

WEST NORTHAMPTONSHIRE COUNCIL COUNCIL

18 July 2024

Councillor Malcolm Longley, Finance Portfolio Holder

Report Title **Royal & Derngate Theatre RAAC remediation works**

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List of Appendices

None.

1. Purpose of Report

- 1.1 To note the urgent decision taken to approve a budget to install a support system to the existing RAAC roof in the Royal and Derngate Theatre.

2. Executive Summary

- 1.2 The Council has the responsibility under the lease for the maintenance and upkeep of the structural integrity of the Royal and Derngate (R&D) building, operated by Northampton Theatres Trust (NTT), a registered charity. Part of the roof has been identified as containing Reinforced Autoclaved Aerated Concrete (RAAC).

- 1.3 The Royal and Derngate was closed for a period to allow further surveys to be undertaken. A temporary plan was put in place to allow the theatres to reopen with restricted access and ingress. The temporary measures also caused several of the bars to be closed causing NTT to lose revenue.
- 1.4 The intrusive surveys undertaken have shown the RAAC planks to be in good condition. This means it is possible to ensure safety by installing a support system to the underside of the affected roof at a cost of circa £1.1m. An alternative option would be to replace the affected roof area at a cost of circa £2.3 million.
- 1.5 Given the support system is both more cost effective and would be quicker to install, causing less disruption to the theatre's operations, this is the recommended approach.
- 1.6 It was important to carry out the works as far as possible during the theatre's 'dark period' during the summer. However, when the next full Council meeting was rescheduled to avoid the UK General election pre-election period it would have been no longer be possible to let the construction contract in time.
- 1.7 The Leader therefore took an urgent decision to approve the budget. The report meets the Constitutional requirement to report on such urgent decisions.

3. Recommendations

- 3.1 It is recommended that Council:
 - 3.1.1 Notes the urgent decision taken by the Leader to create a capital budget of £1.1 million for the Royal & Derngate roof works.

4. Reason for Recommendations

- 4.1 To comply with the Constitutional requirement that urgent decisions relating to non-executive functions are reported to the next available meeting of full Council.

5. Report Background

- 5.1 Reinforced Autoclaved Aerated Concrete (RAAC) is a lightweight form of concrete used in roof, floor, cladding and wall construction in the UK from generally the mid-1950s to 1990. It was used primarily in office and schools, but RAAC has been found in a wide range of buildings.
- 5.2 The limited durability of RAAC roofs and other RAAC structures has long been recognised; however recent experience (which includes two roof failures with little or no warning) suggested the problem may be more serious than previously appreciated.

- 5.3 Accordingly, the Council carried out an assessment of the potential for the presence of RAAC in its buildings. It was found in one local authority maintained school; this is being made good with funding from the Department for Education (DfE). (It was also found in one academy school and whilst not responsible for it, WNC has been supporting the school and DfE in resolving the issue.) RAAC was also found to have been used to construct the foyer roof of the R&D. This was constructed in the 1980s to join the previously separate Royal and Derngate theatres.
- 5.4 As a precaution, the building was initially closed and then scaffolding was erected to protect staff and the public whilst performances continued. Whilst effective, the scaffolding limits people's enjoyment of the theatre and limits income to NTT from the bars on the site. Apart from the public benefit the operation of the theatre provides, it is financially useful to the Council that its tenant, NTT, is financially strong as without a successful tenant the Council would have the liability of the buildings to meet itself.
- 5.5 Once the position was stabilised, investigations were conducted by the Council to establish the condition of the material and best means of addressing the issue. This identified that the RAAC panels were in good condition, with only localised repairs needed. Two options were identified to secure the position: complete replacement of the roof, or localised repairs coupled with installation of a support system.
- 5.6 It should be noted that, separately, the Council is carrying out works to deal with defects due to age on the Royal roof, and defects due to poor previous works on the Derngate roof. These are funded separately.
- 5.7 A report making appropriate recommendations was approved by Cabinet on 11th June. It was intended that this would be followed by approval of the budget by Council. However, the Council meeting was then rescheduled to avoid the pre-election period for the UK General Election. This meant that the Council meeting would be too late to enable the works minimise adverse impacts on the theatre. The intention was that they would largely be done during the 'dark period' over the summer. The construction contract could not be entered into without the budget approval being in place.
- 5.8 The Leader therefore took an urgent decision to approve the budget on 19th June 2024. This report meets the Constitutional requirement to report on such urgent decisions to the next available meeting of full Council.

6. Issues and Choices

- 6.1 (The choices now open to the Council are obviously limited. However, the text below is retained as it would have been if Council was considering the decision to approve the budget.)
- 6.2 In theory, the Council could take no action and leave the RAAC roof as is, with scaffolding in place. However, this would clearly be impractical and is likely also to be a breach of the lease

terms. It would also continue to adversely affect the theatre's financial viability. WNC is also liable for the ongoing scaffolding costs. This option is therefore discounted.

6.3 Two options have been identified with dealing with a RAAC roof.

6.4 Option 1: The full removal of the RAAC and a new roof system installed. This would entail:

- Works period of around 46 weeks.
- Cost circa £2.3 million.
- Putting extreme pressure on the NTT's revenue position due to the time that the building would be closed.
- Possible additional closure of spaces within the theatre.
- Would provide a 25-30 year warranty and should last for at least 60 years in practice.

