



URGENT BUSINESS

Council

Wednesday, 18 July 2012

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COUNCIL

Storey Creative Industries Centre 18th July 2012

Report of the Chief Executive

PURPOSE OF REPORT

To enable Council to consider as a matter of urgency a referral from Cabinet following Cabinet's consideration of the decision of the Overview and Scrutiny Committee on the call-in of a Cabinet decision of the 3rd July 2012.

This report is public, but Appendices 5 and 6 are exempt from publication by virtue of paragraph 3, of Schedule 12A of the Local Government Act 1972

RECOMMENDATIONS

- (1) That Council consider whether or not to approve Option 2 as set out in the Cabinet report of the 3rd July 2012, that is to continue to support the Storey building being used as a creative industries centre but under the Council's direct management and control, authorising the Chief Executive to take actions as necessary, prior to reporting back to Cabinet
- (2) That in the event that Option 2 be supported, the Head of Resources be authorised to update the Revenue Budget to reflect the actions taken in accordance with (1) above.

1.0 Introduction

- 1.1 On the 3rd July 2012, Cabinet considered a report on the Storey Creative Industries Centre. The report together with its appendices was exempt, but a public version of the report together with Appendix A was published. The public version of the report is at Appendix 1 to this report, and the exempt report is at Appendix 5.
- 1.2 The Cabinet minute (which is public) is at Appendix 2 to this report. Cabinet's decision was to approve Option 2 as set out in the Cabinet report, that is, to support the Storey being used as a creative industries centre but under the Council's direct management and control. The Chief Executive was authorised to take actions as necessary, prior to reporting back to Cabinet. In view of the urgency of the matter, Cabinet further resolved that the Chairman of Overview and Scrutiny be consulted with regard to waiving any call-in of the decision.
- 1.3 The Chairman of Overview and Scrutiny Committee was consulted but declined to waive the right to call-in the decision. In fact the decision was called in, and a copy of the request for call-in is at Appendix 3 to this report.
- 1.4 The Overview and Scrutiny Committee met last night, the 17th July 2012, and

considered six recommendations to Cabinet, proposed by those members who had called in the decision. Those recommendations are at Appendix 4.

- 1.5 In considering those six recommendations, the Overview and Scrutiny Committee accepted only recommendation 1, that Council continue to support the vision for the Storey Creative Industries Centre, and an amended version of recommendation 5, that Council consider removing restrictions on the nature of business carried out by those taking tenancies within the building so as to increase the potential for full occupation of the lettable space in the building.
- 1.6 Cabinet met last night, the 17th July 2012, following the Overview and Scrutiny Committee meeting, and considered the Committee's recommendations. Cabinet also considered a statement from the Board of Storey Creative Industries Centre Limited, dated the 16th July 2012, together with a covering email from the Chairman of the Board, and an officer briefing note. These are attached to this report at Appendix 6, and contain exempt information.
- 1.7 Cabinet was advised that, as indicated in the briefing note, and because of events that had unfolded over the past two weeks, option 2 as set out in the Cabinet report of the 3rd July was now more difficult to achieve and had greater risks and costs than was the case two weeks ago. It was now reasonable to assume that the costs could not be managed within existing budgets, and Council approval would therefore be required for option 2.
- 1.8 On the basis that the available options were to do nothing (option 1), which would not require any actual decision, or to proceed with option 2, which would require Council approval, and because of the urgency of the matter, Cabinet resolved to ask the Chief Executive to request the Mayor to allow the matter to be considered as an item of urgent business at this meeting. This would enable Council to proceed with Option 2 should it be so minded.

2.0 Proposal Details

- 2.1 Council is therefore asked to consider its position with regard to the future of the Storey Creative Industries Centre. Because of the financial implications, any decision to approve option 2 may now only be taken by Council. If Council is not minded to approve option 2, the default position is that the Council would take no action, and would await the actions of the Board. Depending on those actions, the Council would subsequently need to review its position as landlord and creditor.

3.0 Conclusion

- 3.1 Council's views are sought.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)
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As set out in the Cabinet report of the 3rd July 2012

LEGAL IMPLICATIONS

As set out in the Cabinet report of the 3rd July 2012. The Council would need to consider its legal position as both landowner and creditor in the light of any insolvency proceedings. At this stage, the detailed nature of those proceedings is unknown, and is in the hands of the company. If Council were minded to proceed with option 2, Legal Services would advise on any issues that may arise in relation to the transfer of utilities, and any other claims that

might be made against the Council.

