
CIVIC THEATRE

Responsible Cabinet Member - Councillor Stephen Harker, Health and Leisure Portfolio

Responsible Director – Richard Alty, Director of Place

SUMMARY REPORT

Purpose of Report

1. To present to Members options for removing the subsidy from the Civic Theatre.

Summary

2. The Civic Theatre is a receiving house, that is all theatrical presentations are brought in via direct hires of the venue or as promotions in conjunction with national promoters.
3. The cost of subsidising the Civic Theatre for 2009/10 was £585,483.
4. There are potentially four options for the removal of the subsidy from the Civic Theatre:
 - (a) Close and board up
 - (b) Market for sale or lease as a going concern
 - (c) Market the building for sale to the highest bidder
 - (d) Community/voluntary sector take on management and governance
5. Some initial soft market testing has taken place with a number of organisations and it is evident that there is interest in the marketplace for taking on the management of Darlington Civic Theatre as a going concern.
6. The Council has a range of contractual commitments that are already programmed in the Civic Theatre through until the pantomime season 2012/13.

Recommendations

7. It is recommended that :-
 - (a) Officers proceed with Option 2 to market the theatre as a going concern.
 - (b) The outcome of the marketing exercise be reported back to Cabinet in September 2011.
 - (c) Due to contractual commitments the theatre remains open until the end of January 2012.

Reason

8. The recommendations are supported to enable the Civic Theatre the best opportunity to continue as a going concern whilst minimising the Council's liability for contractual commitments.

Richard Alty
Director of Place

Background Papers

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

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S17 Crime and Disorder	This report has no impact on crime and disorder.
Health and Well Being	Cultural opportunities do impact on the health and well being of individuals.
Carbon Impact	The Civic Theatre continues to operate as a going concern. It is unlikely that there will be any impact on carbon emissions, however should the building be closed, there would be a reduction in carbon emissions.
Diversity	The theatre provides a varied and diverse arts programme throughout the year.
Wards Affected	The Civic Theatre is located in Central Ward, however residents from across the Borough from all Wards will no doubt use the Civic Theatre at some time.
Groups Affected	No specific population groups are affected more than others.
Budget and Policy Framework	A reduction for the subsidy for the Civic Theatre is part of the Council's budget proposals for the MTFP.
Key Decision	This is a key decision: significant for the service.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	The Civic Theatre plays an important part in providing cultural opportunities for the residents of the Borough. If sold as a going concern, this may continue, however if the Civic Theatre were sold for other use or closed, there would be an impact on the ability to deliver the Perfectly Placed ambitions within One Darlington: Perfectly Placed.
Efficiency	The proposal to remove the subsidy from the Civic Theatre is part of the package of proposals for the MTFP.

