

ST DAVID'S HALL: NEXT STEPS

Appendices 2-5 are not for publication as they contain exempt information of the description contained in paragraphs 14 and 16 of Part 4 of Schedule 12A of the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose of the Report

1. To provide background information to Members to aid their scrutiny of key documents relating to the proposed property transfer of St David's Hall, including the Voluntary Ex-Ante Transparency Notice (VEAT notice).
2. Members should note that **Appendices 2-5** are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members' Code of Conduct.

Scope of Scrutiny

3. During this scrutiny, Members have the opportunity to explore:
 - i. The VEAT notice attached at Appendix 1
 - ii. The information in Confidential Appendices 2-4
 - iii. The service delivery, financial, legal, property and HR implications
 - iv. Whether there are any risks to the Council
 - v. The timeline and next steps.

Structure of papers

4. Attached to this cover report are the following appendices:
 - i. Appendix 1 – draft VEAT notice
 - ii. Confidential Appendix 2 – draft Lease
 - iii. Confidential Appendix 3 – draft Memorandum of Understanding

- iv. Confidential Appendix 4 – draft briefing note including King’s Counsel note and overview of next steps
- v. Confidential Appendix 5 – draft Business Agreement.

Structure of the meeting

5. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the papers that are in the public domain, namely this cover report and the VEAT notice attached at **Appendix 1**; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to Confidential **Appendices 2-5**.
6. Members will hear from Councillor Burke (Cabinet Member – Culture, Parks and Events). Neil Hanratty (Director of Economic Development), Ruth Cayford (Operational Manager –Creative Industries and Culture), Chris Barnett (OM Major Projects), Donna Jones (Assistant Director – County Estates) and representatives from the Council’s legal advisors – Bevan Brittan LLP – will also attend the meeting. Members will be able to ask questions of the panel.
7. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to the final decision report to Cabinet regarding St David’s Hall, scheduled for July 2023.

Background

8. At their meeting on 15 December 2022, Cabinet considered a report titled ‘*St David’s Hall*’¹ that set out that:
 - i. the funding available for St David’s Hall does not meet operating or maintenance costs, the situation is worsening, and the Council cannot afford the scale of capital investment required
 - ii. there is a budgeted operating subsidy of £688,700 per annum, which is regularly exceeded, with subsidy levels £1m+

¹ Available [here](#)

- iii. the 2021 Condition Survey identified several issues and recent updated government guidance in relation to Reinforced Autoclaved Aerated Concrete (RAAC) planks, used in St David's Hall's roof, escalates the need for remedial works.
9. The December 2022 report to Cabinet stated that the Council was considering an unsolicited offer from AMG to take over operation of St David's Hall without subsidy and to take away all of the building's risks and liabilities from the Council. The report stated that AMG has given a firm commitment to work to enhance the venue's reputation as the National Concert Hall of Wales by continuing to maintain and develop the classical music programme to protect the classical series. This would be alongside the introduction of AMG's Academy music venue.
10. The December 2022 report to Cabinet set out that, if the Council is minded to proceed with the proposed contract, the Council intends to publish a VEAT notice (Voluntary Ex-Ante Transparency Notice) to advise the market of the offer that has been made, to enable other suppliers to challenge the decision.
11. At this Committee's meeting on 12 December 2022, Members confirmed that there will be a future report to Cabinet, which will include the findings of the consultation and an assessment of best value of the AMG offer, to enable Cabinet to take a decision on the way forward. This report is scheduled for July 2023.
12. At their meeting on 15 December 2022, Cabinet decided to agree in principle an offer from AMG Ltd, to take over the running of St David's Hall.

Budget Consultation 2023-24

13. A question on the future management of St David's Hall was included in the consultation on the 2023/24 Budget Proposals. The Budget 2023/24 report to Cabinet, in March 2023, highlighted that the budget consultation found that, in response to a question seeking views on a new partner to run St David's Hall, the responses received were 59% in support and 26% against².

