
A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it refers to the identity, financial and business affairs of an organisation and the amount of expenditure proposed to be incurred by the Council under a particular contract for the supply of goods or services.

Cabinet

3rd January 2017

Name of Cabinet Member:

Cabinet Member for Community Development - Councillor Bigham

Director Approving Submission of the report:

Executive Director of Place

Ward(s) affected:

Sherbourne

Title:

Additional Space for the Albany Theatre, Earlsdon Park, Coventry

Is this a key decision?

Yes, due to the level of potential financial liability being over £1m

Executive Summary:

The Albany Theatre (formally known as the Butts Theatre) is a community theatre operated by the Albany Theatre Trust. Located in the Earlsdon Park development at the former site of City College, the theatre is a community arts venue that is valued and supported by a wide range of performing arts organisations within the city.

Although the Trust is a recipient of annual City Council grant, since its formation the Trust has proactively explored opportunities to generate additional income from a wider grant and trading base, with a view to supporting the resilience and sustainability of the core theatre offer.

This report outlines an opportunity for the Council to continue to support the development of this successful voluntary theatre by acting as guarantor to a lease for additional space within the Earlsdon Park development. The proposed lease would provide the theatre with the opportunity to diversify further and generate increased income through the creation of new dance studios and rehearsal space. It would also improve the theatre going experience by way of a new dedicated entrance and foyer including refreshment bar accessed off Albany Road.

The additional new and enhanced arts facilities will also support Coventry's emerging Cultural Strategy as well as the city's bid to be UK City of Culture in 2021.

Recommendations:

Cabinet is asked to:

- 1) Approve the Council act as guarantor to the lease agreed for the leasehold interest proposed to be taken by The Albany Theatre Trust in new accommodation within Earlsdon Park in accordance with the terms contained in the Private Report on the agenda.
- 2) Delegate authority to the Assistant Director for City Centre and Development Services and Executive Director Resources (Legal Services), in consultation with Cabinet Member for Community Development, to undertake all necessary due diligence, negotiate and agree the documentation required to complete the lease agreement as guarantor.
- 3) Delegate authority to the Executive Director of Resources to complete the necessary legal documentation in this matter and collect the agreed consideration.

List of Appendices included:

None

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No.

Report title: Additional Space for the Albany Theatre, Earlsdon Park, Coventry

1. Context (or background)

- 1.1 The Albany Theatre (formally known as the Butts Theatre) is a community theatre operated by the Albany Theatre Trust.
- 1.2 Located in the Earlsdon Park development at the former site of City College, the theatre is a community arts venue which is valued and supported by a wide range of performing arts organisations within the city.
- 1.3 The theatre was originally used as a lecture theatre - an integral part of the Technical College building which was opened by the then Duke of York (who became George VI) in December 1935. Over the years, the lecture theatre transitioned to become a theatre space used by a wide range of community organisations, supported in its latter years by City College. With the construction of a new home for City College, the College site at the Butts was closed and the land was sold to MCD Developments for the purpose of a mixed-use regeneration scheme called 'Earlsdon Park'.
- 1.4 The College theatre, known by then to its regulars as the 'Butts Theatre', closed its doors to audiences in January 2009, pending development of the site. Under the Section 106 Agreement for the Earlsdon Park development, a number of requirements were placed on the developer, with the purpose of protecting the theatre for community use.
- 1.5 Within the S106 Planning Agreement for Earlsdon Park, the creation of a Theatre Trust is a key milestone. The Albany Theatre Trust was incorporated in January 2012. With the support of the Council, and particularly through the work of the Trust and an extensive network of its volunteers, a considerable amount of work was undertaken to refurbish and renovate key aspects of the theatre building and to provide safe and up-to-date equipment, lighting and sound systems. After a prolonged period of closure and works, the theatre was re-opened to the public by the Trust in its new guise – as the Albany Theatre – in February 2013.
- 1.6 In June 2015, the Earlsdon Park site was acquired by Earlsdon Park Limited. The Trust engaged with the new owners of the site regarding their aspirations for the site and their proposed developments, and in 2015 both parties began to explore the potential for the Trust to take on an additional area of the ground floor (the East Wing) with a view to providing a range of flexible spaces (rehearsal rooms, dance studios, café/bar space) with the intention of diversifying income and increasing the organisation's resilience in the light of reducing public funds. This discussion continued through the Council's Grants Review of 2015, which saw the Council's support to the Trust reduce by circa 30% from 2015/16 to 2016/17. Through the Grants Review process, the Albany Theatre Trust acknowledged and accepted the inevitability of the reduction in annual grant and thanked Councillors and officers for doing what was possible to mitigate the effects of unprecedented cuts in central government funding to the city. The Trust further noted that with the continued support of the reduced grant, the Trust can deliver its ambitious 'Arts for Life' agenda, but stated that it could not thrive without Council support for the planned expansion into the additional space that forms the basis for this proposal.
- 1.7 Since the re-opening of the theatre, the Trust has developed its volunteer team but also employed a small professional team, increasing capacity within the Trust for future development and expansion of its activities. By October 2016, a team of eight full and part-time staff, supported by four apprentices, had taken on responsibility for the day to day management of the theatre.

