

The Future of Milton Road Library

Many thanks to everyone who joined us for the Milton Road Library zoom update on Thursday 11 November.

It was my pleasure to chair the meeting, hosted by Friends of Milton Road Library. Questions from residents were answered by County Councillor Elisa Meschini (County Labour Lead), Tom Kelly (Cambs Head of Finances) and Gary Porter (Cambs Head of Libraries and Culture).

Cllr Hilary Cox Condron
Arbury Ward
Vice Chair of Communities, Social Mobility and Inclusion.

Who owns the building now?

At the moment it's This Land, but the sale is ongoing.

Can the sale be stopped?

No. As the 100% shareholder of This Land, CCC hires and fires the board and sets the business plan, but can't interfere in the company's day to day business decisions. A local authority is an odd kind of shareholder for a profit-making company (and this is at the heart of why setting up This Land was a very questionable idea in the first place), but in its role as a shareholder CCC cannot act in ways that harm the company's bottom line. If a building's sale is seen as contrary to the public interest from a local authority perspective, then the building should not have been handed over in the first place.

Does This Land/the council know who is buying the building?

This Land knows, but the information isn't public. The buyer's personal details should be protected while the sale is in progress. The buyer's identity will be made public upon completion.

Who valued the building and what was it valued at?

At the point the property was sold to This Land in its undeveloped condition (but with the benefit of full planning for redevelopment), the freehold interest was valued by Barker Storey Matthews at a market value of £605,000. When the new building was put on the market by This Land, the agent marketed it at offers in the region of £3m. Unlike the Barker Storey Matthews valuation when CCC sold it to This Land, it didn't have a regulated valuation by a chartered surveyor, as the market itself was testing the value. The current buyer has offered £3.23m. This is now the building's market value.

Has the sale gone through yet or not?

No.

What is the length of the County Council's lease on the building currently?

45 years from 2018, which brings it to 2063. There is a 15 year add on under the Landlords & Tenants Act 1957, which brings us to 2078. It is however very unlikely that CCC will be evicted and therefore need to invoke the Act. The building is a library, was developed as such, and the intention is that the lease will be renewed in 2063 and repeatedly thereafter.

Why have the flats stood empty for so long?

This Land made the decision at the point that the building went on the market that its value would be maximised if the flats were unoccupied. For a variety of reasons, the original sale fell through repeatedly, with multiple buyers withdrawing through late 2019, 2020 and early 2021. This Land continued to maintain that the flats would remain empty until the new freeholder was in place. It is expected that the new owner will sell or lease the flats as soon as the sale is completed.

Does the City Council's Empty Homes policy apply in the case of privately owned flats such as these?

The City Council's Empty Homes policy is targeted at ensuring that empty homes do not remain empty unnecessarily and assisting owners bring them back into use. In some circumstances enforcement action will be considered but that would not be applicable to these flats where the owners tried to sell the building and enable the flats to be leased out, but circumstances prevented sales going through. Covid was the problem in at least one of the instances where sales failed to be completed.

What is the relationship between the County Council and This Land?

This Land is a private limited company. CCC is the 100% shareholder.

Why is This Land (i.e. the council) selling this building?

The council handed over the building to This Land in 2017. It did so because the previous Conservative administration didn't want to take on the costs of renovation. This Land is now selling the building to recoup the costs of developing it. It is not accurate to say that This Land and the council are the same agent. They are completely independent when it comes to the ownership of assets. Assets owned by This Land do not belong to the council and the council has no say over what happens to them.

Can't the council, as 100% shareholder of This Land, tell the company what to do?

No. If This Land were to operate as a public body rather than arms-length, it would have to comply with public procurement regimes. The company undertakes competitive commercial procurement and doesn't accord with public procurement regulations (such as OJEU tendering and its successor). If this were to change they would be susceptible to challenge from suppliers who haven't been awarded work (including in the past), which would compromise the company. Additionally, if instructed by the shareholder to act against the interest of the company, the directors of the company would have a dilemma as their statutory duty under the Companies Act is to the company, not the shareholder. Resolution of this dilemma would require the courts and the outcome could sink the council.

To what extent is the Council having to make up for cuts in funding for local authorities over the past 11 years?

To a very large extent. This Land brings in revenue to the council to the tune of £6m a year. It's really difficult in our present predicament to cut that off without alternative funding to replace it, so we have to fix the engine while the bus is running. Also the assets that This Land holds are worth less than the debt it owes to CCC, which would saddle us with the difference if we were to wrap the company up now. A very sorry state of affairs.

