

WIRRAL COUNCIL**ENVIRONMENT OVERVIEW & SCRUTINY COMMITTEE****2 JULY 2019**

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| REPORT TITLE | LEISURE AND CULTURAL SERVICES – FUTURE PROVISION OF FLORAL PAVILION THEATRE AND CONFERENCE CENTRE - UPDATE |
| REPORT OF | ASSISTANT DIRECTOR – COMMUNITY SERVICES |

REPORT SUMMARY

The purpose of this report is to provide an update to the Environment Overview and Scrutiny Committee on progress towards the transfer of the Floral Pavilion Theatre and Conference Centre to an alternative specialist theatre provider on a long lease, while the Council retains the freehold ownership.

Cabinet on the 26th November considered several options for the future provision of the Floral Pavilion Theatre and Conference Centre and asked that these be considered further as a part of the 2019/20 Budget Options. This budget option formed a part of the Environment Budget Option workshop and scrutiny process. This budget option was agreed by Council on 4th March 2019 as representing the most appropriate opportunity for savings in the long term while keeping the Floral Pavilion Theatre and Conference Centre open for the benefit of residents and visitors to Wirral.

This report provides an update on the progress to date in delivering this budget option.

RECOMMENDATION/S

Committee is requested to note the content of this report.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The Floral Pavilion in 2018/19 received a budget subsidy of £899,300 per year, but reported an overspend, which including the subsidy was, £1,137,000. 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.
- 1.2 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.
- 1.3 Cabinet on the 26th November considered several options for the Floral Pavilion and asked that these be considered further as a part of the 2019/20 Budget Options. The recommended option was to transfer the operation of the Floral Pavilion as a going concern on a long lease to a suitable alternative provider. This would see the Council retain ownership of the Floral Pavilion, but its operations run by an expert organisation. This option 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.
- 1.4 A specialist provider, such as a theatre chain or production company, brings with them several 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.
- 1.5 This approach 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 payment of the lease.

- 1.7 A budget option to transfer the Floral Pavilion Theatre and Conference Centre to an experienced theatre operator on a long lease was accepted at Council on Monday 4th March 2019. Following the Council decision officers instructed Lambert Smith Hampton to prepare marketing material for the Floral Pavilion and undertake a targeted marketing campaign to potential interested partners. This campaign commenced on 31st May with submission due from interested parties by 15th July 2019.
- 1.8 Once submission are received these will be evaluated by officers in order to make a recommendation to the Cabinet Portfolio Lead, Cllr Julie McManus, on a preferred provider to enter into negotiation with. The results of negotiations with the preferred provider will be reported to Cabinet for a final decision before any transfer takes place.

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 in 2018/19 received a budget subsidy of £899,300 per year, but reported an overspend, which including the subsidy was, £1,137,000.
- 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.

- 3.8 Cabinet on the 26th November considered several options for the Floral Pavilion and asked that these be considered further as a part of the 2019/20 Budget Options. The recommended option was to transfer the operation of the Floral Pavilion as a going concern on a long lease to a suitable alternative provider. This would see the Council retain ownership of the Floral Pavilion, but its operations run by an expert organisation. This option 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. The budget option to transfer the Floral Pavilion Theatre and Conference Centre to an experienced theatre operator on a long lease was accepted at Council on Monday 4th March 2019.

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 following the 10th anniversary of its 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 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 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 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 Pavilion, 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.

6.2.2 A pensions actuarial assessment will need to be undertaken to ensure that the new provider is aware of their pension liability.

6.2.3 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).

6.2.4 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.

6.2.5 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 Pavilion 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 project are identified and managed in line with the corporate risk management procedure as part of the project delivery process.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Pre-decision consultation has been undertaken in order to identify any relevant objections to this proposal prior to the decision from Council. This included specific questions in relation to this project as a part of the budget consultation process.
- 8.2 A communications and engagement plan is in place for this project setting out when and how Members, residents, staff and Trade Unions will be consulted as the project develops.
- 8.3 Formal consultations have commenced with Trade Unions with regular meetings scheduled with them.

9.0 EQUALITY IMPLICATIONS

(a) Yes, and impact review is attached

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

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APPENDICES

BACKGROUND PAPERS

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|---|--------------------------------|
| Cabinet: Review of Leisure, Libraries and Cultural Services – Floral Pavilion | 26 th November 2018 |
| Environment Overview and Scrutiny: Budget Scrutiny Workshop | 6 th December 2018 |
| Environment Overview and Scrutiny: Budget Scrutiny Workshop | 16 th January 2019 |
| Environment Overview and Scrutiny Committee: Budget Proposals | 30 th January 2019 |
| Cabinet: 2019/20 Budget Proposals Scrutiny Report and Council Budget 2019/20 | 18 th February 2019 |
| Council: Council Budget 2019/20 | 4 th March 2019 |