

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>CABINET</b>
<b>Report of:</b>	<b>CORPORATE DIRECTOR FOR PLACE</b>
<b>Date of Decision:</b>	<b>25 July 2017</b>
<b>SUBJECT:</b>	<b>ESTABLISHMENT OF A COMMERCIAL VENTURE BETWEEN THE LIBRARY OF BIRMINGHAM AND THE REPERTORY THEATRE – APPROVAL OF FULL BUSINESS CASE AND CONTRACT AWARD</b>
<b>Key Decision: No</b>	<b>Relevant Forward Plan Ref:</b>
<b>If not in the Forward Plan: (please "X" box)</b>	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
<b>Cabinet Member(s)</b>	<b>COUNCILLOR IAN WARD – DEPUTY LEADER COUNCILLOR MAJID MAHMOOD, VALUE FOR MONEY AND EFFICIENCY</b>
<b>Relevant O&amp;S Chairman:</b>	<b>COUNCILLOR MOHAMMED AIKHQAQ, CORPORATE RESOURCES AND GOVERNANCE</b>
<b>Wards affected:</b>	<b>ALL</b>

<b>1. Purpose of report:</b>
<p>1.1 The purpose of this report is to inform Cabinet of the Full Business Case (in Appendix 1) for the establishment of a commercial venture between the Library of Birmingham (LoB) and Birmingham Rep Enterprises Ltd (Rep) to maximise the commercial income from the use of conferencing and events space, in line with the 2017/18 budget proposal approved at Full Council in February 2017.</p> <p>1.2 This report provides the non-exempt information related to the Full Business Case for the establishment of the venture between the parties. The private report deals with confidential and/or exempt information not covered in this report.</p>

<b>2. Decision(s) Recommended:</b>
That Cabinet:-
2.1 Notes the content of this report.

<b>Lead Contact Officer(s):</b>	David Potts, Head of Library Resources Ken Lyon, Head of Commercialism
<b>Telephone No:</b> <b>E-mail address:</b>	<a href="mailto:David.Potts@birmingham.gov.uk">David.Potts@birmingham.gov.uk</a> <a href="mailto:Ken.Lyon@birmingham.gov.uk">Ken.Lyon@birmingham.gov.uk</a>

### **3. Consultation**

#### **3.1 Internal**

3.1.1 Members of the Commercialism Board were consulted on 23<sup>rd</sup> March 2017, and support the proposal. Consultation has also taken place with opposition party members.

3.1.3 Officers from City Finance, Legal Services, Human Resources and Procurement have been involved in the preparation of this report.

3.1.4 Consultation on the proposals is also ongoing with relevant trade unions and the staff that are potentially impacted by the proposal.

#### **3.2 External**

3.2.1 Members of the Rep's management team have been integral to the development of the proposed venture, including the Executive Director, Finance Director and Operations Manager, who are all actively supportive of proposals.

3.2.2 As part of the 2017/18 budget process full public consultation was undertaken on the approach alongside other proposals prior to the budget being approved at Full Council.

3.2.3 An overview of the consultation undertaken to date is attached in Appendix 2.

### **4. Compliance Issues:**

#### **4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?**

4.1.1 The proposal specifically supports a number of the Council's strategies, which are:

- Council Financial Plan 2017+ - the proposal to develop a joint arrangement with the Rep to deliver a £0.100m financial benefit forms part of the Council's Financial Plan 2017+ and was part of the public consultation in the Councils budget setting process.
- Council Vision and Forward Plan – The development of this approach supports the 'Jobs and Skills' agenda in the Council's vision and forward plan by building on two internationally renowned cultural assets and competitive strengths to support inclusive growth in Birmingham's economy.
- Commercialism – the Council is embarking on a Commercialism approach that seeks to increase the financial value of assets that the Council holds, including seeking to generate new revenue for the Council. The implementation of this scheme will support the Commercialism approach. The scheme has been endorsed by the Commercialism Board.

This scheme seeks to maximise the income potential of the internationally renowned asset that is the LoB in line with the 2017/18 budget proposal and success of the scheme would provide an income stream to enable the Council to invest in services and infrastructure at the LoB.

