

# Public Document Pack



Date: 8 July 2013  
Our ref: Pleasurama Site Dev Review/TFG/Agenda  
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## PLEASURAMA SITE DEVELOPMENT REVIEW TASK & FINISH GROUP

18 JULY 2013

A meeting of the Pleasurama Site Development Review Task & Finish Group will be held at **7.00 pm on Thursday, 18 July 2013** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

### Membership:

Councillors: Binks, Campbell, Driver, Harrison, Hornus, Marson, Nicholson and Worrow

## AGENDA

Item  
No

Subject

1. **ELECTION OF CHAIRMAN**
2. **APOLOGIES FOR ABSENCE**
3. **DECLARATIONS OF INTEREST**
4. **ESTABLISHING THE PLEASURAMA SITE DEVELOPMENT REVIEW TFG WORK PROGRAMME FOR 2013/14** (Pages 1 - 16)

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**ESTABLISHING THE WORK PROGRAMME FOR THE PLEASURAMA SITE DEVELOPMENT REVIEW TASK & FINISH GROUP FOR 2013/14**

To: **Pleaurama Site Development Review Task & Finish Group - 18 July 2013**

Main Portfolio Area: **Democratic Services**

By: **Charles Hungwe, Senior Democratic Services Officer**

Classification: **Unrestricted**

Ward: **Eastcliffe Ward**

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Summary: **The report sets out the background to the work that will be undertaken by the Pleaurama Site Development Review Task & Finish Group (TFG) in 2013/14.**

**For Decision**

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**1.0 Introduction**

- 1.1 The Overview and Scrutiny Panel met on 28 May 2013 and set up a number of sub-committees that included the Pleaurama Site Development Review Task & Finish Group. The Panel then met again at an Extraordinary Meeting on 25 June 2013 to agree the membership size and terms of reference for each working party/task & finish group.
- 1.2 Each of these Groups was asked to meet and consider at their first meeting electing a Chairman and agreeing a work programme for 2013/14.
- 1.3 With reference to the partly completed draft work programme template attached in Annex 1 to the report, Members of the Pleaurama Site Development Review Task & Finish Group are requested to set out a more detailed work programme using the terms of reference in Annex 2 as assigned to the Group by the Panel.
- 1.4 In doing so Members may need to take into consideration the fact that they are having to address issues that are emerging from the petition submitted to Council on 13 March 2013 and a Member sponsored Notice of Motion that were subsequently referred to the Overview and Scrutiny Panel.

**2.0 Background**

- 2.1 Thanet District Council received a petition in two stages. The main petition document which had 1072 valid signatures was received on 13 March 2013. This was followed by a supplementary document on the same petition with 5 valid signatures.
- 2.2 The petition requested Council to:
  - “Stop the Freehold of the Pleaurama site being sold”.

2.3 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:”

2.4 At the meeting of Full Council held on 18 April 2013 an officer report regarding that petition (attached as Italicised Annex 3 to the report) was considered by Members and the following was agreed, that:

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

2.5 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.’

2.6 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’.

2.7 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.’

2.8 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.

2.9 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).

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

- a) That a review period of 4 months from 22<sup>nd</sup> 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.

2.11 On 25 April 2013; Cabinet further confirmed their support for the review that was going to be conducted by a sub-committee of the Overview & Scrutiny Panel as reflected by the following minute extract:

- a) To support the setting up of the Overview and Scrutiny Panel task and finish group, and advised that the following considerations should be taken into account in proposing a course of action for the council:
  - A focus primarily on the key issues to help guide the way forward for the council as a whole;
  - Cabinet's support for the work, including the cost of seeking confidential appropriate legal and commercial property advice;
  - Consideration of action moving forward that may involve legal processes needs to be done in a way that does not prejudice the position of the council in a court action;
  - Legal, financial and time risks associated with any proposed course of action are considered with care, including those associated with alternative developments;
  - Seeking an expeditious result so that Cabinet can move forward on this site;
- b) To express Cabinet's strong dissatisfaction with the progress made by the developer in the last four months to move forward with this development, and signal a shift into a new phase of the development in which it wishes to see robust alternatives to the current arrangements being developed and acted upon by the council.

### **3.0 Current Situation**

- 3.1 In response to the Council referral, Members of the Overview & Scrutiny Panel set up the Pleasurama Site Development Review Task & Finish Group on 23 April 2013 and re-constituted the Group in 2013/14. The agreed terms of reference for the Group are highlighted in Annex 2 of the report.

### **4.0 Options**

- 4.1 Members are requested to scope out the work programme of the Group with a proposed timetable for completing the review and submitting a report to the Overview and Scrutiny panel for onward submission to Cabinet and Council.

### **5.0 Corporate Implications**

#### **5.1 Financial and VAT**

- 5.1.1 The financial and VAT implications have been considered by the Cabinet at previous meetings which were as follows:

- a) "The primary long term impacts of choosing a specific course of action on the site and the costs of this need to be assessed as part of the risk analysis work as part of review by the Scrutiny task and finish group. In relation to this report the proposed support to seek initial high level commercial and legal advice can be met from existing budgets;
- b) In addition to the legal risks involved with ceasing the current arrangements can be added the timescales involved in seeking an alternative proposal and the financial risks of this in comparison to the current arrangements and the potential return to the council."

#### **5.2 Legal**

- 5.2.1 The Legal implications have been considered by the Cabinet at previous meetings which were as follows:

- a) "It is not proposed to set out a full legal analysis of the situation at this stage as this will have to be considered in some detail through the Scrutiny process. However, a clear option as a course of action would be to seek the cancel the current development agreement and leases or not provide an extension to any timescales.