FINANCIAL IMPLICATIONS

As referred to above and as set out in the attachments.

It is not possible to provide any accurate assessment of the costs that may be incurred should option 2 be pursued, but at least in the interim, they are expected to be higher than the 'do nothing' option 1. This is because option 2 will certainly involve taking on the most significant liabilities of the company, in particular for energy.

As a general indication, interim costs attached to option 2 may prove to be in the region of £200K to £250K, but this is only an indication, not a guarantee or ceiling.

Under the do nothing option, excluding interest the Company currently owes the Council around £110K and this would fall as an interim cost. Other costs may follow, linked to relocating the VIC and having an empty building, etc.

There is no cost free option.

Given the above, should Option 2 be approved, then surplus balances would be called upon as needed. The outturn report elsewhere on the agenda outlines the latest revenue balances position. Council should also note that the loan of £90K is already 100% covered by the bad debts provision and so this would reduce the call on balances.

OTHER RESOURCE IMPLICATIONS

Human Resources:

The application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will need to be considered in the light of the Council's preferred approach to the future of the building.

Information Services:

As set out in the Cabinet report.

Property:

As set out in the Cabinet report

Open Spaces:

As set out in the Cabinet report.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has contributed to this report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has prepared this referral report.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:

CABINET

Storey Creative Industries Centre

Report of Chief Executive

PURPOSE OF REPORT				
To provide a publicly available update on the Storey Creative Industries Centre (SCIC) Ltd's current financial position and to determine the way forward regarding the Council's involvement in the Centre. An exempt version of this report that includes commercially sensitive information has also been produced to support Cabinet's decision-making.				
Key Decision	X	Non-Key Decision	Referral from Cabinet Member	
Date Included in Forward Plan		July 2012		
This report is public.				

OFFICER RECOMMENDATIONS

- (1) That Cabinet notes that SCIC Ltd is in default of the loan agreement with the City Council and further notes the actions taken in view of that default.
- (2) That Cabinet considers the statement put forward by the SCIC Board.
- (3) That Cabinet considers the two options regarding the way forward for the Storey building and determines its preference.
- (4) That the Chief Executive takes any actions necessary to progress the preferred way forward, within the financial framework as set out, and reports back on actions taken and the details of proposed future arrangements for consideration by Cabinet.

1 INTRODUCTION

- 1.1 Back in December 2011 Cabinet approved a request for financial assistance from SCIC, by way of a loan totalling £90K to be paid back over a three year period.
- 1.2 As context, in September 2008 the City Council approved the provision of revenue support to the company totalling £40,600 in 2008/09, £69,700 in 2009/10 and £28,300 in 2010/11. This was in recognition that it would be hard for the company to break-even over that period but its business plan indicated that it would move into surplus by its fourth year of operation.
- 1.3 It is clear that this has not been the case, hence the company's more recent request for a loan. In granting that request, as well as considering SCIC's reported

trading position and prospects, Cabinet took account of various other factors including:

- potential VAT liabilities arising for the Council;
- policy aims regarding creative industries and the future of the building, including impact on tenants.

1.4 There was no straight forward solution and in approving the loan, Cabinet agreed a number of other actions to help manage its exposure.

1.5 Unfortunately the situation has recently worsened and the Council now needs to take further action, options for which are set out later. This report has been prepared based on information available up to 28 June. If anything material occurs after then, this will be reported in.

2 **SCIC: CURRENT FINANCIAL POSITION AND ACTIONS TAKEN SO FAR**

2.1 The loan of £90K was advanced on 03 February 2012. The loan agreement is attached at **Appendix A** and it includes various terms and conditions regarding the SCIC's financial affairs.

2.2 The following points summarise events since that time:

- a. City Council staff have monitored SCIC on meeting the loan conditions. This has not been straightforward.
- b. Further to the Committee meeting held on 24 April, at which it became clear that the loan conditions had not been met, the Council's Head of Financial Services submitted an item of urgent business to the Board meeting on 25 April.
- c. The company responded on 04 May.
- d. Cabinet Members were updated and a briefing was held on 14 May. Subsequent to this further meetings took place between Officers and SCIC Board Members to review the company's response and explore options on the way forward.
- e. The company's draft management accounts for last year and the current year have been received, with further information pending.. Various measures are being undertaken to gain more information as well as provide service support to the company in the interim. Much of this work is to demonstrate due diligence.
- f. A report went to the company's Finance Committee held on 21 June. A joint statement has been produced for all tenants, emphasising the need to pay their current rent and service charges.
- g. The Company has submitted its own statement regarding the way forward.
- h. The Council has now exercised its option to tax the building (for VAT purposes). This avoids the cost pressures reported back in December, should the Council manage the operation in future.

