



COUNCIL CABINET
10 April 2024

**LATE
ITEM**

Report sponsor: Councillor Baggy Shanker,
Leader of the Council
Report author: Catherine Williams, Head of
Regeneration and Economic Growth

Derby's Levelling-Up Fund Award: Next Steps

Purpose

- 1.1 To progress proposals that contribute towards realizing the Council's city centre regeneration ambitions, creating vibrancy, increasing footfall and improving the city centre offer for residents, visitors and businesses.
- 1.2 To advise Cabinet that the "Project Assemble (Learning Theatre)" scheme, based on the replacement of the Assembly Rooms, Derby, with a state-of-the-art learning theatre, has been stopped because rising costs make it no longer financially viable.
- 1.3 To set out a revised proposal for sharing Derby's £20m Levelling Up Fund (LUF) award equally between phase 1 of the Derby Theatre New Horizons scheme and refurbishment of the Council-owned Guildhall Theatre.
- 1.4 To seek approval to enter into the necessary agreements to progress the revised proposal, including a Memorandum of Understanding with the Department for Levelling Up, Housing and Communities (DLUHC) governing the LUF allocation and contractual arrangements for with Project Partners.
- 1.5 To seek delegated approval to progress the Guildhall Theatre project in line with the detail set out in this Report.
- 1.6 To seek approval to the match funding required for the Guildhall Theatre scheme and the amendments required to the capital programme to reflect the revised proposals.
- 1.7 To update Cabinet on business planning work undertaken to inform the vision, operating model and financial operating forecasts for the Guildhall.

Recommendation(s)

- 2.1 To note that a further Confidential report relating to this item is to be considered at the April meeting of Council Cabinet, which will ask Cabinet to agree a number of recommendations including:
 - a) To agree the revised proposal for use of Derby's £20m Levelling-Up Fund allocation comprising £10m towards the improvement of Derby Theatre's facilities and £10m towards the improvement of the Council-owned Guildhall Theatre.

- b) To delegate authority to the Strategic Director for Place, following consultation with the Section 151 Officer, Director of Corporate Governance, Property and Procurement and the Cabinet Member for City Centre, Regeneration, Culture and Tourism to take all necessary actions to finalise and enter into all necessary contractual arrangements to deliver the Guildhall Theatre refurbishment project.
- c) To approve a grant of up to £10m for the Derby Theatre New Horizons scheme (see paragraph 8.2 regarding the grantee) and the addition of this capital grant to the capital programme as part of the “Levelling-Up Fund Project” (see f, funded by the Levelling-Up Fund grant and subject to all funding and partnership agreements being in place.
- d) To delegate authority to the Strategic Director for Place, following consultation with the Section 151 Officer, Director of Corporate Governance, Property and Procurement and the Cabinet Member for City Centre, Regeneration, Culture and Tourism to enter into contractual arrangements including a Partnership Agreement and a Grant Agreement with the University of Derby and / or Derby Theatre (“Project Partners”) to govern the use of £10m of Levelling-Up Fund grant towards the improvement of the Derby Theatre, subject to confirmation of the University of Derby Governing Council and Derby Theatre’s Board approval as required.
- e) To approve the signing of a Memorandum of Understanding (MoU) with the Department of Levelling Up, Housing and Communities (DLUHC) governing the £20m Levelling-Up Fund allocation, noting the conditions and risks associated with this as outlined in paragraphs 4.21 to 4.27, subject to Project Partner governance approvals being in place including agreement to the necessary contractual documents. To note that the final MoU that we sign is subject to approval by DLUHC of a Project Approval Request (PAR).
- f) To approve the addition of the Guildhall Theatre Refurbishment scheme to the Council’s capital programme under the project name “Levelling-Up Fund Project”, funded by the Levelling-Up Fund grant and a transfer from the MTFP Provision for Future Investment on the capital programme, subject to all funding and partnership agreements being in place.
- g) To approve the removal of the £0.700m Project Assemble Learning Theatre scheme capital budget and prudential borrowing funding from the capital programme as this is no longer required
- h) To delegate authority to the Strategic Director for Place, following consultation with the Director of Finance and the Cabinet Member for City Centre, Regeneration, Culture and Tourism to explore options for operating the Guildhall to optimise the financial operating position and maximise collaboration opportunities with the wider cultural sector. To note that the outcome of this work and any revenue implications for the Council will need to be considered in the future MTFP process.

