



<b>Report to:</b>	Strategy and Resources Committee	<b>Date:</b>	29 October 2018
<b>Report title:</b>	Letting of the Charles Cryer Centre, 39 High Street, Carshalton		
<b>Report from:</b>	Gerald Almeroth, Strategic Director - Resources		
<b>Ward/Areas affected:</b>	Carshalton Central		
<b>Chair of Committee/Lead Member:</b>	Councillor Ruth Dombey, Leader of the Council and Chair of S&R Committee Councillor Sunita Gordon, Lead Member for Finance Councillor Steve Penneck, Lead Member for Libraries, Arts and Heritage		
<b>Author(s)/Contact Number(s):</b>	Christopher Rhodes, Head of Asset Management 020 8770 6148		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• Staying Active</li> <li>• Smarter Ways of Working</li> </ul>		
<b>Open/Exempt:</b>	Appendix A is exempt on the basis of Paragraph 3, Schedule 12A: Parts 1-3 of the Local Government Act 1972		
<b>Signed:</b>		<b>Date:</b>	17 October 2018

## 1. Summary

- 1.1 This report seeks approval to the letting of the Charles Cryer Centre, Carshalton following the marketing campaign.

## 2. Recommendations

The Strategy and Resources Committee is recommended to:

- 2.1 Agree the grant of a 25 year lease to Cryer Arts for the Charles Cryer Centre as shown edged red on the plan at Appendix B, at a rent set out in the exempt Appendix A, with terms otherwise as negotiated by the Assistant Director (Asset Planning, Management and Capital Delivery);
- 2.2 Agree that in the event of a transaction with Cryer Arts not being achievable within a reasonable time, to agree the grant of a 25 year lease to the underbidders Nickel Support Limited or Carshalton Baptist Church, with first consideration given to Nickel Support at a rent as set out in the exempt Appendix A, with terms otherwise as negotiated by the Assistant Director (Asset Planning, Management and Capital Delivery);

- 2.3 Agree that in the event of a letting to an underbidder, consent is given to a letting at less than the best consideration reasonably obtainable, as further described in this report; and
- 2.4 Agree that the Council's solicitors be instructed to complete all necessary documentation.

### **3. Background**

- 3.1 The Charles Cryer Centre was remarketed from late 2017 and advertised in print and online media. The marketing campaign resulted in over 50 expressions of interest and 37 parties viewed the property.
- 3.2 Part way through the marketing period, in January 2018, the restaurant business that had occupied most of the ground floor discontinued its tenancy and vacated the premises which were then able to be offered with full vacant possession of the front building. There remains a tenant in the rear workshop.
- 3.3 From the marketing process a list was compiled of 49 parties interested in receiving the detailed bidding instructions. These were issued on 6 April 2018 with a closing date of 11 May 2018. Bidders were asked for use proposals, financial information, business planning, references, accounts where available and a completed social value analysis using the Council's standard format.
- 3.4 It was specified that the Council would choose the best deliverable offer based upon the following criteria which were not expressed as being weighted;
  - Amount of rent
  - Length of lease and any other lease terms
  - Financial position of proposed tenant
  - Longer-term sustainability of proposals
  - Delivery of community and/or cultural benefit, if appropriate
  - Risk of business or activity failure
  - Planning considerations and likelihood of gaining any consent needed
  - Conditions attaching to the bid of any.
- 3.5 In relation to rent, it was indicated that the Council would choose a proposal based upon the best outcome for the community once a certain threshold had been met. This threshold was based on the estimated market rent of the complex. Bidders were advised that the Council would have a preference for proposals taking over the whole complex subject to any lease or tenancy agreements in place. Bidders were however encouraged to put forward proposals outside those parameters if necessary. In line with normal practice it was stated that the Council did not undertake to accept the highest or any offer.
- 3.6 Thirteen bids were received by the closing date of which six were for the whole complex and seven were for part only. In line with the tender instructions, and given the interest in the whole complex, bids for part only were not taken further although bidders were advised that the possibility might arise in future for them to work with the eventual lessee of the complex.
- 3.7 Six proposals for the whole complex were reviewed in more detail. One fell considerably below the financial threshold which had been set and was ruled out at that stage. The remaining five were taken forward as a longlist. Analysis was carried out by colleagues of financial information and the social value analysis which had been completed by some of the bidders.



