

University Centre of Shrewsbury Project

**Responsible
Officer**

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1. Summary

- 1.1 This report asks full council to seek the consent of the Secretary of State to enter into a new property lease involving the Guildhall in Shrewsbury which achieves less than best consideration and allows the building to continue as a teaching and learning venue for the University Centre of Shrewsbury (UCS). The current property lease ends on 29th June 2022. A new lease term of eight years to 28th June 2030 is proposed subject to the outcome of the Secretary of State's decision.
- 1.2 Under Section 123 of the Local Government Act 1972 ,a council cannot dispose of land for “ less than best” consideration except with the express consent of the Secretary of State for Housing , Communities and Local Government. Consent will be given if (i) the disposal contributes to the economic, social and environmental wellbeing of its residents AND (ii) the difference between the unrestricted value and the consideration is not more than £2 million.
- 1.3 As the rent being deferred is considered to be more than £2 million, approval is sought to submit an application to the Secretary of State for Housing, Communities and Local Government to seek consent for a new property lease for the ongoing occupation and use of the Guildhall in Shrewsbury as teaching accommodation for less than best consideration until such time the project delivers a financial surplus.

2. Recommendations

It is recommended that Council:

- A. Approve and instruct the Executive Director of Place, in consultation with the Portfolio Holder for Assets, Economic Growth and Regeneration to submit an application to the Secretary of State for Housing, Communities and Local Government to seek consent to grant a new property lease for UCS's ongoing occupation of the Guildhall at less than best consideration.

REPORT

3.0 Opportunities Appraisal and Risk Assessment

- 3.1 The current cohort of UCS students require teaching accommodation that goes beyond the current Guildhall property lease term which ends on 29th June 2022. The council has agreed to provide premises to the University of Chester for the purposes of enabling it to perform its management and operational responsibilities for UCS. The University of Chester has requested a new property lease on similar terms to those set out in the current lease for a further eight years up to 30th June 2030.
- 3.2 The terms of a new lease need to be agreed by both parties and particularly where this involves less than best consideration in respect of rent. Most importantly this requires Secretary of State approval as set out in this report. The University of Chester would continue to meet the costs of occupying the Guildhall building including insurance, rates, utility costs etc.
- 3.3 The University of Chester is currently required to bear all its costs, other than those resultant from the operation of student living accommodation, relating to the development of UCS, less all income received in its operation. This safeguards the financial position of the Council in respect of operation of UCS project.
- 3.4 The council's obligations as a landlord are set out in the Guildhall property lease. Council has previously agreed to defer the obligation of the tenant to pay rent provided that the project accounts for the UCS project do not produce a surplus. This is not forecast to happen within the period of current lease. The treatment of future project surpluses, when achieved, will be subject to negotiation and agreement between the two parties being Shropshire Council and the University of Chester.
- 3.5 The council has provided living accommodation for UCS students at two venues in the town centre being Mardol House and Tannery East totalling 144 rooms. The capital investment amounts to £12.12m. Currently the buildings are not fully occupied by UCS students which presents a risk in terms of return on investment. The council has let rooms to students and employees of other locally based education, training and work based providers to address income shortfalls.
- 3.6 The council has provided sufficient living accommodation to accommodate UCS undergraduates in each year of their three-year programme of study. Student number forecasts demonstrate that no

further council investment or growth in living accommodation is required for the next five years. Current supply of living accommodation, supplemented by the private sector student accreditation scheme, is more than adequate to meet current and future student demand.

- 3.7 The Covid pandemic has put unforeseen pressure on the higher education sector with most students currently working and living remotely and away from Shrewsbury. This has led to fewer young people spending time and money in the town centre which reflects the wider economy impact.
- 3.8 The need for a well educated, qualified and skilled workforce for Shropshire businesses remains strong and particularly when the economy recovers from the restrictions imposed by Co Vid. The opportunity to grow and supply highly qualified students from undergraduate, post graduate and apprenticeship programmes remains strong.
- 3.9 There is a risk that the Secretary of State may not provide consent for a property lease at the Guildhall which is less than best consideration in terms of rent. Officers believe that the education, economic, social and community factors which underpin the rationale for a university centre in Shrewsbury remain strong and are in fact strengthened by the impact of the Co Vid pandemic.
- 3.10 The future growth of UCS is strongly linked with the future investment and regeneration plans for Shrewsbury and Shropshire as a whole. The planned increase in inward investment and growth in employment and the visitor economy, which form part of the Shrewsbury Big Town Plan, will also lead to growth in the further and higher education sectors including increases in the recruitment and enrolment of international students.

