

CABINET

8 April 2014

Title: The Broadway Theatre - Proposed New Management Arrangements	
Report of the Leader of the Council	
Open Report	For Decision
Wards Affected: Abbey	Key Decision: Yes
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Accountable Divisional Director: Paul Hogan, Divisional Director of Culture and Sport	
Accountable Director: Anne Bristow, Corporate Director of Adult and Community Services	
Summary: A new opportunity has arisen for a different approach to the current management arrangement for the Broadway, which would see the development of a partnership to transform young people's opportunities for progression including improved employment prospects in the creative industries and a new cultural offer for Barking and Dagenham. To enable a fully worked up proposal to be developed this report seeks 'in principle' approval to lease The Broadway theatre to the Barking and Dagenham College on a commercial rent and full repairing basis, which would mean that the Council would no longer revenue fund the venue. To enable Members to make an informed decision about this matter, a further report will be presented to Cabinet to formally assign the lease once there is clarity on the financial implications, issues, options and risks that are set out in the report.	
Recommendation(s) The Cabinet is asked to: (i) Agree in principle to lease The Broadway theatre to Barking and Dagenham College on a commercial rent and full repairing base; and (ii) Note that a further report will be presented to Cabinet to seek approval to formally assign the lease, which may include a variation of the terms of rental.	
Reason(s) The proposal is intended to assist the Council in making better use of its resources and assets. Through its performance and participatory activity programmes, the Broadway provides positive cultural and employment related activities for young people as well as	

opportunities for social interaction, improving physical and emotional health, lifelong learning for work, and volunteering for the wider community.

In doing so the venue contributes to the achievement of a number of Council and community priorities:

- As a base for the College's Performing Arts and Technical Theatre department and through the venue's participatory programmes, the Broadway is helping to *Ensure every child is valued so they can succeed*;
- By supporting older people to be active and healthy the Broadway is helping to *Improve health and well being through all stages in life*; and
- The development of the creative industries is recognised as a priority in the Borough's regeneration strategy and so the venue is helping to *Maximise growth opportunities and increase the household income of Borough residents*.

1. Introduction and Background

The Broadway theatre

- 1.1 The Broadway was originally the Barking Assembly Hall, designed in the 1930s as an extension to the Barking Town Hall and completed in 1962. It was used sporadically for a variety of events ranging from ballet to boxing.
- 1.2 In 2003, following capital investment by Barking and Dagenham College and the Council, the Broadway opened its doors as a professional theatre and home to the College's Department of Performing Arts and Technical Theatre.

Facilities

- 1.3 The venue has the following facilities:
 - an auditorium with flexible seating that can seat up to 341 or up to 850 for a standing event.
 - an attractive foyer area that is used for informal performances, social events and corporate hospitality.
 - high quality work spaces for Barking and Dagenham College Performing Arts and Technical Theatre Department, including music studio, media suite, dance studio and two rehearsal rooms.
 - café, bar and box office.

Programme

- 1.4 The Broadway theatre is the principal performing arts venue in the area and a cornerstone of the cultural offer in the Borough.
- 1.5 The main areas of current activity are as follows:
 - Providing a popular performance programme – developing new audiences for professional theatre, comedy and dance that are entertainment based, accessible in both content and price, with a focus on attracting greater numbers of families and members of diverse communities.

- Participation/education programme – the Broadway Youth Theatre, professional work for and with schools, including workshops and residencies, partnerships with other local arts groups, schools networks and placements for young people.
- Home to the Barking and Dagenham College School of Performing Arts and Technical Theatre, where young adults are trained for employment in the creative industries in a real and commercial learning environment.
- Hiring out – the venue is hired out to other arts organisations and for social events and meetings.

1.6 In 2012/13 the venue presented a total of 187 performances and events which attracted a total audience of 27,282. It is estimated that this will increase to c30,000 for 2013/14.

1.7 Further information on the Broadway programme can be found on the theatre's website: www.thebroadwaybarking.com.

Governance arrangements

1.8 In 2003, the Council entered into a twenty year facility management agreement with the Barking and Dagenham College for the operation of the theatre and established a new company with limited liability and charitable status (The Broadway Theatre Company Ltd.) to manage the venue on a day to day basis.

1.9 The College invested £1.8 million to renovate the theatre and makes an annual contribution of £100,000 towards running costs. In return they are guaranteed exclusive use of the theatre's facilities for about three days each week so that their students can gain experience in a real work training environment. It is not possible to programme the theatre for professional or community use during these times.

1.10 There are no break clauses in the Facility Management Agreement, which also sets out that if the Council were to terminate the agreement with the College then a repayment of their capital investment would fall due but which reduces on a sliding scale over the life of the agreement.

1.11 If, for example, the Facility Management Agreement was terminated by the Council in 2014 (the eleventh year of the agreement) then the payment to the College would be £618,000.

1.12 The Council and College subsequently decided to wind up the Broadway theatre company and the venue was brought 'in house' by the Council in July 2012, which is the current management arrangement.

