
A separate report is submitted in the private part of the agenda in respect of this item, as it contains information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972 as amended. The grounds for privacy are that it refers to the identity, financial and business affairs of any particular person (including the authority holding that information) and it relates to information relating to an individual. The public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

Cabinet
Council

3rd September 2013
10th September 2013

Name of Cabinet Member:

Cabinet Member (Business, Enterprise and Employment) – Councillor Kelly

Director Approving Submission of the report:

Executive Director, Resources

Ward(s) affected:

All

Title:

Coombe Abbey Park Hotel

Is this a key decision?

Yes

This decision results in financial implications exceeding £0.5m.

Executive Summary:

The Council's arrangements with Coombe Abbey Park Ltd ("CAPL") which operates Coombe Abbey Hotel were restructured in 2006. The Council retains a special share in the company which entitles the Council to significant value if certain conditions are met including onward disposal of the company. The company also has a leasehold interest which generates significant annual rental income to the Council. Coombe Abbey Country Park is entirely separate from CAPL and is owned and operated by the Council.

Coombe Abbey Country Park and Hotel are important cultural, leisure and tourist assets for the city. The Council's existing interests in CAPL result from work over the last 20 years to bring the building back into use and operate it as a unique hotel.

Prior to the global financial crisis, CAPL's current owner took out a short term bank loan to finance the investment in an additional 39 new bedrooms on the site.

This report details the options that the Council is to consider in order to protect its public investment in Coombe Abbey Hotel as a shareholder, landlord and protect the cultural asset for

the city. The Council aims to ensure that the hotel has a sustainable future, to maximise commercial opportunities between the Coombe Abbey Hotel and Coombe Abbey Country Park and to increase the opportunity for value to be realised from the special share in the medium term. This report recommends that the Council take proactive action to refinance CAPL on a commercial basis.

CAPL will be required to manage its costs and maximise income to ensure a sustainable and growing business plan and to meet the terms of the loan and rental payments due to the Council.

Recommendations:

Cabinet is asked to recommend that the Council:

- (1) Approves the use of its powers under the Local Government Act 2003 to prudentially borrow the sum detailed in the private report.
- (2) Approves the use of its powers under the Localism Act 2011 to provide a loan to Coombe Abbey Park Limited on commercial terms to be met from prudential borrowing as an addition to the existing approved capital programme*.

*(this is on the basis that the Council is minded to approve recommendations (1) and (2) to Council but is not authorised by the authority's executive arrangements, financial regulations, standing orders or other rules or procedures to make a determination in those terms.)

- (3) Delegate authority to the Director of Finance and Legal Services and the Council Solicitor to agree detailed terms of the transaction.
- (4) Delegate authority to the Director of Finance and Legal Services and the Council Solicitor as appropriate, in consultation with the Cabinet Member (Business, Enterprise and Employment) and Cabinet Member (Strategic Finance and Resources), to make variations or new requirements to give effect to the proposals that are deemed necessary.
- (5) Delegate authority to the Director of Finance and Legal Services and the Council Solicitor as appropriate, in consultation with the Cabinet Member (Business, Enterprise and Employment), Cabinet Member (Strategic Finance and Resources) and Cabinet Member (Community Safety and Equalities), to sign the loan agreement and an amended Shareholders Agreement and such other ancillary documentation as is necessary to complete the refinancing transaction, based on the proposals detailed in the private report.

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- (2) Approve the use of its powers under the Localism Act 2011 to provide a loan to Coombe Abbey Park Limited on commercial terms to be met from prudential borrowing as an addition to the existing approved capital programme.
- (3) Delegate authority to the Director of Finance and Legal Services and the Council Solicitor to agree detailed terms of the transaction.
- (4) Delegate authority to the Director of Finance and Legal Services and the Council Solicitor as appropriate, in consultation with the Cabinet Member (Business, Enterprise and

Employment) and Cabinet Member (Strategic Finance and Resources), to make variations or new requirements to give effect to the proposals that are deemed necessary.

