

---

**CIVIC THEATRE RESTORATION**

---

**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. To update Members on progress with regard to the Restoration Project for the Civic Theatre.

**Summary**

2. Cabinet in recent years has considered a number of reports on the Civic Theatre and ultimately agreed to continue to fund the theatre at a cost of £100,000 per annum with the introduction of the VAT cultural exemption, and also to allocate £50,000 capital funding to develop a project for refurbishment of the theatre to Heritage Lottery Fund (HLF) Stage 1 Application.
3. The Project Team have now developed a project brief identifying the key criteria for the Civic Theatre and shortcomings that need to be addressed as part of the restoration.
4. The report seeks permission from Cabinet to introduce a restoration levy, purchase adjacent shop units, encourage the establishment of a Restoration Trust and agree the fundraising strategy.

**Recommendation**

5. It is recommended that :-
  - (a) Members approve the setting up of a compulsory restoration levy at a cost of £1 per ticket with the exception of dedicated children's performances (except the Pantomime) and that this levy is introduced from July 2013.
  - (b) Delegated authority be given to the Director of Resources in consultation with Cabinet Portfolio Holder for Efficiency and Resources to pursue the acquisition of the properties identified in the report and at a price in line with the figures referred to in **Appendix 3 (this information is exempt from publication**

**under Schedule 12 A LGA 1972).**

- (c) Members note the removal of the booking fee.
- (d) Members support in principle the establishment of a Restoration Trust with a Council nomination to the Trust Board.
- (e) Members approve the overall funding strategy and agree to submit a HLF Stage 1 Application later this year.

### **Reasons**

6. The recommendations are supported by the following reasons :-
- (a) To enable the Council to fund its contribution towards the HLF Restoration Project.
  - (b) To enable the Restoration Project to address the inherent operational issues within the Civic Theatre.
  - (c) To ensure that the Authority is legally compliant as a result of changes in the law with regard to booking fees.
  - (d) To encourage further fundraising from a non-Council body and to provide advocacy for the Civic Theatre.
  - (e) To enable the Restoration Project to move forward to the next stage.

**Richard Alty, Director of Place**

### **Background Papers**

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

Ian Thompson : Extension 4447  
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 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 within the Central ward.
Groups Affected	There will be no impact on individual groups other than those that use the Civic Theatre.
Budget and Policy Framework	There will be no change to the Council's Budget and Policy Framework.

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, environment and Perfectly Placed priority.
Efficiency	The outcome of this report does not impact on the Council efficiency agenda, however a refurbished Civic Theatre will have a positive impact on income.

## MAIN REPORT

### Information and Analysis

#### Background

7. Cabinet have considered a number of reports in the past few years with regard to the future of the Civic Theatre; firstly on 18 January 2011, 21 June 2011 and 22 November 2011. At the November Cabinet, Members agreed to:
  - (a) Take the benefit of the VAT exemption for Cultural Services for the Civic Theatre
  - (b) Allocate £100,000 per annum within the Medium Term Financial Plan for the operation of the Civic Theatre
8. Within that Cabinet report, it also identified 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.
9. A further report was brought to Cabinet on 9 October 2012, which presented a proposal to develop a restoration plan for the Civic Theatre. Members agreed to:
  - (a) Develop a restoration project for the Civic Theatre to Stage 1 Application for the HLF.
  - (b) To release £50,000 capital funding to cover the cost of the HLF Stage 1 Application.
10. The project team has now developed a project brief, which is attached as **Appendix 1**. This project brief identifies the primary intended uses of the Civic Theatre, which are:
  - (a) Drama
  - (b) Christmas Pantomime
  - (c) Theatre for children and education
  - (d) Ballet and contemporary dance
  - (e) Musicals, opera and operetta
  - (f) One night entertainments

(g) Community groups, e.g. Darlington Operatic Society

11. In addition, the Design team have also identified opportunities for a significant degree of potential additional usage and therefore increased income, which in order to achieve, it would be essential to provide facilities to support:

- (a) Education and activity space for all ages
- (b) Opportunity for interpretation and heritage awareness throughout the building
- (c) An improved customer experience, which encourages repeat visits
- (d) An opportunity for the community to meet and interact outside traditional theatre hours

12. In order to be successful with the HLF Application, it will be necessary to build in educational and heritage elements to the project.

