

Theatre Royal Margate - Operator Model

Cabinet	30 May 2024
By	Louise Askew, Head of Regeneration and Growth
Cabinet Portfolio Member	Councillor Ruth Duckworth. Cabinet Member for Regeneration and Property
Key Decision	No
Decision classification	Unrestricted
Call in status	Can be called in
Ward:	Margate Central

Purpose of the Report

This report seeks a decision from Cabinet to set up a new charitable trust as the operator model for the Theatre Royal Margate, to support the delivery of the new vision and potentially leverage £7,500,000 external funding. The report is on the basis that the council will not manage the reopened theatre itself, and so requires a third party operator. In the context of the likely future financial position of the council, the objective is that there will be no ongoing revenue subsidy support from the council.

Recommendation(s):

It is recommended that Cabinet:

1. Notes the options appraisal set out at appendix 2 and the work undertaken by Bonnar Keenlyside and agree that, subject to funding, a charitable trust should be set up to act as the operator for the Theatre Royal Margate.
2. Notes if both the funding applications referred to in the body of this report are unsuccessful, a project redesign will be undertaken and a separate operator proposal will be made.

1. Summary of Reasons

- 1.1 The council has submitted funding applications to the National Lottery Heritage Fund and the Cultural Development Fund, being administered by Arts Council England on behalf of the Department for Culture, Media and Sport. If successful, these funding applications will result in a further £7,500,000 to support the refurbishment and redevelopment of the Theatre Royal and 19 Hawley Square to create a production house and hub for performing arts in Margate and Thanet. A significant opportunity to save these important heritage and cultural assets and give them a future. This funding will contribute to the allocation that was made through the Margate Town

Deal. The development of these external funding applications were based on significant evidence gathered to ensure that a sustainable operation is achieved in the Theatre with the right model of management. Stakeholder and community engagement has demonstrated support for the new vision for the Theatre Royal.

- 1.2 This report outlines the process that the council has been through to develop its evidence base in order to identify the preferred operator model. This evidence has been developed taking into account the requirements of the funders - namely the Margate Town Deal, National Lottery Heritage Fund and Arts Council England. It is therefore being recommended in this report that a new charitable entity is the preferred model of operation for the Theatre Royal and 19 Hawley Square. This ensures that the council is able to pass on the programming and engagement requirements of the external funding, and is a proven model of similar sized theatres where they are able to raise sufficient funds to break even.
- 1.3 The new vision is best delivered by a new charitable entity which is designed and set up for the purpose, with local engagement, cultural, heritage and socio-economic legal and governance remit rather than for profit.
- 1.4 Operator market testing indicated that commercial operators would be looking for subsidy from the council in the region of £200,000 per annum. Financial charitable modelling and case studies in the Operator Options Appraisal and Business Case 2024 show this level of fundraising (c£200,000) is achievable without the requirement of council support.
- 1.5 As the model is preferred by funders; Margate Town Deal, National Lottery Heritage Fund and Arts Council Department for Culture, Media and Sport; this recommendation will significantly increase likelihood of securing £7,500,000 capital and revenue funding to improve the heritage assets, set up a new trust as operator and subsequent activity funding.

2. Background

- 2.1 The Theatre Royal Margate is the UK's second oldest working theatre and is of 'major and outstanding significance' (heritage statement 2023), grade II* listed (1955) and on Theatre's Trust; [Theatres at Risk Register](#) (2018).
- 2.2 The Theatre was originally built in 1787, and redesigned in 1874; it is the only surviving J.T. Robinson design. He was Frank Matcham's father-in-law, who was the UK's most celebrated and prolific theatre architect. Heritage features include unique carton pierre pasterwork, sunburner and hybrid music hall and theatre layout. The Theatre has an historic connection with 19 Hawley Square 'The London Hotel' built c.1830.
- 2.3 Since its inception the Theatre has struggled to operate on a purely commercial basis due to lack of income generating opportunity (i.e. food and beverage, limited seating

capacity at 465 and programming leading to poor ticket sales). It is worth noting that most UK theatres under 900 seats require a funding subsidy or alternative income streams to survive and do not operate on a purely commercial basis.