- Supporting the Cultural Sector – the Council is actively embarking on an approach to work alongside partners in the cultural sector to support the ongoing sustainability of the sector by generating alternative forms of funding in the context of an ongoing reduction in cultural grant. This approach will not only deliver an additional service to the Councils budget but will provide the Rep with an opportunity to increase its income and further reduce reliance on the cultural grant.
- Business Charter for Social Responsibility (BBC4SR) – The contract will include a BBC4SR compliant action plan that is relevant and proportionate to the size of the contract. These actions will be monitored and managed during the period of the contract.

#### 4.2 Financial Implications

The implementation of the scheme is estimated to generate a total net revenue benefit in addition to existing surpluses generated to the Council of a minimum of £0.147m per annum by 2019/20. It is anticipated that the Council will be required to make an upfront investment of approximately £0.050m to cover set up costs, including staff training and marketing, which can be funded from within existing approved budgets in 2017/18 for the LoB. The Rep will make a similar contribution to set up costs.

The Council has negotiated a contractual revenue sharing arrangement with the Rep, whereby existing net surpluses for each organisation are protected and any additional surplus generated is divided equally between both organisations. As a part of the contract negotiations, due regard has been given to ensuring that the arrangements are as tax-efficient as possible, whilst still delivering the required operational outcomes.

The Financial Plan approved by full Council on 28 February 2017 included a saving of £0.100m per annum from 2017/18 as a result of the implementation of this arrangement. It is likely that this level of savings will not be fully delivered until 2018/19, with the 2017/18 shortfall to be met by the identification and delivery of compensating one-off savings within overall approved LoB budgets for the year. Any surpluses generated in excess of this level will be directed to protecting and enhancing services delivered through the Library of Birmingham.

#### 4.3 Legal Implications

Under Section 1 of the Localism Act 2011, the Council has the power to enter into the arrangements set out in this report, which are within the remit and limits of the general power of competence Section 2 and 4 of the Localism Act 2011.

#### 4.4 Public Sector Equality Duty

An initial Equality Analysis (number EA002151) accompanies this report in Appendix 3 and concludes that there are no significant equalities implications.

## **5. Relevant background/chronology of key events:**

- 5.1 The Library of Birmingham (LoB) opened in September 2013. Alongside the library services and community facilities there is a range of high quality conferencing and events space within the building and similar facilities in the adjoining Rep building. Following a series of budget savings proposals the LoB significantly reduced its conferencing and events staffing and capacity in 2015. The reduction in internal capacity led to the development of an arrangement with Acivico (Design, Construction & Facilities Management) Limited to manage and co-ordinate events and conferences in the building. The existing arrangement created a surplus in the region of £144k in 2016/17, which represents a marginal over-delivery in comparison to the base budget. Over a similar period the Rep has invested heavily in its commercial and events teams and experienced significant growth in its commercial business and achieved a greater financial return.
- 5.2 As part of the planning for the Financial Plan 2017+ a range of options were considered for the Rep and the LoB to generate additional income and to support the Council's priorities.
- 5.3 The development of a relationship with the Rep to maximise the surplus from the use of conferencing facilities formed part of the 2017/18 budget proposal, which was approved at City Council in February 2017.
- 5.4 Following an initial appraisal of options, an independent report (produced by Oomph Consultants) was jointly commissioned by the Rep and the LoB, which identified that there were significant further opportunities for the venues to maximise income and achieve operating efficiencies by developing shared management arrangements. The report recommended the forming of a specialist commercial and events management company that would be owned by the Rep, but would operate on behalf of the LoB and contract with Birmingham City Council for the delivery of services. The report identified that this approach would realise an income exceeding that of the current arrangement with Acivico and other alternative options.
- 5.5 The opportunity identified by the independent report led to a proposal in the Council's budget for 2017/18 'to reduce costs by introducing jointly managed arrangements with Birmingham Rep for aspects of venue management (room booking/commercial lettings, event management, catering) at the Library of Birmingham.' The budget proposal is to generate £0.100m in 2017/18.
- 5.6 The Rep incorporated a new private limited company wholly owned by the Rep in March 2017 and has been developing an initial business plan for the company. It is proposed that nominee directors from the Council will be appointed to the company board to serve alongside Rep directors. There is, at this time, no proposal for the Council to take a shareholding in the company but this is an option for the future once the success of the venture has been established.
- 5.7 Following the development of the proposal, the Council has developed a Full Business Case (attached in Appendix 1) including undertaking further due diligence, including a sensitivity analysis and testing legal assumptions, which has suggested the utilisation of such a vehicle would provide an ongoing revenue benefit for the Council reaching a minimum of £0.147m per annum by 2019/20, and present significant opportunities for further growth in future years.