13. From the project brief it is clear that the front of house spaces have a number of major operational problems, which would impact on a successful restoration project. These are mainly as follows:

- (a) No public lift in the building to negotiate levels
- (b) Original entrance on Parkgate now virtually disused due to accessibility issues with steps
- (c) Late 1980's extension moved the main entrance around the corner into Borough Road thus diminishing the streetscape presence of the theatre
- (d) General lack of public presence on Parkgate compounded by the poor access
- (e) Windows and doors are all generally blind or closed and do not provide a sense of attraction or welcome
- (f) Too many changes in level internally, not DDA compliant
- (g) Too many corridors and staircases with a lack of general congregation space
- (h) Some facilities located incorrectly to cause public flow problems, e.g. merchandising
- (i) Conservatory Bar far too small for stalls and unable to generate significant revenue income against staffing costs
- (j) The scenery set in currently set at right angles to the access road is a major problems and delays get ins incurring additional staffing costs

14. Within the existing footprint of the Civic Theatre, it would not be possible to resolve the key issues above and in fact, by trying to improve access issues, would actually reduce the usable internal space even further.

## Restoration Levy

15. With decreasing funds available from the public purse, the UK theatre industry is turning to a model that is commonplace in the USA, which is to charge a restoration levy on tickets to help to refurbish theatres, making them more accessible and comfortable for modern audiences. In this country, restoration levies were first introduced in the West End theatres in approximately 2003. The advantage of a restoration levy is that it comes directly to the theatre itself and is not subject to the deals with the visiting producers. There are two key schemes for administering a levy, either compulsory or voluntary, which can either be 'opt out' or 'opt in'. The charge across theatres varies depending on why it was set up and the level of funds expected to be achieved. The levy can either be included within the ticket price or in addition to it.
16. The levy is generally applied to every ticket sold and in the case of the Civic Theatre, if dedicated children's shows were to be excluded (but not the Pantomime), then it is anticipated that an annual income of £125,000 could be achieved.
17. Discussed later in this report is the overall fundraising strategy but subject to Members' approval, the income received from the restoration levy could be used to fund any prudential borrowing required for the Council's contribution to the overall refurbishment project. Subject to a successful Stage 1 Application to the HLF, the Council will need to develop the scheme to RIBA Stage D for a Round 2 submission. The levy would be used to fund the Council's contribution to the scheme as the HLF would be the major contributor at this point.
18. It would be proposed to introduce a compulsory levy at £1 per ticket with the exception of dedicated children's performances (except Pantomime). This element of income would be kept separate from the general Civic Theatre budget to ensure transparency and enable customers of the Civic Theatre and the general public to see how the fund is accruing and being utilised.
19. Subject to Members' approval, it would be intended to introduce the levy for the show programme starting in July 2013. However, it must be recognised that customers who purchase a ticket prior to the levy being introduced and advertised will obviously not have to pay the £1 per ticket.

## Purchase of Adjacent Shop Units

20. In an attempt to address front of house issues, options for acquisition of properties adjacent to the Civic Theatre have been considered. An options appraisal has been carried out and is attached as **Appendix 2**. From this options appraisal, it is clearly evident that only Option 1 and Option 4 deliver the requirements as set out in the project brief. Both of these involve the acquisition of two shop units and for Option 4, acquisition of part of the yard to the rear of the old ambulance station.
21. By acquiring the additional shop units and bringing them into the footprint of the Civic Theatre will significantly enhance the refurbishment scheme, allowing the

constraints to be addressed by:

- (a) Moving the main entrance onto Parkgate.
  - (b) Opening up the Civic Theatre from Parkgate, reworking the entrance to make it more accessible and welcoming, solving any DDA issue.
  - (c) Making the internal circulation space around the Theatre a focus around Parkgate bringing life and activity to that area.
  - (d) Moving all back of house space away from main public circulation areas.
  - (e) Removing the poor sightline seats within the Stalls by reconfiguring the layout.
  - (f) Within the Dress Circle, improve the leg room.
  - (g) For the Upper Circle, revert back to the original tiering, reducing the visual impact of handrails and if at all possible, increasing seating capacity.
  - (h) Improve the opportunity throughout the Theatre to increase secondary spend.
22. The vision for the project is to reinstate the Theatre's original Victorian splendour and at the same time meet modern-day standards. This can only be achieved by acquiring the additional space ensuring that the best possible project can be delivered within the resources available.
23. Discussions have taken place with the agent for 77-79 Parkgate and the owner of 81-83 Parkgate, the details to acquire these two shop units is included in **Appendix 3** within Part III of the Cabinet Agenda.
24. Without the purchase of these two shop units, the refurbishment of the Civic Theatre will be a significantly poorer scheme as the current space difficulties would not be resolved. Further in this report, options for funding the purchase are discussed.
25. It is therefore proposed that Members approve the purchase of the two shop units at the earliest opportunity to secure them for the overall project.
26. If ultimately the Council were unable to secure HLF funding and therefore the scheme involving the shop units was not financially viable, the Council could either re-sell the units or rent out and receive an annual income.

