

## OVERVIEW AND SCRUTINY PANEL RECOMMENDATIONS TO CABINET - PROPOSAL FOR THE DISPOSAL OF THE DREAMLAND FREEHOLD

Extraordinary Cabinet	<b>02 September 2019</b>
Report Author	<b>Madeline Homer, Chief Executive</b>
Portfolio Holder	<b>Cllr Bob Bayford, Leader</b>
Status	<b>For Decision</b>
Classification:	<b>Unrestricted</b>
Key Decision	<b>Yes</b>
Reasons for Key	<b>Significant effect on communities</b>
Previously Considered by	<b>Cabinet - 1 August 2019 Overview and Scrutiny Panel - 15 August 2019</b>
Ward:	<b>Margate Central</b>

### **Executive Summary:**

The purpose of this report is for Cabinet to consider the recommendations from the Overview and Scrutiny Panel proposed at the meeting on 15 August 2019. This follows the panel's call-in regarding the Cabinet decision made relating to the 'Proposal for the disposal of the Dreamland freehold'.

The Cabinet report is attached as Annex 1 to this covering report.

At their meeting, Members of the Overview and Scrutiny Panel recommended the following:

- (1) That Cabinet seeks three independent valuations for the Dreamland site before an agreement is reached with a buyer, and;
- (2) Cabinet requests an 18 year housing development restriction in the agreement instead of the proposed 10 years.

### **Recommendation(s):**

The recommended way forward is that Cabinet do not accept the recommendations for the reasons outlined in the report.

### **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.								
<b>Legal</b>	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.								
<b>Corporate</b>	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.								
<b>Equality Act 2010 &amp; Public Sector Equality Duty</b>	<p>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.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <table border="1" data-bbox="432 1104 1402 1346"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td></td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td>X</td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td></td> </tr> </table> <p>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.</p>	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.	
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.									

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

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

## 1.0 Introduction and Background

- 1.1 In order to secure the long-term viability of the Dreamland site and unlock the continued regeneration of other parts of the site, the Cabinet made a decision regarding the disposal of the Dreamland freehold at the extraordinary Cabinet

meeting on Thursday 1 August. The decision notice was published on Friday, 2 August 2019, giving Overview and Scrutiny Panel members five working days to call-in the decision if they deemed it necessary.

- 1.2 On Tuesday 6 August, having been requested by other Panel members, the Panel Chairman asked that the cabinet member decision be called-in and asked Democratic Services to arrange a meeting for consideration for the call-in.

## **2.0 Reasons for Call-in**

- 2.1 The Panel Chairman cited that he felt the decision did not meet the following decision making principle as set out in article 13 of the Council's constitution:

(e) the need to identify the range of options considered;

- 2.2 Specifically this being the need for Cabinet to explain why they have taken the decision to dispose of the asset now, rather than retaining it.

## **3.0 Overview and Scrutiny recommendations**

- 3.1 At the panel meeting held on 15 August 2019, members of the panel recommended:

- (1) Cabinet seeks three independent valuations for the Dreamland site before an agreement is reached with a buyer, and;
- (2) Cabinet requests an 18 year housing development restriction in the agreement instead of the proposed 10 years.

## **4.0 Extension of the 10 year restriction on housing development at the site to 18 years**

- 4.1 The primary way to control development is through the Planning System. The site is within a conservation area and much of the site has protected Grade II\* listed status. Dreamland is protected in the adopted Local Plan Policy T8 (2006 Local Plan).

- 4.2 The draft Local Plan Policy SP08, part (4) doesn't specifically allow for enabling development, ie anything that might detract from its use as an amusement park (including housing) means it would not be supported by Planning Policy. There were no objections to the policy at Publication stage.

- 4.3 The proposed restrictive covenant to restrict housing development for 10 years, can impose certain restrictions on the land. The owner with the burden of the restriction can apply to the Lands Chamber of the Upper Tribunal for a waiver, discharge or modification of the restrictive covenant. If the character of the burdened land has changed so much so as to make the covenant obsolete then it may be an option. However, planning policy will have an influence on this decision, as would the nature of the community obligations.

- 4.4 Restrictive covenants are usually only used as a leverage to gain financial benefit should land be developed which is not relevant in this situation.

- 4.3 Therefore, Sands Heritage Limited (SHL) offered the 10 year restriction to demonstrate their commitment to investing in and operating a Heritage amusement Park, but the primary control of development remains through the Local Plan

## **5.0 The council to procure three valuations on the site, rather than one.**

- 5.1 The primary reason for the sale of Dreamland is to secure the success of Dreamland (see 3.2O of Cabinet report August 1).
- 5.2 In terms of the process of the sale, senior officers have delegated responsibility to ensure that the site is sold for best consideration as defined in the Local Government Act 1972. Savills LLP have been procured to advise on this matter.
- 5.3 Savills is one of the UKs leading property agents. It is a Royal Institution of Chartered Surveyors (RICS) regulated firm, the valuers as individuals are also regulated to the same standards.
- 5.4 Valuation is one of the key RICS member practices, valuer registration is a quality assurance mechanism that monitors all registered members who carry out valuations and this ensures consistent standards.
- 5.5 RICS registered valuers must adhere to prescriptive standards, be committed to openness and transparency and are experts in their fields, delivering credible and high quality advice.
- 5.6 It is a requirement of RICS that members carry sufficient indemnity insurance, they cannot practice without this insurance, and this provides comfort for organisations who act on the advice of the valuer.
- 5.7 Savills have confirmed in their engagement with the council that they have no conflict of interest. That they do not have a material connection or involvement with the subject property or any other parties and there are not other factors that could limit the valuers ability to provide impartial and independent valuation.
- 5.8 The scale of the firm gives them access to sufficient comparable property information and resources to enable them to provide an accurate and robust market valuation of Dreamland.
- 5.9 We therefore see no reason to procure further valuation, we are confident that Savills have sufficient expertise, and no conflict of interest, and are therefore best placed to support the council in determining best consideration under the Local Government Act 1972.

## **6.0 Options**

- 6.1 Members could choose to:
  - 1. Accept the recommendations from the Overview and Scrutiny Panel however for the reasons given above it would not be appropriate to proceed with the recommendations.
  - 2. Not to accept the recommendations of the Overview and Scrutiny Panel.

## 7.0 Recommendations

7.1 The recommended way forward is that Cabinet do not accept the recommendations for the reasons outlined in the report.

## 8.0 Next steps

8.1 That Cabinet proceed on the basis of the decision notice on 1 August (as at Annex 2).

Contact Officer:	Edwina Crowley, Head of Asset Management
Reporting to:	Tim Howes, Director of Corporate Governance

## Annex List

Annex 1	01 August 2019 Cabinet Report on Proposal For the Disposal Of The Dreamland Freehold
Annex 2	Decision Notice on Proposal For the Disposal Of The Dreamland Freehold

## Background Papers

Title	Details of where to access copy
Thanet Planning Policy	<a href="https://www.thanet.gov.uk/services/planning-policy/">https://www.thanet.gov.uk/services/planning-policy/</a>

## Corporate Consultation

<b>Finance</b>	Chris Blundell, Head of Financial and Procurement Services
<b>Legal</b>	Tim Howes, Director of Corporate Governance