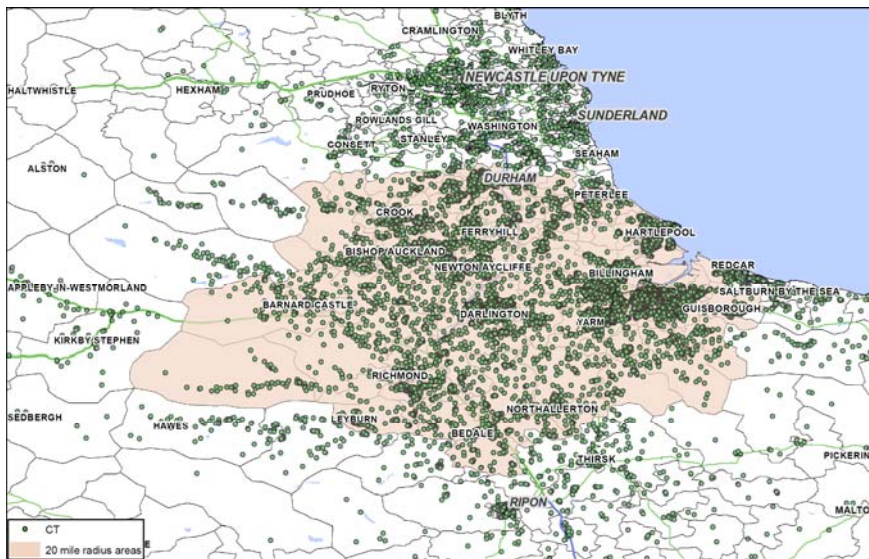
MAIN REPORT

Information and Analysis

Civic Theatre

9. Darlington Civic Theatre is an 893 seat, traditional, red velvet, Edwardian theatre built in 1907. The Civic Theatre is a receiving house, that is all theatrical presentations are brought in via direct hires of the venue or as promotions in conjunction with national promoters. The theatre programme is negotiated with production companies and deals would involve either a guaranteed fee in favour of the visiting company or a percentage split of the total box office takings after royalties and payments.
10. The Civic Theatre attracts in the region of 175,000 visits per annum for the show programme, which consists of a diverse mix of major touring productions, including drama, musicals, comedy, theatre for young audiences, concerts and pantomime, as well as a number of community events, such as the Vibe Awards.
11. The Civic Theatre draws some 50% of its audience from postcode areas DL1 – DL3. The remaining 50% are drawn from as far south as York, West into Cumbria, with patrons coming from Ripon, Thirsk, Carlisle and Hexham. A very significant proportion of our audience is drawn from Teesside. It is fair to say the Civic Theatre directly competes with the Billingham Forum for market share. The map below shows the spread of Civic Theatre customers.

Map illustrating the location of Darlington Civic Theatre Customers



12. Darlington Operatic Society is a valued partner for the Civic Theatre and annually puts on two successful productions at the theatre. The Theatre is also supported by a Friends Group.

Theatre Management Arrangement

13. Generally for similar provincial theatres, the management arrangements tend to be either:
 - (a) Managed by the Council,

- (b) Managed by an external organisation on behalf of the Council under a management contract, or
 - (c) Managed under trust status or other charitable status.
14. However, regardless of the management arrangements, we are not aware of a comparable venue where there is no subsidy provided by the host local authority. The subsidy for Darlington Civic Theatre compares favourably with the subsidy given to other similar provincial theatres, e.g. Theatre Royal Newcastle; Wolverhampton Grand; Durham Gala Theatre, Swansea Grand and His Majesty's Theatre Aberdeen. It may be anticipated however, that as Government funding to local authority falls that more Councils will, like Darlington, be reviewing their capacity to offer a subsidy for similar venues.

Options to Achieve Removal of Revenue Subsidy

15. The subsidy for the Civic Theatre for the financial year 2009/10 was £585,483.
16. Some initial soft market testing has taken place with a number of organisations and it is evident there is interest in the market for taking on the management of Darlington Civic Theatre as a going concern. Whether a subsidy would ultimately be required or not would only become evident following a full marketing exercise and appropriate negotiations. There are a number of options for the Civic Theatre as follows:

(a) Option 1 - Close and board up

The building could be closed and boarded up until an alternative use could be found.

The annual revenue costs associated with mothballing the Civic Theatre are approximately £40,000, comprising of the following:

- Premises Insurance
- Fire Alarm System and Maintenance/Monitoring
- Security System and Maintenance/Monitoring
- Key Holding Costs (mobile)
- Utility Costs (gas/electric) Service Charges
- R & M for Exterior Works
- Property Survey Weekly Visits (labour costs)

To ensure that the building is secure then security shuttering would be required as a one-off cost of approximately £10,000.

These are estimated costs based on the current condition of the building. As the building deteriorates, the costs may well increase to ensure that the building is kept watertight and in reasonable condition.

(b) Option 2 – Market for sale or lease as a going concern

The theatre could be marketed with a view to selling or leasing to a company that will continue to provide a range of theatrical performances. It is proposed that the Council will seek offers for a 125 year lease at a peppercorn rent but with an obligation for the tenant to carry out all repairs and to insure the building. It is considered that a leasehold sale will enable the Council to enforce positive covenants obliging the purchaser to maintain a certain level of performances, which would not be possible

with an outright freehold disposal. Early indications are that it may be necessary for a subsidy to be provided; however there are operators who may take on the theatre without a subsidy but this may compromise the quality of the programme.

