

Meeting: Council

Date: 22 June 2017

Wards Affected: All

Report Title: Transformation Project - Future of Palace Avenue Theatre, Paignton

Is the decision a key decision? Yes

When does the decision need to be implemented? As soon as possible

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1. Proposal and Introduction

- 1.1 As part of the 2017/18 budget development the future of the Palace Theatre was considered. Owing to the ongoing financial challenges which operating a small theatre presents a review was undertaken and it was determined that the council would seek an external partner to operate the Theatre to secure its future as a community theatre. The current theatre operation creates a budget pressure to the council with a regular annual overspend of circa £40k per annum. The Council set a budget reduction target of £20k per annum for the Theatre operation and offered the Theatre via a procurement process in Spring 2017.
- 1.2 The tender process has been undertaken and there was one bid which was compliant. This bid has been evaluated and offers the council an opportunity to secure the long term future of the Theatre as a going concern. It is this tender which officers have determined as a preferred bidder and Elected Members now need to consider whether they wish to go forward with this proposal.

2. Reason for Proposal

- 2.1 The council determined that it wished to see a financial saving from the future operation of the Palace Theatre. In order to achieve this the Theatre was offered as a tender and a preferred supplier has been identified. However, the preferred supplier is not offering a guaranteed rental income, only a share of the profits, if there are any. This and the financial saving requirements mean that the Council must now determine a preferred direction of travel.

3. Recommendation(s) / Proposed Decision

- 3.1 That the negotiations continue with the preferred bidder to effect the transfer of the Palace Theatre under a 10 year lease to a new Community Interest Company.
- 3.2 That the Assistant Director (Communities and Customer Services) be give delegated authority to conclude the negotiations with the preferred bidder in consultation with the Executive Lead for Tourism, Culture and Harbours.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Background Documents

None

Section 1: Background Information

1. What is the proposal / issue?

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The tender process has been undertaken and there was one bid which was compliant. This bid has been evaluated and offered the council an opportunity to secure the long term future of the Theatre as a going concern. It is this tender which officers have determined as a preferred bidder and Elected Members now need to consider whether they wish to go forward with this proposal.

The preferred bidder is proposing to:

- Create a Community Interest company to run the palace Theatre as a community theatre;
- Lease the building for the council for a 10 year period;
- Offer the council the opportunity of profit, in lieu of rent, and also share any profit with the Culture Board to support the wider cultural offer in Torbay.

The proposal has some issues which still need to be resolved as the nature of the bid requires a new legal entity to be established. The council will need to work with the preferred bidder to ensure that the project can go forward appropriately. It is anticipated that the earliest possible date of transfer to the new provider would be 1st October 2017.

2. What is the current situation?

- The current theatre operation creates a budget pressure to the council with a regular annual revenue overspend of circa £40k per annum. There are also ongoing pressures on the repairs and maintenance budget. The Council set a revenue budget reduction target of £20k per annum for the Theatre operation and offered the Theatre via a procurement process in Spring 2017.
- The theatre has had inconsistent management for a number of years, and has failed to achieve its potential in terms of income generation. Over the last 2 years there have been four different managers in post. The Theatre is also in need of investment, and basic facilities such as the box office bookings and backstage equipment need to be updated and there is a regular call on the limited repairs and maintenance budget.
- Operating a Theatre is not Council core business and given current

	<p>resource constraints is a very challenging facility to operate, when there are commitments which need to be honoured with third parties, and HR process are not flexible enough to respond. Programming at the Theatre has also been inconsistent over many years and has not kept pace with the need to diversify and enhance the local cultural offer.</p> <ul style="list-style-type: none"> • The Theatre current derives an income which supports its costs from a third party lease to ROC who rent space within the Theatre building. Income from this arrangement is £37k per annum. In addition there is a theatre residency for the Doorstep Arts, who coordinate their activities from with the Theatre, and assist in the reputational management and programming arrangements.
<p>3.</p>	<p>What options have been considered?</p> <p>1. The Council could continue to operate the Theatre directly. However, this would not realise the savings requested and will place an additional resource strain on the Culture and Events Team. If this was to be an option then the Council would need to recruit a permanent manager for the Theatre and review the entire business model including resources commitment in terms of staffing and repairs and maintenance. This would have a cost to the council as investment would be needed in the short, medium and long term.</p> <p>Advantages</p> <ul style="list-style-type: none"> • Retains the Theatre in Paignton as a community theatre; • Staff would be retained; • In line with the cultural ambition for Torbay and supports the current investment by the Arts Council in Torbay; • Existing stakeholder support; <p>Disadvantages</p> <ul style="list-style-type: none"> • Ongoing budget pressure to the council; • Existing savings target identified cannot be achieved; • Lack of management capacity to support the Theatre; • Increasing costs of repairs and maintenance; • Investment required; • Not core business of the council. <p>2. The Council could close the Theatre. This would result in the Theatre being closed to performances and all the staff being made redundant leaving an empty building. If the Theatre was to be closed, there is an assumption that the Theatre would be placed on the market and sold, which would offer the council the opportunity of capital receipt. As this would be a significant service change then a public consultation would be required.</p> <p>Advantages</p> <ul style="list-style-type: none"> • Direct cost saving to the Council; • Opportunity to sell the building for a capital receipt; • Potential for purchase to redevelop the site; • No ongoing financial liability for the Council.

