

Board/Committee:	Policy and Organisation Board
Date of meeting:	28 September 2022
Title:	Acquisition of the Freehold Building the former Criterion Theatre, The Towers, Forton Road, Gosport PO12 3HA
Author:	Chief Executive
Status:	For decision
Public interest test:	The report contains details of the financial affairs of the Council and a third party at a time when negotiations are not finally concluded. These negotiations could be prejudiced if this information was made public which may have an adverse impact on the arrangement to the detriment of the Council tax payers. Therefore the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose

This report sets out the details of the Council's proposed purchase of the former Criterion Theatre, The Towers, Forton Road, Gosport PO12 3HA ("The Criterion")

Recommendation

That the Board:

- i) Approves the purchase of the freehold of the Criterion in the sum agreed of £600,000 plus SDLT and legal fees, and**
- ii) Grants delegated authority to the Chief Executive and Borough Solicitor and Monitoring Officer to complete the transaction, and**
- iii) Instructs the Chief Executive and Assistant Chief Executive to progress a Business Case and development feasibility, and**
- iv) Grants delegated authority to the Chief Executive and Assistant Chief Executive to commence capital expenditure on identified urgent maintenance works necessary to maintain the exit value of the building, but only to commence refurbishment works once a financially sustainable Business Case for the use of the facility has been developed.**

1.0 Background

1.1 The former Criterion Theatre is a traditionally built Theatre / Cinema constructed c.1912 with a two-story extension in the 20th Century to the east wing of the property.

1.2 The property resides on a triangular site bordered by the A32 arterial route

into Gosport, Lees Lane, and Lees Lane North (please see Appendix A for site plan).

- 1.3 The Theatre / Cinema forms the main middle structure, with main door access onto the A32. There is a two-storey bar and social premises to the east wing of the Theatre, and a boiler room and kitchen to the West with a garage style roller shutter doorway. There are exits to each side of the building. Mains water, electricity, gas supply and sewerage are provided.
- 1.4 The Council commissioned a building survey, completed by Gosport Surveying Associates in August 2022. It confirmed that there are a list of matters requiring attention, but nothing is immediate in terms of structural safety to the building as a whole. The condition of the high-level masonry and foliage growing out of the structures are a concern going into winter months due to damp ingress. The electrical installation and gas installations require testing. It is likely the electrical installation will require a full upgrade. Also, replacement fire protection and ventilation measures, and the mechanical heating installations require significant alteration and attention.
- 1.5 The survey disclosed only minor problems in terms of damp penetration at ground level, but more significant water ingress at upper levels. There were elevated high level moisture readings in the upper circle parapet as a result of poorly maintained flashings and parapets joint work without a properly retained gutters.
- 1.6 The property was purchased by the current owner in November 2021 for £400,000 after being on the market since early 2020.
- 1.7 The current owner has worked up proposals to demolish the current premises and build residential dwellings in its place and was about to submit a planning application to this effect before the Asset of Community Value (ACV) decision was taken. At this point he engaged with the council about a potential sale. The Owner has formally confirmed to the Council as registration authority for ACVs his intention to dispose of the property. Due to its protection as an ACV the Criterion cannot be sold to the Council until the end of the initial moratorium period of 6 weeks unless an alternative community bidder notifies the Council of its intention to make a bid for the Criterion, whereupon the moratorium period is extended to six months.

2.0 Report

2.1 Asset of Community Value Status

The Property was nominated as an Asset of Community Value in May 2022 by the Gosport Liberal Democrats stating that *"The Criterion Cinema & Theatre was opened on 8th May 1912. In the 1960's it was taken over by the Shipman & King circuit and it was closed in 1968 becoming a Crown bingo hall and finally closed prematurely due to the pandemic in 2020. During its time as a cinema and bingo hall, it was a busy, friendly, inclusive place, easy to access as it is on the main bus route."*

Further reasons stated were that: -

- *“The death of cinema has been greatly exaggerated! Across all sorts and sizes of communities, studies have shown that audiences were found to love and value the shared screen experience. The studies describe the importance that these audiences attribute to cinemas in relation to the neighbourhoods and towns in which they live. Crucially, it has revealed the influence and impact of cinema and live events venues in several respects – to culture, wellbeing, community, learning, heritage, and the local economy. These represent a broad set of outcomes that have, traditionally, proven difficult to count, evaluate and compare, making these studies a valuable foundation for wider research into the social value, not just of a local cinema but of other forms of cultural provision.*
- *This facility will engage with people in our community – a film society or live event brings them together as a community to share the magic of cinema or another cultural event.*
- *When the Ritz cinema closed in April 1999 the town was left without any big screen entertainment and variable capacity music and events venue, that could seat approx. 700, like the Criterion.*
- *Being a former cinema/theatre and bingo hall, the building has always been a really important place in the area for people to congregate. What would be exciting is taking the building into its next phase and doing something ambitious and new with it and providing an important hub for the area.*
- *If the building had events on most days and nights of the week, it would not only provide a centre for the local area to congregate in the day and evenings, but also bring people to the area.*
- *It is increasingly realised that differing forms of cultural and community participation can act as an important health asset. A health asset is any factor or resource that enhances the ability of individuals to maintain and sustain health and well-being. These assets can operate at the level of the individual, family, or community as protective and promoting factors to buffer against life’s stresses. (Regional Screen Scotland/ The Experiences and Impact of Local Cinema in Scotland)”*

At Policy and Organisation Board on 30th May 2022, the decision was made that the Board designate The Criterion as an Asset of Community Value.

