

CABINET

29 June 2005

DEVELOPMENTS AT THEATRE ROYAL WINCHESTER

REPORT OF DIRECTOR OF DEVELOPMENT

Contact Officer: Head of Cultural Services Eloise Appleby Tel No: 01962 848181, E-mail: eappleby@[winchester.gov.uk](mailto:eappleby@winchester.gov.uk)

RECENT REFERENCES: None

EXECUTIVE SUMMARY:

Since reopening in 2001, Theatre Royal Winchester has steadily developed its programme of artistic performances and outreach activities, establishing itself as a focal point for cultural and community life in the District. This paper draws together a number of important changes, both operational and legal, for the attention of Members. These relate to the management of Winchester Rural Youth Theatres and dance scheme; the transfer of responsibilities for the theatre freehold and associated leases, and a modest increase in revenue funding for 2005/06 to be accommodated within existing budgets.

The report also outlines a proposal to transfer the City Council's freehold interest in the Jewry Street car park electricity sub station, used by the theatre, to the County Council as a part of the cultural centre development.

RECOMMENDATIONS:

- 1 That the new arrangements for the management of both Winchester Rural Youth Theatres and the youth dance scheme by the Theatre Royal Winchester be confirmed;
- 2 That the Director of Development in consultation with the City Secretary and Solicitor be authorised to finalise the legal arrangements relating to the transfer of legal liabilities from Winchester Theatre Fund to Winchester Arts Trust Limited as outlined in paragraph 4;
- 3 That the Director of Development in consultation with the City Secretary and Solicitor

be authorised to finalise the arrangements for transfer to Hampshire County Council of the freehold of land under the Jewry Street electricity sub station as outlined in paragraph 4, and

- 4 That the 2.5% increase of the City Council's grant to Theatre Royal Winchester be approved on the terms outlined in paragraph 5.

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DETAIL:

1 Introduction

- 1.1 Theatre Royal Winchester was reopened in October 2001 following a major refurbishment which drew £3 million investment into Winchester from private and public sector alike. It now provides a first class middle-scale touring venue for the District and is supported on an ongoing basis by Winchester City Council and Hampshire County Council in partnership with Arts Council England.
- 1.2 The theatre has re-established itself as a focal point of Winchester life, with a range of performances and outreach activities that aim to cater for a broad cross-section of local residents. There is continued, steady growth in audiences from the rural areas outside the city in line with overall growth of 63% in the mailing list between April 2003 and April 2005. The ongoing development of a finely-balanced artistic programme is being complemented by an expanding role in the wider cultural and social life of the District, and the arrival in post of a new Chief Executive last November has given rise to additional opportunities and new partnerships.
- 1.3 During 2004 the Theatre Royal Winchester drew almost 64,300 attendances (an increase of 18% on 2003) to over 200 performances. Average audience capacity in 2004 was 68%, with 100% capacity for the youth theatre, street dance and contemporary dance classes. The theatre worked in 37 schools, and 22% of its audience was under the age of 16. It also won the Winchester Business Excellence Dutton Gregory Award 2004 for its education programme which includes schools residencies, after-school drama and dance provision, participation in school arts weeks, tailored workshops, a Royal Shakespeare Company directing workshop for teachers and schools performances at the theatre itself. Plans for 2005 aim to build on this impressive performance, with more outreach work – particularly aimed at young people – and the theatre's first in-house Christmas production.
- 1.4 Alongside these operational developments there are also a few important legal arrangements to be approved in order to provide the theatre with the firm foundation it merits.
- 1.5 This paper brings to the attention of Members a number of significant changes, operational, legal and financial, which will support and further enhance the multi-faceted role now played by Winchester Theatre Royal within our community.

2 Winchester Rural Youth Theatres

- 2.1 Winchester Rural Youth Theatres (WRYT) provides weekly Youth Theatre sessions and events for 60 young people aged 8 to 18 living in Winchester's rural communities. It has been managed by Winchester City Council since the original charitable project came to an end in 2002. In 2003, the part time post of WRYT

project officer was added to the City Council's establishment to lead the initiative. This was always hoped to be a temporary measure until a new external partner could be found.

