

## Buckinghamshire County Council

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# Officer Decision Report

**Title:** Future of Thrift Farm

**Date decision taken:** 17<sup>th</sup> January 2020

**Author:**

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**Local Members Affected:**

- Cabinet Member for Health and Wellbeing
- Cabinet Member for Resources

**Feedback from Consultation**

A full consultation was undertaken earlier this year as part of determining future options for Thrift Farm. These can be found in Appendix 1 of the following link: - <https://democracy.buckscc.gov.uk/ieDecisionDetails.aspx?ID=14371>

**Decision**

The purpose of this report is to: -

- Outline the progress of the transition of Thrift Farm to Thrift Activity Farm Ltd. (TAF) further to agreement by Cabinet on 9<sup>th</sup> September 2019.
- Agree final transition of adult day care provision and award of full repair lease to TAF on the proposed transfer date of 31<sup>st</sup> January 2020.

**Reasons for the decision**

A report on the 'Future of Thrift Farm' was considered by Cabinet on 9<sup>th</sup> September 2019 and included the following recommendations:

1. To note the findings of the consultation report as set out in Appendix 1 (link)
2. To seek approval for the proposed business plan from Provider A and for Thrift Farm to be transitioned to Provider A for ongoing provision and operation. This includes:-
  - a) Adult day care provision

- b) Use of the property as a farm park open to the public, café, retail shop, agricultural operations and the farmhouse
- c) All associated land (on a full repair lease basis)
- d) All associated proposals for use of the land (details of this are part of the confidential appendix) (not attached)

The decision of Cabinet was:

RESOLVED: Cabinet Members AGREED the above recommendations.

Provider A, Thrift Farm Activity Limited (TAF), is a joint venture between Kids Play Ltd and Mead Open Farm

This decision was taken following an invitation for business cases, a rigorous review process and a review of alternative options.

It was agreed that the transition of operation to TAF on a full repairing and insuring lease was the most sustainable option for the Council.

During negotiations, a proposed transfer date of 10<sup>th</sup> January 2020 and more recently, 31<sup>st</sup> January 2020 was agreed between all parties. Whilst this is a challenging deadline for stakeholders, it is commercially important that TAF be open and ready to go for Easter 2020 break.

A summary of key activities to date are outlined below: –

- Staff TUPE consultation commenced on 4<sup>th</sup> November and concluded on 9<sup>th</sup> December;
- Draft lease and title deed has been produced and shared with TAF, outlining terms of guarantor and rent requirements;
- Draft asset transfer agreement produced and shared with TAF, outlining detail such as equipment and plant;
- Draft care and support service contract prepared and due to be shared with TAF imminently;
- Positive communications maintained with service users, carers, staff and media;
- Provider presentation to staff, service users and carers at the farm;
- The provider has held tailored meetings with service users;
- Positive dialogue has been achieved between the provider, BCC and the current staff who wish to transfer to the new provider;
- Agreement to schedule a number of post implementation project meetings to support continued development of TAF and embed Better Lives Strategy principles.

A summary of the outstanding matters to be determined to give effect to the Cabinet decision are outlined below:

- The decision to grant a lease of Thrift Farm to TAF;
- The terms of that lease;
- Whether to enter into an aligned care and support services contract with TAF;
- Whether the lease guarantor levels being put forward are acceptable.

Advice has been sought from property, procurement and legal colleagues in respect of these matters and the officer recommendations are set out below.

A valuation of the rental income has been obtained from Carter Jonas and is attached at confidential Appendix 5.

Buckinghamshire County Council has undertaken significant market testing in relation to the continued operation of Thrift Farm, having engaged with the market on 2 separate occasions and undertaken a rigorous evaluation process of the business cases submitted. In light of this and the report to Cabinet which clearly set out that *“The new provider will be required to deliver a service to support all current as well as future service users”* a full, separate procurement exercise has not been undertaken.

In relation to guarantor levels, these only pose a cost risk to the Council in the event that TAF is not commercially viable. This is a joint venture with 2 well established local companies with a history of successfully running this type of operation and whose financial health was been assessed as part of the business case evaluation process.

### **Legal Implications**

In accordance with s123 Local Government Act 1972 (LGA 1972), BCC is statutorily obligated to obtain ‘best consideration reasonably obtainable’ in the disposal of any land and a lease is for these purposes a disposal.

Where the rent or price paid for local authority land is not the best consideration reasonable obtainable, local authorities are able to rely on the terms of the Local Government Act 1972: General Disposal Consent 2003. This provides that a local authority may dispose of land at an undervalue, if (a) the undervalue does not exceed £2,000,000 in total **and** (b) the transaction will help to secure the promotion or improvement of the economic, social or environmental well-being of that authority’s area.

It is noted that the Cabinet decision included the provision and operation of:

- a) Adult day care provision
- b) Use of the property as a farm park open to the public, café, retail shop, agricultural operations and the farmhouse

BCC as a public body is required to comply with the Public Contract Regulations 2015 or Concession Contracts Regulations 2016.

### **Authority to take this decision**

As outlined previously, Cabinet took the decision to transfer full operation of Thrift Farm to TAF on 9<sup>th</sup> September 2019.

Following advice from Democratic Services, subsequent decision around final transfer and implementation details can now be undertaken by the Executive Directors.

### **Decision**

To prevent delay of the transfer the following decisions need to be taken: –

- To agree to let the Thrift Farm property on a lease and align the care and support contract. See confidential Appendix 1 for further information.
- **To agree** to enter into a 30 year full repair and insuring lease with Thrift Farm Activity Ltd for the rent of £60,000 per annum, with RPI linked reviews. See confidential Appendix 1 for further information.
- **To agree** to enter into a care and support service contract with Thrift Farm Activity Ltd. See confidential Appendix 1 for further information.
- **To agree** to the joint limited guarantee being offered by Rollers UK and Mead Open Farm, both of whom offer a limited guarantee of £15,000 each.

### **Other options available, and their pros and cons**

The alternative options presented to Cabinet were: –

- Decommission the service and transfer the asset back to corporate landlord.
- Do nothing - which is not a sustainable option for the Council.

There was concern that whilst both the above approaches may have been either unsustainable or yielded some financial efficiencies, these would have been outweighed by disruption to service users and carers and heightened interest from the market in taking on the operation.

### **Conflicts of interest**

None declared.

### **Background papers**

Confidential appendix.

### **Other**

None

### ***Your questions and views***

*If you have any questions about the matters contained in this paper please get in touch with the Contact Officer whose email address is given at the head of the paper*