### **Booking Fee**

27. The Civic Theatre currently charges a booking fee of £1.75 per transaction on all bookings over £5.00 when paying by cheque, credit or debit card with the exemption of young people's performances.
28. The booking fee was introduced at the Civic Theatre in July 2009. It was initially met with resistance, however since booking fees are common practice in many

areas of the leisure industry, latterly there have been few formal complaints. The booking fee is not charged for cash payments and therefore as a consequence, the policy is driving more customers to avoid the fee and pay by cash, increasing the pressure on Box Office and time spent by administration staff counting and banking cash. Cash payments represent approximately 41% of the overall ticket sales for the Civic Theatre in 2012/13. The policy also means customers need to visit the Box Office to pay for tickets as opposed to using the online booking service.

29. The Consumer Rights (Payment Surcharges) Regulations 2012 prevents Traders from charging consumers excessive fees for using credit cards or other means of payment. The Regulations implement Article 19 of the EU Consumer Rights Directive and became effective as of 6<sup>th</sup> April 2013. The Regulations say that 'a trader must not charge consumers, in respect of the use of a given means of payments, fees that exceed the cost borne by the trader for the use of that means.'
30. Currently there are a wide range of different levels and types of charges in place across the theatre sector, varying from single transactional fee per booking as at the Civic Theatre through to a charge per ticket or a percentage of the overall booking fee.
31. Within the budget for the Civic Theatre, there is a contribution of approximately £25,000 per annum from booking fee charges. The anticipated actual contribution for financial year 2012/13 is £19,370. This is from a gross income of £35,878 against a payment to streamline for credit card commission of £16,478.
32. Due to the changes in legislation, the charging of a booking fee for the use of debit cards, credit cards and cheques has been stopped, under the delegated authority of the Director of Resources.
33. The lost income as a result of this will be managed within the overall Civic Theatre budget, not putting additional pressures on the MTFP.

### **Restoration Trust**

34. As discussed earlier in this report, Cabinet in November 2011 agreed to implementing the VAT exemption for Cultural Services for the Civic Theatre. This exemption means that the ticket price for most of the events taking place would not need to include VAT, although the ticket price would remain the same, therefore the income to the Council has increased as VAT is no longer required to be paid over to HMRC. By implementing the Cultural Services exemption, the Council is required to retain control of the Civic Theatre as it is the Council who receive the exemption and not any outside body. For this reason it is not possible to put management and operation of the Civic Theatre into a Trust model.
35. As a result of the Council retaining control of the Civic Theatre it does limit external funding opportunities, however it is anticipated that the main source of external funding for the restoration project will be through the Heritage Lottery Fund, which the Council is able to apply for.