From the renegotiation of the lease from Dec 2020, the rent is reviewed on a 5 year "upwards only basis" at the highest possible rent. Has there been any change to that, or there still NO negotiation possible from the council?

There is a rent review on the 24th May 2024 and at every 5th anniversary from this date until the lease expires in May 2064. There are 5 yearly tenant break options in the lease (for CCC only) from May 2049 onwards. The rent review is upwards only, in that the rent cannot be lower than the current passing rent at each rent review. Upwards only rent reviews are standard market practice for commercial leases. The rent increase at each review is to the market rent at the time of the review or the increase in RPI inflation over the review period, whichever is greater. This was agreed under the original lease.

Is This Land profitable or insolvent?

At the moment, it has a large amount of cash and a large debt, which makes its situation very risky. The sum total of the value of all the assets owned by This Land is lower than the debt it owes to CCC to the tune of almost £40m.

Does the county council have a conflict between wanting as much money as possible v ensuring the housing helps housing need in Cambridge?

It's not so much "wanting as much money as possible" as "wanting to stay afloat so we can continue to afford to provide statutory services to our residents". We also certainly want any company we own to be making a positive contribution towards housing need in Cambridgeshire. We have a duty to try and change This Land so that it can do that.

What's the difference between the rent CCC pays now and the rent it would have paid as a tenant of the old building?

The market rent under the lease back to the Council for the library area, as per the valuation, is at £51,000 per annum. The old building was unsafe to occupy, and therefore no data exists on valuations for prospective rental.

Was the profit from the sale of the flats supposed to pay for the new library?

That would have been the case if CCC had chosen to keep the building rather than hand it over to This Land.

How much are Avison Young being paid for the review?

The cost of the Avison Young review is £90k. Avison Young were appointed following a competitive assessment.

During the time that the flats have stood empty, has anyone (and if so who) had to pay any money for things like running costs, council tax, insurance, utilities, and if so how much?

The running costs for Milton Road are council tax and utility standing charges that equate to £11,426 per annum. These costs are met by This Land.

How many houses has This Land built to date?

20 homes built. 118 planned for the next 12 months.

What legal advice has been sought with regard to the council's role in intervening (or not) in the sale?

The setup and structure of This Land followed the advice of an external national law firm with expertise in commercial and local government matters. This includes the arms length relationship and governance basis. The Council took renewed legal advice from a second external firm at the point the company made a major update to its business plan in April 2020. The decision not to buy the new building back was made in February 2020 (Investment Group) and April 2020 (C&I Committee). These were political decisions and renewed legal advice was not requested. For all property transactions and conveyancing with This Land, the Council receives legal advice, usually from our joint venture legal firm.

Is the council accountable for the sale of the building?

It is accountable for the decision to hand over the building to This Land. It is not legally accountable for any decision This Land makes thereafter, however the new administration takes its political accountability with regard to This Land very seriously. This is why we want to change it.

Is part of the difficulty here the apparent long standing historical division (and some might say) political antagonism between the previous County Council and the city of Cambridge and the City Council?

Definitely. The old administration might have chosen to keep ownership of the building and fund its renovation from the capital programme had the building been elsewhere. I'm afraid we'll never know.

The city council appears to be rather dependent on This Land for the Greater Cambridge Housing Trajectory and Five Year Housing Land Supply. Are the plans likely to change now you know what you know?

As far as I am aware the City Council is not at all dependent on This Land for the trajectory and land supply

Am I right in thinking that one or two of the Council officials responsible for the formation of This Land have now left the Council's employment to become directors of This Land? If so, is this not corruption?

The history around the creation of the company is murky and I think we should be careful what we say in writing as we should avoid libel. CCC appoints one non-executive director to the This Land board from its own elected members' ranks. This was Josh Schumann under the previous administration and it is now Neil Gough. It also appoints one non-executive director from its officers' ranks and this is now Steve Cox. It is true that at the point of its creation This Land had two directors in the form of Chris Malyon and Quentin Baker who were CFO and Director of Law and Governance at CCC, respectively. They have both since retired or resigned from both roles.

Has the City Council lost its investment of £100k into the community rooms in the library?

No. The investment pays off every day that the library is open, which we hope is going to be for a very long time to come.

What if the Tories get back in power at the County and decide to end the lease early?

It is important to understand that ownership of the building and library provision are independent. A future conservative administration might decide to end the lease, but it could only do so if it took up another lease elsewhere in the same area as library provision is statutory and linked to demography. It is also the case that, should the present administration manage, somehow, to buy the building back, a future conservative administration might decide to sell it off again, as indeed it has done once already. There is no accounting for future greed and ownership of an asset does not preclude future sale. Look at Shire Hall.