² Budget Consultation report available [here](#)

Soft Marketing Exercise

14. In April 2023, a soft marketing exercise, inviting offers from experienced and qualified theatre, arts and venue services organisations interested in leasing and operating St David's Hall, commenced. This was an additional process aimed at ensuring best value is achieved.

15. The press release³ issued at the time stated:

Cabinet Member for Culture, Parks and Events, Cllr Jennifer Burke said: "This additional process provides a further opportunity for parties interested in becoming custodian of St David's Hall, protecting and delivering the classical music programme, and working with the Council to ensure the Hall's sustainable long-term future, the opportunity to come forward with proposals so that they can be assessed against the existing offer from AMG."

16. The press release set out that any offers proposed during the process must be submitted on acceptance of the following key conditions:

- i. The Council will require the transfer of all risk on maintenance of the building and asset including the requirements set out in a Condition Survey by the tenant.*
- ii. The Council will not be making any subsidy payment / contributions to the organisation in respect of the venue and its ongoing operation.*
- iii. The Council requires the organisation to take on full responsibility for all liabilities and obligations arising from the application of TUPE.*
- iv. The Council is seeking a covenant from the operator to deliver a classical programme of no less than 80 days per annum, for the full term of the lease.*
- v. The Council requires the operator to agree to a keep open clause at all times imposed under a lease.*
- vi. The Council will be prepared to grant a lease for a term of 45 years in respect of the venue.*

17. The soft marketing exercise has concluded; no bids were received that would take on the building liability and also the classical commitments.

³ Available [here](#)

Previous Scrutiny

18. In December 2022, this Committee undertook pre-decision scrutiny of the report to Cabinet titled '*St David's Hall*'. Members heard from Cllr Burke (Cabinet Member – Culture, Parks and Events), council officers, and Ceri Williams from Cardiff Civic Society. Members also received copies of representations made to the Committee by 22 members of the public, via the Scrutiny Viewpoints mailbox.

19. At the meeting, Members explored the proposals, focusing specifically on funding, process proposed, negotiations to date, consultation, and confidential information. Following this scrutiny, the Chair wrote a public and a confidential letter⁴ to Cllr Burke, denoting the Committee's comments, observations and recommendations. Members made two requests for information and four recommendations, as follows:

- *A written response to provide details of when the Council approached the Welsh Government, what the initial approach covered, and the response received*
- *A written response to clarify whether AMG will be Living Wage Employer*
- *Members recommend that the VEAT Notice be published for 28 days, rather than the legal minimum of 10 days*
- *Members recommend that the Council source specialist entertainment legal advice to guide the finalising of the proposed contract and guard the interests of the Council and our citizens*
- *Members recommend that the Sandy Brown report, attached as Appendix G to Confidential Appendix 4 of the report to Cabinet, be released into the public domain.*
- *Members recommend that the future report to Cabinet be brought to the Economy & Culture Scrutiny Committee and the Policy Review and Performance Scrutiny Committee, either in separate meetings or in a joint meeting, to be resolved by discussion between the Scrutiny Committee Chairs.*

20. Cllr Burke responded to this letter⁵, accepting all the recommendations; the Sandy Brown report was released into the public domain the day after the scrutiny committee meeting.

⁴ The confidential letter has previously been circulated to Members and the public letter is available [here](#)

⁵ Available [here](#)

Way Forward

21. Councillor Burke (Cabinet Member – Culture, Parks and Events) will be invited to make a statement. Neil Hanratty (Director of Economic Development), Ruth Cayford (Operational Manager –Creative Industries and Culture), Chris Barnett (Operational Manager – Major Projects) and Donna Jones (Assistant Director – County Estates) will attend, along with representatives from the Council’s legal advisors – Bevan Brittan LLP – and all witnesses will be available to answer Members’ questions.

22. All Members are reminded of the need to maintain confidentiality regarding the information provided in **Appendices 2-5**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

23. The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

24. The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this

report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i) Consider the information in this report, its appendices, and the information presented at the meeting
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter, and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

24 May 2023