Reason(s)

- 3.1 To enable investment in key cultural facilities in Derby that will contribute towards the delivery of the Council’s regeneration, cultural and learning ambitions and those of our

partners in this project. The Guildhall Theatre refurbishment is key to building a cluster of destinations around the Market Place to drive footfall, increase confidence and investment in this part of the city centre.

- 3.2 To safeguard a significant Levelling-Up Fund investment in Derby and comply with the requirements of that funding allocation. Acceptance of the £20m Levelling Up-Fund grant requires Cabinet approval and when approval to bid was granted, it was on the basis that a report would be brought back to Cabinet fully detailing the project(s) to be supported.
- 3.3 Due to rising costs, the originally conceived Project Assemble scheme is no longer viable and the project has been stopped. This report sets out an alternative proposal to achieve the objectives of this project, that will deliver comparable outputs and outcomes, at a lower cost to the public purse, offering better value for money.
- 3.4 To protect and enhance key heritage assets in the city centre, fulfil our obligations as owners of a Listed Building and bring these heritage buildings back into economic use.
- 3.5 The changes to the budgets and funding on the Council's Capital Programme and the proposed contractual arrangements with our Project Partners require approval by Council Cabinet to comply with the Council's Contract and Financial Procedure Rules.

Supporting information

Background

- 4.1 The transformation and reinvigoration of Derby city centre is a critical priority for the City Council and its wider partnership. Structural changes to the national context in which city and town centres operate, with the rise of online shopping and the impact of the Covid pandemic, have been compounded in Derby by a gradual hollowing out of the purpose of the city centre with the loss of business activity, the absence of city living and the concentration of the primary retail offer in the Derbion shopping centre.

Derby needs to set a bold and ambitious vision for the future of its city centre to ensure it can effectively compete with other cities and towns for investment and to grow the numbers of people living, working, visiting, and shopping within it. To deliver this the City Council working with partners, stakeholders and local groups has developed an Ambition document – Towards a New Vision for Derby City Centre - which was adopted by the City Council in May 2022.

This report details proposals for investment in our culture and heritage, both of which play an essential part in supporting the creation of a city centre fit for the 21st century, capable of attracting additional investment and increased interest from people and businesses to live, work and play in what would be an exciting, dynamic, and successful city.

- 4.2 In July 2022, Cabinet approved submission of 3 bids to Round 2 of the Levelling-Up Fund, including for the “Project Assemble (Learning Theatre)” scheme (“Assemble”). This scheme would have seen the construction of a new learning theatre on the site of the Assembly Rooms and multi-storey car park, owned by Derby City Council, and the relocation there of the current Derby Theatre from the Derbion Centre. Derby Theatre is a wholly owned subsidiary of the University of Derby and a lease arrangement was envisaged to govern Derby Theatre’s operation of the new venue. The July 2022 Cabinet report noted that should Derby’s bid(s) be successful, a report would be brought back to Cabinet to approve acceptance of the funding and associated conditions and requirements for scheme delivery.
- 4.3 At the time of the bid for the Levelling Up Fund grant in the summer of 2022, the total capital cost of the project was forecast as £79m which would have required the balance of capital cost to be funded by the Council’s prudential borrowing. Of the 3 applications, the “Assemble” scheme was successful and awarded £20m.
- 4.4 A series of significant factors, primarily outside of the Council’s control, has led to the original (2022) Assemble scheme being stopped. These factors included:
- Construction cost inflation which had increased projected capital costs of the new build theatre proposals (from original £79m cost envelope at the time of the bid, to estimated costs of up to £101m by summer 2023)
 - Increased costs of prudential borrowing (interest rate increases), and
 - The wider financial circumstances of Derby City Council which were more challenging than at the time the application was submitted.