4 Financial Considerations

- 4.1 All costs associated with the delivery and development of the UCS project less all income received, other than those resultant from the operation of student accommodation which are met by Shropshire Council, fall to the University of Chester.
- 4.2 The University of Chester does not pay rent for the occupation and use of the Guildhall provided that the project accounts do not produce a surplus. The base rent is £0.37m per annum with an interest charge of base rate plus 4% applied annually for the duration of the lease. The amount of deferred rent to 31 January 2021 totalled £2.52m.
- 4.3 Short tenancies are not subject to the “best consideration” obligation and as the current lease granted was for just under 7 years (2 July 2015 to 29

June 2022) any issues around 'consideration' did not require Secretary of State consent under section 123 of the LGA 1972.

- 4.4 A side letter to the Guildhall property lease which ends on 29 June 2022 states that where the reconciliation of the project costs in any year of the lease demonstrates a surplus (after prior cumulative deficits incurred in respect of approved costs have been defrayed) the surplus shall be used to offset any rent deferred by the council in respect of the Guildhall and shall only be paid only to the extent of the surplus. The project has not achieved a surplus to date but is forecast to do so in academic year 2023/24.
- 4.5 No provision has been made in the Council's financial accounts for aged debt associated with the Guildhall rent. No property rental income has been assumed for the Guildhall in the financial strategy. The council will not therefore be any better or worse off financially than as presently represented in the budget.
- 4.6 Shropshire Council has invested £12.12m in UCS student accommodation comprising £7.8m in Mardol House and £4.32m in the Tannery East block. Mardol House became operational in September 2015. Tannery East admitted its first cohort of students in September 2019.
- 4.7 The original income projections for the two venues assumed 95% occupancy of UCS students. The actual number of UCS students requiring living accommodation has been lower than forecast in the original business case.
- 4.8 The University of Chester is working on a new business case to increase student enrolment and retention, but given the difficulties for universities over the last twelve months due to Co Vid, it is unlikely that the Council will benefit financially from the arrangement in the short term.

5 Legal considerations

- 5.1 The Council is able to utilise various legal powers to achieve its involvement in the University project as follows:
 - i) Section 120 of the Education Reform Act 1988 provides that a local authority shall have the power—
 - a. to secure the provision for their area of such facilities for higher education as appear to them to be appropriate for meeting the needs of the population of their area;
 - b. to secure the provision of higher education for persons from other areas; and
 - c. to do anything which appears to them to be necessary or expedient for the purposes of or in connection with such provision.

- ii) Generally, the general power of competence section 1 of the Localism Act 2011 allows the Council, subject to any pre-existing restrictions and certain other restrictions, to do anything that an individual may do.
 - iii) in order to lease properties to the University, under section 123 of the Local Government Act 1972, the Council is able to dispose (disposal includes the granting of a lease) of its interest in land, however it must do so for the best consideration reasonably obtainable, unless the Secretary of State grants consent. Consent is not required for a short tenancy (a grant for a term not exceeding seven years) and the original lease did not exceed 7 years, however the new lease to be granted to the University of Chester is for a term of 8 years. In considering the Council's duties under this Act the duration of the two leases is likely to be aggregated.
- 5.2 Where best consideration is not achieved by the Council in any disposal of its property it will need to obtain Secretary of State consent to the disposal to ensure compliance with section 123.
- 5.3 Under Section 123 of the Local Government Act 1972, the process for obtaining specific consent from the Secretary of State involves an application supported by relevant information including a description of the site and buildings, its location and surroundings, and an accurate plan; a description of the authority's tenure and a summary of any leases, encumbrances or restrictions that the land is subject to; details of the land's existing use and current planning consents; a summary of the proposed transaction and reasons for the disposal at an undervalue; and a valuation report (containing the required information) from a qualified valuer.
- 5.4 Council approval is sought to make an application to the Secretary of State as set out in recommendation 2A) and paragraph 5.3.
- 5.5 When granting a new property lease at less than best consideration and thereby providing financial support to another organisation by way of an undervalue due to any deferment of the rent, the Council needs to consider whether such arrangements are in compliance with the UK's international obligations in respect of 'subsidy control', which are now applicable following the revocation of European State Aid regulations. Following the UK's exit from the EU on the expiry of the transition period on 31st December 2020, such State Aid rules ceased to apply, and the relevant legislation was revoked in the UK. Under the terms of the UK-EU Trade and Cooperation Agreement (UK-EU TCA) (which have been incorporated into UK law) principles were established in respect of 'subsidy control' which generally replaces the EU State Aid rules, with some limited exceptions with effect from 1st January 2021. The Government are consulting on a new subsidy control regime for the UK and the rules may change as a result, however in the meantime public

bodies are required to consider a wider range of rules on its international obligations, including the UK-EU TCA and World Trade Organisation measures, when granting State aid/a subsidy.

