

## REPORT TO CABINET

<b>Open</b>		Would any decisions proposed:			
<b>Any especially affected Wards</b>	Discretionary / Operational	Be entirely within Cabinet's powers to decide		YES/NO	
		Need to be recommendations to Council		YES/NO	
		Is it a Key Decision		YES/NO	
Lead Member: Cllr Graham Middleton E-mail: cllr.graham.middleton@west-norfolk.gov.uk		Other Cabinet Members consulted: Cllr Nockolds, Cllr Richard Blunt			
		Other Members consulted:			
Lead Officer: Duncan Hall E-mail: Duncan.hall@west-norfolk.gov.uk Direct Dial: 01553 616445		Other Officers consulted: Jemma Curtis, Chris Upton, East Law, Management Team			
Financial Implications YES/NO	Policy/ Personnel Implications YES	Statutory Implications NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES	Environmental Considerations YES
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)					

Date of meeting: 11<sup>th</sup> April 2022

### **ST GEORGE'S GUILDHALL AND CREATIVE HUB – PROJECT UNDERWRITING, FUTURE GOVERNANCE AND OPERATING MODEL ARRANGEMENTS**

#### **Summary**

This report sets out the progress made on the St George's Guildhall and Creative Hub project as part of the Town Deal programme and the Council approvals required as the accountable body and leaseholder/owner of the Centre. The approvals are required to complete both a Business Case for the Towns Fund stage 2; and a Business Plan (and a stage 1 application) to the National Lottery Heritage Fund (NLHF), to secure match funding for the project.

A clear direction and plan on the future management and operational arrangements for the Guildhall and Creative Hub are critical to the NLHF application and Towns Fund Business Case. The Guildhall Project Board (that includes The National Trust and Norfolk County Council) have considered the best governance and operational structure for the future new enterprise, and the most appropriate characteristics of any new legal entity. The recommendation is based on the unanimous views of a number of culture sector specialists consulted, including retained consultants for the project, FEI Ltd.

#### **Recommendations**

1. The Council endorses the Vision Manifesto (appendix 1) and the Business Plan (appendix 2) for the Centre for submission to the Towns Fund and NLHF.
2. That following consideration of the options for securing funding for the Guildhall and Creative Hub set out in section 4, the council agrees to amend the capital programme as set out in section 7.3 in the report, to underwrite the match funding required in order to secure the Towns Fund allocation.

3. In the event the NLHF Stage 1 or 2 applications are not successful, a further report be brought back to Cabinet to confirm the final project scope and extent of funding required as detailed in section 7.3 of the report
4. That following a consideration of the options for a governance and operating model that a new separate entity is formed. That on consideration of options (appendix 3), that this entity is a newly formed for purpose Charitable Incorporated Organisation (CIO).
5. That the process of forming a new Independent CIO with a wholly owned trading subsidiary is commenced and matters relating to this including:
  - Finalising the constitution and Governing Document the way the CIO will run
  - Selecting the Chair and two initial trustees before an application to the Charities Commission is made as detailed in section 5 of the report.
  - Choosing a name

are delegated to the Monitoring Officer and Chief Executive in consultation with the Portfolio Holder for Business, Culture and Heritage.

6. The financial implications of the decisions as set out in section 7 of this report are endorsed and reflected in the Council's Financial Plan from 2025 onwards
7. Delegate authority to the Assistant Director for Property & Projects in consultation with the Portfolio Holder for Commercial Property to negotiate and conclude the leases with existing tenants.

### **Reason for Decision**

To provide the match funding evidence for the 'Guildhall and Creative Hub' to secure the £4.8m Towns Fund allocation.

A timely decision about how a future enterprise will be governed and the model under which it will operate is an important part of planning the 'Guildhall and Creative Hub' project and the associated funding submissions. The decision will demonstrate to funding bodies that the council is giving careful consideration and certainty at this stage to the future sustainability of the investment being sought and the key documents that will define the relationship between the council and the entity that will run the Guildhall and Creative Hub.

The project directly supports and will deliver against the Council's commitment and ambitions for culture as set out in the Council's Cultural Prospectus and Town Investment Plan (2021).

## 1 Background

The Guildhall and Creative Hub is one of 7 projects agreed to proceed by the King's Lynn Town Deal Board under the government's Towns Fund programme, to drive economic growth in our town. Achieving this growth through culture is well understood and forms one of the key components of the Towns Fund. An improved cultural offer helps; along with other components of the Towns Fund Programme, to create and define new purposes and visitor appeal for the town centre, and in this case activate underused valuable heritage assets.