- i. Legal aspects associated with the company and the building's future are also being appraised.

2.3 Many actions have been taken on the basis that the Council may wish to continue to use the Storey building as a creative industries centre. It is accepted that there is risk in this approach but the alternative would have had direct implications and risks in itself. The most important task now is to gain a clear direction on the way forward.

3 OPTIONS FOR THE WAY FORWARD

3.1 The way forward therefore depends on whether the Council wishes to provide a creative industries centre or whether it wishes to pursue an alternative future for the building.

3.2 In terms of the Council's Corporate Plan, there is nothing specific regarding the continuation of a creative industries centre although having a successful operation could contribute to:

- maximising the district's cultural offer
- increasing participation in arts, culture and entertainment events.

3.3 The Council has committed to working with the Duchy to consider options for the long term use of Lancaster Castle. The Storey building occupies a prominent position and in future there may be other potential avenues to be explored regarding its use.

3.4 The Council still has service level agreements in place with Litfest and the Storey Gallery but these place no obligations on the Council in connection with the Storey building itself.

3.5 Options for consideration are therefore as follows:

3.6 Option1

Withdraw support for the Storey being used as a creative industries centre, and request a report back on all future options for the building.

Advantages	Disadvantages	Risks
<p>Avoids the need to set up management arrangements and other work involved, as well as the risks attached in taking on the running of the facility.</p> <p>Allows consideration and development of alternative uses for the building in future. Such options and any opportunities may be influenced by the future</p>	<p>Loss of creative industries centre and any spin off benefits for the local economy or community.</p> <p>Major disruptions for existing tenants, including VIC potentially.</p> <p>Likely short to medium term operational implications and difficulties subject to reaction of current tenancy base,</p>	<p>At a strategic level, there is a risk that an acceptable future alternative use (or disposal) of the building could not be identified or secured and this would exacerbate the various substantial financial, reputational and operational risks that exist whichever option is chosen.</p>

plans for Lancaster Castle.	<p>until such time the council is able to gain vacant possession.</p> <p>No clear alternative use of building at present. It would be empty (or virtually so) for a period at least.</p> <p>Involves formal legal action, which could be protracted and would tie up staff resources, as would development of alternatives for the building. This would have adverse impact on other workloads and priorities.</p>	
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3.7 **Option 2**

Continue to support the Storey being used as a creative industries centre but under the Council's direct management and control, authorising the Chief Executive to take actions as necessary, prior to reporting back to Cabinet.

Advantages	Disadvantages	Risks
<p>Would allow creative industries centre to continue, with spin off economic and community benefits.</p> <p>Allows tenants to remain (subject to satisfactory lease terms being in force).</p> <p>Secures a medium term use for the building but still provides opportunity for review, in due course.</p>	<p>Major work and risks involved in setting up management arrangements and in taking on the running of the facility – this should not be underestimated and it would have an adverse impact on other tasks and council priorities.</p>	<p>Greater exposure in terms of managing the property, HR and financial risks attached to taking on the running of the facility.</p> <p>Stakeholder relationships may break down, particularly with the Company and with staff / tenants; this aspect may have greater adverse reputational impact on the Council.</p> <p>Still the risk that the operation proves financially unviable.</p>

4 **DETAILS OF CONSULTATION**

- 4.1 Meetings with the Board have been held, as referred to above.
- 4.2 The main issue is whether Cabinet wishes to put in place arrangements whereby it, or its representatives, can hold the Board to account and/or consult further on the Board's statement regarding the future.
- 4.3 Given that the SCIC matter is on Budget and Performance's Work Programme and will be on Audit Committee's agenda, Cabinet is requested to indicate also whether it would support a combined approach being taken, if this could be agreed.

5 OFFICER PREFERRED OPTION (AND COMMENTS)

- 5.1 On the basis that the Council still wishes to provide a base for creative industries and it accepts the risks attached, then Option 2 is the preferred option.