- 2.2 In 2004 the post became vacant and discussions began with the management of Theatre Royal Winchester regarding their possible involvement in the project, as was stated in the Community Services performance monitoring report to the Community, Arts and Social Performance Improvement Committee in January 2005 (CAS33 refers). The theatre has always sought to extend its activities into rural areas and has developed a strong education programme, frequently involving schools and youth groups from across the District. Under the management of the Theatre Royal, WRYT members will benefit from access to professional performers and the opportunity to visit and be visited by professional companies. They will also have access to a 'ladder' of progression to take them from local recreational performance-based activity on to regional or national showcases and competitions and even vocational courses and careers in the performing arts.
- 2.3 These discussions reached a successful conclusion, so after consultation with the Portfolio Holder for Culture, Heritage and Sport the existing budget for the project (£10,000) was redirected to the theatre in the form of a ring-fenced addition to their revenue grant, supported by a two-year service level agreement between Winchester City Council and Theatre Royal Winchester (to be found at Appendix 2). This requires the theatre to:
- pursue the original aims of WRYT;
 - create performance opportunities for young people in rural communities, and
 - seek to build membership and explore the potential for starting additional groups (beginning with Bishop's Waltham or Wickham).
- 2.4 Progress will be evaluated through the regular performance monitoring meetings which take place between City Council (including the Portfolio Holder for Culture, Heritage and Sport) and the theatre management and board.
- 2.5 The new arrangement is a good example of a partnership which benefits all concerned. The City Council reduces its management overheads whilst the Theatre Royal gains a properly funded service which fits well with its other activities. The arrangement will sustain and develop an important service of particular interest to rural areas. Cabinet is asked to confirm the transfer, which took effect from 1st April 2005.

3 Winchester Youth Dance

- 3.1 Alongside the WRYT developments, two youth dance groups have been established in the District which were commissioned from the Hampshire Dance Trust. The two groups, based in Swanmore and Stanmore, have been well subscribed with a total of 26 members. The members have developed skills and performed at large group showcase events in Andover and at Theatre Royal Winchester. The Hampshire Dance Trust contract expired this year, and, in order to continue the two groups the transfer of these groups to the WRYT portfolio under the management of Theatre Royal Winchester was also agreed.

- 3.2 It is anticipated that the theatre link will create further impact and encourage membership, as well as enabling the establishment of additional groups. The service level agreement for WRYT includes arrangements for the dance groups, with a requirement for at least one new group to be established within the two years of its duration.

4 Legal Arrangements – Theatre Premises

- 4.1 The trustees of Winchester Theatre Fund own the freehold of the Theatre Royal building and most of the land on which it stands. Following the successful refurbishment of the building and on the recommendation of Arts Council England, a new charitable company limited by guarantee was established two years ago to take over the assets and duties of the Fund. The new charity - known as Winchester Arts Trust Limited (WATL) - aims to preserve the theatre for its current usage for perpetuity. The City Council was closely involved in these discussions and the new arrangements.
- 4.2 At present, the Winchester Theatre Fund trustees are held to be personally liable for the maintenance of the theatre. By transferring their responsibilities to WATL this liability would come to an end. However, as WATL is a company limited by guarantee, there is a theoretical increase in the risk to the City Council (and other funding bodies) for proper preservation of the building in the event that WATL is unable to fulfil its commitments, but only if the City Council should choose to take that responsibility. The new arrangement is not only common practice, however, but also deals with the continuing need to attract people to take on the role of charitable trustee. In modern arrangements it is normal practice for larger charities to be constituted as companies limited by guarantee so that the liability of the directors as trustees (in the absence of any malpractice) is limited to the funds of the charity itself.
- 4.3 WATL's main activity is to maintain to a high standard the fabric of the building and to ensure the operation runs successfully in accordance with conditions laid down by Arts Council England (ACE). To this end it has in place a thorough ten year maintenance plan (dated June 2004) which was prepared by independent consultants (including quantity surveyors and M&E specialists). Within the lease between the Theatre Fund trustees and the operating company Live Theatre Winchester Trust (LTWT) there is also a covenant detailing the trustees' obligations for maintenance and repair of the exterior of the building and LTWT's obligations for routine interior maintenance and repair.
- 4.4 In order for Winchester Theatre Fund to transfer its responsibilities and officially cease to exist a number of legal arrangements need to be made with Arts Council England and, before that, with the City Council.
- 4.5 As a result of a City Council loan to the Theatre Fund in 1985, the freehold of the theatre cannot be transferred without the City Council's consent. The transfer is essential to the long term interests of the theatre and does no harm to the City Council's interests. Cabinet is therefore asked to authorise a transfer of the freehold of the Theatre Royal building from Winchester Theatre Fund to WATL, and to release from liability the existing Winchester Theatre Fund trustees on the basis that the new company (WATL) enters into a covenant to observe the terms of the original mortgage.
- 4.6 In addition, the City Council leases two areas of land to the trustees of Winchester Theatre Fund. These are

