Dreamland - CPO Compensation and Disposal

Cabinet/CMT	**19 February 2021**
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Portfolio Holder	**Leader of the Council**
Status	**For Information**

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 reviewed its ownership of the entire complex in order to unlock the continued regeneration of other parts of the site. Cabinet on 1 August 2019 agreed to its disposal to Sands Heritage Ltd (SHL), the current lessee and operator of Dreamland.

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 was fully appraised and 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 2012. 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, including a hotel. The council and SHL have 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 Against all the odds and despite huge challenges, we have now achieved a solution which shows 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 eight out of 100 years of its life.

2.2 Through the council's vision, determination and sheer hard work over the years, the plan is now to have a thriving heritage amusement park, and in a few years a Dreamland that is the heart of substantial inward investment to Thanet. This presents the opportunity of 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 Covid-19 has obviously had a major impact on the leisure industry and Dreamland is no exception. The future for the industry still looks somewhat uncertain. This would be the case regardless of ownership of the site, and the reality is that its future is likely to be better secured in the hands of the private sector. The alternative would be for its assets to be a continual drain on TDC's finances. Even if more external investment was possible in TDC ownership, the council would still have to make its own contributions, whilst carrying the risks of ownership.

3.0 Risks and costs to the council of ownership

3.1 These are set out below:

A. TDC had 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 was finding it increasingly difficult to obtain insurance in respect of the various components of the site, especially the scenic railway.
C. The council had continued obligations to grant funders, as a condition of the grants.

D. If the site had to be split into different company interests, the management of the estate would have become complex with significant estate management costs and no overall joined up vision for the site.
E. The lease placed obligations on the council which were likely to result in significant additional costs; this is also true of the car park, where investment was deferred, pending the potential disposal.
F. 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.
G. 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.
H. The amusement park and rides required substantial ongoing investment.
I. There was a window of opportunity to dispose but this was limited, as investors of SHL were reluctant to invest significant additional funding without the company owning the Dreamland freehold.
J. There would have been no capital receipt for TDC if there was no sale.
K. An alternative car park was set up adjacent to Dreamland, on land not owned by TDC. There was the risk of a loss of car park income as the alternative car park undercut the TDC car park.
L. Without ownership of the whole site, potential for new inward investment in Margate would be lost.

4.0 TDC aims and challenges in delivering them

4.1 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".

4.2 Officers worked to a set of objectives 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 3.1:

- 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.

5.0 Challenges outlined in August 2019 and outcomes

5.1 There had been £11.4m of funding from the Department for Digital, Culture, Media & Sport (DCMS), the Ministry of Housing Communities and Local Government (MHCLG) and the National Lottery Heritage Fund (NLHF), all of which, to a greater or lesser extent, had 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 specified that the funder's permission was required in various forms before a disposal can be agreed.

- Outcome: Permission was successfully obtained from all funders and all grant obligations have either been waived in respect of TDC or transferred to SHL.

5.2 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.

- Outcome: The CPO compensation was successfully negotiated at around the same time that the sale was completed.

5.3 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.

- Outcome: This still represents a risk, but the Local Plan still designates the site for leisure and ancillary activities. Subject to the planning policy, some "ancillary" activities could actually enhance the sustainability of Dreamland and promote inward investment. SHL has entered into an agreement with NHLF to maintain Dreamland's heritage assets. Additionally and as a failsafe, the council has secured in the sale agreement a clause to disallow any residential development on the site for ten years.

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

- Outcome: This, of course, is true and the council will no longer benefit from the lost net income. However, the capital receipt from the sale allows sufficient repayment of debt, that reduces the council's annual debt repayments which offsets the net income loss.

5.5 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.

- Outcome: The sale agreement includes a clause that requires SHL to provide at least as many parking spaces as there are currently, for a period of ten years.

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

- Outcome: The council obtained two independent valuations for the site and the disposal price exceeds these two valuations.

