



Delegated decision report

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE MONDAY, 18 FEBRUARY 2013

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| Title | REVIEW OF COUNCIL ASSETS – RYDE HARBOUR |
| Report Author | REPORT TO THE DEPUTY LEADER AND CABINET MEMBER FOR THE ECONOMY AND REGULATORY SERVICES |

EXECUTIVE SUMMARY

1. The Council has been approached by a private sector investor/developer seeking to acquire Ryde harbour. Consideration of such an approach is consistent with the council's agreed strategies as set out in its corporate plan 2011-2013. The harbour has not previously been included on the council's published list of possible disposals and therefore Members are asked to approve its disposal by way of an open marketing exercise and with the inclusion of a covenant that the property may only be used as a harbour/marina.

BACKGROUND

2. Ryde harbour was constructed as part of the Ryde seafront development which included the construction of the car park, coach park, the ice rink and bowling alley. The tidal harbour was a later addition to the overall scheme with construction commencing in 1990 and the official opening in July 1991. It occupies an area of 1.8 hectares; it provides half tide access and can accommodate approximately 160 boats through a mixture of long stay (100) and short/overnight stay (100) berths.
3. The harbour is a popular marine destination on the south coast and receives in excess of 21,000 visitors each year; however the shore side hospitality facilities are well below the standards recommended by the Royal Yachting Association and this is a constant source of comments and complaints from harbour users.
4. The operation of the harbour requires essential annual maintenance works in the form of dredging to remove accumulations of silt and beach material from around the entrance of the harbour and the area immediately adjacent to the harbour arm. It has also been necessary to carry out two major dredging operations to remove silt from the actual entrance channel and across the whole of the harbour area; these were undertaken in 1994 and 2002 at a total cost of £208,000. A specialist report produced in 2006 identified that the major dredging would be required every 6-8 years and that the next dredge would be due around 2008/09. It also identified that

that the gabions which make up part of the harbour may require replacement around 2016/17 and that the likely cost would be in the order of £800,000. The forecast major dredge has not yet been required but the harbour is being closely monitored for when this dredge may be necessary.

5. The harbour is an important part of the mix of facilities along Ryde seafront which attract visitors to the area and the town. The sustainability of the harbour as a central part of the seafront offer does however rely on the council continuing to fund its daily operation and being prepared to fund the inevitable and expensive (c £250,000 @ 2013 prices) major dredge of the facility when it becomes necessary.
6. Given the financial pressures facing the council and the need to prioritise its limited resources towards its statutory obligations the ability of the council to support the harbour, a discretionary service, in the short to medium term may be limited. The loss of the harbour could however have a significant impact on the ability of the council to secure regeneration activity in the Ryde seafront area as much as the possibility of private sector investment could stimulate regeneration activity in the area.
7. In this context a recent approach to the council by a private sector investor/developer interested in acquiring the harbour for its purposes worthy of exploration. The development of Ryde as a gateway to the Island is one of the identified objectives of the council's economic development delivery action plan which recognises that this could only be achieved through private sector investment. The council's duty to obtain best consideration when disposing of an asset precludes it from negotiating directly with this potential purchaser and requires the council to seek best offers for the harbour before it can consider its disposal.
8. The possible disposal of the harbour has not been included in the council's approved capital disposal plans for 2012 to 2015 (decision reference 27/12) and therefore if this opportunity is to be explored then it is necessary for the council to confirm that it is willing to consider a disposal of the property, the possible terms for such a disposal and the method of disposal.
9. Consideration of the disposal of the harbour is entirely consistent with the council's expressed strategy to, "identify those services which we will no longer provide or those that we might enable others to provide with minimal input from the council" (Corporate Plan). On this basis it is suggested that the property is offered for sale on the open market but with a restrictive covenant that it be only used as a harbour/marina. However, given the council's wish to stimulate regeneration in the area it should also be willing to release the covenant where an investor is able to demonstrate an alternative use of the area that would be of significantly greater long term economic benefit to Ryde and/or the Island than that currently provided by the harbour.
10. If the council is not able to secure a purchaser for the harbour then it will need to continue with its direct operation and management of the harbour until such time as a further review of its operation and sustainability can be considered.

