

**SPECIAL CABINET
22 NOVEMBER 2011**

ITEM NO.

CIVIC THEATRE

**Responsible Cabinet Member - Councillor Nick Wallis,
Leisure and Local Environment Portfolio**

Responsible Director - Richard Alty, Director of Place

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to:
 - (a) Provide an update to Members on the outcome of the extended procurement process on the basis of a subsidy being available for the Civic Theatre.
 - (b) Present an alternative option for the future of the Civic Theatre where the Council apply the VAT exemption for Cultural Services.

Summary

2. Cabinet had previously considered the future of the Civic Theatre on 18 January 2011 and 21 June 2011. The last report to Members allocated additional resources in the MTFP to enable the Civic Theatre to remain open until July 2012, whilst officers extended the procurement process on the basis of a subsidy being available.
3. Following the extended procurement process for the Civic Theatre where a subsidy may be available, one compliant bid has been received. This bid carries a comparable subsidy overall to the existing costs to operate the Civic Theatre.
4. Officers have also worked on a new operating model for the Civic Theatre, which could enable the Council to take the benefit of the VAT exemption for Cultural Services that is available to local authorities (public bodies) to apply to the income from admissions where there is no distortion of competition. This will allow the Civic Theatre to operate with substantially lower subsidy than the bid received.

Recommendation

5. It is recommended that :-
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- (a) Members note the outcome of the procurement process for the Civic Theatre and agree not to accept the only bid submitted.
- (b) Members agree to take the benefit of the VAT exemption for Cultural Services for the Civic Theatre, subject to the outcome of advertising the Council's intention.
- (c) Members allocate £100,000 per annum within the draft Medium Term Financial Plan for the operation of the Civic Theatre.

Reasons

- 6. The recommendations are supported by the following reasons :-
 - (a) The bid received is not financially sustainable for the Council
 - (b) By taking the benefit of the VAT exemption for Cultural Services, enables the Civic Theatre to remain open at a significantly reduced net cost.

Richard Alty
Director of Place

Background Papers

No Background papers were used in the preparation of this report.

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LCD

S17 Crime and Disorder	The content of this report will not impact on Crime and Disorder.
Health and Well Being	There is no direct impact on Health and Well Being for residents as a result of the outcome of this report.
Carbon Impact	There is no impact on carbon emissions as a result of this report.
Diversity	No individual is adversely affected as a result of this report.
Wards Affected	The Civic Theatre is located in Central Ward.
Groups Affected	As the proposal is to continue to run the Civic Theatre, there is no impact on individual groups other than those who use the Civic Theatre.
Budget and Policy Framework	Post July 2012, there will be a financial impact on the MTFP of £100,000 per annum.
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	The Civic Theatre does have an impact on the place of Darlington, contributing to the overall economy and environment, and Perfectly Placed priorities.
Efficiency	The outcome of this report is to ensure that the Civic Theatre can continue to be operated in the most efficient manner.

MAIN REPORT

Information and Analysis

Background

7. Cabinet considered a report on 18 January 2011 with regard to removing the subsidy from the Civic Theatre. Four options were presented:
 - (a) Option 1 – Close and board up
 - (b) Option 2 – Market for sale or lease as a going concern
 - (c) Option 3 – Market the building for sale to the highest bidder
 - (d) Option 4 – Community/voluntary sector take on management
8. Cabinet agreed to pursue Option 2 – Market for sale or lease as a going concern, and subject to the outcome, the intention was then to hand over responsibility for the theatre to the successful organisation from the end of January 2012.
9. A further report was presented to Cabinet on 21 June 2011 with regard to the outcome of the process to sell the Civic Theatre as a going concern, and as documented in that report, it was not possible to accept either of the two bids submitted. Members agreed in the short term to continue to fund the Civic Theatre whilst future options were explored. Those options could include:
 - (a) Agree a bottom line subsidy through a fair competitive process.
 - (b) Continue to operate the Civic Theatre in-house.
 - (c) Operate the theatre through a trust, either standalone or part of a wider cultural trust.
 - (d) Going back out to the market for the management contract with the retention of control of the building.
 - (e) Eventual closure.
10. Member agreed that officers continue with an extended procurement process on the basis of a subsidy being available, whilst at the same time, officers looking at a revised in-house delivery model.

Outcome of the extended procurement process

11. All of the original organisations that expressed an interest in the Civic Theatre were offered the opportunity to resubmit a bid based on the provision of a subsidy. Only one organisation returned a bid, which has been evaluated and is compliant.
12. The annual subsidy required would be £448,101 rising by the Retail Price Index over the 20 year lease.