Revised Proposals

- 4.5 In light of these challenges, the Project Partners, in consultation with the Department for Levelling Up, Housing and Communities (DLUHC), have developed alternative proposals for Derby’s £20m LUF allocation. This new proposal offers, when compared to the original LUF scheme:
- A ‘same use’ proposal (remains entirely theatre focused)
 - Broadly equivalent outcomes/outputs
 - The same combination of delivery partners (Derby City Council, University of Derby, Derby Theatre)
 - Full use of the Levelling-Up Fund grant by March 2026
 - Improved value for money for the public sector
 - Remodelling and refurbishment of Derby Theatre, the nationally recognised learning theatre, helping it to continue to develop into a forward facing, innovative cultural hub that reflects and facilitates the theatre’s unique combination of professional, university and community programmes
 - Complete refurbishment and re-opening of the Grade II listed Guildhall Theatre (additional benefit)
 - Bringing back into use the Guildhall Theatre in the Market Place as a complementary cultural and heritage asset and a key driver of community-made arts activity

- Bring forward additional commercial space by refurbishing 30-31 Market Place (additional benefit)
 - Opportunity for commercial redevelopment of the Assembly Rooms (additional benefit)
 - Driving footfall and vibrancy, which in turn will leverage further investment and regeneration in the city centre.
- 4.6 In September 2023, under delegated authority, a Project Adjustment Request (PAR) was submitted to DLUHC to establish the principle of changing the project from a new build theatre to the enhancement of the Derby Theatre and Guildhall. This PAR secured approval which has enabled further work in the intervening months to complete feasibility studies for both schemes and confirm costs, programmes, outputs, outcomes and value for money. A further PAR is being submitted which will, subject to approval, form the basis of the City Council’s MOU for the £20million LUF funding.

Derby Theatre New Horizons Project

“Increasingly the most crucial theatre in the region because of its emphasis on learning, nurturing and nourishing”

(Lyn Gardner, The Guardian)

- 4.7 Derby Theatre (previously Derby Playhouse) has a long and rich history of delivering high quality drama to audiences. Through Derby Theatre's unique partnership with the University of Derby, and as an Arts Council England National Portfolio Organisation (NPO), the theatre has transformed from a traditional producing house to a centre of training, mentorship, and artistic excellence.

Derby Theatre is a vibrant and thriving theatre, which combines its professional programme with an exciting suite of undergraduate and postgraduate courses, as well as an emerging talent programme aimed at developing the next generation of artists. Meanwhile its community engagement activities reach out across our region including to people of all ages and from all backgrounds in the work of the theatre.

As a Learning Theatre, Derby Theatre provides a unique opportunity for students to learn their craft by collaborating with both academics and theatre professionals in the heart of a commercial producing theatre, to develop skills in technical theatre or performance.

- 4.8 Derby Theatre, working with the University will continue to deliver and further enhance its financially and environmentally sustainable programme by:
- the commissioning, production and presentation of high-quality theatre productions and performances relevant to the people of Derby, Derbyshire and the Midlands.
 - being inclusive and relevant to the people of Derby and Derbyshire
 - keeping communities, audiences and artists at its heart
 - remaining ambitious and growing in ambition to offer a high-quality experience which develops the next generation of artists and artistic

- practice through research, learning, performance and opportunity
 - being sustainable and efficient (financially, environmentally and artistically), and able to respond to an ever-changing environment – fit for the 21st century
 - celebrating the City by being situated within the Derbion, part of a new and enticing ‘gateway’ to the City Centre
- 4.9 Investment in the Theatre facilities will offer increased inclusivity and will build on the theatre’s leading work in the arena of making theatre for disabled audiences. The venue will comprise of a range of improved spaces that include the opportunity for online interactions, enabling further engagement with communities by increasing live stream opportunities into hospitals, care homes and other community buildings to serve those physically unable to attend a performance.
- 4.10 The proposed scope of works comprise Phase 1 of the theatre’s New Horizon’s project and include a new studio theatre accessible from the main entrance of the building, a student learning and research centre and a redeveloped community and workshop space.
- 4.11 Design development has been undertaken to RIBA stage 1 with the capital cost as outlined in the Confidential report funded from £10m LUF grant and the balance underwritten by the University of Derby.