- 2.4 On 6 September 2019 the government invited 101 places in England to develop proposals for a Town Deal. In March 2021 Thanet District Council and the Margate Town Deal Board received Heads of Terms from the Department for Levelling Up, Housing and Communities (DLUHC) with an in principle offer of up to £22.2m to deliver the Margate Town Investment Plan. The funding was to deliver ten projects across four interventions:
- Scaling Margate's Production and Skills,
 - Coastal Wellbeing,
 - Active Movement,
 - Connections and Diversifying Heritage Assets.
- 2.5 The Theatre Royal was allocated funding under this scheme, in order to establish a 'creative production cluster' with £2.2m allocated from the Margate Town Deal under the strategic objective of '*scaling up creative production and skills in Margate*'. One of the commitments to central government (and requirements for the building) was that the council and the Margate Town Deal would secure/leverage additional funds from National Lottery Heritage Fund and other sources, potentially Arts Council England as match funding. It was a key ambition of the Town Deal Board that the investment from DLUHC would unlock investment from other sources in Margate.
- 2.6 In September 2022 Cabinet agreed to 19 Hawley Square, which is adjacent to the Theatre, to be included in the project in order to secure a sustainable future for the Theatre, to try to prevent it being reliant on subsidy. Authority was given to market the proposal for the Theatre Royal and 19 Hawley Square in order to identify an operator/commercial partner.
- 2.7 At the same meeting approval was provided to submit an expression of interest to the Arts Council England for the Cultural Development Fund (round 3 in 2022), which was unfortunately unsuccessful (successful expression of interest has been achieved round 4 - 2024 with the full application due May 2024), and to submit a Development Phase Grant to the National Lottery Heritage Fund. Authority was given to commission urgent works to the building. These works have been reviewed and scaled back to those that are most urgent, in order to ensure that there is enough match funding from the Town Deal programme to leverage National Lottery Heritage Fund funding. The works are currently going through the council's procurement processes.
- 2.8 Utilising Town Deal funding, condition reports for the Theatre and 19 Hawley Square, were completed. The Theatre repair costs are expected to be in excess of £1.5m before inflation, fees and client costs. This does not include any conservation, restoration works or needed operational changes to the building.

2.9 In March 2023 a specialist Project Manager was recruited who developed a new vision (Appendix 1) for the Theatre Royal and 19 Hawley Square in order to deliver the Town Deal and National Lottery outputs, and support the sustainability of the Theatre Royal. The Cabinet report updating on the programme of Margate Projects in February 2024 highlighted this vision, which is:

Theatre Royal Margate and 19 Hawley Square 245 years of performance heritage conserved, restored and modernised with the ambition of becoming a '*Nationally Significant Performing Arts Cluster in Margate*'. Combining heritage, performance and sustainability to create a circular theatre production economy, raising the profile of the performing arts and creating the environment to enable;

- **Participation;** hyperlocal (Margate/ Thanet) employment, engagement and training of young people in performing arts and creative careers
- **Programming;** providing a unique heritage stage for local, national and international performances and multi arts programming
- **Producing;** using homegrown talent and locally made high quality theatre productions with national and international reach

2.10 Using this vision and the condition reports, indicative architect plans to RIBA stage 1 have been developed and costed for both buildings, which forms the basis of funding application and budgeting.

2.11 Since March 2023 over 50,000 people have engaged with the online communications about the project. In December 2023 we hosted a public engagement event and a two week online survey (Appendix 3). 175 people attended the event and 200 surveys have been completed, with a further 19,123 engaging online. The engagement exercise was also used to test the view of stakeholders to the proposed plans. Overall 84% of people strongly supported the project vision and proposals. 92% wanted to see the theatre operational with a vibrant programme, almost the same number wanted to see the theatre relaunched as a heritage and visitor destination (89%). The engagement also tested views on the potential to close the road between the Theatre and 19 Hawley Square.

3. Relevant Issues

3.1 Operator Early Market Testing

3.1.1 In December 2023 officers initiated a Prior Information Notice (PIN), testing interest from operators in the marketplace, in order to understand the level and type of interest from operators in running the Theatre. Over 16 operators engaged in the early market engagement and seven completed questionnaires, (four charitable and three commercial). From this process we learned that:

- The financial model requires an additional c£200,000 per annum beyond the earned income from 19 Hawley Square in order to break even (this figure aligns with the Bonnar Keenlyside modelling). All commercial (as opposed to Charitable

Trust) propositions would be looking at this being provided by Thanet District Council as a subsidy, even if only for a startup period of three years.

- Social, cultural and participatory outcomes are at risk from commercial models due to lack of vision alignment and governance arrangements (i.e. for profit). While some operators made initial commitment to community and participation any variation in the financial model puts this at risk.
- The new vision and opportunity for capital investment (Town Deal and more critically the National Lottery Heritage Fund) is an attractive proposition for potential operators.