1.8 The Albany Theatre Trust now operates as a professional theatre, attracting a growing repertoire of professional companies and artists, whilst at the same time extending its work with and for the local community through theatre, musical societies, schools, community groups, film screenings and events. Since reopening in 2013, over 100,000 people have enjoyed over 330 events at the Theatre generating Box Office income in excess of their costs. Between April 2015 and November 2016 alone, over 8,000 artists and performers have performed on the Albany Theatre stage.

2. Options considered and recommended proposal

2.1 The proposal is for the Albany Theatre Trust to lease the ground floor of the east wing of Earlsdon Park. This would provide an opportunity to create a new dedicated entrance and foyer for the theatre, including a refreshment bar/cafe accessed off the Albany Road, along with new rehearsal space and dance studios.

2.2 The proposed new accommodation extends to approximately 10,000 sqft. It is currently a 'shell' and will need extensive work to fit out the space.

2.3 As part of the business case created by the Albany Theatre Trust consideration has been given to the design and the cost of the 'fit out'.

2.4 Details of the financial position of the Albany Theatre Trust, estimated development costs and business case are outlined in the financial section of the Private Report. One key funding element for the Theatre is an aggregated planning contribution secured through the original planning consent for Earlsdon Park which equates to a financial payment of £950,000 by the developer to the Theatre.

2.5 The Theatre is looking to take a new twenty five year lease with a break clause at the end of the fifteenth year. The length of the lease will replicate the term of the new lease the developer is required to grant to the Theatre on the auditorium building adjacent to the new space. The lease of twenty five years is required to provide the Trust with the ability to apply for external grant funding to further support the development and growth of the theatre.

2.6 The proposed rent is based on the state and condition of the current space and in consideration that the Theatre would need to spend capital resources to fit out the accommodation. The details are outlined in the financial section of the Private Report along with the potential financial liability that would be guaranteed by the Council. The developer is requiring that the rent be reviewed in line with increases in the Retail Price Index with a min and maximum increased agreed.

Options

Reject the proposal (Not Recommended)

2.7 The Council could reject the request to act as guarantor for the Theatre Trust's lease of the east wing of Earlsdon Park. The developer has indicated that due to the limited financial history of the Theatre Trust, unless they can have the lease guaranteed, the developer feels that the strength of the Theatre Trust's covenant would be weaker than other office occupiers they have been negotiating with and they would therefore lease the space to other parties.

2.8 The Theatre Trust could take the lease on the auditorium only, however, this would severely limit the type and form of productions it could host and would limit the trading activities of the Theatre Trust, with no access to café/bar or studio/rehearsal space income.

Accept the proposal to act as guarantor for the lease of the additional space (Recommended).

- 2.9 Under this option, the Council would agree to act as guarantor for the lease of the additional East Wing space to the Albany Theatre Trust. This creates a potential financial liability against the Council acting as guarantor for the rent and service charge due under the lease for Theatre Trust as tenant if they were unable to meet this obligation in the future. The Council would also reserve the ability to take over the lease in this circumstance enabling the space to be re-let and an income generated to offset the liability. Details around the financial due diligence undertaken on the Theatre trusts business case in order to understand the potential risk is contained in the financial section of the report.
- 2.10 In accordance with the Theatre Trust's response to the Council's 2015 Grant Review process, this option opens up new income and trading opportunities for the Theatre Trust and has the potential to reduce the Theatre Trust's reliance on annual Council grant.
- 2.11 Since the Albany Theatre Trust was incorporated in January 2012, it has built an improved financial base for the operations of the theatre but will require the security of a long-term lease and a broader arts offer in order to access significant external capital or revenue funding. The creation of additional spaces for rehearsals, classes and traded activities, granted on a conterminous lease, offers the opportunity for the development of an 'Arts for Life' hub, in accordance with the ambitions of the Theatre Trust's 'Arts for Life' proposal. The Trust's proposal aims 'to increase the range of opportunities for people to access arts, culture, leisure, music, events and associated activities, and by supporting active citizens as volunteers, will continue to help local people into work.' Through engagement with the arts, the Trust's proposal further aims to help improve the health and well-being of participants, to continue to contribute to educational outcomes, support business growth and enhancement of the city centre, and raise the profile of Coventry, thereby making a significant contribution to the emerging Cultural Strategy for the city.