Guildhall Theatre Refurbishment scheme

“The Guildhall is clearly cherished by the community. It has traditionally not only been a venue for enjoying arts and entertainment but a social hub for creative expression and self-discovery. For the amateur, community and youth groups who perform here and for family audiences who come together for shows like the annual panto, this is a building that belongs to them and where they belong.”

(Guildhall Theatre Business Planning Report – Amion Consulting, February 2024)

- 4.14 The Guildhall is a grade II listed building dating back to 1828 and was the town hall until 1949. After a vacant period, the Guildhall building was converted to a theatre in 1975, owned and operated by Derby City Council.

The venue currently has around 240 seats. It closed in January 2019 for essential repair work and has not reopened, pending agreement on future options for its use and redevelopment. At the time of closure, the venue was operating as a community theatre hosting a mix of community, amateur and small-scale touring productions, with a strong emphasis on children, family programming and participation.

- 4.15 As a cultural gathering place, the Guildhall is large enough to create a sense of event and small enough for everyone to feel part of the experience. It is vitally important to Derby’s exceptional range of amateur, community and youth groups and the perfect scale for their work at affordable prices. It also offers an intimate audience experience for touring theatre, music, comedy and spoken word.

4.16 The Council has completed a feasibility study, engaging external architectural expertise for design and contractor input for programme, cost and deliverability. Within this feasibility work, a number of refurbishment options for the Guildhall have been explored and Cabinet is asked to approve an option which would encompass:

- increased seating capacity to up to 280 in the main auditorium
- enhanced front of house facilities including new ground floor bar and café
- addressing key building structural issues – rewiring, replacement of M&E, new lighting/AV/ICT, improved access
- a ticket office fronting the Market Place
- new multifunction space
- a new courtyard adjacent to the Market Hall
- refurbishment of the adjacent 30/31 Market Place property

4.17 Design development has been undertaken to RIBA stage 1. The cost as outlined in the Confidential report will be funded from £10m LUF grant and a transfer from the MTFP Provision for Future Investment on the approved capital programme

Guildhall Theatre: Business Plan

4.18 The Council commissioned Amion Consulting to support preparation of a business plan for the Guildhall that takes into account market conditions, consumer demand alongside the wider city context of existing and developing cultural offer. This concludes that:

“Rather than attempt to reinvent the Guildhall, there is an opportunity to amplify what it does best and make it a lively focal point for:

- *community connection, ownership and belonging;*
- *fun, discovery, and social connection;*
- *creation and sharing;*
- *self-discovery and self-expression;*
- *learning and skills development; and*
- *collective and individual wellbeing.”*

A revitalised Guildhall Theatre would also create the opportunity for new and innovative work by engaging and building relationships with diverse communities. A refurbished Guildhall, together with the new Market Hall and alongside the existing offer at QUAD, will collectively transform this critically important part of the city centre, creating a dynamic, active, and vibrant destination that attracts people during the daytime and evening and increases the level of activity and footfall in the Cathedral Quarter.

- 4.19 Amion’s business planning commission also included producing a financial plan to determine the forecast operating position of the Guildhall. It should be noted that the business plan is based on assumptions at a point in time, and work will continue to look at both operational opportunities for working with other organisations as well as further income opportunities and cost savings with the aim of improving the forecast operating position. When work to explore operational options is concluded, any ultimate revenue subsidy requirement will need to be considered in a future MTFP process.
- 4.20 It is also important to note that these revised proposals will allow for the Assembly Rooms and multi-storey car park site to be regenerated through a commercial and leisure development with our strategic development partner. There is therefore still the potential to create further benefits in this critically important part of the city centre, subject to finalising contractual arrangements and progressing design, planning and funding approvals.

