

Southend-on-Sea Borough Council

Report of Executive Director Adult and Communities
To
Cabinet

On
2 November 2021

Report prepared by: Scott Dolling, Director of Culture and
Tourism

Agenda
Item No.

Southend Theatres Contract / Cliffs Pavilion Investment Relevant Scrutiny Committee: Place Cabinet Member: Councillor Carole Mulroney Part 1

1. Purpose of Report

- 1.1 To apprise Cabinet of the need for major capital investment in the Cliffs Pavilion and to update on the outcome of the recent successful Levelling Up Fund announcement of which the Cliffs Pavillion was an element of that bid.
- 1.2 To identify the opportunity for additional investment by Southend Borough Council (SBC) and HQ Theatres to expand the commercial offer for the Cliffs Pavilion as outlined in the Southend 2050 Ambition.
- 1.3 Considering the above, to take the opportunity to review and amend the service contract between SBC and HQ Theatres Ltd to reflect the parties' relevant capital investment and increase the commercial return to SBC from the operator.

2. Recommendations

- 2.1 That Members note the impact of the proposed project on the Council's Medium Term Financial Plan.
- 2.2 That Members, in the light of this financial position, consider their in-principle agreement to the proposed investment of £8.3M into the Cliffs Pavilion, subject to a viable business case being agreed by the Council's Investment Board and a new lease agreement with HQ Theatres.

- 2.3 That Members note that the capital investment will be financed by a mixture of a contribution from HQ Theatres, external funding via the Levelling Up Fund and borrowing.**
- 2.4 That Members approve the change from service contract to land transaction (lease) between SBC and HQ Theatres with an appropriate redistribution of liabilities and returns.**
- 2.5 That Members agree to delegate authority for the financial and contractual negotiations between SBC and HQ theatres to the Council's S.151 Officer (Executive Director Finance and Resources) in consultation with the Cabinet Member for Environment, Culture Tourism and Planning, ensuring that they deliver best value yet ensure timely approvals for project delivery.**

3. Background

- 3.1 The Cliffs and Palace Theatres are both Council owned assets and have a service delivery contract with HQ Theatres until 2036.
- 3.2 The Cliffs Pavilion is a key cultural destination for visitors and residents welcoming around 500,000 visitors per year.
- 3.3 An expanded hospitality offer has been designed by HQ Theatres as part of a capital project which will increase economic activity and an additional 17 full time equivalent jobs are expected following this major upgrade, in addition to onsite training. The Cliffs Pavilion's annual economic contribution to the borough was in the region of £8.9M in 2018/19. (Economic assessment appended).
- 3.4 The £8.3M proposed investment in developing the offer at the Cliffs will secure the venue's continued place as one of the top ten regional theatres in the country, benefitting from the larger touring shows that draw major audiences. A recent merger with HQ Theatres and Trafalgar Entertainment is also delivering improved programming opportunities for the Theatres.
- 3.5 The proposed capital investment project would be a combination of improvements to the Cliffs Pavilion alongside essential major works to the building with full planning application awaiting decision in the November Development Control Meeting.
- 3.6 HQ Theatres have committed £1M towards the project. In addition, a successful bid of £5.5M to the government's Levelling Up Fund has also been confirmed in an announcement by the Chancellor of the Exchequer on 27th October as part of the Government's Budget 2021 and Comprehensive Spending Review, which will support the project's outcomes as a major part of our visitor economy. The current service agreement provides for a rising scale of contributions to SBC from HQ to the end of the contract in 2036. Currently the contribution is £50k per annum, this rises to £125k by the end of the term.
- 3.7 An independent valuation of the contract has been commissioned with a view to renegotiating the current service arrangement and instead developing and replacing it with a leasehold arrangement. The lease would be based on the value

left in the contract and consider the additional value to HQ Theatres of a longer term. This would be developed to increase current levels of contributions and reflect the investment made, as well as the different distribution of liabilities and returns to reflect the investments made.