3.2 Operator Options Appraisal and Business Case (Appendix 2)

3.2.1 An Operator Options Appraisal and Business Case (2024) has been prepared by experts Bonnar Keenlyside (utilising external funding awarded from the Theatre's Trust funding - £10,000). The report tested a charity based financial model based on the last five years accounts and audience figures from Your Leisure, and three relevant case studies namely; The Grand, Lancaster, Theatre Royal, Wakefield and Theatre Royal Bury St Edmunds. All of which are heritage theatres, run by independent charities specifically set up for this purpose, with a seaside or rural location, and within 20 miles of a larger theatre (i.e. replicating the geography and conditions of the Theatre Royal especially in relation to the Marlowe Theatre in Canterbury). This report set out the following summary;

There are some critical lessons from previous management operations at the Theatre which need to be made good in order to avoid recreating historic barriers to success. These include:

- *The theatre has never routinely achieved attendances at more than 50% of its capacity;*
- *The capacity has never hitherto been a problem, but if it can be increased as suggested here, then that would add £50,000 annual income potential;*
- *Programming has been limited in style due to management caution, the theatre's technical constraints (for example, it can't accommodate dance) and Margate's previous limitations as an attractive destination;*
- *The lack of realistic foyer space for the scale of the theatre make it less operable as a destination venue as well as limiting ancillary trading opportunities;*
- *Overhead costs of utilities could be minimised by the installation of photovoltaic cells.*

For the theatre to be a future success, it cannot reopen on a like for like model based on previous operations. It will need to become a properly acknowledged regional theatre at scale modelled on comparator theatres as suggested in this (Operator Options Appraisal and Business Case) report.

3.3 Operator Options

3.3.1 The Bonnar Keenlyside report set out and tested three operator model options - reviewing the risks, feasibility, desirability and visibility. Extracts from the report with this information is set out below;

1. Commercial Operator

Financial Risk / Viability (feasibility); Most UK theatres under 900 seats require revenue funding to survive and do not operate on a purely commercial basis. The Theatre Royal Margate has 465 seats and research indicates that the minimum local authority support for theatres at this scale begins at some £200,000 per annum. Several commercial operators (including a UK wide organisation similar to Your Leisure), during the market testing, independently indicated this level of subsidy would be a requirement from Thanet District Council to run the Theatre, even with the projected income from 19 Hawley Square.

Financial, Creative and Socio-economic (leading to financial) risk (desirability); Commercial operators are unlikely to be as committed to the creative, heritage and social value and potential of the Theatre due to legal and governance arrangements, on the basis they are more likely to be for profit rather than community benefit. Due to this, this model is least likely to be favoured by funders and achieve the National Lottery Heritage Fund and Arts Council England remits - this would significantly put at least £4,500,000 of the external funding at risk.

Reputational risk (visibility); Programming could be considered to be generic and not unique to Margate, or high enough quality. In some cases it may just be a replica of the most recent management model of the Theatre, which was unsustainable and therefore unsuccessful. Commercial organisations tend to be profit driven rather than community and socially focused. The funders are very unlikely to support this as an option for the Theatre, with the support of their funding.

2. Existing Theatre Operator - Charity (with Trading Arm)

Financial Risk / Viability (feasibility); This type of operator is likely to have pre-existing experience of fundraising for revenue (charitable model) and a track record of securing the £200,000 per annum revenue required. They would therefore be more likely to seek to raise the funds independently and not look for a transaction/subsidy with Thanet District Council. There is the potential that they could have a smaller staffing structure and shared staff across different sites for economies of scale, therefore reducing costs.

However, there is a very limited/niche market potential of charities with theatre experience, particularly of the size and scale looking to expand into Margate/Thanet. This has been tested through the Prior Information Notice the council carried out in December 2023. Only one response was received from this

type of organisation. The case studies identified to inform this decision making are localised and unlikely to be looking elsewhere for theatre opportunities.

Financial, Creative and Socio-economic (leading to financial) risk (desirability); There would be a lack of local knowledge, engagement and understanding on the basis that there isn't a relevant organisation already running a similar venue locally. There could also be potential branding issues which could alienate audiences. There would need to be additional adjustment time for programme testing and potentially a protracted set up period.

Reputational Risk (visibility); An organisation from outside of the area could negatively be considered as outsiders (Down From London or others) creating barriers to engagement and success with the existing organisations and communities in Margate/Thanet.