Partnership arrangements

- 4.21 The £20m Levelling-Up Fund (LUF) allocation will be governed by a Memorandum of Understanding (MoU) between the Department for Levelling-Up, Housing and Communities (DLUHC) and Derby City Council (DCC). DCC will act as Accountable Body for the LUF and will be responsible for using the grant according to the terms and conditions of the MoU with DLUHC.
- 4.22 The LUF MoU describes the project for which LUF has been awarded and the overall budget and expenditure profile for delivery. A key criterion for DLUHC is that all LUF funding must be spent by March 2026. The MoU also includes the project outputs, outcomes and key delivery milestones and is clear that LUF is for capital expenditure only. LUF grant will be paid to DCC in six-monthly tranches, with quarterly monitoring reports evidencing and forecasting spend to allow DLUHC visibility on how the project is progressing.
- 4.23 The Council must agree to collaborate with DLUHC over monitoring and evaluation requirements, which will involve reporting quarterly on project expenditure, project progress, stakeholder engagement, risks, milestones and any project changes. The Council will also collaborate with DLUHC to provide six-monthly reporting on project outputs and potentially some outcomes and will assist with programme level evaluations as required. All reporting on LUF must be signed off by the Council’s S151 officer.
- 4.24 The proposals in this report involve sharing the LUF allocation equally between the Derby Theatre and Guildhall schemes. The University of Derby/Derby Theatre and Derby City Council will be responsible for the respective design, construction and operational arrangements for the schemes, as well as the respective match funding required. Contractual documentation including a Partnership Agreement and Grant Agreement are being negotiated to govern the relationship between the partners involved (namely Derby City Council as Accountable Body for the LUF funding, the University of Derby and Derby Theatre).
- 4.25 The Partnership Agreement sets out the roles and responsibilities of each partner in delivering the component schemes of the project. The Grant Agreement includes

more detail about how and when grant funding will be paid out, and also includes the outputs and outcomes that will be delivered for the £10m grant.

- 4.26 At the time of publishing this report, negotiations are ongoing to finalise the agreement detail. Therefore, delegated authority is requested to proceed with the signing of agreements when final drafts are agreed between the partners. Those with delegated approval will need to be assured that the final agreements are in line with the key principles outlined in Confidential version of this report and will need assurance that the obligations of the Council under the LUF MoU are appropriately covered by the provisions in the agreement, in order that our risk profile is managed proportionately.

Outputs and Value for Money

- 4.29 The revised schemes described above will achieve outputs and outcomes that are consistent with DLUHC’s expectations for receipt of the £20m LUF allocation. The following targets are based on ‘steady state’ i.e. a typical operating year following growth in the early years after project completion:

	Derby Theatre target	Guildhall Target
Jobs Created	4	9.9
Number of visitors (uplift)	15,000	48,187
Students completing Higher Education courses	37	0
Number of learning engagements	15,000	0
Amount of new and improved cultural space (m2)	1,343	1,856
Visitor spend at venues	£623,000	£568,811
Benefit Cost Ratio (BCR) (see below)	2.64:1	

- 4.30 The Council has commissioned a value for money analysis of the revised proposals from Ekosgen Consulting (UK) Ltd, who advised the Council on the original LUF bid. This analysis involves comparing public sector investment in the project with the benefits that will be achieved across a range of economic and social measures. These benefits are quantified using established methodology that complies with the HM Treasury Green Book and then a Benefit Cost Ratio (BCR) is calculated. The BCR needs to be above 1.5:1 but 2:1 is preferred for most Central Government funding programmes.

- 4.31 Ekosgen has concluded that:

- Total costs for the revised proposals (both nominal and economic) are lower than the original project but the benefits have remained largely unchanged
- The revised proposals therefore achieve a BCR of 2.64, which represents better value for money than the previous proposals

Key Risks

- 4.32 A more detailed risk register including commercially sensitive detail is included in the Confidential version of this report also to be considered at April Cabinet. A summary of the key risks is included below

