

## Leeds Media Centre – Savile Mount Chapeltown LS7

Date: August 2022

Report of: Land and Property

Report to: Director of City Development

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### **What is this report about?**

#### **Including how it contributes to the city's and council's ambitions**

- Leeds Media Centre is a Council-owned property, providing office and studio space for small businesses, social enterprises, and voluntary organisations with a particular focus on the creative and digital sectors. The building has been operated on behalf of the Council by Unity Property Services (UPS) for a considerable number of years. There are challenges associated with the building's energy efficiency and internal configuration which need to be addressed if the property is to have a sustainable long-term future.
- The Council's Economic Development service has been working in partnership with UPS, to secure a funding package of £1.56m to undertake the refurbishment of the building to make it both more environmentally sustainable and attractive to small businesses and entrepreneurs in the longer term. The scheme has been granted planning permission.
- It is intended that UPS undertakes the refurbishment project, with UPS procuring and directly appointing a contractor.
- Executive Board of December 2020 approved a recommendation that UPS be granted a 15-year lease of the property at a peppercorn rent on a full repairing and insuring basis with approval to the remaining terms to be delegated to the Director of City Development, in consultation with the CFO on the loan to be provided. The intention is to enter into an agreement for lease to allow UPS to undertake the works and thereafter enter into the lease upon satisfactory completion of the works.
- The project supports the Best Council Plan (2020-2025) and contributes directly to the Best City Priorities of Inclusive Growth and Culture, as well as 3 Inclusive Growth Strategy 'big ideas': Backing Innovators and Entrepreneurs in Business and Social Enterprises; Supporting Places and Communities to respond to economic change; and Building a Federal Economy. It also supports the Climate Emergency agenda by improving the energy efficiency performance of the building to meet the Government's future Minimum Energy Efficiency Standards.

## Recommendations

- It is recommended that the Director of City Development approves the details in the confidential appendix for:
  - (a) The granting of an Agreement for Lease to Unity Property Services to undertake works.
  - (b) A Lease Agreement to Unity Property Services upon satisfactory completion of the works.
  - (c) The issue of a loan agreement to Unity Property Services for £500,000 on the terms outlined in the confidential appendix, and as approved in consultation with the Chief Financial Officer.

## Why is the proposal being put forward?

1. Leeds Media Centre was constructed in the 1930s and is an example of an Art Deco era building. It is not listed but is situated within the Chapel Allerton Conservation Area.
2. Works were undertaken in the 1990s to reconfigure it into a Media Centre, providing office and studio space at affordable rents to small businesses, social enterprises, and voluntary organisations, with a particular focus on the creative and digital sectors.
3. The 1990s works did not address the poor energy efficiency characteristics of the building nor the unsatisfactory internal configuration. There has consequently been a long-running concern as to its future sustainability from both an environmental and economic perspective.
4. UPS have operated the building on behalf of the Council since 2008. There are further details in the attached confidential appendix as to the history of the buildings management and the current position with UPS.
5. UPS approached the Council with a proposal to develop a programme of works to address the issues identified in point 3 above. UPS' proposal included seeking funding from the European Regional Development Fund (ERDF) which required that an 'accountable body' be appointed. The Council agreed to be the 'accountable body' and working in collaboration with UPS, the Council's Economic Development service has secured £929,000 of ERDF funding to refurbish Leeds Media Centre and provide associated business support.
6. Additional funding was supported by Executive Board at its meeting in July 2019, comprising of a grant of £300,000 to UPS from the Creative and Digital Workspace Transformation Fund and for the Council to grant UPS a loan of £500,000. This represents the required match funding to the ERDF funding. The detailed funding position is shown in the accompanying confidential appendix.
7. Executive Board at its December 2020 meeting considered a further report and approved a recommendation that, in principle, UPS be granted a 15-year lease of the refurbished property at a peppercorn rent on a full repairing and insuring basis. Approval to the remaining terms was delegated to the Director of City Development. The report confirmed that a lease of the refurbished property at a peppercorn rent would represent a letting at 'Less than best consideration'. The report further confirmed that the granting of the lease at a peppercorn reflected the need for UPS to be able to pay back the £500,000 loan and to be able to let space at affordable rents for prospective tenants
8. On 26 May 2021, the Chief Officer Asset Management and Regeneration approved a report recommending that the ERDF Grant Funding Agreement issued by the Ministry for Housing and Local Government be signed. Approval was also given to a recommendation in the same report that the funding agreements for the £300,000 Council grant and ERDF grant to UPS be approved and completed with UPS.