3. New Trust - Charity with Trading Arm (also covers Community Asset Transfer)

Financial Risk / Viability (feasibility); The set up costs are likely to be c£300,000, these are to be funded from the Arts Council England Cultural Development Fund, which is currently considered at risk because the full application has only just been submitted. A new Trust would be an unknown entity, with an unknown track record to achieve the annual fundraising target of £200,000 per annum. The council would need to be assured that the Trust included experienced individuals to raise the funds independently and not look for a transaction/subsidy with Thanet District Council. This could also be mitigated with a stage by stage growth model, where 19 Hawley Square income balances with basic programming and management of the Theatre, expanding into participation and producing as funds are secured.

Creative and Socio-economic (leading to financial) risk (desirability); A new Trust would be of a bespoke design and would be set up to fit the vision and heritage of the Theatre Royal. There would be a level of involvement and engagement from the local community and stakeholders. It is expected that it would be embedded and developed with local talent within the board and staff. The programme and activity can be responsive to the local community and developments, and not predetermined by larger organisations or purely commercial factors.

Reputational Risk (visibility); It is an ambitious task, but focusing on local development and from the local community is more appropriate and attractive to funders. It provides potential to demonstrate higher levels of investment, employment generation and social value added to the locality.

3.4 Cost and funding implications

- 3.4.1 The current proposed cost of the overall project is £9,660,735 (pending funding decisions with £4,500,000 from the National Lottery Heritage Fund and £3,000,000 from Arts Council England through the Cultural Development Fund). Of which,

£1,400,000 is revenue, including set up costs for the new operator, staffing and activities and £7,300,000 is capital expenditure investment into the buildings and £900,000 is contingency. 23% (£2,200,000) has been allocated and secured via the Margate Town Deal.

3.4.2 The project is externally funded and does not require funding from the council. If funds are not forthcoming (either or both funds) the project will be reprofiled and reviewed to work within the fixed budgets.

3.4.3 The National Lottery Heritage Fund approved an Expression of Interest for £3,200,000, however, due to a change in their 10 year strategy, and with a greater focus on environmental sustainability measures the full application made was for £4,500,000. This was following engagement with the area team at the Lottery - testing the project, the delivery model and the need for investment. Funding is dependent on having a clear process to secure an operator and this report, and decision will contribute to the National Lottery Heritage Fund funding decision due June/July 2024. Future cabinet decisions will be required for the second stage of the Lottery application process.

Summary of the application;

240 years of performance heritage preserved, restored and modernised and three 'at risk' important heritage buildings (Theatre Royal grade II, built 1787 remodelled 1874, on Theatres Trust at risk register, closed April 2022); 16a Hawley Square grade II; 19 Hawley Square early C19th grade II listed (semi derelict) will be saved, conserved, restored and sustainably modernised.*

Accessible heritage themes of;

- 1. Georgian and Victorian Seaside entertainments.*
- 2. Radical Women of Margate/Thanet.*
- 3. Performers and Performances*
- 4. 'Diverse Identities'; global majority and gender queer performers and*
- 5. Architectural heritage will be celebrated and integrated into building wide and digital interpretation and activities.*

A new sustainable and dynamic operator will revitalise and maintain heritage using the performing arts; youth participation and creative careers and theatre programme to engage new audiences and communities with heritage. Supported by £2,200,000 Margate Town Deal funding placing heritage at the centre of economic and cultural regeneration for Margate.

3.4.4 The Arts Council/Department for Culture, Media and Sports' Cultural Development Fund (round 4) approved a £3,000,000 Expression of Interest with a full application submitted in May 2024. This funding will also be heavily dependent on having a clear process to secure an operator.

Summary of the application;

A Cultural Destination; Creating, Connecting & Capacity Building

Creating economic growth and productivity;

- *Restoring and modernising Theatre Royal Margate (grade II* listed; 465 seats) and specifically 19 Hawley Square utilised as a performing arts production hub with a studio theatre, cafe, rehearsal rooms, offices and theatre digs; will yield a potential £300,000 gross income p.a. and c.30 FTE jobs, increasing viability and boosting the economy. (Plans currently costed at RIBA 1)*
- *Establishing a new charitable operator with significant artistic lead will bring artistic profile, leadership and excellence creating a 'Nationally Significant Performing Arts Cluster in Margate'. A circular theatre production economy that will increase financial sustainability; leverage new finance and investment (Margate Town Deal £2,200,000 - secured and National Lottery Heritage Fund £4,500,000 - decision pending).*

Connect & engage for civic pride

- *Scaling Margate's Creative (theatre) Production and Skills; Building a new performance hub to support/scale creative production and inclusive growth through performance (multi-arts), participation (young people's creative careers) and production (high quality national reach) to the district.*