1.13 The terms and conditions set out in the Facilities Management Agreement remain in place and are legally binding. When the venue came back 'in house', the College's use of space at the Broadway was formalised via a lease for those areas of the building that are solely used by them and through a licence for those areas that are shared with the Council. Both the lease and licence are co-terminus with the end of the original Facilities Management Agreement in 2023.

2.0 Proposals and issues

Proposal

- 2.1 A new opportunity has arisen for a different approach to the current management arrangement for the Broadway, which would see the development of a partnership to transform young people's opportunities for progression including improved employment prospects in the creative industries and a new cultural offer for Barking and Dagenham.
- 2.2 It is proposed that the Council, College and the Barbican Guildhall London establish a new role for the Broadway Theatre. As a vibrant local arts venue that will serve communities of all ages and as a centre for creative learning that will enable more young people to have the best opportunities to work alongside industry professionals, as part of their progression into vocational training, higher education and employment.
- 2.3 Barking and Dagenham has found a major cultural and higher education institution that can be a catalyst for creative industries led growth, connecting the creative industries sector in the city, out through east London and beyond. With the engagement and encouragement of the Barbican Guildhall, the Broadway can be re-imagined and its role further developed to become an industry hub for production, professional training and creative learning, dedicated to inspiring a new generation of young people who would otherwise think working in the creative industries is not for them.
- 2.4 The proposal is that the Council transfers the Broadway building to the College via a lease. The College will then provide Barbican Guildhall with a long term residency in the theatre as their base of operation in east London.
- 2.5 With support from the Council and other partners, the College and Barbican Guildhall will devise a creative learning programme and an inclusive arts programme that together will form a new cultural offer for communities in Barking and Dagenham and become a vital hub for the development of the creative industries sector.

Benefits

- 2.6 If realised, it is considered that this proposal will provide the following benefits to the Council:
 - An ongoing revenue saving of c£250,000 (but this would reduce if any borrowing costs are incurred in relation to condition survey related works that may be required).
 - The future of the Broadway as the Borough's only dedicated performing arts venue would be secured.
 - Opportunities for local young people to gain skills and employment in the creative industries would be greatly enhanced. This will also support the development of the creative industries hub centred at the Ice House Cultural Quarter in Barking.

- The range and quality of the venue's professional and community programme would be improved through a partnership relationship with the Barbican Guildhall.

2.7 However, this proposal will not be a straightforward matter to implement and its success or failure is predicated on commitment and delivery by partner organisations, which may not be forthcoming in the way that is envisaged or to the anticipated timescale.

Issues

- 2.8 Given their previous significant capital investment, the College may seek a rent subsidy to offset any rent payment. Any rent subsidy that may be provided will be reviewed on a regular basis in line with the normal Council arrangements. When, in due course, Members come to review the merits of this proposal, any such subsidy will need to be factored into the evaluation process.
- 2.9 It is proposed that the lease will be for a term of nine years (to 2023) which would be co-terminus with the end of the existing Broadway Facility Management Agreement between the Council and the College.
- 2.10 Prior to entering into a lease with the College, it may be necessary for the Council to undertake capital investment to the structure, mechanical and electrical installations and building fabric.
- 2.11 A condition survey has been commissioned to confirm what may be required in this respect; however, given that the Broadway shares its key mechanical and electrical plant and equipment with the Barking Town Hall and that there has been a range of improvement works already undertaken by the Council over the past 18 months, it is considered that any investment that may be required will primarily relate to the fabric of the building
- 2.12 Any borrowing costs associated with investment to the venue will also need to be considered as part of the final evaluation process on the merits of the proposal and netted off against the expected revenue saving.
- 2.13 At this time, Members are only being asked for 'in principle' support for this proposal so that it can be fully worked up for consideration at a future meeting of the Cabinet.
- 2.14 It is proposed that in line with the advice received from the Property Advisory Group (set out below), a 'soft' market testing exercise will be undertaken so that a full options appraisal can be provided to Members to enable an informed decision to be made on what is the best way forward for the Council.

3.0 Consultation

- 3.1 The Chief Executive initiated a series of meetings with senior officers from Barbican Guildhall, Barking and Dagenham College, A New Direction, and the High House Production Park which has informed the development of this proposal.
- 3.2 This opportunity has also been considered by the Council's Property Advisory Group (13/02/14). The advice from the Group was threefold:

- the Broadway plays a crucially important role in supporting the regeneration of the Barking town centre and so the professional and community elements of the venue's programme should be protected in any new management arrangement for the venue.
- it would be helpful if a 'soft' market testing exercise is undertaken so that Cabinet can consider all available options for the Broadway
- this issue should be considered as part of the wider 2015/16 budget discussions rather than in isolation.