- 3.8 The last major improvement investment in the theatre was in 1992, when the balcony was constructed, increasing the audience capacity. Since that time, there have been regular capital investments made by the Council around the building for essential major maintenance works, however these have not contributed to improving the overall offer and visitor experience.
- 3.9 The new designs will protect the SBC's asset, upgrade the building, increase income opportunities, and ensure that the public spaces reflect consumer expectations. This development will maintain the Cliffs Pavilion's market strength and grow Southend's cultural destination appeal. The new restaurant area and improved offer to customers will lead to increased employment and greater skills for its employees. Large areas of the public open space in the building will not bring a financial return and were included in the £5.5M Levelling Up Fund submission. Without public sector funding these areas will deteriorate and affect the wider offer. These enhancements also reduce the long-term capital expenditure on areas that would otherwise fall to the council in maintenance activity.
- 3.10 The current service contract also covers the Palace Theatre which would be included in the renegotiated lease.

4. Other Options

- 4.1 SBC could continue to maintain capital works at the Theatre without making significant change to the offer. This is not recommended as consumer expectations have changed and whilst major maintenance has been done, the Cliffs has not had any major refurbishment/changes for c.28 years. The offer is very tired and could lead to failures and multiple lost opportunities.

5. Reasons for Recommendations

- 5.1 To maximise the venue's economic impact, increase jobs and spend and enhance the visitor's experience and dwell time in the Theatre. This will position the venue for future success and respond to changing customer demands, needs and expectations.
- 5.2 The designs for the Theatre will upgrade the building in readiness for the future. The refurbishment and investment will help to ensure its future, protecting it from failure and reputational and financial damage to SBC.
- 5.3 The Theatre is SBC's asset, and a significant asset to the community. SBC would be liable for significant losses to HQ Theatres if the building were to close or fail to operate.

- 5.4 The Theatre is in need of substantial and continued capital investment and the option to do nothing would result in depreciation of a key Council asset. The proposed arrangements offer the opportunity to redistribute the liabilities and commercial returns aligned to the investment made.
- 5.5 It will also ensure that future commitments the council will need to have made in the capital investment programme on the various major works under its responsibility will be factored into this proposal.
- 5.6 Southend is a leading cultural destination and the programme at the Cliffs Pavilion demonstrates its position in the top ten regional theatres nationally bringing significant economic value to Southend.
- 5.7 Converting to a lease agreement provides HQ Theatres with increased confidence in their own investments supporting the overall project.

6. Corporate Implications

- 6.1 The Council has made a commitment to the 'Cliffs Pavilion upgraded' project through the updated 2050 Road Map.
 - 6.1.1 **Pride and Joy** – The variety and quality of our outstanding cultural and leisure offer has increased, and we have become the first-choice English coastal destination for visitors.
 - 6.1.2 **Opportunity and Prosperity** – Southend is a place that is renowned for its creative industries, where new businesses thrive and where established employers and others invest for the long term.

7. Financial Implications

- 7.1 The overall project is estimated at £8.3M. HQ theatres would be making a capital contribution of approximately £1M. CBRE have been appointed to assess SBC's S123 Local Government Act 1972, best consideration requirements and confirm that any proposed arrangements switching to a land transaction will, in those terms, deliver best consideration to the Council.
- 7.2 A negotiation based on the investment level and an independent valuation of the contract to convert to a lease agreement is anticipated to replace the existing service contract. It is anticipated that the renegotiation will ensure as a minimum that the new lease agreement will cover the current income stream under the service contract that will be lost, and the capital financing costs for the Council's investment of £1.8m.
- 7.3 Stage 1 of this project for the design and specification has been to the Investment Board as a business case and was submitted earlier this year. The Business Case for Phase 2 (construction) of the project has not yet been considered by Investment Board.

