

Report of : The Director of City Development

To : Executive Board

Date: 13 JUNE 2007

**Subject: PROPOSED DEVELOPMENT OF A DANCE HEADQUARTERS ON QUARRY HILL FOR NORTHERN BALLET THEATRE COMPANY AND PHOENIX DANCE THEATRE
Capital Scheme Number :- 00641 / 000 / 000**

<p>Electoral Wards Affected:</p> <p>CITY & HUNSLET</p> <p><input type="checkbox"/> Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
<p>Eligible for Call In <input checked="" type="checkbox"/></p>	<p>Not Eligible for Call In (Details contained in the report) <input type="checkbox"/></p>

EXECUTIVE SUMMARY

The report advises the Executive Board of the current position regarding the proposed development of a new dance/theatre headquarters on Site 1 Quarry Hill for Northern Ballet Theatre and the Phoenix Dance Company. The report details the efforts that have been made since 2001 to establish a partnership with a commercial developer to facilitate the proposed development of the new dance facilities. It details the discussions with the current developer partner for the project, the status of which leads officers to conclude that the delivery of the dance facilities via a developer led delivery model is unlikely to result in the provision of the required dance facilities.

Officers have, therefore, reviewed the potential delivery options for the project and have concluded that if the project is to proceed, it will require the Council to take the lead in the delivery of the project. The report recommends that Executive Board support the principle that a revised delivery mechanism be pursued that is not commercial developer led, but with the City Council taking a leading role in the delivery of the new dance facilities.

The report provides Members with the indicative estimated cost of the project and outlines the budget shortfall of £3.065m that currently exists on the project which can only be realistically met by an increase in the Council's contribution to the project.

1.0 PURPOSE OF THIS REPORT

1.1 The purpose of the report is to:-

- (i) Update Members on the latest position regarding the proposed development of a

new dance/theatre headquarters on Site 1 Quarry Hill for Northern Ballet Theatre (NBT) and Phoenix Dance Company (PDC)

- (ii) Seek Members support for a revised delivery mechanism to be pursued by the City Council for the proposed development of a new dance/theatre headquarters on Quarry Hill for NBT and PDC.
- (iii) Authorise an injection of £7.025m into the Capital programme for expenditure on the proposed development of a new dance/theatre headquarters for NBT and PDC to be funded by a grant of £3.56m from Arts Council England (ACE), £400,000 from NBT and an additional contribution of £3.065m from the City Council.
- (iv) Authorise the incurring of expenditure of £7.025m on the proposed development of a new dance/theatre headquarters for use by NBT and PDC.

2.0 BACKGROUND INFORMATION

- 2.1 NBT relocated their operations from Halifax to Leeds in 1996, with an aspiration on the part of both NBT and the City Council that Leeds would become a national and international dance centre. A key part of that aspiration is the delivery of a high quality dance theatre building, which would consolidate the fast growing reputation of the Quarry Hill area as the main cultural quarter of the city. Pending delivery of such a dance headquarters, NBT have been in temporary occupation of accommodation owned by the City Council at the former West Park School which fails to meet their operational requirements.
- 2.2 Since April 2001, the City Council and NBT and PDC have sought to establish a partnership with a commercial developer to facilitate the proposed development of new dance headquarters for NBT and PDC on Site 1 on Quarry Hill (see plan attached).
- 2.3 The principle behind the proposal was that Site 1 Quarry Hill would be disposed of to a developer who as part of a mixed use commercial development would construct new dance headquarters for NBT and PDC. The cost of constructing the dance facilities would be met through a combination of grant aid from Arts Council England (ACE), sponsorship/other funding raised by NBT and PDC and the City Council, with the Council's contribution being equal to the value of the receipt generated from the disposal of the balance of Site 1 Quarry Hill for commercial development.
- 2.4 It has always been envisaged that the new dance facilities would serve as the headquarters for NBT and PDC. It would provide rehearsal, administrative, educational, technical, physiotherapy and fitness facilities for both dance companies. The development would have the potential to allow NBT's main rehearsal space to be converted into a studio theatre for use by either dance company.
- 2.5 Initially, the development proposal was progressed with K W Linfoot Plc, then subsequently Taylor Woodrow Developments Ltd, both of whom favoured proposals comprising a mixed use development in a single building. Neither company was able to progress the proposals to a successful conclusion.
- 2.6 In early 2006, following a restructuring of the company Taylor Woodrow Development's withdrew from the project and, the Council at the request of NBT entered into discussions with Rushbond Plc, whose proposal was to construct two detached self-contained buildings, one being the dance facility (on the area marked B on the plan attached) for NBT/PDC extending to around 4,200m² over four (4) levels,

