferred to the Welsh Norwegian Society through a new Incorporated Charity – the Norwegian Church Cardiff Bay. This transfer is subject to receipt of a financially viable final business case and due diligence exercise. The WNS would take on the existing lease which expires in 2027 and has requested a 25 year lease extension upon expiry of the existing lease.
48. Works to bring the building up to standard are currently estimated to be in the region of £90,000 for which the funding source is still to be confirmed.
49. The report also requests approval for write off of the cumulative trading deficit for the Norwegian Church prior to any transfer. This amounted to £122,808 at the end of March 21. In addition, there is a revenue income target of £23,000 for the catering concession at the church which will need to be managed within the overall revenue budget for the Directorate.

Legal Implications

50. With reference to the proposed lease of the Old Library, Section 123 of the Local Government Act 1972 gives power to the Council to dispose of land, including disposal by way of grant of a lease, in any manner it sees fit. Under section 123(2) a local authority shall not dispose of land, other than way of short tenancy of less than seven years, for less than best consideration reasonably obtainable without ministerial consent. The Council's Disposal and Acquisition of Land Procedure Rules also requires the decision maker to have regard to advice from a qualified valuer, to ensure value for money.
51. The Local Government Act 1972 General Consent (Wales) Order 2003, local authorities may dispose of land for less than best consideration, providing the undervalue does not exceed two million pounds, and where the authority considers that this will help to contribute to the social, environmental or economic well-being of its area. The justification for the undervalue is set out in the body of this report.

Trust Implications

52. With reference to the Norwegian Church, the Council holds a dual role in that it owns the freehold of the church in its capacity as a local authority, whilst the lease is held in its capacity as a charity trustee. Transactions concerning trust property are subject to charitable law and any decision to transfer the existing lease should take into account what is in the best interests of the charity rather than the local authority. Under Sections 117(3) of the Charities Act 2011, a charity trustee may dispose of trust property for less than best consideration to another charity without the need for an order from the Charity Commission and without the need to comply with the requirements set out in the Charities Act 2011 with regard to obtaining advice from a qualified surveyor and obtaining the best terms reasonably obtainable. This is providing that the objects of the receiving charity are of a similar nature and no wider than the disposing charities objects. The Declaration of Trust under which the Council manages the

existing Trust contains a power of disposal of trust property, and also, power to wind up the Charity.

Equalities & Welsh Language

53. In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must, in making decisions, have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are: (a) Age, (b) Gender reassignment, (c) Sex (d) Race – including ethnic or national origin, colour or nationality, (e) Disability, (f) Pregnancy and maternity, (g) Marriage and civil partnership, (h) Sexual orientation (i) Religion or belief –including lack of belief.
54. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers ([WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 \(gov.wales\)](#)) and must be able to demonstrate how it has discharged its duty.
55. An Equalities Impact Assessment aims to identify the equalities implications of the proposed decision, including inequalities arising from socio-economic disadvantage, and due regard should be given to the outcomes of the Equalities Impact Assessment.
56. The decision maker should be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

The Well-being of Future Generations (Wales) Act 2015

57. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible. In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The wellbeing objectives are set out in Cardiff's Corporate Plan 2020 -23.
58. When exercising its functions, the Council is required to take all reasonable steps to meet its wellbeing objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the wellbeing objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.

59. The wellbeing duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
- Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
60. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible on line using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

Policy and Budget Framework

61. The decision maker must be satisfied that the proposal is within the Policy and Budget Framework, if it is not then the matter must be referred to Council.

Property Implications

62. Strategic Estates have been managing the Old Library Building over recent years, and although some commercial tenants have been attracted, the short lease term available and the requirements to serve as a Welsh Language Centre have limited the pool of potential tenants and its attractiveness to the wider market.
63. The inability to let the property effectively and fully has resulted in the income receivable being less than that required to repair, maintain and to run the building as a public building.
64. Agents were appointed by the Estates Department to market the building in May 2021 and following a marketing exercise, the preferred party was selected and the Heads of Terms negotiated.
65. Completion of the letting will secure future public use of the building and mitigate the Council's ongoing repair and maintenance liability.
66. Whilst a peppercorn rent does not provide for a commercial income return, this is outweighed by the social, environmental and economic benefits outlined above.

67. The Norwegian Church was managed internally and Strategic Estates were supportive of taking this opportunity to occupy and manage a landmark building in Cardiff Bay to the market place to seek expressions of interest. As part of this remit, the Council have addressed the Trust and sought to resolve the governance around this.
68. The Norwegian Church is currently subject to a lease to the Trust although the Council acquired the freehold recently, and is also the Trustee. Following discussions with legal colleagues and engagement with the Charity Commission, the proposed recommendations will ratify the governance around the Church provided that the Welsh Norwegian Society can provide a robust business case for the future running of the Church. In order to do this, they have also asked for confirmation that the Council will be willing to extend the lease and Heads of Terms have been issued for a reversionary lease to enable them to access grant funding.

HR Implications

69. There are no HR implications relating to the leasehold for the Old Library as the Council services will continue unchanged.
70. There are no HR implications for the transfer of assets from the Norwegian Church Preservation Trust and its subsequent dissolution as any posts relating to the Norwegian Church were included in savings proposals for 2021/22 and are currently being actioned following corporately agreed processes.

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.

NEIL HANRATTY

**DIRECTOR OF ECONOMIC
DEVELOPMENT**

The following appendices are attached:

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

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