



**COUNCILLOR PHILLIP
BRIGHTMORE**

CABINET
26 NOVEMBER 2018

LEISURE AND CULTURAL SERVICES –
FUTURE PROVISION OF FLORAL
PAVILION THEATRE AND CONFERENCE
CENTRE

Councillor Phillip Brightmore, Cabinet Member – Leisure and Recreation said:

“The Floral Pavilion is a fabulous facility, which brings enjoyment and no small measure of pride to thousands of residents throughout the borough. The theatre is approaching its 10th anniversary and has gone from strength to strength since being unveiled as the centrepiece of the Council-led regeneration of New Brighton.

“The time has come for the Floral Pavilion to take the next stage on its development. We want this theatre to continue to grow, to attract bigger and better shows and become a visitor destination for the entire region. To get there, we believe we need an expert theatre organisation to take over the business.

“We want the Floral Pavilion to thrive. We want it to remain a place where residents can come together, a stunning waterfront facility which every Wirral resident can be proud of. We believe under the leadership of a specialised theatre company, the Floral Pavilion can look forward to its next ten years with huge confidence.

“The Floral Pavilion would remain in public ownership, but become part of a specialised theatre chain – saving Wirral residents money, which can then be reinvested into services, and ensuring the products, services and shows on offer at the Floral improve.”

REPORT SUMMARY

Wirral Council provides extensive leisure, recreation, cultural, open space and library services. The cost to the Council of delivering these services is £17 million, when income from external funding is taken into account. The Council faces significant budget savings due to the removal of the revenue support grant and needs to review how services can be delivered effectively whilst reducing costs, especially for discretionary services.

Over the past year the Council has undertaken a detailed review of Leisure and Cultural services to try and find ways of transforming these services to make them more sustainable, flexible and appropriate. The Council does not wish to be in a situation where it needs to consider closing or reducing services in order to balance the budget. The Council's preference is for a model which allows for discretionary services to generate their own funds so they can grow. There is no legal requirement for the Council to provide a theatre service either directly or indirectly.

The Floral Pavilion currently costs the Council £899,300 per year to keep open. As a mid-scale (800 seat) receiving theatre the Floral Pavilion is limited as to the performances it may attract, the percentage of ticket sales it may retain and the income it may generate. While the Council can and will continue to develop new commercial opportunities within the facility – extended bar opening and maximising secondary spend, reviewing programming, developing marketing campaigns to attract new conference and wedding business among others; it is not thought the Council can get the subsidy to '£0' within the medium term using the current business model. Cuts to the subsidy, without change, could result in the partial closure of facilities.

The current service model for this service is therefore financially unsustainable. This issue requires a solution which will:

- Reduce the level of financial support required by the Floral Pavilion from the Council.
- Ensure that the Floral Pavilion continues to operate and deliver cultural, social and economic outcomes for the people of Wirral.

A number of options have been considered for the future delivery of the Theatre. The recommended option is to transfer the operation of the Floral Pavilion as a going concern on a long lease to a suitable alternative provider, but importantly retaining the freehold. This proposal, if pursued, will see the Council retain ownership of the Floral Pavilion, but see its operations run by an expert organisation. This represents the greatest opportunity for long term savings while keeping the theatre open as an attraction in New Brighton and serving residents and visitors to the Wirral.

RECOMMENDATION/S

Cabinet is requested to:

Authorise the Corporate Director for Delivery Services to transfer the Floral Pavilion Theatre and Conference Centre at best consideration as a going concern on a long lease.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The 2017/18 Residents Survey asked residents what they felt was important to them in relation to the Floral Pavilion. Residents overwhelmingly wish the theatre to remain open and accessible to all. However, Residents were less concerned that the Floral Pavilion remains being directly managed by the Council or that income generated by the theatre is returned to the Council.
- 1.2 Three potential options (No Change, Commercial Management and Long Lease as a Going Concern) were considered by officers and Members as to how closely they meet the stated outcomes that the Council wishes to achieve for the Floral Pavilion. These were:
- The Floral Pavilion to remain a creative and community hub for residents, attracting a diverse range of business and customers through an exciting events programme.
 - To increase the revenue the Floral can contribute, reduce the Council's subsidy to keep it viable, provide job security to staff and retain it as an asset which Wirral residents can be proud of.
 - We want the Floral Pavilion to be a free-standing, commercial asset which covers its own costs and contributes to the cultural, leisure and artistic options available for Wirral residents to enjoy.
- 1.3 A specialist provider, such as a theatre chain or production company, brings with them a number of potential benefits. A theatre chain, that is in a position to book performers for a number of theatres, are in a better position than a single theatre to obtain a greater share of the income from tickets and book more well-known acts. A theatre chain also brings with it further economies of scale regarding marketing, corporate purchasing power, maximising ancillary sales and bring with them expertise in venue catering and conference centre management. A production company that provides its own performances would be in a position to retain the full value of the ticket price in order to cover its costs.
- 1.4 Research undertaken into the various options involved consulting with several commercial companies on a confidential basis to determine potential interest in a theatre and conference venue of this kind, and the basis (contractual and financial) on which each might consider taking on such an operation. During this research there was interest expressed from a commercial operator in the freehold purchase or long lease of the theatre. It is expected that the number of interested parties would increase once the Floral Pavilion is appropriately advertised.
- 1.5 This option would remove the Council from being responsible for the Floral Pavilion but retain the facility as a theatre and conference venue supporting the redeveloped New Brighton as a visitor destination. A restrictive covenant would be put in place to ensure that the theatre could only be used as a theatre and conference venue, ensuring that the theatre continues to operate and importantly the Council would retain the freehold.

- 1.6 The benefit to the Council is that it will be able to achieve a nil subsidy once the long lease transfer is complete. The savings from the transfer of the Floral Pavilion is expected to be an annual revenue saving of £550,000 (current net expenditure less fixed support costs and capital charges). There is also the potential of 'one off' receipt from the payments of the lease, subject to any grant clawback which the Council may be liable for.
- 1.7 In summary the recommended option is to offer a long lease as a going concern and by doing so transfer the Floral Pavilion to a suitable alternative provider. This expected to bring the following benefits:
- The Floral Pavilion will continue to develop new commercial options within the facility, maximising the value of contracts and of secondary spend, new programming and marketing campaigns to attract new customers and conference and wedding business among others.
 - As a medium size (800 seats) theatre there are limitations to how far it can develop, but with a larger more experienced specialist theatre operator it would benefit from economies of scale not available to a sole operator.
 - Transferring the Floral to a theatre company / chain brings advantages through their ability to book well known and high quality shows and performers.
 - As specialist theatre providers potential bidders bring with them access to economies of scale and additional expertise in this area.
 - The Floral is retained as a theatre, benefiting New Brighton and the wider cultural economy through a restrictive covenant not to be used for anything other than a conference and theatre venue. The freehold of the theatre would remain with the Council.
 - Revenue saving to the Council of £550,000 per annum (current net expenditure less fixed support costs and capital charges).
 - There would be a potential 'one off' receipt from the payment of the lease, subject to any grant clawback which the Council may be liable for, which could be used for further regeneration or reinvestment.

2.0 OTHER OPTIONS CONSIDERED

2.1 No Change

- 2.1.1 The Floral Pavilion continues to operate as a part of the Council. Over the past two years every area of secondary spend has been examined to maximise income including reviewing systems to ensure they are aligned to operational effectiveness, pricing structures, staff structures, marketing and market development. Examples of the approach are taking a more assertive commercial stance over specific one off events or in terms of running the base operation such as the bar. This has paid dividends, but the size of the theatre and Council structures has limited this approach. The ability to make decisions quickly to benefits from opportunities as they arise is required in order to develop significant income.

2.1.2 The theatre management project the requirement for a subsidy through these measures to fall from £961,500 in 2017/18 to £771,506 by 2020/21, from a mixture of improvement strategies for earned income and cost reductions.

