



**Notice of meeting of
Scrutiny Management Committee (Calling In)**

To: Councillors Galvin (Chair), Aspden, Pierce (Vice-Chair),
Scott, Simpson-Laing, Taylor, R Watson and Waudby

Date: Monday, 18 May 2009

Time: 5.00 pm

Venue: Guildhall, York

AGENDA

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00 pm on Friday, 15 May 2009**.

3. Minutes

(Pages 3 - 4)

To approve and sign the minutes of the meeting held on 6 April 2009.

4. Called-in Item: The Barbican Auditorium (Pages 5 - 32)

To consider the decisions taken by the Executive on the above item, which have been called in by Cllrs Scott, Looker and Gunnell in accordance with the provisions of the Council's Constitution. A cover report is attached setting out the reasons for the call-in and the remit and powers of the Scrutiny Management Committee (Calling In) in relation to the call-in procedure, together with the original report and decisions of the Executive.

5. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Fiona Young

Contact details:

- Telephone – (01904) 551027
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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting Fiona Young

- Registering to speak
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- Any special arrangements
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Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	SCRUTINY MANAGEMENT COMMITTEE (CALLING IN)
DATE	6 APRIL 2009
PRESENT	COUNCILLORS GALVIN (CHAIR), ASPDEN, PIERCE (VICE-CHAIR), SCOTT, SIMPSON-LAING (PRESENT FROM THE END OF AGENDA ITEM 4 ONLY), TAYLOR, R WATSON AND WAUDBY

12. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. No interests were declared.

13. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

14. MINUTES

RESOLVED: That the minutes of the Scrutiny Management Committee (Calling In) held on 5 January 2009 be approved and signed by the Chair as a correct record.

15. CALLED-IN ITEM: 2009/10 CITY STRATEGY CAPITAL PROGRAMME BUDGET REPORT

Members received a report which asked them to consider the decisions taken by the Executive, at their meeting on 31 March 2009, regarding the schemes within the City Strategy Capital Programme planned for delivery in 2009/10 and options for the use of additional funding from the Regional Funding Allocation.

Details of the Executive's decisions were attached as Annex 1 to the report. The original report to the Executive meeting was attached as Annex 2. The decisions had been called in by Cllrs Scott, Potter and Merrett for the following reasons:

"The Executive has misdirected itself in that:-

- (i) It failed to follow the recommendations of the Shadow Executive.*
- (ii) The Executive's decision directly contradicts its own Local Transport Plan policy, specifically:*

'In making land use and transport-related decisions and implementing local transportation measures, regard has been

given to the council's 'hierarchy of transport users' where pedestrians and cyclists are at the top of the hierarchy and car users are at the bottom'.

(excerpt - Page 38, City of York Council Local Transport Plan 2006-11 - see also Table 5.1, York's 'Hierarchy of Transport Users', page 46)."

Members were invited to decide whether to confirm the decisions of the Executive (Option A) or to refer them back to the Executive for reconsideration and / or amendment (Option B).

The debate revolved around the options presented to the Executive for the spending of the additional funding expected from the Regional Funding Allocation. In response to questions from Members, Officers confirmed that the key issue was whether the chosen schemes were both strategic and deliverable. Although both options fitted these criteria, it was felt that Option 1, as chosen by the Executive, was slightly more strategic and would be easier to deliver with the staff resources currently available.

Following questions and a full debate, Cllr Scott moved, and Cllr Taylor seconded:

"That the matter be referred back to the Executive with a recommendation that they approve Option 2, on the basis that it complies with the Local Transport Plan policy."

The motion was then put to the vote and was declared CARRIED by five votes to three and it was therefore

RESOLVED: That Option B be approved and that the matter be referred back to the Executive with a recommendation that they approve Option 2 [in the original report to Executive], on the basis that it complies with the Local Transport Plan.

REASON: In accordance with the Constitutional procedures for called-in decisions and to deal with the issues raised by the Calling-In Members.

J Galvin, Chair

[The meeting started at 5.30 pm and finished at 6.15 pm].



Scrutiny Management Committee (Calling – In)

18 May 2009

Report of the Head of Civic, Democratic and Legal Services

Called-in Item: The Barbican Auditorium

Summary

1. This report sets out the reasons for the call-in of the decisions made by the Executive on 28 April 2009 regarding the next steps to be taken in a strategy designed to bring the Barbican Auditorium back into public use. The report also explains the powers and role of the Scrutiny Management Committee in relation to dealing with the call-in.

Background

2. An extract from the decision list published after the relevant meeting of the Executive is attached as Annex 1 to this report. This sets out the decisions taken by the Executive on 28 April in relation to the Barbican Auditorium. The original report to the Executive meeting is attached as Annex 2.
3. Following publication of the Executive's decisions, Councillors Scott, Looker and Gunnell called in the decisions on this item for review by the Scrutiny Management Committee (SMC) (Calling-In), in accordance with the constitutional requirements for post-decision call-in, on the grounds that:-

“The Executive has misdirected itself in opting simply to make safe the venue, and not taking a decision to progress the venue in line with the wishes of residents. The decision taken is effectively not to have taken a decision; it does not progress the building sufficiently with a view to getting it ready to open to the public and reneges on the Executive's responsibility to act decisively.

