

Cabinet

19 November 2024

The Brook Theatre Refurbishment Principal Contractor Procurement

Portfolio Holder: Councillor Nina Gurung, Portfolio Holder for Heritage, Culture and Leisure

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Summary

This report seeks permission to commence with the award of the contract for the Principal Contractor for the refurbishment of The Brook Theatre.

1. Recommendations

1.1. Subject to the Ministry of Housing, Communities and Local Government (MHCLG) agreement to extend the funding period (as set out in sections 9.7 to 9.10. of this report), it is recommended that the Cabinet agrees to award the contract for the refurbishment of The Brook Theatre to Thomas Sinden Ltd. for the sum of £10,801,760.01 understanding that they have adequately priced and passed the tender process which is within the allocated budget figure.

2. Suggested reasons for decision(s)

2.1. Officers are recommending the above following an Open Tender procedure as agreed in the Gateway 1 and carrying out a full and comprehensive evaluation process of bids.

2.2. The refurbishment of The Brook Theatre aligns to the One Medway Council Plan

3. Budget and policy framework

3.1. The refurbishment of The Brook Theatre aligns to the One Medway Council Plan specifically:

3.1.1. Priority 1: Delivering quality social care and community services
Sub-priority:

- Support people of all ages to live the most happy, healthy, independent life possible, utilising assistive technologies
- Provide creative, cultural and community services and facilities across Medway that everyone can access and benefit from
- Support all adults, including those living with disability or physical or mental illness to live independently and stay safe
- People in Medway live independent and fulfilled lives into an active older age

3.1.2. Priority 2: Benefitting from good education, quality jobs and a growing economy

Sub-priority:

- Develop Medway's reputation as a home for creative, cultural, and green industries to support a growing economy, maximising our national recognition as a Priority Place for culture and heritage
- Support the growth and diversification of business in our town centres, reflecting the importance of placemaking and regeneration.

3.1.3 Priority 3: Enjoying clean, green, safe, and connected communities

Sub-priority:

- Create child-friendly communities which ensure all people in Medway will feel safe and live free from harm and abuse
- Celebrating the individuality of all parts of the Medway community, ensuring services, events and activities reflect and support the diverse communities of Medway

3.1.4 Priority 4: Improving health and wellbeing for all

Sub-priority:

- Empowering people to achieve good health and wellbeing through prevention, with access to local activities and services that will enable and support them to lead independent, active and healthy lifestyles
- Support families to give their children the best start in life
- Work collaboratively to grow participation year on year in recreational play, sport and physical activity as a means of promoting improved physical and mental health and wellbeing
- Work in partnership with communities and organisations to address the issues that negatively affect health and wellbeing, making sure everyone has the opportunity to live long, healthy lives.

3.2. The project aligns with several strategies and policies including:

- Medway Procurement Strategy and Social Value Policy
- Creative Medway Cultural Strategy
- Medway 2040 Regeneration and Economic Development Strategy
- Medway Town Centres Strategy
- Medway Skills and Employment Plan

3.3. The Council secured £9.49m Future High Street Fund (FHSF) for Chatham, of which £300,000 is allocated to the Brook Theatre, to improve the functionality

and accessibility of the space and support the development of Chatham's creative sector.

- 3.4. The Council secured £14.4m Levelling Up Fund (LUF) round 1 for a package of interventions including the Fitted Rigging House South and Docking Station being delivered by the Chatham Historic Dockyard Trust and University of Kent respectively. £6.5 million LUF is allocated to deliver improvements to the Brook Theatre building, focussing on the refurbishment of performance and training areas, improving the accessibility of the building, and enhancing and modernising the digital offer.
- 3.5. In November 2022, the Council agreed £250,000 from reserves to fund a series of investigative surveys, which were recommended following an initial structural survey of the building, which revealed structural issues unrelated to the agreed works funded through the FHSF and LUF.
- 3.6. In response to the outcome of the surveys, the Council approved the addition of £14.7m to the Capital Programme on 20 July 2023 to fund the necessary structural works. The full scope of works includes structural works, a complete package of accessibility and digital improvements, an update of the building to current regulations and enabling the utilisation of the full capacity and potential of the space. In addition the works would address the lack of funding and maintenance of the building over the years and considerably lengthen the operational life of the asset.