2.1.3 It is not thought that a '£0' subsidy would be achieved within the medium term.

2.2 Commercial management

2.2.1 The most common models for commercial operation of local authority owned theatres involve an agreement of 10 years or longer for a management company to run a theatre on behalf of the Council. Since every theatre operation, and the service expected of an operating management, is unique, there are no standard contractual and financial arrangements. These can only be determined through a process of market testing and negotiation. Concession contracts, of up to 5 year's duration, reduce the likelihood of a commercial operator being interested in taking on the concession.

2.2.2 Depending on the scale of the operation, including the seating capacity and ancillary facilities, the financial arrangement offered by a commercial operator can range from the local authority paying a substantial management fee, through to a revenue neutral arrangement or the commercial management company making a rental payment. In the case of a theatre of the scale of the Floral Pavilion, an agreement is most likely to require a local authority management fee.

2.2.3 The subsidy would be likely to reduce to £750,000 per year from its current level once an agreement is reached. This means that this option has the potential to realise a reduction in subsidy more quickly than under the 'In House' option. A £0 subsidy would not be achieved from this option.

3.0 BACKGROUND INFORMATION

3.1 In the UK, there are broadly two types of theatre:

- those that create their own productions (producing theatres) and
- those that stage productions and performances created and toured by others (receiving theatres).

In practice, some theatres combine these two approaches and most theatres also include a range of other activities, some generating additional income (e.g. ancillary trading activities, conferences and events) and some offering additional community engagement opportunities (e.g. education programmes, participatory activities).

3.2 For several decades there has been a shortage of drama and lyric (opera, musicals, dance) productions of quality, particularly for mid-scale theatres (under 1,000 seats). Costs have soared, regulations have proliferated, and subsidy has been cut. Receiving theatres have become mixed programme venues, relying increasingly on one-night stands of a wide range of music and entertainment, rather than longer runs of a single title.

- 3.3 The Floral Pavilion comprises an 800+ seat theatre, a foyer plaza, bar, and four areas for general hire. Reopening in December 2008 after a complete rebuild as part of the £60m Neptune Project, it replaced earlier buildings on the same site dating back to 1913.
- 3.4 The Floral Pavilion is essentially a mid-scale receiving theatre, reliant on work created elsewhere and offered through a range of commercial and subsidised production companies. This nationally toured work is complemented by locally generated amateur and community performances. The Floral Pavilion's facilities also offer opportunities for ancillary income generation (i.e. trading income additional to sale of tickets for performances) and community participation activities.
- 3.5 Since opening in December 2008 the Floral Pavilion has received a subsidy from the Council in order to cover its operating costs. The Floral Pavilion currently costs the Council £899,300 per year to keep open
- 3.6 The Council is facing unprecedented economic pressures which mean that it is being asked to deliver the same or better services within a reducing financial envelope. This can only be achieved by reviewing the way that we deliver services and by focussing our limited resources on its key priorities, statutory services and the things that really make a difference.
- 3.7 There is no legal requirement for the Council to provide a theatre service either directly or indirectly. Given the current financial pressures, other Councils are ceasing to directly provide theatres and have sought other ways for the service to be provided either through a long lease or management contract. At a time of reduced financial support, the Council needs to review its discretionary services and seek to reduce its expenditure on non-essential services.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The long lease of the Floral Pavilion as a going concern would create revenue savings, as the Council would no longer be responsible for the running of the theatre and a 'one off' receipt arising from the long lease being paid up front. It would also avoid any capital costs arising from the refurbishment of the theatre as it approaches its 10th year of operation.
- 4.2 The savings from the transfer of the Floral Pavilion is expected to be an annual revenue saving of £550,000 (current net expenditure less fixed support costs and capital charges). In addition, following a valuation undertaken by Lambert Smith Hampton, there is the expectation that a one off receipt will also be achieved.

