



Leicester
City Council

**WARDS AFFECTED
CASTLE / CITY WIDE**

**OVERVIEW & SCRUTINY MANAGEMENT BOARD
CABINET**

**2 SEPTEMBER 2010
6 SEPTEMBER 2010**

PHOENIX SQUARE FILM & DIGITAL MEDIA CENTRE

Report of the Strategic Director Development, Culture & Regeneration

1. PURPOSE OF REPORT

1.1 The purpose of this report is to:

- a) inform Cabinet that Leicester Arts Centre Trust Limited (LAC); the operator of the Phoenix Square Film & Digital Media Centre, have advised of a significant forecast end of (financial) year deficit, and
- b) seek Cabinet approval for urgent expenditure of up to £250,000 in the current financial year, subject to approval by the Chief executive /Chief operating officer and in consultation with the chief finance officer and upon completion of milestones associated with the business plan.
- c) to ensure the continued operation of the Phoenix Square Film & Digital Media Centre, and
- d) inform Cabinet of a range of proposed steps to help increase footfall into and through the Cultural Quarter

2. SUMMARY

- 2.1 On completion of the construction of Phoenix Square last August the Council leased the Phoenix Square Film & Digital Media Centre to LAC for a term of 60 years. In addition, the Council provides a revenue grant of £309,800 per annum for the management and operation of this part of the Phoenix Square complex in accord with the terms set out in the Service Level Agreement. De Montfort University (DMU), in accordance with a separate Collaborative Agreement with LAC, provide a contribution to support the presentation and exhibition of work that is created using digital and or new technologies.
- 2.2 LAC Executives reported to the LAC Board of Directors at their meeting on 5 July 2010 a forecast end-of year deficit in the region of £257,000. At that meeting the LAC Board agreed a number of actions to 'arrest' and or mitigate the forecast deficit.
- 2.3 Since that time, Council Officers have worked with LAC executives to review the business to identify the key factors contributing to the forecast deficit and to identify the actions necessary to improve the company's financial performance and ensure a sustainable operation of the Phoenix Square Film & Digital Media Centre going forward.

- 2.4 Council Officers have met with De Montfort University (DMU) and Blueprint Executives and both parties have expressed their commitment to work with the Council and LAC to find a solution to the current financial situation, their desire to ensure the continued operation of Phoenix Square Film & Digital Media Centre, and of their commitment to work with us to help increase footfall into the Cultural Quarter.
- 2.5 The Council's primary interest is in the overall success of Phoenix Square and any solution to resolve the current financial situation needs to ensure that the Council is able to act swiftly in the event that LAC fails to turn the business around.

3. RECOMMENDATIONS

- 3.1 Cabinet is recommended to:
- a) Approve expenditure of up to £250,000 in accordance with the above delegations to enable a negotiated agreement with LAC, that involves the purchase of the cinema equipment (leased back to LAC) to secure the continued operation of Phoenix Square Film & Digital Media Centre by the current operator LAC against clear milestones demonstrating a move towards sustainability associated with future release of funding
 - b) Delegate authority to the Director of Cultural Services in consultation with the Chief Finance Officer and the Director of Legal Services to finalise the heads of terms and legal agreements with LAC
 - c) That, under Cabinet Procedure Rule 12 (d) there be no call in of this decision for reason of urgency, namely the immediate consequences of the amount of the forecast deficit of the operator of Phoenix Square Film & Digital Media Centre
 - d) Confirm the action taken by the Deputy Chief Executive to make an advance payment of £41,500 to LAC (comprised of the final £18,600 of 2010/11 revenue grant and £22,900, of the £250,000 additional support referred to in recommendation a) above) please reflect the earlier statement
 - e) support the proposed actions to raise the profile, improve access and develop footfall into and through the Cultural Quarter

4. REPORT

Background & Context

- 4.1 As referred to in paragraph 2.1 above, on completion of the development and construction of Phoenix Square last August the Council leased the Phoenix Square Film & Digital Media Centre to LAC for a term of 60 years. In addition to this the Council provides a revenue grant of £309,800 per annum for the management and operation of this part of the Phoenix Square complex in accord with the terms set out in the Service Level Agreement. DMU, in accordance with a separate Collaborative Agreement with LAC, provide a contribution to support the presentation and exhibition of work that is created using digital and or new technologies. DMU also provided a capital grant to LAC in 2009, for the purposes of meeting initial equipment costs.
- 4.2 LAC is a registered charity and company limited by guarantee. Both the Council and DMU can nominate 2 representatives to the Board of Director's; all other Members of the Board are independently recruited.
- 4.3 As mentioned in paragraph 4.1 above the Council provides an annual revenue grant of £309,800 per annum. The grant is provided to LAC for the purposes listed below:

- a) Support the programme of 'specialist cinema' which includes screenings of independently-produced, non-commercial and non British-made films, alongside selected 'mainstream' movies. The term 'specialist cinema' is used under the definition provided by the UK Film Council and Europa Cinema.
- b) Programme of education and outreach activities and services as specified in the Business Plan with a view to serving and reaching new & diverse audiences
- c) Programme of digital media, art and other digitally-created work and installations in the Cube and other public areas of the Phoenix Square Film & Digital media Centre, accessible to and allowing participation by a wide range of audiences
- d) Access to production facilities and training for children, schools, young people, youth groups, colleges, HEI's, community groups, disabled people and hard-to-reach communities
- e) On-line services that relate to all of the above elements of service provision by using web technology to engage all potential audiences

Review of Business Plan & Options to manage the forecast end-of-year deficit

4.4 Since LAC reported their forecast end-of-financial year cash position Council and DMU Executives have worked with LAC Executives to review the business to identify the key factors contributing to the forecast deficit and to identify the actions necessary to improve the company's financial performance and ensure a sustainable operation going forward.