Capacity & leadership for sector resilience;

- *A new Cultural Officer (three years) will develop creative and economic partnerships and capacity building in the sector. Including a two year leadership and artistic development programme (executive, creative, fundraising and impact evaluation masterclasses) in 'on tour' at 10 venues and to launch the new production hub.*
- *Potential partnerships include East Kent College Group, Margate Digital, Pie Factory Music (Youth engagement) and 1927, CCS/ARK, Performing Arts Collective Thanet, Looping the Loop, Tom Thumb Theatre, Granville Theatre, Dreamland, Visit Thanet and Margate Creative Land Trust.*

3.5 Programme Timeline and Milestones

3.5.1 The timeline for delivery will follow the National Lottery Heritage Fund process and we expect decisions for the development grant in June/July 2024 (following submission in February, 2024). The second round application deadline is May 2025, with a decision expected in September 2025. Reaching RIBA stage 3 and/or 4, and achieving planning permission and listed building consent will be required in that period.

3.5.2 Timeline follows National Lottery Heritage Fund application process;

- National Lottery Heritage Fund Expression of Interest approved - October 2023
- Round 1 Application - February 2024 (decision July 2024)
- Cultural Development Fund Expression of Interest approved (April 2024) full application due May 2024, and decision expected Summer 2024

- National Lottery Heritage Fund Development Phase - July 2024 to May 2025
- Round 2 Application - May 2025 (decision September 2025)
- Procurement of capital works and value engineering - October 2025 to January 2026
- Spend contracted, committed and works start on site - February 2026
- Capital works for the whole programme completed - March 2027
- Theatre in operation and three years heritage activity - April 2027 to April 2030

3.5.3 The Margate Town Deal runs to March 2026 (deadline for committed spend). Only essential and minimal costs spent so far with the main project starting in June 2024 running to June 2030.

3.6 Next Steps

3.6.1 In the event that Cabinet agrees to the decisions sought, the decision will be shared with both funders (National Lottery Heritage Fund and Arts Council England for the Department for Culture, Media and Sport's Cultural Development Fund). Once the outcome of funding is known board recruitment, and legal and governance work will begin to set up the new trust. Once the board is formed, an executive will be recruited to lead on the business plan, and the financial model (with charitable revenue funding plan) will be completed.

3.6.2 A further report, setting out the details of the proposed operator model, will be presented to Cabinet once the outcome of the external funding applications is known.

3.6.2 Note that there will be a future decision report required for the allocation of funding, following the outcome of the funding applications to increase capital spend.

4. Alternative Options

4.1 Deliver the previous recommendation to identify an operator/commercial partner through an open engagement process. This option will put the National Lottery Heritage Funding at risk, and potentially the Arts Council England Cultural Development Fund due to the lack of control over creative, heritage and socio-economic outcomes. There is also the risk of repeating past mistakes with a like-for-like model. It also won't provide the required leveraged/matched funding and provide the economic and social value benefits envisaged through the Town Deal programme. The Margate Town Deal Funding is not enough to ensure a sustainable operation, even if a 'commercial' operator were identified. This option is not recommended.

4.2 Do nothing to the Theatre Royal and 19 Hawley Square - reallocate the funding to another project in the programme or hand it back to central government. This option puts a Grade 2 II* Listed building at further risk, and does nothing to remove the Theatre Royal from the Theatres at Risk, risk register. This option is not recommended.

4.3 Approve the Recommendations:

1. Agree in principle and, subject to successful funding applications, that the theatre is best run and managed by a new charitable entity.
2. Agree that a further report, setting out the details of the proposed operator model be presented to Cabinet once the outcome of the external funding applications is known.
3. Note If both funding applications are unsuccessful, a project redesign will be undertaken and a separate operator proposal will be made.

This will support the refurbishment of a much loved heritage asset, and safeguarding of the Theatre Royal Margate for the future, developing a production house to support the burgeoning performing arts sector in Margate/Thanet and providing the opportunity to engage local people, particularly young people in the performing arts sector by creating jobs and training opportunities.

5. Consultation

- 5.1 There is no formal consultation required for this report.