4. Background

- 4.1. Formerly Chatham Town Hall, what is now known as The Brook Theatre, was designed by George Edward Bond in the Renaissance style and opened on 23 January 1900 by Lord Rosebery. The town hall served as the headquarters of Chatham Borough Council but ceased to be the local seat of government and became the Medway Arts Centre in May 1987 and went on to become the Brook Theatre in April 1997.
- 4.2. The Brook Theatre has been a hive of entertainment, activity and learning for decades. Its stunning Victorian architecture provides an unforgettable backdrop for professional theatre and community productions, Medway Comedy Club, jazz and folk evenings, dance performances and Studio Showcase evenings and its famous children's Christmas show.
- 4.3. The Brook Theatre is a distinct offer from that of the Central Theatre. The Central is a commercial venue with a single 996-seater theatre for touring productions. The Brook is a multi-space venue where performances and shows are created. It provides two performance spaces (400 & 100-seater), multiple dance and theatre rehearsal rooms, workshops for building and making sets alongside props and costumes, multiple serviced offices and meeting spaces for businesses and community organisations.
- 4.4. The Brook Theatre has a rich history that is key to Medway's heritage and over the years has been repurposed to adapt to changing demands in a

modern city.

- 4.5. The new Brook Theatre will create an inclusive and accessible city centre destination offering a public programme of performances and workshops inside and out, bringing together new residential riverside living; alongside animated public space filled with markets, events and public art and exciting food and social experiences.
- 4.6. The Brook Theatre has the ability to fuel the renaissance of Chatham's daytime and evening economy with clubs, classes, and professional programme, encouraging residents and visitors to spend more time in the city centre, supporting business and jobs across the hospitality sector and positively impacting on the retail sector.

5. Advice and analysis

- 5.1. A 25/70/5 Price/Quality/Social Value split has been used allowing officers to set a number of quality questions around the skills, experience, knowledge and delivery process of this specialist heritage & theatre scheme and eliminating contractors not suitable in this type of works without a track record of success.
- 5.2. The following quality criteria has been used:

Question	Weighting (%)	Purpose
Programme and valuations including value engineering	10	Making sure they can achieve within the timescales and spend profiles
Health and Safety	10	Ensuring a safe working environment
Environmental impact	10	Ensuring a small carbon footprint and future proofing the building for years to come
Quality and experience of working heritage buildings	40	Ensuring appropriate level of skills, experience and knowledge skills
Price	25	Ensuring competitive price
Social value	5	Ensuring the contract meet the Social Value policy outcomes

- 5.3. The contractor will deliver the agreed sustainable environmental solutions including optimisation of space, improved heating and cooling systems for even greater carbon savings and a much greater step towards decarbonisation at the site and reduce the dependency upon natural gas.
- 5.4. Social Value is an important deliverable from Medway Council's procurement activities and as such, the Council has adopted the national Themes,

Outcomes and Measures from the Social Value Portal as the foundation for identifying and generating Social Value.

5.5. Appendix 1 to the report, outlines the social, economic and environmental measures and outcomes agreed by the recommended contractor that includes:

- Local employment
- Hours spent in schools and colleges delivering for example carers talks
- Number of ours dedicated to supporting young people with CV's and careers guidance
- Number of work placements that pay Real Living Wage for young people
- Opportunities for local micro and small businesses
- CO2 reduction & savings
- Reducing air pollution

5.6. Appendix 2 to the report, the Diversity Impact Assessment, outlines that awarding this contract is a significant step in the transformation of The Brook Theatre future proofing it as a beacon space for all Medway residents for the next 100 years. The new Brook Theatre will create an inclusive and accessible that can:

- Positively impact on all the protected characteristic groups
- Advance equality of opportunity for all of the protected characteristic groups
- Foster good relations between people who share a protected characteristic and those who don't

6. Risk management

6.1.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Unsuitable contractor	Contractor not having the right experience to carry out the works.	Very clear tender, Spec and drawings should eliminate this	C II
Delays to the programme	The need for more time to resolve issue by officers and consultants in order to get the scheme shovel ready	Full programme agreed with contract award including mobilisation stage	C II

External funding deadlines not met	The Levelling Up Fund £6.5m will require an extension to spend beyond the current deadline of 31 March 2025.	Initial discussions with the funder have taken place. The process requires a formal extension request with complete commitment from the Council, including Gateway 3 approval.	C II
Unidentified building risks	Due to the heritage status of the building there are likely to be aspects of the structural works and refurbishment that have yet to be identified	Any variance to this contract be agreed through the appropriate governance structures. The full agreed financial package remains available.	A III

For risk rating, please refer to the following table

Likelihood	Impact:
A Very likely	I Catastrophic
B Likely	II Major
C Unlikely	III Moderate
D Rare	IV Minor

7. Consultation

7.1. The capital additions request for £14.7million for the refurbishment of The Brook Theatre was agreed at [Cabinet on 11 July 2023](#) followed by Full Council agreement on [20 July 2023](#). Since the agreement further consultation has been carried out with relevant Cabinet Members:

- Councillors Mahil & Cllr Gurung, Portfolio Holders for Heritage, Culture and Leisure
- Councillor Edwards & Cllr Mahil, Portfolio Holders for Economic and Social Regeneration and Inward Investment
- Councillor Curry, Portfolio Holder for Climate Change and Strategic Regeneration

8. Climate change implications

8.1. Full Council declared a climate change emergency in [April 2019 - item 1038D](#) refers and has set a target for Medway to become carbon neutral by 2050.

