

Report of the Assistant Director (Communities and Culture)

## **Acquisition of an Industrial Unit at Birch Park**

### **Summary**

1. This report asks members to approve the addition to the 2010/11 Capital Programme of £525k to enable the acquisition of premises to provide museums storage.

### **Background**

2. In considering the Capital Programme Monitor 2 on 22 November 2010, the Executive agreed to “recommend to Full Council the addition to the Capital Programme in 2010/11 of £525k in relation to the acquisition of premises on behalf of the York Museums Trust subject to satisfactory terms being agreed and that the agreement of such appropriate terms, conditions and repayment period be delegated to the Director of CBSS”.
3. A request had been made by York Museums Trust (YMT) to the Council to purchase premises at Birch Park in order to provide much needed additional storage space that will allow the rationalisation and improvement in quality of the city’s museum collections stores. The scheme would allow rationalisation of existing leased buildings and greater development potential in the future.
4. Council, at its meeting on 9 December, deferred a decision to this committee following representation by the current tenant of the premises who informed Council that he had bid to buy the unit and argued that it would not be appropriate for the Council to buy the unit as it would force the closure of his business with consequent redundancies.

### **The Proposal**

5. The Council owns Unit 5 Birch Park, which is currently leased by York Museums Trust (YMT) for use as storage facility. In November it came to the Council’s attention that the freehold of Unit 4 (8,456 sq ft) was advertised by a local property agent at an asking price of £550k. The Council made an offer of £525k and this was accepted by the vendor.
6. It is proposed that the acquisition of the unit is funded by Council prudential borrowing with the associated costs (that is the repayment of the debt and associated interest cost) to be paid for from the Communities and Culture revenue budget. As an indicative guide the repayment of £525k over a 15 year period will be approximately £49k per annum. The unit will be leased to YMT

with the rent being used to cover the borrowing costs so that the net cost to the Council will be nil.

7. YMT are prepared to lease the building for 15 years on a full repairing basis, at an annual rental of £49k, which reflects the repayments necessary to pay back the amount borrowed by the Council over the 15 year period. The intention would be, at the end of the term, to renew the lease at a peppercorn rent in line with other buildings leased by YMT from the Council.
8. YMT are very keen that the Council should acquire the property at Birch Park and lease it to them for a number of reasons:
  - ⇒ The Council has been seeking, since 1997, to improve the quality of its stores which fall short of the standard that is required to safely house our collections. A number of partnership schemes involving external funding bids have come to nothing. Although YMT has worked hard to improve storage since its inception, for example handing the Darnborough Street store back to the Council for redevelopment, it has not been able to deliver a complete solution. This leaves the city's collections, "designated" as of national importance vulnerable to decay
  - ⇒ The existing store at Birch Park has subsequently been the subject of two failed Heritage Lottery Fund bids by YMT to fund an extension. Such an extension, had it been delivered, would have cost more and provided less floor area, than the current proposed purchase
  - ⇒ The Council already owns the adjacent plot. This means that a feasible plan can be created to extend the accommodation by joining the two units together. This makes extension affordable for the first time and provides the potential to meet the wider needs of the city's collections
  - ⇒ There are urgent and increasing pressures on Trusts storage capacity due the gift of a major and valuable ceramics collection to the city and the need to rationalise the city's archaeological remains currently held by York Archaeological Trust
  - ⇒ YMT currently spend well over £50k per annum on renting stores. This will have to increase again if this purchase falls through. There is potential to consolidate onto the Birch Park site to considerably rationalise, and possibly eliminate, this annual spend.
  - ⇒ YMT already have a verbal commitment from the Museum Libraries and Archives Council to put substantial sums next year into the fit-out and development of the Birch Park site should we be able to acquire it. There is also significant potential to lever in investment from other partners into the improved storage
9. If the Council do not wish to support YMT by purchasing this unit YMT are in a position to proceed on their own and acquire the unit. They have a mortgage offer to facilitate this; however, the potential future development scheme would be made more complicated if one unit were to be owned by the Council and the other by YMT. Furthermore, whilst YMT are fully able to acquire assets in their own right this is not something that was originally envisaged; assets are currently owned by the Council.

