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

To: **Pleasurama 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 Pleasurama 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 Pleasurama 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 Pleasurama 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 Pleasurama 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.

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## **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