36. There are a number of other funding opportunities that the Council will not be able to apply for, therefore consideration needs to be given to the formation of a Restoration Trust, which would have charitable status. This approach was taken by Harrogate Borough Council for the restoration of the Royal Hall. In this particular instance, the Trust was made up from the Civic Trust and respected members of the business community. Through the good agencies of the Lord Lieutenant, they were able to attract the patronage of HRM the Prince of Wales. The Trust was then able to approach other trusts and charities for additional funding via avenues not directly available to local authorities. Having raised the necessary funds, the Trust then grant-aided the project by funding specific items on the project, e.g. restoration of painted murals within the auditorium.
37. As highlighted in paragraph 35, the management and operation of the Civic Theatre needs to stay with the Council and not transferred to a Trust, however, there would be significant merit in encouraging the setting up of a Restoration Trust to focus on:
- (a) Raising additional funding, which the Council is unable to apply for.
  - (b) Have a key involvement in the Restoration project, with involvement in the design and final scheme.
  - (c) Raise funding for educational outreach work as part of the Civic Theatre programme.
  - (d) Raise funding for the continued maintenance and upkeep of the Theatre once restored.
  - (e) Generally being high profile champions and advisors for the Theatre going forward.
38. The Friends of the Civic Theatre are an existing group that have raised funds and contributed to the Civic Theatre for many years. Consideration needs to be given to how the Friends could be part of or contribute towards any Restoration Trust through the broader fundraising strategy.
39. It is proposed that the Council encourage the setting up of a Restoration Trust for the Civic Theatre with a specific objects of:
- (a) The trustees shall hold the trust fund and its income upon trust to apply them for the following objects ("the objects") in the Borough of Darlington ("the area of benefit")
  - (b) The preservation and restoration for the public benefit of the Civic Theatre in Darlington being a building of particular historical and architectural interest.
40. The type of Trust and powers it would have would need to be agreed by the Trust Board and approved by the Charity Commission if it were to have charitable status.
41. It is important that the correct members of the community/business people are requested to set up the Trust with a range of skills, who will then be advocates for the Civic Theatre and in a position to raise additional funding not available to the Council. There are a number of individuals that could potentially be interested in being involved and subject to Member approval to encourage the setting up of a Trust, contact will be made with them and where appropriate, officers will support



the setting up of the Trust, however the appointment of Trustees and the type and role of the Trust would be up to the Trustees themselves and not the Council.

42. It would be proposed to encourage a Council nominated representative to be a Trustee, however this does not necessarily need to be a Member of the Council.

### **Timeline to Restoration**

43. Subject to Members' approval to proceed to HLF Stage 1 application, key milestones are as follows:
  - (a) Round 1 application – August to November 2013
  - (b) Round 1 application decision – November 2013 to April 2014
  - (c) Round 2 application submitted to HLF – October 2014
  - (d) Round 2 assessment and decision – January 2015
  - (e) Civic Theatre closes, construction commences – January 2016
  - (f) Official reopening following refurbishment – December 2016
44. The above dates are subject to change depending on advice and guidance from HLF as to which is the best and most appropriate meeting to submit the Round 1 application to. In the event of a successful HLF application, the HLF will grant a Round 1 pass, this will then unlock funding to develop the scheme through to RIBA Stage D prior to the submission of the Round 2 application.
45. The costs associated with this work will be eligible for funding from the HLF though there will still be a requirement for partnership funding at the by then agreed intervention rate. The partnership funding rate is likely to be greater than 10% and less than 25% of the total cost. Once again, this can be funded through the restoration levy.
46. Again subject to a successful Round 1 application, it would be necessary to carry out a procurement exercise to engage the services of the professional team. This procurement has been included as part of the Council's annual procurement plan, which went to Cabinet on 9 October 2012.

### **Overall Fundraising Strategy**

47. The Listed Building status for the Civic Theatre immediately suggests that the best opportunity for significant capital funding is likely to come from the Heritage Lottery Fund. Early discussions with regional HLF officers have been extremely positive and the restoration project is one that may attract funding at a national level.
48. A programme that the Civic Theatre would fall into is the National Committee Large Built Heritage Grants scheme and could attract up to £5 million.
49. As part of the Heritage Lottery Fund application, it will also be necessary to develop the fundraising strategy, which identifies specifically the approach to fundraising set against the estimated capital cost. Such a strategy would particularly identify key partners, which in this instance would be:

- (a) Heritage Lottery Fund
- (b) Darlington Borough Council (contribution funded by the ticket restoration levy)

50. This could then be supplemented by additional fundraising through the Friends/Restoration Trust who would be able to attract additional funds, such as:

- (a) Charitable Foundations, e.g. the Monument Trust
- (b) Landfill Tax application
- (c) Seat naming scheme
- (d) Philanthropy

51. Subject to Members' approval to purchase the additional shop units to bring into the Civic Theatre Restoration Project, it is anticipated that the overall scheme costs will be in the region of £6 million to £6.5 million. If successful, the majority of the funding would come from the HLF and the minimum partnership funding required is 10% of the total project cost up to a maximum of 25%. In discussions with the HLF Officer, it is anticipated that an intervention rate of 15% is realistic.

52. The Civic Theatre would need to close to enable the refurbishment work to take place between the end of January 2016 and beginning of December 2016. As a result of the closure, there will be additional costs for staffing and lost business. It is estimated that this will be in the region of £440,000.