6 CONCLUSION

- 6.1 The current situation exposes the Council to financial and other risks, and requiring significant staff time to help manage the current position. The way forward depends on whether Cabinet considers the creative industries centre to be worth continuing, or whether it wishes to end the operation and determine another future for the building, accepting the risks attached to either course of action.

RELATIONSHIP TO POLICY FRAMEWORK

The main linkages to the Corporate Plan are set out in the body of the report.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

There is no major impact on these matters, irrespective of which option Cabinet chooses.

LEGAL IMPLICATIONS

The Council (as Landlord of the building) apart from its legal obligations under provisions of the lease has no other relationship with the Company other than as a creditor in respect of the loan agreement mentioned in the body of the report.

If either option is chosen it would require further consideration of the associated legal procedures.

In general terms there is no legal requirement to intervene other than to protect its interest as Landlord.

FINANCIAL IMPLICATIONS

As outlined in the report, as far as is possible at this stage.

OTHER RESOURCE IMPLICATIONS

Human Resources:

Human resource matters are exempt.

Information Services/ Property/ Open Spaces:

As outlined in the report, as far as is possible at this stage.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has drafted this report on behalf of the Chief Executive and her comments are therefore incorporated.

DEPUTY MONITORING OFFICER'S COMMENTS

The Deputy Monitoring Officer has no comments to add at this stage, but it is essential that all legal matters are fully considered in determining any subsequent actions to be taken

under the proposed delegated arrangements, in support of Cabinet's preferred option.

BACKGROUND PAPERS

Background papers are exempt from publication, by virtue of paragraph 3 of Schedule 12a of the Local Government Act 1972.

Contact Officer: Nadine Muschamp

Telephone: 01524 582117

E-mail: nmuschamp@lancaster.gov.uk

THIS AGREEMENT is made the 2nd day of February 2012

BETWEEN

LANCASTER CITY COUNCIL ("the Council") of Town Hall, Dalton Square, Lancaster LA1 1PJ
and

STOREY CREATIVE INDUSTRIES CENTRE ("the Borrower") whose registered office is Meeting
House Lane, Lancaster, Lancashire, LA1 1TH

WHEREAS:-

- 1) The Borrower has requested the Council to lend to it the sum of Ninety Thousand Pounds (£90,000.00) ("the Principal Sum") in order for the Borrower to meet existing liabilities as agreed between the Council and the Borrower. The Council has agreed to pay the Principal Sum in one instalment.
- 2) The Borrower shall repay the Principal Sum together with interest in the manner prescribed in this Agreement.

NOW IT IS AGREED as follows:-

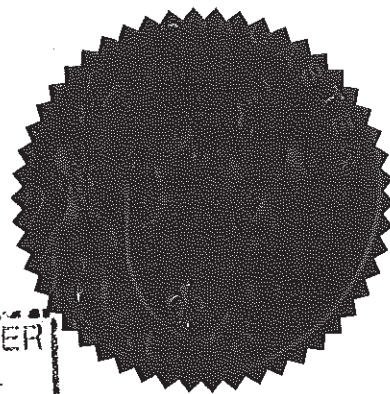
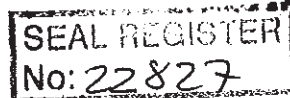
1. In consideration of the amount of the Principal Sum loaned to the Borrower by the Council (the receipt of which the Borrower acknowledges) the Borrower covenants with the Council to repay to the Council such amounts with interest as provided for in Appendix 1 to this Agreement.
2. The Council's obligation to loan the Principal Sum to the Borrower is conditional on the Council receiving satisfactory evidence of specific liabilities (for example invoices from creditors).
3. The Council requires evidence that the specific liabilities to be covered from the Principal Sum have been settled with the specified creditors (for example receipts from creditors and/or the Borrower's bank statements showing payments).
4. Any evidence as required by clause 3 should be presented to the Council's Head of Financial Services, or her nominated representative, within one month of the loan being released to the Borrower.
5. The Borrower acknowledges the current outstanding debt to the Council of £38,036.79 at Appendix 2 to this agreement. £12,900 of this debt will form part of the Principal Sum and will accrue interest and be subject to the repayment plan at Appendix 1.
6. The Principal Sum will be repayable over a maximum of three years from the date of the first repayment made under this Agreement.
7. In addition, the Borrower will also repay the balance of outstanding debt owed to the Council totalling £25,136.79, (i.e. £38,036.79 less £12,900) over the period in clause 6 above in accordance with the repayment plan in Appendix 1.
8. Interest is to be charged at 10% per annum on both the Principal Sum and outstanding debt with repayment on an annuity basis.
9. The Borrower will duly repay to the Council the monthly sums (covering both the Principal Sum and the outstanding debt owed to the Council together with all interest) as outlined in Appendix 1 to this Agreement.
10. Repayments by the Borrower as outlined in Appendix 1 are to commence on the 16th of April 2012 and equal instalments will be payable on the 15th of each month thereafter (or the next business day if the 15th falls on a non-business day).