- 3.8 Three proposals were selected for the longlist with the remaining two being declined for further consideration taking account of the financial implications and the uses proposed. These were gym/health with a potential change to elderly care, and religious use. In the latter case it had proved difficult to establish any further contact with the bidder for information about the proposal and community-related activity.
- 3.9 The three shortlisted proposals considered the best against the financial and non-financial criteria overall were;
- Carshalton Baptist Church
  - Cryer Arts Limited
  - Nickel Support CIC
- 3.10 Stakeholders were invited to comment on proposals at two events held in September 2018. Shortlisted bidders were invited to give presentations on their proposals concentrating on planned uses and implications for the community and locality. The first panel comprised volunteers from Sutton's Citizens and Young Commissioners. The second panel consisted of community representatives on the Carshalton and Clockhouse local committee and Ward Councillors on the committee, representatives from Arts Network Sutton and the Opposition Spokesperson for Arts and Culture.
- 3.11 Social value analysis was carried out by the council and the results factored into the shortlisting process. This is further referred to in Appendix C.
- 3.12 The plan shows the site previously identified in leases. Parts of the site are subject to access rights.

#### 4. **Proposal Summaries**

- 4.1 Carshalton Baptist Church use proposals are to relocate from the nearby Strawberry Lodge for which they have identified a tenant. They would continue their current activities from the Cryer with a community cafe and use of the Theatre for local hire/access, music and performance events including theatre. They would use the Cryer to carry out and promote their support and charitable work.
- 4.2 Cryer Arts Limited would use the premises as a bar and restaurant which would additionally have performance and gallery space with the theatre area used for performance, music, film and comedy. They would continue to work with Crunch Studios, look to reopen the scenery workshop and consider how to better use external areas. They have potential interest in a radio station based at the centre.
- 4.3 Nickel Support propose a child/family focussed cafe together with a programme of theatre, music and film use of the theatre which would also be made available for hire. Other activities would include baby/toddler sensory classes, a small retail outlet to the rear connected to their plan for the workshop and a furniture recycling/upcycling business for trainees with learning disabilities.
- 4.4 Appendix C sets out a summary of each of the shortlisted proposals in relation to the criteria which were given to all bidders. This forms the basis of the recommended selection.
- 4.5 Rent proposals have been averaged over the first five years of a lease given that normal commercial practice over a 25 year term would be five yearly reviews. Averaging over this period also reflects the variance of requested structures with stepped rent or rent free periods. These details are reported on an exempt appendix for reasons of commercial confidentiality.

- 4.6 Length of lease is consistent at 25 years for all the shortlisted parties. No terms have been specified at this stage which appear problematic. Detailed lease terms would usually be negotiated at a later stage.
- 4.7 Financial position of the proposed tenant has been judged with regard to the information supplied by them and considered by colleagues. This has included accounts where applicable and proposals of capital funding.
- 4.8 Longer-term sustainability has been considered with regard to use proposals and perceived demand in the locality, with consideration of whether this would encourage a “destination” and bring greater activity and vitality to Carshalton.
- 4.9 Delivery of community and cultural benefit has been commented on by our stakeholder panels and the results included here as Appendix B. Additionally the social benefit analysis of each scheme has been carried out on the Council’s adopted basis from a template supplied initially to all bidders.
- 4.10 Risk of business or activity failure has also been considered from the point of view of demand for proposed uses and financial projections. This is of particular interest given the risk of another occupier suffering business failure after a short period. Specialist advice was sought on the restaurant/bar aspect of the recommended bid and this is summarised in Appendix A.
- 4.11 Planning considerations and likelihood of obtaining consent are relevant to the Cryer Arts proposal which may require change of use consent from food and drink to a drinking establishment depending on the balance of uses. Otherwise the proposals seem broadly in line with the current use of the site. The underbidders would be likely to require planning consent for change of use in parts of the complex.

