
THE FORUM - HUMANTICS

Responsible Cabinet Members - Councillor John Williams, Economy Portfolio
Councillor Chris McEwan, Efficiency and Resources

Responsible Directors - Richard Alty, Assistant Chief Executive (Regeneration)
Paul Wildsmith, Director of Corporate Services

SUMMARY REPORT

Purpose of the Report

1. To consider the options and implications for supporting The Forum Music Centre and for taking forward the Council-owned premises, arising as a result of the announcement of its closure on 1 September 2010.

Summary

2. The Forum Music Centre has been operating in Council owned premises since 2004. The proprietor, David Cox, invested a significant amount in the building which has been operated on a philanthropic basis as it has developed into a youth-focused music and cultural, education and training facility. The Forum has been used to host a range of community, council and private activities and has developed a business plan to expand the range of services it provides within its current location.
3. The Forum has experienced financial difficulties since its establishment. A Community Interest Company, Humantics, has been set up to take over the running of The Forum and to develop other business. In order to implement its business plan and attract further funding of up to £130,000 from One North East, Humantics requires finance of £80,000 to provide sufficient working capital to enable it to take steps to achieve financial stability. Humantics also needs security of tenure on its premises.
4. The request has been made of the Council because Futurebuilders England, who after two years' of discussion, refused to consider funding Humantics, owing to their concern about the project's over-reliance on private sector income.
5. Subsequent negotiations have been taking place between officers and the directors of Humantics regarding the re-cycling of an existing secured loan to David Cox into a loan to Humantics. On detailed examination of Humantics' business plan, officers have concluded that it would not be possible to recommend an unsecured loan. The directors of Humantics have been made aware of this and unfortunately Humantics has been unable to secure the £80,000 it requires to implement its business plan.
6. David Cox has taken steps to wind-up The Forum business with an anticipated closure date of 1 September 2010.

7. David Cox has an existing loan of £80,000 from the Council which is secured both on the assets of the Forum and his house. The Forum is located in a council-owned property and consequently the decision to close the business would mean that the building would be returned to the Council.
8. Alternative sources of funding are actively being pursued, including finding a source for security for a loan. Council officers have been actively introducing Humantics to other organisations who may be able to help.
9. An agreement has been reached with the board of Humantics that there will be an independent review of their business plan, commissioned jointly but paid for by the council, to look for ways forward. It is hoped that this can help the Humantics Board create a stronger business plan, with stronger justification for investment, and better prospects both to save The Forum and to give it a more sustainable future. Some temporary funding may be required whilst this review takes place.

Recommendation

10. It is recommended that :-
 - (a) In the event that satisfactory security be provided, and on repayment of the current £80,000 loan to David Cox, the Director of Corporate Services be authorised to complete a secured loan for £80,000 to Humantics, on commercial terms and that £80,000 be kept set aside in the capital programme to cover the potential non-repayment of the loan.
 - (b) In the event that Humantics secures the £80,000 funding it requires to draw down the grant from One North East, that the Director of Corporate Services be authorised to enter into a 25 year lease agreement with Humantics, with the first 5 years rent free and other terms to be agreed.
 - (c) A decision to consider how to deal with back-rent owed by David Cox in relation to the Forum be considered at a later date.
 - (d) In the event that Humantics neither secures security nor finds an alternative source for the £80,000 funding, that officers continue to work with David Cox to investigate opportunities to take forward Humantics and the Forum.
 - (e) An independent review of the Humantics business plan is commissioned jointly with the Humantics Board.
 - (f) Temporary funding of up to £6,000 per month for up to 3 months, offset against the potential loan to Humantics, be advanced to The Forum whilst the review is carried out.
 - (g) The Borough Solicitor be authorised to conclude the legal documentation accordingly.

Reasons

11. The recommendations are supported by the following reasons :-

- (a) To enhance the economic well-being of the Borough and to provide cultural activities, particularly for young people.
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- (b) To facilitate re-development of the wider Town Centre Fringe area.
- (c) To fulfil the council's fiduciary duties and safeguard the Council's assets.
- (d) To allow the business to continue whilst a review takes place.

Richard Alty
Assistant Chief Executive (Regeneration)

Paul Wildsmith
Director of Corporate Services

Background Papers:

031109 Secured Loan – The Forum Music Centre

John Simpson : Extension 2681

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| S17 Crime and Disorder | N/A |
| Health and Well Being | The project delivers services that directly contribute to the quality of life of residents of the Borough |
| Sustainability | The Forum is located in a sustainable location, close to Darlington town centre and is accessible by foot and bus |
| Diversity | The project delivers services appropriate to the needs of a diverse range of customers |
| Wards Affected | All Wards |
| Groups Affected | N/A |
| Budget and Policy Framework | This report does not represent a change to the budget and policy framework |
| Key Decision | This report is a Key Decision and has been included in the Forward Plan. |
| Urgent Decision | No |
| One Darlington: Perfectly Placed | The project will support the delivery of One Darlington. Enhancing the economic, social and cultural wellbeing of the Borough The project will also contribute to Perfectly Placed, located in the strategic Town Centre Fringe area that has potential to develop as a cultural quarter |