11. Repayments will be taken by direct debit in accordance with the mandate at Appendix 3 to this Agreement, with cleared funds to be in the Council's bank account on the dates specified in clause 10.
12. The Borrower will co-operate fully with the monitoring and financial management arrangements in Appendix 4 to this agreement.
13. Any failure to meet the above terms and conditions, (including for the avoidance of doubt clauses 3 and 4 above) will be classed as a default. Immediately following a default the Principal Sum and the amount referred to in clause 7 above will become payable in full, including any interest already accrued. The amount in default will be subject to a penalty rate of interest until full payment is made. This will be charged at 15% per annum plus the prevailing Bank of England base rate.
14. If the Borrower at any time during the period of this Agreement pays to the Council the whole of the Principal Sum and the outstanding debt owed to the Council together with interest thereon as herein provided up to and including the date of payment the Council will at the request of the Borrower duly discharge this Agreement.
15. The Borrower acknowledges that this Agreement and related financial transactions will be available for public inspection and scrutiny in accordance with the Council's accounting and public reporting requirements.
16. This Agreement shall not be capable of assignment by either party without the consent of the other party.
17. No person who is not a party to this Agreement shall have any right to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
18. Both parties shall be released from their respective obligations in the event of national emergency, war, prohibitive governmental regulation or if any other cause beyond the (reasonable) control of the parties or either of them renders the performance of this Agreement impossible.
19. This Agreement shall be governed by the law of England and Wales.

EXECUTED AS A DEED by affixing
THE COMMON SEAL of the
LANCASTER CITY COUNCIL (the Council)
in the presence of

Signature *[Signature]*

Position Deputy Chief Executive



EXECUTED AS A DEED by ~~affixing~~ *[Signature]*
~~THE COMMON SEAL of the~~
STOREY CREATIVE INDUSTRIES CENTRE LTD (the Borrower)
acting by Jacqueline Greaves
in the presence of

