
PROPOSED REVIEW OF THE WINTER GARDENS AS A VENUE FOR MAJOR EVENTS

To: **Overview & Scrutiny Panel – 18 August 2015**

Main Portfolio Area: **Estates Management**

By: **Senior Democratic Services Officer**

Classification: **Unrestricted**

Ward: **Thanet Wide**

Summary: **The purpose of this report is to explore the possibility and value of conducting a scrutiny review of the some aspect of the design of the Winter Gardens building.**

For Decision

1.0 Introduction and Background

- 1.1 A request was made by a Member of the Panel who raised some concern over design issues relating to the Winter Gardens as a venue for major events like hosting the local and parliamentary election counts. The Member who brought the issue up to the attention of the Panel also observed that the disabled access to the venue from the ground floor was not satisfactory.
- 1.2 They indicated that there was poor lighting at the venue and the street level signage for parking facilities was not that clear and so was the signage that could be used to link the Winter Gardens and Turner Contemporary was not that good either.
- 1.3 Members agreed to receive a one off officer report that would help the Panel decide whether the issue was within their remit to scrutinise. The objective of this report therefore is to provide contextual information that Members may find relevant in making their decision on whether to go ahead with the proposed scrutiny review.

2.0 Winter Gardens Tenancy and Building Maintenance

- 2.1 Thanet Council are the landlord of the Winter Gardens, a Grade II listed structure, the premises shown on the attached plan is leased to Your Leisure (tenant) on a long lease. The lease provides for the tenant to comply with all statutory requirements which would include the Equalities Act 2010 (which superseded the Disability Discrimination Act 2005, read in conjunction with the Disability Discrimination Act 1995, (DDA)).
- 2.3 It should be noted that under this lease the tenant is responsible for day to day repairs including redecoration, but replacement works are down to the landlord where the fixture or fitting needs replacing.
- 2.2 The Equalities Act 2010 provides for 'only reasonable adjustments need to be made to the design of the building to make it accessible to all users. Under the current lease arrangement, the tenant is responsible for day to day repairs

including redecoration, but replacement works are down to the landlord where the fixture or fitting needs replacing. However some detailed notes regarding reasonable steps to be taken to make adjustments to a building are provided in Section 20, (1-10d), of the Act are as detailed under 'Duty to Make Adjustments' as shown below:

Duty to make adjustments

- (1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A;
- (2) The duty comprises the following three requirements;
- (3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage;
- (4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage;
- (5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid;
- (6) Where the first or third requirement relates to the provision of information, the steps which it is reasonable for A to have to take include steps for ensuring that in the circumstances concerned the information is provided in an accessible format;
- (7) A person (A) who is subject to a duty to make reasonable adjustments is not (subject to express provision to the contrary) entitled to require a disabled person, in relation to whom A is required to comply with the duty, to pay to any extent A's costs of complying with the duty;
- (8) A reference in section 21 or 22 or an applicable Schedule to the first, second or third requirement is to be construed in accordance with this section;
- (9) In relation to the second requirement, a reference in this section or an applicable Schedule to avoiding a substantial disadvantage includes a reference to:
 - (a) Removing the physical feature in question;
 - (b) Altering it, or
 - (c) Providing a reasonable means of avoiding it.
- (10) A reference in this section, section 21 or 22 or an applicable Schedule (apart from paragraphs 2 to 4 of Schedule 4) to a physical feature is a reference to:
 - (a) A feature arising from the design or construction of a building;
 - (b) A feature of an approach to, exit from or access to a building;

- (c) A fixture or fitting, or furniture, furnishings, materials, equipment or other chattels, in or on premises, or
- (d) Any other physical element or quality.

2.4 To adapt a Grade II listed structure so that it does comply with the Equalities Act 2010 can only be done in conjunction with a major refurbishment project.

2.5 The Winter Gardens is one of a number of properties/land leased to Your Leisure and Council, through an officer working group, are now reviewing the current contracts with a view to identifying ways to resolve the funding of major capital works required to refurbish the building to bring it up to current standards. This project team reports to a Cabinet Member responsible for Communities and the review work was likely to take about 3 months. The group is led by the Interim Director for Community Services.

2.5 The project team has made good progress and a report recommending a resolution to the Winter Gardens will be produced for consideration by Cabinet no later than December 2015. It might be advisable for Members to await that report and ascertain the position to be taken by Cabinet after which the Panel may be in a better position to decide whether there is a need to scrutinise the issue as proposed.

3.0 Street Signage

3.1 The issue regarding street signage that would help the public to easily locate the Winter Gardens could be referred to Your Leisure by officers. Your Leisure would then need to advise us if the issue is within their responsibility to address or not.

3.2 Members may wish to note that officers do acknowledge the importance of good street signage, but this would require some significant resource allocation. Currently Council did not have a budget allocation for such a review, but a review would be factored in as part of the longer term plans for the Winter Gardens.

4.0 Options

4.1 With the aim of resolving the refurbishment of the building which will include making reasonable adjustments for accessibility compliance, Members may wish to maintain a watching brief on the issue and await the Cabinet position that is likely to be made known after the on-going review is completed.

4.2 In the meantime the Panel could ask officers to write to Your Leisure Ltd requesting that they consider updating the street signage relating to the Winter Gardens to make it easy for the public to locate the venue.

5.0 Corporate Implications

5.1 Financial and VAT

5.1.1 There are no financial implications arising directly from this report as the focus is on exploring the possibility of undertaking a scrutiny review of the design aspects of the Winter Gardens and determining suitability of the venue as venue for major events.

5.2 Legal

5.2.1 There are no significant legal implications arising directly from this report as the focus is on exploring the possibility of undertaking a scrutiny review of the design

aspects of the Winter Gardens and determining suitability of the venue as venue for major events.

5.2.2 Any legal implications that may arise directly from this report are would relate to seeking internal Council legal guidance in order to correctly determine where the responsibility lies for ensuring that the building in question complies with the Equalities Act 2010 in making the venue and its environs accessible to all users who may wish to use the facility.

5.4 **Equity and Equalities**

5.4.1 There are equalities issues that would arise of the debate to be generated by this report. The legislative provisions cited in section 2.2 (1-10d) protect the rights of all individuals (without discriminating any individuals due to their disabilities) to be able to access buildings that are used for public activities.

6.0 **Recommendations**

Taking into consideration options provided in section 4.0 of the report Members are requested to:

6.1 Agree to maintain a watching brief on the issue and await the completion of the current tenancy agreements review being conducted by the Executive;

6.2 Agree to task officers to write to Your Leisure Ltd requesting that they consider updating the street signage relating to the Winter Gardens to make it easy for the public to locate the venue from appropriate geographic locations in Margate.

7.0 **Decision Making Process**

7.1 The Overview and Scrutiny Panel can set up and assign a sub-committee to conduct in-depth reviews of any issues of relating to the functions of the Council and any other matters that affects the local area (i.e Thanet District area) and make recommendations to appropriate bodies of Council.

7.2 Such a decision would need to be made in the context of any other on-going Council activities in the relation to the matter under debate.

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Annex List

None	N/A
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Background Papers

Title	Details of where to access copy
None	N/A

Corporate Consultation Undertaken

Finance	Nikki Walker, Interim Head of Financial Services
Legal	Dawn Cole, Senior Legal Officer