Risk	Proposed mitigations
DCC risks re: Guildhall	
<p>Costs of a revenue nature not covered by budget If the Guildhall project does not proceed to completion, current expenditure that cannot be funded from the feasibility reserve approved sum will be considered as abortive costs and create a revenue pressure. The detail of work within the Guildhall project may contain costs that are revenue in nature</p>	<p>Resource plan required, to inform revenue budget implications for inclusion in future MTFP The Council's risk exposure is limited to the Guildhall scheme and any LUF management costs.</p>
<p>Affordability and cost overruns: As design develops, or abnormalities are identified, costs may increase beyond current forecast (this is a particular risk with historic and listed buildings).</p>	<p>Cost consultant retained. Contingency is included in cost plan Technical support available for due diligence on design and construction costs The risks related to affordability and cost overruns are, for the Council, limited to the Guildhall scheme as each partner is responsible for any cost overruns on their scheme</p>
<p>Delays due to Listed Building / Planning requirements</p>	<p>Early pre-application engagement with the Planning Authority and key consultees including Historic England Architect employed on the scheme will have extensive heritage experience</p>
<p>Affordability of future ongoing revenue cost implications arising from the prudential borrowing and business plan</p>	<p>Prudential borrowing revenue costs have been factored into the latest approved MTFP, however, it should be noted that there is a funding gap in the future year's MTFP to address. Any future revenue implications for the Council from the ultimate business plan will need to be considered as part of the future MTFP.</p>
<p>Impact of construction works on wider area Guildhall refurbishment will impact on access to the new Market Hall from the Market Place</p>	<p>Communications and wayfinding will need to signpost Market Hall customers to alternative entrances at Lock-Up Yard and Osnabruck Square Communications with local businesses and wider public about the programme of works</p>

Combined with the Assembly Rooms site re-development there is a cumulative risk of significant disruption to this part of the city centre during the construction period	
Risks across both schemes	
Programme delays mean project does not meet LUF £20m spend deadline of March 2026	Regular monitoring of progress to ensure the works remain on programme and spend profile is met.
Due to the interdependency of the two schemes, if one does not deliver spend targets and outputs, there is a risk of clawback on both schemes. DCC holds risk as Accountable Body	Express contractual terms in agreements between partners (e.g. indemnity) to ensure we can enforce compliance with DLUHC's requirements or clawback
LUF Funding withdrawn: a further Project Adjustment Request detailing the costs and outputs associated with the revised scheme detailed in this report is still to be approved by DLUHC	There has been regular liaison with DLUHC since the original "Assemble" scheme was stopped First PAR establishing principle of project changes was approved
Contractual The Council and Project Partners are not able to agree terms and conditions of the Partnership Agreement and Grant Agreement.	Signing of the LUF MOU is conditional on all contractual terms being agreed and governance approvals from all partners being secured

Public/stakeholder engagement

- 5.1 The 2022 LUF bid was widely supported by the cultural and business communities of Derby. Further engagement will happen during the course of project development and delivery, through both the planning application process and consideration of the operational arrangements for the Guildhall Theatre.
- 5.2 Derby Theatre has a lease agreement in place with Cale Street Partnership LLP, who has been consulted on the Theatre's plans.

Other options

These options were considered:

- 6.1 **Abandon the project:** discounted, as an excellent opportunity to support the continued development of the Learning Theatre, coupled with the revival of the Guildhall Theatre, would be lost. There is no "do nothing" option in respect of the Guildhall from a building maintenance perspective; this important historic and listed building is in increasingly poor condition and the Council must invest in the structural fabric of the building, whether linked to a wider scheme or not.

- 6.2 **Divert LUF elsewhere within Derby:** this would not be permitted by DLUHC under the LUF rules.
- 6.3 **Re-position the project:** to continue to focus on the theatrical offer in the city, especially the UoD learning theatre and Guildhall, and to achieve outcomes on the same scale but at reduced capital cost, with consequential greater value for money – this is the chosen option.

Financial and value for money issues

Value for money

- 7.1 The Benefit Cost Ratio (BCR) for the new proposals is expected to increase from 1.73 in the original submission, to 2.64 – which represents good value for money (“good” requires a BCR of 2). This is based on the level of outputs that remain achievable through the two schemes which can be delivered at a significantly lower cost relative to the original proposal.

Design and construction costs

- 7.2 The cost forecasts for both schemes are based on both projects at feasibility stage (RIBA 0-1) and require significant design and cost planning. In both cases the cost plans have allowed for inflation and construction contingency.

Table 1 gives the cumulative profile of total spend for both schemes and shows that the LUF spend requirement of £20m by March 2026 is expected to be achieved based on the latest profiles. The breakdown per scheme is included in the Confidential report.