- (5) Delegate authority to the Director of Finance and Legal Services and the Council Solicitor as appropriate, in consultation with the Cabinet Member (Business, Enterprise and Employment), Cabinet Member (Strategic Finance and Resources) and Cabinet Member (Community Safety and Equalities), to sign the loan agreement and an amended Shareholders Agreement and such other ancillary documentation as is necessary to complete the refinancing transaction, based on the principles detailed in the private report.
- (6) Delegate authority to the Cabinet Member (Business, Enterprise and Employment) to approve the appointment of a Non-Executive Director on the Coombe Abbey Park Limited Board to represent the Council as referred to in section 2.3, supported by a Council Officer. Initially the Council Officer will be the Director of Finance who will discharge this day to day responsibility to a qualified senior officer in Financial Management.

List of Appendices included:

None

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Yes – 10th September 2013

Report title: Coombe Abbey Park Hotel

1. Context (or background)

- 1.1 The Council owns the freehold for Coombe Abbey Hotel and the land, which is let on a long lease to Coombe Abbey Park Limited (CAPL) the company that operates the hotel. CAPL has a sole Director/ owner who holds 100 per cent issued ordinary share capital. CAPL is entirely separate from Coombe Abbey Country Park which is owned and managed by the Council. The Council receives an annual rental from the hotel and a cottage on the site, which is used to support the Medium Term Financial Strategy (MTFS). The annual rent was increased significantly through the last restructure as it moved to a fixed reviewable rent from a low rent and profit share.
- 1.2 The Council also has an interest in the hotel through a special “golden” shareholding detailed in the Shareholders Agreement that was approved by the Council in 2006.
- 1.3 Coombe Abbey Country Park and Coombe Abbey Hotel are important cultural and tourist assets for the City. The option recommended in this report aims to secure the Council’s objectives of protecting these assets and ensuring both have a sustainable future, securing value from the special share in the medium term and maximising the commercial opportunities between the Coombe Abbey Hotel and Coombe Abbey Country Park.
- 1.4 Prior to the global financial crisis the current owner took out a short term bank loan to finance the investment in an additional 39 new bedrooms on the site.
- 1.5 The report recommends that the Council take proactive action to refinance CAPL on a commercial basis.

2. Options considered and recommended proposal

- 2.1 The options considered are detailed in the private report.
- 2.2 The recommended proposal is to provide a loan on a commercial basis, allowing the Council to generate a return to support the Commercialisation and Income Maximisation review under the abc programme.

2.3 Financial implications for the Council

- 2.3.1 These are further detailed in the private report. Approval of the proposed recommendations in this report would result in the Council loaning the sum detailed in the private report to CAPL. The Council would own the new debt owed by CAPL.
- 2.3.2 The Council will treat this as capital expenditure on the basis that the Council is protecting its interest in a non-current (fixed) asset. This report recommends that the final details of the loan agreement are delegated to Director of Finance and Legal Services and the Council Solicitor, in consultation with the Cabinet Member (Business, Enterprise and Employment), Cabinet Member (Strategic Finance and Resources) and Cabinet Member (Community Safety and Equalities) to agree.
- 2.3.3 There will be a Non-Executive (NED) on the CAPL Board to represent the Council, as well as a Council Officer to provide support to the NED. Initially the Council Officer will be the Director of Finance who will discharge this day to day responsibility to a qualified senior officer in Financial Management. The NED will have the right to participate and vote at board meetings, but in the event of deadlock, this is subject to any casting vote of the Chairman, and will not be able to vote at Shareholder Meetings.

2.3.4 A requirement for the CAPL to work closely with the Park to commercialise these two key assets for the city, driving up revenues for both parties.

2.3.5 A requirement for CAPL to work with the Council to fill training and apprenticeships places.

3. **Results of consultation undertaken**

Not applicable

4. **Timetable for implementing this decision**

4.1 The Council will seek to complete the transaction detailed in the private report as soon as practicable possible following Council decision.

5. **Comments from Director of Finance and Legal Services**

5.1 **Financial implications**

5.1.1 The financial implications of the decision and the due diligence work completed are detailed in the main body of the private report.