MAIN REPORT

Information and Analysis

12. The Forum Music Centre was established as a “not for profit” organisation by David Cox and his business partner in May 2004. The venture’s aim was to create a unique venue in which performing artists in contemporary genres not previously catered for in Darlington could perform, supported by a well-equipped recording facility with modern equipment which could be used as a skills, training and educational facility. The ideology, which underpinned the Forum’s creation, has been developed and The Forum is recognised as a key location for delivering cultural and educational activities in Darlington with an audience reaching into North Yorkshire, Durham and Tees Valley.
13. Owing to its legal status as a “for profit” business, the Forum has received no direct public funding either in the form of grants or subsidies. It has also been ineligible for funding from other grant giving organisations such as National Lottery or Northern Rock Foundation. The Forum has hosted groups from the Darlington community and a number of community and Darlington Partnership groups have been given free access to the Forum’s facilities.
14. With the support of funding body Futurebuilders England, a Community Interest Company was set up which has been called Humantics. Humantics’ Board members are Peter Barron, David Heaton, David Cox and Allison McKay. A Community Interest Company (CIC) is a relatively new legal form of company which has been created by the previous government in order to allow people who want to provide goods and services to the public, for the benefit of the public (on a not for profit basis) but who would also like to have some freedoms and flexibility in the way the business is run. For example, directors may be paid for being directors of a CIC, something that is not permissible for charities without Charities Commission agreement. Community Interest Company status is meant to encourage social entrepreneurs to invest in an enterprise while making it possible for the entrepreneur to be rewarded with a reasonable salary for the work done.
15. The Forum has worked closely with both Children’s Services and Youth Services over the past 5 years as well as other council departments and public services including Darlington College and NHS. Children’s Services have used the premises for EOTAS activities. Youth Services has used the premises for New Blood, a twice-monthly music event regularly attended by 250 young people. The Forum has also hosted Darlington College’s Music Technology Diploma. It is also sometimes used for a range of council and Darlington Partnership meetings and activities. It is a community resource with a multitude of roles, offering a diverse range of music and cultural events to meet the needs of a local and sub-regional contemporary market, attracting visitors to Darlington. It has become a facility for delivery of education and training in music, media and the “support-services” to the music and creative industries. It has also become a community venue where local community groups have free access to rooms (such as the community carnival).
16. As part of the Taking Forward the Darlington Gateway research in 2006, Creative Industries Partnership Ltd reviewed the potential for Darlington to develop cultural and creative industries. The research concluded that there is scope to develop these industries and that there is scope to develop a cultural quarter in Darlington with the Forum potentially being a catalyst. The report suggested that The Forum could become a Community Interest Company and potentially lead on the development of a clustering of independent creative and cultural businesses in the town.

17. The Council has been supporting The Forum and Humantics; with the External Funding Team providing information and advice on funding. One North East funding of £130,000 has been conditionally secured to enable Humantics to purchase the assets of the Forum.
18. Since Humantics' creation in September 2008, work has progressed on developing a business plan for the new company. Central to the business plan is for Humantics to take over the business activities of The Forum, to further develop "daytime" activities as well as extend opening hours in the weekend.
19. The Forum has a number of current income streams:
 - (a) Performances / Gigs (Night time)**
 - (i) This aspect of the business appears to be healthy and generating a surplus. David Cox has reported that night time business is doing well.
 - (ii) David Cox has reported a good demand for (practice) room hire.
 - (iii) Recording facilities.
 - (b) Daytime and Educational Incomes: Examples include**
 - (i) **Darlington NHS Trust** – The Forum secured funding from the PCT to work with Young People. The contract is to work with young people on using media and music to develop a healthy living message and marketing materials.
 - (ii) **Haughton Education Village** – The Education Village secured funding which has purchased a new piece of digital recording equipment (value c£20k). In return for the equipment David Cox has entered into an SLA to deliver a number of consultancy / educational delivery hours.
20. Humantics has also been successful in attracting additional activities to the Borough including:
 - (a) The establishment of the first Yamaha Music School which will open in October 2010
 - (b) Securing the position of North East Regional Office of the CIC Association
21. The ability to deliver these is reliant on Humantics ability to take up One North East's offer of grant funding as well as Humantics' ability to raise sufficient working capital to see it through its early stages of development during which a loss is forecast.

Request for Loan

22. Humantics has asked for a £80,000 unsecured loan from the Council in order to provide working capital for the new company. Cabinet has previously approved the granting of an £80,000 secured loan to David Cox on 03rd November 2009; therefore the request effectively is to significantly change the conditions of an existing loan. The process of creating the loan to Humantics would be that David Cox would re-pay his outstanding £80,000 secured loan to the Council. The Council would then recycle the loan, providing an £80,000 loan to Humantics.

