

**THE EMPIRE THEATRE, BURNLEY – VIABILITY STUDY****REPORT TO SCRUTINY COMMITTEE**

<b>DATE</b>	<b>9<sup>th</sup> August 2017</b>
<b>PORTFOLIO</b>	<b>Community Services/Housing and Environment</b>
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**PURPOSE**

1. To consider the results of The Empire Theatre viability study.

**RECOMMENDATION**

2. That Scrutiny Committee is recommended to consider the results of The Empire Theatre viability study and endorse the following recommendations to the Executive:
  - a) *Due to the significant financial risk and lack of identified commercial operator and the wider resource needs of other strategic projects within the Borough, the Executive are recommended not to support the Council's involvement in project as outlined in the viability study report.*
  - b) *That the site is considered further as part of the Town Centre Masterplan that is currently being developed.*

**REASONS FOR RECOMMENDATION**

3. The viability study does not present a compelling case for the Council to risk significant financial resources, which are scarce and which could be invested in different projects in the town centre and the Borough to create a wider social and economic impact on the Borough.

**SUMMARY OF KEY POINTS**

4. **Background**  
The Empire Theatre is a Grade II listed building and has not been in any use since 1995. Due to the interest from the local Save The Empire Theatre group and the Theatres' Trust, the Council agreed to part-fund a viability study for the building. In doing so, the Council made it clear from the outset that it would be pleased to see the local group bring the theatre back into use, however, the Council would not be able to commit capital or revenue resource to the building and its operation.
5. Following a joint procurement exercise, Bonnar Keenlyside and Theatresearch were

commissioned to undertake a two-stage viability study in autumn 2016. The study was in two parts and the first stage study ruled out most uses for the building and found there to be no demand from commercial or social uses for the facility.

- 6 The market appraisal also identified that there was insufficient market demand for the Empire Theatre to operate as a traditional theatre/entertainment venue. This was partly due to the catchment area not being large enough to support a traditional theatre programme at The Empire Theatre and the fact that The Mechanics' Theatre, Burnley serves the local population for most live entertainment.
- 7 The review identified a number of strands of activity for the venue, including becoming a music/nightclub venue, including events associated with student union, project space for independent artists, rehearsal space for amateur and community groups and a training stream for potential live production and special effects.
- 8 The Stage 2 report which has recently been received considers the feasibility of developing an innovative model to support these activities as well as looking at different scenarios for the building and a proposed incremental approach for development, roles and responsibilities for ownership development and operations, a business model with finance and funding and an action plan and timetable.
- 9 The report acknowledges that against the opportunities of re-developing the building, there are significant limitations and challenges the Council faces as a result of continued reductions in revenue budgets and the fact that The Empire Theatre is not a strategic priority for capital investment for the Council.

### **The State of the Building**

- 10 The Empire Theatre has suffered from severe deterioration since the last comprehensive survey and plans for restoration as a theatre in 1998 and the site has been fragmented into several separate ownerships. The main parts of the building have no ownership and 'bona vacantia' have fallen under the jurisdiction of the Duchy of Lancaster for disposal. This means that in effect, no legal body claims responsibility for the building. In essence, the Duchy does not have responsibility for maintaining the building and the Council is required by law to ensure public safety and take measures to prevent harm from dilapidated or dangerous buildings.

### **Long-Term Vision for The Empire Theatre**

- 11 The report suggests that the phased development for the building could take place with a range of activities which would include:
  - Music venue and club
  - Creative space for artistic and community work
  - Rehearsal space for local groups, artists and creative entrepreneurs
  - Bar/café/restaurant and function spaces
  - Training/learning/education and research
- 12 The report suggests that the project would evolve over several years through an incremental approach to development. For the purposes of the study it has been assumed that the level of activity and scale of operation is at a fairly modest level assuming a community operator takes on the operation.

- 13 Only outline modelling of the operation of the facility has been undertaken and a number of assumptions have been made around a community business and these are as follows:
- Most events would be hires and there would be strong performance at bars, associated with nature of music/club events.
  - There would be a small core team to manage the operation.
  - The costs of additional staff to deliver individual events would be charged to that event.
  - There would additionally, be ongoing and full participation of volunteers, including students.
  - A ticket restoration levy would be charged towards the costs of repairs, renewals and restoration.
  - The operation, would, at minimum generate sufficient return on activities to maintain the building and to cover overheads and potentially more.
- 14 There is however, no detailed breakdown of the expenditure and income streams of operation.
- 15 The viability study suggests that training activities could be undertaken at the building, including all aspects of building development, management, construction, interpretation and conservation could be undertaken. However, representatives from both UCLan and Burnley College on the group confirm that there will be no financial resource that they could put into the project.

### **The Site**

- 16 The report analyses the different sections of the building and their ownership. It is fair to summarise this by stating that ownership is complex. In addition, the report summarises the potential liabilities associated with the building as follows:
- A Grade 2 listed building in a poor state of repairs.
  - A building contaminated with asbestos with high costs associated with removal of said asbestos.
  - Potential legal disputes and costs associated with party wall issues.
  - No working services within the building and large capital costs associated with restoration, making it non-viable commercially.

### **Governance and Management**

- 17 The report proposes that there should be two charitable organisations established:
- a) A Building Preservation Trust to hold, develop and maintain the building asset and in the earlier phases assemble the site; and
  - b) A charitable operating company to operate, promote, fundraise and engage volunteers; this would most likely be a charitable incorporated organisation.
- 18 Of all the organisations that are suggested for membership of the Building Preservation Trust, it is highly likely that the only organisation on the Trust that would have any potential for financial resource for maintaining the building would be Burnley Borough Council.

