
Subject:	BIGGIN HALL AND PUBLIC TOILETS MAISON DIEU DOVER
Meeting and Date:	Cabinet – 4 November 2013
Report of:	Roger Walton, Director of Environment & Corporate Assets
Portfolio Holder:	Councillor Nigel Collor – Portfolio Holder for Access & Property Management
Decision Type:	Non-key
Classification:	Unrestricted

Purpose of the report: To dispose of the Council's Freehold interest in Biggin Hall and the public toilets, Maison Dieu, Dover, and to take a licence back of the public conveniences in the short term

- Recommendation:**
1. That the property be transferred to the Dover Community Association at a consideration of £1 by way of a Community Asset Transfer and
 2. that the toilets should be licensed back to the Council for a short term at nil rent.
 3. that Cabinet authorises the Director of Environment and Corporate Assets in consultation with the Portfolio Holder for Access & Property Management, to negotiate and agree terms with the Dover Community Association for the Community Asset Transfer.
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1. Summary

It is proposed that Biggin Hall, which is presently vacant, should be transferred to the Dover Community Association (a registered charity) by way of Community Asset Transfer along with the public toilets; and the toilets should be licensed back to the Council on a year to year basis for the short term until an external funding stream takes over the entire cost of running the toilets.

2. Introduction and Background

- 2.1 Biggin Hall was leased up until August 2013 by Dover Oddfellows who used it for their own meetings and sublet the building to community groups. Under that lease, this Council was responsible for all repairs to the building.
- 2.2 The toilet block at the side of the building is run by this Council but the projected running costs for 2013/ 14 of £24,330 will be 50% financed by Dover Town Council.
- 2.3 The building and toilet block are in need of immediate repair. Repairs are required immediately to the flint walls, internal staircase, gutters and flashings with the cost estimated at £15,000. It is intended that this work should be carried out by this Council prior to any transfer.

- 2.4 The whole building is also in need of long term modernisation, repair and refurbishment to bring it up to a modern standard. The public toilets are over provisioned and outdated, and if they were replaced by modern toilets would reduce the cost of maintenance.
- 2.5 The Council's current strategy is to provide high quality toilets of the correct capacity in the right location in order to meet public expectations.
- 2.6 Biggin Hall is located in a conservation area, but is not listed.
- 2.7 The Dover Community Association (DCA) is a charity set up "to promote the benefit of the inhabitants of Dover and the neighbourhood without distinction of sex, or of political, religious or other opinions To advance education and to provide facilities in the interests of social welfare for recreation and leisure time occupation with the object of improving the conditions of life for the said inhabitants".
- 2.8 The DCA approached this Council in early summer this year as they need new community centre premises, and Biggin Hall was identified as suitable. It is proposed that this building would be suitable for a Community Asset Transfer. The DCA also proposed that this Council should undertake most of the immediate repairs to keep the building wind and weather tight and capable of continued use, other than those that can be left to volunteers.
- 2.9 The vision of the DCA is not only to provide a community centre for use by community groups, but to improve the immediate environment of this area with small bite-sized projects that they can fund and carry out over time. These longer term projects include a new building with modern public toilets and covered bicycle and bin stores to hide presently unsightly paladin waste bins and then converting the present toilets to provide more meeting rooms.
- 2.10 If modern toilets were to be provided, this would meet our aspiration to provide quality affordable toilets.
- 2.11 DCA also wants to provide additional resources in collaboration with the nearby Age Concern's Riverside Centre and Kent County Council's Well Community Resource Centre and is seeking to increase the usable recreation space around Biggin Hall by small environmental improvements.
- 2.12 This report recommends that the property be transferred to DCA by way of a Community Asset Transfer. This can take a number of legal forms ranging from a management agreement; a licence to occupy; a short lease; a long lease; to a freehold transfer.
- 2.13 Community Asset Transfer is a central government policy under the Localism Act 2011 directed at local authorities' use of their redundant assets. It is the process whereby Councils transfer their ownership to either the stewardship or ownership of voluntary and community sector organisations or social enterprises at below market value. It is entirely separate from the community right to bid, operating on a discretionary basis rather than forming a 'community right'.
- 2.14 Under Section 123 of the Local Government 1972 as amended by the General Disposal Consent England 2003, if a disposal is not for the best consideration reasonably obtainable it will not require the Secretary of State's approval where the local authority considers it will help it to secure the promotion or improvement

of the economic, social or environmental well-being of its area and provided the undervalue does not exceed £2 million.