## 5. Issues

### **Financial offer for the property**

- 5.1 Bidders were advised of a minimum rent threshold of £70,000 per annum exclusive for the whole complex which was the Council’s estimate of market value before bids were received. Bidders were asked to specify whether any rent free period or other incentive would be sought.
- 5.2 The recommended bid proposes a rent in excess of the £70,000 threshold with a modest stepped rent period which is considered to be well within normal market parameters. It is the highest rent proposed by the shortlisted bidders. It is confirmed that this bid constitutes the best consideration reasonably obtainable for the purposes of the local Government Act 1972 s123.
- 5.3 Bids longlisted for the property did include a proposal at a slightly higher rent but with risks around delivery and sustainability which were felt to bring it outside the scope of “reasonably obtainable”.
- 5.4 Runner-up bids recommended here may fall below the level of best consideration. Committee approval is requested to a letting at an undervalue should it be necessary. This is in line with discretionary powers granted to local authorities by the General Disposal Consent 2003 allowing disposals at an undervalue up to £2m by specific approval and without the consent of the Secretary of State which had previously been required.
- 5.5 The undervalue, if any, would be the difference between the recommended bid and the underbid. The reasoning would be the optimum use of the building and site for delivery of community, arts and performance-related activity. However this should only be needed in the event that the recommended bid does not proceed for whatever reason.



### **Sustainability of proposals**

- 5.6 The Cryer Arts proposal relies to a large extent on projected income from the bar/restaurant. Further income would be derived from letting of performance spaces and the rear workshop area. Advice from specialist consultants on the takings and growth projected is noted in Appendix A.
- 5.7 The anticipated financial sustainability of the Cryer Arts proposal is covered in Appendix A. Some risk always attaches to a new business venture but mitigating against this is the track record of the individuals responsible for Cryer Arts in relevant areas including licensed trade, performance and related activities.
- 5.8 The underbidders were both considered to have a reasonable chance of long-term success should it prove impractical to proceed with Cryer Arts. This is considered further in Appendix C, and where confidential information is reviewed, in exempt Appendix A .

### **Community related benefits**

- 5.9 The Cryer Arts proposal centred upon the bar and restaurant with a programme of activities for the Theatre starting with music and comedy and expanding in the future to include drama. There would be scope for lettings to amateur associations. This was felt by both stakeholder panels to be the preferred option overall of the three shortlisted bids.
- 5.10 The underbidders' proposals also deliver significant benefits for the community albeit the stakeholder panels felt the Cryer Arts proposal was the most attractive overall. The comparison is set out in more detail in Appendices C and D.
- 5.11 The Cryer Arts proposal did not include a fully completed social benefit model on the lines offered by the underbidders. This was discussed with Cryer Arts who felt that they had offered a rent in excess of the market value estimate and a commercial transaction should be expected, however at the stakeholder panels the community value of this proposal was fully explored.

### **Summary of analysis and reason for recommendation**

- 5.12 The recommendation is made against the criteria originally set out. Weighting has not been applied at this stage as none was specified in the invitation to tender.
- 5.13 On the amount of rent, Cryer Arts' offer is ahead of the next highest shortlisted bidder by a significant sum over the initial five year period. The underbidders' order of preference also reflects the total rent over five years taking account of requested stepping or rent-free provisions. Coincidentally this order is the same as the order of preference expressed by our stakeholder panels for each of the proposals.
- 5.14 Length of requested lease is consistent at 25 years for all the bidders and in line with normal commercial practice will include rent review provisions. It may also be prudent to incorporate break clauses.
- 5.15 The financial position of each bidder has been considered and a summary is contained in the exempt appendix. The longer-term sustainability of proposals is felt to be acceptable in all cases subject to the financial viability question.



