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PORTFOLIO HOLDER FOR ENVIRONMENT AND PUBLIC SPACE

25th MARCH 2022

REPORT OF THE ASSISTANT DIRECTOR FOR BUILDING AND PUBLIC REALM

A.# APPLICATION FOR CONSENT TO HOLD AN EVENT BY FRINTON SUMMER THEATRE.

(Report prepared by Andy White)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To consider whether to grant consent for Frinton Summer Theatre to provide a tented theatre for the production of plays for four weeks on the Greensward at Frinton on Sea in the summer of 2022.

EXECUTIVE SUMMARY

The Council has freehold ownership of The Greensward at Frinton. Frinton Summer Theatre, Registered Charity No: 1170429, has applied to erect a tent on the Greensward in order to put on a main summer production, a secondary production and community outreach activities. The application was refused at the first instance following informal discussion with the ward members.

The applicant has asked for the decision to be reviewed and has provided additional details. Ordinarily this decision would be made at an officer level. In this case the ward members are opposed to the production whereas other local members and businesses are in support. Given the diversity of local views it is proposed that the Portfolio Holder determines the matter.

The applicant has provided details of local support and proposals for community activities and the use of any financial surplus within the charitable aims of the Theatre. The applicant submits that the proposed production is a one off unique opportunity to stage a production of a well-known Lloyd-Webber play in its fiftieth year.

Local members are concerned about potential commercialisation and degradation of amenity for residents. A number of messages have been received.

On balance it is recommended that the Portfolio Holder determines that the theatre programme be given consent. The Portfolio Holder may wish to consider the balance between the request and the aims of the production and the local concerns in determining the length of time allowed, either:

- between 08 August 2022 and 05 September 2022 (four weeks) as the original request, or;
- between 14 August 2022 and 05 September 2022 (three weeks and one day) as detailed in the revised submission.

Further details including multi agency matters will also need to be considered by way of the Safety Advisory Group and an application for licensable activities will be necessary.

RECOMMENDATION(S)

It is recommended that:

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- a) The Portfolio Holder resolves to give consent for the use of the section of Greensward identified between 08 August 2022 and 05 September 2022 or, at his discretion, between 14 August 2022 and 05 September 2022 by the Frinton Summer Theatre, subject to any necessary licences being obtained and conditions being adhered to.
- b) The Portfolio Holder requests that the details of any consents given make it clear that consent is given for this event only and that future events will be evaluated on their merits at the time.

REASON(S) FOR THE RECOMMENDATION(S)

On balance the proposed productions and activities are likely to provide benefits outweighing the potential issues associated with them.

The Portfolio holder may wish to balance the advantages of the production with the concerns of residents and members.

The proposed event has unique characteristics and it may be appropriate to reflect local concerns by making it clear that the consent for the duration proposed is particular and not a forward looking precedent for future years.

ALTERNATIVE OPTIONS CONSIDERED

1. Declining to grant consent for the use of the land - not proposed – would not lead to any benefit to the Council or Community.
2. Requesting that the organisers consider other timing or locations – completed – the organisers’ response is included in their submission.
3. Granting consent for the production – proposed – further detailed in the report.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Corporate priorities include:

Public spaces to be proud of in urban and rural areas	Promote Tendring’s tourism, cultural and heritage offers
Maximise our coastal and seafront opportunities	Use assets to support priorities
Support existing businesses	Develop and attract new businesses

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Ward members, some residents and groups including Frinton in Bloom and Frinton Residents Association have stated their opposition to the proposals including their opposition to the commercialisation of the greensward. They also submit that the event would not be in keeping with the area or the wishes of philanthropist Richard Powell-Cooper who sold the land to Frinton Urban District council in 1902. It is further submitted that the existing bye law prevents the event.

The applicant has submitted a copy of a petition signed by local businesses supporting the production. The Mayor of Frinton and Walton supports the proposed event and advises that the majority of Town Councillors support it likewise. Correspondence both opposing and supporting the event has been received.

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Minute 252 of The Frinton and Walton Town Council comprises:

“ADJOURNMENT OF MEETING

RESOLVED that the Town Council be adjourned at 7.20pm to enable members of the public to ask questions and members to respond.

•Three members of the public raised strong objections to the application submitted to Tendring District Council, to hold a theatre production on the greensward. In response to one resident asking what the town council’s view was, the Chairman advised that she has spoken with a number of members and felt that three quarters were in favour. However, there was strong objections from a number of councillors present, particularly when it became apparent that the request to utilise the greensward was for five weeks. Residents felt that this commercial money-making enterprise not only goes against the bylaws, but will stop the quiet enjoyment of the greensward for residents and visitors to the area. The Columbine Centre was highlighted as a suitable venue to hold a production where there are adequate facilities for a theatre production along with ample parking.

