



CABINET

17 August 2011

REPORT

Subject Heading:

Stubbers Adventure Centre

Cabinet Member:

Councillor Roger Ramsey

CMT Lead:

Andrew Blake-Herbert

Report Author and contact details:

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Policy context:

Asset Management Plan 2010 -2011

Financial summary:

The proposed disposal of the Centre will provide a significant capital receipt for the Council.

Is this a Key Decision?

No

Is this a Strategic Decision?

No

When should this matter be reviewed?

N/A

Reviewing OSC:

Value Overview & Scrutiny Committee

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough

Excellence in education and learning

Opportunities for all through economic, social and cultural activity

Value and enhance the life of every individual

High customer satisfaction and a stable council tax

SUMMARY

The report refers to the Council's ownership of the Stubbers Adventure Centre.

A previous report concluded that no essential need existed for the Council to continue to own and control the property and it should be offered for sale. The Council has a fiduciary duty to obtain best price when disposing of assets. The Council had been advised that the property should be openly marketed to ascertain its true value and that the existing tenant be encouraged to bid competitively in this process. The marketing has now concluded and this report makes a recommendation that the property be sold to the Essex Youth Trust (who financially support the Centre and have a mutual trustee with Stubbers Adventure Centre charity) on the terms set out in the exempt part of this report.

The proposed purchase will be funded and entered into by the Essex Youth Trust, who will then make suitable arrangements with the Stubbers Adventure Centre Limited to enable the existing operation as a charitable adventure centre to continue in perpetuity.

RECOMMENDATIONS

- 1) To agree the disposal of the Council's freehold interest in the Stubbers Adventure Centre to the Essex Youth Trust on behalf of the Lessee on the terms set out in the exempt part of this report.
- 2) That the Property Strategy Manger be authorised to deal with all matters arising and thereafter to complete the disposal of the site.

REPORT DETAIL

The Council owns the freehold interest in the Stubbers Adventure Centre (previously known as the Stubbers Outdoor Pursuit Centre). This was originally a Council provided and operated outdoor pursuit centre in the control and management of the Education Department, primarily used to serve the needs of schools. The Centre is on a 117-acre Green Belt site and comprises a Residential Centre, Camping Area, Lakes, Boat Storage, Multi Purpose Areas, Climbing Wall, Housing Accommodation and Administrative Offices.

In the mid 1990's, a review of the Centre was carried out as it was making substantial revenue losses and the Council was not able to invest capital in the Centre to the extent required to meet changing needs and to maintain it. The Council decided, therefore, to cease its own direct management of the Centre and instead to seek for an organisation to take over the facility.

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A marketing campaign was undertaken, the outcome of which was a decision to lease the premises to the trustees of Essex Boys & Girls Clubs (operating as Stubbers Adventure Centre Ltd) for a period of 21 years from April 1996 at a peppercorn rent. The Essex Boys & Girls Clubs have been supported by the Essex Youth Trust throughout its occupation of Stubbers with a start-up grant and funding amounting to £1.5m over the term of the lease. The Essex Youth Trust is a registered charity with substantial assets that it uses to support the education and advancement of young people.

The Centre had approached the Council on the basis that it wished to substantially further invest in the Centre, in particular to replace Summer Tented Villages with a Residential Centre.

The Stubbers Adventure Centre did not feel it could move ahead with these investment proposals without a greater form of tenure, there remaining only 6 years on the existing lease. Indeed, it is a requirement of their major funding offer that at least a 99 year lease is in place. The Adventure Centre had requested that the Council consider either a freehold disposal or an extension of the existing lease to 99 years.

The existing lease is at a peppercorn rent which is a reflection of an initial loss making operation. At the end of the current lease, the lessee will be entitled to claim a new lease under the security provisions of the Landlord and Tenant Act. At this time it would be usual for the landlord, the Council in this case, to seek an open market rent for the premises.

The case for the Council to retain the property - which would ordinarily be part of ongoing review processes - has been brought forward for consideration by the current request of the Lessee for a freehold or lease extension in order to justify capital investment.

In deciding whether to dispose of property the Council, as owner, has to have regard to the statutory requirement to achieve best consideration in any disposal of its assets. It also needs to consider the principle of whether a disposal should proceed.

