

**EXECUTIVE BOARD – 21 JULY 2015**

<b>Subject:</b>	Appointment of Concession Operator for Nottingham City of Caves		
<b>Corporate Director(s)/ Director(s):</b>	John Kelly, Corporate Director for Community Services Hugh White, Director of Sport and Culture		
<b>Portfolio Holder(s):</b>	Councillor Dave Trimble, Portfolio Holder for Leisure and Culture		
<b>Report author and contact details:</b>	Nigel Hawkins, Head of Culture and Libraries 0115 8764969 <a href="mailto:nigel.hawkins@nottinghamcity.gov.uk">nigel.hawkins@nottinghamcity.gov.uk</a>		
<b>Key Decision</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Subject to call-in</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Reasons:</b> <input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input checked="" type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision			<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Total value of the decision:</b> In exempt appendix			
<b>Wards affected:</b> All	<b>Date of consultation with Portfolio Holder(s):</b> 12 June 2015, Councillor Chapman, Portfolio Holder for Resources & Neighbourhood Regeneration		
<b>Relevant Council Plan Strategic Priority:</b>			
Cutting unemployment by a quarter			<input type="checkbox"/>
Cut crime and anti-social behaviour			<input type="checkbox"/>
Ensure more school leavers get a job, training or further education than any other City			<input type="checkbox"/>
Your neighbourhood as clean as the City Centre			<input type="checkbox"/>
Help keep your energy bills down			<input type="checkbox"/>
Good access to public transport			<input type="checkbox"/>
Nottingham has a good mix of housing			<input type="checkbox"/>
Nottingham is a good place to do business, invest and create jobs			<input type="checkbox"/>
Nottingham offers a wide range of leisure activities, parks and sporting events			<input checked="" type="checkbox"/>
Support early intervention activities			<input type="checkbox"/>
Deliver effective, value for money services to our citizens			<input checked="" type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>			
To agree to the continuation of the Egalitarian Trust managing the Nottingham City of Caves on behalf of Nottingham City Council and grant them a 20 year lease to enable them to undertake future investment and development of this unique attraction.			
This will help safe guard the heritage of Nottingham's caves and to support the Egalitarian Trust in the management of this attraction alongside the award winning 'Galleries of Justice' established within the City's historic Shire Hall.			
The extended lease and security of tenure will also allow the Trust to develop larger funding applications for the caves in order to better support, conserve and interpret these scheduled ancient monuments.			
<b>Exempt information:</b>			
<b>State 'None' or complete the following.</b>			
An appendix to the report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to business affairs of any particular person (including the authority holding that information) and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is not in the public interest to disclose this information because it could prejudice future negotiations with the Equalitarian Trust over its management of the City of Caves and its business operation of the Galleries of Justice.			
<b>Recommendations</b>			
<b>1</b> To grant dispensation from Contract Procedure Rule 5.1.2, in accordance with Financial			

	Regulation 3.29, to enable the appointment of the Egalitarian Trust to take place outside of the Council's standard procurement and tendering procedures for the selection of a management operator, due to the linked interdependence of the Galleries of Justice attraction and operation to that of the City of Caves attraction.
<b>2</b>	To delegate authority to the Director of Sport and Culture, in consultation with the Portfolio Holder for Leisure and Culture and Deputy Leader/Portfolio Holder for Resources and Neighbourhood Regeneration, to agree terms and complete a 20 year lease with the Egalitarian Trust in respect of the City of Caves attraction.
<b>3</b>	To agree that a base annual income rental, reviewed every five years, along with an agreed profit share is received by the City Council, on terms set out in the exempt appendix.

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 The Egalitarian Trust has, for the last seven years, started to create a resilient business model to help sustain its heritage operation. The income from the Nottingham City of Caves has been a key cornerstone for the Trust in assisting this transition and the Caves have benefited from being linked to the Galleries of Justice Museum and its professional teams to better articulate the caves history and the role caves played in the emergence of early Nottingham from around 900 AD.
- 1.2 In granting a long term security of tenure this will enable the Trust to invest in the sites and also approach heritage bodies and other Trusts and Foundations to secure funding in order to further develop this offer.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 The caves currently below the Broad Marsh Shopping Centre can be dated back to the 13<sup>th</sup> Century making them some of the oldest caves in Nottingham.
- 2.2 Before any building work covered them from view the caves were originally at the base of a cliff. The entrances to the caves were open to and accessible from the outside. They were initially used as malt kilns to make pottery but by the 16<sup>th</sup> and 17<sup>th</sup> Century these caves became associated mainly with the leather trade.
- 2.3 Nottingham boasts the only known example of a cave tannery in England. The main benefit of the two or three caves that were used for tanning was the constant temperature of the sandstone which greatly aided the leather making process. In 1639 the tannery was closed down.
- 2.4 From the 17<sup>th</sup> Century onwards the Broad Marsh caves began to disappear as houses and shops were built over them. The caves gradually vanished under tons of brick and wood and in a short while were completely forgotten, the exceedingly narrow street Drury Hill erasing the tannery caves from view. But Nottingham was briefly reminded of the caves existence when a shop built over one of the caves fell down into it in 1880.
- 2.5 The caves lay dormant until World War II when some of them were converted into air raid shelters. Once the war was over, having served their purpose they lay in neglect until the late 1960s. By this stage Broad Marsh was largely empty and derelict. The decision was made to demolish the area and build a

shopping centre in its place. The caves were re-discovered in 1971 when Drury Hill was demolished.