the other building comprising a mixed commercial development extending to around 14,400m² to be built on the area marked A on the plan attached

3.0 CURRENT POSITION

- 3.1 Discussions have continued with Rushbond since their appointment as preferred developer. The company has developed indicative floor layout plans for the dance facility and a specification has been agreed with the two dance companies. Costs have been estimated, but escalating construction costs means that the funding shortfall has increased, to such an extent that in order to mitigate his risks on the project, the developer has legitimately, but increasingly sought to reduce his liability and pass the financial risk to the City Council and its partners NBT and PDC, without a corresponding increase in the ability of the Council to influence or mitigate the level of financial risk associated with the project. The developer's position is understood, but at the same time creates significant deliverability and risk issues for the Council and its partners.
- 3.2 Given the current position with regard to fundability and risk, officers are of the view that the existing arrangements which are based around a developer leading on the project, are unlikely to lead to the delivery of the required dance theatre. In addition, the Chief Asset Management Officer is unable to recommend to Members that the Council's land at Quarry Hill should be made available for this project on the terms proposed by the developer.
- 3.3 The Council and its partners considered it appropriate to review the position. The key issues taken into account as part of the review may be summarized as:-
- (i) Northern Ballet relocated to Leeds with an aspiration, shared by the Council, to create a high quality dance theatre in the City.
 - (ii) The preferred site for such a dance theatre remains Quarry Hill.
 - (iii) NBT are currently in Council accommodation at the former West Park School that fails to meet their operational requirements.
 - (iv) ACE has offered a lottery grant of £3.56m towards the cost of the proposed new dance facility. This grant will be under threat if the Council and its partners cannot provide ACE with the required assurances that the dance theatre is deliverable within the foreseeable future. If the project falls, then the £3.56m of inward investment will be lost to the City.
- 3.4 For the reasons outlined in paragraph 3.3 above, officers remain of the view that it is in the best interest of the City to continue to pursue the delivery of the dance theatre at Quarry Hill, although not using the previously approved, developer led model.
- 3.5 Officers have, therefore, reviewed the delivery options for the project and, are of the view that given the current position with the developer, if the project is to proceed at all in the foreseeable future, it would be more appropriate for the City Council to take a more active and direct role in the delivery of the project than otherwise proposed to date. In adopting a more direct role, officers acknowledge that the City Council will be regarded by the third party funding bodies as the funder of the first resort if cost overruns on the project were to occur that could not be contained within the project budget.
- 3.6 The options that have been considered for delivering the project , with the City Council taking a leading role may be summarised as follows;

(i) The City Council as Developer

- 3.7 The City Council would assume the role as agent on behalf of NBT and PDC for constructing and fitting out the proposed new dance facility. In effect, the Council would perform the role of developer, agreeing to build and fit out the new facility for an agreed fixed financial contribution from the two dance companies, such a contribution to include any third party grant support that the dance companies had secured from ACE and other third parties. Under such an arrangement, the City Council would assume responsibility for appointing a multi disciplinary design team (subject to agreeing the procurement with ACE, it would be the intention to use the Council's Strategic Design Alliance) to undertake all design work and costing for the new dance facility, would let the contract for the building and fit out works and, would be responsible for any cost over run on the building contract that may occur.