5.0 LEGAL IMPLICATIONS

- 5.1 The intention is to transfer the Floral Pavilion Theatre and Conference Centre as a going concern on a long lease. A restrictive covenant will be placed on the use of the Floral Pavilion for it only to be used as a Theatre and

Conference Venue. In this way the intention is to safeguard the future development of the site and ensure that the Theatre continues to operate. It should be noted that, restrictive covenants on use have the potential to be challenged after a period of 40 years.

- 5.2 Existing contracts for performances will need to be checked to ensure that they may be transferred to the new provider to avoid a break in service or any breach of contract.
- 5.3 Existing service contracts, for instance the catering concession, will need to be checked to ensure that they may be transferred to the new provider to avoid a break in service or any breach of contract.
- 5.4 Contracts and licences in relation to IT Equipment and Licences will need to be checked to ensure that they may be transferred to the new provider to avoid a break in service or any breach of contract.
- 5.5 As the proposal includes land the Council must obtain the best price reasonably obtainable. The transfer of the business would require for it to be appropriately advertised.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

6.1 ICT

- 6.1.1 The Floral Pavilion currently uses a mixture of IT Systems. The new provider would need to replace these systems with their own systems; however this will need careful preparation and planning, embedded into a mobilisation and on boarding schedule to ensure that the service continues without interruption. Issues regarding data transfer from these systems to the new provider will also need to be considered in line with GDPR.

6.2 Staffing

- 6.2.1 The staff currently working at the Floral Pavilion would be TUPE transferred to the new operator on existing terms and conditions. The Council has identified employees whose roles and duties are wholly or at least 50% assigned to the work that is transferring based on job titles, job description and nature of work undertaken. There are currently 38 FTE staff working in the Floral, including a pool of casual staff that supports the service as and when required.
- 6.2.2 A mobilisation and on boarding plan will be developed to ensure the transfer goes as planned with minimal disruption to the business, its customers and employees.
- 6.2.3 A Pensions Actuarial Assessment will need to be undertaken to ensure that the new provider is aware of their pension liability.
- 6.2.4 Wirral Council is committed to following Best Value practice which requires that new transferees become an admission body of the LGPS or offer a

broadly comparable scheme certified by the Government Actuaries Department (GAD).

6.2.5 Existing staff who contribute to the Local Government Pension Scheme (LGPS) will experience no change as the new operator will become a participant in this scheme.

6.2.6 Any employees that are not currently a member of the LGPS pension scheme will retain the right to join the LGPS scheme post transfer.

6.3 Assets

6.3.1 While the intention is to transfer the Floral Pavilion to an alternative provider on a long lease the Council would seek to work in partnership with the new provider to promote the culture and visitor economy. This has the potential to be a mutually beneficial arrangement allowing the Floral to remain a centre piece attraction in New Brighton as a part of a wider annual events programme. The Council is already well placed to develop these arrangements given the success of the 'Tall Ships' and 'Giants Spectacular' partnership arrangements.

7.0 RELEVANT RISKS

7.1 All risks associated with this proposal will be identified and managed in line with the Corporate Risk Management Procedure as part of the project delivery process. Below is a summary of some of the key risks identified and how they will be managed.

Risk	Mitigating Action
A potential operator may not make an offer that is financially sufficient	Understand what is required from a potential operator Ensure that we carry out a thorough tender process
In the reported small market there may not be any interest	Appropriately advertise amongst potential providers
The Council may lose control of future use under transfer.	Agree the restrictions over the future use of the building. Freehold retained by the Council.
Insufficient capacity within the internal team to support projects (e.g. HR to progress TUPE, Legal to advise and develop route to contract award, etc.) may cause delay or limit the benefits of the projects	Identify and communicate resource requirements work stream leads and check that the correct level of expertise is available to produce the products. Identify areas that do not have internal expertise available to produce products and develop case for allocation of project funds for the external resource

