

## **Agenda item 12**

### **For decision: New lease for Cheese & Grain**

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#### **Summary**

The purpose of this report is to secure approval of heads of terms for a new lease with Mendip District Council (MDC) relating to the Cheese & Grain. This will enable the development of a new stairwell and lift shaft on the existing car park to service the proposed Media Centre development of the tower. It will also cover the outside seating area and ramp/entrance that was completed in 2014. The report identifies that whilst some heads of terms should be approved, others will require further negotiation to secure either their removal or amendment and delegated authority is sought to enable the EDRM to negotiate. Approval is also sought for delegated authority for the EDRM in consultation with Cllr Colin Cobb to finalise the wording of the new lease, complete a licence to occupy to enable construction to proceed and the completion of a sub-lease with the Cheese & Grain.

#### **Background:**

At the Council meeting on 21 September, there was approval to provide a grant of £130k towards a new Media Centre project at the Cheese & Grain. This grant is to be conditional on securing match funding of £370k. Cllrs also agreed to the submission of an application for a Public Works Loan Board loan of £130k over 20 years.

In terms of raising the finance, things are going well. FTC has since submitted its loan application – the outcome is awaited but is expected to be positive. In addition, Power to Change have confirmed a grant offer of £300k and the Bert Jansch Foundation have confirmed that they are prepared to underwrite the cost of equipping the recording studio which means that based on current estimates of the cost, the project is viable.

#### **The need for a new lease:**

One of the requirements of Power to Change is that an agreement to lease the property is put in place by January 2017. The existing lease only covers the existing building. The proposal is to enter into a new lease with MDC that covers the existing building, the new ramp/entrance and outside seating area and the area of existing car park where new development will take place to provide stair and lift access to the Media

Centre. These areas are shown on the attached plan (Appendix 4). In due course, a new sub lease will be entered into with the Cheese & Grain to enable their occupation. Cllrs will be aware that currently, the upper parts of the tower are not subject to any sub-lease arrangements with the Cheese & Grain.

MDC will also require FTC to enter into a licence to occupy before works commence.

**Heads of terms:**

MDC have proposed the following heads of terms for the new lease:

<b>Item</b>	<b>Heads of terms</b>	<b>Comments</b>
Term	15 June 2096 (co-terminus with existing lease)	Recommend approval
Break options - FTC	Option to determine the lease at any time on 2 years' written notice	Recommend approval
Break options - MDC	Option to determine the lease on 12 months' written notice at any time in respect of those areas external to the existing and new buildings where redevelopment proposals for the wider area or reconfiguration of the public car park come forward	Recommend approval subject to an amendment of the clause which states that any alterations to the Cheese & Grain building that are required in response to a redevelopment of the car park should not be at the tenant's expense.
Break options - MDC	Option to determine the lease on 12 months' written notice on or at any time after the expiration of 25 years in respect of the whole demise where: <ul style="list-style-type: none"> <li>• redevelopment proposals come forward for the wider area and affect the premises (and)</li> <li>• in the opinion of the landlord the premises are not being used to reasonable community benefit</li> </ul>	Recommend that Cllrs delegate authority to EDRM to negotiate the amendment of this clause so that it identifies more clearly what would not be considered to be 'reasonable community benefit'
Rent	£1 per annum payable where demanded	Recommend approval
Rent reviews	The lease will contain provision for upwards only market rent	Recommend approval on the basis that the

	reviews at each fifth year of the term from 1 April 2025. On the basis that a peppercorn rent is being charged initially and the premises are being used for community benefit. The rent review will be informed by any profit generated by the lessee consequent of the use, underletting or licencing of the premises, but taking into account any undepreciated capital investment made by the tenant.	Cheese & Grain is expected to continue to be a not-for-profit operation in the foreseeable future.
Outgoings	The tenant will pay directly all Business Rates, Council Tax, utilities, and all other outgoings relating to the Premises.	Recommend approval (on the basis that the Cheese & Grain currently pay these outgoings)
Outgoings	The tenant will contribute to the landlord a fair proportion of the cost of maintaining the access route to the premises.	Recommend that Cllrs delegate authority to EDRM to secure the maintenance of these access areas at MDC's expense
Insurance	The tenant will repay the property insurance premium, based annually on demand.	Recommend that Cllrs delegate authority to EDRM to secure the removal of this clause – MDC currently pays the insurance premium
Permitted use	Community centre and facilities for the use and benefit of the residents of Frome, and the neighbourhood including a recording studio and media centre in the tower of the building and outdoor seating at the external raised area or such other use as the landlord shall approve, such consent not to be reasonably withheld.	Recommend approval
Deadline for completing the project	Within 12 months of completion of agreement to lease	Recommend approval

### **Recommendations**

1. Approve the heads of terms or delegate authority to the EDRM to negotiate amendments as set out in the above table
2. Delegate authority to the EDRM in consultation with Cllr Colin Cobb to finalise the wording of the new lease, complete a licence to occupy to enable construction to proceed and the completion of a sub-lease with the Cheese & Grain.
3. Any legal or other costs that are required to be paid to MDC are financed out of the £130k grant – these are estimated to be no more than £500