

AGENDA

COBTREE MANOR ESTATE CHARITY COMMITTEE MEETING



Date: Wednesday 14 August 2013

Time: 5.45 p.m.

Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Garland, Greer, J.A. Wilson
(Chairman) and Moss

Page No.

1. Apologies for Absence
2. Notification of Visiting Members
3. Disclosures by Members and Officers
4. Disclosures of Lobbying
5. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
6. Minutes of the meeting held on 10 July 2013

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Continued Over/:

Issued on 6 August 2013

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Alison Broom

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

7. Report of the Cobtree Officer - Kent Life - Management Contract 5 - 8

PART II

To move that the public be excluded for the item set out in Part II of the Agenda because of the likely disclosure of exempt information for the reason specified having applied the Public Interest Test.

**Head of Schedule
12A and Brief
Description**

8. Exempt Appendices to the Report of the Cobtree Officer - Kent Life - Management Contract 3 - Financial/Business Affairs 9 - 46

MAIDSTONE BOROUGH COUNCIL

COBTREE MANOR ESTATE CHARITY COMMITTEE

MINUTES OF THE MEETING HELD ON 10 JULY 2013

Present: Councillor J.A. Wilson (Chairman) and
Councillors Garland and Greer

1. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Mr Richard Corben, the Chairman of the Cobtree Charity Trust Limited.

2. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

3. ELECTION OF CHAIRMAN

RESOLVED: That Councillor J A Wilson be elected as Chairman of the Committee for the Municipal Year 2013/14.

4. ELECTION OF VICE-CHAIRMAN

RESOLVED: That Councillor Greer be elected as Vice-Chairman of the Committee for the Municipal Year 2013/14.

5. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

6. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying, although it was noted that Boxley Parish Council wished to be kept informed of progress in relation to the possible allocation of land to the south of Forstal Road for development.

7. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

8. MINUTES OF THE MEETING HELD ON 13 MARCH 2013

RESOLVED: That the Minutes of the meeting held on 13 March 2013 be approved as a correct record and signed.

9. CHARITY KNOWN AS THE COBTREE MANOR ESTATE - ACCOUNTS 2012/13

The Committee considered the report of the Head of Finance and Resources setting out the un-audited Report and Financial Statement for the financial year 2012/13. It was noted that:-

- The draft Report and Financial Statement had been produced in accordance with the Charity Accounting Statement of Recommended Practice.
- The net deficit on the operation of the Golf Course and the Manor Park was £171,062, compared to a net surplus of £122,100 during 2011/12. However, this included capital expenditure of £296,742 in relation to the implementation of Phase 1 of the Cobtree Manor Park Master Plan. Excluding the capital expenditure and investment income of £72,147, the operation of the Golf Course and the Manor Park made a net surplus of £53,538 for 2012/13. These figures were provisional as the accounts were still subject to external audit.
- The capital expenditure would be funded by making a withdrawal from the permanent endowment funds invested in Charifund, as agreed by the Charity Commission. This was shown as a creditor due to Maidstone Borough Council on the Balance Sheet as the expenditure was incurred by the Council on behalf of the Trust.
- There were no asset disposals during 2012/13, and none of the assets held were subject to revaluation.
- The market value of the Charifund investment had risen significantly during 2012/13 to £1,526,936 at 31 March 2013, compared to a value of £1,328,166 at 31 March 2012. The purchase value of the investments held was £1,290,000, so the market value remained greater than this figure at the Balance Sheet date.

RESOLVED: That the draft Report and Financial Statement for the financial year 2012/13 be noted prior to audit.

10. CHARITY KNOWN AS THE COBTREE MANOR ESTATE - FINANCIAL POSITION 2013/14

The Committee considered the report of the Head of Finance and Resources setting out details of the financial position in respect of the Golf Course and the Manor Park as at 31 May 2013. The report also included details of capital expenditure and total investments held. It was noted that:-

- No significant financial issues had arisen during June and both the Golf Course and the Manor Park were running within budget at present. The market value of the endowment funds invested with Charifund had risen to £1.577m.