The Executive also appears confused over the venue's destiny. It says it cannot be multi-use, then says it should provide 'the major conference and/or entertainment facilities for the city'. It

seems uncertain as to what it should be used for in the future and residents need to know its clear intent.”

Consultation

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to speak at and / or attend the Calling-In meeting, as appropriate.

Options

5. The following options are available to SMC (Calling-In) in relation to dealing with this call-in, in accordance with the constitutional and legal requirements under the Local Government Act 2000:
 - (a) to confirm the decisions of the Executive, on the grounds that the SMC (Calling-In) does not believe there is any basis for reconsideration. If this option is chosen, the decisions take effect from the date of the SMC (Calling-In) meeting;
 - (b) to refer the decisions back to the Executive, for them to reconsider or amend in part their decisions. If this option is chosen, the matter will be re-considered at the meeting of the Executive (Calling-In) scheduled for 19 May 2009.

Analysis

6. Members need to consider the reasons for call-in and the basis of the decisions made by the Executive and form a view on whether there is a basis for reconsideration of those decisions.

Corporate Priorities

7. An indication of the Corporate Priorities to which the Executive's decisions are expected to contribute is provided in paragraph 32 of Annex 2 to this report.

Implications

8. There are no known financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to the following in terms of dealing with the specific matter before Members; namely, to determine and handle the call-in:

Risk Management

9. There are no risk management implications associated with the call in of this matter.

Recommendations

10. Members are asked to consider the call-in and reasons for it and decide whether they wish to confirm the decisions made by the Executive or refer the matter back to the Executive for re-consideration.

Reason:

To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

Contact details:

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Chief Officer Responsible for the report:

Quentin Baker
Head of Civic, Democratic and Legal Services

Report Approved

Date

1 May 2009

Specialist Implications Officer(s) None

None

Wards Affected:

All

For further information please contact the author of the report

Annexes

Annex 1 – decision of the Executive (extract from decision list published 28/4/09)

Annex 2 – report to Executive meeting on 28/4/09

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EXECUTIVE**TUESDAY, 28 APRIL 2009****DECISIONS (extract)****6. THE BARBICAN AUDITORIUM**

RESOLVED: (i) That Option 2 in the report be approved, that is: to focus on progressing the work recommended by Drivers Jonas in order to develop options for the Barbican Centre through structured dialogue with the identified interested parties, whilst undertaking work now to make the building wind and water tight, safe and secure.

(ii) That the Council's aspirations be agreed for the Centre; that is, that it should provide:

- a) the major conference and / or entertainment facilities for the City;
- b) high quality facilities for the residents of York and for visitors, acting as a focus for important City events and a focus for civic pride;
- c) opportunities for community involvement and activities;
- d) no on-going requirement for public subsidy.

(iii) That the following be agreed as the key next steps:

- a) Drivers Jonas to be retained as the Council's advisers, to work with Officers in preparing a succinct brief to be used as a basis for further structured dialogue with the interested parties, and to further develop the approach to the market.
- b) Essential work to be carried out to prevent any further deterioration of the Centre.
- c) Independent legal advice to be taken to assist Officers in all aspects of procurement.

(iv) That a further report be received, in the light of the structured dialogue, setting out the available options and the direction to be followed.

(v) That an allocation of £120k of additional one-off budget in 2009/10, funded from general contingency, be agreed, to cover the costs of the actions set out under the recommended option.

(vi) That Officers be instructed to ensure that, within

the next fortnight, posters are displayed at the Barbican, signposting residents as to how they can access alternative leisure opportunities in the City.

(vii) That Officers contact the organisers of the Festival of Remembrance and the Carol Service, to review how their events will fit into the programme of bringing the Barbican Auditorium back into use.

REASON: To enable future plans for public use of the Barbican Auditorium to be developed and progressed as soon as possible, and to ensure that the public and other interested parties are kept informed.



Executive

28 April 2009

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

The Barbican Auditorium**Summary**

1. This report asks the Executive to agree the next steps in a strategy designed to bring the Barbican Auditorium back into public use.

Background

2. This report follows the initial briefing reports to Executive on 20 January and 3 March 2009. Those reports described the need for the authority to intervene directly to prevent further delay in reopening the Barbican Auditorium. A conditional development agreement had been entered into with Absolute Leisure Limited (ALL) in 2004 following a thorough procurement exercise. Action in the High Court delayed progress on ALL's scheme in the first instance but once this action had been cleared away ALL's failure to complete the agreement led to the Council terminating it on 9 January 2009. At the same time, the Council terminated the lease that had allowed ALL to operate the facility in the interim.
3. The 20 January report described the successful steps the Council had taken to gain access to the building, make it secure, and tidy up its external appearance. The report recognised the need for early informed planning to bring this important city asset back into use. However, the report also recognised that the desire to see early progress should not result in hasty, uninformed decision making, since this could lead to a return to the kind of unsuccessful arrangements of the past which had led to the Council's original decision to go to the market, or to future failure with a new partner.
4. The 3 March report agreed the need to seek specialist advice in two areas:
 - 4.1 Entertainment market advice: the report described the need to appoint entertainment industry specialists to support officers in early consideration of the potential for long term use of the Barbican Centre, the current market for entertainment uses, and future trends within the industry.
 - 4.2 The physical condition of the building: inevitably a delay of some five years in the active use of the building has had an impact on its condition. The report highlighted a significant number of issues concerning the physical fabric of the building. It was recognised that a

thorough analysis of the building is essential before any decisions about future use can be made.

