

Key Decision Required:	NO	In the Forward Plan:	NO
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CABINET

8 NOVEMBER 2013

A.2 - REFERENCE FROM COMMUNITY LEADERSHIP AND PARTNERSHIPS COMMITTEE OF 18 SEPTEMBER 2013 AND REPORT OF THE FINANCE AND ASSET MANAGEMENT PORTFOLIO HOLDER

REVIEW OF THE COMMUNITY ASSET RENTAL OFFSETTING SCHEME (CAROS) – SETTING THE FRAMEWORK, COMMUNITY TRANSFER AND CLACTON SPORTS CLUB

(Report prepared by Colin Sweeney and Andy White)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

- a) To refer to Cabinet the recommendations of the Community Leadership and Partnership (CLAP) Committee’s review of the Community Assets Rent Offsetting Scheme (CAROS);
- b) To consider the potential for Community Transfer of assets; and
- c) To consider the request of Clacton Sports Club for the transfer of the freehold of their premises.

EXECUTIVE SUMMARY

- The CLAP Committee has undertaken a review of CAROS following Cabinet’s earlier decision to phase out the scheme.
- The Committee has recommended the replacement of the scheme with a district wide grant fund and exploring the potential for Community Asset Transfer (CAT).
- The Council has not considered a general policy on CAT and should do so before considering any specific requests for transfer.
- Clacton Sports Club (CSC) has requested the transfer of the freehold of their premises to them.

RECOMMENDATIONS

That Cabinet:

- (a) Considers the recommendations of the CLAP Committee and determines whether to continue, vary or discontinue CAROS;**
- (b) Requests that Officers prepare a policy and guidance on CAT for the January 2014 meeting of Cabinet; and**
- (c) Determines that the potential transfer of CSC’s freehold be considered in parallel with the preparation of the CAT policy as above.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

CAROS is aimed at supporting local organisations to contribute to the priorities set out in the Corporate Plan 2010-16. In particular it targets the Council's aspiration to work with and develop the relationship with the third sector voluntary and community organisations.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

For the 2012 - 13 financial year the rental income foregone by the Council due to the scheme totalled £35,600 an increase of £10,280 on the previous financial year. This has increased from the previous period due to a number of rent reviews being completed during the year which have significantly increased the rent for a number of organisations. Due to continuing rent reviews in accordance with current leases, the level of income foregone will continue to rise.

Risk

There are a number of opposing risk factors:

1. That the Council does not act prudently in foregoing rent that would support its overall financial position and the delivery of services.
2. That allowing high levels of support to some groups allows them to continue to operate in an unsustainable way.
3. That requiring market rent levels from some organisations could make them fail financially.
4. That longer term disposal options could result in the loss of asset value to the taxpayer that would be crystalized in the event that the organisations fail, or fail to deliver their potential.

LEGAL

Section 123(1) Local Government Act 1972 indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained.

The General Disposal Consent Order (England) 2003 gives consent for disposal at below best consideration reasonably obtainable provided that the undervalue is less than £2m and the proposal enhances the environmental economic and social wellbeing of the area. The order includes specific rules and guidance on the consideration and approval of any such decision.

Section 123(2A) Local Government Act 1972 indicates that, a local authority may not dispose of land held by it as public open space without advertising its intention to do so in the local press.

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Crime and Disorder; Equality and Diversity/Health Inequalities

It is recognised that CAROS continues to help a variety of community; voluntary and sporting organisations that provide healthy; community based; socially interactive and diversionary

activities.

Area or Wards Affected:

All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

On 18 September 2013 the CLaP Committee received a report by the Corporate Director (Corporate Services), which contained information received from community and sport organisations and presented a potential alternative option to the Committee to facilitate the review of the Community Asset Rent Offsetting Scheme (CAROS).

The Committee received a presentation by the Council's Asset Manager, which gave details as to:

- What the scheme was
- The scheme at present (groups, properties, budgets etc.)
- The current groups signed-up to the scheme
- Membership numbers
- Turnover
- Options (e.g. asset transfer; individual setting of rents below value; public sale; open market rents; continue CAROS as it was; continue but with changes; increase the flat rate amount; change to a percentage grant; change to a percentage grant with base level; set differential amounts; set differential percentages or allow individual portfolio holder decision)
- Example organisations and example effects

The Committee was reminded that, following the disappointment expressed at its meeting held on 10 December 2012 due to a lack of response received to requests by the Council, organisations were again written to asking for details of their respective accounts to be sent to the Council.