Signature of Director *[Signature]*

Signature of Witness *[Signature]*

Position Tom Clark

Name of Witness TOM CLARK

Address of Witness WOODSIDE PARK WOODHURST NR LANCASTER

Occupation of Witness CHIEF EXECUTIVE / ACCOUNTANT

Lancaster City Council

Storey Loan repayment schedule

Year	Month	Opening principal balance	Total interest	Total split as:		Total principal amounts	Total split as:		Total monthly payment	Payment to be collected by direct debit on (or next business day)
				Interest (Principal Sum)	Interest (Outstanding Debt)		Repayment (Principal Sum)	Repayment (Outstanding debt)		
2012	April	116,426.57	970.22	758.40	211.82	2,786.54	2,178.18	608.36	£3,756.76	15/04/2012
2012	May	113,640.04	947.00	740.25	206.75	2,809.76	2,196.33	613.43	£3,756.76	15/05/2012
2012	June	110,830.28	923.59	721.95	201.64	2,833.17	2,214.63	618.54	£3,756.76	15/06/2012
2012	July	107,997.11	899.98	703.49	196.48	2,856.78	2,233.09	623.70	£3,756.76	15/07/2012
2012	August	105,140.32	876.17	684.88	191.29	2,880.59	2,251.70	628.89	£3,756.76	15/08/2012
2012	September	102,259.74	852.16	666.12	186.05	2,904.59	2,270.46	634.13	£3,756.76	15/09/2012
2012	October	99,355.14	827.96	647.20	180.76	2,928.80	2,289.38	639.42	£3,756.76	15/10/2012
2012	November	96,426.34	803.55	628.12	175.43	2,953.21	2,308.46	644.75	£3,756.76	15/11/2012
2012	December	93,473.14	778.94	608.88	170.06	2,977.82	2,327.70	650.12	£3,756.76	15/12/2012
2012	January	90,495.32	754.13	589.49	164.64	3,002.63	2,347.09	655.54	£3,756.76	15/01/2013
2012	February	87,492.69	729.11	569.93	159.18	3,027.65	2,366.65	661.00	£3,756.76	15/02/2013
2013	March	84,465.04	703.88	550.20	153.67	3,052.88	2,386.37	666.51	£3,756.76	15/03/2013
2013	April	81,412.16	678.43	530.32	148.12	3,078.32	2,406.26	672.06	£3,756.76	15/04/2013
2013	May	78,333.83	652.78	510.27	142.52	3,103.98	2,426.31	677.66	£3,756.76	15/05/2013
2013	June	75,229.86	626.92	490.05	136.87	3,129.84	2,446.53	683.31	£3,756.76	15/06/2013
2013	July	72,100.02	600.83	469.66	131.17	3,155.92	2,466.92	689.00	£3,756.76	15/07/2013
2013	August	68,944.09	574.53	449.10	125.43	3,182.22	2,487.48	694.75	£3,756.76	15/08/2013
2013	September	65,761.87	548.02	428.37	119.64	3,208.74	2,508.21	700.54	£3,756.76	15/09/2013
2013	October	62,553.13	521.28	407.47	113.81	3,235.48	2,529.11	706.37	£3,756.76	15/10/2013
2013	November	59,317.64	494.31	386.39	107.92	3,262.44	2,550.18	712.26	£3,756.76	15/11/2013
2013	December	56,055.20	467.13	365.14	101.98	3,289.63	2,571.44	718.20	£3,756.76	15/12/2013
2013	January	52,765.57	439.71	343.71	96.00	3,317.04	2,592.86	724.18	£3,756.76	15/01/2014
2013	February	49,448.52	412.07	322.11	89.96	3,344.69	2,614.47	730.22	£3,756.76	15/02/2014
2014	March	46,103.84	384.20	300.32	83.88	3,372.56	2,636.26	736.30	£3,756.76	15/03/2014
2014	April	42,731.28	356.09	278.35	77.74	3,400.66	2,658.23	742.44	£3,756.76	15/04/2014
2014	May	39,330.61	327.76	256.20	71.56	3,429.00	2,680.38	748.62	£3,756.76	15/05/2014
2014	June	35,901.61	299.18	233.86	65.32	3,457.58	2,702.72	754.86	£3,756.76	15/06/2014
2014	July	32,444.03	270.37	211.34	59.03	3,486.39	2,725.24	761.15	£3,756.76	15/07/2014
2014	August	28,957.64	241.31	188.63	52.68	3,515.44	2,747.95	767.50	£3,756.76	15/08/2014
2014	September	25,442.20	212.02	165.73	46.29	3,544.74	2,770.85	773.89	£3,756.76	15/09/2014
2014	October	21,897.46	182.48	142.64	39.84	3,574.28	2,793.94	780.34	£3,756.76	15/10/2014
2014	November	18,323.18	152.69	119.36	33.34	3,604.06	2,817.22	786.84	£3,756.76	15/11/2014
2014	December	14,719.11	122.66	95.88	26.78	3,634.10	2,840.70	793.40	£3,756.76	15/12/2014
2014	January	11,085.01	92.38	72.21	20.17	3,664.38	2,864.37	800.01	£3,756.76	15/01/2015
2014	February	7,420.63	61.84	48.34	13.50	3,694.92	2,888.24	806.68	£3,756.76	15/02/2015
2015	March	3,725.71	31.05	24.27	6.78	3,725.71	2,912.31	813.40	£3,756.76	15/03/2015
2015	April	0.00	0.00	0.00	0.00	0.00	0.00	0.00	-£0.00	15/04/2015
Totals			£18,816.72	£14,708.63	£4,108.09	£116,426.57	£91,008.20	£25,418.38	£135,243.29	

EXTRACT FROM CABINET MINUTES – MINUTE 26 - STOREY CREATIVE INDUSTRIES CENTRE

Cabinet Member with Special Responsibility Councillor Hanson)

Cabinet received a report from the Chief Executive to provide an update on the Storey Creative Industries Centre (SCIC) Ltd's current financial position and to determine the way forward regarding the Council's involvement in the Centre. An exempt version of the report that included commercially sensitive information had been produced to support Cabinet's decision-making.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

OPTIONS FOR THE WAY FORWARD

The way forward therefore depended on whether the Council wished to provide a creative industries centre or whether it wished to pursue an alternative future for the building.