The Cabinet Report on the Towns Fund Programme on 24<sup>th</sup> August 2021 covered matters relating to the Guildhall and Creative Hub proposals – In respect of section 5, it stated 'Progress the future management and and operational arrangements for the Complex including assessing the option to form a Charitable Incorporated Organisation (CIO)'. Further work has now been undertaken by the council and its partners which is now presented in this report. It also set out the proposed funding package required to deliver the project which in addition to the Towns Fund and Borough Council, included seeking funding from the NLHF.

## 2. Current Status of the Site:

The Guildhall Theatre and Fermoy Art Gallery are part of a site that comprises of buildings constructed and modified in different time periods. In broad terms, the northern units are in the ownership of the National Trust leased to council and the southern buildings are freehold owned by the council. Since approximately the late 1980s, the site has gradually become subdivided with various sub-leaseholders of the council taking parts of the site, in many cases on peppercorn rents. In broad terms, this has led to a situation where no one lease holder has been able to make enough profit to support their activities and maintain the buildings and certainly not a wider engagement with the site. It is subdivided to the point it is economically unviable. Alive West Norfolk currently manage the site on a 'hall for hire' model but with no active programming or presence on site. Access for visitors has in recent years been facilitated by volunteers of the Shakespeare Guildhall Trust.

As a result, the site operates on a net deficit of circa £150k per annum (excluding any maintenance liabilities), due the extent the site is underutilized and lack of proactive programming or management to large parts which are in public ownership. Further details are set out in section 7 of the report.

## 3. Project Vision

Working in partnership with Norfolk Museums Service and The National Trust, a new and holistic approach has been taken to developing the Centre through the Guildhall and Creative Hub project, taking into consideration the feedback received from the previous unsuccessful NLHF application for the Guildhall in 2016 which stated, '*The bid provided insufficient evidence of a rethink and fresh approach, repeating previous patterns of use as a theatre and art gallery.*' The recommended approach demonstrates to NLHF that the council and partners have carefully considered and addressed the failings of the previous application and are taking a holistic approach to the whole site, responding to a programme of public consultation, following cultural sector best practice and operational models.

Cultural specialists, FEI Ltd, were commissioned in September 2021 to prepare a business plan for the project (appendix 2). Extensive consultation was undertaken by FEI and officers to develop a detailed Activity Plan for the future uses and activities on the site on which the business plan is based. The proposals will create a cluster of arts and culture activity for residents and visitors and for the local community by: -

- Refurbishing the historic Theatre and enhancing physical access– with a reference to its exceptional historical value and Shakespearian connection
- Creating opportunities for local creative enterprises
- Creating inspiring spaces (whole complex approach) for the community and visitors alike for formal and informal learning including youth engagement

In summary, assuming the full funding package is secured from Towns Fund and the NLHF to complete the capital works and programme of activities required, the Business Plan forecasts delivering; a heritage visitor attraction, education resource and creative hub by day, and a theatre and entertainment venue by night, both supported by significant food, beverage and retail offerings.

The main activities include:

- The Shakespeare Experience – a ticketed tour telling the story of English Theatre
- 300 seat Guildhall theatre, 90 seat performance space, Fermoy Gallery, studios
- 350 public performances and events a year
- Creative Hub with 1,000m<sup>2</sup> of lettable space in 27 office and studio units for cultural industries
- Education, skills and training courses
- The Shakespeare café/bar, Riverside destination restaurant, banqueting.

The redevelopment of the Guildhall will create a new heritage and cultural attraction, which will help strengthen and diversify King's Lynn's visitor economy, encourage footfall, connections to the waterfront which in turn will increase dwell time, visitor expenditure in addition to creating jobs for local people. The initial economic benefits of the scheme have been evaluated by Mott McDonald as part of the Business Case development. The initial estimates of the economic impacts comprise:

1. **Arts Audience benefit** - This quantifies the wellbeing benefits associated with attending live performance arts per attendee. The paper found that for arts attendance the wellbeing benefit is in the range of £47-62 per activity<sup>1</sup>. We anticipate the benefit to be between £18m-£23m over a 30 year appraisal period.
2. **Volunteering benefit** - the value of volunteering (to the volunteer) using data on Life Satisfaction and Volunteering status<sup>2</sup> estimates that the value of frequent volunteers place of volunteering is approximately £13,500 per year at 2014 prices (£16,500 in 2022 prices). We estimate the benefit associated to the Guildhall to be between £0.6m-1.5m.
3. **Labour supply benefit** is the savings to the exchequer that will be experienced as a result of employment at the Guildhall and the avoidance of Long-Term unemployment through increase tax revenues and decrease welfare payments. We anticipate this benefit to be in the region of £1.0m for this project over a 30 year appraisal period.
4. The **Arts Participation benefit**<sup>3</sup> This estimates the benefit to people participating in various arts (including Dance, Drama, Music and Film) to be £1,084 annually in 2014 prices. We expect the benefit to be between £1m-2m over the 30 year appraisal period.

