

Executive

3 March 2009

Report of the Director of Learning Culture and Children's Services

The Barbican Auditorium

Summary

- 1 This report provides a further update on the position with regard to the Barbican Auditorium following the Council's termination of the conditional development agreement with Absolute Leisure. This report provides a further briefing on progress to date and seeks the views of the Executive on the next steps.

Background

- 2 This paper follows the initial briefing paper provided to Executive on the 20 January 2009 and provides a further update on the Barbican Auditorium aspect of the Barbican site. As the original paper reminded, the Auditorium site covers just the Barbican Centre building itself. We are talking therefore, of an entertainment venue and not the wider leisure complex with which the Barbican name is historically associated. It does not include the former pool site which has been sold for development as a hotel. There are no implications for any of the other component parts of the site arising from the issues covered in this paper.
- 3 The report does not seek to revisit the position before the Barbican closed nearly 5 years ago and the relocation of sports provision from the site. The conditional development agreement for the Barbican Auditorium was awarded to Absolute Leisure Limited (ALL) in 2004 following a detailed procurement exercise. No progress could be made with the scheme, however, until action in the High Court by the Save our Barbican group was finally dismissed in November 2006. The Executive will be aware that as a result of ongoing concerns about a lack of progress, the Council on the 2 December 2008 issued notice of its intention to terminate the agreement should ALL fail to adhere to an agreed programme and thereby meet the requirements of the contract. The required actions were not completed by the agreed date of 5 January 2009 and the Council had no option but to legally terminate the agreement which was carried out on Friday 9 January. At the same time the council also terminated the lease that had allowed ALL to operate the facility in the interim.
- 4 The proposal from Absolute Leisure had been to invest £3.5m in renewal of the facility, providing a full entertainments programme in the auditorium, with bars and new restaurants added, and a state of the art conferencing facilities through the conversion of the former sports hall. The conference opportunities were to

be maximised in conjunction with the hotel to be built next door. The reasons for a lack of progress with the proposed development by ALL remain unclear at this stage.

- 5 At the 20 January meeting of the Executive we were able to verbally indicate that we had gained access to the building, made the building secure and established appropriate levels of insurance and security cover. Some immediate work to tidy the external appearance of the building had also been possible. We explained that the key next steps would include
 - a. Undertaking a full survey to determine condition of the structure, fabric, services and all aspects of health & safety relevant to accessing and potentially using any part of the building. The results of the survey will be crucial to our assessment of the potential for interim use of the building.
 - b. Appointing entertainments industry specialist(s) to support officers in their early consideration of the potential for long-term uses, the current market for entertainment uses and future trends.
 - c. Determine the revenue costs of managing and maintaining the building again and in conjunction with conditions survey determine the opportunities for interim use.

Analysis/Update

- 6 The Barbican Auditorium and its future has been the subject of considerable debate and planning over recent weeks. Despite its relative limited history, many talk of the building with considerable affection both performers and audiences alike and the building has clear and apparent supporters from across age groups in the city. Community organisations who have previously held key city events at the Barbican are keen to return to the venue. Possible “competitors” in the entertainment industry within the city, have expressed their support for the Barbican as providing complimentary facilities which strengthen the leisure offer for the city. A considerable amount of effort continues to be made to ensure that interested parties, particularly those best placed to contribute to future plans, are appropriately briefed.
- 7 Whilst the levels of support described above are welcome, they do also generate a level of expectation. We need to clearly balance those positive expectations with a degree of caution. Decision making on the future interim and long-term options for the building must be based on comprehensive analysis of both the current physical structure, the nature of the current entertainment and leisure industry and the impact of the economic downturn on that industry. Care is needed to ensure that the drive to do something quickly does not result in a further failure to deliver in the longer term a transformed high quality facility for the city. At the same time we have to be aware that new developments need to operate in not only changing economic times but also within changes and new opportunities within the city. In that context, to cover the specific issues identified at Paragraph 5 of this report in turn
- 8 **The Physical Condition of the Auditorium Site:** inevitably a delay of some 5 years in active use of the building does have an impact on the condition of the

building itself. This may have been partly masked by occasional interim use which occurred without incident. A thorough analysis of the building is therefore, essential before any decisions about interim use can be made and would be required anyway as part of any remarketing. Initial assessments are that there are issues of significant concern.

