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**SPECIAL URGENCY PROVISIONS RELATING TO KEY DECISION (S)
(STANDING ORDER 54(7) REGULATION 11 AGREEMENT)**

OPEN/CONFIDENTIAL Annex A is exempt

Exempt Information Category: Standing Order 46(1)(b) Annex 1 para.

Report Title:

Orchard Theatre RAAC Plank Removal, Roof Replacement and associated works.

Date of Cabinet Meeting or Date of Officer Decision under Delegated Authority: 26 September 2023

Originator (Name and Directorate): Peter Dosad Ext: 3215

Details of any Member/Officer interest known:

A. Key Decision(s) Proposed:

Please see attached report for details of key decision(s) to be taken by the Cabinet or an Officer under delegated authority

B. Reasons for Special Urgency (i.e. why proposed decision(s) cannot reasonably be deferred by the Cabinet or an Officer under delegated authority to allow for advance publication of the proposals)

In order to allow the Council, utilising a waiver under standing order 13, to join the appropriate framework and directly award the contract to an experienced contractor to reduce delays and mitigate economic and cultural impacts.

Signed: [Redacted]
Title: Chief Officer & Director of Corporate Services

Dated: 26.09.2023

c. I, Councillor... **KYLE J. STALEY**....., Chairman of Scrutiny/ agree that the taking of the key decision(s) as outlined in A. cannot reasonably be deferred for the reasons detailed in B.

Signe [Redacted] Dated: 26.09.2023

E. Copies to be Distributed Following the agreement referred to in D.above

- Originating Officer (for confirmation);
- Democratic Services (to action quarterly reports on Special Urgency Decisions in accordance with Standing Order 54(9));
- Management Team (for confirmation of D.);
- Democratic Services to:
 - > receive confirmation of D.; and
 - > include Special Urgency Form as an Appendix to the report to the Cabinet (if applicable); and
 - > report Special Urgency Form to the next scheduled meeting of the Scrutiny/Crime and Disorder (Overview and Scrutiny) Committee [refer to D.] in accordance with Standing Order 54(7)(c).

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**REPORT TO CHIEF OFFICER.
REGULATION 11.
26TH September 2023**

**Orchard Theatre RAAC Plank Removal, Roof Replacement and
associated works.**

1. SUMMARY

1.1 Following a routine inspection of the Reinforced Autoclave Aerated Concrete (RAAC) planks to the Orchard Theatre roof on the 04th September 2023, the Structural Consultant completing the Survey recommended immediate closure of the building. This was due to evidence that the RAAC planks had deteriorated and the area could not remain safe for users.

2. RECOMMENDATION

2.1 That urgency provisions relating to key decision (s) (standing order 54(7) regulation 11 agreement) be used to allow the Council, utilising a waiver under standing order 13, to join the appropriate framework and directly award the contract to an experienced contractor to reduce delays.

3. Background and Discussion

3.1 The presence of RAAC planking in the Orchard Theatre roof was first identified during routine structural inspections in advance of potentially installing solar panels on the roof as part of DBC's ongoing decarbonisation programme. On discovery of RAAC a specialist consultant surveyor was appointed to inform the Council's approach to the issue. The consultant advised that a programme of regular inspections should be carried out at least annually and to make plans for replacement in the medium term. In order to have absolute confidence The Council commissioned new surveys every 3-6 months with the previous report in April re-iterating the same position.

3.2 The Council and Trafalgar Theatres had been working together to identify other improvements to the building which could be implemented alongside roof replacement works during a planned closure.

3.3 Following a routine inspection of the Reinforced Autoclave Aerated Concrete (RAAC) planks to the Orchard Theatre roof on the 04th September 2023, the Structural Consultant completing the Survey recommended immediate closure of the building. This was due to evidence that the RAAC planks had deteriorated and the area could not remain safe for users.

3.4 The theatre is managed and operated, on behalf of the Council by Trafalgar Theatres under a management agreement with a profit share provision.

3.5 It is estimated that the theatre could be closed for approximately 12 months with a potential for a significant loss in revenue/financial risk for both Trafalgar Theatres and the Council as well as causing an economic impact on the Town Centre and the public loss of service.

