

Report to: Audit, Best Value and Community Services (ABVCS) Scrutiny Committee

Date of meeting: 15 July 2016

By: St. Anne's Panel

Title: Former St. Anne's School site, Lewes

Purpose: To consider any outstanding issues arising from the ABVCS scrutiny of the St. Anne's site disposal.

RECOMMENDATIONS:

That the Audit, Best Value and Community Services (ABVCS) Scrutiny Committee:

- 1) Does not carry out any further scrutiny of the process used to dispose of the St. Anne's site;**
 - 2) Considers undertaking a review of the Community Asset Transfer (CAT) and 'Meanwhile Use' policy, within the context of the suite of interrelated property policies that exist;**
 - 3) Requests sight of proposals for the future disposal of St. Anne's site before a final decision is taken, but only if it is proposed to dispose of the site at less than market value; and**
 - 4) Retains an overview of all proposed property disposals at less than market value, such as community asset transfers (CATs).**
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1 Background

1.1 A scrutiny review of the disposal of the former St. Anne's School site was undertaken by a Review Board of the ABVCS scrutiny Committee in the period October to December 2014. The report of the review was published in January 2015 and concluded that:

"The process has been very successful in terms of the constructive engagement with the local community and a robust bidding process that has led to a clear outcome with tangible community benefits identified. There was no evidence of any deliberate attempt to mislead the public or the bidders and equalities factors have been properly addressed".

1.2 At its meeting on 15 March 2016 the ABVCS Scrutiny Committee requested a panel of three members of the Committee to examine whether any further scrutiny work was required in respect of the St Anne's site disposal and in particular:

- Whether the Management Agreement to accompany the lease secures the future community use of the site; includes active monitoring of the lease agreement and; is enforceable in the light of the proposal to issue a 999 year lease.
- What the County Council's liabilities would be should the lease be terminated and the site repossessed with a loan or loans secured against the site.

2. Panel conclusions

2.1 The Panel was informed that contract negotiations between Subud Britain and the County Council ceased on 18 April 2016 by mutual agreement. The disposal of the site to Subud would not now go ahead.

2.2 The Panel asked the Chief Operating Officer for further information regarding the valuations of the site during the disposal process. It was established that valuations of the market value of the site had been undertaken in 2013, June 2015 and again in January 2016 which confirmed that the disposal complied with the requirements of the General Disposal Consent 2003. The Local Government Act 1972 General Disposal Consent (England) 2003 enables the Council to dispose of land or buildings at less than market value provided the disposal is likely to contribute to the economic, social or environmental well-being of the area, and the difference between the market value and the actual price paid is less than £2 million.

2.3 The Panel established that a 125 lease and a management agreement were being sought from Subud to ensure the future community use of the site and the enforceability of any lease conditions. The Panel considered that the disposal process had been carried out in a timely way given the complexity of the site, the earlier scrutiny review, and the contract negotiations required to achieve the Community Asset Transfer (CAT).

2.4 The Panel concluded that:

- No further scrutiny is necessary in respect of the (aborted) process to dispose of the St Anne's site to Subud.
- The proposed Management Agreement had included provisions for eventualities such as any future default of the lease and thus, as far as the Panel could discern, adequately protected the Council's interests in the site.
- There is merit in undertaking a future review of the Community Asset Transfer (CAT) and the 'Meanwhile Use' policy especially in the light of the experience with St. Anne's; this may be complex because the CAT policy is one of a suite of interrelated property policies and cannot easily be considered in isolation.
- Given the experience, the ABVCS Scrutiny Committee could usefully request sight of proposals for the future disposal of St. Anne's site before a final decision is taken but only if it is proposed to dispose of the site at less than market value.
- There is merit in ABVCS retaining an overview of all proposed property disposals at less than market value, such as community asset transfers (CATs).
- The timeline for the sequence of events in the disposal process to date (see Appendix 1) is valuable in illustrating the complexities and timescales involved in complex CAT undertakings.

3. Conclusions and reasons for recommendations

3.1 The Panel agreed that it did not need to take any further evidence and had sufficient information. It recommends that no further action is necessary to review the process used to dispose of the St. Anne's site.

3.2 The Panel recommends that the ABVCS Scrutiny Committee review the CAT policy to see how it is working and whether it needs refining in light of the St. Anne's disposal process. The policy review should be conducted in the context of the suite of other property policies that exist, including the 'Meanwhile Use' policy. The Panel considered there was merit in all disposals at less than market value being referred to the ABVCS scrutiny committee.

3.3 In regard to the future of the St. Anne's site, the Panel recommends that if any future disposal of St Anne's is planned to be for less than market value then this should be reported to ABVCS Scrutiny Committee before a decision on such a disposal is made.

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BACKGROUND DOCUMENTS

Scrutiny review of the disposal of the former St. Anne's School site, Lewes. January 2015.

