

Cabinet
Council

23 February 2021
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Name of Cabinet Member:

Cabinet Member for Housing and Communities - Councillor D Welsh

Director Approving Submission of the report:

Director of Business Investment and Culture

Ward affected:

Sherborne

Title:

Albany Theatre Trust Capital Project

Is this a key decision?

Yes - the proposals involve financial implications in excess of £1m per annum.

Executive Summary:

This report seeks approval for the award of a grant of £2.908m towards a capital project at the Albany Theatre, and the borrowing necessary to enable this decision.

The project comprises improvements to the studio theatre, building of three new studio spaces, and improvements to the café and front of house areas. It has been developed to create a viable future business model for the operator, Albany Theatre Trust which is currently unsustainable. The proposed investment will increase the Trust's potential to generate earned and contributed income through growth in hires, the public-facing cultural programme and associated secondary spend.

The Albany has been identified as a significant cultural asset for the city. In recent years the theatre has been increasing its attendances, its outreach and training programmes. The improvements to the premises will build on previous investment, facilitate increased use and opportunities for cultural participation for the benefit of the residents of the city. This will contribute to the legacy of the City of Culture title.

£500,000 of the funding required has been earmarked from the City of Culture Capital Fund managed by the Council. The remaining capital sum of £2.408m required to meet the total cost of the capital project is proposed to be funded from prudential borrowing, and the resulting debt repayment cost incorporated into the formal budget setting report for 2021/22.

Recommendations:

Cabinet is requested to recommend that Council:

- 1) Approve a grant of up to £2.908m be provided to the Albany Theatre Trust to support the capital proposal summarised in Section 2 of this report, subject to the conditions set out in Section 6.2.
- 2) (noting that £500,000 of the required total has been earmarked from funds already approved) Approve that additional capital expenditure for this purpose of up to £2.408m is added to the approved capital programme, to be funded from prudential borrowing.
- 3) Note that subject to the approval of this report, estimated annual debt servicing costs of c£250k will be incorporated into the 2021/22 (and ongoing) budget report for approval by full Council.
- 4) Delegate authority to the Director of Business, Investment and Culture and the Director of Finance, following consultation with the Cabinet Member for Housing and Communities and the Cabinet Member for Strategic Finance and Resources, to take all necessary steps to negotiate and enter into all necessary legal agreements to effect the recommendations in this report.

Council is requested to:

- 1) Approve a grant of up to £2.908m be provided to the Albany Theatre Trust to support the capital proposal summarised in Section 2 of this report, subject to the conditions set out in Section 6.2.
- 2) (noting that £500,000 of the required total has been earmarked from funds already approved) Approve that additional capital expenditure for this purpose of up to £2.408m is added to the approved capital programme, to be funded from prudential borrowing.
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List of Appendices included:

Appendix – Site Plan

Background papers:

None

Other useful documents

Cabinet Report 3 January 2017 - Additional Space for the Albany Theatre

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?

Yes – 23 February 2021

Report title: Albany Theatre Trust Capital Project

1. Context (or background)

- 1.1 The Albany Theatre Trust is an independent company limited by guarantee, with charitable status. It is responsible for the operation of the Albany Theatre under a lease agreement which includes a commercial lease for the East Wing of the building, taken out in 2017 and underwritten by the Council.
- 1.2 In recent years the Trust has been operating with a structural deficit, resulting in depletion of its reserves, and is no longer a going concern. The Trust provides public benefit through cultural activities presented to audiences, education and outreach programmes and provision of successful theatre-based apprenticeships.
- 1.3 The Albany Theatre was identified as a significant cultural asset in the cultural audit undertaken as part of the successful bid for UK City of Culture, and has successfully attracted emergency funding from Arts Council England, as well as private benefactor contributions.
- 1.4 As well as the loss of this local cultural provision which (prior to COVID) had been increasing in volume and reach, as guarantor of the lease for the East Wing if the Trust were to wind up the Council stands to incur costs in excess of £1m in the period until the break date contained in the lease (2032). In order to offset these costs, an alternative occupier would need to be found.
- 1.5 The Trust appointed an experienced Chief Executive in 2020 who has developed a new vision which sets a more ambitious and inclusive agenda, titled "Arts for Life". This vision is supported by a comprehensive business plan aiming to achieve 100% growth in turnover. The plan will develop the theatre as a producing venue, as well as providing space for local cultural groups, and will broaden the impact of the Albany through a programme of community projects (depending on future revenue fundraising).
- 1.6 The business plan submitted with the proposals is comprehensive and includes detailed information concerning the planned programme, commercial operations of bar and catering, fundraising plan, equality and diversity implementation plan, participation and engagement strategy and digital strategy alongside income & expenditure projections and cashflow forecasts.