- The budget for the implementation of the Master Plan had been set at £1.065m. To date there had been expenditure of £547,083 on Phase 1 works, and funding to the value of £296,000 was being drawn down from the endowment fund to cover the expenditure in the 2012/13 financial year.

RESOLVED: That the financial position in respect of the Golf Course and the Manor Park be noted.

11. COBTREE ESTATE PROGRESS REPORT

DECISION MADE:

1. That the progress report on the works undertaken across the Cobtree Estate during the period March – July 2013, attached as Appendix A to the report of the Cobtree Officer, be noted.
2. That the appointment of Mr Jason Mulligan, the winning artist, by competition, in respect of the installation of the sculptures as part of the phase 2 works under the Master Plan, be endorsed.
3. That the design concept for Cobtree Manor Park visitor centre/café as submitted by Guy Holloway Architects be approved thereby endorsing the choice of Guy Holloway Architects as Architects for the scheme, made through earlier competition.
4. That the Officers be authorised to submit a planning application for the visitor centre/café and to undertake all actions in relation to that application.

To view full details of this decision, please follow this link:-

<http://meetings.maidstone.gov.uk/ieDecisionDetails.aspx?AIId=15486>

12. COBTREE MANOR ESTATE - RISK MANAGEMENT

DECISION MADE:

That the Charity's Risk Assessment documents attached as Appendices A and B to the report of the Cobtree Officer be endorsed.

To view full details of this decision, please follow this link:-

<http://meetings.maidstone.gov.uk/ieDecisionDetails.aspx?AIId=15485>

13. LAND TO THE SOUTH OF FORSTAL ROAD, MAIDSTONE

DECISION MADE:

1. That agreement be given in principle to the land to the south of Forstal Road, shown edged red on the plan attached as an Appendix to the report of the Cobtree Officer, being initially considered as part

of the promotion of various land parcels under the Local Plan process but on the basis that the Committee will make a final decision only when it has received a further report outlining in detail all of the options available to it.

2. That guidance be sought from the Charity Commission regarding the possible allocation of this land for development.

To view full details of this decision, please follow this link:-

<http://meetings.maidstone.gov.uk/ieDecisionDetails.aspx?AIId=15519>

14. DURATION OF MEETING

5.30 p.m. to 5.45 p.m.

MAIDSTONE BOROUGH COUNCIL

COBTREE MANOR ESTATE CHARITY COMMITTEE

14th AUGUST 2013

REPORT OF THE COBTREE OFFICER

Report Prepared by Joanna Joyce

1 KENT LIFE – MANAGEMENT CONTRACT

1.1 Issue for Decision

1.1.1 To consider entering into a management contract for the operation of the Kent Life visitor attraction with the current operator, Continuum Kent Life Ltd for a period up to the end of March 2016.

1.2 Recommendation of the Cobtree Officer

1.2.1 It is recommended that:-

- (a) The Heads of Terms as set out in the **Exempt Appendix A** to this report, be approved.
- (b) The Head of Legal Services be given delegated authority, in consultation with the Chairman of the Committee, to make any necessary minor changes and to then enter into an agreement with Continuum Kent Life Ltd (Continuum) to operate the Kent Life (KL) attraction on behalf of the Cobtree Manor Estate Trust (CMET) in accordance with the Heads of Terms referred to above and any subsequent minor changes.
- (c) The Head of Legal Services be given delegated authority, in consultation with The Chairman of the Committee, to agree with Continuum any necessary minor changes to the specification referred to at paragraph 1.3.3 of this report before it is attached to the agreement referred to at Paragraph 1.2.1 (b) but otherwise the specification be approved.
- (d) The Heads of Terms as set out in the **Exempt Appendix C** be approved.
- (e) The Head of Legal Services be given delegated authority, in consultation with the Chairman of the Committee to agree with Kent County Council any necessary minor changes to the deed of surrender referred to in **Exempt Appendix C**.