3. Identification of Options

- 3.1 Option 1. Biggin Hall could be placed on the open market for interested parties to lease.
- 3.2 Option 2. Biggin Hall could be placed on the open market for sale.
- 3.3 This Council could opt for a Community Asset Transfer to the Dover Community Association. This has taken a variety of forms elsewhere in the country from a management agreement; a licence to occupy; a short lease; a long lease; to a freehold transfer.
- 3.4 Option 3. It is proposed that this Council would continue to part fund the toilets in the short term until an alternative funding stream is found.
- 3.5 Option 4. Biggin Hall could alternatively be transferred by Community Asset Transfer to the Dover Community Association to fund the public toilets.

4. Evaluation of Options

- 4.1 Biggin Hall has not yet been open market tested either for lease or disposal. It is therefore not known how much demand there would be for these premises in their present condition in this location.
- 4.2 Prospective purchasers or tenants would be faced with major repairs and refurbishments to bring it up to a modern standard. The Council would still be faced with the issue of whether to include or exclude the public toilets or reprovide them elsewhere at the Council's expense.
- 4.3 Option 1. If it is the Council's wish to maintain this building as a building used by the community, it is unlikely that any community bodies would be able to offer either a market rent or purchase price. Therefore leasing these premises on the open market is not a recommended option.
- 4.4 Option 2. Similarly, if Biggin Hall was put up for sale on the open market, it is unlikely that it would be bought by community groups and is not a recommended option.
- 4.5 Under the range of Community Asset Transfer options outlined above, the Council would either retain the public toilets or take a licence back until a long term sustainable solution can be found either to fund the toilets or to build a modern replacement nearby and convert the old toilets to another use.
- 4.6 The three of the options under Community Asset Transfer of management agreement; a licence to occupy; a short lease would all be of too short a duration to allow DCA to get the necessary funding they require, so are not recommended options.
- 4.7 The Community Asset Transfer option of a long lease would enable DCA to fund the projects that they wish to undertake. This Council would favour this option if it either wanted to get the building back at some stage or needed to control the uses to which it is put. The building is expensive to maintain and requires updating and due to its

layout it is not envisaged that it would ever be of future use to the Council. This is therefore not the recommended option.

4.8 Option 3. The Community Asset Transfer option of a freehold transfer would mean the Council would permanently lose this asset which will need repair, refurbishment and modernisation and is not envisaged to be of future use to the Council. Under the terms that have been provisionally agreed, the Council would continue to part fund the public toilet provision in the short term until an alternative funding stream is found. This freehold transfer will both allow the local community to continue to use the building and provide a central focus for improvements both to the building and to the local environment and is the recommended option.

4.9 Option 4. Under the final option, the freehold of Biggin Hall and the public conveniences is transferred to the Dover Community Association but they would be required to arrange their own funding for the toilets. This would introduce an area of uncertainty into the transaction and to the DCA's future funding streams and is not the recommended option.

4.11 Section 123 Local Government Act 1972 requires that a local authority may not dispose of land (other than by way of a short tenancy) at less than the best consideration reasonably obtainable unless they have first obtained the consent of the Secretary of State. Such consent may be either given generally or, in respect of specific cases.

4.12 The Secretary of State has issued The Local Government Act 1972: General Disposal Consent (England) 2003 which provides as follows:-

“1. The First Secretary of State ("the Secretary of State"), in exercise of the powers conferred by sections 123(2),127(2) and 128(1) of the Local Government Act 1972, hereby gives consent to a disposal of land otherwise than by way of a short tenancy by a local authority in England in the circumstances specified in paragraph 2 below.

2. The specified circumstances are:

a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;

i) the promotion or improvement of economic well-being;

ii) the promotion or improvement of social well-being;

iii) the promotion or improvement of environmental well-being; and

b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).”

4.13 It is considered that the social and environmental benefits identified at paragraph 2.9 are such as entitle members to conclude that the requirements of the General Consent are complied with. The amount of the undervalue is very considerably less than the £2m threshold.

5. **Resource Implications**

5.1 The non-domestic rates (NNDR) payable on this building for the present financial year are £1,686 for Biggin Hall and £2,587 for the public toilets. The running costs

for the public toilets are £24,330 (including NNDR) of which 50% will be financed by Dover Town Council.

- 5.2 The rent passing on Biggin Hall up to 31 August was £4,400 per annum.
- 5.3 Biggin Hall and the public toilets have been valued by the Council's Estate Valuation manager. The current open market value for sale of the whole premises is £50,000 and the rental value at £4,000 in their existing uses.
- 5.4 The immediate repairs identified at clause 2.3 above of £15,000 is to be funded from the Council's property repairs budget.

6. **Corporate Implications**

- 6.1 Comment from the Section 151 Officer: Has been consulted and has no further comments to make (DL)
- 6.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.(HR)
- 6.3 Comment from the Equalities Officer: The Equality officer has been consulted during the development of this report and has no further comments to make other than to remind members that in discharging their responsibilities they are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>

7. **Appendices**

Appendix 1 – Location Map

8. **Background Papers**

Property Services File DO 68

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