STRATEGIC CONTEXT

11. The development of Ryde as a key gateway to the Island is one of the actions agreed by the council under the theme of, 'creating a 21st century tourism offer', in its Economic Development Delivery Action Plan (2012/13 to 2014/15). This report sets out how the council is able to deliver this aspiration within the context of reducing public sector resources.
12. In December 2010 the council's cabinet agreed the future shape and direction of the organisation of which one of the key principals is that, "the council will actively seek to sell or dispose of assets that are surplus to requirements where practicable to maximise capital receipt, or lease them where it is not".
13. The potential disposal of council assets will contribute towards a number of its key corporative objectives, as detailed in the corporate plan for 2011-13 and set out below:
 - Regeneration and the economy – seeking the best quality use of surplus/disused property assets may ensure high quality regeneration opportunities are realised
 - Delivery of budget savings through changed service provision – delivering services in different ways will allow the release of Council land and buildings, thereby creating significant savings of accommodation and maintenance costs, as well as generating capital receipts.
14. In addition this possible disposal will also support a number of the priorities within the sustainable community strategy including:
 - A thriving Island
 - Protect and enhance our island's natural beauty
 - Create wealth whilst reducing our carbon footprint
 - Support economic development and regeneration, enabling everyone to share in the Island's economic success, by increasing the skills of the whole community
 - Safe and well kept island
 - Improve the visual appeal and ambience of our Island, now and in the future
15. Ryde is one of three Key Regeneration Areas - (KRA) in the Island Plan Core Strategy. The precise type and location of development to be achieved in the area will be determined in the production of an Area Action Plan (AAP) which is due for adoption in early 2015. New development projects can still be considered prior to the production of the AAP and any new private sector investors/developers that could be attracted to Ryde would have the opportunity to contribute to its development.

CONSULTATION

16. The interest of the private sector investor/developer in the harbour presents a significant opportunity for the council to consider, however, in order to take advantage of this opportunity and retain the interest of the private sector investor/developer it is necessary that a relatively quick decision is made as to whether Members would consider seeking offers for the harbour through a marketing exercise.
17. The views of all interested parties including local Members and the Town Council be able to make representations through the normal processes in the consideration of this paper. If the paper is approved a wider consultation will follow to seek the views of interested parties to be taken into account when considering the terms of a disposal, should any be agreed.

FINANCIAL / BUDGET IMPLICATIONS

18. The current total revenue subsidy provided by the council towards the operation of Ryde harbour is £34,000 a year. Each major dredge of the harbour is estimated to cost in the order of £250,000 (@2013 prices).
19. In 2007 the economic benefit derived from visitors using the harbour was calculated using figures from the joint Tourism South East and SEEDA report titled "*Leisure cruising in the South East*". The benefit was thought to be approximately £146,000 per annum and this would continue should a third party acquire and operate the harbour.
20. The costs associated with the marketing of the harbour and the evaluation of proposals for it can be contained within existing budgets.

CARBON EMISSIONS

21. There are no direct implications for the council's carbon management plan arising from the recommendations in this paper. There may be a potential increase in the Island's overall carbon footprint if the harbour is developed in the long term to provide a greater economic benefit to the Island.

LEGAL IMPLICATIONS

22. The Council has the power to dispose of property under section 123 of the Local Government Act 1972, which requires it to achieve "best consideration" in any disposal.
23. Ryde Harbour is owned freehold by the Isle of Wight Council, but may be subject to a number of constraints to regeneration such as restrictive covenants in favour of the Lind and Brigstocke estates. The council has commissioned a report on title of its property assets on Ryde seafront and this will clarify these and any other recorded constraints. These constraints will be disclosed to potential bidders for the harbour during the marketing process and may impact on the value of the harbour.

24. There is currently no harbour order or act in place for the harbour; there are however byelaws relating to the prohibition of diving and swimming but these can be repealed if necessary.
25. The council has in place occupation agreements with boat owners at the harbour which are generally for a maximum 12 month period. These agreements can be terminated if necessary to enable the sale of the harbour although it is more likely they would be transferred to a new owner with its agreement.
26. The council will need to be mindful of the Transfer of Undertakings (Protection of Employment) regulations (TUPE) 2006 which seek to protect employees' terms and conditions of employment (including pay, benefits and pension) when a business is transferred from one owner to another. In such cases the council staff would automatically become employees of the new business on the same terms and conditions as they currently have as employees of the council. The council would be required to inform and consult staff affected directly and indirectly by the transfer to comply with TUPE and avoid the cost of unfair dismissal claims and Employment Tribunals.

EQUALITY AND DIVERSITY

27. The Council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies and decisions with regards to diversity legislation and the nine protected characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership). There are no direct implications for the Council's duties under the terms of the Equality Act 2010 arising from the recommendations in this paper. There are no opportunities for it to eliminate unlawful discrimination, promote equal opportunities between people from different groups and foster good relations between people from different backgrounds arising from the recommendation.

PROPERTY IMPLICATIONS

28. The utilities block (known as the hospitality suite) for the harbour provides shower and toilet facilities for harbour users and is situated within the Eastern Esplanade public conveniences building which is approximately 150m away from the harbour itself. The disposal of the harbour will need to also include this facility.
29. Issues that will need to be taken into account by prospective bidders for the harbour include; the management of the public slipway leading into the harbour, the need for a new direct water supply to the harbour which is not sub-metered; and either the transfer of the existing or acquisition of a new dredging licence.
30. The Environment Agency have also initiated discussions with the council in respect of diverting Monkton Mead creating a new outfall into the harbour and this possibility will also need to be made known to and considered by bidders for the harbour.

SECTION 17 CRIME AND DISORDER ACT 1998

31. There are no direct crime and disorder implications arising from the recommendations in this paper. If regeneration occurs as a result of this paper this may have a positive impact on crime reduction.

