

DECISION-MAKER:	COUNCIL
SUBJECT:	SUPPORTING OUR CULTURAL AND CREATIVE INDUSTRIES THROUGH THE AWARD OF A LEASE AND GRANT TO MAYFLOWER ACADEMY LIMITED AS THE PROPOSED NEW TENANT AND OPERATOR FOR STUDIO 144 (NORTH)
DATE OF DECISION:	16 SEPTEMBER 2020
REPORT OF:	CABINET MEMBER FOR CULTURE AND HOMES

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY
Appendix 1 – the Heads of Terms document is confidential under the Constitution, Access to Information Procedure Rules, section 10.4, category 3 - Information relating to the financial or business affairs of any particular person (including the Authority holding that information). This document contains commercially sensitive information related to the proposed lease document for the Studio 144 North facility.
BRIEF SUMMARY
Nuffield Theatre Trust (NST) appointed administrators on 6 th May 2020 who subsequently announced the entering into administration of the NST company on the 2 nd July 2020.
Once the requirement for a new operator for Studio 144 was identified, a stakeholders panel was formed, consisting of colleagues from Southampton City Council (The Council), University of Southampton (UoS) and Arts Council England (ACE). The agreed process reviewed applications against a set criteria of; Strategy, Artistic Quality, Leadership and Business Sustainability, Collaboration, Community Involvement and Monitoring and Evaluation. Following a clear and coherent two stage process agreed by all stakeholders to assess potential operators against the agreed criteria, the Mayflower Theatre Trust was identified as a strong application and the only viable and commercially sustainable option. This application was based on the creation of a new company – Mayflower Academy Limited (MAL), to operate the Studio 144 North facility. The appointment of MAL as a key cultural partner within the city is important to the diverse cultural offering to Southampton’s communities, as well as Southampton’s UK City of Culture 2025 bid.
This report seeks a decision on entering into a new cultural partnership with MAL. Permission is requested to enter into a lease arrangement for the Studio 144 North facility and the awarding of a grant with MAL, to deliver cultural activities emanating from the facility that benefits Southampton’s communities.

RECOMMENDATIONS:

1.	(i)	To grant delegated authority to the Head of Property Services, following consultation with the Service Director: Legal and Business Operations, to finalise the detailed terms and enter into a new 35 year lease with Mayflower Academy Limited for the Studio 144 North facility, subject to all standard processes and due diligence. This lease will be based on the heads of terms agreed between MAL and the Council in appendix 1.
2.	(ii)	To grant authority to the Head of Culture and Tourism to award a grant of £511,250 over two financial years (£221,250 for 20/21 and £290,000 for 21/22) to MAL to deliver community based cultural activity emanating from the Studio 144 north facility

REASONS FOR REPORT RECOMMENDATIONS

3.	The Studio144 North building is an important cultural asset within the City and currently does not have an operator. Identification of a new operator of the building is vital to the cultural offering to Southampton's communities as well as the UK City of Culture 2025 bid.
4.	Southampton City Council (the Council) is responsible for the building, including all maintenance while no tenant is in place.
5.	Following the development of a shared criteria by the stakeholder group of the Council, UoS and ACE a two stage review process took place. Initial applications submitted to the administrator were reviewed and none of the returns were determined to meet the required criteria. Following a second round of applications and the detailed review of these submissions, Mayflower Theatre Trust's (MTT) submission was determined to be the only viable proposition. The MTT application demonstrated a history of sound financial management by MTT and provided a credible financial model for the future operation of Studio 144. It also showed a long standing track record of delivery and working with local communities within Southampton.
6.	MTT is a charitable trust which will have oversight of MAL. The new standalone company would be supported by and part of an experienced leadership team within the wider MTT group that recognises the need to balance artistic excellence with running a sound and financially sustainable organisation.
7.	The MTT bid demonstrated a strong understanding of and commitment to the strategic context of Southampton City Council and Arts Council England's requirements (strategic partners and grant funders to the Studio 144 operator), both in terms of existing track record and positioning for the future, and working collaboratively with Southampton partners, artists and communities. This bid has laid a strong foundation for MAL's application to ACE for grant funding to deliver a diverse cultural offer for Southampton's residents from the Studio 144 building.
8.	The MTT bid evidenced an artistic vision with experience of and plans for a mix of producing, presenting and co-creation across multiple art forms. This was supported by a deep understanding of marketing and audiences and long standing local, regional and national networks that add value and opportunity to local artists and to the city's cultural ambitions.