Table 1

FORECAST SPEND	2024-25 £m	2025-26 £m	2026-27 £m	2027-28 £m	TOTALS £m
Cumulative Guildhall / Derby Theatre grant	4.597	22.093	32.108	36,514	

- 7.3 The VAT implications for both schemes are outlined in the Confidential version of this report
- 7.4 Table 2 in the Confidential version of this report provides the relevant profiled spend and funding to add as the capital budget to the Council’s capital programme. This assumes that the LUF funding will be applied before other funding. The prudential borrowing for the Guildhall scheme will be by way of a transfer from the MTFP Provision for Future Investment included in the approved capital programme. The split between schemes is provided in the Confidential report.

- 7.5 The Confidential version of this report details the approvals requested of Cabinet to approve a grant of up to £10m for the Derby Theatre New Horizons scheme, and to amend the Capital Programme for the Guildhall capital scheme and the Derby Theatre capital grant.
- 7.6 The preferred option design for the Guildhall has been costed by a professional team using a public sector framework. In addition to this baseline design and construction cost, a number of provisional sums have been included in the cost plan, to allow for additional recommended inclusions to the project scope. A detailed breakdown of the project costs is included in the Confidential version of this report
- 7.7 As the “Project Assemble (Learning Theatre)” scheme has been stopped the capital programme needs updating, therefore, Cabinet is asked to approve the removal of the £0.700m Project Assemble Learning Theatre scheme budget and prudential borrowing funding from the capital programme.

Revenue Implications

- 7.8 The annual revenue budget cost of the prudential borrowing required as match for the Guildhall scheme as outlined in the Confidential report has been factored into the latest MTFP approved in February 2024 as part of the revenue cost implication of the Provision for Future Investment capital budget on the capital programme which is funded by prudential borrowing. It should be noted that there is a funding gap in the future year’s MTFP to address. However, it should also be noted that as explained in paragraph 6.1, the Council would need to commit resources to the Guildhall building even if there was no LUF scheme.
- 7.9 At this point in the project delivery, there is no revenue budget established for the Guildhall project. If any assumed capital costs are later deemed to be revenue costs or if any other revenue costs are required to support delivery of the refurbishment works, then revenue funding would need to be identified from existing Council resources.
- 7.10 Cabinet is asked to delegate authority as per recommendation 2.8 to enable refinement over the next few months of the business plan produced by Amion. This work will include exploring alternative operating models, collaboration opportunities and opportunities for additional income generation and cost savings.
- 7.11 Any future revenue implications for the Council associated with the ultimate operating model and business plan will need to be considered in the future MTFP process.

Legal implications

- 8.1 Following anticipated DUHC approval of the most recent PAR submitted to them, a signed Memorandum of Understanding between DLUHC and DCC as Accountable Authority will be required before the LUF grant is confirmed.
- 8.2 Derby Theatre is a wholly-owned subsidiary of the University of Derby and contractual arrangements for delivery of the Derby Theatre New Horizons scheme including a Partnership Agreement, Grant Agreement and the design and build contract, will involve one or both of these two parties.

Derby City Council's Legal Services team have led on development of the Partnership Agreement and Grant Agreement described in paragraph 4.26 and negotiations to finalise these agreements are ongoing.

At the moment there is some uncertainty as to who from the University of Derby side will be the contracting entity namely the University itself or Derby Theatre. If it is determined that Derby Theatre will be the contracting entity then there will be a requirement for robust indemnity/guarantor provisions to be in place which may require the drafting of an additional Deed of Indemnity/Guarantee