- 2.6 Thanks to the actions of compassionate developers and the publicity generated, a decision was made to preserve the integrity of the cave system. Pillars and a concrete bridge were constructed around the caves which took the weight of the shopping centre without posing any structural threat to the caves themselves. The shopping centre opened in 1975 but it wasn't until 1994 that the caves were made available for the general public to explore. The caves being eventually granted ancient monument status.
- 2.7 The Egalitarian Trust took over the operation of the Broadmarsh Caves in 2004, due to impending development proposals for the site, the Caves have been operated on a short term lease which has been rolled over on an annual basis.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

- 3.1 Discussions were held with the current owners of the Broadmarsh Centre about them undertaking direct management. They discounted this as this was not seen to be part of their core business.
- 3.2 Offering the management of the Nottingham Caves out to the Market as an open Competitive Tender was rejected because of the uncertainty around the development works needed to take place at the Broadmarsh centre and the well established inter-linkage of the caves offer to the award winning 'Galleries of Justice' attraction.

### **4 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

- 4.1 In exempt appendix.

### **5 PROPERTY SERVICES COMMENTS**

- 5.1 Nottingham City Council owns the freehold interest in the caves; they are not included in the Broadmarsh Centre head lease. At present, the caves are occupied by the Egalitarian Trust by way of a Licence direct from the City Council. The passageway that provides access from the shopping mall to the steps leading to the caves is included in the Centre head lease and a Licence is granted by intu to the City Council to use the passageway. The City Council in turn grants a sub-Licence to the Egalitarian Trust.
- 5.2 There is no legal obligation for intu to pay compensation to the Egalitarian Trust during the construction phase of its redevelopment of the Centre. The existing Licence on the passageway can be terminated at short notice. However, intu's current proposals enable access to be granted to the passageway at all times during the works enabling the City of Caves to remain open.
- 5.3 Following completion of its redevelopment of the Centre, intu has advised that it is willing to recommend the grant of a lease of up to 20 years on the area required to enable access from the re-configured shopping mall to the steps to

the caves. The detailed terms of this lease have not yet been agreed. The Concession Operator will be responsible for all costs relating to the access.

- 5.4 It is proposed to offer a lease on the caves of up to 20 years to the Concession Operator at a base rent, reviewable every 5 years, with an agreed profit share based on the net annual profit of the operation.

## **6 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND INCLUDING LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

- 6.1 Notwithstanding intu having advised the City Council the Caves may remain open during redevelopment, the City Council must ensure any lease to the Trust takes account of intu's redevelopment works and reserves to the City Council sufficient rights such that the City Council does not breach the lease in the event access to the caves is suspended or the caves have to be permanently closed. The relationship between the lease and the rights to be granted by intu (in a lease or otherwise) needs to be considered and documented as appropriate. Guidance on these issues will be provided as required by the Legal Services and Property teams.
- 6.2 As the lease is being granted to ensure the continuity of operation of the Galleries of Justice the City Council should consider whether in the event the Galleries are closed the lease should be terminated.

## **7 SOCIAL VALUE CONSIDERATIONS**

- 7.1 Nottingham has a unique sandstone geology which has made the excavation of caves a long-established part of the City's heritage. Over 500 such caves are still known to exist, while it is estimated that over 1,000 may have been hand cut since the early mediaeval period. Despite this fact, very few are in public ownership and accessible. The Caves of Nottingham provide a unique insight into aspects of the subterranean social and industrial heritage of the City and, together with the caves at Nottingham Castle and Brewhouse Yard, provide a key contribution to the City's tourism infrastructure,

## **8 REGARD TO THE NHS CONSTITUTION**

- 8.1 N/A

## **9 EQUALITY IMPACT ASSESSMENT (EIA)**

Has the equality impact been assessed?

- (a) not needed (report does not contain proposals for new or changing policies, services or functions, financial decisions or decisions about implementation of policies development outside the Council)
- (b) No
- (c) Yes – Equality Impact Assessment attached

Due regard should be given to the equality implications identified in any attached EIA.

**10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

10.1 None

**11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

11.1 None

**12 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT**

Richard Cox – Senior Estates Surveyor, Property Services

Steve Ross Finance Analyst, Finance

Geoff Walker – Director of Strategic Finance, Finance

Hugh White – Director, Sport and Culture

Andrew James – Team Leader, Commercial & Contracts, Legal

Sue Oliver – Category Manager, Construction & Major Projects, Procurement

Ron Inglis – Service Manager, Museums & Galleries