**Recommendation 1 requests the Council endorses the Vision and Business Plan for the St George's Guildhall & Creative Hub.**

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<sup>1</sup> London School of Economics

<sup>2</sup> The Department for Work and Pensions

<sup>3</sup> London School of Economics

#### 4. Towns Fund – Stage 2 Requirement - Underwriting match funding.

The funding package required to deliver the project, as set out in the cabinet report on 24<sup>th</sup> August 2021 was as follows:

<b>Funder</b>	<b>Amount requested</b>	<b>Status</b>
Towns Fund	£4,765,000	Business case to be submitted 30/06/22
NHLF	£ 3,326,910	Stage 1 application pending 25/05/22.
Borough Council	£750,000	Secured in capital programme (cabinet report 24/08/21 refers)
<b>Total</b>	<b>£8,841,910</b>	

A RIBA Stage 1 report and site wide masterplan for the Centre has been prepared (appendix 5) which includes an update cost plan for the project. This sets out the spatial arrangement and redevelopment of the site required to achieve the Business Plan. The NHLF element of the project includes capital and revenue to deliver a 5 year activity plan with the project. This is currently under review by the Project Team and Project Board established for the project, taking on the latest advice and guidance being received by NHLF for projects of this scale and nature. Should the costs and funding package change to the original heads of terms, this will require approval by the Town Deal Board and government.

The proposed timelines and milestones in order to meet funding requirements are set out below:

- 26 May 2022 – submission of stage 1 NHLF application and Business Plan (Outcome in September 2022)
- June 2022 – Completion of full Towns Fund Business case - submission of summary business case to Department for Levelling Up Homes and Communities.
- September 2022 – Outcome of the Stage 1 Application from the NLHF; if successful, invited to prepare stage 2 development phase application for submission within 12 months.
- By November 2023 –Submission of stage 2 application to NHLF.
- March 2024 – Outcome of Stage 2 NHLF application
- December 2024- 2026 – project delivery phase.

A requirement of the Towns Fund Stage 2 business case is that all match funding should be secured during the stage 2 process which is due to be submitted in June 2022. A stage 2 application for the NLHF is not due until November 2023 and is subject to a successful submission at stage 1 (outcome known in September 2022). As the timeframes for the two funds do not align, it is recommended that the council underwrites the match funding from the NLHF as per the justification for this approach outlined in this report. Given that BCKLWN is unlikely to get approval for the full NLHF funding until March 2024 following the stage 2 development phase application, it is recommended that the council underwrites the amount requested from the NLHF until such a time that the funding is secured at stage 2.

The amount of funding requested from the NLHF is £3,326,910. There are options available for securing the amount required if the funding bids for NLHF are unsuccessful. The staged approach to approving the underwriting also gives project officers time to agree the lease arrangements going forward (see 6.2.2 below) and to amend the project plans accordingly. Possible options for securing alternative funds are outlined below.

