

PART II – INDIVIDUAL CABINET MEMBER’S DECISION

LEADERS PORTFOLIO

6 JULY 2011

REPORT OF THE HEAD OF FINANCE AND ASSET MANAGEMENT AND THE HEAD OF LEGAL AND SUPPORT SERVICES – 11/343 on THE SANDS

DECISION

That the Leader authorise entry into a Supplemental Agreement with Benchmark Leisure Limited in accordance with the authority provided to him by Council on 24 March 2011, on terms that enable the development agreement to continue until 8 September 2011, and then be extended further subject to Benchmark Leisure by 8 September 2011:

- (a) submitting a satisfactory waterpark planning application (in accordance with a specification that is appended to the agreement)
- (b) entering into a binding agreement for a lease with Alpamare for the operation of the Waterpark
- (c) paying the sum of £3.27m to enable agreement that Phase 1A of the development is completed, on condition that the Council at the same time dispose of the freehold interest in Phase 1A for the agreed consideration for that interest.

Subject to this being achieved the agreement will thereafter continue until 8 September 2012 by which time Benchmark are required to have:

- (d) entered into an unconditional contract or contracts for the construction and fitting out of the Waterpark in accordance with the Waterpark Specification
- (e) completed funding agreements to fund the Waterpark
- (f) materially started to construct and diligently proceed with the construction of the Water park so that the Waterpark will be open to the public by 31 March 2014.

Subject to this being achieved the Agreement will continue to 8 June 2016.

REASONS FOR DECISION

On 24 March 2011 Council agreed to accept Benchmark's proposals for extension to the existing Development Agreement and in doing so:

- (a) authorised officers to finalise negotiations with Benchmark to conclude an extension to the Development Agreement;
- (b) delegated authority to the Leader to authorise entry by the Council into a Supplemental Agreement with Benchmark Leisure Limited and Benchmark Properties Limited (as guarantor) to extend the existing Sands Development Agreement;

Reasons for Decision (Continued)

At that time the expectation was that final terms would be agreed by the date that the Development Agreement would otherwise expire, namely 8 June 2011. On 8 June 2011 through an urgent decision the date for entry into the supplemental agreement was extended to 6 July 2011.

Within the negotiations Benchmark Leisure's bank set a condition precedent for the release of the Phase 1 funds that the freehold of Phase 1 be transferred to Benchmark Leisure in addition to the long leasehold interest. This was considered by Cabinet on 21 June 2011 who agreed to this provision, however, the decision was subsequently called in for Scrutiny and will be considered on 26 July.

On 6 July 2011 the supplemental agreement was consequently entered on terms that required that for the development agreement to be extended further subject to specific conditions being met by Benchmark Leisure (and the Council) by 8 September 2011.

ANY RELEVANT INTERESTS DECLARED BY CABINET MEMBER AND ANY DISPENSATIONS GRANTED

None.

DATE OF DECISION:

Wednesday, 6 July 2011

IMPLEMENTATION DATE :

Wednesday, 6 July 2011

Signed



Leader of the Council
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Date of signature
6 July 2011
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