- 7.4 The Cliffs Pavilion Refurbishment and Remodelling project is currently listed in the 'subject to viable business case' section of the capital investment programme. It could be brought up into the main programme following in principle agreement by Members that there is appropriate justification for the scheme to progress. This in principle agreement would need to be followed by consideration of the full business case at Investment Board and will only be approved to progress into the main programme if there is a viable business case to proceed. In addition, the project will also be subject to final approval on satisfactory lease negotiations with HQ Theatres.
- 7.5 The approved Levelling Up Fund external funding to support the visitor economy has now been successfully announced by the Chancellor, which confirms £5.5M towards this project.
- 7.6 The total project investment cost is circa £8.3M. £1M of this will be funded by HQ Theatres and through the successful Levelling Up Fund bid for £5.5M means the remaining sum for the Council to fund is now £1.8M. This would incur annual financing costs of circa £0.125M, which is not accounted for in the Council's current MTFP.
- 7.7 Until the amount of borrowing and the lease negotiations are determined, it is not possible at this stage to say how far the new lease arrangement would offset these additional capital investment financing costs for the Council and the lost revenue stream under the current service contract. It should also be noted that some of the overall investment would be the Council's responsibility for maintaining the asset and would need to be factored into the Capital Investment Programme accordingly at some future point without this proposed project.
- 7.8 Members are asked to note and consider in making their decision that the Council's current MTFP as agreed at Budget Council in February 2021 has a budget gap of £20.7M. Since then, this has been reviewed in light of various announcements, review of areas in the MTFP and awaiting the full details of the Comprehensive Spending Review, which are all expected to increase the current four-year budget gap. Any additions for financing costs (net of the new lease arrangement) arising from the above proposal are yet to be factored into the MTFP but will clearly increase the budget gap further and will need to be factored into the budget setting for 2022/23.

8. Legal Implications

- 8.1 The proposal is that the Council will retain ownership of the freehold land and the lease will grant HQ Theatres a leasehold interest in the land for a period of years that will be considered as part of the negotiations.
- 8.2 The Council will engage external legal support to support lease negotiations and with regards terminating the current agreement and the commencement of the lease.

8.3 Consideration will be given to rights to renew the lease under the Landlord and Tenant Act 1954 which will have an impact on value and form part of the negotiations.

8.4 The external legal advisors will be requested to provide a final report on the transaction that will consider and respond to any concerns raised by the Council and the Council's other advisors.

9. People Implications

9.1 There are no People Implications within this report.

10. Property Implications

10.1 The Cliffs Pavilion remains a Council asset and its value would increase resulting from the capital investment. The project would allow enhancements to the building that reduce the likelihood of urgent works being required.

11. Consultation

11.1 Pre-planning advice was undertaken to understand any considerations to factor in for design. Full planning was registered in July and is to be determined in November Development Control Committee.

12. Equalities and Diversity Implications

12.1 The building is already fully compliant with Equality Act requirements, the new areas would be subject to accessibility legislation. The Theatre's programme includes a variety of inclusive performances which can be viewed on https://southendtheatres.org.uk/Online/accessible?menu_id=E5A65AE5-4370-400F-8450-DDCA0470C046. HQ Theatres are involved in a project called 'Theatres for Everyone' which addresses accessibility for customers and employees. The theatre promotes disability training regularly for all its staff.

13. Risk Assessment Implications

13.1 There are no Risk Assessment Implications within this report.

14. Value for Money

14.1 A framework has been agreed with Procurement to select from approved suppliers that are also in line with HQ Theatres' requirements. In addition, of the total cost of £8.3m, £6.5m will now come from external sources. In addition, there will be a revised lease agreement on the back of this investment which will improve the Council's revenue income stream with the intention of this at least

offsetting the capital financing costs for the Council's £1.8m investment and the current revenue income stream under the service contract.

15. Community Safety Implications

15.1 There are no Community Safety Implications within this report.

16. Environmental Impact

16.1 An environmental assessment will form part of the planning process for the works.

17. Background Papers

17.1 There are no background papers to this report.

18. Appendices

18.1 **Appendix A - Economic Impact study**