- The fire alarm needs a full assessment as disruption to the existing system inevitably arose following the demolition of the swimming pool.
- Heating Controls and boiler systems need specialist assessments which could lead to servicing or even recommissioning.
- The bar areas and cellars will need refitting at some stage.
- Most of the catering equipment and kitchens will need refitting at some stage.
- Domestic hot water needs a full risk assessment, full clean and disinfect before use
- Some of the wood floors in the building have lifted
- Air handling equipment which provides air cooling and dehumidification in the auditorium during events need servicing and filter replacement before put to use.
- The fixed electrical wiring needs testing before occupation.
- The supply authority's high voltage transformer needs inspection and servicing before major loading applied.
- Emergency lighting systems will need full inspection and duration tests.
- The theatre lighting and stage equipment need inspecting and load testing.
- Full service of passenger lift examination needed.
- Numerous ceiling tiles and access covers are damaged or missing.
- The interior of the building will need extensive cleaning
- The external first floor paved areas form part of the fire escape route from the auditorium - some of the paving flags are missing others are uneven and need replacing or relaying.

9 As a result of the above initial analysis, we have commissioned a specialist local partner LHL who are one of our framework partners, to complete the essential next stage of work. LHL have been employed to undertake a full condition survey focusing on the needs of the building to operate for up to five years and also looking longer at a 30 year timeframe. The latter will provide valuable information for any future development proposals but the 5 year analysis is also essential in our decision making on interim planning . We expect a completed report by the end of March 2009 at a cost which includes detailed assessments of building conditions, Disability Discrimination Act compliance, a fire risk assessment, an assessment of all key systems etc. Cost of this work is described in the Financial section of this report. It is clear that the authority will have to balance the level of proposed capital expenditure to bring the auditorium back into meaningful interim use, with expenditure long term developers would be required to make. In addition to LHF involvement, staff from across the council are now working together to bring health and safety, licensing, leisure perspectives to the analysis of required interim investment. Executive are reminded that a significant part of Absolute Leisure's £3.5m planned investment was in addition to the new restaurant and conferencing facilities about bringing the building back to a state of fitness for purpose

10. **Commissioning External Entertainment Advice:** Our earlier report described the need to appoint entertainments industry specialist(s) to support officers in their early consideration of the potential for long-term uses, the current market for entertainment uses and future trends. Subject to the advice received from

the entertainments industry specialist the main options that are likely to be considered are:

- a. Re-market the building as originally envisaged with a view to lease / sell to a commercial operator who would retain the auditorium facility and provide public performances and events
 - b. Market the building with a new brief defined as advised by the entertainments industry specialist with a view to lease / sell to a commercial operator for activities appropriate to current and future entertainment trends
 - c. Procure an operator or establish a trust to bring the facility back into a usable condition and operate it on behalf of the Council
 - d. The Council to bring the facility back into a usable condition and operate it themselves
 - e. Market and sell the site and building for uses other than entertainment subject to the purchaser obtaining appropriate planning permission
11. Attached at **Annex 1** is a communication issued by the authority to seek expressions of interest in this work. At **Annex 2** is the response from Drivers Jonas who were appointed through a selection process on the 2 February 2009. We are confident they will provide the comprehensive strategic analysis required. Their completed report will be ready for the end of March 2009.
12. **Opportunities and Model for Interim Use of the Building:** Interim use is clearly dependent upon the outcome and financial implications of the conditions survey described at paragraph 8 of this report, and will also be influenced by the findings of the Drivers Jonas report. It is clear as stated earlier that we can anticipate support from key partners and organisations across the city if interim use of the site is deliverable. As a result we are working on models for such use to enable progress if possible to be made should the opportunity exist. The following principles are proposed for interim use:
- Financial risk to the Council is minimised
 - Traditional community events are maintained e.g. the Festival of Remembrance
 - Maximum opportunity is provided to local organisations to bring forward programming proposals
 - The building is operated safely and professionally and with a programme that will enhance the Council's reputation and bring high quality leisure opportunities to residents
13. In our analysis there are two specific and possible ways forward for interim use, subject of course to the outcome and the resulting financial implications of the conditions survey :
- a) The Council operates the Auditorium and provides a programme

- b) A partner or partners are found to operate the Auditorium and provide a programme

In Option A the Council running the Auditorium, would have the following key features:

- A programme of around 10 community events per annum would be run (including the Festival of Remembrance, Carol Concert and Guildhall Orchestra concerts)
- Bookings would be taken from commercial promoters (though these are likely to be limited in number and fall in the latter part of any interim period)
- A single technical manager would be appointed to manage the building
- Each event would be staffed by a casual pool of crew (or where appropriate, through the promoter's own crew)
- Box office would be provided by a partner organisation
- No refurbishment work would be done to the building (meaning that any catering or bars would need to be brought in for each event)

In Option B a partner(s) operating the Auditorium, would have the following key features:

- - ensure that the community events referred to above could take place
 - provide a programme at their discretion that they would manage but with the aim of contributing to core running costs
 - provide any ancillary features such as box office, catering, etc. at their discretion

14. If members wish to pursue Option B for interim use of the Auditorium the way forward would be a formal procurement exercise setting out the Council's objectives and inviting interested parties either individually or collectively to submit proposals to:

- Operate the auditorium themselves and manage the programme, and / or
- To promote a programme of events on terms that they would propose, with the Council retaining management responsibility for the building

The Council would then be able to choose whichever combination provided the most robust arrangements and was most financially advantageous.