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- 3.6 A project team of the Councils technical Consultant, the Head of Housing and the Director of Housing & Public Protection was immediately set up to ascertain the full extent of the issue'
- 3.7 Following an on-site meeting on the 08th September 2023, it was immediately clear to the project team that urgent and extensive works would be required before the theatre could be operational again.
- 3.8 During this meeting, the project team surveyed the theatre and identified many complications with the works required to remove the RAAC panels and replace with a lightweight modern solution. Complications include:
- Scaffolding over the auditorium seating to provide access to the roof.
 - The distance between the roof and the floor level.
 - The extensive plant to the underside of the RAAC panels.
 - The removal of the RAAC panels themselves.
- 3.9 The theatre is currently closed which will result in the Council losing profit share income. A prolonged period of closure will greatly affect the operator's finances going forward. In addition to this, the theatre roof structure is fragile and subject to sudden collapse. It will not be possible to open the theatre until the RAAC panels have been replaced and will be considered a dangerous structure until that time
- 3.10 It is possible to quantify the significant impact ongoing closure will have on residents and the local economy. The Orchard Theatre Annual Report 2022-23 was presented to Scrutiny Committee on 11/07/2023 at item 10. This showed that in the year 2022-23 215,523 people attended the Orchard Theatre and 60.5% of those tickets were sold to Dartford residents. In the same year the Orchard Theatre generated an economic impact of £4.6m in the local economy, over and above any spend made within the venue itself. The Orchard Theatre Annual Report states *"This includes additional visitor spend in local restaurants, bars, shops, and other businesses; and the impact of venue and visiting company expenditure made locally. The theatre also generates significant social value through our outreach and Creative Learning programme which harmonises with DBC priorities."*
- 3.11 The Project team agreed that an experienced Contractor should be sought at the earliest opportunity to aid the design and speed up the specification and subsequent works.
- 3.12 A Waiver is also being sought to directly appoint an experienced Contractor to offer advice and support to the specification for remedial works and deliver the works by utilising the Procure Public Demolition Framework. It is estimated that appointing through a Framework contract could reduce the overall project delivery time by up to 9 months.
- 3.13 The overall framework has been competitively tendered and procured and will enable the contractor to be appointed faster and in turn reduce final overall costs of the project and enable the theatre to reopen sooner. Whilst the framework has provision for further competition, given the urgency required, it is recommended as this approach will ensure best value in the circumstances.

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- 3.14 Consideration was given to a permanent closure of the theatre but the social and cultural value that the theatre delivers far outweighs this option. Another option is to traditionally procure the works but it is estimated that this will add up to 9 months to the period. When this is factor is added to the potential financial loss, impact on staff and negative impact on the local economy plus the loss off the cultural and arts offer to Dartford residents this option is not palatable, it is imperative that the Theatre reopens as soon as possible.
- 3.15 The Procure Public Demolition framework is a Public Contracts Regulations 2015 compliant framework which specifically enables the Council to identify and engage suitable contractors quickly for the kind of works needed to the theatre roof. The Procurement team have confirmed that this approach is in line with the Councils standing orders and procurement rules in terms of a Direct Award.
- 3.16 Contractors can be on boarded at an early stage to assist with any feasibility/assessment steps and creation of scope of works. This company can then undertake the works through to final testing and sign off.

4 Relationship to the Corporate Plan

- 4.1 This report relates to the Corporate Plan strategic aim;
To Reduce Overall Health Inequality In Dartford And To Provide For A Rich And Varied Quality Of Life.
And the key action;
Work with commercial and community groups to widen residents' access to culture and arts in the Town Centre.

5 Financial, legal, staffing, administrative implications & risk assessments

Financial Implications	It is currently estimated that the removal of the RAAC planks and replacement will cost up to £7m and a budget will be allocated by GAC.
Legal Implications	That urgency provisions relating to key decision (s) (standing order 54(7) regulation 11 agreement) be used to allow the Council, utilising a waiver under standing order 13, to join the appropriate framework and directly award the contract to an experienced contractor to reduce delays. Regulation 33(8)(a) of the Public Contracts Regulations 2015 (PCR 2015) sets out the criteria for making a direct award: <ul style="list-style-type: none"> • all the terms governing the provision of the works, services and supplies concerned are set out in the framework agreement, and • the objective conditions for determining which of the suppliers on the framework agreement shall perform them are set out in the procurement documents.
Staffing Implications	Although no Dartford Borough Council staff are directly affected by the issues in the report, it should be noted that more than 20 full time staff are employed by Trafalgar Theatres at the venue and there are 120 casual staff on the payroll.

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Administrative Implications	None.
Risk Assessment	Failure to appoint through the Framework will lead to further delays whilst a Contractor is tendered and will put completion of the works at risk and ultimately mean that the theatre will be closed for a longer period and financial losses will increase. The impact of an extensive closure on the local economy and the cultural offer to residents need to also be considered. The Council is working collaboratively with the theatre operator but the extent of potential financial, staffing and business continuity risks for both organisations is not yet known.
Climate Change Impact Assessment.	None as a direct result of this report but the Council is ready to commence further works to decarbonise the building, which can only be installed once the RAAC Plank Removal, Roof Replacement and associated works have been completed.

6 Details of Exempt Information Category - Not applicable

7 Appendices – None.

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
None	N/A	Peter Dosad	DH&PP	N/A