2. Options considered and recommended proposal

2.1 Option 1 (recommended)

- 2.1.1 To support the Albany Theatre Trust with a capital grant towards their proposal, in order to retain this local cultural asset, regularise its revenue position, and return the operation to a surplus provision. The proposed project has been developed from a series of earlier options and is the recommended option in terms of both return on investment and feasibility of fundraising and delivery.
- 2.1.2 It should however be noted that projections for increased revenues and the resulting projected surpluses are extremely tight, meaning that their ability to remain in surplus and build up reserves is very sensitive to relatively small adverse variations against projected income. As a consequence, very close monitoring and mitigation of risks will be required. The current proposal projects a return to a positive revenue picture at ATT from December 2022, assuming the Trust is successful as expected in a

forthcoming bid for further emergency support from Arts Council England to support its immediate running costs.

The proposed capital project comprises:

- Redevelopment of the existing studio theatre which will be acoustically isolated, enabling it to be used more readily when other areas of the building are active.
- Addition of three new flexible spaces for community performances, and to be rented out for education and outreach activities.
- Addition of a new café and improvements to the front-of-house areas providing increased opportunity for secondary income.
- The site plan is provided in the Appendix to this report.

2.1.3 The Trust has developed fundraising plans and officers have supported with advice, contacts and information but ATT has not been able to raise any capital funds from other sources in what is a difficult climate. It is recommended that the Council funds the balance required (after the earmarked Cultural Capital funds) of up to £2.408m through prudential borrowing which would result in an annual revenue commitment of c£250k over 15yrs.

2.2 Option 2 (not recommended)

Not to support the proposal and instead to work with the Albany Theatre Trust to assist in a transition into a development trust to enable it to continue to raise funds for a future proposal. This option would require the Council to identify an alternative short-term use for the building, which would be likely in partnership with an existing cultural organisation, who would be expected to contribute to the running costs, while a longer term solution is sought. It would miss the opportunity for a timely investment which has potential to deliver a sustainable future operation at the theatre which would deliver an expanded programme of activities for the public. As guarantor, the Council would also be liable for the annual lease and service charge costs for the (office) premises until the lease break in 2032. These are currently in the region of £100k per year.

2.3 Option 3 (not recommended)

Not to support the proposal and instead to work with the Trust to enable it to cease trading in an orderly manner. A solvent wind-up would enable the Council to take assignment of the lease on the whole site (including the theatre auditorium). As with Option 2, this option would require the Council to identify an alternative short term use for the Albany, which would be likely in partnership with an existing cultural organisation, who would be expected to contribute to the running costs, while a longer term solution is sought. Any inability to do this would mean, similar to option 2, that the Council would become liable for the annual lease and service charge costs. It would miss the opportunity for a timely investment which has potential to deliver a sustainable future operation at the theatre which would deliver an expanded programme of activities for the public.

2.4 Option 4 (not recommended)

Not to support the proposal and take up a new lease of only the East Wing, if requested by the landlord under the council's guarantee. This would require the council to identify an alternative occupier only for the East Wing but would not provide a solution for the sustainable use of the theatre.

3. Results of consultation undertaken

- 3.1 No consultation has been required by the Council in respect of this decision, however Albany Theatre Trust has involved cultural operators in the city, together with local and national stakeholders, in the development of its plans.

4. Timetable for implementing this decision

- 4.1 The plans for the Albany Theatre have been progressing through necessary stages of approval and are at RIBA stage 3. Both Planning permission and landlord's consent have been achieved for the project. The capital project programme can begin as soon as funding is agreed, and conditions are met. The Trust proposes that work will begin on site in October 2021 and will be completed in June 2022.

5. Comments from the Director of Finance and the Director of Law and Governance

5.1 Financial implications

The proposals in the report request capital funding from the Council of up to £2.908m towards capital improvements to the Albany Theatre building as described in section 2.1.2 dependent on the Trust satisfying the conditions outlined in section 6.2. The costs are proposed to be funded as follows:

City of Culture Capital Fund	£500k	(Existing approved monies)
Prudential Borrowing	£2,408k	
Total	£2,908k	

The additional borrowing funded over 15 years would result in an additional annual revenue cost to the Council of c£250k. Subject to approval of this report, this additional liability will be incorporated into the formal budget setting report for 2021/22 which will be submitted to Cabinet and Council for approval later this month.