#### **Options:**

1. **Do Nothing** – Doing nothing will result in the failure of the Town Fund Business case and the withdrawal of the of the grant award from DLUHC. BCKLWN will still need to find financial resource to meet the outstanding building maintenance liabilities of the Guildhall and surrounding site (enforceable by the National Trust). This option is not recommended.
2. **Underwrite the project funding gap (stages 1 and 2).** A second report will be brought to cabinet in September 2022 informing members of the outcome of the NLHF stage 1 bid, it will include an up-to-date cost estimate of the project. If BCKLWN is unsuccessful with its bid to NLHF and there is political will for the project to proceed in its intended format, BCKLWN could provide funds to meet the project shortfall. There is potential that this money could be borrowed from the Public Works Loan Board (PWLB). Borrowing £3,326,190 at this current time will costs £3,393,900 over 10 years. The same process would be followed if the project is successful at Stage 1 but unsuccessful at Stage 2. This option is not recommended.
3. **Underwrite the project (stages 1 and 2) on the understanding that other funding options will be pursued.** A second report will be brought to cabinet in September 2022 informing members of the outcome of the NLHF stage 1 bid it will include an up-to-date cost estimate of the project. If BCKLWN is unsuccessful with either of the stage 1 or stage 2 bids to NLHF and there is political will for the project to proceed in its intended format, BCKLWN could (and officers will be doing so in preparation) bid for alternative funding to meet the shortfall in funding. Potential funding sources could include Arts Council England and the Shared Prosperity Fund (amongst others) and or funding diverted from other Towns Fund projects, subject to reprioritization by the Town Deal Board and project adjustment approval by the Government. The establishment of the CIO discussed later in the report also opens up other funding opportunities not currently available to the authority. This option is recommended.
4. **Underwrite a smaller scale of the project (stages 1 and 2).** A second report will be brought to cabinet in September 2022 informing members of the outcome of the NLHF stage 1 bid. If the bid is unsuccessful, the report will include an up-to-date cost estimate of the project and what aspects of the project must be delivered to meet both the Towns Fund expectations/outcomes and the outstanding building maintenance liabilities of the centre (being enforceable by the National Trust). Alternative funding opportunities will be pursued. The same process would be followed if the project is successful at Stage 1 but unsuccessful at Stage 2. This option is not recommended. As extensive work has been undertaken on creating a sustainable business plan, long term sustainability will be compromised if the ambition is scaled back and there is no longer a holistic approach to the site.

It is pertinent to note that, if the Council is successful at the NLHF Stage 1, a NLHF development grant is made available to develop the project to the standard required for a stage 2 bid. Although, some Towns Fund money will be spent during this development stage, the project team will ensure that costs incurred during the development stage are focused on delivering against the towns fund outputs and objectives and support the development of a robust delivery plan for the scheme.

**Recommendations 2 & 3 seeks Council approval for the approach to underwriting as set out above.**

## **5 Consideration of the options for governance and operating model.**

The Project Board engaged consultants FEI (a specialist culture business development consultancy), to produce a Business Plan for the NLHF and a Business Case for the Towns Fund for the Guildhall and Creative Hub project (the Centre). As part of that work, FEI have been asked to consider the best governance and operational structure for the Centre and to make a recommendation on the most appropriate legal entity for any new organisation.

Creating an organisation to deliver the Guildhall and Creative Hub's mission, key priorities, programme, and the physical changes is going to take a huge effort. Any existing or new organisation will need to deliver the stakeholder's priorities and ensure an enterprising and agile response to new commercial and publicly funded opportunities.

The organisation will need to develop strong local, regional, national, and international partnerships and model best practice in delivering ambitious and innovative cultural and heritage programmes of activity. This would include offering opportunities for skills development through volunteering, apprenticeships, and training, in pioneering sustainable practices and developing accessible engagement opportunities.

It will require a small, agile, yet properly resourced, team be led by an experienced Director (potentially as a chief executive) who would lead the creative programme, fundraising and partnership building efforts of the organisation. In addition, the organisation will require fundraising, marketing, financial and administrative expertise.

The organisation will operate a mixed business model with income from commercial trading activity, sponsorship and fundraising, and public funding. For the Centre to reach its potential will require a stable funding base on which to build activity, revenues, and reserves over time.

FEI initially assessed three options for governance and operation of the Centre:

- Direct operation by the Council
- Operation by Alive West Norfolk or another existing independent organisation
- Setting up a new independent organisation.

A description of each option, its strengths and weaknesses are set out in appendix 3.

### **5.1 Detailed Recommendation**

Recommendation 3 requests that consideration is given to the strengths and weaknesses of the different governance and operation models for the Centre (outlined in appendix 3).

It recommends that a new, appropriately named, independent organisation is established to develop and run the Centre, consisting of a Charitable Incorporated Organisation (CIO) with a wholly owned trading subsidiary. A CIO is proposed over a CLG, CIC or other legal entity, as it is the simplest form of organisation that achieves the required benefits.

### **5.2 Next Steps for establishing Charitable Incorporated Organisation (CIO)**

A Foundation CIO should be registered with the Charities Commission under an appropriate name. A Foundation CIO has a group of trustees who also are the voting members of the charity and there is no wider voting membership. All trustees are likely to be unremunerated volunteers, although, subject to professional advice, there could be a justifiable taxation

advantage to including a paid executive on the board or remunerating a non-executive trustee.

### **5.3 Constitution**

It is proposed that the CIO is set up using the Charity Commission's standard constitution with the Objects being the promotion of art, culture, heritage, and science for the public benefit with reference to, but not exclusively, St Georges Guildhall and Creative Hub.