<https://new.eastsussex.gov.uk/yourcouncil/about/improving/measuringperformance/scrutiny/reviews/2014>

Community Asset Transfer Policy. June 2014.

<https://new.eastsussex.gov.uk/yourcouncil/about/property/download/>

1. St. Anne's School site is located on Rotten Row, Lewes. The County Council closed the school in September 2005. The school site consists of several buildings situated on approximately four acres of land accessible via Rotten Row. There was no perceived obvious future use for the site due to the restricted road access and the number of tree preservation orders in place.
2. For several years until 2011, East Sussex County Council (the Council) maintained the site on a basic 'wind and water tight' basis. Public access was not physically restricted and the local community used the site informally. In April 2011 a bout of vandalism of the roof of the buildings led to a decision to seal and close the site.
3. In the early summer of 2011, a group of climate change activists occupied the site stating that they wished to secure its future as a community asset. The illegal encampment was removed in June 2011.
4. The County Council convened two public meetings in Lewes Town Hall on 7 and 27 July 2011 to enable residents and community groups to discuss options for the interim community use of the site. A community-led St Anne's Steering Group emerged to assist with the development of plans for the short and long-term use of the site.
5. On 23 October 2012, the Lead Member for Community and Resources approved a proposal to dispose of the site for community use in recognition that was the most valuable non-residential use for the site.
6. The Council published the sales particulars for the site in January 2013 and invited expressions of interest from voluntary and community organisations. Three organisations completed applications: Subud, YMCA and Lewes Community Land Trust (LCLT). The Council gave all applicants the opportunity to amend or revise their bids prior to the formal deadline for submissions on 7 June 2013.
7. Following the deadline, a Bid Assessment Panel was established comprising four Council officers, a representative from 3VA and a representative from the St. Anne's Steering Group. On 17 June 2013, the Panel unanimously recommended the bid submitted by Subud.
8. Shortly afterwards, the Council received a challenge from LCLT about wording in the bid application form. The form was derived from a standardised bid application form produced by Localities, an organisation specialising in community asset transfers. It contained a statement inviting requests for purchase of the asset by "voluntary, community or not for profit organisations, *unless the organisation is promoting political or religious activities*". The Council halted the bidding process to review the legality of the wording and its impact on the process.
9. Following an assessment, the Council concluded that the wording had been included in error and had it not been spotted may have led to the Council breaching its duties under the Equality Act 2010. However, the inclusion of the wording was considered not to have affected any of the bids.
10. The bidding process was resumed and the Lead Member for Resources approved Subud as the preferred bidder on 29 October 2013. The Council then set about agreeing the heads of terms of the sale with Subud, which was delayed in part by the parties' joint efforts to safeguard community use of the site.
11. In late August 2014, members of the public and a County Councillor began to raise a number of concerns alleging that the bidding process had been flawed and that the sale of the site to Subud had been in breach of the Equality Act 2010.
12. On 5 September 2014, in response to these concerns, the Audit, Best Value & Community Services Scrutiny Committee agreed to establish a scrutiny review board to undertake an analysis of the bidding process. The agreed scope of the Review Board included an analysis of a number of aspects of the bidding process, including how the Council will protect community benefits, equality of access and guard against gains from future housing development.

13. The Review Board held three public meetings: two evidence-gathering sessions in October 2014, and a final meeting in November 2014 where it agreed that it had received sufficient written and oral evidence to reach a conclusion about each of the issues set out in the scope of the review.

14. The report of the Review Board was published in January 2015 which set out the findings, conclusions and recommendations of the Review Board for submission to the Lead Member for Resources for consideration.

15. The disposal process re-started in January 2015 after the Scrutiny Review had concluded and the report had been published.

16. Detailed negotiations between the Council and Subud took place during 2015 to agree the terms of the lease for the St. Anne's site and the details of the management agreement, which accompanied the lease.

17. During 2015 Subud worked to develop and refine the business case for the development of the St. Anne's site and presented the completed business case to its Board in the early part of 2016.

18. In April 2016 the contract negotiations between the Council and Subud on the disposal of St. Anne's site ceased by mutual agreement, and the following statement was issued:

"For the last three years we have worked with SUBUD Britain to develop plans for a community facility on the site of the former St Anne's school in Lewes.

The option to use the site as a community facility was the town's people preferred choice during a consultation in 2012.

We always recognised that this was an ambitious and complex project and that further complications could emerge during the process. Both organisations were therefore committed to regular checks along the way to ensure the latest information was taken into account.

Unfortunately, both parties have now come to the conclusion that it is not possible to transfer the site for community use in a way that meets the original aims and aspirations of both parties and is both viable and sustainable. We have therefore reluctantly decided to bring the contract negotiations to an end.

We will now be reviewing options for the future use and development of the site before determining a new way forward. SUBUD Britain will retain its existing presence in Lewes and continue to offer and develop community facilities and services".