Existing costs to run the Civic Theatre

13. For the last two years, direct running costs for the Civic Theatre have been as follows:

Expenditure	2009/10	2010/11
Net operating costs for Civic Theatre	545,553	408,714
Catering Surplus	91,675	107,001
Total Direct Operating Costs	453,878	301,713

14. There is a significant reduction between 2009/10 to 2010/11. The main areas this has been achieved is a higher level of income from ticket sales and a significant reduction in repairs and maintenance (buildings) of £50,000. This reduction is not sustainable and was only achievable because at the time it was felt that the Civic Theatre may potentially close therefore only limited repairs and maintenance was carried out.
15. The anticipated net running costs for 2011/12 for the Civic Theatre are approximately £450k. It is evident that the existing running costs for the Civic Theatre are comparable to those submitted by the only bidder. However, it should be noted that over the 20 years, they intend to invest £1 million in the interior of the theatre. Costs for funding this investment are included within their submission.

Alternative In-House Model

16. As part of the overall review of Cultural Services, work has been undertaken reviewing the VAT exemption for Cultural Services, which the Council do not currently apply. However, following further investigation, it would be possible under certain conditions for the Council to apply the exemption for admission charges to cultural places and events, which is set out in Group 13, Schedule 9 VAT A 1994.
17. This exemption means that the ticket price for most of the events taking place would not need to include VAT although ticket prices would remain the same and in line with other venues in the area for similar productions the income to the Council would be increased by the VAT no longer required to be paid over to HMRC.
18. This would generate an estimated £350,000 for the Civic Theatre.
19. One of the conditions of applying the exemption is that the Authority must demonstrate that by introducing the exemption to its admission income to cultural events, it will not be likely to distort competition to the disadvantage of competing commercial bodies within the local area. To comply with this condition, an advert has been placed in The Northern Echo on 27 October 2011 and any comments are due back within 30 days of the advert being placed.
20. Officers have been working on a new operating model for the Civic Theatre including the application of the exemption for admission charges. This model would require the Council retaining control of the Civic Theatre as it is the Council who receive the exemption and not any outside body.
21. The new remodelled service now has a net operating deficit of approximately £100,000.

Future Options

22. For the Civic Theatre, the Council now has three clear options:
 - (a) Accept the compliant bid as part of the procurement process
 - (b) Closure
 - (c) To take benefit of the VAT exemption for Cultural Services, alongside a new operating model subject to the outcome of advertising the exemption
23. As is evident in this report, the annual subsidy required by the complaint bid is comparable to the existing subsidy and would be significantly higher than the new operating model. It is therefore not proposed to go forward with this option.
24. Closure of the Civic Theatre is still an option for Members and could take place towards the end of July 2012 as the theatre goes into the dark period. There would however be an ongoing annual cost of approximately £40,000 per annum for insurance, fire alarm system maintenance/monitoring, security system maintenance/monitoring, key holding costs, utility costs, repairs and maintenance, exterior works and property surveyor weekly visits. In addition, there would also be a one-off cost of approximately £10,000 to secure the building with suitable shuttering. There would also be redundancy costs for staff currently employed within the Civic Theatre of between £320,000 to £350,000 (Note: this does not include any pension cost). The Council is also contractually committed to providing the Pantomime up until Pantomime Season 2012/13, which for that year has a minimum contract value in excess of £500,000. Therefore in order to close the Civic Theatre, there would be one-off costs of approximately £860,000 and an annual recurring cost of approximately £40,000.
25. For the third option, continue to run the Civic Theatre taking the benefit of the VAT exemption for Cultural Services within a new operating model, would mean the Civic Theatre would have annual net running costs of approximately £100,000 per annum. When this cost is considered alongside the recurring annual cost to close the Civic Theatre, the net difference to the Council is approximately £60,000 per annum. In addition, if the VAT exemption for Cultural Services is brought in from April 2012, there will be an approximate £200,000 saving which is currently built into the MTFP for keeping the Civic Theatre open until July 2012.
26. Based on previous work carried out for the Civic Theatre and the options considered in this report, it is proposed to apply the VAT exemption for Cultural Services, subject to the outcome of advertising the Council's intention and continue to operate the Civic Theatre at an annual cost of approximately £100,000. If Members agree to this proposal then there will be a need to allocate annually £100,000 to the Civic Theatre within the MTFP.
27. It is recognised that it would be necessary to invest in the Civic Theatre to bring it up to modern day standards in the short to medium term. If Members agree to implement this new operating model, then a feasibility study would need to be carried out with regard to a full refurbishment programme and the fundraising strategy associated with that. The outcome of that feasibility will be reported to Members in due course for their consideration. It is anticipated that this investment will be, as a minimum, £1 million but likely to be significantly more. A detailed business case will need to be developed once the feasibility study is complete. It is envisaged that the majority of funding will essentially come from external opportunities and a restoration levy placed on ticket sales price.

Staffing Implications

28. There has been ongoing consultation with the workforce and trade unions regarding the future of the Civic Theatre since potential closure was discussed as part of the MTFP proposals. Statutory consultation in accordance with collective redundancy obligations was initially undertaken and following agreement to test the market on potential sale of the theatre, staff consultation has continued and staff have been kept fully informed of all options and issues. Following the outcome of Members' decision with regard to the Civic Theatre, ongoing consultation will take place with the staff.

Outcome of Consultation

29. In order to apply the Cultural Services exemption, an advert was placed in The Northern Echo allowing any organisation to object. To date, no objections have been received.