9. UPS have taken direct responsibility for the procurement. The procurement process has faced a series of challenges, in particular, an increase in estimated refurbishment costs. This has caused a delay and is now putting the scheme under pressure in terms of meeting the timetable for completion by 30 June 2023. A contractor has not yet been secured but a further procurement exercise is underway and tenders are currently being evaluated. The procurement position is further detailed in the confidential appendix, along with the proposed scope of works.
10. A key objective for the project is to improve the energy efficiency of the building and achieve compliance with Central Government's proposed future changes to the Minimum Energy Efficiency Standard (MEES). The property currently has a minimum MEES rating of E. The MEES regulations are set to change such that by 2030 all non-domestic buildings will be required to have a minimum rating of B. The Council has stipulated to UPS that the building improvements must achieve a B rating.
11. Negotiations for the lease and agreement for lease have been undertaken and terms have been provisionally agreed with UPS: these are detailed in the attached confidential appendix.

### What impact will this proposal have?

**Wards Affected: Chapeltown**

Have ward members been consulted?

Yes

No

### What consultation and engagement has taken place?

12. The proposal was originally drawn up in consultation with the then Executive Member for Inclusive Growth and Culture through the approval of the original funding package in summer 2019. Further consultation was undertaken as part of the Council's Capital Programme review process in September 2020. Ward Members were consulted on 24 June 2019 and a further update meeting has been arranged for mid- September

### What are the resource implications?

- 13 The Council will be providing UPS with a grant of £300,000 and a loan facility of £500,000, repayable over the 15-year period of the lease agreement.
- 14 Additional funding required to facilitate the proposed works may be required and will be met from a range of sources, as outlined in the Confidential Appendix.

### What are the legal implications?

- 15 Under Part 3, Section 3E(g) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)), the Director of City Development has authority to discharge any function of the Executive in relation to Asset Management.
- 16 The Chief Officer Asset Management and Regeneration, Head of Asset Management and Deputy Head of Land and Property have authority to take decisions in relation to Asset Management as delegated in the Director of City Development's sub delegation scheme.
- 17 The proposal constitutes a Significant Operational Decision and is therefore not subject to call in.

## Subsidy Control

- 18 It is proposed that the lease will be granted at less than best consideration. Pursuant to Section 123 of the Local Government Act 1972, the Council cannot dispose of land for consideration less than the best that can be reasonably obtained unless it has Secretary of State consent. The Local Government Act 1972: General Disposal Consent 2003 gives a general consent for less than best disposals which will help a council 'secure the promotion or improvement of the economic, social or environmental well-being of its area' provided that the less than best undervalue does not exceed £2,000,000. The development of the Leeds Media Centre will improve the economic infrastructure for the local area, particularly for small businesses, so it is considered this less than best leases is permitted by the General Disposal Consent 2003.
  
- 19 The grant of the lease at less than best consideration, together with the grant funding to UPS, also constitute subsidies to UPS which are caught by subsidy control rules. (The loan to UPS is being provided on market terms and therefore is not deemed a subsidy). Subsidy control is currently governed by the UK-EU Trade and Cooperation Agreement (TCA), but this is due to be overridden by the Subsidy Control Act 2022 which is expected to come into effective force in autumn this year. For the purposes of subsidy control, a subsidy is any financial assistance (which includes foregone consideration or rent for a lease) given from public resources which confers an economic advantage to one or more enterprises, benefitting them over other enterprises, and which is capable of distorting competition. Under the TCA the test for distortion of competition includes the specific potential to have an impact on UK-EU competition, but under the Subsidy Control Act 2022 that potential impact on competition can be wholly within the UK.
  