5. With respect to 4.1, the 3 March report briefed members on the appointment of Drivers Jonas following a formal procurement process. Their bid benefited from the inclusion of the expertise of David Pratley Associates (theatre and entertainment) and Pan Leisure Ltd (conferencing and leisure). They were instructed to advise on the potential for market interest from the theatre / entertainment industry to acquire and attract capital investment into the Barbican Centre and then operate it, as well as on the potential for market interest in complementary uses, e.g. conferencing or other leisure uses.
6. Following the 3 March report a specialist firm of surveyors / architects, the LHL Group (one of the Council's framework partners), was commissioned to complete the work described at 4.2. Their brief was to undertake a full condition survey focussing on the needs of the building to operate in the short and long term, including an assessment of all key systems, Disability Discrimination Act (DDA) compliance, and fire risk assessments.
7. Both pieces of commissioned work have been progressed in a timely and, in the view of the Project Steering Group, high quality manner. The findings are discussed in the next section below.
8. We have, since the last report, also completed some improvements to the condition of the building:
 - Some of the outside doors have been repainted where they were powder coated and damaged by graffiti.
 - Notice Boards have been cleaned, restored, repainted and are back in use.
 - Graffiti has been removed from the masonry.
 - The broken paving stones have been removed from the roof terraces.
 - The perimeter fencing is being realigned where it is displaced.
 - Rubbish has been removed from around the building on a couple of occasions.
 - A security company has been employed to make regular patrols with electronic tags in place and keep an eye out for any more damage.
 - Replacement stones have been ordered for the damaged Rotunda - the work is now underway and should be completed by the time of the Executive meeting. The circular planter will be planted up imminently.

The Specialist Advice

Drivers Jonas

9. Drivers Jonas's work has comprised a number of stages including:
 - a review of the Barbican's facilities, locational attributes and connectivity.
 - a brief review of historic usage and trading.
 - consultation and soft market testing with a number of key leisure and theatre/entertainment operators both locally and nationally including Visit

York, the Universities, hotel operators, and key theatre and events operators.

- a review of the property market in York and the planning history and policies associated with the site.
 - exploration of the options regarding trusts.
10. Drivers Jonas have reviewed the possible market uses for the Barbican Centre, considering them in terms of market growth, and their suitability in the light of the historic uses of the Barbican Centre, the configuration of the building, and adjacent land uses. The following paragraphs set out their key findings.
 11. There is a strong market for future leisure and cultural growth in York. Culture and tourism are growth areas at regional level and there are clear opportunities for York to take advantage of this focus as a consequence of the city's relatively strong performance in both areas. Drivers Jonas's assessment of the market for the Barbican Centre demonstrates a potential audience for a range of arts events, developed by the extensive professional and amateur arts infrastructure in the region, and opportunities to develop an audience for a limited number of rock and pop concerts as well as for classical music within the immediate catchment area.
 12. Their assessment points to growth in the conference and exhibitions market at regional and national levels which represents a potential market for future use of the Barbican Centre. Growth is also evident in the hotel market and, significantly, York has been one of the few areas that has so far managed to withstand the economic downturn, suggesting that the hotel market in the city remains relatively strong (supported by York's occupancy figures).
 13. Drivers Jones have taken an overview of the competitive supply relevant to the Barbican Centre, focusing on a broad range of leisure uses. They have assessed the likely demand for each of the primary and secondary uses that they identify including theatre / entertainment and conferencing / exhibition uses. They believe that there is clear demand for increased theatre / entertainment space within York; it is also clear that some interest exists from a number of key operators.
 14. Interest has also been identified in the Barbican Centre from local and national organisations for a conference facility. As such it would provide conference / exhibition space alongside a 4* hotel to be sited on the land to the east. Whilst entertainment and conference operations are not fully compatible a conference would also be expected to be able to attract and run entertainment events, particularly at weekends.
 15. Drivers Jonas have reviewed each of the options. They recognise that the range of options is limited for a re-use in line with the Centre's original function but point out that this is to be expected given the unusual nature of the building, its location and the anticipated costs involved in returning the building to a safe and functional state. Their assessment stresses that the options identified are at "an embryonic stage – their development is unlikely to be without further risk and cost to City of York Council".