The Committee was advised that, as at the date of its meeting held on 18 September 2013, responses had been received for 24 out of the 26 properties and of the 24 received, only four had not provided accounts.

The Committee was required to agree the most appropriate way to carry forward the review. The agreed scope of the review comprised two aspects, namely:

Whether, excluding the CAROS scheme and its current impact, there was any disadvantage or indeed advantage to a community group, voluntary organisation, or club leasing assets from the Council (financially, operationally or legally).

The second aspect was the actual CAROS scheme and its purpose and whether (1) it was still relevant; (2) it unfairly disadvantaged those organisations that operated without the use of Council assets; and (3) there was an alternative scheme that would be more appropriate.

In considering how best to carry forward the review, Members raised initial questions around, amongst other things, whether or not:

- a) premises would be left empty or derelict if groups decided not to continue and vacate premises;
- b) notice could be served upon those organisations which had not responded to the requests by the Council;
- c) certain organisations under the scheme required the grant as some were national institutions and appeared to be doing better than others;
- d) other tenants (not under CAROS) used premises when primary organisation did not.

COMMITTEE RECOMMENDATIONS / COMMENTS TO CABINET

Cabinet is now asked to consider the recommendations and comments of the Committee and determine its response if any:

The Committee **RECOMMENDS** to **CABINET** that:

- (a) The Scheme as it currently exists is not fit for purpose and should cease in May 2015;
- (b) Of the 25 participating organisations, Cabinet should immediately identify options for asset transfer(s);
- (c) Cabinet advise of annual funds available for subsidised rent for community based organisations across Tendring as a whole; and
- (d) Cabinet considers the property or land assets currently subject to the scheme to determine whether the current use best fits the Council's strategic objectives.

CURRENT POSITION

CLAP Committee has completed its review and made recommendations to Cabinet based on a range of options. An appraisal of these options is attached at Appendix A.

The recommendations include discontinuing the scheme, establishing a more widely based grant fund in its place and investigating potential for Asset Transfer.

The Council has statutory responsibilities and should take into account a range of factors in considering any Asset Transfers. The Council has not yet established a framework for doing this. The establishment of a policy framework would ensure probity and consistency in considering the factors which will need to be taken into account in deciding cases. These factors include:

1. The community benefits proposed as a result of the transfer
2. The relative benefits of a transfer compared with any existing lease arrangements
3. The sustainability of the recipient organisation and the proposals
4. Any access or other rights that would accompany the land
5. The impact of the proposed transfer on the value or potential of any adjoining land
6. Whether freehold or long leasehold disposal would be most advantageous
7. Any other factors specific to the circumstances.

Clacton Sports Club has made a specific request for the transfer of the freehold of their premises to them. A copy of the request is attached at appendix B.

APPENDICES

Appendix A – Options appraisal for future of CAROS

Appendix B – Request from Clacton Sports Club

Appendix A – Options Appraisal

Option	Detail	Advantages	Disadvantages
Asset transfer	<p>Transferring the freehold or long lease of a building or land to a community group. This is ordinarily associated with disused or dilapidated buildings or land. The concept usually is that the Council transfers the land as its contribution towards the development or enhancement of facilities.</p> <p>The process involves the use of the general disposal consent so procedures include quantifying any undervalue and clear community outcomes that are contractually enforceable.</p>	<p>Can, in partnership with others, deliver big changes and community benefits. Can remove responsibilities from the Council, but only where the project is sustainable. This is a powerful tool in specific circumstances and to support specific projects.</p>	<p>In the event that organisations fail or fail to deliver on the benefits envisaged the Council may have difficulty in reclaiming the asset for the public purse or requiring the benefits to be delivered.</p>
Individual setting of rents below value	<p>At each future rent review or renewal Cabinet would consider the contribution of the organisation on an individual basis and set a rent at some value up to open market value that is appropriate in all of the circumstances.</p> <p>The process involves the use of the general disposal consent so procedures include quantifying any undervalue and clear community outcome that are contractually enforceable.</p>	<p>Decisions would be based on the actual past and proposed achievements of organisations, There would be flexibility to reward success or to encourage improvement.</p>	<p>There is some unfairness during the deployment of such a proposal: organisations with later renewals or rent reviews continue to benefit from low rents while those with early reviews/ renewals face earlier additional costs. Decisions could be variable over time, for instance in the event of political change.</p>
Continue CAROS as existing	<p>Simply continue the scheme as it presently stands.</p>	<p>Potential for controversy is reduced. Implementation would be straightforward.</p>	<p>The scheme would not recognise the size or value of assets used. The scheme would not recognise the success or otherwise of organisations delivering anticipated benefits. Income would be foregone without the detailed consideration of the merits in each case.</p>