- 8.2. The refurbishments and associated rearrangement and relocation of the proposed external plant equipment (by removal of the current systems) will allow for further rationalisation and optimisation of space to develop the lowest impact and most suitable environmental solutions for the building.
- 8.3. It will provide a much greater contribution to the Low-temperature hot water (LTHW) heating system, with a higher operating temperature range and at least four times the heating capacity of the current system.
- 8.4. The proposed new system will provide both heating and cooling for even greater carbon savings and a much greater step towards decarbonisation at the site and reduce the dependency upon natural gas.

9. Financial implications

- 9.1. The procurement requirement and its associated delivery is funded from Capital budgets as agreed by Full Council [on 20 July 2023](#) and external funding from Levelling Up and Future High Streets Funds.

Future High Street Fund Grant	£300,000
Levelling Up Fund Grant	£6,521,510
Contribution from Revenue	£100,000
Borrowing (unless external funding secured)	£14,700,000
Total	£21,621,510

- 9.2. Following a procurement exercise the bids for the construction contract have come in significantly lower than expected. This can be put down to the complexities of this heritage building and the unfamiliarity of the building to those bidding even though they attended many visits and over 80 clarifications were received.
- 9.3. Given The Brook theatre is a complex heritage building that has been underinvested in for a significant period there may be unidentified building risks. To minimise risk, it is recommended that the full agreed financial package for the refurbishment is retained as a risk allowance.
- 9.4. In the initial 3 month period as mobilisation and build phase begins, the Client, Build and Design Team and Principal Contractors will fully review Royal Institute of British Architects (RIBA) Stage 4 designs in situ, to ensure building risks and therefore financial risks are minimised.
- 9.5. During this period any potential variations in the contract will be assessed by the contract manager and if required, officers will step through the formal processes adhering to thresholds within the financial package.
- 9.6. If any variance in the main contract is required the appropriate governance processes will be followed.
- 9.7. The Levelling Up Fund £6.5M less the amount expended, will require an extension to spend beyond the current deadline of 31 March 2025. Initial

discussions with the funder, Ministry of Housing, Communities and Local Government (MHCLG), have taken place.

- 9.8. The process requires a formal extension request with complete commitment from the Council, including Gateway 3 approval. This would need to be submitted in order for the extension for the programme and spend beyond March 2025 to be approved. If the Council can demonstrate commitment to the project through Gateway 3 approval, risk of an extension not being granted and funding being lost, is low.
- 9.9. Precedent has been set for other projects under the same fund. The recommended mitigation is to proceed with Gateway 3 approval in order to demonstrate commitment to the project for MHCLG, to enable the extension and retain the funding.
- 9.10. The Regeneration Team will be leading on formal extension request for MHCLG.

10. Legal implications

- 10.1. This procurement activity was above the Find a Tender (FTS) threshold and therefore an FTS notice was required.
- 10.2. The procedure gives a high degree of confidence that the Council's primary objectives for procurement are met, as required by Rule 2.2 of the Council's Contract Procedure Rules ("the CPRs").
- 10.3. Under the Council's Contract Procedure Rules, the procurement is a Process 3 procurement (Rule 18), and the process set out in this report meets the requirements for such procurements. The procurement was advertised on the Kent Business Portal, in compliance with rule 18.4 of the CPRs.
- 10.4. Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.
- 10.5. The process described in this report complies with the Public Contracts Regulations 2015 and Medway Council's Contract Procedure Rules.
- 10.6. This report has been presented as a Key Decision, Process 4 high risk procurement, and therefore the Monitoring Officer, in consultation with the Procurement Board is referring final approval to the Cabinet.

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Appendices

Appendix 1 – Social, economic and environmental measures and outcomes

Appendix 2 – Diversity Impact Assessment

Exempt Appendix 1 – Tender Score Sheet

Background papers

[Capital Additions Request, The Brook Theatre Refurbishment and Structural Works - Council, 20 July 2023](#)