16. Drivers Jonas recommend that the options are taken forward by the Council and developed further with the parties who have expressed an interest, in order that the Council can be properly advised about the likely financial basis on which any agreement could be entered into with any of the parties identified. They note that in the event that interest is pursued with any of those who have expressed an interest, formal marketing of the Council's interest will be required in order that the Council can demonstrate best consideration.
17. They also considers the broader issues in relation to the commercial property market and the Council's options in relation to the Barbican Centre as a site should none of the above options prove viable. They draw attention to the site's current town planning allocation which restricts the use of the site to D2 (Assembly and Leisure) in the emerging Local Development Framework recommending that this is reviewed.
18. In summary, Drivers Jonas recommend that a succinct brief is now prepared to be used as a basis for further structured dialogue with the interested parties currently identified. As a minimum, they advise that this strategy should consider and articulate:
 - The Council's aspirations for the Barbican Centre and any non-negotiable requirements for its ongoing use which an operator would wish to understand from the outset;
 - Details of the practical approach and time scale to be taken to approach the two markets;
 - Details of the Council's ability and willingness to fund either improvements to the building's fabric or a third-party operation;
 - Congruence of this approach with the Council's obligations to obtain best consideration of their assets in entering into agreements with third parties;
 - The approach to be taken to discussions with interested parties in light of embryonic stadium proposals for York;
 - Timescale for the exercise – how much time will the Council give to this exercise before considering a different approach to their freehold interest?
19. Drivers Jonas advise that it will be sensible for the Council in the meanwhile to maintain and protect the value of their freehold interest by:
 - Carrying out any absolutely essential repairs identified by the LHL Group to make the Barbican Centre wind and watertight and secure from intruders.
 - Re-considering the town planning allocation which restricts the use of the site to D2 (Assembly and Leisure) in the emerging Local Development Framework.
 - Working with adjoining landowners to understand their intentions for their land holdings and assessing how, if the opportunity were to arise, the Council could embark upon a joint marketing exercise for the island site, plus elements of the Kent Street site, in the event that a sustainable operator and user cannot be found for the existing building.

The LHL Group

20. An executive summary of the LHL Group report is provided in the Annex to this report. It identifies a cost of £818k to bring the Auditorium back into a usable condition, with an additional £1.097m required over the next 5 years. This could be seen as the inevitable consequence of the lack of any significant renewal or refurbishment of the building since it first opened and the lack of basic maintenance since it closed in 2004. It might be thought that the occasional use of the building over recent years challenges the conclusions that the LHL Group have reached. However, this use was not without its difficulties and furthermore, any future use by the Council would always comply fully with licensing and health and safety regulations, statutory testing and servicing obligations.
21. The £818k identified represents the cost of only the minimum works required to operate the building in line with statutory requirements. For example, where the executive summary refers to:
- “reinstatement” of catering facilities: this provides for only the minimum facilities that would be required to allow an external caterer to operate in the building (e.g. providing work surfaces and power); it does not provide facilities and equipment such as would be required to operate in-house catering
 - “decoration”: this includes only the smallest amount for making good. No provision is included for overall redecoration

Whilst there could be some potential to shave costs by closing off some rooms and not repairing them, in reality the building operates as an integrated whole with use of the Auditorium requiring supporting spaces. In any event the savings from this approach would be minimal.

Options

22. It is proposed that the Council should progress the work recommended by Drivers Jonas to develop options for the Barbican Centre through structured dialogue with the identified interested parties, and, at the same time, either:
- Option 1: Undertake immediately all the work necessary to return the building to a usable condition
 - Option 2: Undertake immediately that part of the work that is necessary to make the building wind and watertight, safe and secure, keeping the Council’s options open regarding the remainder

Analysis

23. The Drivers Jonas report provides confidence that it will be sensible for the Council to pursue options for the Barbican Auditorium with the market. They recommend that the Council sharpens its focus on the market and conclude that the entertainment, events and conferencing markets are the ones most likely to attract commercial interest and be consistent with locally assessed need.

24. Option 2 would, for a reasonable level of investment, i.e. £90k, protect the integrity of the asset, prevent further deterioration, and allow time for the options for the Centre's future use to be explored. Work to be undertaken immediately would include:

- Essential testing of and repair to the mechanical and electrical systems
- Repairs to prevent water penetration
- Additional hoarding and protection
- Making good where the passageway to the pool was removed

This work would contribute towards the total work required to re-open the building should a decision be taken to do this following the further market testing.

25. With regard to Option 1, the immediate capital investment required would be the £818k identified by the LHL Group. In addition, a decision to operate the building would involve set-up costs (as well as annual running costs). Drivers Jonas advise against spending the full £818k now for a number of reasons including:

- they have not been able to identify significant demand for interim use; in the 5 years that the building has been closed previous users have generally made alternative arrangements
- they feel that pursuing interim use at this stage would represent a major drain on officers' time and a distraction from the principal focus, i.e. identifying a medium to long-term sustainable use for the Centre
- the necessary works would take 6 to 9 months to complete by which time work on market options should be well advanced
- there is a risk that work undertaken would not be compatible with emerging longer term plans for the building

26. It should also be noted that the nature of any interim use is currently ill defined; it would inevitably take time to build. Previous reports have described the additional revenue costs likely to be incurred should the Council operate the Centre on an interim basis. Given this the 3 March meeting of Executive supported a potential role for an external partner / partnership. However, such a partnership would need to be established whilst work to the building was being completed. It is likely that there would still be additional revenue costs for the Council in such an arrangement together with the need for further capital expenditure over time from the £1.097m requirement noted by the LHL Group.