The operation of Stubbers provides social and community benefits but it is not considered that this is a sufficient reason to retain ownership in this case. This is not a statutory provision and indeed, most local authorities do not own such facilities which are most often provided through private provision, trusts or charities. There is no evidence that disposal will lead to the Centre not operating in the future and one of the underlying reasons for disposal is to permit investment in the facility that cannot be justified under the existing tenure arrangements.

Discussions had taken place with the Essex Boys & Girls Clubs but no agreement could be reached on price with both sides holding different views on value. Preliminary negotiations suggested that due to the unusual nature of the property and its value, an agreement might be difficult to reach if the property was not competitively offered.

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The Council, therefore, chose to offer the freehold to the market. This would fully test the market regarding price and provide an opportunity for any bid from the current Lessee – the Essex Boys & Girls Clubs – to be made in a competitive environment so it can be comparatively assessed. Other operators may also be interested and could take a medium term view on running this facility themselves in the future by acquiring at this time. Finally, the freehold interest could be attractive to investors as a market rent will become due on the Centre when the existing lease expires.

As this is a large green belt site, the Council would impose on sale a claw-back covenant to ensure that the Council would benefit from any valuable planning permission granted outside the existing green belt planning use notation currently attached to the site.

Outcome of Marketing

The property was marketed in June and July 2011. The site attracted strong interest and a good number of competitive bids were received, including a bid from the existing tenant - the Essex Boys & Girls Clubs - supported with financial backing from the Essex Youth Trust. The Essex Youth Trust has a mutual trustee with Stubbers Adventure Centre charity. These bids and their benefits, both financial and in terms of their community attraction, have been reviewed by the Lead Member for Value. The outcome is that Cabinet is being recommended to prefer the bid received from the Essex Boys & Girls Clubs, subject to it adhering to the terms of its bid and completing the transaction in a reasonable timescale.

The proposed purchase will be funded and entered into by the Essex Youth Trust, who will take protective ownership of the asset. The Trust will then make suitable arrangements with the Essex Boys & Girls Clubs (operating as Stubbers Adventure Centre Limited) to enable the existing operation as a charitable adventure centre to continue in perpetuity.

REASONS AND OPTIONS

Reasons for the decision:

It has been concluded that Stubbers is not a property that the Council must continue to own and has agreed in principle to its disposal so as to permit sufficient tenure for a new owner to make the substantial investment required in the site to ensure its long term sustainability.

Other options considered:

- 1) Retain the property and let the existing lease run to expiry and at that point review the rent and retain as an investment for the Council or sell to the market as an investment at that time. This would not allow an occupier to now invest in the premises as is operationally required, due to insufficient tenure.

- 2) To negotiate to sell the premises only to the existing tenant. The Council is under no obligation to deal exclusively with the existing tenant. The Council's primary fiduciary obligation is to obtain best price for the asset. Without undertaking a marketing process it would be difficult to establish that the best price is being achieved as these types of property only occasionally come to the market and it is difficult to accurately gauge value without open marketing.

IMPLICATIONS AND RISKS

Financial implications and risks:

The sale will yield a capital receipt which can be used to contribute towards the financing of the Council's capital programme.

The costs of disposal can normally be financed from the capital receipt.

There are no material revenue implications arising from the disposal because the property is currently let at a peppercorn rent.

Legal implications and risks:

There is no legal requirement for the Council to retain this land. While the disposal transfer documentation will include the restrictions referred to above, it is not possible with a freehold sale to absolutely guarantee that the restrictions could not be circumvented in due course. However, this is not identified as high risk and remains the best way to protect for the Council a share of any planning gain that may arise in the future.

All Legal matters arising from this decision to dispose of property will be properly and legally documented to protect the Council's position and record the agreement reached.

Human Resources implications and risks:

None have been identified for the Council.

Equalities implications and risks:

Stubbers Adventure Centre is an outdoor pursuits centre that is openly available to schools, youth organisations and members of the public. It provides activities for these organisations, which will continue to be available after any freehold sale as the existing tenant is the proposed purchaser.

BACKGROUND PAPERS

None