4.0 Financial implications

Financial implications completed by: Roger Hampson, Group Manager – Finance

- 4.1 The net controllable budget for the Broadway for 2013/14 is £361,400,
- 4.2 The Council's revenue expenditure on the Broadway has been reduced significantly in recent years:
- 2011/12 - £100,000
 - 2012/13 - £65,000
 - 2013/14 - £100,000
 - 2014/15 - £49,000 (budgeted for)
- 4.3 The Broadway budget also includes expenditure on arts projects such as the match funding for the Creative People and Places programme. When this expenditure and the budgeted saving for 2014/15 is taken into account, it is estimated that the full year saving to the Council, if this proposal is implemented, would be c£250,000.
- 4.4 This assumes that the Council incurs no further revenue expenditure on the operation or management of the venue and that all such costs are met by the College. Also any saving will need to be netted off against borrowing costs associated with funding condition survey works that may be required.

5.0 Legal Implications

Implications completed by: Jason Ofosu, Acting Senior Property Lawyer

- 5.1 This report seeks 'in principle' support to grant a lease of nine years for a commercial rent to the Barking and Dagenham College with the Council retaining the freehold interest.
- 5.2 The Council and College will agree heads of terms for the leasing arrangements.
- 5.3 Section 123 Local Government Act 1972 and the Council's Land Disposal rules require land to be disposed of at market value. The Council has a general power of competence under section 1 of the Localism Act, although as always its application of these powers must be carefully considered and appropriate to the relevant circumstances. Section 1 of the Localism Act allows the Council "to do anything that individuals generally may do". Therefore the Council could decide the rent does not have to be market value since the lease holder is acting for the benefit of the Council, its area or persons' resident or present in the area.

5.4 Any lease that may be agreed should be a full repairing and insuring lease so that the Council does not bear the cost of repair and maintenance of the Property. The Legal Practice should be consulted on the preparation and completion of the lease.

6. Other Implications

6.1 **Risk Management** A number of key risks and issues have been identified which require clarification before it will be possible for Members to make an informed decision about the merits of this proposal:

- The College will not make a formal decision on whether to pursue this opportunity until April 2014 and so the proposed transfer of responsibility of all revenue costs associated with the operation of the Broadway to the College has not been confirmed.
- At this time it is unclear what the College's proposed governance arrangements will be for the Broadway and how the Council can ensure that it retains an appropriate level of influence in relation to service development and delivery.
- A lease could hamper any future development of the Broadway site by the Council, if this were to be considered appropriate. To mitigate against this it will be important to carefully consider the options for break clauses over the term of the lease.
- There has as yet been no clarity provided by the Barbican Guildhall on the 'offer' they will be providing to support the development of the quality and range of Broadway programme and over what period.
- There is a risk that in becoming a 'learning centre' the Broadway could be predominantly student focussed to the detriment of the professional and community performance programme, which is valued by the Council. To mitigate against this, it is recommended that any rent subsidy that may be provided will be made conditional on the quality, range and accessibility of the venue's programme.
- Until the condition survey has been produced, it is unclear what investment may be required to the structure, mechanical and electrical installations and fabric of the building.
- The extent to which the new management arrangement will impact on the ability to lever in funding for the Broadway from Arts Council England (ACE) is unclear. However, it is considered unlikely that ACE will fund a 'learning centre' arrangement.

6.2 This report to Cabinet seeks 'in principle' approval to investigate this proposal in more detail and will be subject to a further report to Cabinet, which will provide a full options appraisal and include the key terms and conditions of the lease.

6.3 This timescale will also allow this issue to be considered as part of the wider 2015/16 budget discussions rather than in isolation.

6.4 **Contractual issues** – The legal implications section sets out the Council's powers in relation to this matter. Legal Services will be fully consulted and will prepare all the necessary legal documentation.

- 6.5 **Staffing issues** – if Cabinet ultimately agrees to a long term lease then it is expected that the five Council posts working at the Broadway will transfer to the College in line with TUPE legislation.
- 6.6 Staff have been briefed around the implications of the specific proposals set out in this report. Following a final decision by Cabinet on this matter, formal consultation will start in line with the Council's change management policies. Comments from staff and Trade Unions will be taken into account in the final decision making process.
- 6.7 **Customer impact** - It is expected that, if implemented, this proposal would see a greater focus on provision for young people. It will be important to ensure that the accessibility and attractiveness of the venue's professional performance programme for the current customer base and the commitment to provide opportunities for local people and groups to participate in the arts is maintained.
- 6.8 **Crime and Disorder Issues** - The Council has a statutory duty to consider crime and disorder implications in all its decision making. It is expected that the Broadway will continue to provide a wide range of activities and quality facilities, which will provide positive activities for all residents.
- 6.9 **Safeguarding Vulnerable Adults and Children** - It will be a condition of use that the College has appropriate safeguarding procedures in place.
- 6.10 **Property/Asset issues** – it is intended that the terms of the lease will require the College as lease holder to repair, maintain and insure the facilities at the Broadway.

Public Background Papers Used in the Preparation of the Report:

None

List of appendices:

None