27. On the basis of the above analysis Option 1 is not recommended. It would see significant expenditure for a potentially limited period, delivering an as yet ill-defined but almost certainly limited programme of events. Focusing on Option 2 on the other hand gives a positive and informed basis for moving forward, focussing on pursuit of a solution that will bring the necessary investment to the building, protecting the asset in the meanwhile, and keeping the Council's options open.

Next Steps:

28. The next step will be development of the recommended brief to be used as the basis for further structured dialogue with interested parties. In response to the issues raised by Drivers Jonas (set out in paragraph 18 above) the following principles for this brief are proposed for members' consideration:

- a) **The Council's aspirations for the Barbican Centre** - The Centre should provide:
- The major conference and/or entertainment facilities for the city.
 - High quality facilities for the residents of York and for visitors acting as a focus for important city events and a focus for civic pride.
 - Opportunities for community involvement and activities.
 - An operation that does not require long-term revenue subsidy from the Council.

It is not advised that the Council should specify particular activities or events at this stage in order not to stifle the potential to generate creative ideas and opportunities through open dialogue.

- b) **Timescale for the exercise: How much time will the Council give to this exercise?** – It is proposed that the Council offers a further three months for structured discussions to take place and that a further report is brought back to members at the end of this period with regard to the available options and the direction to be followed.
- c) **The Council's willingness to fund improvements** – It is proposed that an open approach is taken to this issue at this stage. The aim of the market exercise should be to attract private capital investment to the Centre. However, should an attractive proposal be made which involved a strong business case for Council capital investment in the building then this could be considered.
- d) **Congruence of the recommended approach with the Council's obligations to obtain best consideration** – The Council has a duty to obtain best consideration. It is proposed that further specialist advice is taken on all aspects of procurement whilst structured discussions with interested parties are taking place.
- e) **Approach to be taken to co-ordinate with work on stadium proposals for York** – There is some potential for overlap in proposals for the Barbican and for the Community Stadium. Officers are working together to make sure that the specialist advice is co-ordinated and that the market understands the potential of both developments. It is proposed that these issues are further explored in the structured market discussions and in the development of the outline business case for the stadium which will come to the Executive in June.

29. To support this work we recommend that:

- Drivers Jonas are retained as our advisors to work with officers in preparing a succinct brief to be used as a basis for further structured dialogue with the interested parties, and to further develop the approach to the market addressing the issues set out in paragraph 18 above.
- Drivers Jonas to continue to make contact with potential future users and to continue to include examination of options for involvement of a trust
- Independent legal advice is sought to assist officers in drawing up a formal procurement strategy.

Consultation

30. There has been considerable dialogue with interested parties over recent weeks but given the stage of the analysis no formal consultation. Drivers Jonas have been highly active and have spoken to many interested local parties. These conversations have strongly influenced the conclusions they have reached.
31. As reported at the 3 March Executive meeting consultation as part of the City Centre Area Action Plan found the types of facilities that respondents felt are currently lacking included: venues to hold bigger events, music venues, a good performance venue, children's entertainment: consultation feedback which can be positively responded to if the recommendations from Drivers Jonas are progressed.

Corporate Priorities

32. The Council's new Corporate Strategy describes the desire to "inspire residents and visitors to free their creative talents and make York the most active city in the country. We will achieve this by providing high quality sporting and cultural activities for all". Within the new strategy we commit to developing an "achievable plan for the Barbican Auditorium" to contribute to this priority.

Implications

Financial:

33. The costs of the Drivers Jonas report at £18k, the LHL Group report at £25k, and the initial works to improve the appearance of the building described at paragraph 8 have been funded in 2008/09 through virements from surpluses generated within corporate treasury management budgets. In addition a one-off sum of £120k has been built into the Council's 2009/10 revenue budget to cover the costs of maintaining the Barbican Centre in its current closed state up until 31 March 2010. This is broken down as follows:

	£,000
Rates	47
Insurance	38
Fuel & water	5
Security	20
Basic Maintenance	10
	<u>120</u>

34. There is currently no budget provision to cover any revenue costs beyond March 2010.
35. Under Option 2, the recommended option, further costs will be incurred now from:
 - The immediate works to secure the building £90k
 - Professional and legal advice to support the market testing £30k
36. There are no existing directorate budgets available to fund this additional £120k in 2009/10. As the costs are one-off they could be funded from the Council's General Contingency. As part of the 2009/10 revenue budget, a contingency of £600k was set aside to meet any unforeseen or unquantifiable costs which may arise during the year. Decisions to release Contingency Funds are reserved to the Executive. No approval has been given to date in 2009/10 for drawdown against the Contingency, however it should be noted that this specific scheme was not one of the possible calls on the Contingency identified in the annual budget report approved by Council on the 26th February.
37. Option 1 would incur costs of £728k over and above those identified for Option 2 (£818k less £90k of immediate Option 2 works). There is no funding available in the current capital programme to fund works of this scale, so they could only be undertaken at the expense of one or more existing capital schemes.
38. **Human Resources:** None
39. **Legal:** Legal implications are as set out in the report.
40. **Crime and Disorder:** None
41. **Information Technology:** None
42. **Property:** The property implications are contained in the report

Risk Management

43. Risks related to this important project will be handled through good governance arrangements. 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. The group, through its chair, reports to the Chief Executive and the wider senior leadership team of the council.

