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OVERVIEW AND SCRUTINY PANEL

23 APRIL 2013

A meeting of the Overview and Scrutiny Panel will be held at **7.00 pm on Tuesday, 23 April 2013** in the Broadstairs Town Council, Pierremont Hall, Pierremont Park, Broadstairs, Kent, CT10 1JX.

Membership:

Councillor Driver (Chairman); Councillors: Harrison (Vice-Chairman), Campbell, Gibson, Gideon, E Green, I Gregory, Hibbert, Hornus, Marson, Moore, D Saunders, W Scobie, M Tomlinson, Watkins and Worrow

SUPPLEMENTARY A G E N D A

Item
No

Subject

13. **PETITION REFERRED TO OVERVIEW & SCRUTINY PANEL BY COUNCIL - PLEASURAMA SITE, RAMSGATE** (Pages 1 - 10)

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PETITION REFERRED TO OVERVIEW & SCRUTINY PANEL BY COUNCIL – PLEASURAMA SITE, RAMSGATE

To: **Overview & Scrutiny Panel – 23 April 2013**

Main Portfolio Area: **Commercial Services**

By: **Harvey Patterson, Corporate & Regulatory Services Manager**

Classification: **Unrestricted**

Ward: **Eastcliff**

Summary: **Pursuant to Council Procedure Rule 16.3, to consider the Petition Site referred to the Overview & Scrutiny Panel at the meeting of Council held 18 April 2013 concerning the Pleasurama.**

For Decision

1.0 Introduction

1.1 Thanet District Council received a petition with 1072 valid signatures. A supplementary petition with 5 valid signatures was also received on 13 March 2013.

1.2 The petition requested Council to:

- “Stop the Freehold of the Pleasurama site being sold”.

1.3 The full text of the petition stated that:

“We the undersigned believe the proposed sale of the Pleasurama freehold to the current developer is an unacceptable solution, since this developer has lost public trust and confidence and this proposal will not achieve the stated aim, of regenerating the Ramsgate Seafront. We now call on Thanet District Council to dismiss this developer and this proposal on the following grounds:”

1.4 At the meeting of Full Council held on 18 April 2013 an officer report regarding that petition was considered by Members and the following was agreed that:

- The petition be referred to the Overview and Scrutiny Panel (unconfirmed Council minutes).

2.0 Background

2.1 On 26 July 2012 the Cabinet received and considered an exempt report concerning Ramsgate Royal Sands. Upon the motion of Councillor Poole, seconded by Council Hart it was resolved as follows (minute 14/2012 refers):-

- 'THAT the revised development agreement summarised in Annex 1 to the (Cabinet) report is agreed, with delegated authority granted to the Corporate and Regulatory Services Manager to sign the final agreement, once all advance conditions are met, in consultation with the Cabinet Member for Commercial Services.'

2.2 On 16 August the Overview and Scrutiny Panel considered a 'call-in' of the decision of the Cabinet in relation to the Ramsgate Royal Sand site. Upon the motion of Councillor Harrison, seconded by Councillor Bayford, it was resolved to recommend to Cabinet as follows (minute 282/2012 refers):-

1. That before any final decision is made, external due diligence be undertaken and the report brought back to the Overview & Scrutiny Panel;
2. That the final decision is made by the Cabinet Member for Commercial Services, Leader of Council and Officers;
3. That points (i.e. all unanswered Questions/Queries) raised by Members of the Panel be responded to and the report authors be present when such issues would be considered next'.

2.3 On 23 August 2012 Cabinet received and considered an exempt report in relation to the recommendations of the Overview & Scrutiny Panel. Upon the motion of Councillor Poole, seconded by Councillor Fenner, it was resolved as follows (minute 24/2012 refers):-

- 'As all the concerns expressed by the Overview & Scrutiny Panel have now been addressed, Cabinet confirms its decision taken on 26 July 2012.'

2.4 On 6 December 2012, a Member sponsored Motion on Notice on Royal Sands (Pleasurama Site) which is detailed below had been considered by Full Council and was referred to Cabinet:

'This Council expresses its concern about the worrying lack of progress of SFP Ventures (UK) Ltd in developing the Royal Sands construction project.

Council notes that SFP Ventures (UK) Ltd have been in negotiations with the Council to change the current development agreement.

Council understands that this new agreement is ready for approval once SFP Ventures (UK) Ltd has demonstrated that:

- a) it has finance in place to complete the project; and
- b) that it has an agreement in place with a hotel management company to run the hotel which forms part of the development agreement with the Council.