6. Corporate Implications

6.1 Finance and Resources

Financial and Value for Money

- 6.1.1 The capital project has already received budget approval and has been incorporated into the council's capital programme. The project is required to be fully funded from external grant funding allocations and there is currently no scope or agreement for investment of the council's own funds.
- 6.1.2 In accordance with the council's key decision framework, further Cabinet approval will be sought before the incurring of costs associated with these projects with a value of £250,000 or above.
- 6.1.3 For all the Government funded programmes, we have already received part of this funding, to commence delivery. In addition, all future DLUHC funding will be drawn down in advance of any works being undertaken. The Section 151 Officer is required to scrutinise and approve regular monitoring returns to DLUHC. These returns will cover actual and forecast spend, alongside programme delivery and output metrics.
- 6.1.4 The council is required to provide regular monitoring and evaluation returns to central government. An outcome of being part of the Simplification Pathfinder Pilot is that the council will have a streamlined approach to the monitoring and evaluation requirements. The three programmes - Future High Street Fund, Town Deal and Levelling Up have been amalgamated into one programme of reporting. Evaluation and Monitoring will be on a quarterly basis.

- 6.1.5 The Margate Town Deal has allocated £2,200,000 to the Theatre Royal and 19 Hawley Square project. Funding bids have been submitted for the Theatre Royal project to the National Lottery Heritage Fund for £4,500,000 of capital and revenue funding, with a decision expected in July 2024 and to the Arts Council England Cultural Development Fund for the Department for Cultural, Media and Sports for £3,000,000. The Cultural Development Fund Expression of Interest was successful, with the full bid submitted by the deadline on 17 May, 2024.
- 6.1.6 The current proposed cost of the overall project is £9,660,735 (pending funding decisions with £4,500,000 from the National Lottery Heritage Fund and £3,000,000 from Arts Council England through the Cultural Development Fund). Of which, £1,400,000 is revenue, including set up costs for the new operator, staffing and activities and £7,300,000 is capital expenditure investment into the buildings and £900,000 is contingency. 23% (£2,200,000) has been allocated and secured via the Margate Town Deal.

Project financial information

- 6.1.8 The Operator Option Appraisal and Business Case 2024 includes seven year financial projections based on four case studies, market analysis and prior operator accounts. Theatre programming requires a two year lead-in time therefore year -1 and 0 will be during the capital works. The first two years running costs of staffing are £365,000, with on-costs of £73,000 and legal/governance costs of £45,000. These costs have been included in the National Lottery Heritage Fund and Arts Council England Cultural Development Fund - funding applications, and therefore pose no financial risk to the council.
- 6.1.9 Ongoing operators' revenue costs have been scoped in the same document and will be supported by the new vision for 19 Hawley Square as a production house, which identifies an approximate £148,000 gross income per annum, based on 40% capacity (with the possibility of reaching £300,000 at 60%). This income contributes to an additional £500,000 (in year 0 opening with a pantomime) earned income from ticket sales and hires, which stabilises the core business case. The business case provides growth options with an increase in turnover from £154,000 in year -1 to £1,500,000 in year 5, as the programme is embedded and ticket sales increase. The average fundraising target per year is £200,000. Comparing case studies with four like-for-like theatres there is a similar, or higher level of fundraising secured annually, therefore the fundraising risk / target is considered feasible for a charitable model.
- 6.1.10 A full business plan will be developed (from the business case) by the operator as part of the National Lottery Heritage Fund during the development phase (May 2025) and approved by the council, including the Section 151 Officer, before it can be submitted to the Lottery for the final part of the grant application (May 2025 decision September 2025).

VAT information

6.1.11 The VAT implications associated with the operation of the Theatre under a charitable trust are complex. In order to protect the Council's financial interests and partial exemption status it may be necessary to 'opt to tax' the arrangements; the implications being that the Trust would then have to pay VAT on any lease obligations it is required to pay TDC. The option to tax a site lasts for 20 years so the Council will need to consider the long-term impact/risk. The Council will be able to recover VAT incurred on capital works to the Theatre Royal. A separate VAT registration for the Charitable Trust would be required.

6.2 Legal and Constitutional

6.2.1 The council has a discretionary power to provide art, heritage and music services. The Council can chose to provide all or any of these services through contractual arrangements with any third party, including a charitable trust

6.2.2 As set out in the options analysis, there are a number of financial advantages to the proposed operating model. Charitable entities benefit from preferential tax treatment including exemption from corporation tax where profit is applied towards charitable purposes, they benefit from the Gift Aid scheme which increases the effectiveness of donations and have increased access to grant funding. To note however that charities are more restricted in what they are able to do compared to traditional commercial business. Charities must be established for a purpose recognised in law as being charitable and can only operate for that purpose In addition, a charity must carry on its purpose in a way that provides public benefit, ensuring that people who are not able to pay full cost are not excluded. Charities are generally prevented from paying their trustees and there are reporting requirements and oversight from the Charity Commission.

