



Report on Temple Bar Cultural Trust

In April 2013 a decision was made by the previous board of Temple Bar Cultural Trust that its functions, responsibilities and assets should be transferred to Dublin City Council. This decision was accepted by Dublin City Council. It followed on from various reviews of the Trust that exposed serious deficits on a range of governance issues.

Since then a transition process has been in place to continue the functional and the legal responsibilities of Temple Bar Cultural Trust, to implement the dissolution of TBCT, to address the issues highlighted in the reviews and to ultimately transfer full responsibility etc to Dublin City Council.

The Dublin City Council transition team of six staff are now responsible for the day to day operations of the Trust. (This compares to 18 staff previously employed by TBCT). It is led by John Durkan and he has followed up on the initial transition work carried out by Ray Yeates Interim CEO. This project team is now based in the Civic Offices and the "Culture Box" premises which was previously occupied by Temple Bar Cultural Trust has been freed up for lease to a cultural organisation. There is no longer any former TBCT staff employed.

The Board (Trustees) of the Temple Bar Cultural Trust for the Interim period of transition now consists of:

Brendan Kenny, Deputy Chief Executive - Director and CEO of TBCT

Jim Keogan, Assistant Chief Executive - Director and Chairperson of TBCT

Mannix Flynn, City Councillor and Director of TBCT.

The role of this Board together with the special DCC project team is to carry out the full legal and operational responsibility of the TBCT Company until it is dissolved by the necessary legislation.

It had been anticipated that such a dissolution would be completed by now and the relevant "Heads of a bill" have been agreed for some time however it now appears that the required legislation will not be finalised until early 2016.

Significant progress has been made in re-building relationships with the main stakeholders and in stabilising the area with the introduction of several new commercial property tenants into the West End area of Temple Bar.

A consultant was engaged to talk with the cultural agencies in the area, to gauge their concerns and ideas on how the City Council can support their cultural provision into the future. Dublin City Council had already reiterated its full commitment to remain as the landlord of the cultural organisations in Temple Bar.

Internal approval processes and authorisations now mirror those of DCC. The Board rotated the external auditors and KPMG assisted the company complete all its statutory requirements and filing with the CRO. The maintenance function is now provided by the City Council's civic maintenance operation, which assists the project team in resolving all maintenance issues promptly.

In addition DCC has taken in charge (July 2015) Curved Street, Cows Lane, MHS and Temple bar square. Street furniture licenses for these streets are now managed by the City Council. Draft changes to the Casual Trading by-laws are now prepared for presentation to City Councillors, to absorb the three TBCT markets and their related activities. A tender process recently secured a Markets Manager to manage the three market areas in Meeting House Square, Cow's Lane and Temple Bar Square. This Markets Manager will liaise with Temple Bar Cultural Trust and incorporate the requirements and conditions of the Casual Trading Act 1995 and the Casual Trading Bye Laws 2013 into all aspects of the markets.

All legacy issues with the construction and maintenance of the Umbrellas on Meeting Housing Square (MHS) are now resolved. The Temple-bar project team are working to put in place a maintenance contract for the Umbrellas and to secure by Tender a contractor to manage both the bookings on MHS and provide a programme of events, specifically to attract families into the Temple-Bar. In addition TBCT continue to fund the cost of Culture night by way of a grant of 105,000 euro.

The Board of Temple Bar Cultural Trust and the transition team have resolved all outstanding legal issues with property management companies and cultural agencies. The Temple-bar project team are working through other legacy issues to complete a 50/50 shareholding agreement with the Contemporary Music centre and complete a new cultural use agreement.

Agreement has been reached with The Ark for use of the stage for events held at the Square and to implement the recommendations of a Fire Certificate for the Film-base premises in addressing a number of fire issues.

Property owned by TBCT

With the successful resolution of the several legacy issues and very good progress on the overall transitional process of transferring assets, functions and responsibilities to Dublin City Council (albeit still awaiting the required legislation on dissolution of TBCT) it was important for the Board of TBCT to consider options for its property portfolio in particular the commercial properties. Following approval of the Board the commercial property at 43-44 Temple Bar (attached to the Temple Bar Pub) was sold at the end of 2014 for a sum of 3.25 million euro.

This sum was used by TBCT to clear all outstanding debts, loans, overdraft, plus all legal costs and voluntary redundancy payments relating to previous staff members of TBCT. In addition a sum of 1 million euro has been set aside from the proceeds of this sale as a future contribution to a much needed Public Domain programme of works in Temple Bar, e.g. Footpaths, Cobble lock Areas, Greening, Lighting etc. A Public Domain Improvement plan is currently being formulated by the City Council and a Consultant has been commissioned.

Following on from the sale of the above property the Board of TBCT agreed to push ahead with the sale of the of remaining commercial properties in particular those situated on the West End of Temple Bar. These properties were constructed about 20 years ago in association with the provision of a significant amount of residential accommodation. They are all small bespoke retail units. In recent years some of the Tenants had expressed their wish to purchase their premises with a view to consolidating their long term presence in Temple Bar.