Recommendation

44. The Executive is asked to agree:
 - Option 2 set out in paragraph 22 above: To focus on progressing the work recommended by Drivers Jonas in order to develop options for the Barbican Centre through structured dialogue with the identified interested parties, whilst undertaking work now to make the building wind and watertight, safe and secure

- The Council's aspirations for the Centre, i.e. that it should provide:
 - The major conference and/or entertainment facilities for the city
 - High quality facilities for the residents of York and for visitors acting as a focus for important city events and a focus for civic pride
 - Opportunities for community involvement and activities
 - No on-going requirement for public subsidy
- Key next steps:
 - Drivers Jonas to be retained as our advisors to work with officers in preparing a succinct brief to be used as a basis for further structured dialogue with the interested parties, and to further develop the approach to the market
 - Essential work to be carried out to prevent any further deterioration of the Centre
 - Independent legal advice to be taken to assist officers in all aspects of procurement
- To receive a further report in the light of the structured dialogue setting out the available options and the direction to be followed
- The allocation of £120k of additional one-off budget in 2009/10 to cover the costs of the actions set out under the recommended Option and funded from general contingency.

Reason: to enable future plans for public use of the Barbican Auditorium to be developed and progressed as soon as possible.

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Chief Officers responsible for the report:

Pete Dwyer
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 Services
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Report Approved

Date**Specialist Implications Officer(s)**

Neil Hindhaugh
 Head of Property Services
 (01904) 553312

Bill Woolley
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Wards Affected: All

For further information please contact the authors of the report.

Background Papers: Executive reports of 20 January and 3 March, 2009

Annex: Executive Summary of the LHL Group report

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YORK BARBICAN CENTRE THE LHL GROUP EXECUTIVE SUMMARY

The full survey report highlights the various individual key elements of the building in order to determine the overall current condition of the property under review. Each section has a stand-alone report and presents this in an appropriate survey format for the matter under review.

The brief has required us to determine the works necessary for the short and immediate term (first five years) required on the subject property to bring the building back into operation and allow the facility to be reopened to the public.

At this stage we have not undertaken a detailed appraisal of all the facilities, but have, where appropriate, made allowance for the costs associated with dealing with the various items of equipment within the property.

The main area where a provisional assessment on the cost of rectification has had to be made is contained with the mechanical and electrical installations. Until such time there has been an opportunity for these items of equipment to be run and tested the full extent of the remedial works cannot be determined.

The repairs to the general fabric of the building itself are fairly self-explanatory and have been determined by inspection in order to resolve the elements of both disrepair and also vandalism to these sections.

It may be necessary, depending on the Client brief, to upgrade and alter parts of the fabric. This will only be determined once any brief for the intended operation requirements of the property have been fully determined.

We have as part of the group of surveys undertaken an Access Audit in order to determine the works which need to be considered under the Disability Discrimination Act and have set out the recommended works which should be undertaken as part of the any intended refurbishment scheme.

We have also within the costs included for the works identified as being desirable which would provide a building which goes beyond the initial the requirements of the DDA legislation.

Within the mechanical and electrical services we have looked at the various heating and cooling requirements of the property including also the water for both hot and cold and for undertaking a legionella assessment within the works.

The electrical elements have included the electrical distribution lighting and emergency lighting and also have considered the fire alarm system and security system currently covering the property. The services element has also covered the upgrade of the communication system within the property and also the upgrade of the lightning protection currently installed to the premises.

The report has included for the upgrade of the stage lighting equipment and also for the maintenance of the high voltage transformer serving the property.

As part of the report we have undertaken an initial survey to consider the Fire Risk Assessment Report which will be necessary on occupation of the building. The fully defined works necessary will only be fully determined once a clearly defined brief as to the intended occupation has been developed and agreed.

We have, however, included an indicative cost for upgrade of facilities having discussed these with both Building Control and the Licensing Officer.

As mentioned earlier each section provides a stand alone report identifying the works and costs associated with dealing with the specific issues under review and the costs have been put together in a final summary page for the building as a whole.

This summary page has been broken down to give the anticipated total construction project cost for:

- To reopen the premises.
- Mid term up to 5 years
- Long term up to 30 years, and
- The ongoing annual costs

To each section there has been applied a preliminary cost, contingency and professional fees for running the project.

We have as a separate document produced an overall executive summary for the property as a whole. This brings all the summary documents from the individual reports together for ease of reference.