a) the site of the fly tower, and

b) the site of the surface electricity sub station (which was specially built to meet the needs of the theatre) situated in the Jewry Street car park. The City Council receives £2,000 per annum rent from the theatre under this lease. The theatre sub leases the site to Southern Electric (now SSE) and the lease has twenty years to run.

New arrangements are proposed for both of these, as follows:

- 4.7 ***the site of the fly tower***: this lease includes an absolute prohibition against assignment. In order for the lease of the fly tower to be assigned by the Winchester Theatre Fund trustees to WATL, Cabinet is asked to authorise the Director of Development in consultation with the City Solicitor and Secretary, to
- i. vary the lease to enable the assignment to take place, and
 - ii. give the trustees of Winchester Theatre Fund a licence to assign the lease to WATL.
- 4.8 ***the site of the electricity sub station***: there have been discussions in recent weeks between officers of Hampshire County Council, Winchester City Council and SSE regarding plans for more intensive use of the surface sub station in the Jewry Street car park. This would follow the decommissioning of the underground sub station nearby as a result of the cultural centre building project. SSE is unwilling to accept the changes that need to be made in the way power is supplied to the cultural centre unless they have a 99 year lease on the site for their sub station. As the City Council will have no direct interest in the sub station (which provides no power to our facilities but does provide power to the theatre and, probably, to the cultural centre), the County Council proposes that the freehold of the land on which the sub station sits be transferred to them so that they can lease the land to SSE directly at a peppercorn rent. This is a simple and straightforward arrangement which may save legal costs in the future. The County Council will then make the necessary legal arrangements with SSE and Winchester Theatre Fund in relation to the sub station.
- 4.9 As a result of this transfer, Winchester City Council would no longer receive the annual income of £2,000 from the theatre in respect of the loss of income for the parking spaces on which the surface sub station is situated. By way of compensation for this lost revenue, however, Hampshire County Council has agreed to take responsibility for the maintenance and repair of the exterior of the new public toilets planned as part of the cultural centre development. Whilst the City Council will continue to be liable for internal repairs and decorations it is considered that the new financial arrangement is satisfactory, particularly in the longer term when major repairs to the fabric of the building are taken into consideration. The Chief Estates Officer considers that the changed arrangement is marginally below "best consideration". However, the main transaction for the cultural centre with the County Council involved the City Council providing its land at nil consideration as a contribution towards the costs of the overall project, in addition to its capital contribution not exceeding £1m. Report CAB889 pointed out that the Local Government Act 1972 : General Disposal Consent (England) 2003 permitted the transaction at an under value. The City Council's investment is protected by a restrictive covenant requiring the continued use of its transferred land for cultural centre related purposes.

- 4.10 Although negotiations with the County Council are advancing well, there is no guarantee as to when they might be finalised. It is therefore proposed that – as a more direct provision in case of unforeseen delay - Cabinet also be asked to authorise the Director of Development in consultation with the City Solicitor and Secretary, to
- i. vary the sub station lease to enable assignment to take place, and
 - ii. give the trustees of Winchester Theatre Fund a licence to assign this lease to WATL
- 4.11 By assigning these leases the City Council will enable WATL to assume the full responsibilities of immediate landlord for the theatre.
- 4.12 It is furthermore proposed, in view of the strong partnership that exists between the theatre and the City Council that the Council's own legal costs in making these arrangements (estimated at £1,000) be met from existing budgets.