2.2 Reason for considering purchase

There is no cinema, theatre or dedicated live music venue left in Gosport for the benefit of the community, this is in addition to retaining the Heritage

aspect of the building. As such, a Council purchase of the building could ensure longevity of the entertainment community use whilst under council ownership. The Council is able to acquire land by virtue of the power set out in section 120 of the Local Government Act 1972. Further to this section 145 of the Local Government Act provides that the Council is able to do anything necessary or expedient for the purpose of the provision of a theatre, concert hall, dance hall or other premises suitable for the giving of entertainments.

2.3 Viability of a community multi-purpose entertainment venue including cinema, theatre, and live music

There is no current viability model or business plan worked up for the operation of a building of this nature. It is the intention of the Administration that, post purchase, this will be worked up along with a redevelopment plan for the building, utilising local expertise in these areas including ArtService, Arts Council, and Hampshire County Council with applications being made for both capital and revenue funding. The lack of a viability model or business plan means that the decision to proceed carries some inherent risk of uncertainty as to future costs to the Council, and also the risk of legal challenge due to the lack of a relevant consideration.

It is estimated that, with viability modelling, funding and development, it would take approximately 2 years to deliver the completed venue.

An initial budget of £20,000 should be sufficient to work up the full business case as tranche one of the project delivery. This could take 3-6 months to complete depending on consultant availability.

2.4 Status

The building is currently empty and being sold with vacant possession.

2.5 Future Further Community Benefit

The purchase of the Criterion will safeguard its use as a Community Asset. There may also be potential to incorporate residential units within the upper floors to either help finance the development through private sale, or as additional housing to the HRA portfolio.

2.6 Option for purchase and ongoing ownership

2.6.1 Council purchase and develop as a community multi-functional entertainment venue

After negotiation with the current owner, the sum of £600,000 has been agreed for the building, to complete by end October 2022.

Once purchased, the building will incur holding costs of approximately £24,000pa.

We are yet to determine what the capital requirement would be for conversion, but we understand from the recent building survey that there is approximately £390,000 to bring the main theatre and ground floor into

good repair, and approximately £215,000 to bring the upper floors into repair in their current use without any residential conversion. With 10% contingency, and 10% inflation in addition, this equates to a capital requirement in addition to the purchase price of approximately £735,000 to preserve the building in good condition.

Thus the total capital and revenue requirement is estimated as follows:-

Purchase Price	£600,000
SDLT	£19,500
Legal Fees plus VAT (seller)	£3,600
Estimated legal Fees plus VAT (council)	£7,200
Total Purchase Price plus tax and legal fees	£630,300
Estimated Capital Requirements	£735,000-£1,000,000
Property holding costs	£24,000pa

2.6.2 Exit Option/Valuation

We have sought initial valuation advice from Vail Williams, although this is not yet a full Red Book valuation.

Vail Williams reported that there has been a pre-app planning submission of a proposed development of 24 residential units. If planning consent was secured for the development of 24 apartments (including affordable housing at 40% of the total), the site value could be c.£700k-£750k. Thus, there would be a viable and potentially profitable exit position to apply for planning permission, and dispose of the building with planning, should the community multi-functional entertainment venue not proceed.

According to Vail Williams, in its current use without planning for residential, the property was marketed by Tony Lewis Surveyors at £600k (later reduced to £500k) for 6+ months in 2020/21, with a tentative (unfunded) offer at one stage of £560k. The current owner's acquisition earlier this year reflects a price of £30 per sq. ft, clearly reflecting the condition of the property. Evidence drawn from the wider market suggests a value of c £950k (£70 psf) if it was in good repair. Which, less the cost of essential repairs, brings the current value down to approx. £400k-£450k as a community asset. Therefore, if planning permission was not received, there could be a loss, if the building was sold in its current condition, of c.£250,000.

As such, the best exit strategy if this building is acquired at £600,000 plus tax and legal fees, and couldn't be utilised by the council as community use, would be a sale with planning permission for residential development which might reasonably be expected to attract a selling price of circa £700k to £750k as previously described.

2.6.3 Do Nothing

If the council do not purchase the building, the current developer will likely proceed to planning with a proposed residential development scheme and the current building may be demolished.

