

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF ECONOMIC COMMITTEE ON 12 OCTOBER 2021

REPORT

SUBJECT: Beach Hut Service Review

REPORT AUTHOR: Paul Broggi – Property, Estates & Facilities Manager
DATE: 4 August 2021
EXTN: 01903 737506
AREA: Technical Services

EXECUTIVE SUMMARY:

The current leases issued to Privately owned Beach Huts terminate on the 31 March 2022. Demand for the service remains high and the Council must decide on the future shape of the service. This report seeks to set out several options available to the Council, with their Private and Council owned and rented beach huts, with focus on service improvement and financial viability of this non-statutory service, including securing of both increased revenue and increased number of beach huts for the Council.

RECOMMENDATIONS:

- 1 - That the Economic Committee approve for the Council to proceed with the beach hut review as set out in Option 2 including information within the body of the report and the attached viability appraisal at Appendix 1.
- 2 - That the Economic Committee approve for the Council to proceed with the award of beach hut leases on Council owned and rented beach huts for a term of 3 years.
- 3 - That the Economic Committee approve for the Council to proceed with the award of beach hut leases on all privately owned beach huts for a term of 7 years.
- 4 – That the Economic Committee approve for the Council to proceed with the inclusion of a lease clause that ensures that the Council obtain a financial receipt on the assignment of a private beach hut lease as set out in section 1.5 of the report. The fee payable will be 6 times the annual ground rent payable at the time of sale or 20% of the sale price agreed, whichever is the larger of the two sums.
- 5 - That the Economic Committee approve for the Council to proceed with the inclusion of a lease clause that permits any beach hut customer the right (upon suitable payment) to rent out their beach hut, as set out in the body of the main report (section 1.7).
- 6 - That the Economic Committee approve for the Council to proceed with the inclusion of an annual rent increase clause (3%) within all beach hut leases issued as set out in the body of the main report (section 1.8).

7 – That the Economic Committee delegate authority to the Group Head of Corporate Support & s151 Officer and the Group Head of Technical Services to alter the use of a small proportion (circa 30 No.) of future provided beach hut units under control of the Council so that the Council may explore alternative commercial uses including letting out to local businesses, daily / weekly rentals and in the event they are not considered to be financially viable, following a minimum 12 month period of operation these may be returned to normal service use.

1. BACKGROUND:

1.1. This report contains seven options within the viability study completed at Appendix 1. These options have all been reported to Members as it is imperative that a decision is made on how to proceed. The current private beach hut leases are due to expire on 31st March 2022. If a decision is not made, for any reason, on how to proceed following this report then the Council will need to renew or extend the existing leases to ensure the situation remains regularised. This would delay moving forward with the selected option and would be a significant piece of work involving considerable officer time and cost. The Council has given an undertaking to private beach hut customers that they will receive notification on how the Council intend to proceed with the future of beach huts in the District around six months ahead of the end of tenancy, we are at that point.

1.2. The Council took back the beach hut service from Inspire Leisure when their leisure contract with the Council expired on 31st March 2016. The service was then subject to review and it was agreed to award five-year leases to the 150 privately owned beach hut customers, thus allowing their beach hut to remain sited on Council land.

1.3. The leases awarded replaced a rolling licence issued by Inspire Leisure. This was a rolling licence that had been in use for many years. Property & Estates obtained legal advice on the licence and as the beach huts were solely possessed by each licensee the advice was that the Council move from a licence to a lease to regularise the situation. The lease granted provided the customer with a five-year period of security of tenure. The Licence at the time provided the customer with one month's security of tenure, hence this introduced change provided a significant improvement in security of tenure for the beach hut customer. Recommendation 3 of this report includes a further increase in the term of the lease providing the Council customers with increased security of tenure and value.

1.4. In addition to the 150 private beach huts sited across the district the Council also own and rent out 92 beach huts to customers. These huts are leased via an annual lease. In total the Council presently manages 242 beach huts. These huts command a total annual revenue of **£150,364** based on 2021/22 season prices.