23. According to an independent valuation, the Forum's tangible assets are valued in excess of £110,000. It is likely that the realisable value, in the event of liquidation, will be much less than a managed disposal. There are no other charges on the assets of the Forum; however, the terms of One North East's grant mean that they hold lien over the assets of Humantics to the value of £130,000. This means that the Council has no scope to gain any security on the assets of the business. Discussions have taken place with Humantics' directors who have confirmed that there is currently no scope for the business to provide security for a loan.

Request for Lease

24. Humantics have asked for the Council to offer a 25 year lease with an initial rent free period of 5 years. The Council will be foregoing rent in the region of £10,500 p.a. (being the current rent) for 5 years; however, this will allow Humantics to operate from a sounder financial footing, placing it well to pay rent for the remaining 15 years of the lease. This would also enable Humantics to continue to contribute to the economic and cultural offer of the town as well as offer a broader range of services, such as CIC Association, that will support local people and businesses, particularly in the music and media industries. The real value of the rent that is foregone is difficult to assess as it may not be possible to let the building either in its current condition / configuration or without some investment by the Council.

Request to write off unpaid rent

25. During the period of Humantics development, the business has been unable to implement its business plan. The period has also coincided with the credit crunch and economic downturn. This has meant that The Forum has been unable to meet rent obligations. The philanthropic approach and positive impacts that the Forum has on the Borough are set out in paragraphs 12-15 of this report and consequently no pressure has been exerted on David Cox to pay rent over this period. Members are asked to defer consideration of this issue to a later date. Unpaid rent amounts to £27,875 (as at 1 July 2010).

Implications of The Forum's winding up

26. The Council has an existing secured loan to David Cox. In the event of The Forum winding up, it would make sense for the Council to assist David Cox to enable him to be in a position to have control over the wind up and increase the prospects of the Council maximising the recovery of its loan.

Prospects for securing alternative funding or security

27. The Council is aware of steps being taken by Humantics to secure a source of security for a Council loan and endeavours to secure alternative sources of funding. In light of the philanthropic approach and positive impacts that the Forum has on the Borough set out in paragraphs 11-14, officers are able to recommend the following:-
- (a) Should Humantics be able to provide adequate security in the form of assets or guarantees, officers would be in a position to recommend the granting of a secured loan and lease (as suggested in paragraph 24).
 - (b) Should Humantics be able to find an alternative source of the £80,000 finance, officers would be in a position to recommend the granting of a lease (as suggested in paragraph 24).

Legal Implications

28. There are no specific statutory restrictions on entering the arrangements proposed, but Elected Members are reminded of their general duty to ensure that they are satisfied that Council resources are being applied reasonably.
29. It would be normal bank practice to take a personal guarantee from the person or persons controlling the business (Humantics) if adequate fixed security is not offered.

Financial Considerations

30. A summary of Humantics' Business Plan is in **Appendix 1** (which is not for publication due to commercial confidentiality). The forecasts for sales growth are particularly difficult to assess and justify in the current economic climate.
31. Agreement has been reached with the Humantics Board that there will be an independent review of their business plan, jointly commissioned by the Humantics Board and the Council, funded by the Council. It is proposed that this is carried out by a management accountant with appropriate experience, with a view to assessing the robustness of the business plan and recommending ways to increase its robustness. This is likely to cost in the region of £3,000.
32. A meeting is being arranged with the Humantics Board to look at the way forward in the light of this.
33. Some temporary funding may be required to enable The Forum to continue in existence long enough for the Humantics Board to look at the independent review, amend the business plan and access One NorthEast and other potential funding. The Forum has advised that an advance of potential Council funding of up to £6,000 per month for up to 3 months would be sufficient to allow this work to continue. This would be advanced from, and offset against, the potential loan to Humantics.

Outcome of Consultation

34. There has been no direct consultation with the public. Members will be aware of the substantial upsurge in community support for The Forum, which the board of Humantics is being encouraged to harness. Much of the public comment misunderstands the level of support given by the Council and still being proposed, as set out in this report. A response agreed between officers and Humantics is being issued.
35. Officers have discussed with the Humantics Board and others the possibility of finding other business people who could join the Board to offer additional support and expertise.

Conclusion

36. The Forum has been a key cultural asset within the Borough which, in its current format has proven not to be financially sustainable. Its acquisition by Humantics and the business development set out in its business plan are intended to secure its future viability; however, officers are unable to recommend the extension of a loan to the new company without some form of security, particularly in the current financial circumstances for the Council. The achievability of the business plan projections of sales growth is particularly difficult to assess particularly in the current economic climate and despite the best endeavours made by

officers to validate assumptions. The report sets out a process for taking forward potential support for Humantics, subject to appropriate security for a Council loan, and for supporting their Board to develop their business plan.