5.1.2 The Council will generate a surplus on the loan to CAPL, which can be used to support the savings targets built into the Medium Term Financial Strategy as part of the Commercialisation and Income Maximisation review set out in the 13/14 budget and assist in preventing cuts to front line services.

5.1.3 CAPL will meet the one off costs associated with the due diligence completed by the Council to support the refinancing.

5.1.4 CAPL business plan has been independently reviewed on behalf of the Council, who focused on the market assumptions applied by CAPL.

5.1.5 The security arrangements being put into place over the asset, the value of the property with vacant possession, with the unique benefit of the Council owning the freehold and leasehold interest, does mean the Council is uniquely secured in the event of default on the loan. The loan agreement requires CAPL to comply with the financial covenants, valuation requirements and to provide financial information regularly to the Council for the purposes of monitoring and to support their continued ability to service the new loan.

5.1.6 The recommendations specifically for the Council are being made because Cabinet is minded to recommend to Council to approve the level of prudential borrowing and the related loan to CAPL for the equivalent value, which is in addition to the current agreed capital programme.

5.2 **Legal implications**

5.2.1 The Council will use its general power of competence (GPOC) under section 1 the Localism Act 2011 (the Act). This is very broad and Section 1 states that:-

- i. A local authority has the power to do anything that individuals generally do.
- ii. [The power] applies to things that an individual may do even though they are in nature, extend or otherwise:
 - Unlike anything the authority may do apart from subsection (i)
 - Unlike anything that other public bodies may do.

- 5.2.2 Section 2 of the Act provides that where the GPOC is conferred on the authority to do something, it confers the power to do it in any way whatever, which includes the power to do it for, or otherwise than for the benefit of the authority, its area or persons resident or present in its area.
- 5.2.3 The limitations set out in Section 2 of the Act imposed on the GPOC do not apply to the loan to be made to CAPL and these are :
- i. If the exercise of the GPOC overlaps with a pre-commencement power, then GPOC is subject to the same restriction as that power,
 - ii. GPOC does not allow the Council to do anything which it is unable to do because of a pre-commencement limitation,
 - iii. GPOC does not enable the Council to do anything which it is unable to do because of a post commencement limitation which is expressed to apply to GPOC.
- 5.2.4 The power to the Council to borrow is contained in section 1 (b) Local Government Act 2003, which allows the Council to borrow money for the purposes of the prudent management of its financial affairs.
- 5.2.5 The Council has the vires to demonstrate that taking all circumstances into account that this is a reasonable decision to be taken by the Council and in accordance with its fiduciary duty.
- 5.2.6 Under EU legislation the public sector cannot support commercial organisations in such a way that would be seen as disadvantaging EU competitors and distorting the market. This is referred to as state aid. The Council has sought external legal advice on the issue of state aid, which concludes the basis of the loan arrangement is on terms that a private operator acting under normal market conditions would provide.
- 5.2.7 The Council is in a unique position as a landlord and shareholder for CAPL, not just a private investor.

6. Other implications

6.1 **How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

The Council's objectives at Coombe Abbey were met with the restoration and bringing the Abbey into productive use as a special hotel. The Coombe Abbey parkland and visitor centre which is directly managed by the Council is unaffected by these proposals. The proposals in this report will protect the current annual rental income stream used support the Council's priorities and to protect the value of the Council's Special Share interest in the hotel.

6.2 **How is risk being managed?**

By undertaking the actions detailed in the private report the Council is securing the annual rental income stream it receives from Coombe Abbey Hotel and protecting the Special Share interest in the hotel. This transaction should allow the Council to realise the value attached the Special Share interest in the future.

The key risks in relation to the transaction have been highlighted in the private report. Actions to mitigate risks have culminated in the private report to Council with its recommendations.

6.3 What is the impact on the organisation?

This has been covered throughout the report.

6.4 Equalities / EIA

No equality impact assessment has been carried out as the recommendations do not constitute a change in service or policy.

6.5 Implications for (or impact on) the environment

There is no impact.

6.6 Implications for partner organisations?

The report has implications for CAPL in which the Council has a leasehold and shareholder interest. These are detailed in the main body of the report.

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Appendices

None