1.5. The charges for a beach hut as of 2021/22 season (excluding the Covid discount applied) are as follows (fees quoted exclude Vat at the appropriate rate):

Council owned and rented beach to an Arun resident costs **£880.34** p/a

Council owned and rented beach to a Non-Arun resident costs **£1056.40** p/a

Private Beach Hut ground rent is charged at **£446.03** p/a

The fees above do not reflect what is expected to be a one-off Covid discount applied in 2021/22 reflecting impact on beach hut use during the Covid 19 pandemic. These discounts were applied following ICM decisions in early 2021 (ref ICM/172/21012021 &

ICM/194/08042021)

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[AGENDA ITEM NO \(arun.gov.uk\)](https://www.arun.gov.uk) – Pages 6 & 7

1.6. The five-year leases currently granted to private beach hut customers provide for assignment of the lease. If the customer wishes to sell their beach hut, they may do so, subject to the Council issuing a licence to assign. Under the present lease arrangement, the Council charge £500 for this task, a fee set to cover the Council's legal and surveying costs.

Currently private beach hut market prices differ in the sale price they can command. Their price is heavily influenced by two critical factors, 1) their location and 2) the security of tenure on offer under lease. The location is on land under Council ownership and the security of tenure is defined under the lease the Council grant.

Property & Estates are aware that beach huts continue to regularly sell on the open market. Property & Estates suggest it would be sound commercial practice for the Council to reasonably share in the proceeds of a beach hut sale / lease assignment. Consequently, under option four of the recommendation, included within this report, the Council seek to gain Committee consent for the introduction of such a scheme under lease. This clause could take several forms, but it is suggested that this be kept simple to avoid any potential legal workarounds. Such a clause could be drafted and included in each private beach hut lease that would require that the Council receives a minimum fee, upon every sale / lease assignment. It is suggested that this fee should be 6 times the base annual ground rental value (at the time of sale as charged to Council resident customers, currently £446.03 p/a = £2676.18 as at 2021/22) **or** 20% of the total sale value agreed, whichever is the largest of the two amounts. Under Option 2 as recommended in this report this amount would initially equate to £3479.04 or 20% of the total sale value agreed, whichever is the largest of the two amounts. This fee charge would be applied to every private beach hut commercial transaction. The number of beach hut sales varies year on year but with the recommended increase in lease period and resultant security of tenure this option will afford beach hut owners added value.

Property & Estates report that demand for beach huts remains at a high level and supply continues to remain low, therefore the potential financial return for the customers remains. The average price to supply and install a private beach hut on Council land is circa £2,500. Any amount above this level, attained via sale on the open market, can only be attributed to the land upon which the beach hut stands (i.e. the location). Consequently, it is entirely reasonable that the Council, as landowner, receives a financial share in this uplift in value and this is what is currently proposed under this report

1.7. Current leases specifically exclude consent for beach hut leaseholders to rent out the beach huts. Property & Estates know that demand for beach huts is high and affording customers this potential income generating opportunity should assist in widening the audience able to access beach huts for use in coastal areas for recreation, wellbeing, and vacation purposes.

Recommendation 5 of this report includes for a suitable lease clause to be drafted that would permit the leaseholder such subletting. In return for this the Council would propose to charge a lease premium of 25% of the annual relevant charge (base rate - excluding vat). This increased charge reflects the level of income generating opportunity and added value provided to a leaseholder's beach hut. This option will apply to both private beach

hut leaseholders and Council owned beach hut leaseholders thus initially making up to 242 beach huts available to a wider audience. Private Hire / leasing will remain a specific exclusion within all standard leases granted unless the customer has opted to be allowed to rent out the hut and agrees to payment of the annual lease premium on top of the annual rental charge. This will be a one-off offer made at commencement of the proposed revised lease for the duration of the lease term. Should the customer elect not to proceed with this option then wish to opt in later then they may do so but only on the anniversary of the lease each year. If they proceed in this way, then the customer would be required to reimburse the Council's legal and surveying costs in varying the lease in addition to the required lease premium. Should a customer elect to initially opt into this scheme and then select to opt out during the term of the lease then they may do so again on the anniversary of the lease each year. The customer would again be required to reimburse the Council's legal and surveying costs in varying the lease in this situation.

1.8. The current issued private beach hut leases include an upward only rent increase clause based on the annual percentage addition of the Retail Price Index (RPI). Council owned and rented beach huts have only had annual leases issued and so their annual charges are assessed each year ahead of granting the lease. It is proposed that for administration simplicity and customer budgeting purposes that the annual rent increases are fixed at a rate of 3% per annum for the term of the lease. This level of annual increase being applicable to all beach hut leases granted applicable from the 1st April on each year.