6.5 Option 2: Installation of a steel and timber support matrix fitted beneath each individual RAAC panel, supported by the existing structure, which has sufficient strength to do so. This would entail:

- Works period of around 20 weeks.
- Cost within £1.1 million.
- Would reduce the scale of the Royal & Derngate revenue income loss.
- Phased works allow for the maximum space to be open.
- The roof would then need to be checked annually, but the scheme should extend the life of the RAAC roof planks by at least 30 years.
- Structural engineer design warranty is a standard and approved methodology.
- Lower carbon impact through less use of new materials.

6.6 Option 2 is clearly favourable in these circumstances. Whilst ultimately the roof may still need to be replaced, the works can be deferred for decades. In that time other developments (whether technical or in relation to the theatres) may change the context, meaning the additional cost of Option 1 would have been wasted. In any event, Option 1 would be highly detrimental to the viability of the R&D, meaning it cannot be recommended unless the Council wished to put a substantial revenue support package in place.

7. Implications (including financial implications)

7.1 Resources and Financial

7.1.1 In the absence of the works, the financial viability of the Royal & Derngate would continue to be challenged, due to the reduction in income from bars and rentable spaces. As noted above, it is financially important to the Council that the R&D is able to operate on a financially viable basis. (If Option 1 was pursued, the Council would need to provide a substantial package of revenue support for NTT whilst the theatre was closed for the works. This is not a desirable outcome.)

7.1.2 Capital funding of £1.1m was requested for this this financial year (2024/25). This would represent a revenue cost of finance of £68k pa on an annuity basis over 30 years at 4.5% interest.

(Using Option 1 would give an annual financing cost of £141k pa on the same basis, or £111k pa over 60 years, further illustrating why in financial terms it is not favourable.)

7.1.3 There would be annual revenue cost to the Council of £2-3k for inspection surveys. This will be accommodated within existing budgets.

7.2 Legal

7.2.1 As landlord of the theatre, under the lease the Council has responsibility for maintaining the structural integrity of the buildings. The Council also has obligations under Section 4(2) of the Health and Safety at Work etc. Act 1974 as a body with a degree of control over the premises, to ensure that the premises are safe and without risks to health.

7.2.2 As the projected cost for the works is in excess of £100k, the Council's procurement processes will be triggered, and legal services will be engaged in the preparation of the contract.

7.2.3 The lease gives WNC as the landlord the right to enter the theatre for the purpose of executing repairs. The proposed works fall within the landlord's repairing covenant and accordingly WNC has the necessary rights of access as landlord to enter the theatre to carry out the works.

7.2.4 The lease contains a landlord's covenant for quiet enjoyment in typical form, to "permit the Lessee to peaceably and quietly hold and enjoy the [theatre] without any interruption or disturbance from or by the Council or any person claiming under or in trust for the Council."

7.2.5 The relevant case law states that a landlord's covenant for quiet enjoyment and a landlord's repairing covenant are to be reconciled by requiring the landlord to use all reasonable precautions to minimise disturbance to the tenant when carrying out repairs. WNC is complying with this obligation by putting in place the temporary plan which will enable the tenant to keep the theatre open with restrictions on access and use that are necessary to allow the works to proceed while the theatre remains open and in use.

7.3 Risk

7.3.1 The project is designed to:

- a) Remove the risk of unexpected failure of RAAC planks, which, despite being generally in good condition, have the potential for sudden and catastrophic failure and thus the risk of serious injury and death.
- b) The project is also designed to mitigate the risk of NTT being unable to sustain operation of the R&D. The preferred option also reduces the risk of financial failure due to prolonged closure of the facility during roof replacement.
- c) Remove the risk of reputational harm for not resolving this situation.

7.3.2 The main risks of acting as proposed are:

- a) The costs exceed those projected. This risk has been mitigated through intrusive investigation of current condition and application of a risk margin reflecting both current construction market uncertainty and the inherent risk of opening up existing buildings.
- b) Disruption to the operation of the R&D during the works, especially if these are prolonged for any reason. The preferred option minimises this risk.

7.4 Consultation and Communications

7.4.1 The Council is fully engaging with the senior management of the Royal & Derngate on an ongoing basis through regular meetings. They are supportive of the proposed approach.

7.5 Consideration by Overview and Scrutiny

7.5.1 None.

7.6 Climate Impact

7.6.1 By safely leaving the RAAC panels in place the project would minimise the environmental impact of the works, including carbon emissions. The approach reduces waste production and the steel and timber support solution are sustainable as steel is or can be recycled and the growth of timber absorbs carbon from the atmosphere.

7.7 Community and Poverty Impact

7.7.1 The works will cause some local community impacts, but these should be minimal. Avoiding closure of the theatre, which would have an adverse impact on the economy of the area, is a helpful consequence of the proposed approach.

7.7.2 There would be little direct impact on poverty as a result of the proposals, which are to fulfil obligations the Council has. However, keeping the theatre open is helpful in opening opportunities to those in need. NTT states that “As a registered charity, we remain ambitious about ensuring that our theatres are for everyone. We encourage young people to take part in our creative learning opportunities via bespoke schools’ partnerships and weekly activity at the theatres. Our award-winning, nationally recognised Get Involved programme engages with participants from a broad section of our community, and also offers opportunities for nurturing new talent through our commitment to artist development.”¹

8. Background Papers

8.1 None.

¹ <https://www.royalaldergate.co.uk/about-us/> (accessed 20 May 2024)