Public sale	Invite bids on the open market for the freehold of each of the premises, subject to user restrictions that the properties can only be used for their existing functions. The process involves the use of the general disposal consent so procedures include quantifying any undervalue and clear community outcomes that are contractually enforceable.	Can remove responsibilities from the Council, but only where the project is sustainable.	In the event that organisations fail or fail to deliver on the benefits envisaged the Council may have difficulty in reclaiming the asset for the public purse or requiring the benefits to be delivered.	
Require payment open market rents	Continue all leases as at present but increase to open market rents at the earliest opportunity	Maximises potential income. Complies with the statutory duty to achieve the best consideration reasonably obtainable	Some organisations may not be able to meet these costs. It would not support the delivery of community services. There is some unfairness during the deployment of such a proposal: organisations with later renewals or rent reviews continue to benefit from low rents while those with early reviews/renewals face earlier additional costs.	
Continue but with changes;	increase the flat rate amount;	Retain the scheme as existing but with a higher flat rate	Potential for controversy is reduced. Implementation would be straightforward.	The scheme would not recognise the size or value of assets used. The scheme would not recognise the success or otherwise of organisations delivering anticipated benefits. Income would be foregone without the detailed consideration of the merits in each case.

Continue but with changes;	change to a percentage grant;	Retain the scheme as existing but with a percentage grant	Potential for controversy is reduced. Implementation would be straightforward.	Potential for some organisations to have very low net payments. The scheme would not recognise the success or otherwise of organisations delivering anticipated benefits. Income would be foregone without the detailed consideration of the merits in each case.
	change to a percentage grant with base level	Retain the scheme as existing but with a percentage grant, subject to a minimum payment	Potential for controversy is reduced. Implementation would be straightforward. Potential for very low payments is reduced	The scheme would not recognise the success or otherwise of organisations delivering anticipated benefits. Income would be foregone without the detailed consideration of the merits in each case.
	set differential amounts	Retain the scheme as existing but with different levels of fixed amount for different categories of organisation, eg community associations at one price, sports clubs at another.	The scheme would recognise the nature of the organisations and offer potential to tailor support accordingly	The scheme would not recognise the size or value of assets used. The scheme would not recognise the success or otherwise of specific organisations delivering anticipated benefits. Income would be foregone without the detailed consideration of the merits in each case.
	set differential percentages	Retain the scheme as existing but with different levels of percentage grant for different categories of organisation, eg community associations at one percentage, sports clubs at another.	The scheme would recognise the nature of the organisations and offer potential to tailor support accordingly	The scheme would not recognise the success or otherwise of specific organisations delivering anticipated benefits. Income would be foregone without the detailed consideration of the merits in each case.
	individual portfolio holder decision	Retain a grant scheme but facilitate a specific decision by the portfolio holder each year taking account of detailed submissions made by the organisations.	The scheme would focus clearly on the benefits achieved and proposed by the organisations each year.	The scheme would require detailed submissions, process and decisions that may be controversial. Decisions could be variable over time, for instance in the event of political change.

Appendix B – Request from Clacton Sports Club

From: Cllr P J. Oxley
Sent: 06 October 2013 11:45
To: Ian Davidson; June Clare
Cc: Martyn Knappett; Andy White; Cllr P. Halliday
Subject: Request - Clacton Sports Club

Dear Ian

The committee of Clacton Sports Club met on Friday at which the issue of CAROS and the pending review was discussed.

It was resolved that I formally write to you as Chairman and Trustee of the Sports Club which has a 25 year lease with TDC on the building request that TDC enters into discussion with the Sports Club for an asset transfer from TDC to CSC.

I hope this can be concluded swiftly so the club can further plan for the long term.

I am aware that some officers are less supportive of this route for clubs but I wish to point out the investment we have made in the building over the last 4 years;

- £75,000 investment
- New boiler
- New showers
- new toilets
- upgraded changing rooms
- new kiosk
- new lighting
- new kitchen
- new flooring
- new windows
- new doors
- painted throughout the building
- solar panels
- Chair lift

If the council agrees to asset transfer we are further committed to investing in the facility to include;

- New Refs room
- Extending the building (viewing area)
- Remoulding the changing areas
- £5,000 investment a year in up keep of the building

As said I hope this can be concluded asap

Regards

pierre

Cllr Pierre Oxley
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County Councillor for Clacton East
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