Council notes that more than 4 months have elapsed since it requested SFP Ventures (UK) Ltd to provide the information in A) and B) above.

Council recommends to Cabinet that if SFP Ventures (UK) Ltd are unable to provide the information requested by the Council in A) and B) above by 31 January 2013 that Cabinet refuses to agree any new terms with this company and will robustly enforce the existing agreement including taking back the leasehold of the Royal Sands development if necessary.'

2.5 Council resolved not to debate the motion as a result of which the motion stood referred to the Cabinet for consideration.(Minute 58/2011 refers).

2.6 Cabinet considered the motion on 22 January 2013 and resolved the following:

- That a review period of 4 months from 22nd January 2013 is now in force and requested officers at the end of this period to prepare an options report to Cabinet if either the finance is not in place for the completion of the development or no agreement is in place for the construction and operation of a hotel.

3.0 Options

3.1 Panel Members may choose to debate the petition referred by Council and make recommendations to Cabinet, since this issue is an executive function;

4.0 Corporate Implications

4.1 Financial and VAT

4.1.1 The financial and VAT implications have been considered by the Cabinet at previous meetings.

4.2 Legal

4.2.1 The Legal implications have been considered by the Cabinet at previous meetings.

4.3 Corporate Implications

4.3.1 The Corporate implications have been considered by the Cabinet at previous meetings.

4.4 Equity and Equalities

4.4.1 The Public Sector Equalities duty is not engaged.

5.0 Recommendation

5.1 That the Overview & Scrutiny Panel decides whether to debate the petition.

6.0 Decision Making Process

6.1 The Overview & Scrutiny Panel may choose to make recommendations to Cabinet for onward submission to Council for noting.

Contact Officer:	Harvey Patterson, Corporate & Regulatory Services Manager, ext 7005
Reporting to:	Dr Sue McGonigal, Chief Executive

Annex List

Annex 1	Council Report – 18 April 2013
Annex 2	Annex to Council Report – 18 April 2013

Background Documents

Title	Where to Access Document
None	N/A

Corporate Consultation Undertaken

Finance	N/A
Legal	N/A

PETITION TO COUNCIL – PLEASURAMA SITE

To: **Council - 18 April 2013**

By: **Harvey Patterson, Corporate and Regulatory Services Manager**

Classification: **Unrestricted**

Ward: **Eastcliff**

Summary: **A Petition has been received by the Council requesting the Council to stop the freehold site being sold.**

For Information

1.0 Current Situation

1.1 *A petition containing 1072 valid signatures was received by the required deadline of 11 March 2013 for submission to this meeting of Council, from the Friends of Ramsgate Seafront. On 13 March 2013, the Council received a supplementary sheet for that petition, containing 5 valid signatures.*

1.2 *The petition requests the Council to:*

“Stop the Freehold of the Pleasurama site being sold”.

1.3 *It states:*

“We the undersigned believe the proposed sale of the Pleasurama freehold to the current developer is an unacceptable solution, since this developer has lost public trust and confidence and this proposal will not achieve the stated aim, of regenerating the Ramsgate Seafront. We now call on Thanet District Council to dismiss this developer and this proposal on the following grounds:”

1.4 *The grounds for the petition, referred to at Para 1.3 above, are as set out in a copy of the petition frontsheet, attached as Annex 1 to this report.*

1.5 *Janet Woods, the petition originator, has confirmed that she will present the petition at the Council meeting. Under Council Procedure Rule (CPR) 12.6, she will have five minutes in which to speak.*

2.0 Petition to be Debated

2.1 *As the petition has more than 1000 signatures Council must, in accordance with CPR 12.6, debate it. In this regard Council is reminded that decisions in relation to the terminations of the Development Agreement in respect of the Ramsgate Royal Sands site are the sole preserve of the Cabinet.*

2.2 *Council is further reminded that on 22 January 2013 Cabinet considered a Notice on Motion referred to it by full Council regarding the Ramsgate Royal Sands development where Cabinet resolved to impose a four months review period beginning on 22 January 2013 and at the end of this period requested officers to prepare an options report if either the finances were not in place for the completion of the development or no agreement*

was in place for the construction and operation of a hotel (Cabinet Minute 49/2012 refers). Should it be necessary to present an options report to Cabinet that is likely to be considered at the extraordinary meeting of Cabinet fixed for 29 May 2013 and in that event any recommendations made by Council in the course of debating this Petition will be referred Cabinet at that time.