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

- Outcome: This remains a risk. However, there is no reason to believe that SHL will be unable to fulfil its obligations. It has also entered into an agreement with NHLF that requires SHL to maintain the heritage assets.

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

- Outcome: Relationships have been maintained with all funders. The council has been in regular dialogue with the primary funder, NHLF, and we are collectively hopeful for the future of Dreamland.

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

- Outcome: The council's relationship with the Trust is as good as it has ever been. The Trust were co-signatories to the funding release agreement and continue to maintain relationships with TDC, NLHF and SHL.

6.0 Residual risks

6.1 The sale was split between the car park and all other assets (primarily the park and cinema). This was because there is a Government testing station on the car park, for which there is a lease until April 2021. Therefore the council exchanged contracts on the whole site, but completed only on the other assets, with a completion on the car park in April. Although the sale has been contractually agreed, the car park still needs to be vacated for completion to take place.

6.2 The CPO compensation has been settled.

6.3 There is the risk of a judicial review, based on the "Crichel Down" rule. This rule allows for the prospect of the previous owners (from whom the council acquired the site via the CPO) claiming a right to be offered the site first. The council has sought legal advice on this and is confident that any judicial review would be unsuccessful.

7.0 How the council's aims are achieved

7.1 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 …"

7.2 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 heritage, 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.

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

7.4 The second objective was 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.

7.5 The third objective was to divest our liabilities. The transfer of ownership will result in the transfer of liabilities related to ownership, e.g. those set out in 3.1 (A) and (B). At least some financial liabilities, i.e. debt, can be repaid from the disposal receipt.

7.6 The fourth objective was 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.

7.7 The final objective was 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. It will also enable the council to cover the cost of CPO compensation and the legal costs associated with the prolonged negotiations.

8.0 Financial implications

8.1 The sale of Dreamland comprises the park, cinema, scenic railway, rides and intellectual property. This was completed on 18 December 2020 for £2.3m. The exchange of contracts for the sale of the car park took place on 18 December 2020 for £4.7m with a view to completion in April 2021.

8.2 Settlement of the CPO compensation was subject to complex and extensive negotiations. There were three separate negotiations, of the park, the cinema and the scenic railway. Any CPO involves the main compensation, statutory loss, interest and legal costs, where the acquirer (the council) is normally expected to pay for much of the costs of the owner. The final settlement took place after the tribunal had begun in January 2021 and peripheral costs were significant. The council had taken steps to mitigate potential costs at stages in the lead-up to the tribunal.

8.3 The final figures are:

	Main site £000	Cinema £000	Amusement Arcade £000	Total £000
Compensation	3,400	650	470	4,520
Interest	310			310
Statutory loss	175		42	217
Legal costs	615	77	60	752
Total	4,500	727	572	5,799
Already paid	-856	-727	-572	-2,155
Net due	**3,644**	**0**	**0**	**3,644**

8.4 In addition to the settlement above, further internal legal costs have been incurred that are not included in the above table.

8.5 The eventual total receipt of £7m can be used to fund the above £3.6m, plus repay enough debt to offset the car park net income loss, leaving a net zero impact.

9.0 Conclusions

9.1 The Dreamland sale in respect of the main site including the cinema building, the park including the scenic railway and rides and intellectual property was exchanged and completed on 18 December 2020. On the same date, there was an exchange of contracts for the car park, with a view to completion in April 2021. The £7m sale proceeds were sufficient to cover all the outstanding costs of the CPO.

9.2 Most of the council's CPO objectives, and those set in August 2019, have been met. The risks associated with the sale have largely been addressed. The liabilities attached to ownership of the amusement park and derelict cinema building have been removed.

9.3 No-one envisaged such a fraught and resource-intensive process when the council first issued the CPO ten years ago. It was a bold decision, and one that may not have been taken if the full costs and risks had been known at the time. However, the council has managed the period as best as it could, building strong partnerships with all parties to achieve a satisfactory outcome.

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