## **Representations by the current tenant**

10. Mark Smee, owner of Joshua Barrington, the current user of Unit 4, made representations to Council on 9 December arguing that the Council should not acquire the premises. He has recently acquired the Technoprint business which was part of Sessions. The City Strategy Team has supported the current company, Joshua Barrington, in considering its accommodation requirements. The company contacted the team originally in July 2009 and then again in April 2010 looking for 2,500-5,000 sq. ft of industrial/warehousing. In June 2010 the requirement changed to 6,000-7,000 and the company said that the reports provided to them were exactly what they were looking for. In June the contact advised that he was now looking on behalf Mr Smee who had bought the commercial print division of Sessions and was wanting to consolidate it with Joshua Barrington at Birch Park. The team also supported Mr Smee in undertaking a property search on behalf of Technoprint over the summer. Since the current situation has occurred we have offered all assistance in working with Mr Smee to find alternative accommodation in the City.
11. The key issues surrounding this are as follows:
  - ⇒ In September Mr Smee wrote to the owner of Unit 4 at Birch park giving 3 months' notice to end the tenancy, at the same time setting out his intention to make an offer for the freehold. The owner therefore placed the property on the open market for sale. The asking price for the premises was £550k and it was therefore open to Mr Smee to meet that asking price
  - ⇒ The Council's bid is £525k. Neither Property Services nor YMT was aware of the interest of Mr Smee in this site and both have acted in good faith. We were, however, made aware by the agent that there are other offers for the unit. Mr Snee has confirmed his wish still to acquire the premises for his company; however, it should be noted that even were both the Council and YMT to withdraw their offers there is no likelihood of it being sold to Mr Smee
  - ⇒ It must be stressed that the vendor has acted with full integrity throughout. The Council has been informed that it was not his desire to sell the premises but the notice to quit left him no option. It should be noted that subsequent to accepting the Council's offer he has received a higher offer but declined this in order to honour the offer accepted

## **Options**

12. The options are:
  - To approve the prudential borrowing so that the Council may acquire the unit
  - Not to approve the prudential borrowing

## **Analysis**

13. If the Council acquires the unit it will enable satisfactory arrangements to be made for the city's collections and will potentially lever in significant external funding for the city. If the Council does not provide the funding it will leave YMT to acquire the unit using its own borrowing facilities, which will create difficulties

for the development project, or the unit is likely to be sold to another, unknown, bidder. It is therefore recommended that the Council's prudential borrowing is agreed.

## **Implications**

### **Finance**

14. The net cost to the Council of this acquisition is nil in revenue terms. The grant given to York Museum's Trust is £1,506,710 for 2010/11. The agreement is that funding will continue at this level to the end of 2012/13.
15. The Council loaned the Museums Trust £255k for improvement works to the Hospitium in Museum Gardens in 2009-10. The agreement is that they repay £8,330.67 per quarter and all payments to date have been honoured.
16. YMT have the resources to pay the proposed rental on the agreed lease. This lease agreement, set at current market prices, will be used to cover the repayments on the Council's prudential borrowing.

### **Legal**

17. Legal implications are as set out in the report.

### **Property**

18. The Council will acquire the freehold interest in the property and simultaneously lease the premises to York Museums Trust as detailed earlier in this report. Therefore, there will be no ongoing liabilities on the Council's part, except insuring the buildings, the cost of which will be recoverable from the Trust. It is the Corporate Landlord/Property Services view that the negotiated purchase price equates to the market value of the property.

### **Risk Management**

19. YMT unable to meet the rental payments through loss of grant funding. This could be mitigated by selling the building and paying off any outstanding loan. In due course it is likely that the building will increase in value, thus helping to reduce the risk of financial loss being incurred by the Council.

### **Recommendations**

20. Members are asked to:
  - approve the addition to the Capital Programme in 2010/11 of £525k in order to acquire premises to be leased to York Museums Trust, subject to satisfactory terms being agreed, and that the agreement of such appropriate terms, conditions and repayment period be delegated to the Director of CBSS
  - instruct officers to continue to offer support to Joshua Barrington / Technoprint to identify and meet their accommodation requirements

Reason: To secure adequate arrangements for the city's museum collections of designated national importance.

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Wards Affected: All

For further information please contact the authors of the report

### Background Papers:

*Capital Programme Monitor 2* Report to Executive, 22 November, 2010