As indicated above these courses of action are almost certain to be challenged legally, so any legal risk assessment through the Scrutiny process must assess the chances of being successful, the costs that may be involved, and the timescales to achieve the result in court."

#### **5.3 Corporate Implications**

- 5.3.1 The Corporate implications have been considered by the Cabinet at previous meetings which were as follows:

- a) "The future of the current development agreement development agreement and leases is seriously in doubt. There are risks associated with taking action about this, as set out in this report, but the repeated failure by the developer to move forward on site, despite the willingness of the council to assist, is no longer acceptable.

As set out above, the failure to deliver has to change the council's approach to this site development and its consideration of options for the future. This represents Cabinet's entire dissatisfaction that the four month deadline it gave to the developer to resolve matters and make progress on site has not been met. Care needs to be taken in relation to considering options for the future as indicated above, but now is the time to take this step."

#### **5.4 Equity and Equalities**

5.4.1 The Public Sector Equalities duty is not engaged.

#### **6.0 Recommendation**

6.1 Members are requested to establish detailed work programme and timetable for completing the review.

#### **7.0 Decision Making Process**

7.1 The Overview & Scrutiny Panel may choose to set up sub-committees to carry out in-depth study of an issue before making to make recommendations to the main Panel for onward submission to Cabinet and or Council for decision.

Contact Officer:	Charles Hungwe, Senior Democratic Services Officer, Ext 7186
Reporting to:	Glenn Back, Democratic Services & Scrutiny Manager, Ext 7187

#### **Annex List**

Annex 1	Pleasurama Site Development Review Draft Work Programme 2013/14
Annex 2	Pleasurama Site Development Review TFG – Terms of Reference
Annex 3	Council Report – 18 April 2013
Annex 4	Annex to Council Report – 18 April 2013

#### **Background Documents**

<b>Title</b>	<b>Where to Access Document</b>
None	N/A

#### **Corporate Consultation Undertaken**

Finance	N/A
Legal	Harvey Patterson, Corporate & Regulatory Services Manager

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# Draft

**PLEASURAMA SITE DEVELOPMENT REVIEW TASK & FINISH GROUP WORK  
PROGRAMME 2013/14**

**NAMES OF MEMBERS**

<b>ELECTED MEMBER</b>	<b>DESIGNATION</b>
Cllr Binks	
Cllr Campbell	
Cllr Driver	
Cllr Harrison	
Cllr Hornus	
Cllr Marson	
Cllr Nicholson	
Cllr Worrow	
<b>SUPPORTING OFFICERS</b>	<b>DESIGNATION</b>
Mark Seed	Director of Operational Services
Harvey Patterson	Corporate & Regulatory Services Manager

<b>DATE OF MEETING/ACTIVITY</b>	<b>AGENDA ITEM</b>	<b>WITNESSES TO BE INVITED</b>
Meeting 1 Date/time  18 July 2013 @ 7.00 pm	a. Election of Chairman; b. Agreement of all other items of business to be considered by the Group (Work Programme 2013/14); c. Agreement of timetable for all future meetings before final report is presented to Overview and Scrutiny Panel.	<b>Mr Mark Seed</b> , Director of Operational Services;  <b>Mr Harvey Patterson</b> , Corporate & Regulatory Services Manager
Meeting 2 Date/time		
Meeting 3 Date/time		
Meeting 4 Date/time		
Meeting 5 Date/time		
etc		
Final meeting Date/time	a. Completion of final report b. Agreement of recommendations to be presented to the Overview and Scrutiny Panel	

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**PLEASURAMA SITE DEVELOPMENT REVIEW TASK & FINISH GROUP TERMS OF REFERENCE FOR 2013/14**

**TERMS OF REFERENCE**

**General**

The purpose of the task & finish group is to review the management of the development of the Pleasurama Site by Thanet District Council and advise Cabinet through the Overview & Scrutiny Panel.

**Membership, Chairmanship and Quorum**

Number of Members	Eight
Political Composition	3 Labour 3 Conservative 1 Thanet Independent Group 1 Independent Group
Substitute Members Permitted	Yes
Political Balance Rules apply	No
Appointments/Removals from Office	By the Overview and Scrutiny Panel
Restrictions on Membership	Non Executive Members only
Restrictions on Chairmanship	None
Quorum	Four
Cooption Arrangements	None
Number of ordinary meetings per Council Year	Meetings will be called as required and as reflected in the work programme below

**Terms of reference**

The full terms of reference for the task & finish group are given below. The scope of the group for 2013/14 will be specifically to:

1. To review due diligence undertaken by the Council on the current developer;
2. To consider the options available to the Council with regard to the future of the development agreement with SFP Ventures (UK) Ltd;
3. To assess the commercial and legal implications of these options using external professional advice if necessary;
4. To consider future options for the Pleasurama site in general and make recommendations to Cabinet;
5. To produce a final report with recommendations for submission to the Overview and Scrutiny Panel and then to Cabinet.

**Delegations**

None

**Notes**

This working party was established in principle by the decision of the Overview & Scrutiny Panel on 23 April 2013.

Consideration of legal issues to be undertaken in a way that does not prejudice future court action in which the Council may be involved.

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**PETITION TO COUNCIL – PLEASURAMA SITE**

To: **Council - 18 April 2013**

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

Classification: **Unrestricted**

Ward: **Eastcliff**

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

**For Information**

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**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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## Save Our Heritage

Agenda Item 4

Annex 4

### 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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