9.	MTT has a demonstrable track record of collaborative leadership, community engagement and contributions to Southampton Cultural Education Partnership (co-Chair) and youth theatre. Their bid was supported by numerous letters of support from local Southampton cultural organisations and institutions. It has demonstrated openness in its proposed approach to the running of the Mayflower Academy Limited company, to manage relationships with funders and partners with a clear understanding of performance data and monitoring, including diversity.
10.	The proposal to enter into partnership with MAL is supported by Arts Council England (ACE) and the University of Southampton who, as previously advised above, alongside the Council reviewed the submissions and agreed that MTT was the preferred operator and potential recipient of grant funding.
11.	<p>At the time that NST went into administration, ACE took the unprecedented step of confirming that they would ringfence the £1.9m grant funding previously allocated to NST, for Southampton. This is in recognition of the continued investment by the City into the arts, culture and creative sectors as well as the long term ambition the City, collaborating with national partners such as ACE, has to develop and grow a diverse and inclusive cultural offer, that engages with all of our communities.</p> <p>ACE are due to complete their formal sign off and allocation of the £1.9m grant funds to the new operator in parallel with this process, having already been satisfied that they meet their requirements through the assessment process. The ACE funding is contingent on the Council permitting the lease and continuing to provide match funding in the form of grant funding commitments in 20/21 and 21/22.</p>
12.	The grant funding proposed has already been budgeted for as part of the Medium-Term Financial Strategy and includes the grant not awarded to NST. As such this does not represent a new financial request from council funds but a reallocation of the existing budget.
13.	Grant funding awarded to MAL will be utilised to undertake cultural activity within the community. This work will support residents and continue to build on existing activity related to the City of Culture bid.
14.	The outstanding debt of the previous operator (NST), along with the cost of any dilapidations works to the building, is subject to potential reimbursement through the NST administration process. The Administrator's report stated that a distribution on unsecured debt was expected but this may not cover the full amount of outstanding debt. There is a risk that this will create a residual pressure on the revenue budget. This will be monitored closely throughout the administration process and appropriate mitigation measures will be taken to minimise any adverse impact on the revenue budget.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
15.	Closure or mothballing of the Studio 144 North facility
16.	The Council operates the Studio 144 North facility in full
17.	Undertake further rounds of assessment to identify an alternative operator
DETAIL (Including consultation carried out)	

18.	Closure or mothballing of Studio 144 North is not recommended. It would entail the return of the capital grant to ACE; leave an empty iconic and bespoke arts facility in the heart of the Cultural Quarter for which the Council would be responsible; deny artists and communities access to a purpose-built facility; generate significant reputational damage locally, nationally and internationally and compromise Southampton's UK City of Culture ambitions. The financial liabilities associated with the building would fall to the Council.
19.	The Council does not have the capacity or relevant expertise to be able to operate Studio 144 and deliver the outcomes expected by ACE. If it was considered as an option this would require considerable investment in resources by the Council to ensure success. The Council is better positioned to be a partner and enabler rather than the lead and delivery body for the facility.
20.	Three other applications to operate the Studio 144 were received (other than MTT). Following assessment, none of the three shortlisted organisations were found to meet the criteria sufficiently to be considered as viable options. The fundamental guiding principle was to find a sustainable and credible cultural solution that would not fail in the short or medium term. This is critical in the context of The Council's financial position, the cultural offering to Southampton's communities as well as the UK City of Culture 2025 bid.