Discussed later in this report are the existing contractual commitments for the show programme, which runs through to the pantomime in 2012/13. As part of the sale as a going concern, the Council would seek to assign all the existing contractual commitments to the new operator.

(c) Option 3 – Market the building for sale to the highest bidder

The Civic Theatre could be marketed for sale without a requirement to continue as a theatre and made available to the highest bidder.

Planning advice indicates that, as the theatre is a Grade 2 Listed Building, significant alterations, externally or internally, would be difficult and would require Listed Building Consent. The use as a theatre falls within a Sui Generis Class (within a class of its own) within the Use Classes Order effectively meaning any change to or from this class would require Planning permission; the only exception being a nightclub. However, any material alterations to the building inside or out would still require Listed Building Consent.

Subject to the above, alternative, but not exhaustive, uses that could be considered acceptable in planning terms would be: cinema, concert hall, dance hall, sports hall, skating rink, gym, bingo hall, casino, museum, public hall, library, arts gallery, crèche, nursery. However the ability to deliver the above in planning terms does not mean it would be possible for such a business to prosper in the theatre.

Also, initial indications from Planning Officers are that although acceptable in policy terms, the conversion of the building to a residential use/hotel would be very difficult because of its Listed Building status.

Valuation advice suggests that the building itself would not have a significant value, due to the limited range of uses that would be acceptable in planning terms and the likely restrictions on alterations due to the building being listed, and is likely to be in the region of £250,000.

If the Civic Theatre was to be sold for an alternative use, then existing contractual show commitments would not be fulfilled and the Council would be liable to the value of the contracts as detailed later in this report.

(d) Option 4 – Community/voluntary sector take on management

It would be possible to operate different management and governance arrangements where the community/voluntary sector take on responsibility for the theatre. However, to date, no organisation has come forward with a desire to do this.

The fixed costs associated with managing the Civic Theatre would make a zero subsidy option very difficult. We are not aware of a comparable venue where this arrangement is currently working.

Timetable

17. There are a number of longstanding contractual commitments for the Civic Theatre, in particular the pantomime, which is booked until the pantomime season 2012/13. Prior to any decision being made with regard to a suitable cut-off point for the Civic Theatre, the contractual commitments need to be understood. The programme for the Civic Theatre up until the dark period, which commences at the end of July 2011, is booked, confirmed and advertising is in place up until the end of April 2011. It would therefore not be appropriate to close the theatre prior to the dark period.
18. After the dark period, from 1 September 2011 to January 2012, there is already a programme in place as follows:
 - 1 September 2011 – Brian Connolly
 - w/c 5 September – All the Fun of the Fair
 - w/c 12 September – to be programmed
 - w/c 19 September – to be programmed
 - w/c 26 September – Verdict
 - 4 October – Dave Spikey
 - 5 October – Soweto Gospel Choir
 - 6 & 7 October – Ken Dodd
 - 8 October – Mozart Group
 - w/c 10 October – The Golden Girls of Marbella
 - w/c 17 October – Buddy
 - w/c 24 & 31 October – The Producers (Darlington Operatic Society)
 - w/c 7 November – Mr Stink
 - w/c 14 November – to be programmed
 - w/c 21 November – to be programmed
 - w/c 28 November – to be programmed
 - 3 December to 15 January 2012– Pantomime (Cinderella)
 - 19 – 27 January – The Siberian Ballet
 - 29 January – Hospice Fundraising Event
19. The contractual liability to the Council (referred to in paragraphs 17 and 18) should the Civic Theatre be closed prior to these events taking place, will be between £1 million to £1.3 million.
20. The only contractual programming commitment after this period is for the Pantomime 2012/13 with a minimum contract value in excess of £500,000. There may well be some other small contracts to consider such as alarm monitoring but the liability on these is expected to be of minimum value.
21. If the Civic Theatre was sold as a going concern then any existing show commitments would be assigned to the new operator as part of the process. The Council may have to give a guarantee/indemnity to ensure performance by the new operator. However, if the building was sold to an organisation that was not going to continue to provide a theatre programme, then the Council would be liable to meet these contractual commitments.

