

<b>Report to Cabinet</b> Report of Cllr Lucas Cabinet Member for Customer Services, Environment and Culture.	<b>Forward Plan reference number</b> FP/965/11/12
<b>Date of meeting</b> 22 <sup>nd</sup> January 2013	<b>County Divisions affected by the decision</b> <i>Chelmsford</i>
<b>Title of report</b> Country Parks Review Phase 1 – Marsh Farm Lease	
<b>Report by</b> <hr/> Cllr Jeremy Lucas, Cabinet Member for Customer Services, Environment and Culture <hr/>	
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## 1. Purpose of report

- 1.1. To agree to issue a commercial lease for Marsh Farm Visitor Attraction to the preferred tenant, Partyman Company Limited.

## 2. Recommendations

- 2.1. Agree the award of the commercial lease of Marsh Farm Visitor Attraction to the preferred tenant Partyman Company Limited , on terms and conditions to be agreed by the Director for Property and Facilities, in consultation with the Deputy Leader and Cabinet Member for Finance and Transformation Programme

### **3. Background and proposal**

- 3.1. Marsh Farm is one of nine sites within the Essex County Council (ECC) Country Parks estate. However, by way of the visitor attraction and customer service that it provides, it is distinctly different when compared with the other country parks.
- 3.2. Marsh Farm Visitor attraction covers approx 6 hectares which are visited by in excess of 110,000 visitors per year. It is a working farm with a range of agricultural buildings housing pigs, sheep, poultry and cows, along with specialist livestock including alpacas, llamas, goats, a pet barn and an aviary. The site also consists of a small shop and tearoom and outdoor and indoor play areas.
- 3.3. A report on a proposed new operating model for Marsh Farm was presented to Cabinet on 4th September 2012, CAB 900/08/12 and Cabinet made the following decisions:-
  - (1) That approval be given to advertise for bids for a commercial lease of Marsh Farm visitor attraction to be run as a family visitor attraction in line with existing user rights.
  - (2) That authority be delegated to the Director of Essex Property and Facilities, in consultation with the Deputy Leader and Cabinet Member for Finance and Transformation Programme and the Cabinet Member for Customer Services, Environment and Culture, to negotiate the final terms of the lease.
  - (3) That the land surrounding the visitor attraction known as Marsh Farm Country Park remain under the management and in the ownership of Essex County Council.
  - (4) That the grant of the lease or award of any contract be submitted to a future meeting of the Cabinet for approval.
- 3.4. Subsequent to the September Cabinet meeting, the opportunity for the lease was advertised in local and national media through Whirledge & Nott Estate Agents and a rigorous evaluation process was undertaken to select the preferred tenant, "Partyman Company Limited".

#### Options/Proposals

- 3.5. The Marsh Farm Visitor Attraction was advertised as a commercial lease which initially attracted a good response from potentially interested parties. Some of the suppliers withdrew their interest once they were able to review the site and lease details and the project received detailed enquiries from four suppliers. Of these four, two suppliers declined to proceed any further due to the level of capital investment required. The two remaining suppliers presented responses for consideration.

- 3.6. The responses from both suppliers were evaluated by the project team; including representatives from Legal, Essex Property and Facilities (EPF), Finance, Human Resources and the Country Parks team.
- 3.7. The evaluation followed ECC governance rules and a preferred supplier, Partyman Company Limited, was identified through this proposal.
- 3.8. Both suppliers were informed of the decision and this has been accepted by them.
- 3.9. Essex County Council entered negotiations with Partyman Company Limited through their agents Lambert Smith Hampton (LSH) and a specialist firm Whirlledge and Nott, who manage ECC's agricultural estate. Following negotiations Heads of Terms were agreed by both parties
- 3.10. The proposed disposal strategy for this land and buildings has, pursuant to internal policy guidance, taken account of ECC's obligations under S123 of the Local Government Act 1972, in particular the obligation to achieve best value.
- 3.11. In accordance with such internal policy the valuation of the property has been made and best value has been obtained through negotiations with the preferred tenant.
- 3.12. Under the Local Government Act 1972 there is a requirement to advertise the disposal (including a lease of over seven years) of any land designated as Public Open Space. The requirements of the 1972 Act have been considered and it has been concluded that the Marsh Farm Visitor Attraction does not constitute Open Space within the meaning of the Act as the open elements are between the 'visitor attraction buildings or ancillary to their use as a paid attraction'.