One member of the public provided comprehensive information on the history of the greensward and details of the bylaws which protect the local heritage and area, where most of it is deemed a conservation area. The bylaws prevent street trading, BBQs etc on the greensward and promenade so therefore no exceptions should be made.

Cllr E T Allen and Cllr L Allen stated that they were firmly against the application as although a theatre production had been held previously, over a couple of days, complaints were received as cars were parked on the greensward and alcohol and goods were sold taking business away from the traders in the town who have already suffered during covid.

Cllr D Miles was not opposed to the production if it was only being held over two or three days and no goods or food were to be sold but the event would need to be controlled and monitored.

Cllr Turner concurred with everything said and was strongly against the proposal.

Cllr Davis felt it was unacceptable now that the event would be five weeks during the summer season.

•A resident noted that the accounts detailed Gazprom as the supplier for the council’s electricity and asked how the decision was made and what the council are doing to cut ties with the largest company in Russia by revenue and its major shareholder is the Russian state. The Chairman asked the Clerk to investigate and report back to council.

•In regard to item 14, the town council was asked to treat prohibited streets as an urgent matter and do whatever is needed to get the controls implemented before the summer season.

There being no further comments or questions from the public it was RESOLVED that the Town Council meeting be reconvened at 7.45pm.”

Prior to making the decision, consultation was undertaken with Cabinet Members, all of whom were supportive of granting permission for the event to take place on the Greensward.

Essex County Councillors also support the event taking place, which accords with the Arts and Culture element of the Essex Vision for 2022.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

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<p>Is the recommendation a Key Decision (see the criteria stated here)</p>	<p>YES/NO</p>	<p>If Yes, indicate which by which criteria it is a Key Decision</p>	<p><input type="checkbox"/> Significant effect on two or more wards</p> <p><input type="checkbox"/> Involves £100,000 expenditure/income</p> <p><input type="checkbox"/> Is otherwise significant for the service budget</p>
		<p>And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date):</p> <p>N/A</p>	

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Cases addressing principles of Section 120 of Local Government Act 1972 confirm that the Council is obliged to ensure that the management of its assets are for the benefit of the district. On balance it is considered that the production will provide benefits that outweigh potential difficulties and approval is viewed by the Officers to be likely to be of benefit to the district.

The land was bought by Frinton Urban District Council from Mr Richard Powell Cooper in 1902 for the combined sum of £534 representing sums recently expended by the latter on works to the land. The Council proposed to do works to prevent erosion. The land was subject to a lease allowing another party to operate bathing machines on the site.

The purpose outlined in the indenture was "...for the purposes of recreation grounds and open spaces to be used forever hereafter by the inhabitants of Frinton on Sea..."

The Council at the time covenanted not to allow the construction of a pier or jetty for use by boats carrying goods or passengers, although such structures for private yachts would be allowed.

The holding of leisure or entertainment events open to the public including the inhabitants of Frinton on sea on part of the land does not appear to contravene either the purpose or covenant.

The land is included within the scope of the Pleasure Ground Bye-laws. The bylaws were made by the Council in 1979 in order to regulate public use. The restrictions imposed by bylaws do not apply if an application is made to the Council and permission is granted. The Council has exercised this discretion in previous years in order to allow productions of various kinds including an annual event by Frinton Mission.

<input type="checkbox"/>	<p>The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:</p>
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Ordinarily, consents to use Council land for external activities would be made at an officer level. In this case the Ward Members are opposed to the production whereas other local members and businesses are in support. Given the diversity of local views, it is proposed that either the Portfolio Holder determines the matter or is consulted prior to making a decision, both of these approaches are in line with the principles and Scheme of Delegation in Part 3 of the Council's Constitution.

Clause 11. of the Pleasure Ground Bye-laws made on 14th November 1979 by Tendring District Council relate to the restrictions of using STALLS, TENTS, etc. on the Greensward. However,

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it is also expressly stated that this prohibition shall not apply where upon an application to the Council, permission is granted to erect any post, rail, fence, pole, tent, booth, standing building or other structure, upon such occasion and for such purpose as are specified in the application. Any agreement with the Council, or otherwise in the exercise of any lawful right of privilege, authorises the selling or letting to hire in the pleasure ground such commodity or article.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The proposed production of itself will be entirely cost neutral to the Council. The organisers propose to give undertakings in respect of any indirect costs to the Council such as lavatory opening and any reinstatement required.