### **Incremental Phases**

19 The report proposes a long-term project with incremental phases for the building. These are outlined in Section 8 of the report, along with project timescales and milestones, but can be summarised as:

- Phase 1 – Short – Medium Term: Bringing the stage house back into use as a night club / events space and stabilisation of auditorium space.
- Phase 2 – Long Term: Restoration of the auditorium space through an initiative which is community-led and based in heritage skills training and job creation, with the long term ambition to reunite the areas of the Empire and open as a music venue / club with an optimum capacity of around 1100. A new café / bar and provision of rehearsal / function / training rooms as well as associated offices / back of house space.

### **Costs and Funding**

20 The report proposes that the following costs would be required for bringing the building back into use:

• Initial enabling -	£325,000
• Phase 1 -	£2,155,434
• Phase 2 -	£2,700,211
<b>Total:</b>	<b>£5,180,645</b>

It should be noted that:

- a) In estimating the costs by the consultants, it has not been able to access the building to validate outline costs.
- b) The costs do not include the revenues costs associated with maintaining the building whilst any development took place which would be for a number of years.

The report suggests a range of grant funding options including Heritage Lottery Funding however as a minimum the cost of enabling works and any matched funding for such bids would most likely need to come from the Council. In addition the timescales quoted in the report for HLF funding are not realistic.

### **Alternative Scenarios**

21 The report outlines a number of alternative scenarios:

**Option 1 - Do Nothing.** The report suggests that to do nothing would result in further deterioration of the building and potentially the need for its demolition. The costs of demolition are identified as £2,157,078 and a breakdown of these costs are showing at Appendix A of the Viability Study report.

**Option 2 - Commercial Operation Involvement** – At present, it is envisaged that no commercial operator would take on the building at this stage.

**Option 3 - The Crown Auctions the Building** – If the Council do not take on the project, it is highly likely that the Crown would auction the building and potentially, a speculator would buy the building without knowledge or

experience. They would then be responsible for the liabilities of the building, and although there is the potential for re-development, alternatively, it could result in further deterioration of the building.

**Option 4 – Proposed Partnership Development** – This is the route proposed in the study and suggests that the Council acts as a catalyst for change and support. The report does not, however, outline what the financial responsibilities would be if the Council took on this role.

### **Council Response to the Report**

- 22 There can be no denying that The Empire Theatre, Burnley, is in a poor state of repair and currently detracts greatly on the town centre. However, the Council must not only consider the options in this report but it also has to consider wider options of how it uses its increasingly scarce capital resources. To put this into context, the Council is facing revenue savings of approximately £4 million over the next three years and therefore has no ability to take on the cost of future maintenance demands especially when they are not quantified, although it is fair to say, that they are potentially significant for the building in the short-term and long-term.
- 23 The Council has now submitted its Local Plan and is currently undertaking a Master Planning exercise for the town centre. Both of these will identify a wide range of sites and projects that will require financial intervention by the Council to bring them to reality.
- 24 Looking shorter term, the Council is also procuring a developer for the Curzon Street development, to bring forward a leisure-led development and it is highly likely looking at the experience of other Councils across the country, that there will be some form of financial commitment from the Council required to bring this to fruition. If this was the case, the investment would be justified on the basis of the additional business rates, jobs created and footfall brought into the town by such a leisure development. However, the re-development of The Empire Theatre would not generate significant business rates, would not generate a significant number of jobs, however it is accepted that it could potentially increase footfall into the town on an evening.
- 24 In addition, the Council is currently working with Burnley Leisure to develop a Heritage Lottery Fund bid for improving The Mechanics' Theatre. It is envisaged that the bid will be for £2,000,000, but again there will be a requirement from the Council to use some of its scarce financial resource as match-funding.

### **Conclusions**

- 25 The report proposes an incremental approach to developing The Empire Theatre, Burnley, but acknowledges the significant risks in terms of ownership funding and costs.
- 26 The Council is the only partner that would take on the financial risk in the short to medium term and these risks are significant. In light of these, and the wider strategic opportunities and projects that the Council is planning to deliver over the next few years, it is recommended that the Council does not take on a role on the Building Preservation Trust, as outlined in the report.

- 27 Conversely, but for the same financial reasons, no justification could be made for investing over £2 million in demolishing the building. Building Control will continue to monitor the state of the building, and whilst it is acknowledged that the building is in a very poor state, there are no visible signs of significant failure.
- 28 It is therefore proposed that the town centre masterplanning exercise consider the site further, as part of the wider town centre masterplanning exercise. In doing so, it is acknowledged that The Crown will probably auction the building and there is still potential that an investor comes forward who wants to both re-develop the site and has the funds to do so (although this may be highly unlikely) and hence the need to consider the site in the wider Masterplan.

#### **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

29. The viability study outlines the estimated development costs and demolition costs, but there is no estimate of ongoing revenue costs. As stated earlier in the report, due to the Council's financial challenges and wider strategic project option, no justification can be made for the Council risking significant financial resources.

#### **POLICY IMPLICATIONS**

- 30 None

#### **DETAILS OF CONSULTATION**

- 31 None

#### **BACKGROUND PAPERS**

- 32 None

#### **FURTHER INFORMATION**

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**ALSO:**