- 20 Under the TCA and the Subsidy Control Act 2022 a subsidy is permitted provided it is either compliant with a number of specified subsidy control Principles, or it meets the criteria for a specified exemption. If a subsidy is provided which does not comply with the Principles or is outside scope for an exemption, then the recipient of the subsidy may be required by the rules to repay the subsidy.
  
- 21 The grant funding which UPS receives from the ERDF fund is still subject to State aid rules because it is an EU fund. Legal advice has been obtained which confirms that the State aid rules permit that grant funding under an exemption for aid for local infrastructures (Article 56 of the General Block Exemption Regulation). Although the State aid rules no longer have direct application to most subsidies granted in the UK, it is widely considered that where a subsidy would be permitted by State aid law, it is likely it will be permitted by the UK's Subsidy control regime.
  
- 22 The subsidies to UPS have been assessed against the Subsidy control principles and it is considered that the subsidies comply with those principles so will be permitted under both the TCA and the Subsidy Control Act 2022 (whichever is in force at the applicable time). In particular the purpose of the development of the Leeds Media Centre pursues a specific public policy objective to remedy a market failure to provide appropriate economic infrastructure for small businesses and in a deprived part of the city, and the subsidies are proportionate and necessary to achieve the outcome, and will have minimal, if any, negative material effects on trade or investment.

- 23 Both the TCA and the Subsidy Control Act 2022 impose transparency requirements on public authorities providing subsidies. These require any subsidy or subsidy scheme over a specific threshold (varies depending upon justification, but usually anything above £100,000) to be published on a database managed by BEIS.
- 24 The information contained in the Appendix to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in relation to certain companies and charities. It is considered that since this information was obtained through one-to-one negotiations for the lease of the property referred to, then it is not in the public interest to disclose this information at this point in time. It is considered that whilst there may be a public interest in disclosure, much of this information will be available from the Land Registry following completion of the lease and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is therefore considered that this element of the report should be treated as exempt under rule 10.4.(3) of the Access to Information Procedure Rules.

### **What are the key risks and how are they being managed?**

- 25 The key risk is that a contractor is not procured within the agreed budget and that the project fails to complete by 30 June 2023. This is a project with a fixed budget and a short delivery timescale. The scheme must be completed by 30 June 2023 in line with terms of the grant funding from the principal grant funder.
- 26 There is a risk that any contractor appointed may have going concern issues. These risks have been mitigated via the processes within Efficiency North's Dynamic Purchasing System.
- 27 A further risk is if the scheme does not result in an Energy Performance rating of B is not achieved as required. Achievement of this standard is important to avoid the need for future expenditure by the Council to achieve compliance.
- 28 Officers are working closely with UPS to ensure that a scheme is undertaken within the available budget and will meet the future MEES requirements.
- 29 Finally there is a risk of non-payment of the loan. The terms of the lease agreement and loan agreements are linked as set out in the confidential appendix. Finance officers will monitor loan repayments closely across its full term. Economic Development will monitor closely take-up of space in the centre, and any business support services provided to occupants for the duration of the lease.

### **Does this proposal support the council's 3 Key Pillars?**

Inclusive Growth       Health and Wellbeing       Climate Emergency

- 30 The proposed refurbishment and subsequent lease arrangements support the Key Pillars of Inclusive Growth and Climate Emergency.

### **Options, timescales and measuring success**

#### **a) What other options were considered?**

- 31 The option of not proceeding was considered and discounted, given the support provided by Executive Board and that this opportunity to make the property sustainable for the future would be lost.

**b) How will success be measured?**

32 The first measure of success will be the completion of a refurbishment scheme within budget and within the tight timescale. Thereafter, completion of the lease agreement and repayment of the £500,000 loan over the 15-year period agreed.

**c) What is the timetable for implementation?**

33 It is intended that the refurbishment works will commence in early autumn 2022 and to be completed by June 2023.

**Appendices**

34 Confidential appendix. exempt under rule 10.4.(3) of the Access to Information Procedure Rules.

**Background papers**

35 There are none.