(ii) The City Council to Lead on the Project

- 3.8 Under this option, ACE would vary or novate its grant agreement with NBT to the City Council, at which time the Council would be the recipient of the grant award from ACE and, would have the responsibility for complying with all terms and conditions of the grant agreement with ACE.
- 3.9 In terms of NBT and PDC's financial liability towards the project and how the scheme design proposals are developed and the contract for the building work is let, the position would be the same as that detailed in paragraph 3.7 above, with the Council cash flowing the cost of the design process and the building works and recovering from the dance companies their financial contribution at agreed points throughout the life of the project. The Council would be responsible for any cost overrun that may occur on the building contract and would have to conclude agreements with both NBT and PDC such that they will commit to providing information to the Council sufficient that it can comply with ACE's monitoring requirements for the grant throughout the duration of the grant agreement. Members of the Executive Board should note that this project delivery mechanism is the same arrangement that exists on the Leeds Grand Theatre project which has also benefited from significant ACE capital grant support.
- 3.10 If Executive Board is minded to support the Council taking the lead role in the delivery of the project as detailed in either of the options outlined above, the specific mechanism to be agreed by the Director of City Development under the Council's scheme of delegation, then in order to manage the delivery of the project, it would be the intention to establish a Project Board to provide the overall strategic direction and management of the project. The Project Board which will be chaired by the Director of City Development (or her nominee) will comprise representatives from City Development, Corporate Services, Legal and Democratic Services, along with representatives from both the NBT and PDC. An officer from City Development will provide a project co-ordination function between ACE, NBT, PDC and the design team.
- 3.11 Members of Executive Board should note that dependent upon which of the delivery mechanisms is ultimately chosen as the preferred means to deliver the new dance facilities on Quarry Hill, then the basis on which the site/building is leased to NBT may constitute a less than best disposal. The Council can make such a disposal using the following powers;
- 3.12 The General Disposal Consent (England) 2003 allows local authorities to dispose of any interest in land at less than the best consideration that can be reasonably be

obtained subject to the following conditions;

- (i) the authority must be of the opinion that the disposal is likely to contribute to the promotion or improvement of the economic, social or environmental well being of its area or its people living or working there; and
- (ii) the difference between the unrestricted value of the property (basically the unrestricted market value of the property ignoring any conditions voluntarily imposed by the authority which might constrain its use) and the actual consideration for the disposal must not exceed £2m

3.13 If these conditions were not met, the City Council could still apply to the Secretary of State for a specific consent.

3.14 Executive Board should note that whilst a disposal at less than best consideration can be State aid, the European Commission has indicated that no State aid is involved in cases where the value is reduced by conditions and restrictions which are being imposed in order to protect the future use of the buildings as well as protecting the Council's investment in it. If the proposed disposal to NBT is a less than best disposal it is likely to be because covenants are being voluntarily imposed by the Council to protect the future use of the building and the Council's investment in it.

4.0 CONSULTATIONS

4.1 ACE have been consulted on the proposals contained in the report and have indicated support in principle for the proposed delivery mechanism.

4.2 NBT and PDC have been consulted on the proposed project delivery mechanism and have confirmed their support for working in partnership with the City Council, which they believe will provide the necessary reassurances to ACE that the project will be progressed in a timely and efficient manner.

5.0 PROGRAMME

5.1 The strategic programme for the development of the dance headquarters remains under discussion at this time and has yet to be determined. However, the following provisional strategic milestones have been identified:-

July 2007:	Appoint multi disciplinary design team.
October 2007:	Start outline design (RIBA Stage C)
February 2008:	Start detailed design (RIBA Stage D)
December 2008	Start on site
March 2010	Completion

5.2 Executive Board should note that the provisional programme detailed above assumes the appointment of the Council's Strategic Design Alliance to undertake all design work on the project. If a competitive procurement process had to be pursued, the programme as outlined above would be delayed by around six (6) months in order to comply with EU procurement procedures.

6.0 COMPLIANCE WITH COUNCIL POLICIES

6.1 The Council's Corporate Plan identifies the need to maximise the potential facilities which improve the quality of life and which add to the attractiveness of the City and the region. Mover, the Corporate Plan acknowledges the role of cultural attractions in promoting the economic prosperity and overall profile of the City.