5 Revenue Funding for 2005/06

- 5.1 Hampshire County Council and Winchester City Council have an agreed joint approach to revenue funding for the theatre. The County Council has committed to maintain a 1:2 funding ratio based on the City Council's own contribution. At present this amounts to £100,000 from the County Council to £200,000 from the City Council. These amounts have not changed for three years.
- 5.2 After the City Council's 2005/06 budget had been agreed the County Council indicated that it intended to increase its revenue funding by £2,500 in 2005/06 if the City Council matched this according to the agreed 1:2 ratio. This equates to a contribution of £5,000 from the City Council, making a total joint increase in grant of £7,500. The level of local authority support also acts as a trigger for other external sources of funding, thereby providing potential added value to this amount. Whilst there is no provision for growth in this year's budget, the increase can be met by a virement from within existing budgets. The virement itself does not require Member approval as it is within delegated authority, but the increase in the grant does. As the County Council has indicated its willingness to increase funding to a local facility it would be a missed opportunity to benefit from this funding. The increase in the City Council's own grant to the Theatre Royal would amount to only 2.5% and does not set a precedent for any decisions in the future. Cabinet is asked to approve the increase, particularly in the light of the additional value it brings through the County Council contribution.

OTHER CONSIDERATIONS:

6 CORPORATE STRATEGY (RELEVANCE TO):

- 6.1 The theatre and the rural youth initiatives referred to in paragraphs 2 and 3 of this report are important in delivering three of the Council's corporate priorities for 2005/08:
- (3) Social Inclusion: to ensure that everyone can play a full part in the life of their community by taking our services and those of other agencies to all our communities;

(5) Economic Prosperity: to achieve a strong and diverse urban and rural economy which builds on local strengths and offers opportunities for all [, we will...support the local economic strengths including tourism and creative industries], and

(6) Cultural and Leisure Opportunities: to increase access to cultural and sporting activities by investing in projects and partnerships which will provide for the leisure, sporting and cultural interests of young people.

7 RESOURCE IMPLICATIONS:

- 7.1 **WRYT and rural dance:** WRYT received revenue grant support of £7,500 prior to being taken into City Council management. Costs of this order have continued over the last two years, consisting largely of the project officer's salary along with small subsidies when necessary.
- 7.2 £2,500 has been paid from the arts development budget for the past two years to commission the dance development work in the District.
- 7.3 The total sum of £10,000 has therefore been identified from existing budgets to fund Theatre Royal Winchester's management of both schemes. This commitment has triggered additional funding from Hampshire County Council of £4,000 towards the continuation and development of WRYT.
- 7.4 **Legal arrangements:** the suggestion is that the City Council's legal costs relating to the reassignment of leases as outlined in paragraph 4 be met from existing budgets. The total is estimated at £1,000.
- 7.5 In addition, there is a theoretical increase in the level of risk to the City Council for the long term preservation of the theatre building, as outlined in paragraph 4.2
- 7.6 The transfer of the sub station freehold to Hampshire County Council will result in a loss of £2,000 in rental from Theatre Royal Winchester to the City Council car park budget, but this will be partly offset by the commitment by Hampshire County Council to maintain the exterior of the new public toilets in Jewry Street.
- 7.4 **Revenue funding:** the City Council grant for Winchester Theatre Royal was set at £200,000. As a result of the proposed increase of £5,000 and redirection of the existing budget of £10,000 directly relating to the youth theatre and rural dance schemes, the total grant for 2005/06 will be £215,000.

8 RISK MANAGEMENT

- 8.1 Exempt Appendix 3 gives a summary of risk management issues arising from this paper.

BACKGROUND DOCUMENTS:

PER 61 Report of the Chief Personnel Officer 2003

Winchester District Arts Strategy 2001 – 2004

(2005 – 2008 draft available from Arts Development Officer)

APPENDICES:

Appendix 1: Winchester Theatre Fund Trustees Report and Annual Financial Statements for the year ended 30th April 2004

Appendix 2: Service level agreement for Winchester Rural Youth Theatres and rural dance scheme

Appendix 3: Financial Assessment of Winchester Theatre Fund's Position (Exempt)