John Denton BSc FRICS FBEng
Director
For LHL Group

Condition Survey Executive Summary

The overall structure of the property from inspection was found generally to be sound although, there has been some localised structural damage to one of the rotunda due to a fallen tree.

The unoccupied and unused status of the building has led to a general lack of repair and ongoing maintenance typical for a property which is unused and, as a result, there is a significant amount of general repair and maintenance work required to bring it up to satisfactory standard.

Due to the age of the property, there are also elements of upgrade and renewal typically found in a property of this age notably, the external envelope in particular, the roofs where corrosion and rusting is occurring to the profile metal sheet roofing.

These elements of works are a result of the general life cycle of the construction components reflecting the need for capital expenditure as part of the liability for ownership of the property asset.

The property has suffered from a considerable amount of vandalism, the result of which will require a significant cost to repair the areas, in particular the paving from the first floor sections and, this will need to be carefully considered in view of the constructional form of this particular section.

There has also been vandalism occurring to the majority of external doors which will require replacement.

The removal of the swimming pool link needs a fundamental decision on the treatment of the external envelope and, again, the present arrangement is causing significant damp penetration into the property requiring early resolution.

This report reflects one part of the overall appraisal and as part of the further discussions and development of the property requirements, there will be a need for further consideration of the following items:

- Agree the external hoarding treatment to the separation between the front building and the adjoining development site to ensure a safe means of access to the property.
- Determine the detailed brief for the new building in particular, the requirements for the original installed retractable seating from the auditorium as, this will have a significant capital cost implication.
- Develop and agree a full design brief for the Barbican Centre to pull together all the information relating to the appraisal which has taken place to allow the development of a full specification of works to bring the property back into operation.

The costs set out in this report are for guide purposes only and, further discussion will need to take place to develop these further.

For the purposes of the costing exercise, we have made the assumption that both the immediate and longer term work will be undertaken as one contract. Should this be separated into two, there will be increased costs for preliminaries for a main contractor in splitting the works into two areas. At this stage, we have also not included for a full redecoration of the property only, where this is deemed to be absolutely necessary as a consequence of damage which has occurred to the fabric.

The survey report has been produced on the basis of identifying urgent works which are deemed to be required in the immediate term to fulfil statutory requirements or prevent further ongoing damage as a result of the disrepair which is occurring at the present time. The other key area is identifying those works which are recommended to be undertaken within the first five years for the building to continue to correctly function to a satisfactory standard to meet its current design requirements.

As a consequence, any minor items of works which would be normally recommended beyond five years have been excluded from the report.

We have allowed within the costs for providing a new timber hoarding between the building and the current development site to a similar specification to the present one. As a cheaper alternative bracing and adjustment of the current metal fencing could be undertaken.

Conclusions and Recommendations

The property under review is currently in need of a significant amount of works as identified within the main body of the report.

The works are required as a combination of a number of factors:-

- General repair and maintenance
- A number of building elements reaching the end of their design life as a consequence of extensive vandalism to the building.
- Limited specification of the materials used during the original construction

The report sets out the recommended works both in the immediate and, short term which need to be considered as part of the overall restoration and refurbishment works to bring the subject property back into use.

These items should be further developed and considered in conjunction with the results and recommendations put forward in the other reports mainly, the Fire Risk Assessment, the Access Audit and, the Mechanical and Electrical Appraisal which have been undertaken as part of the survey.

There is an inter-relationship between all these fundamental elements and, it will be important to consider each requirement to ensure that this is correctly dovetailed in with the overall appraisal as, some of the requirements for each will be linked.

There will also be a need for further client input into the intended use of the building as; this will help clarify the revised brief which may also impact on the requirements for the building form and function which, again, will need to be fed into the overall appraisal for the building as a whole.

Once all the information has been presented, further instructions will be required to develop the scheme and deliver the building back into use in an appropriate and repaired condition.

Executive Summary by:
John Denton BSc FRICS FBEng
Director
For LHL Group

Mechanical & Electrical Executive Summary

The Mechanical and Electrical Services for the Barbican were installed approximately 20 years ago. Generally the systems used were robust and installed to a high standard. Therefore the infrastructure for the majority of systems is still in a good condition and can be brought up to standard without too much difficulty or cost.

As the building is 20 years old some systems components are approaching the end of their operational life and may need replacing in the short term. However this initial headline report looks at the systems that need works carrying out to get the building services systems operating in a safe manor and in accordance with the requirements of the Licensing Officer.

Costs associated with the buildings mechanical services are largely concerned with the Cooling Requirements of the Auditorium as the existing chiller has been disconnected during the swimming pool demolition and it is highly unlikely that it can be salvaged and put back into operation.

Costs associated with the electrical services are predominantly associated with lighting and CCTV systems in order to comply with the Licensing Officer Requirements.

In Summary, in order to get the mechanical and electrical services into an operational status in the immediate term we would envisage costs in the region of £290 000.00. This cost would allow the building to operate within the short term albeit with a fair amount of manual input to get systems operating.