	<p>Disadvantages</p> <ul style="list-style-type: none"> • Reputational damage to the council; • Loss of stakeholder confidence in the Council; • Relationship damage with the Arts Council; • Another empty building in Paignton unless a buyer can be found; • Ongoing repairs and maintenance liability until a buyer is found; • Staff would be made redundant. <p>3. The council could mothball part of the Theatre. This would result in the Theatre being closed to performances and all the staff being made redundant leaving a largely empty building. However, the Council could honour the existing tenants at will arrangement and still derive an annual income of circa £37k.</p> <p>Advantages</p> <ul style="list-style-type: none"> • Direct cost saving to the Council; • There is still a residual use for the building; <p>Disadvantages</p> <ul style="list-style-type: none"> • Reputational damage to the council; • Loss of stakeholder confidence in the Council; • Relationship damage with the Arts Council; • Ongoing repairs and maintenance liability; • Staff would be made redundant.
	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect <p>Targeted actions:</p> <ul style="list-style-type: none"> • Working towards a more prosperous Torbay • Ensuring Torbay remains an attractive and safe place to live and visit • Protecting and supporting vulnerable adults
<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>As the recommendation is to pursue the preferred supplier which would keep the Theatre open as a Theatre, then there is no need to formally consult external stakeholders. All stakeholders were aware of the decision to offer the Theatre as a tender, but the outcome has yet to be shared with them, pending a decision of this Council. There will be a requirement to consult the Theatre employees as part of the legal requirements of TUPE as the staff will transfer to the new provider.</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>Consultation on the preferred options will be through the councils HR policies with staff.</p>

Section 2: Implications and Impact Assessment

7.	<p>What are the financial and legal implications?</p> <p>Financial</p> <ul style="list-style-type: none">• The preferred supplier offers the council the opportunity of a share of the profits made by the Community interest Company if any profits are generated for the terms of the lease;• As there is no rent being paid, then Council need to consider whether this is compliant with the principle of achieving a market rent wherever possible;• There is the potential for redundancy costs associated with Council not supporting the recommendation;• There is limited risk with moving to the preferred bidder as should the project fail then the Council would still own the Theatre and a later decision on its future could be made. <p>Legal</p> <ul style="list-style-type: none">• A lease will need to be drawn up with the new community interest company for a 10 year period.
8.	<p>What are the risks?</p> <p>If the proposal is not implemented then the Council will need to determine the long term future of the Theatre as outlined in the options in section 3 of this report. This will need to be agreed swiftly as the current uncertainty around the future of the Theatre is damaging its reputation and the ability to retain staff and relationships with stakeholders. If a decision is made to close/partially close the Theatre then a mutually agreed date for closure must be established as the Theatre has pre-existing commitments which will need to be taken into account and staff retention will be a significant issue.</p>
9.	<p>Public Services Value (Social Value) Act 2012</p> <p>The theatre has been offered to the market via a procurement process, and the market has only returned one compliant bid. Progressing with this bid will not require further consultation, but if any of the alternative options are considered then further consultation will be required.</p>
10.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>See details above. The specification on for the tender was written to give all prospective applicants the best opportunity to apply and advice was sought from the TDA and the Theatres Trust in the development of the specification.</p>
11.	<p>What are key findings from the consultation you have carried out?</p> <p>The decision to offer the Theatre as a tender was taken as part of the 2017/18 budget preparation process and was included in the Mayors consultation. There</p>

	<p>was no adverse feedback received on this matter and stakeholders have been kept inform of process. The Culture Board have expressed their views on the tender process:</p> <p>“The Torbay Culture Board is in full support of Torbay’s Council’s quest to secure a sustainable way forward for the Palace Theatre as a performing arts venue. The Palace is central to the Board and our partners’ plans to regenerate the Paignton square area and around Winner Street, not least via the recent decision to invest £1.2m into Torbay via the Great Places Scheme from Heritage England, Arts Council England and Historic England. However, it will only serve as a hub for regeneration through embedding culture as a community theatre. As a Board, I can pledge that we will impart the considerable and diverse expertise from our members in helping successful bidders who wish to retain and develop the Palace as a community performing arts venue. This would include advising on sources of funding for improvements to the facilities over a planned schedule and access to our many cultural networks regionally and nationally to maximise best practice.”</p> <p>The Arts Council have previously given a view that the venue is important for the locality given that it offers a different scale and greater range of opportunities for participants, artists and audiences and the is referenced in the Great Places Grant Funding plans. The real strength though is in the potential for it being a local hub and the opportunities that it could offer.</p>
12.	Amendments to Proposal / Mitigating Actions The officer recommendation is to conclude the tender process with the preferred bidder.

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			Recommendation secures the long term future of the Theatre
	People with caring Responsibilities			Recommendation secures the long term future of the Theatre
	People with a disability			Recommendation secures the long term future of the Theatre
	Women or men			Recommendation secures the long term future of the Theatre
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			Recommendation secures the long term future of the Theatre
	Religion or belief (including lack of belief)			Recommendation secures the long term future of the Theatre
	People who are lesbian, gay or bisexual			Recommendation secures the long term future of the Theatre
	People who are transgendered			Recommendation secures the long term future of the Theatre
	People who are in a marriage or civil partnership			Recommendation secures the long term future of the Theatre
	Women who are pregnant /			Recommendation secures the

	on maternity leave			long term future of the Theatre
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			Recommendation secures the long term future of the Theatre
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			Recommendation secures the long term future of the Theatre
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None known		
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None known		