### **5.4 Trustees and Founding Chair**

The constitution determines the number of trustees. We recommend a minimum of 6 and a maximum of 12. Three initial trustees are required to start the application process including a Founding Chair who is likely to undertake a considerable amount of work whilst the organisation is established and before the chief executive is appointed. Identifying the Founding Chair is a key task.

Technically, although the Council are supporting the establishment of the CIO, they are not required to be part of the initial application which is being made by private individuals on the expectation of future support from the Council.

### **5.5 Taxation**

The issue of Cultural Exemption from VAT and wider taxation issues will be dealt with in the Business Plan. FEI have advised that there would be no corporation tax on profits generated from charitable trading; Gift Aid donations to the charity would be increased by 25%; business rates relief would apply on premises occupied.

### **5.6 Commercial Activity**

It is common for charities to undertake some commercial trading activities that is outside the scope of its charitable objects. Most charities establish a commercial trading arm to handle this activity as detailed below.

### **5.7 Employment**

The CIO will employ the staff required to run the Centre starting with the chief executive. The initial team may need to be engaged in the first instance by the Council (refer to section 8 – Personnel Implications) or other alternative arrangements until the charity registration is complete and the CIO established.

### **5.8 Timetable for CIO registration**

Pre-Covid the Charity Commission were suggesting 4-6 months to register a CIO. It has been suggested that it could take 6-12 months in current circumstances, so it is important to start the registration process as soon as possible.

### **5.9 Trading Subsidiary**

A private limited company, with an appropriate name, should be registered with Companies House. This will be owned by the CIO and handle all the non-charitable trading activity. The company will covenant all its profits annually to the CIO. It is recommended that there are two Directors of the company, one who is also a Trustee of the CIO and one who is independent of the CIO. The trading subsidiary will not have employees.



## **5.10 Relationship Between Council and CIO**

### **5.10.1 Governing Document**

The partnership between the Council and the CIO should be in the form of a Service Level Agreement (SLA). This would set out the shared vision for the Centre, the agreed business plan, a set of target outputs (KPIs), governance arrangements, leasehold agreement, and the funding agreement. The SLA for should be for the same period as the Lease, with appropriate review periods. Further commentary on the Governing Document (appendix 6) is contained in Policy and Legal Implications in section 6.

### **5.10.2 Guildhall Lease**

The current assumption is that Council will continue to lease the buildings from the National Trust and sub-let to the CIO on a long-term lease, with refurbishment and fit-out paid for by the Towns Fund and other funders. The CIO will be responsible for internal repairs and maintenance, insurance etc and Council will be responsible for the external fabric of the building. These arrangements would be subject to approval by the National Trust. The length of the lease should tie in with the SLA. If other funders contribute to the capital cost of the Centre this will need to be considered when determining the period of the lease. 25 years is a fairly standard term acceptable to most funders.

In the event that the CIO failed and ceased to operate the headlease between the National Trust and the council would prevail and the council would again have full repairing (internal and external) and insuring responsibilities.

### **5.10.3 Appointment of Trustees**

The Council will have the right to nominate one or two Trustees of the CIO, built into the constitution of the charity. The number of council nominated Trustees will depend on the overall number of Trustees appointed. It will be important that the Council has less than 20% of the total Trustees, so as to avoid the Centre becoming a regulated influenced company. It is for the Council to decide whether the nominated Trustee(s) are Members or Officers (although Legal services advise that Borough Council Officers should not be trustees), bearing in mind that Trustees must always act in the best interest of the CIO and that conflicts of interest must be carefully managed. It is envisaged that trustees could be appointed from the National Trust and Norfolk County Council (given their role in arts and cultural development including museum services).

## **5.11 Why establish a CIO now?**

Why commence the process to establish a CIO now before full financial information is known/ understood, and in advance of the completion of the Business Case?

- It gives funders (particularly NLHF prior to 25<sup>th</sup> May 2022 when the application is made) a clear indication that something has changed since the last attempt and a commitment to a holistic and cohesive approach to operating the whole site.
- Establishing a CIO will provide a mechanism for charitable investment / donations to be made between now and project delivery.
- Applications for CIO to the Charity Commission up to 12 months processing time need to start the ball rolling.

## Conclusion

Considering the strengths and weaknesses of the different options identified an independent charitable organisation offers the Council and its partners the best chance of a successful long-term future for the Guildhall. A CIO is proposed over other legal entities, as it is the simplest form of organisation that achieves the required benefits.