Initially it had been planned to place all of these (25) properties on the open market but following an intervention from current tenants it was agreed that they would have an opportunity for "first refusal". All 25 existing tenants were invited by TBCT through Lisney Estate Agents to purchase at full current market value. The purchase prices for the individual units range from 80,000 euro to 520,000 euro amounting to a potential total amount of 5.9 million euro.

The process of "first refusal" was open for a fixed period (mid November) and 12 tenants did express interest but it appears that only 6 and possibly 8 existing tenants have the capacity to purchase. Once the period of providing a "first refusal" opportunity to existing tenants expires, it had been intended to put the remaining properties on the market for sale either in a single batch, in a number of batches or on an individual basis.

As TBCT is selling the Leasehold Interest in these properties rather than in Fee Simple the rights of the tenants under the lease do not change and they continue to have a right to negotiate a renewal of their lease. They simply become tenants of a new/different landlord. If rental costs increase in the future then it would be in line with increases likely to be sought by TBCT/DCC if it continues to be the landlord.

In relation to possible changes of business use for these properties in the future, it is important to note that they are all small bespoke units on the ground floor of residential accommodation thus restricting future expansion etc. Also planning permission from Dublin City Council would be required for many types of changes in business use.

In addition it is possible for Dublin City Council to insert a change of use covenant into the leases being transferred, however such a covenant would reduce the market value of the properties.

The rationale for the sale of these properties and the use of proceeds is around the following:

- Should Dublin City Council (after takeover) continue in the business of being a landlord of commercial properties in Temple Bar.
- The TBCT transition process will leave the finances and operation of Temple Bar in good shape together with a capital fund in the bank to be spent in Temple Bar.
- That the ongoing rental income from all TBCT properties in Temple Bar would be insufficient to deal with ongoing maintenance (sinking fund etc) of the leased properties and the public domain in this area whereas a once off capital fund from the proposed sales would deliver much greater benefits.
- A capital fund would allow for some necessary structural works (create a sinking fund) to be carried out on the existing cultural buildings in the area.
- A capital fund would allow DCC to develop and implement a comprehensive programme of works on the general public domain areas of Temple Bar.
- A capital fund could provide an opportunity for Dublin City Council to acquire other key sites or property in Temple Bar for cultural, tech, or enterprise purposes.

The proposed sale by Temple Bar Cultural Trust of its commercial properties was discussed at the October meeting of the South East Area Committee and based on concerns raised by Councillors a report was submitted to the November City Council meeting which set out the background and rationale behind the proposal with the recommendation that the sale of the properties where the existing Tenants are getting "first refusal" offers should proceed and be finalised, and that the remaining commercial properties on the West End of Temple be placed on the open market for sale. It was further proposed to offer the units for sale on an individual basis rather than in one or more bundles.

Two Motions from Councillors on the issue were submitted and approved unanimously to the effect that none of the proposed sales should go ahead.

Subsequently The Board of the Temple Bar Cultural Trust met and considered the implications of this decision. The Board agreed that in line with the decision of Councillors the properties in question will not now be placed on the open market for sale and that any future such proposal will only be considered if approved by City Councillors.

However the Temple Bar Cultural Trust had agreed sometime ago that prior to placing the properties on the open market for sale the existing lessees would have a once off opportunity of having "First Refusal" on acquiring their premises on the basis that some (many with a long-term presence) wish to consolidate and invest in their current business. The Board of Temple Bar Cultural Trust considers that it would be very unfair at this stage to stop these particular sales from proceeding and that a strong legitimate expectation had been created for these existing tenants.

The overall dissolution of Temple Bar Cultural Trust though primary legislation is progressing, is agreed with the Department of the Environment and should be finalised early in the 2016. Following this all property currently owned by TBCT will be transferred into the ownership of Dublin City Council and will then be dealt with in line with policy and procedures on existing Council property e.g. disposals will be by way of Section 183 of the Local Government Act, 2001 (Reserved Function). Executive responsibility will rest with the Development Department of the City Council reporting into the relevant Area Committees and the Planning and Development SPC.

It is now proposed that:

- The placing of all TBCT commercial properties on the open market for sale will not proceed and such a proposal to sell will be a matter for Dublin City Council following the dissolution of TBCT.
- The offer by TBCT of a once off first refusal purchase opportunity for a small number of interested lessees should proceed.
- The proceeds of these sales will be held by the Trust to be invested in Temple Bar but subject to the approval of Dublin City Councillors on how it is to be spent.
- The Trust will formulate Terms of Reference (to be approved by the City Council) for the commissioning of a comprehensive report on a new vision and master plan for the Temple Bar Area.
- A Steering Group comprising of the Trust and members of the Arts and Economic Development Strategic Policy Committees will be established to oversee the above commission.

Brendan Kenny
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and CEO of Temple Bar Cultural Trust

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Dated : 26th November 2015