5.6 The Council has obtained specialist legal advice in respect of the new subsidy control rules to ensure that any financial advantage granted to the University of Chester under the terms of the lease is compliant with the Council's obligations around subsidy control in the use of public funds. The advice provided represents the position as the law stands at the moment but noting the position above and the scope for a new regime to be introduced following the consultation, the Council will need to consider and take account of any change in the law prior to a lease being entered into.

5.7 Subsidy is defined in the UK-EU TCA as follows: –

“subsidy” means financial assistance which:

- (i) arises from the resources of the Parties, including:
 - a. direct or contingent transfer of funds such as direct grants, loans or loan guarantees;
 - b. the forgoing of revenue that is otherwise due; or
 - c. the provision of goods or services, or the purchase of goods or services;
- (ii) confers an economic advantage on one or more economic actors;
- (iii) is specific insofar as it benefits, as a matter of law or fact, certain economic actors over others in relation to the production of certain goods or services; and
- (iv) has, or could have, an effect on trade or investment between the Parties.

An “Economic actor” is defined as “an entity regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market”.

5.8 The Council is using its own resources (its Building) and granting the University an interest to use it but foregoing market rent that would be otherwise due and conferring an economic advantage on the University, however in order for the definition of Subsidy to be fulfilled the recipient of the advantage has to be an “economic actor” (at least until further domestic legislation is implemented that is consistent with the requirements The European State Aid rules post Brexit. When the UK left the European Union the existing European rules around State Aid

ceased to apply and new provisions around subsidy control became immediately applicable.

6.0 Climate Change Appraisal

- 6.1 **Energy and fuel consumption (Buildings & Travel):** UCS use three buildings being the Guildhall, Mardol House and Tannery East in Shrewsbury town centre. UCS students are able to walk to and from their teaching and living accommodation with minimal impact in terms of carbon emissions. The majority of students who travel to and from their teaching accommodation from home use public transport. The majority of students of all ages are currently studying remotely due to the lockdown restrictions.
- 6.2 **Renewable Energy Generation:** The accommodation strategy proposed will also provide opportunities for the installation of new renewable energy equipment such as solar PV panels on buildings. Our current solar assets (which amount to 1.2MW capacity) save £115k p.a. across the sites electric bills and generate a further £130-140k p.a. in feed-in-tariff depending on the type of year and maintenance issues. This mitigates over 250 tonnes CO2 annually (and over 2000 tonnes cumulative).
- 6.3 **Carbon offsetting or mitigation:** the new lease will consider whether there any opportunities to offset or mitigate carbon emissions.
- 6.4 **Climate Change adaptation:** officers will consider whether there is an opportunity to include specific measures to adapt to the effects of more extreme weather or improve resilience when negotiating the new property lease.

7.0 Background

- 7.1 The report to council on 18 December 2014 set out three phases for the project to develop and deliver the University Centre Shrewsbury project being:
- Phase 1 establishing UCS utilising existing Council properties for teaching accommodation and acquiring premises for student accommodation;
 - Phase 2 enabling the UCS to expand to accommodate increased student numbers which will involve the acquisition of additional premises;
 - Phase 3 UCS moves to become a standalone university, once financially viable and appropriate student numbers are achieved.

Phase 1 was delivered via the occupation and use of the Guildhall as teaching accommodation and a management and administrative base for UCS. Furthermore, the acquisition and fit out of Mardol House as student accommodation provided 82 student rooms comprising 48

cluster rooms which have shared kitchen and break out areas for students and 34 studio rooms.

Phase 2 was delivered via the construction of the student accommodation block at Tannery East and infill block connected to the new Riverside Medical Practice and pharmacy. This has provided a further 62 cluster rooms which are the most popular amongst students.

Phase 3 remains in progress. Student numbers have been lower than originally forecast for the first five years of operation. The recent pandemic has had an impact on the economy including student enrolment. Projects of this nature usually take ten years to become stand alone and financially independent particularly in a competitive higher education market. Recent changes made to the UCS management arrangements along with the revisions made and planned to the curriculum to recruit and retain a higher volume of students demonstrate that the project is on track to be financially viable within ten years as planned.

- 7.2 The rationale for the University Centre of Shrewsbury was to ensure that Shrewsbury and Shropshire had a stronger higher education and skills offer for the county. It is also acknowledged that universities can deliver economic benefits to the place in which they operate which has been seen with UCS students studying, living, working and spending money in Shrewsbury town centre. The continued growth in the university centre will lever further investment and talent for Shropshire and for Shrewsbury as it is an important facet of the Big Town Plan.

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</p>
<p>University Centre Shrewsbury – council report 18 December 2014 University Centre Shrewsbury; student accommodation – council report 22 June 2017</p>
<p>Cabinet Member:</p> <p>Cllr Steve Charmley – Portfolio Holder for Assets, Economic Growth and Regeneration</p>
<p>Local Members:</p> <p>All Members</p>
<p>Appendices:</p> <p>None</p>