**Recommendation 5 requests that the process of forming a new Independent CIO with a wholly owned trading subsidiary is commenced and matters relating to this including:**

- **Finalising the constitution and Governing Document the way the CIO will run**
- **Selecting the Chair and two initial trustees before an application to the Charities Commission is made**
- **Choosing a name**

**are delegated to the Monitoring Officer and Chief Executive in consultation with the Portfolio Holder for Business, Culture and Heritage.**

## 6 Policy and Legal Implications

### 6.1 Policy Implications:

The project is directly aligned with the Corporate Business Plan Vision;

West Norfolk is a place where:

- businesses and people can flourish
- communities are active and healthy
- residents and visitors can access fulfilling cultural, leisure and sporting activities
- a good quality of life and environment are available to all

Specifically the priorities to;

- Delivering growth in the economy and with local housing
- Improving social mobility and inclusion
- Creating and maintaining good quality places that make a positive difference to people's lives

Directly contributes to the objectives are to:

- promote the borough as a vibrant place in which to live, to do business and as a leading visitor and cultural destination
- develop and facilitate the range and quality of business premises available
- work with partners to improve education attainment levels and the skills of local people
- protect, promote and enhance the borough's natural and built environment.

It is one of the highest priority projects identified in the King's Lynn Town Investment Plan and Heads of Terms agreed with government, as endorsed by the Cabinet on 24<sup>th</sup> August 2021.

The Project directly aligns with the Vision set out in the Cultural Prospectus (2018) particularly identified actions around investment in key infrastructure development and creative employment and entrepreneurship.

### 6.2 Legal Implications:

6.2.1 There are two alternative forms of CIO. A ‘foundation’ CIO and an ‘association’ CIO. A CIO options is appropriate in this situation, that involves a relatively small number of trustees.

The governing document between the council and the CIO will determine and define the relationship between the parties, the degree of control relinquished by the council, and the financial relationship. The report assumes (supported by conversations with the National Trust) that the lease between the council and the National Trust remains in place – and that the basis upon which the CIO has control over the site is dealt with via the Governing document (and could possibly append an internal only repairing sub-lease as detailed above).

The Governing document would cover matters including: -

- Details on an exit strategy
- How to deal with conflicts of interest
- Financial spending limits/ thresholds – above to revert to council
- It would need to align with funding agreements for investment (TF/ NLHF)
- Mechanisms for getting money in and out
- provisions for letting contracts
- Details of any Service Level Agreements with the council
- Mechanism to get funds into CIO and take funds out
- Any sub-lease could cover sinking fund contributions

### 6.2.2 Implications to existing tenants and leases:

There are potential risks and financial implications and uncertainty which will impact on the business plan in the event the termination or changes are sought to the 2 existing contractual lease on the site. Discussions are on going with both parties as part of the project development.

**Recommendation 7 requests that authority is delegated to the Assistant Director for Property & Projects in consultation with the Portfolio Holder for Commercial Property to negotiate and conclude the leases with existing tenants.**

## 7 Financial Implications

### 7.1 Future Operational Costs of the Centre:

The current operational costs of the centre site as follows;

<b>Costs</b>	<b>£</b>
Running Costs (insurance, utilities, rates etc)	(£167,000)
Support Costs (from council departments)	(£22,000)
<b>Income</b>	
Rental income	£39,000
<b>Net Cost</b>	<b>(£150,000)</b>

This data is based upon Pre-Covid costs (2018/19 & 2019/20) aligned to the current Budget for managing the site and excludes as maintenance liability costs.

If the project does not proceed, the outstanding building maintenance liabilities of the centre (enforceable by the National Trust) are likely to stand at a six or seven figure amount (a

dilapidations liability assessment would be required for an accurate estimate). For purposes of this report we have used £500,000, and have such earmarked £50,000 a year (ten year) as a recurring commitment, bringing the total annual cost to the council of £200,000 per annum.

A number of project financial scenarios are set out in the Business Plan (appendix 2) going forward based upon the FEI Ltd. They are as follows:

- Surplus of £94,000 generated when fully operational in 2027/28. The Working assumption by FEI Ltd is that the total number of attendances is estimated to be 181,184 in 2027/28.
- Surplus of £45,000 achieved taking 3% reduction in sales as a contingency advised by FEI Ltd.

Sensitivity Analysis:

Against an independent assessment undertaken by FEI Ltd, we have applied a tolerance of 18% reduction (£294,544) in sales/32,612 reduction in attendances, which would mean that Council are no worse off than at present covering the current running, support & maintenance costs of £200,000 per annum (details attached in Appendix 4).

A further sensitivity analysis of the 2 primary visitor attractions/audiences has been tested on the business plan to assess the impact it would have on the overall net surplus/deficit of the business plan.