In terms of the Council's Corporate Plan, there was nothing specific regarding the continuation of a creative industries centre although having a successful operation could contribute to:

- maximising the district's cultural offer
- increasing participation in arts, culture and entertainment events.

The Council has committed to working with the Duchy to consider options for the long term use of Lancaster Castle. The Storey building occupies a prominent position and in future there may be other potential avenues to be explored regarding its use.

The Council still had service level agreements in place with Litfest and the Storey Gallery but these placed no obligations on the Council in connection with the Storey building itself.

Options for consideration were as follows:

Option1

Withdraw support for the Storey being used as a creative industries centre, and request a report back on all future options for the building.

Advantages	Disadvantages	Risks
<p>Avoids the need to set up management arrangements and other work involved, as well as the risks attached in taking on the running of the facility.</p> <p>Allows consideration and development of alternative uses for the building in future. Such options and any opportunities may be influenced by the future plans for Lancaster Castle.</p>	<p>Loss of creative industries centre and any spin off benefits for the local economy or community.</p> <p>Major disruptions for existing tenants, including VIC potentially.</p> <p>Likely short to medium term operational implications and difficulties subject to reaction of current tenancy base, until such time the council is able to gain vacant possession.</p> <p>No clear alternative use of building at present. It would be empty (or virtually so) for a period at least.</p> <p>Involves formal legal action, which could be protracted and would tie up staff resources, as would development of alternatives for the building. This would have adverse impact on other workloads and priorities.</p>	<p>At a strategic level, there is a risk that an acceptable future alternative use (or disposal) of the building could not be identified or secured and this would exacerbate the various substantial financial, reputational and operational risks that exist whichever option is chosen.</p>

Option 2

Continue to support the Storey being used as a creative industries centre but under the Council's direct management and control, authorising the Chief Executive to take actions as necessary, prior to reporting back to Cabinet.

Advantages	Disadvantages	Risks
<p>Would allow creative industries centre to continue, with spin off economic and community benefits.</p> <p>Allows tenants to remain (subject to satisfactory lease terms being in force).</p> <p>Secures a medium term use</p>	<p>Major work and risks involved in setting up management arrangements and in taking on the running of the facility – this should not be underestimated and it would have an adverse impact on other tasks and council priorities.</p>	<p>Greater exposure in terms of managing the property, HR and financial risks attached to taking on the running of the facility.</p> <p>Stakeholder relationships may break down, particularly with the Company and with staff / tenants; this aspect may have greater adverse reputational</p>

for the building but still provides opportunity for review, in due course.		impact on the Council. Still the risk that the operation proves financially unviable.
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On the basis that the Council still wished to provide a base for creative industries and accepted the risks attached, Option 2 was the preferred officer option.

Councillor Blamire proposed, seconded by Councillor Hanson:-

- “(1) That Cabinet notes that SCIC Ltd is in default of the loan agreement with the City Council and further notes the actions taken in view of that default.”
- “(2) That Cabinet notes the statement put forward by the SCIC Board.”
- “(3) That Option 2 be approved as the preferred way forward for the Storey building.”
- “(4) That any actions necessary to progress the preferred way forward, within the financial framework as set out, be delegated to the Chief Executive and the Chief Executive be requested to report back on actions taken and the details of proposed future arrangements for consideration by Cabinet.”
- “(5) That the Chairman of Overview and Scrutiny Committee be consulted with regard to waiving call-in.”

Councillors then voted:-

Resolved unanimously:

- (1) That Cabinet notes that SCIC Ltd is in default of the loan agreement with the City Council and further notes the actions taken in view of that default.
- (2) That Cabinet notes the statement put forward by the SCIC Board.
- (3) That Option 2 be approved as the preferred way forward for the Storey building.
- (4) That any actions necessary to progress the preferred way forward, within the financial framework as set out, be delegated to the Chief Executive and the Chief Executive be requested to report back on actions taken and the details of proposed future arrangements for consideration by Cabinet.
- (5) That the Chairman of Overview and Scrutiny Committee be consulted with regard to waiving call-in.

Officers responsible for effecting the decision:

Chief Executive
Head of Financial Services (Resources)

Reasons for making the decision:

The current set up for managing the Storey had clearly failed, exposing the Council to financial and other risks, and requiring significant staff time to help manage the current position. The company had accepted that it was in financial crisis and could not continue to operate as before; it now sought support in some form from the City Council, as landlord.