6.2.3 Charities take a number of different corporate forms, a company limited by guarantee (CLG), a charitable incorporated organisation (CIO), an unincorporated association and a trust. There are implications to consider in relation to each structure. A charitable trust for example is not a legal entity in its own right and can therefore not enter into contracts and this must therefore be done by the trustees. The advantages and disadvantages of each model should be fully explored once funding is certain.

6.2.4 Section 123 of the Local Government Act 1972 (the Act) provides that a council may not (without ministerial consent) dispose of land at less than the best consideration that can be reasonably obtained (other than disposals of leases for 7 years or less). It is understood that the current proposal would involve a lease of longer than 7 years and give rise to a disposal at less than best consideration. Accordingly, Secretary of State consent is required unless the General Disposal Consent 2003 applies. This gives a blanket consent where the undervalue is less than £2m and the disposal will help to secure the promotion or improvement of the economic, social or environmental

well-being of the area. Cabinet will need to be satisfied that those criteria will be met by the proposed arrangements.

6.2.5 There are a number of legal issues that the Council will have to consider when it is clear that the funds are available to progress the proposals outlined in this report. These include:

- i, Back officer service agreement- the new Trust may consider buying back certain services from the Council, perhaps for a transitional period (e.g payroll, HR and/or IT). This arrangement could be set out in a service agreement. This could give rise to State Aid issues and so a careful analysis of the business case in relation to these back officer services would need to be conducted.
- ii, contracts/grants - that will transfer from the Council to the Trust and whether these can be transferred to the new entity or if the consent of the other parties is required
- iii, any staffing/pension issues.
- iv, dealing with assets including intellectual property and liabilities
- v, planning considerations noting that both properties are listed.

6.2.6 In accordance with the provisions of Part 3 of the Council's constitution, the decision being sought is a decision that can be taken by Cabinet.

6.3 Council Policies and Priorities

6.3.1 This recommendation and project delivers against Priority Four - to create a thriving place, in the council's newly adopted Corporate Plan 2024-28. The projects that were part of the former Margate Town Deal funding programme support the council's corporate priority for Growth, by encouraging regeneration. Enhancing the built environment in the conservation area of Hawley Square and Margate Central, supporting our communities through new job opportunities and skills development and the safeguarding and refurbishment of three existing (Grade II and Grade II* Listed) buildings.

6.4 Risk

6.4.1 The council has established the apparatus and experience for reviewing and managing the various key risks of delivering large capital programmes, including those which rely on ongoing management, improving heritage buildings, and enhancing protected coastal environments.

6.4.2 The council is responsible for ensuring that there are effective and adequate risk management and internal control systems in place to manage the major risks to which the external funding programmes are exposed.

6.4.3 As part of the development of the projects robust risk registers were developed. The registers are live documents. The Risks identified in the Risk Register as "High" are reviewed regularly, and those that provide a risk to the Council will be on the Council's corporate risk register.

6.4.4 The Trust as the operator will be required to have a risk register, that will form part of the full funding applications, and they will be required to take ownership of the risks moving forward.

6.4.5 Project Specific Key risks, and mitigation measures

A) Failure to achieve £7.5m External/ Match Funding

National Lottery Heritage Fund and Arts Council England's Cultural Development Fund funding decisions are pending (awaiting updates from this decision) both funders indicate a preference for a charitable entity to operate the Theatre and deliver activities on a not-for-profit basis. Without a charitable entity being appointed to manage the theatre there is a direct risk to £7.5m of external funding and the Margate Town Deal £2.2m of funding is potentially at risk due to loss of match funding. This recommendation ensures we are best placed to achieve this funding which will enable us to deliver the refurbishment and reopening of the Theatre.

B) Failure to secure an Operator

Match funding (see above), project delivery and long term future operation of the Theatre at risk. Including heritage, culture and socio- economic benefits lost. Mitigated by:

- Controlling this risk by setting up a new trust (designed fit for purpose)
- Set the legal and partnership (operator and Thanet District Council) parameters through early governance and board appointments
- Not dependent on 'the market/sector' responses/ fluctuations.
- NB this does not negate partnership possibilities.

C) Failure of Operators Business Plan

Income of 19 Hawley Square and earned income (box office, food & beverage etc) does not reach projected levels and operators charitable fundraising is limited/unsuccessful resulting in reduced income and potential financial instability.