#### Next Steps

- 3.13. Following "Agreement to Proceed" with the preferred tenant, the Marsh Farm Visitor Attraction will be leased to the Partyman Company Limited who will begin trading at Marsh Farm from 1st April 2013.
- 3.14. This is subject to final agreement of the terms of the lease. Cabinet is asked to agree to the granting of this lease to the Partyman Company Limited, in accordance with the key terms referred to below in paragraph 5.1.

#### **4. Policy context**

- 4.1. This project aligns to the "2012-17 Property Strategy" which seeks to "achieve the best value for money by making better use of our property whilst supporting the effective delivery of our priorities".
- 4.2. This project also supports one of the key priorities of the ECC Vision Statement to improve public health and wellbeing by helping deliver the following outcomes:
  - (a) Helping Essex residents to live full and independent lives

(b) Encouraging healthy and active lifestyles and tackling the wider causes of ill health

(c) Protecting and enhancing the environment in Essex

## **5. Financial Implications**

### **5.1. Future Financials under the Proposed Lease**

Under the proposed lease, a commercial market value has been agreed for the transfer of assets to Partyman Company Limited, including livestock, shop and tea room stock, farm and play equipment. It is expected that there will be a slight loss on disposal of assets and this will be reflected in the 2012/13 accounts, although it should be noted that this loss will be more than offset by the resulting annual revenue savings, thereby representing value for money for the council. The lease will run for an initial 25 year period, with a break clause in year 10 to provide either party with the opportunity to withdraw. The 10 year period will allow sufficient time for the lessee to recoup the substantial capital investment that has been proposed. Under the new lease arrangement, Marsh Farm is expected to be cost-neutral for Years 1 and 2 and will then provide ECC with a small surplus from Year 3 onwards.

### **5.2. Estimate of Future Benefits under the Proposed Lease**

Under the terms of the proposed lease for Marsh Farm, ECC will benefit from the removal of the current subsidy (approximately £90,000 per annum), and from year 3 (2015-16) onward will receive a regular annual income for the use of the site and its buildings.

## **6. Legal Implications**

- 6.1. The basis for the disposal of Marsh Farm is to be by way of a commercial lease. A proposed tenant has been selected, namely Partyman Company Limited, and negotiations for the lease and assets have been concluded. The site will be leased at a market rent for a period of 25 years with a rolling break clause exercisable by either party on the tenth anniversary of the lease and with a rent review every third anniversary of the term.
- 6.2. Secretary of State Consent is not required for the disposal as the Council has therefore complied with its statutory obligations under S123 of the Local Government Act 1972 and amending legislation and guidance.
- 6.3. The assets, namely the livestock and machinery, will be transferred at a premium by way of an Asset Transfer Agreement. TUPE implications and staff Service Occupancy Agreements are dealt with in Paragraph 7 of this report.
- 6.4. Having carefully considered whether any of the site being disposed of can be designated as a Public Open Space, it has been concluded that the visitor attraction and main car park are gated and closed at the end of each day. The

two fields adjacent to the car park, used for overflow parking or grazing of the animals, are also gated and not used for public recreation. None of the site being disposed of can therefore be considered as Public Open Space.

- 6.5. The final elements of the lease of Marsh Farm Visitor Attraction to the preferred tenant, subject to the negotiation of final terms by the Director for Property and Facilities, in consultation with the Deputy Leader and Cabinet Member for Finance and Transformation Programme

## **7. Staffing and other resource implications**

- 7.1. The Human Resources team associated with this project have provided a timeline for TUPE of staff attached to Marsh Farm Visitor Attraction. Pension costs have been identified for Marsh Farm; these were supplied to inform the interested suppliers of the expected costs involved. The preferred bidder understands and agrees to lodge a pension bond to cover future pension entitlements. The supplier has agreed to become an admission body which will require an initial on-going contribution rate to be paid by the new employer of 20.8% of payroll for a closed agreement.
- 7.2. Several staff at the site benefit from tied houses through a service occupancy agreement; this has been discussed with property and legal representatives and forms part of the negotiations with the successful bidder.
- 7.3. Staff have been consulted throughout the tender process in line with legal requirements and good practice in relation to the proposed transfer and their response to consultation has been taken into account in the decision making process.

## **8. Equality and Diversity implications**

The Equality Impact Assessment has been completed and no action is required.

## **9. Background papers**

None