REQUEST FOR CALL-IN

This form is to be used when calling in a decision taken by the Cabinet, an Individual Member of the Cabinet or a committee of the Cabinet, or a key decision made by an officer with delegated authority from the Cabinet, or under joint arrangements. The full procedure is set out in paragraph 16, Part 4, Section 5 of the Constitution and page 53 of the Handbook.

ITEM TO BE CALLED IN: Storey Institute decision: cabinet minute	
DATE DECISION TAKEN: <u>3 July 2012</u>	
DECISION TAKEN BY:	Tick
Cabinet	YES
Individual Member of Cabinet (please state) Councillor _____	
Committee of Cabinet (please state) _____	
Key Decision by Officer with delegated authority (please state) _____	
Joint Arrangements (please state) _____	
REASONS FOR CALL-IN: (please indicate at least one reason why the decision in question has not been made in accordance with the principles set out in Article 13 of Constitution)	Tick
(a) Proportionality (i.e. the action must be proportionate to the desired outcome)	YES
(b) Due consultation and the taking of professional advice from Officers	YES
(c) Respect for human rights	
(d) A presumption in favour of openness	YES
(e) Aims and desired outcomes will be clearly expressed	YES
(f) Options that were considered and the reasons for arriving at the decision will be explained	YES
REASONS WHY DECISION HAS NOT BEEN MADE IN ACCORDANCE WITH THE PRINCIPLE(S) SET OUT ABOVE AND (IF APPROPRIATE) PROPOSED ALTERNATIVE COURSE OF ACTION: The recorded decision is unclear as to the actions that have been delegated to the chief executive. Openness was lacking in that the public report was not published until after the Cabinet meeting had finished. The stated aim is unclear and does not appear to have been set out unambiguously in the decision taken by cabinet. The aim ignores the financial implications of the preliminary actions decided upon, and potential future costs. The aim to be achieved by the decision is to resolve the future use of the Storey Institute building following the failure of the company to achieve profitability and at the same time to protect as far as practicable the interests of the sub tenants with businesses in the building, while also protecting the financial interests of local taxpayers. The call-in will seek to question the decision takers in order to make a recommendation to Cabinet (or Council) to clarify and modify the instruction given to the Chief Executive, so that the Cabinet decision leads to effective support of the Creative Industry businesses that are presently sub-tenants of the building while also protecting the public purse. These reasons are public - but it is anticipated that the public will be excluded from most of the call-in process to enable questions to be raised on the exempt report to Cabinet.	
SIGNED:	Members of Overview & Scrutiny Committee Cllr <u>Kerr</u> Cllr <u>Smith</u> Three Further Councillors Cllr <u>Mace</u> Cllr <u>James</u> Cllr <u>Histed</u>
<i>(Note: A valid request for call in must be signed by a total of 5 Members of the Council, including 2 or more Members of the Overview & Scrutiny Committee, and all 5 Councillors must not be from the same political group.)</i>	
DATE: <u>10-7-2012</u>	
THIS REQUEST FOR CALL IN MUST BE SUBMITTED TO THE CHIEF EXECUTIVE (BY POST, FAX OR E-MAIL) WITHIN 5 WORKING DAYS OF THE DATE OF PUBLICATION OF THE DECISION.	

PROPOSED RECOMMENDATION FROM O&S TO CABINET FOR A REVISED
DECISION ON STOREY CREATIVE INDUSTRIES CENTRE

Cabinet is urged to approve the following 6 points as new recommendations in place of its decision on 3 July 2012.

1. Council continues to support the vision for the Storey Creative Industries Centre.
2. Council reaffirms that it shares the aims of SCIC Ltd.
3. Council notes and reaffirms that it has and will have nothing more than the existing contractual relationship with SCIC Ltd.
4. Council agrees to support the existing tenants of SCIC Ltd by offering to negotiate new leases with them directly with the City Council as Landlord should the need and opportunity arise.
5. Council negotiates as necessary to remove restrictions on the nature of business carried out by those taking tenancies within the building so as to increase the potential for full occupation of the lettable space in the building at an early date.
6. Council delegates to the CEO the power to act in accordance with the five points set out above and to produce a further report on his actions.

The reasons for the recommendation are that actions in accordance with these six points will be in the best interests of the taxpayers of this district by providing an opportunity (a) to safeguard the future of existing Creative Industry businesses presently within the building in a practical way and (b) to enhance the prospect of the building becoming self-financing.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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