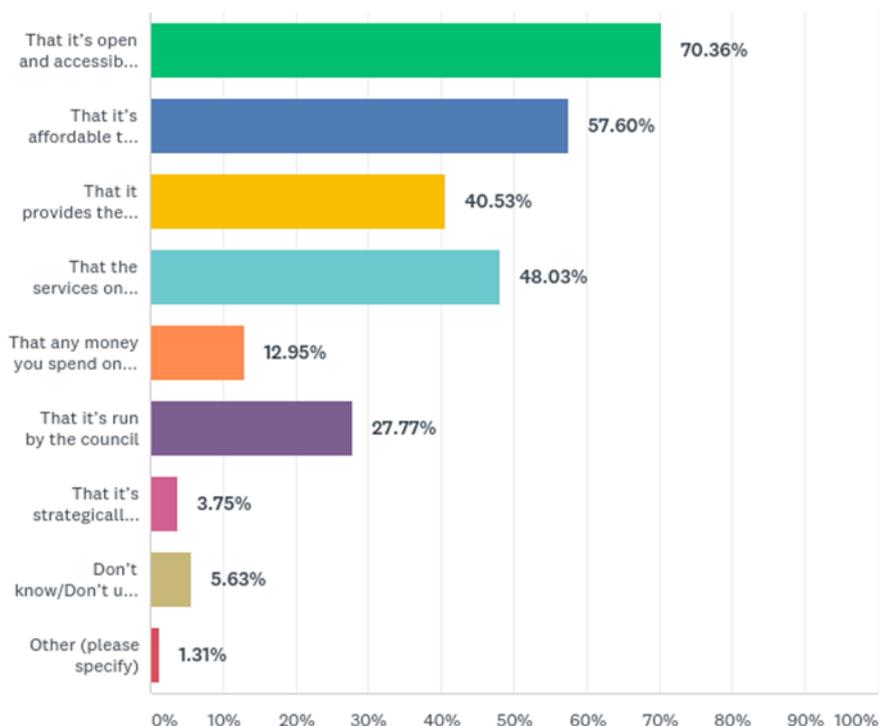
8.0 ENGAGEMENT/CONSULTATION

8.1 The 2017/18 Residents Survey asked residents what they felt was important to them in relation to the Floral Pavilion. The results are provided below.

Answer Choices	Responses
That it's open and accessible to all as a community asset	70.36% 375
That it's affordable to use	57.60% 307
That it provides the services/products that you want to use	40.53% 216
That the services on offer are of good quality	48.03% 256
That any money you spend on the service goes back into the council	12.95% 69
That it's run by the council	27.77% 148
That it's strategically managed by democratically elected members	3.75% 20
Don't know/Don't use this service	5.63% 30
Other (please specify)	1.31% 7
Total Respondents: 533	

Residents value the Floral Pavilion and overwhelmingly wish this to remain open and accessible to all, that it remains affordable to use and provide services that are of a good quality.

Residents were less concerned that the Floral Pavilion remains being directly managed by the Council or that income generated by the Theatre is returned to the Council.



Given these clear responses from residents, the discretionary nature of the service being provided and the levels of subsidy involved in maintaining the Floral Pavilion it is clear that other options for the future delivery of the Floral Pavilion need to be considered.

- 8.2 As a part of delivering these proposals consultation will be required with staff, volunteer groups, key stakeholders and Trade Unions. A comprehensive communication plan will be developed as part of the project planning process.
- 8.3 Trade Unions have been consulted on this proposal and regular meetings have been scheduled with them.
- 8.4 This proposal will also be a part of the Budget consultation process.

9.0 EQUALITY IMPLICATIONS

Has the potential impact of your proposal(s) been reviewed with regard to equality?

- (a) Yes and impact review is attached – refer hyperlink:

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2017/delivery>

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APPENDICES

REFERENCE MATERIAL

Re-imagining Leisure and Cultural Services – Phase 1 Report (Bates Wells Braithwaite) – March 2017

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet: 'Outline Transformation Approach'	21 March 2016
Cabinet: 'Leisure and Cultural Services – future provision of Leisure, Parks, Libraries and Cultural Services'	27 March 2017
Environment Overview and Scrutiny Committee – Call In	19 June 2017