

Meeting: Culture and Leisure Sub-Committee

Date: 24 March 2020

Title: Operating Agreement for the Playhouse, Whitley Bay

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Cultural Services

Service: Environment Housing and Leisure

Wards affected: All

1. Purpose of Report

The purpose of this report is to provide Culture and Leisure Sub-Committee, with a summary of decisions taken by Cabinet relating to the Operating Agreement with SMG Europe (now ASM Global) for the continued delivery of services at the Playhouse, Whitley Bay.

2. Recommendations

The Sub-Committee is invited to note the information in the report.

3. Details

Background

As part of the Culture and Leisure Sub-Committee work programme 2018/19, Members agreed to carry out a review of the Operating Agreement with SMG Europe relating to the Playhouse, Whitley Bay, and specifically to consider the break point of the Agreement by either party prior to the deadline for notice to expire on the 31 December 2019.

The review of the Operating Agreement was to assess if the Authority and its residents were receiving the specified service and to gain a clearer understanding of the terms of the agreement and its operation. Non-executive Members were invited to be part of the sub-group, with six taking up the invitation. A series of evidence gathering meetings with officers of the Council and SMG Europe Holdings Ltd were then undertaken.

At its meeting on 29 January 2019 the Cabinet Member for Culture, Sport and Leisure advised the Sub-Committee that, following a discussion with the Deputy Mayor and Cabinet members, they agreed that contract decisions, such as that relating to SMG Europe and the Playhouse, should be a key decision for Cabinet. In relation to such decisions a new process had been agreed. Reports would be submitted to Cabinet following discussion at Strategic Property Group, where there were property implications associated with any contract arrangements. Consistent with wider contract considerations, Cabinet would also have the chance to consider issues relating to its policies on employment, environmental issues and community engagement.

3.2 Cabinet decision

At its meeting on 1 April 2019 Cabinet received a report setting out options in respect of the Operating Agreement with SMG Holdings Ltd, agreed in 2009, to run the facility at Playhouse, Whitley Bay.

Prior to discussing the report Cabinet resolved that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 2 of Schedule 12A of the Act, the press and public be excluded from the meeting on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act.

The Operating Agreement entered into was for a period of 15 years from 1 January 2009 to 31 December 2024. The Agreement contained an option for either party to give notice to break the Agreement at the five year and ten-year points by either party giving to the other not less than 9 months' notice of their intention to break the Agreement. Therefore, a decision in writing to break the contract, should either party choose to do so, would have been required by 31 March 2019.

SMG Europe had agreed to vary the notice period under the Agreement by one month whilst retaining the 9 months' notice period, meaning that written notice would be required by 30 April 2019. The consequential effect of this was, if notice was given the Agreement would come to an end on 31 January 2020.

Cabinet considered the following decision options: to accept the recommendations set out in paragraph 1.2 of the report, or alternatively, to not approve the recommendations.

Cabinet resolved that:-

- (1) it be agreed to retain the existing Operating Agreement with SMG Europe until the contract expires on 31st December 2024; and
- (2) approval be given to enter into a Deed of Variation to the existing Operating Agreement, as set out in the report.

In coming to its decisions Cabinet reasoned that in financial terms the management of the Playhouse delivers a professional operation, at relatively low cost to the Authority, while enhancing the Authority's reputation both in terms of tourism and arts development, consistent with its own strategy objectives.

Comparative data with other Authorities in the region does not suggest that other models provide a more efficient return for resources invested. The Playhouse enjoys a good reputation both locally and regionally. SMG Europe is able to bring the benefits of being linked into an international network of artists and performers to a local audience.

This decision modifies the existing Agreement to minimise the financial risk to the Authority, while retaining an acceptable level of profit share in relation to the operation of the Playhouse.

3.3 Timetable

Following Cabinet's decision, the modified Operating Agreement came into effect on 1 January 2020, in effect Year 11 of the substantive Agreement, and will remain operational until 31 December 2024.