RESOURCE IMPLICATIONS

Revenue

21.	Under these proposals a revenue grant of £221,250 in 2020/21 and £290,000 in 2021/22 is to be provided to the new operator. This expenditure is already budgeted for within the Medium-Term Financial Strategy as it had previously been awarded to NST, the former operator of the Studio 144 north facility but not drawn down. As a result, this grant funding does not require an additional budget allocation and can be met from existing resources.
22.	The commercial terms of the new lease agreement are set out in appendix 1. Currently no rental income from the Studio 144 north facility has been budgeted in the Medium-Term Financial Strategy so any rental income received will have a positive impact on the revenue budget.
23.	Financial arrangements for dilapidations and property costs incurred in the transition period between tenants are still to be finalised. The Council has also submitted a claim to the administrator for the unsecured debt owing by NST at the time it entered administration.

Property/Other

24.	<p>Authorisation to lease the Studio144 North facility to Mayflower Academy Limited. This request is in line with the designated use of the facility as a Cultural Arts venue.</p> <p>It is worth noting that the proposed property terms are similar to those upon which NST previously occupied North Building and include a rent which could be considered to be 'below market value'. Therefore, if Council approves this proposal, it would be appropriate for the lease terms to be subject to a review of best consideration, pursuant to Section 123 of the Local Government Act 1972 and to ensure that there is no breach of State Aid rules before entering into the new lease.</p>
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	Such review would be carried out under the Head of Property's remit in consultation with the Service Director: Legal and Business Operations.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
25.	Localism Act 2011 and Local Government Act 1972. S.123 of the 1972 Act permits the Council to dispose of property at less than best consideration in certain circumstances. The proposed use of the building appears to qualify for such a discretion.
<u>Other Legal Implications: _:</u>	
26.	None, the lease of the building to MAL will transfer all ongoing and residual operational liabilities to MAL as the new tenant. The Council will retain responsibility for maintaining the building plant and for procuring that the superior landlord (Grosvenor Developments Limited) complies with its obligations to maintain the exterior and structural parts of the building given in the superior lease between Grosvenor and the Council.
RISK MANAGEMENT IMPLICATIONS	
27.	To not appoint a new operator to Studio144 North facility, would mean that without considerable investment in capacity and expertise by the Council in order to run it, the facility would remain dormant. The implications of this would be extra facility costs to the Council; reduction in the city's cultural offering for residents and visitors and it would undermine Southampton's City of Culture bid which has cross-party support. It would not be possible to change the purpose of the facility to accommodate a different kind of provider without having to repay either in part or entirely ACE's capital investment of £7.3M, leaving the Council in a negative financial and reputational position.
28.	The Mayflower Academy Limited (MAL) company is a new entity and financially independent of the Mayflower Theatre Trust (MTT). This has the potential to increase the financial risk as it is not underwritten by the parent organisation. However, this risk is largely mitigated by: strategic and operational input by highly experienced and credible MTT leadership team; regular monitoring and partnership meetings with the Council and ACE as a major funding body. Additionally, MAL will provide a rent deposit as part of the terms of the lease.
POLICY FRAMEWORK IMPLICATIONS	
29.	The proposal fully accords and aligns with the Council's Corporate Plan 2020 - 2025, Communities, Culture and Homes – Developing a Cultural City

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Appendix 1: Heads of Terms for lease document – exempt

Documents In Members' Rooms

1.	None	
Equality Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		No
Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		No
Other Background Documents		
Other Background documents available for inspection at: n/a		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
Provider submissions bundle, criteria and matrix.	Exempt under Southampton City Councils Constitution, Part 4 – Access to Information Procedure Rules, section 10.4, category 3 - Information relating to the financial or business affairs of any particular person (including the Authority holding that information). This is due to documents containing commercially sensitive material from 3 rd parties.	