3. Results of consultation undertaken

- 3.1 The Council has not undertaken formal public consultation around the proposal. However, the proposal was formally raised with the Council in the Albany Theatre Trust's response to the public consultation around the Council's 2015 Grant Review.
- 3.2 In developing its Arts for Life proposals, the Albany Theatre Trust has consulted with a wide range of stakeholders and potential users of the new space. The Theatre Trust has undertaken detailed feasibility work and demonstrated support from a wide and diverse range of community arts organisations, dance companies and wider cultural bodies.

4. Timetable for implementing this decision

- 4.1 If the decision is made to proceed with the recommendations, the intention would be to instruct Legal Services to agree and complete the documentation, with the other two parties, which would be necessary to bind the Council as guarantor to the lease between Earlsdon Park Limited and The Albany Theatre Trust for the east wing of Earlsdon Park. It is anticipated that all parties would want this to be documented as soon as practically possible.

5. Comments from Executive Director of Resources

5.1 Financial implications

The implications of approving the recommendations detailed in this report will not result in any immediate financial cost to the City Council. Indeed, no additional level of funding is sought under the terms of this proposal but rather the City Council is asked to guarantee the proposed lease agreement agreed between Earlsdon Park Limited and the Albany Theatre Trust.

The terms of the proposed lease, consideration of the Trust's business plans, the Council's consideration of financial risk and actions to mitigate such risk are outlined in the Private Report.

The capital expenditure required to design and deliver the new development space will be met in full by the accumulated sums secured under the terms of the Section 106 planning agreement outlined in legal section 5.2 of the report.

5.2 Legal implications

The Council has powers, in particular under section 145 Local Government Act 1972, to promote the arts. The proposed support to the Albany Theatre Trust would be consistent with the exercise of this power.

The Council is proposing to act as guarantor of the Albany Theatre Trust's obligations under the proposed lease of the east wing Earlsdon Park, which includes rental and additional charges, as well as repairing obligations. The Council will not be guaranteeing the area of the theatre itself. It is proposed that the Council will need to be a party to the lease agreement, which will be agreed, as set out in the recommendations, with the assistance of Legal Services. The Theatre Trust will be required to enter into a rent deposit deed in respect of the year's rent to be held by the Council as set out above. Furthermore the Council's guarantee will be limited to the extent that in the event of an assignment of the lease, the Council will not be a guarantor for the assignee.

Under EU legislation the public sector cannot support economic undertakings in such a way that would be seen as disadvantaging EU competitors and distorting or threatening to distort the market. This is referred to as state aid. A due diligence exercise will need to be undertaken to assess whether the proposed guarantee arrangement falls within the market economy investor principle, where the basis of any guarantee arrangement is on terms that a private operator acting under normal market conditions would provide, so as not to constitute State Aid or can otherwise be structured in order to ensure that the guarantee is provided in compliance with the State Aid Rules.

The proposal to vary the payment obligations under the section 106 agreement dated 10 March 2010 can be effected by way of a new agreement between the parties to aggregate the payments and refresh provisions of the arrangements which need revisiting in the new context. The negotiation and entering into of section 106 agreements is delegated to the Development Manager and the relevant Assistant Director at section 5 of the Scheme of Delegation set out in Part 2M of the Constitution.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives (Council Plan)?

The recommended proposal will contribute to the Council's core aims of:

- **Making the most of our assets** – The recommendations of this report propose a new partnership approach to cultural growth and sustainability which would support access to community arts facilities for a wide range of cultural and community organisations. Such an approach between the Council, a developer and a cultural trust with a robust and financially sustainable basis for its operations, would be an early example of a new approach to generating innovative partnerships as advocated in consultation for the development of the new draft Coventry Cultural Strategy 2017-2027. It also anticipated that the creation of a hub site (encompassing the Albany Theatre and the additional space) could enhance the Trust's ability to raised external capital and revenue funding and would impact positively on the Theatre's contribution to both the emerging Cultural Strategy and Coventry's bid for UK City of Culture 2021.
- **Improving educational outcomes** - Coventry has a strong cultural education offer within the city, provided not only by schools and education services but also through universities, colleges and arts business. The Albany Theatre has an established role to play in connecting and signposting the cultural education sector and community opportunities. The Trust's proposed Arts for Life agenda further promotes opportunities for all generations to learn from and develop through the arts in the city.
- **Healthier, independent lives** – Cultural services play a vital role in addressing social challenges, reducing isolation and improving outcomes for individuals and communities (Local Government Association). A review of medical literature undertaken in 2004 cited nearly 400 papers showing the beneficial impact of the arts on a wide range of health outcomes (Staricoff, 2004) – demonstrating involvement in or exposure to the arts positively impacting on diagnosed conditions as diverse as dementia, anxiety, depression and rheumatoid arthritis, whilst also contributing more generally to physical and mental wellbeing; reducing requirements for pain relief; shortening periods of recovery; and reducing levels of required medication. The Albany Trusts 'Arts for Life' agenda has a significant contribution to offer in relation to these outcomes.
- **Ensuring that children and young people achieve and make a positive contribution** – The Warwick Commission on the Future of Cultural Value (2015) noted that “the extraordinary cultural and creative talents that we share contribute to the well-being of our society, our economic success, our national identity and to the UK's global influence.” The Commission noted that not enough was being done to realise the creative potential of individuals, despite the workforce in this sector growing over four-times faster than the UK's workforce as a whole. Through its volunteer, apprentice and workforce capacity, the Trust has an established role in generating and supporting opportunities for young people, new graduates and the wider community within culture and the creative industries.
- **Developing a more equal city with cohesive communities and neighbourhoods and supporting active communities and empowered citizens** – Coventry's diverse population is acknowledged as one of Coventry's cultural strengths. Through arts and cultural activity, the heritage, cultures, abilities and participation of all the city's diverse communities can encouraged in the cultural life of the city. The Albany Theatre has already demonstrated its ability to connect to a broad and diverse audience and participant base in the city.

6.2 How is risk being managed?

The management of financial risks to the City Council are outlined in Section 5.1 of your private report.

The ongoing performance of the Trust in relation to its business plan and impact will be monitored through quarterly meetings with Council officers. Council officers will further advise on and provide support around key grant applications from the Trust (in relation to proposed capital and revenue investments) and will further advise on key capital projects where applicable.

6.3 What is the impact on the organisation?

There are no HR implications for the organisation as these proposals will not affect City Council employees. However, potential financial and legal impacts for the Council are outlined in Section 5 above.

6.4 Equalities / EIA

An Equality and Consultation Analysis has been undertaken in relation to the emerging Cultural Strategy and stakeholder consultation has been undertaken by the Trust. As the proposal is to support and facilitate the extension of the Trust's current activities and reach, no negative impact on protected groups or concerning the three aims of general duty is anticipated.

6.5 Implications for (or impact on) the environment

If the recommendations are approved by Cabinet and Council, the environmental impact of any resultant capital schemes will be considered by officers and advice regarding mitigating or minimising such impact will be offered in relation to the specific proposals. As it is anticipated that such works will mainly relate to fit-out of an existing 'shell' space, it is not anticipated that any impact on the environment would be significant.

6.6 Implications for partner organisations?

Since the Albany Theatre Trust was incorporated in January 2012, it has built an improved financial base for the operations of the theatre but will require the security of a long-term lease and a broader arts offer in order to access significant external capital or revenue funding. The creation of additional spaces for rehearsals, classes and traded activities, granted on a conterminous lease, offers the opportunity for the development of an 'Arts for Life' hub, in accordance with the ambitions of the Trust articulated in its 'Arts for Life Proposal. It further offers the potential for the Trust to make a significant contribution to the emerging Cultural Strategy for the city.

The Albany Theatre is a performance space accessed by a wide and diverse range of professional and community performing arts organisations and artists. The securing of a sustainable business plan for the Theatre which makes it less reliant on public funding will have a positive impact on such organisations as they plan for future performances and their own organisation's development. Similarly, the creation of additional dance and rehearsal spaces will positively impact on needs identified through consultation and research undertaken for the new Cultural Strategy 2017-2027.

Report author(s):

Name and job title:

David Cockroft, Assistant Director, City Centre and Development Services

Directorate:

Place

Tel and email contact:

024 7683 3964 david.cockroft@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Lara Knight	Governance Services Coordinator	Resources	01/12/16	01/12/16
David Nuttall	Head of Service (Sports, Culture, Destination and Business Relationships)	Place	01/12/16	01/12/16
Paul Beesley	Team Leader Property Development	Place	01/12/16	02/12/16
Tracy Miller	Head of Planning and Regulation	Place	05/12/16	05/12/16
Names of approvers for submission: (officers and members)				
Barry Hastie	Finance Manager	Resources	01/12/16	01/12/16
Sam McGinty	Place Team Leader, Legal Services	Resources	01/12/16	01/12/16
Martin Yardley	Executive Director	Place	29/11/16	06/12/16
Councillor L Bigham	Cabinet Member Community		06/12/16	07/12/16

This report is published on the council's website:

www.coventry.gov.uk/councilmeetings