

CORPORATE AND COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE



Report subject	Commercialisation of Beach Hut Assets through Special Purpose Vehicle (SPV) wholly or majority owned by the Council.
Meeting date	2 September 2022
Status	Public
Executive summary	<p>The purpose of this report is to update Overview and Scrutiny Committee on the Council's work to consider the use of a Special Purpose Vehicle (SPV) to commercialise the Council's beach hut assets and release a £50m capital receipt back to Council for the Transformation Programme.</p> <p>Independent advice from KPMG has been sought in the development of this work. The advisory reports from KPMG can be found in the Appendices.</p> <p>During the development of this work the Secretary of State for Local Government changed the Flexible Use of Capital Receipts (FUCR) guidance. The change in guidance prevents the use of capital received from the sale of beach hut assets to a wholly or partially owned SPV for transformation purposes.</p> <p>Following this change the Council is no longer pursuing the use of an SPV for the commercialisation of beach huts but will now develop proposals for changes to the in-house management, harmonisation of prices and policies, and enabling capital investment. Recommended decisions will be brought forward to Cabinet later in the year.</p>
	<p>It is RECOMMENDED that the Overview and Scrutiny Committee:</p> <p>1. Notes the Council is no longer pursuing the commercialisation of beach hut assets via an SPV.</p>
Reason for recommendations	To update overview and scrutiny on the Council's work to consider the commercialisation of beach huts via a Special Purpose Vehicle.

Portfolio Holder(s):	<p>Councillor Drew Mellor, Leader of the Council and Portfolio Holder for Finance and Transformation</p> <p>Councillor Mark Anderson, Portfolio Holder for Environment and Place.</p>
Corporate Director	Jess Gibbons, Chief Operations Officer

Report Authors	Chris Saunders, Service Director Destination & Culture Chris.saunders@bcpcouncil.gov.uk
Wards	All wards
Classification	For decision.

Background

1. In February 2022, the Council set out its Budget and Medium-Term Financial Plan (MTFP) outlining recommendations for the 22/23 budget and council tax. This included a future commitment from Cabinet and Council to approve a bold and non-traditional proposal to create a Council owned Special Purpose Vehicle (SPV) that would enable the commercialisation of Council beach hut assets and generate a capital receipt for the Council.
2. In August 2022, the Secretary of State for Levelling Up, Housing and Communities changed the Flexible Use of Capital Receipts (FUCR) guidance, which prevents the Special Purpose Vehicle proposal from generating a receipt which could be used under FUCR where the SPV is within the “group” structure of the Council for accounting purposes.
3. The commercialisation of beach huts aligns to the Seafront Strategy, adopted by Cabinet in April 2022, which sets out a unified vision, ambition, and list of priorities for investment in leisure and infrastructure. It is included in the pipeline of prioritised projects within Section 3.6 of the Seafront Strategy Cabinet Report.

Special Purpose Vehicle

4. In late 2021 the Council undertook work to consider options to improve the commercial return from its capital assets and release capital receipts to fund its transformation programme. This included work to consider the use of a Special Purpose Vehicle (SPV) to commercialise the Council’s beach hut assets and release a £50m capital receipt back to the Council for its Transformation Programme.
5. Independent advice from KPMG was sought in the development of this work. The advisory reports from KPMG can be found in the Appendices.
6. External consultants set out the benefits of a SPV as follows:
 - a. Enabling the raising of investment capital to further invest in Beach Hut assets over time to improve their quality and amenity, without using up Council capital resources.
 - b. Allowing a streamlined decision making and governance structure, creating a more agile organisation able to respond more efficiently to changing market conditions.
 - c. Streamlining the use of Council management and Councillor time.
 - d. Ring-fencing of risk within a subsidiary with limited recourse to the Council for non-core commercial activity.
 - e. Increasing potential to generate additional revenue, in part through price harmonisation across seafront assets.

