Disposal of the freehold of Dreamland

Extraordinary Cabinet	**1 August 2019**
Report Author	**Deputy Chief Executive & S151 Officer**
Portfolio Holder	**Leader of the Council**
Status	**For Decision**
Classification:	**Unrestricted**
Key Decision	**No**
Ward:	**Margate Central**

Executive Summary:

As outlined in the Strategic Asset Management Plan (SAMP) 2017 – 2021, the corporate portfolio is under review to ensure that the Council only retains assets that support corporate priorities and deliver value for money.

This report identifies Dreamland as an iconic heritage theme park with a very troubled past, brought back to life via the council's CPO and now ready to be returned to private sector ownership, to ensure its long term future. Dreamland represents a current and potential liability to the council, with current and future costs which are unsustainable. Now is considered an optimum time to dispose of the site to the lessee and operator, Sands Heritage Ltd (SHL) to safeguard its future and support regeneration.

Cabinet is asked to make a decision on the recommended way forward.

Recommendation(s):

(1) Subject to agreement of external funders regarding the removal of ongoing grant obligations upon the council, and subject to legal advice, to dispose of Dreamland to Sands Heritage Ltd including the boundary as indicated in Annex 1, all rides listed in Annex 2 and the intellectual property rights of Dreamland.

CORPORATE IMPLICATIONS	
Financial and Value for Money	The capital programme is part-funded from capital receipts generated from the sale of assets. These disposals are required to enable the continued investment in council assets. The disposal of assets in this report will not only generate capital receipts but will also reduce ongoing maintenance costs and reduce the risk of incurring future capital expenditure. The receipt will also be required to fund any CPO compensation not provided for; and the repayment of debt related to past capital spending at Dreamland.

Legal	In any land disposal, the Council is subject to a duty under section 123 of the Local Government Act 1972, that except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained'. When (as in this case) disposing of land without market engagement, an independent valuation should be obtained to demonstrate best consideration is being obtained. Once a valuation is obtained the form of consideration must meet or exceed that valuation.
Corporate	Review of assets forms part of the adopted policy and corporate aims. The Council should not retain assets unless they provide value for money or support the corporate aims and these assets have been identified as underperforming for the Council.
Equality Act 2010 & Public Sector Equality Duty	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership. Please indicate which aim is relevant to the report. Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, | Advance equality of opportunity between people who share a protected characteristic and people who do not share it | X Foster good relations between people who share a protected characteristic and people who do not share it. | The freehold sales, with leasehold interests remaining will have no impact under the Equality Act 2010 and Public Sector Equality Duty. The transfers will support our commitment under these acts to continue to provide inclusive community facilities

CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	
Promoting inward investment and job creation	✓
Supporting neighbourhoods	

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	✓
Supporting the Workforce	
Promoting open communications	

Introduction and Background

1.1 Following millions of pounds of public funding, the successful restoration of the amusement park and substantial private investment, the council is now reviewing ownership of the entire complex in order to unlock the continued regeneration of other parts of the site.

1.2 To support asset management and financial strategies, there is an ongoing review of the corporate portfolio to identify assets that are not meeting the corporate objectives and therefore should be considered for disposal. Dreamland has been fully appraised and is considered suitable for generating a capital receipt as well as transferring risks and liabilities to SHL.

1.3 One of the purposes of a Compulsory Purchase Order (CPO) is for the public sector to force the sale of a site in the hands of private owners without the means and/or desire to invest in it; to utilise the council's own skills and resources, build partnerships and access external grants and other investment; then to step away from the site - leaving it, ideally, in a condition where it can survive and even thrive. In 2010 Dreamland was a failed, burnt-out eyesore of an ex-theme park. Following a community campaign, the council chose to CPO the site in 2011. This was a bold step, but it certainly showed vision and was done for the above reasons, for the benefit of Margate and Thanet.

1.4 After substantial investment in the form of Government grants and the council's own resources, the newly refurbished Dreamland amusement park was opened in 2015. After 18 months and a fractious relationship with the council, the operator (SHL) went into administration, with a great deal of debt. In 2017 the council had ownership of a site that despite over £10m of investment was a failing enterprise. There were substantial liabilities and there were doubts that a heritage amusement park could ever be run as a commercial going concern.