The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The proposed production of itself will be entirely cost neutral to the Council. The organisers propose to give undertakings in respect of any indirect costs to the Council such as lavatory opening and any reinstatement required.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	This decision is a review of an earlier decision. Strongly held vies both in favour of the production and against it have been expressed. Given the diversity of local views It is proposed that the Portfolio Holder determines the matter in line with the democratic principles and scheme of delegation in the Council's constitution.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The proposed events include family performances, outreach to nearby schools and the use of any financial surplus by the applicant for their charitable and community purposes. The proposals include activities to engage with school pupils with special educational needs.

MILESTONES AND DELIVERY

Principal delivery activities will be undertaken by the organisers. The proposed use is between 08 August 2022 and 05 September 2022. It is likely that a Safety Advisory Group meeting will be held at an early stage.

ASSOCIATED RISKS AND MITIGATION

Officers have identified a small number of risks associated with the proposals including potential surface damage, parking issues and use of public lavatories. The event organisers have proposed some steps to address these issues which are outlined in their further application. Concern is expressed that the event would be a precedent to allow commercialism on the greensward. Any enduring use of the area would require a planning permission. A view could

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be also be that individual events considered on their merits would not commit to any long term use or commercialisation. In his case the organisers submit that the proposed event amounts to a special case including a production of national importance and a family production and outreach work that would provide real benefits to the area but will not constitute a precedent for any future applications.

EQUALITY IMPLICATIONS

Officers have not identified any Outreach activities proposed include local schools and children with special educational needs.

SOCIAL VALUE CONSIDERATIONS

The event organisers indicate that the main production will be nationally unique and that the family production will benefit local families. Outreach activities proposed include local schools and children with special educational needs.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

Additional power and water used in the public lavatories will have a marginal effect on the overall emissions of the authority.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	Officers have considered the proposals and have not identified any substantial effect.
Health Inequalities	The outreach activities proposed are aimed at the engagement of school age children with special educational needs.
Area or Ward affected	The events will occur in Frinton if approved. Any effect on businesses will be mainly local. Outreach and performances will be available in the wider district.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Council has freehold ownership of The Greensward at Frinton. Frinton Summer Theatre, Registered Charity No: 1170429, has applied to erect a tent on the Greensward in order to put on a main summer production, specially licenced by Lord Lloyd-Webber, a secondary family production and community outreach activities including involvement of local children with special educational needs. The application was refused by officers at the first instance following informal discussion with the ward members.

The applicant has asked for the decision to be reviewed and has provided additional details and addressing specific concerns raised and suggested reduction in the duration of the productions or alternative locations. The full text of their responses is set out in the revised application appended to this report:

Views expressed by objectors have been received by the Portfolio holder, local Members and senior officers. Those objections that have been seen by the author are set out in Appendix B to the report.

Issue/Suggestion	Position
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Additional demand for public lavatories	The applicant is willing to contribute to running costs.
Effect on local businesses	The applicant has provided a petition signed by local businesses supporting the event.
Effect of additional parking	The applicant has secured the use of additional parking if needed.
Effect on the ground surface	The applicant offers an undertaking in respect of any remedial work.
Alternative timing	The timing requested, in particular the bank holiday is critical to the success of the production. Shorter timescales would reduce income and therefore impact on future activities as well as the proposed programme.
Alternative location	A Frinton location is significant to Frinton Summer Theatre. Alternative locations within the town are problematic in terms of access to facilities and nearby businesses.

Ordinarily this decision would be made at an officer level. In this case the ward members and some residents are opposed to the production whereas other local members, residents and businesses are in support. Given the diversity of local views It is proposed that the Portfolio Holder determines the matter in line with democratic principles and provisions in the constitution.

The applicant has provided details of local support and proposals for community activities and the use of any financial surplus within the charitable aims of the Theatre. Local members are concerned about potential commercialisation and degradation of amenity for residents.

On balance it is recommended that the Portfolio Holder determines that the full theatre programme be given consent. Further details including multi agency matters will also need to be considered by way of the Safety Advisory Group.

PREVIOUS RELEVANT DECISIONS

Frinton Summer Theatre has put on a production on the greensward, with the agreement of the Council, in the preceding two summers. Frinton Mission carry out activities, with the agreement of the Council, on the greensward each year.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None.

APPENDICES

Application and supporting material provided by the applicant.

Objection comments

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