If the building was to be kept as a going concern, further upgrades and component renewals will be required. This would in the main be minor upgrades but would allow the building to work efficiently and effectively in the medium term. The costs of this would need to be tied in with future operations of the building. We would estimate a budget in the region of an additional £450 000.00. These costs can be detailed more accurately once testing has been carried out.

Executive Summary by:
SILCOCK LEEDHAM
For LHL Group

Fire Risk Assessment Executive Summary

The inspection of the facility was carried out on 9th March 2009 by C Linley and R Harper, preceded by a meeting held with John Fowler, Head of Building Control and Lesley Cooke, Senior Licensing Officer at 9 St Leonard's Place on Monday 2nd March 2009.

Colin Linley confirmed that the condition of the facility at present is such that a formal risk assessment cannot be completed.

There are a number of fundamental issues that require addressing and rectification before the assessment process can continue. The detail is covered elsewhere in this report but for illustration the following must be in full operation and certificated where appropriate, before proceeding:

- The fire detection system
- The emergency lighting installation
- The emergency exit doors
- The external escape routes and paving from the final emergency exit doors
- Lighting to the external escape routes
- External warning signs
- Internal fire stopping
- Internal smoke and fire resisting doors and frames
- Ceilings (many suspended ceilings which provide a degree of smoke and gas arrest have been extensively disturbed)
- The flooring and floor coverings
- First aid and fire fighting and the competent persons to operate it
- Closed circuit television to cover the areas accessible by the public.

In addition the occupiers of the facility must be able to demonstrate to me that they have proven procedures in place to marshal persons escaping from the building including particular procedures for dealing with any disabled persons, including use of evac chairs and the like.

The occupiers must also designate a person or persons who will be the "Responsible Person" (as required by the Order) for the fire safety operational procedures for the entire facility.

Based on Colin Linley's experience he could be the designated "Competent Person".

Executive Summary by:
Colin Linley MRICS FBEEng MAPS MCIOB
Director
For LHL Group

Access Audit (DDA) Executive Summary

Overview

We recommend that the client draw up an access plan and action strategy to implement the recommendations contained within this report. Acting on the results of such an evaluation may reduce the likelihood of legal action against the service provider.

Key Areas

When approaching the building on foot from public transport or from the car park areas there is a lack of clear wayfinding. In addition to this the principal elevation is confusing and lacks clarity. External signage and wayfinding should be improved and the principal entrance made more prominent.

When fitting out the public areas, consideration should be given to the adequate specification of loose furniture to the bar and canteen areas together with the siting of such furniture. This should ensure that traffic routes are not blocked and that there is sufficient space to manoeuvre around the space.

The passenger lift within the building does not meet current requirements. Whilst it is not mandatory that the lift be replaced, consideration should be given to upgrading the passenger lift to comply with current guidance.

A cohesive signage strategy should be formulated for the building, with all existing signage being reviewed and the new comprehensive signage policy implemented.

Accessible facilities within the main Auditorium area should be upgraded to ensure the adequate provision of services within this area. An accessible viewing area should be created and sound amplification technology provided.

Implement a management plan for the building, addressing such things as access and egress, maintenance and upkeep and training. The plan should be continually reviewed and updated as required.

We trust that our report satisfies your present requirements, although should you have any queries or wish to discuss any points arising, please do not hesitate to contact us.

Executive Summary by:
Paul Batchelor BSc (Hons) PGDip MRICS ICIQB MaPS
Director For LHL Group

Summary of work required to reopen the premises and estimated costs

Estimated Costs				
<u>Summary of works from condition survey</u>	<u>To reopen the premises</u>	<u>Mid term up to 5 years</u>	<u>Long term up to 30 years</u>	<u>Ongoing annual costs</u>
Buildings Fabric Repairs include:- Roof Areas, Parapets Gutters External Doors, Swimming Pool link, External Paving & Stairs; Ceiling Repairs; Reinstate Catering Kitchen; Internal Doors and Fixtures; Floorcoverings; Decorations	£250,363	£132,064	£2,015,015	£13,925
Improvements required following the Access Audit :- car parking & setting down; external pavings; entrances & reception areas; passenger lift; physical internal features, contrasting textures colours and signage.	£51,000	£193,250	£244,250	£2,500
Fire Risk Assessment ;Improvements required fire stopping; and fire safety	£11,000	inc	£11,000	£2,000
Mechanical & Electrical Works , include:-Inspections, service and repairs to:- the heating and cooling plant; electrical installations; building managements system; fire alarms; emergency lighting; closed circuit television; water services	£264,850	£448,900	£3,290,400	£37,750
sub totals of costs	£577,213	£774,214	£5,560,665	£56,175
contingencies 10%	£57,721	£77,421	£556,067	£5,618
	£634,934	£851,635	£6,116,732	£61,793
contractors' preliminaries and management costs 12%	£76,192	£102,196	£734,008	£7,415
	£711,126	£953,831	£6,850,739	£69,208
Professional and statutory fees 15%	£106,669	£143,075	£1,027,611	£10,381
Grand totals	£817,795	£1,096,906	£7,878,350	£79,589

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