3.0 Options

3.1 The Council may take any of the following actions:

- i) Make recommendations to Cabinet
- ii) Hold an inquiry into the matter
- iii) Undertake research into the matter
- iv) Hold a public meeting
- v) Hold a consultation
- vi) Hold a meeting with Petitioners
- vii) Refer the Petition for consideration by the Overview and Scrutiny Panel
- viii) Require a Senior Officer to attend a meeting of the Overview and Scrutiny Panel to give evidence
- ix) Write to the Petition Organiser setting out its view about the request in the Petition

4.0 Corporate Implications

3.1 Financial

3.1.1 A decision by the Cabinet to terminate the Development Agreement will impact the finances of the Council in terms of the loss of a significant capital receipt and the unbudgeted costs of any connected or resulting litigation.

4.0 Legal

4.2.1 As noted in paragraph 2.1 above decisions in relation to the Ramsgate Royal Sands site are the responsibility of the Cabinet. Given the investment in the site to date it is likely that any decision by the Cabinet to terminate the Development Agreement and forfeit the £1m deposit bond will be challenged by the Developer in court. In addition, the successful termination of the Development Agreement will not effect the validity of the three 199 year site leases granted to the Developer and these will have to be the subject of separate forfeiture proceedings. Given these complexities and the costs and risks of litigation, any decision by the Cabinet to terminate the Development Agreement and forfeit the site leases will need to be supported by the advice of senior counsel.

4.3 Corporate

4.3.1 Cabinet has already instructed officers to bring back an options report in the event that by 22 May 2013 the Developer does not have the necessary finances in place to complete the development or an agreement in place for the construction and operation of a hotel.

4.4 Equity and Equalities

4.4.1 None apparent

5.0 Recommendation

5.1 Members are requested to debate the Petition in accordance with the above.

6.0 Decision Making Process

6.1 Under Council Procedure Rule 12.6, Council is required to debate the Petition. However, only Cabinet can make substantive decisions in respect of the Ramsgate Royal Sands site.

Contact Officer:	Harvey Patterson, Corporate & Regulatory Services Manager, Ext 7005
Reporting to:	Dr Sue McGonigal, Chief Executive and S. 151 Officer

Annex List

Annex 1	Petition Frontsheet
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Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager
Legal	N/A

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Agenda Item 13
Annex 2

Save Our Heritage

Petition to Thanet District Council

Stop the Freehold of the Pleasurama site being sold

We the undersigned believe the proposed sale of the Pleasurama freehold to the current developer is an unacceptable solution, since this developer has lost public trust and confidence and this proposal will not achieve the stated aim, of regenerating the Ramsgate Seafront. We now call on Thanet District Council to dismiss this developer and this proposal on the following grounds:

1. Flawed Information - In December 2002 a presentation was made to the Tory led TDC by their preferred developer. This was a British Virgin Islands (BVI) registered Company led by anonymous people, backed by a Swiss Bank (Société Financière Privée S.A) that wasn't even registered as a bank at the time and partnered by a well known brewer (Whitbread) who took an early exit.

2. No Action - For over 3 years, despite being given the go ahead, SFP Venture Partners BVI did nothing to regenerate the site. However, in early 2006, they incorporated a new company SFP Ventures (UK) Ltd, registered at their accountant's address. This was in response to complaints from Councillors that TDC should not be dealing with a BVI, as there were concerns about money laundering, tax evasion, and the identity of the developers.

3. Unmet Conditions - TDC had concerns about guarantees and asked SFP Ventures (UK) Ltd to provide a Bond of £5.6M and, from 2006 to 2009, SFO Ventures (UK) Ltd., failed to get this Bond. From 2006 to 2009 they also failed to get work started on the site.

4. Insufficient Proofs - In 2009, despite advice from TDC Officers, the Cabinet reduced this Bond down to a £1M deposit and papers seen still show Cabinet dealing with the BVI Company, despite the assurances TDC gave that they were not. Further insufficient proofs that SPF could fund this scheme were accepted by TDC. In effect, it looks like the Council may have been duped by this company. These documents now should be re-examined, as they provide the basis for the agreement TDC then came to. But, if they were fraudulent, the whole basis for this contract is invalid and should now be held up to legal scrutiny

It is now 2013 and TDC are considering the exit strategy for this debacle might be selling on the freehold of the site to a technically insolvent Company, who may well wait until they can make a profit by selling it on, however long that takes. This is not good enough.

Since 1998 the regeneration of the Pleasurama site has lurched from crisis to crisis and we believe it is now time to remove this flawed developer and take a new look at other options.



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