Income stream	Assumptions	Total Net Surplus/Deficit in Business Plan 2026-29
Public Performances: Business Plan	330 performances per year 60% Capacity* Total Audience attendance 46,887	£41,309
Public Performances: Sensitivity Analysis	330 performances per year 50% Capacity Total Audience attendance 38950	£-65,393
Shakespeare Experience tour: Business Plan	250 visitors per day, 364 per year @ 35% capacity 32,000 total visitors.	£41,309
Shakespeare Experience tour: Sensitivity Analysis	Reduce visitor assumptions above by further 20%	£-118,742

\*the UK average theatre performance attendance is 65%.

The business plan identifies an early requirement for the Council to provide working capital/cash-flow loan of £100,000 per year for three years (2025-2027) to support the establishment of the CIO, which can be met from the Council reserves.

**Recommendations 1 & 6 asks the Council to endorse the Business Plan and accept the financial tolerance**, which has been assessed and appraised by the Council's Project Accountant, for the future operation of the Centre; which will leave the Council no worse off than the current operation, while delivering a restored and redeveloped site (which will address the maintenance liabilities) and the wider cultural and economic benefits this brings.

If the project does not proceed, financial commitment is still required from the Council to meet the outstanding building maintenance liabilities of the centre (being enforced by the National Trust). The terms of the lease which the Council have with National Trust are clear and give the Trust the authority to decide what repairs are needed and the standard to which these require carrying out. The National Trust have to date been very understanding but it is important members understand the weighting of the lease between Council and Trust. National Trust standard of repairs is known to be a higher requirement than other bodies which has a cost implication. The exact figure and schedule of work of the current dilapidation bill is to be confirmed but for the National Trust holding leased to the Council could potentially be in millions. There is a figure only for the work needed to the roof of the Guildhall which stands at a range between £250,000 and £500,000.

Much of the work being costed in the suggested capital budget for the Guildhall project is the work that will satisfy the dilapidations liability. As such proceeding with the project along the terms suggested in this report would provide a mechanism to finance the dilapidation liability owed by the Council and provided the CIO achieves its targets give yearly maintenance finance going forward.

## **7.2 Establishing CIO:**

There is no fee associated with setting up a charity. Establishing a simple trading subsidiary (private limited company) would have very little cost. Eastlaw have confirmed that they can undertake the drafting of the Governing Document.

Establishing a charity opens the opportunity for funding from sources not available to the council including philanthropic donations from trusts/ individuals and arts and cultural institutions.

The recommendation to complete the establishment of a CIO and begin operational planning activities is made on a conditional basis.

## **7.3 Underwriting Commitment:**

Recommendation 2 of the report sets out amending the council's capital programme to accommodate borrowing £3,326,190 during 2023-26 as forecast at this current time, to provide the underwriting commitment required to support the Towns Fund Business Case. Based on PWLB borrowing rates of 2.01% will cost £3,693,900, including the principal sum over 10 years. This would only be required if the NHLF match funding application is unsuccessful and does not take into account other funding sources that would be explored to support the project, particularly with the establishment of the CIO who will have access to other funding sources as explained in section 4 of the report.

A further report will be brought back to the Council with options in the event this situation arises (Recommendation 3).

## **8 Personnel Implications**

In respect of the reference to employment in 5.7 and more generally regarding any services procured from the council and covered in any SLA – advice on Human Resources matters will only be possible to contract from the council when any employee arrangements mirror the terms and conditions of the council.

The employment of any staff by the council in a transitional period prior to a fully operational CIO presents challenges and risks that will need to be considered carefully – particularly in the context of existing staffing capacity constraints.

## 9 Environmental Considerations

The project will be shaped by meeting the objectives of funding partners- these include particularly in relation to the NLHF consideration of environmentally sustainable approaches. An element of the site is currently subject to a de-carbonisation programme where existing gas heating is being replaced with a number of air source heat pumps.

## 10 Statutory Considerations

There are no statutory considerations.