- 6.2 The Arts and Heritage Strategy identifies the Council's support for NBT and PDC and, encourages participation in and enjoyment of dance reflecting the cultural diversity of the City, further enhancing Leeds' national and international reputation as a centre of dance excellence, ensuring the highest standard of dance training in classical and contemporary dance, promoting creative developments in dance and encouraging young artists and young people to be artists.

7.0 LEGAL AND RESOURCE IMPLICATIONS

(i) Capital Costs

- 7.1 The indicative estimated total cost for the proposed development of a dance/theatre headquarters for NBT/PDC on Quarry Hill is £11.675m, inclusive of fees, contingencies, preliminaries and tender price inflation, but exclusive of any client contingency provision. The estimated capital costs are based on an assumed start on site in December 2008, with completion of all works in March 2010.
- 7.2 Executive Board should note that the estimated construction costs remain a budget estimate only at this time, as design of the building has yet to commence. In the absence of detailed drawings and structural and mechanical specifications, the estimated costs are intended to be indicative only of the potential costs likely to be associated with this type of development. More detailed cost estimates will only become available once the design proposals commence, site investigation reports on the ground conditions across the site have been obtained in order to establish the design of the substructure and, the final scope and specification of the proposed development has been determined. It should also be noted that in forecasting costs as far ahead as winter 2009, there is a risk that the building cost inflation may exceed the projected rate of increase currently allowed in the cost proposals.
- 7.3 At this time it has only been possible to estimate the fees payable to the Strategic Design Alliance for providing a multi disciplinary design team to develop the design proposals and supervise works on site. Full details of the fees to be paid will only become available on receipt of a fee quote from the Design Alliance.

(ii) Funding Provision

- 7.4 The current assumed funding provision for the project may be summarized as follows:-

Arts Council England	£3.560m
NBT/PDC Sponsorship	£0.400m
NBT/PDC (unsupported borrowing)	£0.950m
Leeds City Council	£3.700m

Total Anticipated Project Funding £8.610m

- 7.5 Members of the Executive Board should note the following with respect to the previously assumed funding profile for the capital cost of the works detailed in paragraph 7.4 above.

- (i) The City Council's contribution of £3.7m to the project was represented by the current value of the capital receipt to be generated from the disposal of Site 1 Quarry Hill, plus a grant contribution of £500,000 already held by the City Council from Yorkshire Forward. Executive Board should note that the Council was to offer NBT a grant equivalent to the value of the site on which the proposed dance headquarters was to be built, representing the premium the

company would pay to the Council for the grant of a lease for the site for 250 years at a 'peppercorn' without review.

- (ii) ACE has agreed a grant to NBT/PDC of £3.560m towards the cost of the project.
- (iii) NBT/PDC intend to raise sponsorship monies of £400,000 (net) to contribute to the total scheme project costs.
- (iv) NBT and PDC have agreed to support the Council in undertaking unsupported borrowing of £950,000 in total as a contribution to the total project costs. The borrowing costs associated with £750,000 of this borrowing is to be funded by reducing the annual grant to NBT, with the cost of the remaining £200,000 being funded by a reduction in the annual grant payable by the Council to PDC.

7.6 Based on the estimated total cost of the project being £11.675m and an anticipated budget provision of £8.610m, there is a projected budget shortfall of £3.065m. If the project is to proceed, the projected budget shortfall can only be realistically met by an increase in the City Council's contribution to the project. Executive Board should note that Council officers are of the view that there is little scope to seek additional funding from ACE above the £3.560m already committed. Indeed, it is becoming increasingly apparent that there is now greater pressure on all lottery bodies due to the need to contribute to the capital cost of the London Olympics, to review previous funding commitments in the context of how likely schemes are to progress and those that appear problematic would be increasingly at risk of funding offers being withdrawn.

7.7 If Executive Board is minded to support an increase of £3.065m in the Council's contribution from £3.7m to £6.765m to facilitate the development of the new dance facilities for the two companies, it should be noted that no provision to date has been included in the capital programme to fund such works. Executive Board should note that the Director of City Development has recently reviewed the capital receipts forecast supporting the capital programme and is confident that sufficient receipts will be available over the capital programme period to meet the additional costs.