53. If the application to the HLF is successful, it is proposed that the Council would borrow the required funding needed for its contribution with the restoration levy being used to pay back that borrowing. Below is a table outlining the financial implications of the project:

15% Match		
Restoration Levy	-£3,713,000	Collected over 25 years
HLF Grant	-£5,000,000	
<b>Funding</b>	<b>-£8,713,000</b>	
Refurbishment & Associated Costs	£6,160,000	Borrowed over 25 years
Closed Period Lost Business	£440,000	
Cost of Borrowing	£1,942,000	
<b>Cost of Refurbishment</b>	<b>£8,542,000</b>	
Variance	-£171,000	

54. The table above assumes the following:

- (a) Restoration Levy is introduced from July 2013 at £1 per ticket sale excluding dedicated children's shows (except the Pantomime) with a 2% rise in ticket sales following the reopening of the Civic Theatre in 2017/18, 2018/19 and 2019/20, thereafter remaining at that level. The total figure for the Restoration

Levy is based on 25-year collection.

- (b) From 2021/22 the restoration levy will increase to £1.25.
- (c) That the intervention rate for HLF funding is at 15% on a £5 million award.
- (d) That prudential borrowing of £1.16 million is over 25 years.
- (e) The variance of £171,000 surplus could be used on the Restoration project through additional borrowing but if not required, retained as a sinking fund for future maintenance.

55. If at Stage 1, HLF agreed to fund the scheme for less than the £5 million then the submission to HLF Stage 2 would be within the agreed budget envelope of available funding.

56. Alongside these two main sources of funding through the Restoration Trust there will be opportunity to fund specific elements of the project, e.g. artwork, bespoke commissions and other specific projects.

### **Risks**

57. There are a number of risks with this project that need to be brought to Members attention:

- (a) That the Heritage Lottery Application is unsuccessful.

Mitigation – the project would then be reviewed and scaled back to the funding available.

- (b) The Council has purchased the shop units, which if the HLF application is unsuccessful, they cannot be built into a scaled down project.

Mitigation – the shop units could be rented or re-sold with the income received going back into the project.

- (c) If the Council is successful with HLF funding, it will be required by the grant to keep the Theatre operating to avoid any future clawback.

Mitigation – it is anticipated that the Civic Theatre through this project will move to a breakeven position therefore it is not anticipated there will be any pressure on the MTFP.

- (d) If the HLF required a higher intervention rate than 15% or are prepared to offer less than the £5 million.

Mitigation – the overall scheme will be designed to meet the available budget envelope.

## **Ongoing Business Case**

58. As Council has taken the benefit of the VAT exemption for Cultural Services for the Civic Theatre, this has seen the annual subsidy reduced to £100,000 per annum. Following a successful refurbishment of the Civic Theatre with improved quality of provision within the theatre itself, and increased capacity for secondary spend, it is anticipated that the Civic Theatre should at worst breakeven.

## **HR Implications**

59. Subject to a successful HLF Stage 1 and Stage 2 Applications, it will be necessary to close the theatre for a period of time for refurbishment. It is anticipated that this closure will take place from mid-January through to November 2016. As the project progresses and the closure period becomes clearer, there will then be full consultation with staff and trade unions about the HR implications.

## **Equalities Considerations**

60. It is not considered that the refurbishment of the Civic Theatre will impact any differently on individuals with protected characteristics; in fact access to the building and within the building will be addressed and improved as part of the restoration project.

## **Consultation**

61. Through the development of the project, consultation will take place with relevant stakeholders, Civic Theatre customers and residents of Darlington. The aim of the consultation will be to establish the views of the Civic Theatre by these groups and particularly for customers of the Theatre, their satisfaction and what they would like to improve.
62. A systematic approach will be taken towards the consultation/engagement with a number of methods being employed to seek the broad views to assist in the development of the overall Refurbishment project.
63. The first method will be a series of exit surveys with customers of the Theatre when leaving a performance; this will be a short satisfaction questionnaire. The second method will be a web-based survey, designed to capture the views of both theatre users and those who do not currently use the Theatre. This survey will feature more detailed questions enabling further exploration of customer satisfaction, the reasons behind non-participation and specific areas for improvement. Finally, further exploration of the issues identified through a focus group drawn up from members of the Darlington Citizens Panel, which will include both users and non-users.
64. The outcome of the consultation/engagement will help inform the Refurbishment project and be included in the HLF scheme.