1.5 By 2017 the council had borrowed £8m to invest in the site, added to the £11.4m grants from external funders. It owned the listed, undeveloped cinema site, which required regular repairs; and a hugely complicated, specialist and expensive-to-maintain Scenic Railway. The council also had ongoing legal costs relating to the CPO which were soaking up the net income derived from the car park. The council was also a named creditor of SHL.

1.6 TDC sought a new partner with the willingness and resources to try to help the council achieve its original vision for Dreamland. A hedge fund, Arrowgrass (the part specialising in distressed assets) bought SHL (via a holding company, Margate Estates Ltd) after cleansing the company of its debts via a Company Voluntary Arrangement. An experienced management team was installed to turn around the operation. It has also invested substantially - not just in Dreamland but also buying up neighbouring sites, including an option to buy Arlington House. The current offering is to run not just the heritage amusement park but a far broader leisure portfolio. The most recent manifestation of this is their plan for a hotel. The council and SHL has spent a substantial amount of time and effort working in partnership together, and negotiating hard with each other, to reach this point.

2.0 Where are we now?

2.1 TDC is potentially on the cusp of achieving its original vision when issuing the CPO eight years ago. Against all the odds and despite huge challenges, we are within touching distance of a solution which will show that a local authority can use CPO powers to turn around a failed site, by bringing together the right people and accessing expertise and resources, to then return to the private sector as a thriving enterprise. It is worth noting that the period of public ownership of Dreamland represents a very short time in terms of the whole life of the park: just six out of 99 years of its life.

2.2 Through the council's vision, determination and sheer hard work over the years, it is possible we could not only end up with a thriving heritage amusement park, but in a few years a Dreamland that is the heart of substantial inward investment to Thanet, offering hundreds of local jobs, substantial secondary income to local businesses, greater hotel and other visitor infrastructure and a nationally recognised leisure and conference facility.

2.3 In getting there, we will not lose sight of TDC's desire to secure the best deal for Thanet. The grand ambitions need still to be tempered by the realities. Before considering the risks of the new proposed approach, it is important to weigh the current risks and costs facing TDC.

Current risks and costs to the council of the status quo

2.4 The current risks to the council are as follows:

A. TDC has ongoing significant financial liabilities of the vacant parts and retained areas, e.g.:
    a. Building maintenance and compliance
    b. Estate management
    c. Repairs obligations (especially given its listed status)
    d. Tivoli Brook.
B. The council has continued obligations to grant funders, as a condition of the grants.
C. If the site is split into different company interests, the management of the estate will become complex with significant estate management costs and no overall joined up vision for the site.
D. The existing lease places obligations on the council which will be likely to result in significant additional costs; this is also true of the car park, where investment has been deferred, pending the potential disposal.
E. There is a rent-free period and then rent payable to the council is based on turnover, at a level not achieved so far, so the income potential from the 99 year lease is poor.
F. Another failure of Dreamland the heritage amusement park would result in TDC starting from square one, but with grant obligations debt from past direct investment.
G. The CPO compensation settlement is still outstanding.

H. The amusement park and rides will need substantial ongoing investment.
I. There is a window of opportunity to dispose but this is limited, as investors of SHL will be reluctant to invest significant additional funding without the company owning the Dreamland freehold.
J. There will be no capital receipt for TDC if there is no sale.
K. An alternative car park has already been set up adjacent to Dreamland, on land not owned by TDC. No sale could result in a loss of car park income as the alternative car park undercuts the TDC car park.
L. Without ownership of the whole site, new inward investment in Margate could be lost.

3.0 TDC aims and challenges in delivering them

3.1 The Order authorising the CPO of the site in 2012 was for the stated purpose of "achieving the economic regeneration of the area by the development of a heritage amusement park … creating jobs, visitor expenditure and advancing tourism"; also to achieve "improvement in environmental well-being through a sensitive and appropriately scaled development that provides pedestrian links and attractive facilities and spaces that will encourage residents and visitors to benefit from what is presently a derelict site".

3.2 Officers have been working to a set of objectives that are intended to deliver the original objectives as well as protect the council's interests, based on the events of the past six years and risks and liabilities outlined in 2.4:

- To secure the success of Dreamland.
- To maintain healthy stakeholder relations with the National Lottery Heritage Fund (NLHF, previously Heritage Lottery Fund) and the Dreamland Trust.
- To divest our liabilities.
- To seek to avoid any ongoing costs and protect revenue income as much as possible.
- To generate a capital receipt to help repay related debt.