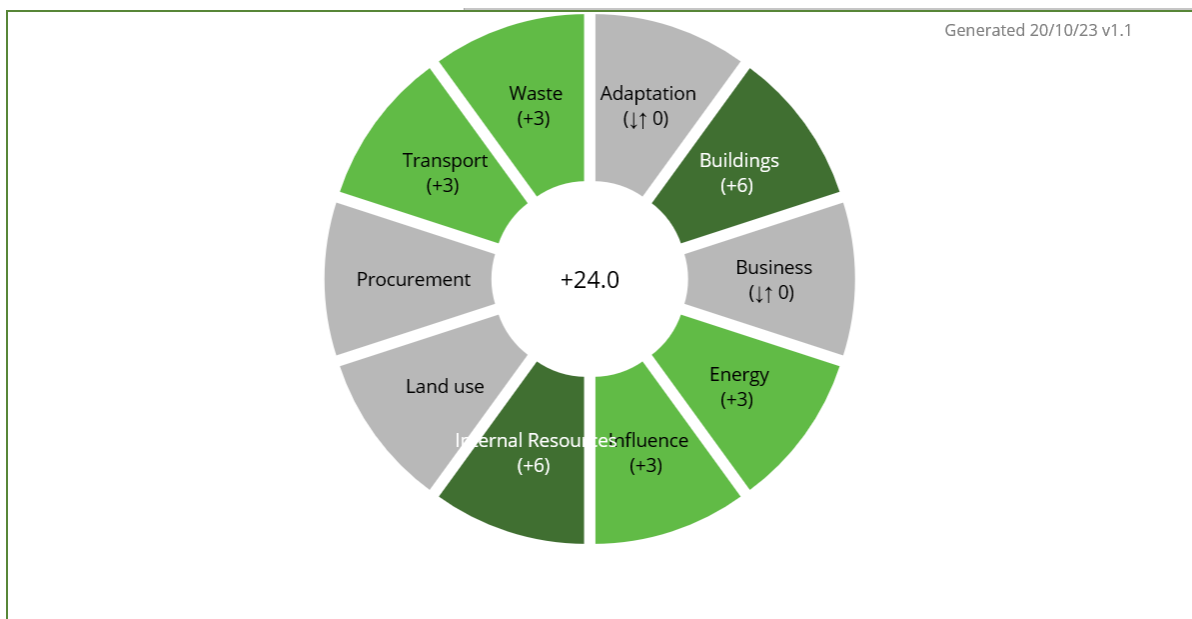
The University of Derby and Derby Theatre will need to secure the approval of their own Governing Council / Board to enter into the Partnership and Grant Agreements and any additional indemnity/guarantee if required, which is a condition of a number of recommendations made to Cabinet in this report and the Confidential version of this report

- 8.3 The Council has taken advice from Browne Jacobson on subsidy control and whether the LUF grant constitutes a subsidy. At the time of the 2022 LUF application, the project was deemed to be subsidy control compliant as public sector funding was to be used to create a publicly owned asset, which could not have been created without the LUF grant.

For the revised proposals included in this report the LUF grant will go towards the renovation of a publicly owned asset (the Guildhall theatre) and towards the improvement of a publicly held asset (the Derby Theatre). Moreover, the regulations have changed. Browne Jacobson advise however that the revised scheme is compliant

Climate implications

- 9.1 The Ambition 2022 document 'Towards a New Vision for Derby City Centre' puts the impact of climate change on the use and purpose of the city centre as a top priority. This capital project will be developed to minimise carbon use and to improve energy efficiency. The wider regeneration of Derby will create an ecosystem in which more people can live within the city centre, and access other uses such as workspace, leisure, culture, and retail within walking distance, and thus lessen the need for travel via car or other means.
- 9.2 Each of the two developments in these revised proposals will incorporate design measures which reduce carbon emissions and enhance energy efficiency.
- 9.3 **Project Assemble climate change impact assessment Oct 2023**



Socio-Economic implications

10.1 Much of the rationale for regeneration interventions is to deliver projects with socio-economic benefits that the market alone will not deliver, hence the need for the LUF grant. In this case, the benefits are the delivery of renewed and improved cultural facilities, in a sustainable location, providing opportunities for residents, visitors to the city, and students, to enjoy and benefit from updated and exciting facilities. In turn the investments will support Derby's retail and leisure offer, and make the city centre a more attractive place in which to live and work.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Olu Idowu	4 th April 2024
Finance	Alison Parkin	5 th April 2024
Service Director(s)	Tammy Whitaker	4 th April 2024
Report sponsor	Cllr Baggy Shanker	5 th April 2024
Other(s)		

Background papers:
List of appendices: