

**COBTREE MANOR ESTATE  
CHARITY COMMITTEE**

**18 April 2023**

**Cobtree Café**

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Cobtree Manor Estate Charity Committee	18 April 2023

<b>Will this be a Key Decision?</b>	Yes
<b>Urgency</b>	Not Applicable
<b>Final Decision-Maker</b>	Cobtree Manor Estate Charity Committee
<b>Lead Head of Service</b>	Mark Green, Director of Finance and Business Improvement
<b>Lead Officer and Report Author</b>	Mike Evans, Leisure Manager
<b>Classification</b>	<p>Public report with exempt appendices</p> <p>Exempt Appendices</p> <p>Exempt Appendix 2: Summary of proposals for Cobtree Manor Park Café</p> <p>Exempt Appendix 3: Comparison of revenues and costs between the current tenancy and the proposed tenancy</p> <p>Exempt Appendix 4: Capital cashflow forecast</p> <p>These appendices contain exempt information as classified in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>The public interest in maintaining this exemption outweighs the public interest in its disclosure as release of the information may adversely affect</p>

	the charity's financial position commercially and be detrimental to value for money.
<b>Wards affected</b>	Boxley

### **Executive Summary**

Following the Committee's decision to market the lease for Cobtree Manor Park Café in October 2022, an extensive marketing and applications process has been undertaken and decisions are now required to award the lease to the preferred applicant.

Granting the lease requires additional decisions to be made to streamline premises occupations and facilities management as part of integrating a new tenant into the park alongside Council staff. Legal will also need to negotiate the lease and deal with the title due diligence to ensure there are no restrictions on the title preventing this lease as well consideration as to whether open spaces notices are required.

### **Purpose of Report**

Decision

### **This report makes the following recommendations to the Cobtree Manor Estate Charity Committee:**

1. That the lease of Cobtree Manor Park Café is granted to applicant 3.
  2. That the leased and retained areas of the café premises are amended as per the plan at appendix 1.
  3. That the capital sum identified in the cashflow forecast at exempt appendix 4 is made available for new or upgraded staffing arrangements in the park.
  4. That delegated authority is given to the Director of Finance, Resources and Business Improvement to agree the final lease with applicant 3.
  5. That delegated authority is given to the Head of Mid-Kent Legal Services to enter into such lease documents and complete any relevant statutory notices in order to complete the lease process.
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## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	The work of the charity links directly to its charitable objectives and the Strategic Plan objectives for the council.	Leisure Manager
<b>Cross Cutting Objectives</b>	The work of the charity links directly to its charitable objectives and the cross-cutting objectives of the council.	Leisure Manager
<b>Risk Management</b>	Risk implications are outlined in section 5.	Leisure Manager
<b>Financial</b>	Accepting the recommendations in this report will improve the charity’s annual revenue accounts. Doing so will require capital expenditure and this will be managed in line with the Trust’s procedures.	Section 151 Officer & Finance Team
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Director of Finance, Resources and Business Improvement
<b>Legal</b>	Acting on the recommendations is within the Council’s powers as set out under the Local Government Act 1972 section 123(2), which requires that the disposal by way of a lease exceeding seven years or more must not be for a consideration or value which is less than the best that can reasonably be obtained in the open market.	Team Leader, Property & Regeneration (MKLS)
<b>Information Governance</b>	The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes.	Information Governance Team
<b>Equalities</b>	The recommendations will ensure a continuation of service and therefore will not require an equalities impact assessment.	Equalities & Communities Officer

<b>Public Health</b>	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Leisure Manager
<b>Crime and Disorder</b>	The recommendations will require consideration to be given to measures to deter and detect crime and disorder.	Leisure Manager
<b>Procurement</b>	On accepting the recommendations, the Council will follow purchasing processes and we will complete those exercises in line with procurement rules and regulations.	Director of Finance, Resources and Business Improvement
<b>Biodiversity and Climate Change</b>	The new café tenant will bring improved environmental and sustainability credentials to the park. This aligns with the reducing waste and the energy used to process waste action of the Biodiversity and Climate Change Action Plan	Biodiversity and Climate Change Manager

## 2. INTRODUCTION AND BACKGROUND

2.1 In October 2022 the Cobtree Manor Estate Charity Committee (CMEC) resolved that:

- The lease of Cobtree Manor Park Café is placed on the market and offers are invited from prospective tenant operators.
- The leased and retained areas of the café premises are reviewed to achieve optimum financial returns and operational suitability at Cobtree Manor Park.
- Delegated authority is given to the Director of Finance and Business Improvement to agree Heads of Terms with the preferred new tenant to achieve the optimum annual financial return and operational situation for Cobtree Manor Park Café.
- Agents are appointed to act on behalf of the Charity, engage the market, source prospective tenants and assist in selecting the most suitable tenant for the park and their quotation of £9,500 payable on successful completion is approved.

This report is now brought to the charity committee upon completion of the lettings process to proceed with the granting of the lease, and agreeing associated changes to the leased and retained areas at the Cobtree Manor Park Café to bring the best possible solutions and outcomes for the park users and the charity.

2.2 The marketing of the café lease included advertising in trade publications, more than 38,000 email alerts, and sending more than 5,400 direct advertisements to 467 relevant parties. This attracted 14 expressions of

interest, which led to eight viewings and four proposals being submitted. The four parties submitting proposals were all invited to present them at interview. The four parties all accepted CMEC's heads of terms.

- 2.3 Two proposals were deemed suitable for the lease in terms of the quality of catering and the suitability of their business plan. These were applicant 1 and applicant 3. Of these, applicant 3 is deemed the stronger applicant and it is recommended that the lease is granted to applicant 3, subject to contract, proof of funding, references and agreed fit out. Details of the applicants and their proposals are included at exempt appendix 2.

### **Leased and retained spaces**

- 2.4 For optimal operations of the café and the public park, the let and retained spaces have been reviewed as per the committee's decision in October 2022.
- 2.5 CMEC previously let the public park toilets to the café tenant, giving the café staff control over when the public toilets opened and closed each day. This arrangement was less than ideal for park users, particularly during the pandemic, and it also proves demanding for catering staff. It is proposed that CMEC retains control over the public toilets and manages them via the Council's cleaning regime that services the other parks in the borough. This gives CMEC greater control over the toilet opening hours and standards of cleanliness.
- 2.6 Previously, CMEC retained the corner room of the café building as the park manager's office. The park manager now works via a remote device and does not need a full-time office in the park. The space will make an ideal kiosk point of sale for the café, that can be used on busy summer days to supplement the café and on quiet, rainy winter days instead of opening the whole café.
- 2.7 Currently the corner office is being used as temporary staff welfare space for the park ranger and occasional grounds maintenance staff because the stand-alone container used for storage and staff welfare is defunct. It is no longer weather-proof and water ingress has taken the electrics out of action. It has no heating and in the winter water can freeze on the floor inside making it slippery and unsafe. Rust to the container will soon render the storage half of the container unusable as well. In addition to its unsuitability, the container is also a blot on the landscape of Cobtree Manor Park.
- 2.8 To facilitate the kiosk opportunity, achieve maximum rental income for the café, and provide the best possible service to park customers CMEC should look at alternative staff welfare provision. A new stand-alone storage and welfare unit will be more in-keeping with the look and the feel of the park and make it a more attractive place to visit. Alternatively, despite its age and the issues described in paragraph 2.7, the existing facility may be suitable for a full reconditioning, which may be a better value for money option.

- 2.9 The current and proposed leased and retained spaces are shown in the plans at appendix 1. The comparison of annual revenue budgets for the current tenancy and the proposed new tenancy are shown in exempt appendix 3.
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### **3. AVAILABLE OPTIONS**

- 3.1 CMEC is required to formalise three decisions:

- Decision one was set in motion in October 2022 as part of the lettings process. It now requires ratification before a new lease can be granted.
- Decision two is necessitated by decision one. Staff welfare facilities will be required elsewhere in the park.
- Decision three is the decision to grant the lease to the preferred applicant, subject to title due diligence and contracts.

#### **Decision one**

- 3.2 **Retain the leased areas as per the current park arrangements**

The current arrangements do not suit CMEC and do not suit a café tenant. The park manager's office is an under-used space and has more value as retail space than it does as staff welfare space. The toilets are a key facility for all park users and the current arrangements entrust the management of those to a catering company, and CMEC relies on that company managing those toilets for all who visit the park. This arrangement does not maximise the value of its premises and does not maximise the strengths of the parties involved. **This option is not recommended.**

- 3.3 **Proceed with the leased and retained areas as proposed in the plans in appendix 1**

The park manager's office is larger than it needs to be for staff welfare and its location on the corner of the building means it would make an ideal point-of-sale kiosk. It would be easily-accessible for parents and children, and the length of the queue at the kiosk can be assessed before people decide to leave the play area for purchases. Enabling a café tenant to develop an offering in this way will maximise rental returns to CMEC. This was expected to be the case when embarking on the café letting, and all applicants expressed a desire to use the corner office in this way. The public toilets at Cobtree Manor Park are a key facility and to ensure customer satisfaction CMEC should ensure they are managed in conjunction with other council parks in the borough. **This is the recommended option.**

#### **Decision two**

- 3.4 Proceeding with new leased and retained areas requires suitable alternative accommodation for the park ranger and occasional grounds maintenance staff being available elsewhere in the park. Providing facilities in the park for staff, besides being a legal requirement, increases the efficiency of their work and ensures CMEC obtains maximum value for money from its staffing

budgets. Welfare facilities can be provided from an existing building or from purpose-built, stand-alone facilities.

### 3.5 **Provide staff welfare facilities in the Elephant House**

The Elephant House is a historic building in the park. It has been surveyed for its suitability to staff welfare, but it requires too many adaptations to be a workable solution. It is also too big a building for a staff welfare and storage facility and would result in a lot of wasted space. It would also remove the opportunity of the Elephant House being developed for other community or leisure interests in the future. **This option is not recommended.**

### 3.6 **Provide new or upgraded stand-alone staff welfare and storage facilities**

Additional capital expenditure to provide improved staff welfare and storage facilities has been identified in exempt appendix 4. The sum in exempt appendix 4 has been identified based on indicative quotes for a suitable unit and associated project costs. The Interim Strategic Property Consultant is supporting and advising this workstream. The identified expenditure will provide suitable facilities for parks staff, outside of the corner office, that enable the commercial opportunities of the café building to be realised. The revenues and costs associated with the new café tenancy shown in exempt appendix 2 demonstrate the return on this investment. **This is the recommended option.**

## **Decision three**

3.7 As part of setting the direction for the café letting, in October 2022 the CMEC Committee decided against bringing the café operation in house. Therefore, the decision now is to either grant the lease to the preferred applicant or to another applicant.

### 3.8 **Grant a lease to applicant 1**

Paragraph 2.2 describes the reach of the advertising for the lettings process that ran from September 2022 to March 2023. It identified four final proposals that were submitted for presentation and interview. Two applicants are deemed capable of taking on the lease, namely applicant 1 and applicant 3. Applicant 1 has demonstrated they are capable of running the café at Cobtree, but their bid comes with a smaller amount of capital investment and a greater amount of risk, hence them not being the preferred bidder. **Applicant 1 is not recommended on this occasion.**

### 3.9 **Grant a lease to applicant 3**

Applicant 3 has demonstrated in their business plan and at interview that they are the most suitable applicant for the lease. They carry less risk than applicant 1 and they are able and prepared to invest more capital into the premises to kickstart the business. **This is the recommended option.**

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## **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The reasons for the recommendations have been outlined in sections 2 and 3. In summary, the new leased and retained areas will maximise the operations of the café building at Cobtree Manor Park which in turn will improve the quality on offer to park users. The recommendations will bring improved service standards to the park and its users and over time will protect CMEC finances.
- 4.2 The details of applicant 3's bid include a capital investment sum that will improve the café premises and the service to park users. The terms of applicant 3's bid will be written into the lease document and become binding terms. The details in exempt appendix 3 comparing the new tenancy and the current tenancy show a change in utilities costs to the charity. This change in costs relates to a change in responsibilities for utilities costs and represents a saving to the charity. The length of the lease being offered to the new tenant also enables the responsibility for the repair and maintenance of the building to become a lease obligation of the tenant.
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## **5. RISK**

- 5.1 The risks associated with this proposal related to the uncertainties and challenges in the leisure and hospitality sector in 2022 and 2023. By being agile in our approach we have presented an attractive proposition to the market which has enabled us to deliver the most beneficial terms possible.
- 5.2 CMEC's heads of terms are favourable in terms of removing unbudgeted future risks from its risk register.
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## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 No public consultation has taken place on this matter, but advice from leisure and hospitality agents was in agreement with the approach that we have adopted.
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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 Following a decision on these recommendations, CMEC will complete all the required due diligence and exchange contracts with applicant 3.
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## **8. REPORT APPENDICES**

- Appendix 1: Proposed demised plan of the Cobtree Manor Park Café building
- Exempt Appendix 2: Summary of proposals for Cobtree Manor Park Café

- Exempt Appendix 3: Comparison of revenues and costs between the current tenancy and the proposed tenancy
  - Exempt Appendix 4: Capital cashflow forecast
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## **9. BACKGROUND PAPERS**

- None