The council and DMU are committed to the continued success of Phoenix Square and have a strong desire to see the offer as articulated in 4.3 being sustained, however there is a recognition that this is a delicate balancing act and it is a fact that the deficit financial position must be quickly and resolutely resolved

4.5 The review of the business identified that there are a number of actions that LAC should take to turn its business around. These actions were agreed by the LAC Board at its meeting on 3 August 2010, and can be summarised as:

- Review the organisational and staff structure to establish a more efficient and streamlined staff team focused on delivery of the core business
- Review the marketing, promotion and publicity plan and implement a re-invigorated strategy focused on maximising attendance and increased cinema admissions
- Review the schedule of cinema screenings and, as appropriate, re-schedule the programme to maximise the number of people attending each screening

4.6 LAC have advised the Council and DMU that the expected outcome of the actions, listed in paragraph 4.5 above, will result in a forecast full year recurrent saving of around £290,000 and resultantly advise that the forecast the end-of-year deficit will reduce to £230,000. The net part year savings achieved in the current financial year are low as the costs of redundancies totalling around £80,000 will have to be met in this financial year.

4.7 LAC following its meeting on 3rd August 2010 commenced, on 13th August 2010, its staff consultation to create a new Organisation / Staff Structure. The outcome of the first phase of the consultation and the proposed structure arising from this were reported to and agreed by the LAC Board at its meeting on 24th August 2010 for further consultation (on Friday 27th August 2010) with those affected by the proposals.

Subsequent to the outcome of this consultation 9 positions are forecast to be made redundant on 31st August 2010. If, as a result of the final consultation, substantial changes to the staff structure arise, these will be reported to a special meeting of the Board provisionally scheduled for 7th September 2010.

4.8 Council Officers in discussion with DMU reviewed a number of options to manage the Phoenix Square Film & Digital Media Centre's revised forecast end-of-year financial position. These were:

- Option 1 – to let LAC go into administration, which would have led to the closure of Phoenix Square, generating long-lasting reputation (and some commercial) damage
- Option 2 – to continue to support LAC but with a full appreciation of the risks
- Option 3 – a negotiated agreement with LAC, involving the purchase of the cinema equipment by the Council (leased back to LAC)

4.9 Option 3 is the preferred option as this option ensures that Phoenix Square continues to operate without any closure period. It would result in the Council negotiating an arrangement with LAC to purchase the cinema equipment, changes to the existing contractual requirements and future milestones such that if LAC fail to turn the business around, the Council could terminate LAC as the operator of Phoenix Square Film & Digital Media Centre as cleanly as possible. It will put in place measures for the council to closely monitor, in consultation with DMU, LAC's performance, giving early warning if LAC's financial health deteriorates. The linkage between achieving milestones and funding is a clear necessity to ensure that there is a process of diligence by the council in administering public funds.

Members are asked to note that termination, at a later date, would cause a period of disruption whatever safeguards are put in place.

4.10 DMU and Blueprint have expressed their full support for Phoenix Square Film & Digital Media Centre, and to working with the Council to find a solution to the current / forecast LAC financial situation. In particular DMU have facilitated the delivery of Option 3 outlined in paragraphs 4.8 and 4.9 by not seeking any charge of interest on the cinema equipment which was originally purchased by LAC with the capital funding support provided by the University.

4.11 It is further proposed that in order to effect delivery of option 3 the board is strengthened by the addition of new members bringing additional skills

Support measures to enable LAC's continued operation of Phoenix Square Film & Digital Media Centre

4.12 By the time Cabinet receive this report and in order to help LAC maintain their cash flow the Council has paid to LAC all of the 2010 /11 revenue grant and an additional £22,900.

- 4.13 De Montfort University is providing valuable support and contribution to both the Council and LAC, in order to secure a sustainable future for Phoenix Square. Their support includes a £60,000 advance payment of its contribution under its existing Collaborative Agreement with LAC covering the period to January 2013 and the utilisation of existing DMU resources to continue the development of the digital programme and production activity. This should enable LAC to reduce its direct costs as part of the proposed recovery plan. In addition as noted in paragraph 4.10 the University is not seeking a charge of interest on the equipment that will be subject to the proposed agreement between LAC and the Council. The University will also work with the council ,i) to support how the facilities are used to enhance creative and media work and ii) the development of the cultural quarter as a whole
- 4.14 In the current year the Council is recommended to provide up to £250,000 capital funding to purchase the cinema equipment and to work with LAC and DMU to assess ways in which the building and the immediate environs around it can be better utilised for event, project and other promotional activity to secure a sustainable future for Phoenix Square.