From a financial perspective, the intention of the development works is to improve the financial sustainability of the Trust through increased revenues, enabling them to operate without an ongoing structural deficit and build resilience through reserve balances.

The Trust has prepared a business plan which demonstrates that the additional revenue streams could theoretically enable them to operate with a small surplus. This business plan has been tested by an independent cultural adviser, who has confirmed that the business plan is relatively sound, however, the ability to generate the projected surpluses it is very sensitive to small adverse variations in income generated.

The Trust has, like other cultural venues, suffered financially over the course of 2020/21 due to Covid-19 lockdown restrictions, exacerbating its structural deficit. Historically, the Council has paid the Trust £27k per year in grant. This has been paid in the current financial year 2020/21, which together with revenue funds the Trust have been able to secure from other sources, including £250,000 from Arts Council England from the Cultural Recovery Fund, has secured sufficient revenue monies to enable the Trust to continue trading whilst the proposed building work improvements are carried out. The build programme for the works allows little room for slippage however, as the financial sustainability of the Trust, and their ability to trade solvently, is predicated on the re-opening of the whole facility in June 2022.

Whilst a degree of prudence has been applied in the Trusts revenue forecasts for the ongoing impact of restrictions from Covid-19, it should be emphasised that the trust has little or no resilience to trade through any protracted lockdown, or subsequent lockdown periods.

The next stage subject to approval would be for the Trust to tender for the work to demonstrate scheme deliverability and affordability in line with the planned programme and costs identified in this report.

5.2 Legal implications

s145 of the Local Government Act 1972 gives the power for the Council to “do, arrange for the doing of, or contribute towards the expenses of the doing of anything necessary or expedient” for the provision of theatre premises suitable for “giving of entertainments”.

As detailed in this report, it is proposed that the some of the funding to be provided towards the delivery of the capital project would be sourced from prudential borrowing. The council has a general power to borrow under Section 1 of the Local Government Act 2003. The council also has a specific power to invest under Section 12 of the Local Government Act 2003.

On 24th December the UK and EU reached an agreement in principle with the ‘UK-EU Trade and Cooperation Agreement’ (UK-EU TCA). On 31st December, the [UK government published guidance](#) to assist funding bodies in understanding what international subsidy control commitments and related obligations the UK has as of 1st January 2021. All funding bodies must comply with these obligations when awarding subsidies. Funding bodies must undertake their own analysis on a case by case basis to determine whether their proposed measures breach any of the international obligations.

The Council has undertaken an analysis of the proposal set out within this report to ensure that it aligns with the subsidy control principles. The Council is satisfied that the proposals set out in this report do not breach the subsidy control principles on the basis that the financial assistance is being provided to a local cultural organisation and as such it is unlikely to have an effect on international trade.

Legal Services have also been working alongside the project team and will continue to provide the necessary assistance to ensure that any legal agreements put in place to deliver the proposals set out in this report contain the appropriate mechanisms and clauses to protect the Council’s interest and meet the conditions set out in section 6.2 of this report.

6. Other implications

The Council will appoint a Project Monitor to the project who will be a critical friend to the ATT in delivering the project and provide close expert oversight. The Project Monitor will enable the Council to ensure targets set out in the programme are met or, where necessary, that early intervention and mitigating actions are in place.

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

The proposals contribute the Council Plan objective of Developing the City Centre for the 21st Century, by improving a significant cultural asset for the future, enabling it to deliver a broader cultural impact and greater public benefit. The proposals also contribute to the Council Plan objective of Raising the Profile of Coventry by providing additional spaces for use by cultural organisations in the city, and by facilitating the Albany Theatre Trust to

expand and diversify its offer supporting the promotion of Coventry as a destination for arts and cultural activity.

6.2 How is risk being managed?

Although this project is an opportunity to turnaround a loss making cultural operation, and create cultural value and a sustainable future for the Trust, the operating environment is currently extremely challenging and projections within the business plan, although considered conservative, are subject to uncontrollable uncertainties. These include the potential for delays to the project from future COVID-related restrictions, continued social distancing measures, the changing climate for fundraising, and the speed and extent to which the public appetite for live cultural and social experiences will return.