- f. Generating capital for the Council through the sale of the assets to the subsidiary, to allow the Council to invest in core capital projects or other transformation activities
7. During the development of this work the Minister for Equalities, Local Government, Faith and Communities, Kemi Badenoch, wrote to the Council indicating an intention to change the FUCR guidance (Appendix D). The change in guidance was subsequently confirmed by the Secretary of State for Levelling Up, Housing and Communities (Appendix E) and this prevents the use of capital received from the sale of beach hut assets to a wholly or partially owned SPV to fund transformation.
8. Following this change the Council is no longer pursuing the use of an SPV for the commercialisation of beach huts but will now develop proposals for changes to the in-house management, harmonisation of prices and policies and capital investment. Recommended decisions will be brought forward to Cabinet later in the year. These will include proposals for delegated authority to the seafront team to seek to galvanise as far as possible the benefits of the in-house model.
9. The Council considered whether to continue with a wholly owned SPV, without using a capital receipt to fund the transformation programme, to gain some of the wider benefits external consultants had identified as set out in paragraph 6. This option was discounted for the following reasons:
 - a. The future tax liability of approximately £20m over 20 years makes the viability marginal.
 - b. While an SPV could raise capital without using up Council resources, capital budget could be used to generate an increase in future income allowing a revenue return to support the Council's short-term revenue position.
 - c. To gain some of the benefits of streamlined governance and management that an SPV would achieve the Council will seek delegated authority from Cabinet in the report to be brought forward later in the year.
 - d. The price harmonisation and investment for beach huts can be delivered in house.
10. The Council also considered whether to progress with a wholly externally owned SPV which would mean the sale of the Council's beach hut assets outside of the Council's control. While this would provide the Council with a Capital receipt that could be used under the Flexible Use of Capital guidance to fund the Council's transformation programme this option would reduce the Council's annual revenue budget without the benefit of an improved future return to the Council.

Engagement

11. The four Beach Hut Associations have been kept up to date during the process of considering a SPV for the commercialisation of beach huts. Officers and members responded to questions at the Poole and Bournemouth associations public meetings. Offers to attend meetings have also been made to the Friars Cliff and Mudeford Sandbank Associations. The Beach Hut Associations will be sent a link to this report and are welcome to attend the O&S meeting. Further engagement will take place with the beach hut tenants as the in-house commercialisation model is developed.

Summary of financial implications

12. Prior to the change in guidance the commercialisation of beach hut assets via an SPV would have generated a £50m capital receipt back to the Council. The SPV would have invested £450k per annum in improvements to the beach huts, while harmonising policies and prices.
13. Officers are in the process of drafting a beach huts commercialisation business plan, which will take learning from the advice received so far and develop plans for investment and policy development to commercialise our beach huts in-house. A report to Cabinet later in the year will set out the financial implications of this business plan.
14. A finance update and Q1 22/23 budget monitoring report will be considered by Cabinet on 7 September and is due to be considered by a special scrutiny meeting. This report will identify the effects on the Council's budgets of not proceeding with the original proposal and will set out an alternative financial strategy to balance the Council's budget in the short and medium terms. Details of how the Council can commercialise its beach hut stock will be brought forward with a business plan, to Cabinet later in the year.

Summary of legal implications

15. Legal advice was sought throughout the development of this work. The change in guidance by the Secretary of State means a capital receipt received by the Council from the sale of beach huts assets to a SPV could no longer be used to fund the Council's Transformation programme.
16. Retention of the assets in-house will mean that the ongoing provision of beach huts will be in accordance with the Council's existing powers.
17. Further, specific, legal advice will be provided at the appropriate time, as the proposals for in-house commercialisation are developed.

Human resources implications

18. The decision not to proceed with the use of an SPV has no human resource implications.

Summary of sustainability impact for the SPV

19. A Sustainability Decision Impact Assessment was completed for the SPV and will be updated for future proposals for the commercialisation of beach huts.

Summary of public health implications for the SPV

20. There are currently no public health implications related to this report.

Summary of equality implications for the SPV

21. A full EIA (Equality Impact Assessment) was completed and was approved by the EIA (Equality Impact Assessment) panel on 21 April 2022 for the formation of the SPV.

22. Separate assessments will now be undertaken for the in-house option.

Summary of risk assessment for the SPV

23. The decision not to proceed with a SPV for the commercialisation of beach huts removes any risks associated with a SPV.

Appendices

Appendix A - KPMG Commercial and financial options, September 2021

Appendix B – KPMG Commercialisation of assets, February 2022

Appendix C – KPMG Commercialisation of Council Owned beach Huts, July 2022

Appendix D – Letter from Kemi Badenoch, Minister for Equalities, Local Government, Faith and Communities to Cllr Drew Mellor, 16 June 2022

Appendix E - Letter from Greg Clark, Secretary of State for Levelling Up, Housing and Communities to all Council Leaders, 1 August 2022

Background papers

Published works