4.0 Challenges to achieving the aims - and proposals for a way forward

4.1 There has been £11.4m of funding from DCMS, MHCLG and the NLHF, all of which, to a greater or lesser extent, has conditions attached. If the council were to no longer own or otherwise control the site, it would not be able to discharge its obligations, indeed the grant conditions of DCMS and NLHF specify that the funder's permission is required in various forms before a disposal can be agreed.

4.2 The council compulsorily purchased the site and will potentially have sold it whilst still finalising the compensation payable for the compulsory purchase. This is entirely feasible but nonetheless adds to an already complex process.

4.3 After disposal to the current lessee, SHL could theoretically submit a planning application for development on the site which is outside of the current planning policy for the site - which is similar to its planning designation at the time of the CPO (leisure and ancillary activities). This may or may not succeed, and SHL have indicated that they have no plans to do so, but it represents a risk.

4.4 The car park currently makes a net surplus and its disposal will result in a loss of income.

4.5 The car park represents a public amenity as it is the main seafront car park for visitors. Disposal could result in a loss of public amenity.

4.6 The council may not achieve the market value of the site.

4.7 The buyer may not be in a position to fulfil its obligations after the sale.

4.8 The relationship with external grant funders could be damaged, affecting the prospect of future funding.

4.9 The relationship with the Dreamland Trust could be damaged, which could diminish the scope for preserving the Dreamland heritage.

5.0 Proposal

5.1 We agree terms with SHL to sell the whole site, including rides and intellectual property. We sell for a consideration equal to or greater than the independent valuation we have obtained. The council already has advice that the best value can be obtained by disposing to the lessee, SHL, rather than any other buyer, because there is enhanced value in the site being unencumbered by the lease (held by SHL).

5.2 We secure agreement from external funders (Government agencies and departments) that they no longer hold the council to the original conditions of the grants they have made in respect of Dreamland. Some obligations may be taken on by SHL. The bodies/amounts/conditions are as follows:

Body	**Amount £000**	**Years invested**	**Main conditions of grant**
National Lottery Heritage Fund (NDPB but via DCMS)	5,800	2010 - 2018	For 25 years from 2012. Keep in good repair and insure the assets (scenic railway, undercroft, menagerie cages, rides, etc.) that benefited, were acquired or created from the funding. Maintain ownership or keep exclusive control over what happens to the asset. A share of net proceeds from selling or letting the property should be paid to NLHF.
Coastal Communities Fund (MHCLG)	1,899	2015 - 2018	Conditions met.
Sea Change/CABE (DCMS)	3,719	2010 - 2013	For 10 years from 2010. Keep in good repair and insure the assets that benefited from the funding. A share of net proceeds from selling or letting the

			property should be paid to DCMS.

5.3 In relation to the challenges in paragraph 4.2, the council has sought legal advice on exemptions to offering the site back to the original owners (the Crichel Down rules) and is confident of its position on this. Additionally, the CPO compensation valuation is based on a date applicable at the time of the CPO, not the current valuation. Even if there is a risk that a CPO valuation starting point is today's value, to arrive at the 2012 value, very substantial deductions would apply because of the many millions of pounds spent on the site in the intervening years.

5.4 As with any location at any time, there is the possibility that the owner of a site wishes to develop it in a way not envisaged in the past, as set out in paragraph 4.3. SHL has stated that it has no plans to do this. The NLHF also has plans to enter into an agreement with SHL to maintain the heritage aspects of the park (although this is not agreed at the time of writing). Further, the council will require a restriction in the sale agreement to disallow the opportunity for the new owner to develop the site for housing, for a period of ten years.

5.5 The loss of car park revenue (see 4.4) will need to be replaced. A freehold disposal typically generates a one-off capital receipt, rather than recurrent annual income. However, the receipt can be used to repay debt, and so the annual cost of debt repayments will be eliminated - which will offset the loss of income.

5.6 To address the risk in paragraph 4.5, a further restrictive covenant will be part of the sale agreement, to guarantee the same number of public parking spaces in future as exist now.

5.7 The market value of the site will be established by an up-to-date, independent valuation. The disposal will not take place unless this valuation is equalled or exceeded. This will address the risk in paragraph 4.6.