- 5.8 A proposed staffing structure has been developed, which comprises a Commercial Director alongside sales and marketing, events management, technical support and financial support functions. It is proposed that up to 7 staff from the Rep will transfer to the new company alongside up to 2 posts within the venues team at the LoB under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE).
- 5.9 This proposed contract was included in the Planned Procurement Activities List approved by Cabinet as part of the sounding out process on 27th June 2017. The report indicated that the contract duration would be for a period of up to 5 years with the potential to generate a total income of £1.38m. Discussions regarding the suitability of the proposed commercial arrangements have taken place between the parties. The Director of Commissioning and Procurement approved single contractor negotiations under Chief Officer delegated authority on July 4<sup>th</sup> 2017.
- 5.10 Following the completion of the negotiations a contractual arrangement between the parties has been developed, to run from 1 October 2017 to 31 March 2020 with the option to extend for a further two years. The contract awards the service delivery contract for conferencing and events facilities and also sets out the governance arrangements between the parties in relation to the usage of spaces, service delivery, financial returns, taxation arrangements, dispute resolution and exit arrangements.

## 6. Evaluation of alternative option(s):

A number of options have been considered and appraised as to whether they would achieve the financial returns required for the Council and also protect the cultural heritage of both venues.

- 6.1 Continue as is – service provided in-house and via existing contractual arrangement** – This option was discounted as it was not appraised as likely to achieve the increase in revenue required or exploit the opportunities made possible through the unique use of the connectivity between the venues and that the likely costs of operation of the service were greater than the partnership approach. It is estimated that this would achieve a return of at least £0.100m pa less for the Council than the preferred option.
- 6.2 Commission the market to deliver service outcomes** – This option was discounted as it is unlikely to be able to access and maximise the opportunity provided by utilisation of both venues and would lead to a percentage of the surplus being retained by the external supplier. It is estimated that this will achieve a return of approximately £0.070m pa less for the Council than the preferred option.
- 6.3 Renegotiate existing arrangements with current suppliers** – This option was discounted as it was not appraised as likely to achieve the financial returns required or exploit the opportunities made possible through the unique use of the connectivity between the venues. It is estimated that this will achieve a return of approximately £0.070m less for the Council than the preferred option.

**6.4 In-house redesign to incorporate event management of the Studio Theatre –** This option was considered but discounted on the basis that it would not be deliverable in the timescales required to achieve the agreed budget savings and would require a significant at risk investment in staffing by the Council and the likely returns do not justify the investment. It is estimated that this will a return of achieve approximately £0.060m pa less for the Council than the preferred option and is likely to lead to a delay in realising the benefits. This option would also create a range of operational and relationship challenges to the Councils business as usual arrangements with the Rep.

## **7. Reasons for Decision(s)**

- 7.1 The implementation of the proposed contract is the most effective route to support the Council in achieving a minimum of £0.147m per annum of additional revenue by 2019/20, reducing the need to make further reductions to services to achieve agreed financial targets.
- 7.2 The introduction of the approach will strengthen the Council's relationship with the local cultural and events sector and provide a platform for growth of the partnership with the ability to encompass other cultural sector partners.

### **Signatures**

### **Date**

**Councillor Ian Ward**  
**Deputy Leader of the Council**

.....

.....

**Councillor Majid Mahmood**  
**Cabinet Member for Value for**  
**Money and Efficiency**

.....

.....

**Jacqui Kennedy,**  
**Corporate Director - Place**

.....

.....

<b>List of Background Documents used to compile this Report:</b>
Council Financial Plan 2017+ - City Council 28 February 2017

<b>List of Appendices accompanying this Report (if any):</b>
Appendix 1 – Full Business Case Appendix 2 – Consultation Matrix Appendix 3 – Equality Analysis

<b>Report Version</b>		<b>Dated</b>	
-----------------------	--	--------------	--