Current total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2007 £000's	FORECAST				
			2007/08	2008/09	2009/10	2010/11	2011 on
			£000's	£000's	£000's	£000's	£000's
CONSTRUCTION (3)	4450.0		0.0	2050.0	2400.0		
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	200.0		200.0				
OTHER COSTS (7)	0.0		0.0	0.0	0.0		
TOTALS	4650.0	0.0	200.0	2050.0	2400.0	0.0	0.0

Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2007 £000's	FORECAST				
			2007/08	2008/09	2009/10	2010/11	2011 on
			£000's	£000's	£000's	£000's	£000's
CONSTRUCTION (3)	5465.0			200.0	5065.0	200.0	
FURN & EQPT (5)	150.0					150.0	
DESIGN FEES (6)	1410.0		0.0	900.0	455.0	55.0	
OTHER COSTS (7)	0.0			0.0	0.0	0.0	
TOTALS	7025.0	0.0	0.0	1100.0	5520.0	405.0	0.0

Revised Total Scheme Cost	TOTAL £000's	TO MARCH 2007 £000's	FORECAST				
			2007/08	2008/09	2009/10	2010/11	2011 on
			£000's	£000's	£000's	£000's	£000's
CONSTRUCTION (3)	9915.0	0.0	0.0	2250.0	7465.0	200.0	0.0
FURN & EQPT (5)	150.0	0.0	0.0	0.0	0.0	150.0	0.0
DESIGN FEES (6)	1610.0	0.0	200.0	900.0	455.0	55.0	0.0
OTHER COSTS (7)	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTALS	11675.0	0.0	200.0	3150.0	7920.0	405.0	0.0

Current Funding Position (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2007 £000's	FORECAST				
			2007/08	2008/09	2009/10	2010/11	2011 on
			£000's	£000's	£000's	£000's	£000's
Yorkshire Forward Replaced by Leeds City Council (01)	500.0		200.0	300.0			
Receipt from Sale of Site A (01)	2750.0			2750.0	0.0		
Receipt from Sale of Site B (01)	450.0			100.0	350.0		
NBT Unsupported Borrowing (37)	750.0			0.0	750.0	0.0	
PDC Unsupported Borrowing (37)	200.0			0.0	200.0		
	0.0						
Total Funding	4650.0	0.0	200.0	3150.0	1300.0	0.0	0.0
Shortfall =	-7025.0	0.0	0.0	0.0	-6620.0	-405.0	0.0

Shortfall to be made up with the following funding sources :-	TOTAL £000's	TO MARCH 2007 £000's	FORECAST				
			2007/08	2008/09	2009/10	2010/11	2011 on
			£000's	£000's	£000's	£000's	£000's
Arts Council Grant	3560.0			0.0	3155.0	405.0	
NBT / PDC Sponsorship	400.0			0.0	400.0		
Additional Leeds City Council	3065.0			0.0	3065.0		
	0.0						
Total Funding	7025.0	0.0	0.0	0.0	6620.0	405.0	0.0
Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

8.0 RISK ASSESSMENT

8.1 The key risks associated with the project may be summarized as follows:-

- (i) The project costs presented in this report are estimates only. Whilst indicative floor layout proposals and internal specifications have been developed, design of the building has yet to commence. Accordingly, in the absence of design proposals, structural and mechanical specifications, the estimated construction costs are at this time only indicative of the potential costs likely to be associated with a development of this nature and quality. This risk can only be mitigated

once the final scope and specification of the development has been fixed, detailed scheme designs developed and detailed site investigations on the ground conditions across the site have been undertaken. Executive Board should note that no client contingency budget provision has been allowed for in the indicative cost estimate detailed in paragraph 7.1 above.