- 5.16 Community and cultural benefit has been considered through both the Council's own social benefit analysis, which was used in prior stages, and the stakeholder panels as outlined above for the final part of the competitive process. The clear result of the stakeholder panels was the order of preference of Cryer Arts, Nickel Support and Carshalton Baptists, with both panels independently reaching the same conclusion.
- 5.17 Risk of business and activity failure was considered alongside the financial stability of the proposals. It was felt that some risk would always attach to a new business venture and this must be borne in mind, however the individuals in each case have significant experience and credibility. The Carshalton Baptist proposal would mean relocation of an existing and established use.
- 5.18 It is not thought that the bar/restaurant proposal needs planning consent although this would be required for change of use to a purely drinking establishment. Underbidders may require change of use consent for some of their proposed activities.
- 5.19 The recommended order of selecting underbidders should it not be possible to proceed with Cryer Arts reflects the result of the stakeholder panels whose preference in each case was for Nickel Support ahead of Carshalton Baptists in terms of community impact and arts/cultural offer.
- 5.20 Overall the mix of uses proposed by Cryer Arts is felt to be the most desirable and also provides the best financial offer. While some risk exists with any new business venture it is recommended that Cryer Arts be given the opportunity to bring the Cryer back into use.

## **6 Options Considered**

- 6.1 Disposal by freehold or long leasehold sale would not allow retention of control over the use of the property and the enhancement, where possible, of the community, arts and performance facilities this property is capable of offering.
- 6.2 Granting a lease to the underbidders at this stage would not secure the most highly preferred use of the property or the best financial offer.

## **7. Impacts and Implications**

### **7.1 Financial**

- 7.1.1 No capital receipt will be received for the disposal of this property as it is felt that it is better to retain control over its use, which a provider could deliver on. It would also retain the asset within the Council. Instead an annual rent would be received as a revenue resource.
- 7.1.2 Revenue implications are considered in exempt appendix A.

### **7.2 Legal**

- 7.2.2 The Council has power to lease and sell land which is surplus to requirements in any way it so chooses provided that section 123 of the Local Government Act 1972 is taken into consideration. Section 123 places a statutory duty on local authorities to achieve best value in the context of land disposals and states that the disposal must not be for a consideration "less than the best that can reasonably be obtained". It should be noted that the Council's obligation to comply with its



fiduciary duty to obtain best value does not necessarily mean selecting the highest offer in pure cash terms. Consideration should also be given to ongoing liabilities, and social and economic advantages when considering 'best consideration'

7.2.3. The Council has the power under Circular 06/03: Local Government Act 1972 General Disposal (England) Consent 2003 to dispose of land for less than best consideration without having to obtain specific consent from the Secretary of State provided that:

- (1) the under value does not exceed £2m; and
- (2) the Council considers that such a disposal will help it to secure the promotion or improvement of the economic, social or environmental well-being of the area.

### **7.3 Equalities**

- 7.3.1 An Equalities Impact Assessment was carried out on the proposed letting and the choice of tenant. This noted that the reopening of the Cryer would bring back availability of the building, cultural and performance facilities to all sectors of the community including protected groups.
- 7.3.2 It was also noted that the new tenant should be encouraged to facilitate availability of, and use by protected groups of the building to encourage the fullest possible participation.
- 7.3.3 The capacity of the building to offer unrestricted access to all groups would need to be reviewed to consider whether any improvements could be made.
- 7.3.4 The improved availability of performance, musical and other cultural activity would support and enhance the mental health of residents.

## **8. Appendices and Background Documents**

<b>Appendix letter</b>	<b>Title</b>
A (Exempt)	Outline terms for lease and related financial matters
B	Plan
C	Comparison of proposals
D	Summary of consultation feedback

<b>Background documents</b>
None

<b>Audit Trail</b>		
Version	Final	Date: 12/10/2018
<b>Consultation with other officers</b>		



Finance	Yes	Tony Cooke Christine Little
Legal	Yes	Rowenna Warburton
Social value	Yes	Tom Alexander
Equality Impact Assessment required?	Yes	Chris Rhodes