15. At this stage we believe that Option B has the greatest potential for success in bringing in acts/events which add to the leisure and entertainment choices of residents and as a result contribute to ongoing running costs for the auditorium. Details of the procurement process for Option B as well would be contained in the next Executive report.

16 **In summary**, as we acknowledged in our initial report a coherent exciting plan for this key city centre site has not been delivered as expected by developers. Officers have now acted to ensure that further delay is avoided and to ensure that legal and procurement requirements are met. We have now progressed our

analysis of the situation and commissioned 2 major pieces of work both of which will be reporting by the end of March 2009. Their findings will form the basis of presentations/reports to Executive in April and the basis upon which we will make our recommendations.

- 17 **Governance:** The disruption to advanced plans for the redevelopment of the Auditorium requires a well managed response from the Council. A Project Group representing key senior officers of the authority with specific legal, technical and financial support is now established and meeting on a weekly basis, chaired by the Director of Learning, Culture and Children's Services. Clearly the group's membership will develop as prospective options are explored further. The group through its chair reports to the Chief Executive and the wider senior leadership team of the council..

Options

- 18 This report is primarily for information. There are no specific options to consider at this stage although comments on preferences for the Options A or B for interim use described at Paras 12-15 would assist officers in prioritising activity over the coming weeks.

Consultation

- 19 There has been considerable dialogue with interested parties over recent weeks but given the stage of the analysis no formal consultation. However The City Centre Area Action Plan Issues and Options consultation, held between 28th July and 22nd September 2008, received over 1,700 comments in total. The next stage of the AAP is currently under production and further public consultation is planned later in 2009.
- 20 Issues and Options consultation asked the public how the AAP should provide opportunities for the city's cultural and social scenes to be developed. People were asked whether they agreed in principle with the option to develop new cultural facilities and venues within the city centre and ask to what facilities and venues they would like to see developed. The Issues and Options consultation also promoted the benefits of a more diverse and inclusive evening economy and asked the public to express views on how we can encourage greater diversity. Options in the consultation include maximising the potential of what we already have, and pursuing diversity through new development and asking what types of facilities are we currently lacking?
- 21 Of the comments received from the public, responses were unanimously in support of these options. The types of facilities respondents felt are currently lacking are: venues to hold bigger events, music venues, a good performance venue, children's entertainment, and a planetarium.

Corporate Priorities

- 22 The Barbican auditorium furthers the priority of improving the economic prosperity of the people of York.

Implications

Finance:

- 23 **Revenue:** The Council understandably did not have any ongoing budget provision for the Barbican site. It was estimated that minimum annual costs of £120K to cover rates/security/insurance etc were required and reported in the initial report of the 20 January. This sum has now been built into the council budget proposals for 2009/10, but any interim use options discussed at paragraphs 12-15 may require additional funding of up to £70k. The costs associated with the specialist entertainment industry advice described at paragraph 11 is £18k, a figure consistent with that projected and reported in the January report. The detailed conditions, structural, fire risk, DDA assessments and analysis described at paragraph 9 of this report will cost in total up to £25,k. The costs of both consultancy involvement will be funded through virements from surpluses being generated within corporate treasury management budgets in 2008/09.
- 24 Costs incurred during 2008/9 in securing the building and responding to immediate issues arising from the building survey are being met through virements within the council's current budget. In addition, any projected costs for 2010/11 will also need to be considered within future budget strategies once the future of the site becomes clearer
- 25 **Capital:** The council's current approved capital programme assumes receipts of £750k for the auditorium. These receipts were planned to be used to contribute to the future development of leisure facilities in the city. This income will not now be received unless options to remarket the site are progressed. Details of any capital expenditure recommended as required to enable interim use to be delivered will be included in the next report to Executive
- 26 **Human Resources (HR):** None
- 27 **Legal:** Legal implications are as set out in the report.
- 28 **Crime and Disorder:** None
- 29 **Information Technology (IT):** None
- 30 **Property:** The property implications are contained in the report.

Recommendation

- 31 Members are asked to:
- i. Note the contents of the report, approve the further work to be undertaken by officers, and request a further report for April 2009. A report which will provide feedback from both commissioned pieces of work and as a result clearer recommendations for the Executive on interim and long-term options for the Auditorium site.
 - ii. Express initial preferences between the Options A and B for any interim use, which would assist officers in prioritising activity over the coming weeks.

Reason: to enable future plans for the Barbican Auditorium to be developed and progressed

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Wards Affected: All

For further information please contact the author of the report

Background Papers: None

ANNEX 1: Letter from City of York Council seeking Entertainment Specialist Consultancy Involvement

ANNEX 2: Response from Carter Jonas the eventually appointed consultants