22. It is anticipated that should the theatre be sold as a going concern, it will take approximately 12 months to go through that process. Below is the high level timetable with regard to this

1. Soft market testing.	November through to December 2010
2. Produce documents for tendering/sale.	January 2011
3. Advertise sale of Civic Theatre as a going concern.	February 2011
4. Receive expressions of interest and appraise.	March – April 2011
5. Through competitive dialogue-type process, work with interested parties.	April – July 2011
6. Report to Cabinet to approve most appropriate option if required.	September/October 2011
7. Implement approved option if required.	October through to December 2011
8. Handover to new operator/owner or close.	January/February 2012

23. As the handover process, if successful, will take approximately 12 months to complete and there are contractual commitments to fulfil to the value of between £1 million and £1.3 million, it will be appropriate to keep the theatre open up until the end of the pantomime season in January 2012. If the marketing exercise is successful, then the theatre would handover with the pantomime for 2012/13 being assigned to the new operator. However, if the marketing process is unsuccessful then consideration will need to be given to the Council's position with regard to the pantomime for 2012/13 as it is unlikely that the Civic Theatre could remain open until that point without the subsidy. Any other outstanding contracts such as alarm monitoring would be assigned to the new operator.

Appraisal of Issues Associated with Options

24. Depending upon the outcome of the chosen option, there could be some revenue commitment into the future. This is common to all options.

25. There are more specific issues associated with each individual option:

(a) Option 1 - Close and board up:

- (i) Loss of Theatre programme and associated cultural benefits for Darlington and the region
- (ii) Derelict building in a prominent and key redevelopment area of town
- (iii) Ongoing costs associated with mothballing and maintenance
- (iv) Potential hazards of derelict building
- (v) Would impact on future ability to sell due to deteriorating asset
- (vi) Redundancy costs

(b) Option 2 - Market for sale or lease as going concern:

- (i) May require ongoing subsidy from the Council
- (ii) May end up maintaining the Civic Theatre but with a much reduced, poorer quality programme
- (iii) TUPE will need to be taken into consideration
- (iv) The Council may well still need to provide revenue support

(c) **Option 3 - Market for sale to the highest bidder:**

- (i) Loss of Theatre programme and associated cultural benefits for Darlington and the region
- (ii) There would be significant issues with regard to listed building status in achieving an appropriate alternative use
- (iii) The listed building status may impact on the level of any receipt the Council would achieve
- (iv) Redundancy costs

(d) **Option 4 - Community takeover:**

- (i) The Council may well still need to provide revenue support
- (ii) Depending on the success of the venture, the Council may need to increase its revenue support
- (iii) TUPE would apply therefore this may impact on viability of this option
- (iv) There is no known precedent for community operation of a theatre like the Civic Theatre and no groups seeking to take it over
- (v) However, any community groups wishing to take over the Theatre would be able to register their interest through the disposal process under Option 2.

Proposals

- 26. Early indications from market testing are that there are potentially organisations interested in purchasing the Civic Theatre as a going concern.
- 27. It is proposed that initially, the Civic Theatre is marketed for sale or lease as a going concern with a report being brought back to Cabinet in September 2011 with the outcome of that exercise. Subject to an acceptable bid and approval by Cabinet, work would then commence on transferring ownership of the theatre early in 2012.

Outcome of Consultation

- 28. Some initial consultation has taken place as part of soft market testing and early indications are that there is an interest in the marketplace for taking on ownership and management of Darlington Civic Theatre, however this will only be tested through an appropriate marketing exercise.