Research from the Margate Creative Land Trust and the Bonnar Keenlyside report (2024) benchmarks projected income, pricing and demand for the leasable spaces at 19 Hawley Square

- Robust, prudent, flexible and risk averse Operation Options Appraisal and Business Case, Bonnar Keenlyside 2024 with a feasible base model (utilising the income from 19 Hawley Square to support theatre programme) and any incremental growth is linked to fundraising to manage risk.
- In the Operation Options Appraisal and Business Case, Bonnar Keenlyside 2024 case studies with four like for like theatres show similar or higher levels of fundraising (c£200k p.a.) is secured annually, therefore is potentially feasible.
- Operators business plan to be vetted and approved by Thanet District Council and the external funders

Ultimately, in the future, the council as freeholders **could** be faced with a request for support / subsidy or a need to review operator agreements and seek a new operator (as with any property / council asset). However, with the buildings restored and

developed by capital investment the council would be in a significantly improved position to secure a future operator, if required. This places the proposition for the Theatre in a different position to previous years. The creative and cultural ecosystem in Margate (Thanet) is also in a different place than past years with creative income and value placed on cultural pastimes and the performing arts sector.

6.4.6 General risks, and mitigation measures

A) Capital costs increase

- Robust costs planning and reviews, with integrated value engineering
- A substantial risk/contingency allowance (20%) is included within the cost plan.
- Seeking value for money (alongside quality) in procurement process
- Constant reviews of other investment opportunities/funding sources.

B) Adverse market conditions (including materials and labour)

- A risk/contingency allowance is included within the cost plan.
- Suitable contract terms in the Main Works Contract.
- Forecasting at each design stage for cost/delay likelihood in advance, establish lead in times and market fluctuations
- Possible value engineering required.
- Early contractor engagement to ensure the supply chain is being actively managed.

6.5 Climate Change and Biodiversity

6.5.1 In line with the council's net zero strategy 2030, a core part of the design, will integrate proactive environmental strategy with a ring fenced budget of £400,000 (external funding pending). Taking into account conservation and listed building considerations we will investigate and implement; solar / green energy, air source heat pumps, insulation, triple glazed windows and lower level operational considerations i.e. LED lighting. A key part of the conservation is to restore the existing building, not adding to the embodied carbon for the building by celebrating the existing building, minimising demolition works and ensuring the building is restored / refurbished to being a functional and usable building. We will be looking to reach a compromise between heritage and environmental sustainability within the conservation management plan and design of the building, taking into consideration listed building consent and best practise. The architects, creative team and contractors will be tendered with climate change focus as part of the criteria. A minimum of 5% of quality score is allocated to environmental sustainability measures to assess consultants and more importantly (with greater impact) contractors. Following this recommendation the project will be committed to assessing and implementing green and environmentally friendly operational management (Environmental Management Plan), for the selected operator.

7. Equality, Equity and Diversity Implications

7.1 Councillors are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at

the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

- 7.2 Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.
- 7.3 A screening tool has been completed, which demonstrates there are no direct equalities considerations arising and as a result and therefore a full EQIA has not been completed. Although there are no direct equalities considerations arising from this decision. The decision to develop a charitable trust to run the Theatre will not directly impact either adversely or positively, those with a protected characteristic. The decision is however likely to have a positive impact on residents in the area including those with protected characteristics, providing both training and employment opportunities.

8. Crime and Disorder Implications and Community impact

- 8.1 Reopening and restoring three heritage buildings within the conservation area (Hawley Square) will prevent anti-social behaviour including vandalism and graffiti to the semi-derelict and closed council owned properties. Contributions from community safety teams to help design out crime will be undertaken with the architects throughout the design process. Promoting participation for young people, via the new operator, will provide diversionary activities from anti-social behaviour and misuse of drugs, alcohol and other substances. Investment in the area will increase civic pride and re-opening the theatre will encourage low/ no alcohol positive evening and night time activity.

9. Subject History

- 9.1 Previous Decisions and Papers;
[Cabinet - 22 September 2022](#) - Margate Town Deal Project - Theatre Royal Margate
[Cabinet - 21 September, 2023](#) - Simplification Pathfinder Pilot
[Cabinet - 28 February, 2024](#) - Margate Regeneration Programme

Appendices

- Appendix 1 - *Theatre Royal and 19 Hawley Square Vision / Masterplan*
Appendix 2 - *Operator Options Appraisal and Business Case (2024)*
Appendix 3 - *Public Survey Results 2023*

Background Papers

- Theatre Royal Condition Report
19 Hawley Square Condition Report

Report Author(s) Contact: Hayley White, Theatre Royal Project Manager
email: hayley.white@thanet.gov.uk

Report Sign Off

Legal Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)

Finance Chris Blundell (Director of Corporate Services - Section 151)