5.8 Paragraph 4.7 outlines the risk that SHL will not be able to fulfil its obligations. The buyer, SHL, is currently owned by Arrowgrass, an established hedge fund with relatively easy access to funds. Initially, there will be no transfer of ownership without payment of the disposal price and the council will obtain security regarding proof of funds in relation to any ongoing financial obligations of SHL. Additionally, the NLHF will have contracted with SHL to maintain heritage assets at Dreamland (subject to NLHF agreement).

5.9 Discussions have already taken place with external funders and are ongoing and positive. The most significant funder is the NLHF, which continues to have a relationship with the Dreamland Trust, and has a long term interest in the regeneration of Margate and the preservation of the heritage aspects of Dreamland. The council would want to maintain good relations with the NLHF for all of these reasons, as well as the possibility of future funding of other projects. Additionally, SHL have a good relationship with the NLHF and are negotiating a contract with NLHF to maintain heritage at Dreamland. Therefore we are confident that external funder relations (referred to in 4.8) will be good.

5.10 The council’s relationship with the Dreamland Trust (4.9) has changed over time and there are good relations with the Trust. The council seeks similar objectives, and would be aiming to work with SHL to attract funding for opportunities to continue to preserve the Dreamland heritage through an archive and through education. The Trust has recently succeeded in attracting NLHF funding to continue its aims.

6.0 How the council’s aims are achieved

6.1 As per the council’s original CPO objectives,

“... achieving the economic regeneration of the area by the development of a heritage amusement park …”

“... improvement in environmental well-being through a sensitive and appropriately scaled development …”

6.2 There has been substantial investment in Dreamland since the CPO, by external grant funders, TDC and SHL. There were difficulties in making a success of the amusement park in 2015-2017, but the new owner, in partnership with TDC, has created the beginnings of a much broader visitor offering. Although the heritage amusement park alone has always struggled commercially, the new vision for Dreamland offers a critical mass that makes the most of the history, whilst supplements it with commercially sustainable activities. This current and potential approach demonstrates that Dreamland can succeed without the need for cross-subsidisation from mass housing development. It incorporates modern rides, possible hotels and conference facilities which are ancillary to the core Dreamland experience, delivering the council’s original vision from 2012.

6.3 As per paragraph 3.2, the first current objective is to secure the success of Dreamland. Given its slim chance of survival as an amusement park alone, the proposed disposal to a commercial owner offers an excellent chance for Dreamland to succeed. The potential owner has access to funds and a risk appetite that TDC will never have, as well as greater scope to implement a new vision.

6.4 The second objective is to maintain healthy stakeholder relations with the NLHF and Dreamland Trust. The NLHF can and do see how TDC has facilitated success and they will look favourably on the council in future. The council will also aim to establish an ongoing relationship with the Trust and the new owners of Dreamland.

6.5 The third objective is to divest our liabilities. The transfer of ownership will result in the transfer of liabilities related to ownership, e.g. those set out in 2.4 (A). At least some financial liabilities, i.e. debt, can be repaid from the disposal receipt.

6.6 The fourth objective is to seek to avoid any ongoing costs and protect revenue income as much as possible. A sale will remove costs relating to estate management, maintenance and repairs and significantly reduce staffing resource dedicated to Dreamland. The loss of car park income will be offset by cost savings and the reduction in debt repayments.

6.7 The final objective is to generate a capital receipt to help repay related debt. A receipt will be achieved in excess of the council's independent market valuation; its scale will be sufficient to repay enough Dreamland-related debt to offset the loss of car park income.

7.0 Options

Cabinet could choose to retain the property and land, but should be aware that this will result in the risk, liabilities and costs highlighted in this report. The preferred and recommended options are as documented at the top of this report.

Contact Officer:	Tim Willis, Deputy Chief Executive
Reporting to:	Madeline Homer, Chief Executive

Annex List

Annex 1	Plan
Annex 2	Rides

Background Papers

Title	**Details of where to access a copy**
Strategic Asset Management Plan	Thanet District Council website or contact estates@thanet.gov.uk.

Corporate Consultation

Finance	Chris Blundell, Head of Financial Services and Deputy S151 Officer
Legal	Tim Howes, Director of Corporate Governance & Monitoring Officer