- (f) The Head of Legal Services be authorized to enter into the Deed of Surrender referred to at 1.2.1 (e) once its terms have been settled.
- (g) The implementation and monitoring of the Management Agreement set out in this report to be monitored by the Cobtree Officer.

1.3 Reasons for Recommendations

- 1.3.1 On 14 November 2012, the Committee received details of the Heads of Terms relating to an agreement for Continuum to operate the Kent Life attraction on behalf of CMET. Since that time, Continuum has extended its arrangements with the Museum of Kent Life Trust until the end of September 2013.
- 1.3.2 Following extended negotiations, the original Heads of Terms have changed, particularly the length of term, which is now the end of March 2016. This will allow a thorough review of the operation and time to prepare a suitable procurement strategy for the future. There is also a proposal to invest in new attractions for the site if a suitable business case can be provided. The revised terms are in the **Exempt Appendix A**.
- 1.3.3 In addition, the specification has now been drafted and this is also as **Exempt Appendix B**. This specification is still in draft form with outstanding minor issues to be agreed with Continuum.
- 1.3.4 In order to comply with the Council's procurement rules a waiver has been agreed to enable the management agreement to operate until the end of March 2016 without going to tender.
- 1.3.5 During the period of the agreement, the operation of the site will be reviewed and recommendations for future operation will come forward for the Committee to consider.
- 1.3.6 As stated in the November 2012 report, it is likely that the sub leases granted to Museum of Kent Life Trust and Kent County Council will be surrendered. Officers have provisionally discussed the surrendering of the two sub leases with Kent County Council, including the way in which the dilapidations claim on behalf of the charity is met. The terms of agreement are set out in **Exempt Appendix C**.
- 1.3.7 It is confirmed that the charity's technical, legal and financial officers are satisfied that this represents the best deal given the complicated circumstances and if agreed, will allow Kent Life to

remain operating with the improved likelihood of future success. In addition, CMET will regain control of the site and other adjacent land.

1.4 Alternative Action and why not Recommended

1.4.1 The Heads of Terms and specifications could be rejected but this may result in the KL closing down with the loss of 30 jobs, unless CMET managed it directly until a procurement exercise can be undertaken. However, CMET has no experience of running such a facility and if it has to consider doing so, the risks would increase significantly, not least to CMET of which MBC is the corporate trustee. The proposal provides a benefit for both parties and is considered the best way forward given the complex set of circumstances explained in the November report.

1.5 Impact on Corporate Objectives

1.5.1 The proposal is likely to result in the two sub leases being surrendered and CMET again being in control of the land.

1.5.2 The proposal to manage the Kent Life attraction is in accordance with the objects of the charity, CMET.

1.6 Risk Management

1.6.1 There is a risk that the sub leases are not surrendered and a separate sublease between CMET and KCC would be necessary or, if this cannot be agreed, the facility may close.

1.6.2 There is a risk that the agreement cannot be finally reached with Continuum and the facility closes. However, the Heads of Terms have been agreed in draft and are considered for approval in the report. Delegated powers are proposed for the Head of Legal services in consultation with the Committee Chairman to make any final minor changes. It is in the interests of both parties to reach agreement.

1.7 Other Implications

1	Financial	X
2	Staffing	X
3	Legal	X
4	Equality Impact Needs Assessment	
5	Environmental/Sustainable Development	
6	Community Safety	
7	Human Rights Act	
8	Procurement	X
9	Asset Management	

Financial

1.7.1 The financial details associated with the Heads of Terms are detailed in the Exempt Appendix.

Staffing

1.7.2 The staff will remain with Continuum Kent Life Ltd.

Legal

1.7.3 Legal agreements will be necessary for the operation of the site and the surrendering of the sub leases.

1.8 Relevant Documents

1.8.1 Exempt Appendices A, B and C.

IS THIS A KEY DECISION REPORT?

Yes

No

This is a Key Decision because: N/A

Wards/Parishes affected: All

Agenda Item 8

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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