## 11 Equality Impact Assessment (EIA)

(Pre-screening report template attached)

## 12 Risk Management Implications

Risk	Risk Implications and Mitigation	Level of Risk
Council does not decide to proceed as recommended;	<p><b>Risk</b> Council does not decide to proceed as recommended to provide the underwriting commitment and new operating model for the Centre.</p> <p><b>Consequences/Mitigation</b></p> <ul style="list-style-type: none"> <li>• Requirements for Towns Fund Business Case not met.</li> <li>• The Council will still be liable for the building maintenance required to the centre under the lease with the National Trust.</li> <li>• The application to the NLHF (the match funding source) may be undermined and weakened as the project will no longer address the failings identified (from the feedback given by the NLHF) following previous applications.</li> <li>• The opportunity for a sustainable future for the centre which will provide wider cultural and visitor economy benefits derived from the proposed business plan will be lost.</li> <li>• The council will continue to incur the ongoing revenue cost of the existing site.</li> </ul> <p>The approach set out in this report sets out the mitigation.</p>	High
Support from Tenants	<p><b>Risk</b> Amendments to leases not agreed with existing site occupiers means vision and business plan are compromised.</p> <p><b>Consequences/Mitigation</b></p>	Medium

	<p>Business plan cannot be achieved which would impact on the financial model and sustainability of the project. Lack of support from tenants would weaken the case to external funders for the project.</p> <p>One to one regular dialogue with site occupiers to ensure their buy in and needs are met.</p>	
Resources	<p><b>Risk</b> Staffing resources are not secured to deliver the project</p> <p><b>Consequences/Mitigation</b> Specialist project management/cultural/funding skills not secured for lead project manager which impacts on ability to deliver project efficiently.</p> <p>Continue to secure resources through existing partnership with National Trust and Norfolk Museum Service. Consider agency/consultancy resource. Redivert other staff resources internally to the project.</p>	High
Project Creep	<p><b>Risk</b> Inevitably with large and complex programmes and projects, there is a risk of project creep and project scope deviating from the original aims and objectives of funders as the project is developed.</p> <p><b>Consequences/Mitigation</b> The business case and match funding applications will not be compliant for funding approval to release the funding for delivery and the original aims and objectives are not fully achieved. This will be mitigated through the adoption of the Vision and established project governance procedures to ensure project remains within scope.</p>	Low
Business case/Match funding application not completed in time	<p><b>Risk</b> The work and resources required to develop the detailed business case and match funding applications is not completed within the deadlines set by MHCLG and the funding not released.</p> <p><b>Consequences/Mitigation</b> Full Town Deal allocation and NHLF not secured to deliver the project.</p> <p>Resources in place for current phase of business case &amp; NHLF application. Will regularly monitor the progress and development of business cases and identify additional resources and address any issues required to enable the business cases to be completed within the timeframes.</p>	Medium
Scheme Delivery	<b>Risk</b>	Medium

	<p>Match funding and resources to deliver the project within the funders timescales are not secured.</p> <p><b>Consequences/Mitigation</b> The project vision and business plan is compromised resulting in ongoing maintenance and revenue implications to the Council and wider economic benefits to the town not achieved.</p> <p>Project programme resources and risk registers will need to be built into each project to ensure sufficient resource for delivery and effective risk management/monitoring of schemes.</p>	
Cost Increases	<p><b>Risk</b> Project costs could be higher than the funding available following detailed development phase work. Concerns around recent cost inflation of materials impacting on project costs.</p> <p><b>Consequences/Mitigation</b> Optimistic bias and inflation allowances has been applied to projects. Costs will continue to be monitored through the key stages of the projects and monitored through the Programme Board and will be subject to further negotiation with government before final funding and project approval. The establishing the CIO early will enable other funding opportunities to be explored.</p>	Medium
Delaying establishing CIO	<p><b>Risk</b> A decision not to commence the process of establishing a CIO prior to a funding application being made to NLHF in May 2022 – could weaken the case for funding (by not addressing previous concerns raised by the NLHF)</p> <p>Funding opportunities are missed (for example private donors and funding only available to charities).</p> <p><b>Consequences/Mitigation</b> NLHF match funding or other sources not secured to support project delivery.</p>	High
Content of the Governing Document:	<p><b>Risk</b> Ensuring adequate control to the council and appropriate freedom to the CIO to ensure it can act in a commercially agile way,</p> <p><b>Consequences/Mitigation</b> The CIO does not perform as intended by the Council and the business plan fails.</p> <p>Careful selection of Trustees to the CIO that have track record, skills and experience to support successful operation of the Centre with sufficient flexibility to</p>	Medium



	enable it to operate commercially to achieve its aims.	
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### **13 Declarations of Interest / Dispensations Granted**

No declarations of interests have been identified.

### **14 Background Papers**

#### **Appendices**

1. Vision Manifesto, November 2021
2. Business Plan, FEI Ltd, February 2022
3. Operating Model Options
4. Financial Business Plan Assessment, Borough Council Finance, March 2022
5. RIBA Stage 1 St George's Guildhall & Creative Hub, Foster Wilson Size, March 2022
6. Governing Document