

Asset Management - Your Leisure leases

Cabinet	22 September 2022
Report Author	Mark Peace (Interim Director of Property)
Portfolio Holder	Cllr- Reece Pugh, Deputy Leader & Cabinet Member for Economic Development
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Reasons for Key (if appropriate)	Leases in Excess of 7 years - deemed disposal
Previously Considered by	CMT - 7th July 2022
Ward:	Margate Central Ward & Ramsgate Central Harbour Ward

Executive Summary:

This report is intended to follow up on Your Leisure's partial surrender of the leased premises at the Winter Gardens (12th August 2022) the training assets managed are fully surrendered - (Target date 31st October 2022) and offer recommendations for future options to ensure that new leases on the remaining assets in particular Ramsgate and Hartsdown Leisure Centres are let on modern, fit-for-purpose leases as opposed to clusters as the current lease is set out.

Recommendation(s):

1. To agree to the surrender of the current lease in its totality, and regrant two new independent leases for Hartsdown Leisure Centre and Ramsgate Leisure Centre.
2. To give delegated authority to the Interim Director of Property, to enter into the relevant Agreement(s) for new leases with Your Leisure on terms to be agreed.
3. To give delegated authority to the Acting Director of Finance and Operations to negotiate the sharing agreement with Your Leisure for the wider provision of services provided through Your Leisure.
4. To give delegated authority to the Acting Director of Finance and Operations to negotiate the service concession agreement with Your Leisure for the wider provision of Foreshore related activities.
5. To give delegated authority to the Director of Law and Democracy to sign all documents necessary to give effect to the surrender and subsequent leases.

Corporate Implications

Financial and Value for Money

The report highlights, the financial impact of Covid-19 on the leisure industry has been Profound.

The council has a direct connection with YL surviving and ultimately thriving - if YL fails and goes into administration or liquidation, there are multiple risks and costs that would fall to the Council.

YL is responsible for meeting loan repayments in respect of two loans, originally for investment in our two leisure centres. These repayments are around £600,000 per annum. The council guarantees these loans; further, the loan terms stipulate that early redemption attracts penalties that are equal to the value of all principal and interest due over the life of the loans.

YL's failure would present a risk that the loans would have to be redeemed, including penalties, and this could amount to £8million.

The Surrender of the lease will see the end to the current Lease and grant agreements with a new Sharing agreement to be implemented for the novation of Loans and pensions. (covered separately - not in this report)

Legal

A disposal via long lease will employ property solicitors to carry out research and rectifications on the Land titles (if applicable), draft and award the lease agreements and register these with Land Registry. Otherwise, the proposal has no legal implications.

Currently, these assets do not sit within TDC List of Assets of Community Value.

Risk Management

The main risk to this project is failure to agree on terms to grant a new lease to Your Leisure. This could impact the long-term operation of leisure centres.

Delegating approval to the Director of Property to enter into negotiations with Your Leisure will mitigate this risk and ensure a mutually beneficial agreement is achieved.

Corporate

The Council's Corporate Statement sets out its commitment to, "constructively explore approaches for Community Wealth Building and Maximise the return on our assets and services".

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, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty:

- To advance equality of opportunity between people who share a protected characteristic and people who do not share it.

The new leases will have no impact under the Equality Act 2010 and Public Sector Equality Duty.

The new leases will ensure the continued operation of the district leisure centres and be of benefit to the community, and will support our commitment under these acts to continue to provide inclusive community facilities.

Corporate Priorities

This report relates to the following corporate priorities: -

- Growth
- Environment
- Communities

1.0 Introduction and Background

- 1.1 YL is a Registered Society, more commonly referred to as a Leisure Trust, under the Co-operative and Community Benefit Societies Act 2014 with charitable status.
- 1.2 Within the Thanet district, the company manages a range of facilities and services under their existing lease and annual funding agreements with the council.
- 1.3 The existing lease covered Northdown House, Margate Winter Gardens, Hartsdown Leisure Centre and Ramsgate Leisure Centre expires in October 2024.
YL also manages beach huts along the coastline and provides services for Coastal wardens during the summer season.
- 1.4 This report is influenced by four key factors. These being: - Financial implications of the coronavirus pandemic and future viability - The lack of Local Authority funding to provide the required operational subsidy - The ongoing and substantial maintenance, repair and refurbishment costs - The opportunity for TDC to utilise money from the Margate Town Deal Fund.