- (ii) Whilst there has been no financial risk to the Council to date in assuming a 'supporting' role in the delivery of the project, if the Council assumes the lead role (as detailed in paragraphs 3.7 to 3.9 above) and acts as employer for the design team during the design development stage and is employer under the building contract, then the Council would be regarded by third party funding bodies as funder of the first resort if cost overruns on the project were to occur. In the event of such a situation arising, the Project Board to be established to control, manage and guide the project would need to review the proposed scope of works and specification in order to bring the project in line with the budget available.
- (iii) There is a risk that NBT and PDC may not be able to raise £400,000 (net) sponsorship monies to contribute towards the total project cost. Both NBT and PDC remain confident that they will secure the funds prior to practical completion of the project. The City Council will, therefore, have to judge at the time when the building works contract is to be let whether the balance of sponsorship funds to be raised will be secured, in which case the Council would have to cash flow any shortfall until such time as the funds are secured and paid to the Council. Members should note that whilst the risk may be minimized by closely monitoring the progress of the fundraising campaign, the risk cannot be completely eliminated at this time.
- (iv) If the delivery mechanism for the project involves ACE varying or novating their agreement with NBT to the City Council, then the Council and its partners NBT and PDC must comply with the conditions of the grant agreement in order to secure the release of the grant award and, that failure to achieve the relevant key deliverables would result in ACE being under no obligation to make any further grant payments to the Council. The key grant conditions relate primarily to financial viability, partnership support, property charges, design and construction issues. In order to mitigate the risk to the Council, officers would have discussions with ACE to agree the nature and detail of the information to be provided. In some instances the Council will be dependent on both NBT and PDC to provide information to ensure that the Council complies with the terms of the ACE funding agreement. The Council would, therefore, enter a protocol agreement with the NBT and PDC whereby both companies accept their responsibility and agree to share with the Council the requirements to submit information to ACE in a timely and proper manner sufficient to comply with the conditions of the grant funding agreement.

9.0 OPTIONS

9.1 The options that may be pursued by the Council in relation to the proposed development of a new dance/theatre headquarters for NBT/PDC are as follows:-

(i) Do nothing

This is not recommended as it would leave both dance companies in less than adequate accommodation and would prejudice the city's aspiration to develop as a national and international dance centre.

(ii) To relocate the Proposed Development to Another Location in the City

To consider relocating the proposed development would require the preparation of a new funding application to ACE. The time involved in the preparation of such an application would place at risk the chance of maintaining ACE funding support for the project and would undoubtedly add to project costs through the impact on tender price inflation. This option would also preclude Quarry Hill being consolidated as the main cultural quarter of the city

(iii) Attract Another Commercial Developer to the Project

The City Council could seek to hold a further competitive procurement process in order to enter into an agreement with a commercial development partner to undertake the development of the dance facilities. This is not considered appropriate, as the Council has already tried to progress such an approach on three (3) occasions and each time the developer has struggled to put together a financial viable project and has also increasingly sought to transfer the financial risk back to the Council, with little opportunity for the Council to influence/mitigate such risk. Officers believe that this option has been exhausted and carries with it considerable risks in terms of timescale and deliverability and, as such should not be pursued.

10.0 RECOMMENDATIONS

10.1 Executive Board is requested to:-

- (i) Note the current position regarding the proposed development of a new dance/theatre headquarters on site 1 Quarry Hill for Northern Ballet Theatre and Phoenix Dance at a total estimated cost of £ 11.675m.
- (ii) Support the principle of a revised delivery mechanism to be pursued for the development of a new dance/theatre headquarters on Site 1 Quarry Hill for use by Northern Ballet Theatre and Phoenix Dance Company, the specific mechanism to be agreed by the Director of City Development under the Council's scheme of delegation.
- (ii) Authorise an injection of additional £7.025m into the Capital Programme for expenditure on the proposed development of a new dance/theatre headquarters, to be funded by a grant of £3.56m from Arts Council England, £400,000 from Northern Ballet Theatre and an additional contribution of £3.065m from the City Council.
- (iv) Authorise the incurring of additional expenditure of £7.025m on the proposed development of a new dance/theatre headquarters on Site 1 Quarry Hill for use by Northern Ballet Theatre and Phoenix Dance Company.