Actions to raise the awareness of the Cultural Quarter, address some of the barriers in accessing Phoenix Square and to help increase footfall into and through the Cultural Quarter

- 4.15 There are some broader issues relating to footfall , the regeneration of the cultural quarter as a whole , collaborative working between venues in the area and the interconnectivity to the city as a whole which the Chief Executive has asked for a strategy to address.
- 4.16 An initial scope of that brief has been conducted which will be subject to further partnership discussion to include partners such as the council ,DMU , Prospect Leicestershire, Curve and the voluntary sector including citizens eye . An indicative list of actions to raise awareness, address some of the barriers to access and to help increase footfall into the Cultural Quarter is listed below. It should be noted that the ideas listed are intended to indicate the range of potential interventions that could be made.
1. Signage. To review pedestrian signing and route-ways to the Cultural Quarter and specifically to Phoenix Square. Explore the option to have a new external sign placed on the Northern end (visible from Humberstone roundabout) of Phoenix Square.
 2. Parking.
 - i) To explore the potential to increase the number of 'on street' parking spaces in the Cultural Quarter and specifically on Morledge, Burton, Midland and St Nicholls Streets.
 - ii) To explore the potential to develop a temporary car park on the un-developed site adjacent to Phoenix Square and or secure the consent of the property owner to make use of the Car Parking area in front of the unused Glynn Webb site on Burton Street

3. Animating the Cultural Quarter.
 - i) Collaborate with DMU, Phoenix Square, Curve and LCB Depot to explore options to promote a regular programme of student and community led performances, arts and other appropriate activities within the Cultural Quarter area
 - ii) Work with, as appropriate, Leicester Festival Organisers / Organisations to develop the Cultural Quarter as a focus for the City's Festival programme
 - iii) Continue to develop the St George's Festival in partnership with the Cultural Quarter Business Association (CQBA), DMU and other organisations as appropriate
 - iv) Submit an application to Arts Council England, under the Grants for the Arts programme, to support development of a quality programme of Festivals and Street activity within the Cultural Quarter
 - v) Explore the opportunity and practicality, in liaison with the Head of Markets & Enterprise, of potentially hosting speciality markets as appropriate along Halford Street effectively linking the City Market and Orton Square
4. Work with the Cultural Quarter Collaboration Group (facilitated by Prospect Leicestershire) to take forward the Cultural Quarter Property Strategy – promoting the area for Businesses and retail.
5. Work with the CQBA and the City Centre Director to maximise linkages between the Cultural Quarter and the core of the City Centre retail offer (in particular Highcross Leicester) and to develop; mechanisms to increase the number and range of destinations in the Cultural Quarter (niche retail, cafes and bars)
6. Communications. Establish a stakeholder and partners (representatives from Curve, Phoenix Square, Council, DMU etc) to develop a communications plan to raise the profile of the Cultural Quarter and to maximise opportunities for cross / joint promotions and publicity.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

The cost of up to £250,000 would represent a first call on the £2.6 m resources set aside for the 2011/12 Capital programme.

Mark Noble, Chief Finance Officer

5.2 Legal Implications

Subject to consideration of the legal advice provided in the report on the Private Agenda of this meeting the Council has powers to take the action proposed under the provision of sections 145 and 111 of the Local Government Act 1972. It is unlikely that the proposed assistance would amount to 'state aid' and would in any event (subject to the signing of a suitable service level agreement) would be compatible and lawful.

Joanna Bunting, Legal Services

5.3 Climate Change Implications

There are no climate change implications associated with this report.

6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

7. RISK ASSESSMENT MATRIX

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
1. Reputational damage. (High profile scheme that as to date attracted media and press interest)	H	M	Stakeholder's communications personnel agree internal and external communications plan. LAC lead all communications and prepares a statement that focuses on how Phoenix Square will operate in the future to ensure continued public access to a wide ranging programme of films and media.
2 Loss of confidence in Phoenix Square – impacting on sales / lets of residences and workspaces	M	H	Proactive approach to communications to maintain confidence in the offer
3 LAC fail to sustain the operation after the additional funding is provided.	M – H	M-H	Milestone Plan, Finance Monitoring arrangements to give early warning and New Agreement giving the Council the right to give notice of termination

L – Low
M – Medium
H - High

L – Low
M – Medium
H - High

8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Cabinet Report dated 29 October 2007

9. CONSULTATIONS

Sheila Lock Chief Executive
Andy Keeling, Chief Operating Officer & Deputy Chief Executive
Richard Watson, Director Cultural Services
Mark Noble, Chief Finance Officer
Martin Judson, Head of Finance
Joanna Bunting, Legal Services
Nick Rhodes, Head of Markets & Enterprise
Dominic Shellard, Vice Chancellor, DMU
John Cunningham, DMU Director of Finance

10. REPORT AUTHOR

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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)