3.0 Risk Assessment

3.1 Development of Business Plan

There is no business plan worked up for the proposed operation and use of the building, neither is there any grant funding in place. Therefore, the commercial and financial viability is currently uncertain.

3.2 Property Management Risks

Holding costs associated with a vacant building including business rates, utilities, maintenance, security, and break ins, would need to be spent over the development period.

3.3 Property Capital Requirements Risk

A third-party Building Survey was commissioned reflecting costs to bring the building into repair of C.£735,000. This however does not reflect any change of use or redevelopment of upper floors which are likely to add to the amount of capital required. There is not currently a costed business plan in place for the proposed use of the building as a multi-functional entertainment venue.

The extent to whether the capital investment would be able to yield full financial payback of the full investment of circa. £1.65m remains uncertain until a full development feasibility and ongoing operational business plan is completed.

3.4 Future Operational Revenue Requirement Risk

There is no current business plan for the operations of a new multi-functional entertainment venue and there may be on-going revenue subsidy required from the Council.

4.0 Conclusion

4.1 The recommendation to purchase the Criterion at £600,000 is based on a competitive bid to take ownership of the property in order to protect its current use as an entertainment venue as well as ancillary heritage considerations. As listed in the risks above, this comes with a capital allocation requirement of approximately £735,000-£1,000,000 over the next 2 years to bring it into use as a multi-functional entertainment venue and a revenue requirement of approximately £24,000pa to holding the building during the initial ownership development phase.

Financial Services comments:	The recommendations contained within this report will provide for a Capital Investment estimated at a total of £1.65m to acquire and refurbish the Criterion Building for use as a
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	<p>Community Asset and for the benefit of Gosport residents. In addition, the Council will need to make revenue budget provision to meet the holding costs of the building for approximately 2 years of approximately £24,000 per annum. Beyond this, it is intended to operate the activities and services from the re-purposed building on a financially sustainable basis. In the absence of a fully developed business plan for the operation of the facility, there remains a risk that the facility may not be financially viable or that it will require ongoing revenue subsidy from the Council for its day to day running cost plus any capital maintenance requirements to keep the building in good order.</p> <p>The acquisition and refurbishment of the building can be funded from the approved Capital Programme.</p> <p>The holding costs, amounting to £24,000pa will be funded from savings made against the Capital Programme which has released funding that was previously set aside from the Revenue Budget via a Revenue Contribution to Capital.</p> <p>As a matter of good governance, the Council has an obligation to safeguard public funds, secure value for money and to ensure that it has proper processes in place to demonstrate that this diligence is performed. Whilst the nature of the property market is such that market opportunities need to be acted upon in short timescales (often before business plans can be fully developed), it is important that the Council has a well evidenced exit strategy to mitigate the financial risk that it is exposed to. This necessarily means that to minimise the risk to public funds, the Council will need to accept that to achieve a recovery of public funds in the absence of financial viability, it would likely need to dispose of the building for a use other than a community use.</p>
<p>Legal Services comments:</p>	<p>The Council is able to acquire land by virtue of the power set out in section 120 of the Local Government Act 1972. Further to this section 145 of the Local Government Act provides that the Council is able to do anything necessary or expedient for the purpose of the provision of a theatre, concert hall, dance hall or other premises suitable for the giving of entertainments.</p> <p>There remains a risk of legal challenge – by way of judicial review - to the decision to proceed without a business plan, as set out in the main body of the report.</p>
<p>Equality and Diversity:</p>	<p>An IIA should be undertaken in conjunction with the development of any business plan where any part or all of the building is being designated for community use so that it is developed as an accessible and inclusive community venue for</p>

	all to enjoy.
Climate Change implications:	N/A
Crime and Disorder:	N/A
Service Improvement Plan implications:	The Council will require the use and expertise of the Surveying Team and Legal Services at Portsmouth City Council to execute the acquisition and manage the development process. In addition, expert advice will be required from specialist theatre consultants, Arts Council and Hampshire Cultural Trust to build up the business case and submit funding applications.
Corporate Plan:	<p>The recommendation supports the Corporate Plan in the following ways:</p> <ol style="list-style-type: none"> 1) Enhance the unique character, environment and assets of the borough and make it a great place to live and work. 2) Encourage investment, protect, and improve infrastructure and land use, creating jobs and generating wealth for residents 3) Promote tourism and heritage attractions, focusing on hidden gems 4) support new and small businesses <p>Purchasing The Criterion and bringing it back into use supports enhancing a unique and historic asset which offers character to the community, and promotes the building as a heritage asset, offering a building for tourists and the community to meet and enjoy.</p>
Risk Assessment:	Further to the property risks listed in Section 3, further risks are economic driven, including the current rate of rising inflation, current market uncertainty, difficulty of borrowing and future COVID or other related lock downs affecting the leisure industry.
Background Papers:	Nomination papers for the Asset of Community Value
Appendices:	Site Plans
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