There is no historic scenario that bears close comparison to the current situation, and the sensitivities in the business plan are very small. There is therefore a risk that projections from the Trust of returning to a surplus operating budget could be delayed or reduced, and the organisation would remain financially vulnerable for longer, or might require revenue subsidy to continue. Significant controls and mitigations will be required to protect the Council from exposure to requests for further support, if the project should fail to deliver the projected balances.

The Albany Theatre Trust, in partnership with the Council, commissioned a review of its business plan from a reputable consultant which reported in early January. The review covered:

- Targets - an updated view of market demand and anticipated income from attendance and secondary trading (hires, catering, events)
- Operating environment – an analysis of the external factors affecting the business, including both risks and opportunities
- Finance – a review of historic performance and modelling within the business plan; cashflow and balance sheet projections, maintenance provisions, fundraising potential, reserves policy
- Management – plans for monitoring & evaluation, review dates, key milestones
- Governance - assessment of fitness for purpose of the trust and its management structure and capacity (including commercial acumen); identifying organisational development requirements

The risks identified by the officer team, Albany Trust and external review can be mitigated, but not removed entirely, through conditions of grant. The below proposed conditions have been shared and agreed with the Trust.

- i. Appointment by CCC of a “*project monitor*” to act as a critical friend to the project, while at the same time providing the Council with reassurance on progress
- ii. Review of the business plan by an established, independent theatre consultant, including a refreshed study of market demand and occupancy projections, taking into account the ongoing impact of the pandemic.
- iii. A detailed plan for how the premises will be used during the forthcoming two years to support the delivery of the City of Culture 2021 and of the City’s cultural priorities.
- iv. Agreement of a target for “value engineering” of the capital project.
- v. Step-in rights on the lease (which will need to be negotiated with the landlord) in the event of delay or inability to meet the financial targets of the capital or revenue plans, to enable the Council to take decisions swiftly without the involvement of Trustees, if necessary.

- vi. Review of governance and leadership of the trust, in partnership with ATT, to ensure it remains fit for purpose for the City and its future, including reviewing and strengthening the skills of the Board if necessary and strong succession planning.
- vii. An agreed solution for the remaining lease obligations concerning the interior and exterior decoration and the development of the courtyard.
- viii. Income in advance from ticket sales, held by ATT on behalf of other parties, must not be used to finance the project or operation of the theatre.
- ix. No additional revenue or capital allocations will be requested by ATT of the City Council.
- x. ATT must continue to seek external capital funding and if successful, this will be used to replace the committed City Council's capital allocation.

The Council's existing provisions for monitoring of capital projects (through both the Cultural Capital Fund readiness group, and the corporate Capital Projects Board) and the appointment of a project monitor will ensure timely action to address slippage or under-performance. Should the project fall behind in terms of budget or the external operating environment assumptions in the business plan prove overly optimistic, such that ATT might need to seek further funding either to complete the capital works or to underpin its revenue operations, the step-in rights would enable the Council to take control of the asset and project.

6.3 What is the impact on the organisation?

The Council will need to monitor the project closely as set out above, and to provide practical support to Trustees and the staff team at the theatre, to ensure that the project is delivered successfully. This will require staff resources from Business Investment and Culture, Corporate Finance, Property and Legal Services.

6.4 Equality Impact Assessment (EIA)

Section 149 of the Equality Act 2010, known as the Public Sector Equality Duty, requires the Council to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people.

When making policy, delivering services or otherwise exercising its functions the Council must comply with the Public Sector Equality Duty, and have regard to the age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation of the citizens concerned.

As part of the ongoing monitoring of the project, officers will work with the Albany Theatre Trust as it develops its engagement plans and future programme. An Equality Impact Assessment will be undertaken once the revenue delivery plans are sufficiently detailed.

6.5 Implications for (or impact on) climate change and the environment

The project has potential to reduce impact on the environment by updating and improving an existing building. Improvements to the theatre will be subject to an environmental impact assessment prior to procurement, to incorporate the necessary requirements into the tendering process.

6.6 Implications for partner organisations?

The project will provide improved facilities to meet the needs of a range of cultural and community partners. The business plan for the future operation sets out an expanded mix of programming which ranges from education and outreach activities to communities' events, training, community shows, own-productions & tours and received content.

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