2.0 The Current Situation

- 2.1 The Winter Gardens was surrendered on 12 August 2022. This building is now back in the Council's control and responsibility. The original lease dated 1999 between Thanet Leisure Force (Your Leisure) and Thanet District Council, covers various premises, which have gradually been surrendered back to TDC.
- 2.2 It is therefore recommended that the entire lease is surrendered and new leases regranted to Your Leisure for Hartsdown Leisure centre and Ramsgate Leisure Center. (two separate leases)
- 2.3 The Heads of Terms for the new leases are subject to negotiation between Thanet District Council and Your Leisure. The principal HOT's are being finalised with YL's solicitors and our legal team and should be in an agreed form on the 9th and agreed formally on the 16th and will be available prior to the 22nd cabinet meeting.
- 2.4 The new Lease is also proposed to include 'Green Clauses' to ensure the properties meet the council's net zero pledge:

We have pledged to do what is within our powers and resources to:

Make Thanet District Council net zero by 2030 in our core carbon footprint (this includes emissions we have direct control over e.g. the estates and activities that we own and manage).

- 2.5 The substantial emissions from the two leisure centres are included in the core carbon footprint. The TDC carbon reduction plan includes the following actions necessary to aim for net zero by 2030:
 - Energy and water use efficiency will improve by 25% by 2025 in both leisure centres
 - All lighting will be LED by 2030 at the latest.
 - At least one of the leisure centres will not use gas for heating but will have air orimed ground source heat pumps installed by 2030 at the latest to meet net zero by 2030

3.0 Options

- 3.1 Cabinet could either opt to do nothing and allow existing management agreement to continue to expiry in October 2024;
or
Cabinet could agree the following:
- 3.2 To give delegated authority to the Interim Director of Property, in consultation with the Disposal and Acquisition surveyor, Acting Director of Finance and Operations the Portfolio Holder for Estates and Economic Development, and Corporate Director of Place to enter into the relevant Agreement(s) for new leases with Your Leisure on terms to be agreed.
- 3.3 To give delegated authority to the Acting Director of Finance and Operations to negotiate the sharing agreement with Your Leisure for the wider provision of services provided through Your Leisure.

- 3.4 To give delegated authority to the Acting Director of Finance and Operations to negotiate the service concession agreement with Your Leisure for the wider provision of Foreshore related activities.
- 3.5 To give delegated authority to the Director of Law and Democracy to sign all documents necessary to give effect to the surrender and subsequent leases.

4.0 Next Steps

- 4.1 Any lease longer than 7 years is considered a disposal. Hence, a cabinet approval is advised.
- 4.2 In view of the above, it is therefore recommended to follow option 3:2 :-
- Give delegated authority to the Director of Property, in consultation with the Disposal and Acquisition surveyor and the Portfolio Holder for Estates and Economic Development, to enter into the relevant Agreement(s) for new leases with Your Leisure on terms to be agreed.
 - Give delegated authority to the Acting Director of Finance and Operations to negotiate the sharing agreement with Your Leisure for the wider provision of services provided through Your Leisure.
 - Give delegated authority to the Acting Director of Finance and Operations to negotiate the service concession agreement with Your Leisure for the wider provision of Foreshore related activities.
 - Give delegated authority to the Director of Law and Democracy to sign all documents necessary to give effect to the surrender and subsequent leases.
- 4.3 It is proposed that any new service concession agreement will allow for the expansion of Foreshore related services, this will include but is not be limited to a review of the coastal toilet provision.

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Corporate Consultation

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