OPTIONS

32. The options available are:

- Option (1) - Dispose of Ryde harbour on the open market with a restrictive covenant that it be only used as a harbour/marina; such covenant to only be removed if an alternative use of the area could generate a significant and sustainable economic benefit to Ryde and/or the Island.
- Option (2) - Dispose of Ryde harbour on the open market
- Option (3) - Not dispose of Ryde harbour.
- Option (4) - The final agreed terms of any disposal to a third party be approved by a further delegated decision of the Cabinet Member but where no terms are agreed then the council will continue to directly manage the harbour.

RISK MANAGEMENT

33. If the council is not able to agree to consider the sale of Ryde harbour as a harbour/marina in order to take advantage of this current opportunity there is as risk that similar opportunities may not present themselves to the council again in the medium term. If this were to be the case then the council may face a choice of closing the harbour or investing some of its limited resources in it so that it can continue to operate. Its closure could be detrimental to Ryde seafront, its attractiveness to visitors and the overall economy of the town.
34. There is a risk that should the council agree to consider offers for the harbour it is not able to reach a suitable agreement for the sale of the harbour with any purchaser which satisfies the council's needs to see the economic benefit of the harbour area sustained and improved in the short term. Were this to be the case the council could still continue to operate the harbour directly until such time as it needed to consider making significant investment in the harbour to sustain its operation.
35. Ryde harbour occupies an important position on Ryde seafront and could be central to development proposals to improve the area and its economic impact on Ryde and the Island. Disposing of the harbour in advance of a wider plan for regenerating the seafront could limit the wider development opportunities for the area but, on the other hand, it could also be a catalyst for wider investment in and improvements to the area. Given the relatively few enquiries the council has received about the area in recent years the risk is, on balance, more likely to be in losing the opportunity for a catalyst for improvements to the area than in restricting future developments.
36. There is a low risk that a purchaser could acquire the harbour but not operate the harbour at all. This could be mitigated by requiring the purchaser to operate the harbour for a minimum number of weeks a year as part of the sale agreement. In reality it is unlikely that any party acquiring the harbour would consider not operating it and receiving the benefits of the income that could be earned.
37. Local users of the harbour and other interested parties will be able to comment on any paper that comes forward seeking the council's approval to the terms agreed for

a possible disposal of the harbour. It is possible that the council may not be able to balance the needs of these groups with its own aspirations for the future of the harbour. This risk is common to many decisions where the council is unable to continue directly providing or supporting a specific service but is able to secure alternative provision of the service which whilst changed is not stopped or closed altogether.

EVALUATION

38. The provision of Ryde harbour is not a statutory duty of the council. It has not previously been included in the council's proposed capital disposals programme because the council continues to fund and operate the harbour and has not yet made any decision as to whether it wishes to continue to do so. Given the pressures on public sector finances in general and the council in particular the council would need to give some consideration to its aspirations for the harbour, a discretionary service, in the very near future.
39. Central to these considerations will be the potential capital expenditure that will be required for the harbour to remain open. This would be a minimum of £250,000 for the major dredging of the harbour and may at some time include the cost of replacing the gabions that make up the harbour arm. It remains uncertain as to when these costs may fall given that the predicted timescales for the dredging would seem to be longer than was anticipated in 2006. Nevertheless when these works are due the council will have a choice of prioritising these works above other priorities for its limited funding.
40. The need for the council to consider these investment decisions would be removed if a private sector operator for the harbour could be secured. This is likely to have been one of the options suggested to the council in any review of its direct provision and management of the harbour. Other options would have included considering alternative uses for the harbour that reduced its costs to the council and increased the potential for the council to earn additional income from the site, although all would have required additional investment to initiate the required changes. Securing private sector investment in the operation of the harbour, through its disposal, does permit the harbour to be sustained without additional council input or cost.
41. Any private sector investor/developer that may acquire the harbour would wish to invest in the facility in order to ensure that it remains viable for the foreseeable future. This in itself may begin to improve the overall attractiveness and environment of the seafront and could encourage others to invest in the area. It would however be unreasonable to require that any new owner only operate the facility as a harbour if it were able to prepare development proposals that would improve both the facility and the economic benefit it provides for the area.
42. Securing a private sector owner for the harbour could therefore provide an opportunity for the council to both resolve the medium term future of the harbour and provide a possible catalyst for other investment into the Ryde Seafront. How well these objectives can be achieved can only be evaluated following a disposals process that involves openly marketing the harbour for sale and evaluating all of the bids received for it against these criteria.

RECOMMENDATION

43. That options (1) and (4) be adopted and that the council:

- Option (1) - Dispose of Ryde harbour on the open market with a restrictive covenant that it be only used as a harbour/marina; such covenant to only be removed if an alternative use of the area could generate a significant and sustainable economic benefit to Ryde and/or the Island.
- Option (4) - The final agreed terms of any disposal to a third party be approved by a further delegated decision of the Cabinet Member but where no terms are agreed then the council will continue to directly manage the harbour.

APPENDICES ATTACHED

44. [APPENDIX](#) – Plan showing Ryde Harbour.

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Decision

Signed

Date