1.9. Over recent years the Council's planned maintenance budget has funded significant improvements to the Council's owned beach hut stock. As a result, of the 92 beach huts currently held, 88 have been replaced (representing an investment of circa £400,000). The replacement beach hut selected and used was originally unique to Arun and is of composite construction throughout. The beach huts have been specifically designed and manufactured under factory-controlled conditions to be capable of withstanding long-term siting within the harsh marine environment. This investment has resulted in a significant reduction in both planned and reactive maintenance costs for the Council. These composite bespoke beach huts are proving their worth and continue to weather well remaining in good order. They have also proved very popular with renting customers.

1.10. The condition of the 150 number privately owned beach hut stock varies greatly across the District. The majority of these private beach huts are constructed from timber elements (floor, walls, door and roof, with felt covering over) Some huts are constructed of a composite board but the framework, floor and roofs remain of timber construction and this is a limiting factor in the marine location. Many are much loved and well cared for, however it has become apparent that an increasing number fall below the repair and condition standard required and expected under lease. This is an issue that will necessitate robust management moving forward. The Council has had to make some reasonable concessions regarding enforcement of repair covenants under lease through the pandemic period. Not all customers have been able to safely attend the location to complete necessary maintenance and repair work(s). This position is however now removed, and the Council will expect all required repairs and maintenance work to be carried out to the standard required under lease. Failure to reasonably comply with this clause could result in termination of the lease.

Management of the condition of privately owned beach huts is time consuming involving considerable Officer time in surveying, corresponding with customers and re-inspecting to attain the necessary repairs / improvements. Formal enforcement under lease is costly and obtaining forfeiture of a lease for a beach hut, as a direct result of non-compliance

with a repair and conditions clause, is considered both impractical and unlikely to be successful on the first such occurrence.

This is presently partly due to the Covid situation but also the cost of this type of formal legal action is disproportionate. The Courts may well view such action by the Council against an individual beach hut leaseholder as *'heavy-handed'*. There can be no guarantee of success or award of costs, hence such action would be a risk for the Council.

1.11. This review is considered an ideal opportunity for the Council to resolve matters of disrepair and condition to privately owned beach huts.

When considering options 3,4,5,6 and 7 it was considered important that the Council supply and install a new composite beach huts on each location where this is considered as an option. This would ensure that the iconic look, colour, and condition of beach huts located upon Council land was guaranteed on commencement of every lease. Were sites to be leased on long leases (circa 15 years) without a beach hut in place then this could involve increased work for the Council team in enforcing lease clauses and condition / repair issues, this could provide difficulty in standardising look and size of the beach huts.

In conflict with the above it should also be noted that many customers and visitors to our towns enjoy the differing looks of the beach huts. These can provide typical traditional seaside holiday scenes and uniformity is sometimes seen to sterilise this aspect of the seafront scene and so it must be noted that there are many differing and opposing views on this subject.

In addition to the above the report should also consider improvement to the out of hours service offered to customers. Most issues occur at weekend or in the evening and so at a time when the Council are generally not 'in office'. Options 1 to 6 contain differences that impact upon the Councils liabilities both in terms of financial funding for reactive and planned repairs but also potential attendance out of hours. Options 1, 2 are a *status quo* situation so this would in essence remain as the present situation. Options 3 & 4 would see increased liability as huts would be replaced and let out increasing the numbers of customers that do not have repairing obligations. Under these options (3 & 4) this would fall to the Council. Options 5 and 6 would minimise these costs to the Council as the lease would pass the repair and maintenance liability onto the leaseholder thus in these two options (5 & 6) the Council would have 32 Beach Huts to repair and maintain. The Council would then look to enforce repairing obligations and general upkeep (in the event this was necessary) upon leaseholders, using the repairs clause included within the lease.

1.12. A further important factor to be understood alongside this report is that it remains the Council's aim to increase the numbers of beach huts available across the District. Funding has been made available to achieve this aim and these projects will be taken forward and delivered separately by Property, Estates & Facilities (**£250,000 for 2021/22**). Some options included in this review (5 & 6) provide for the Council to receive a lease premium receipt. This provides a ready funding stream that could potentially enable the Council to permit more beach hut installations to occur across the district, either in small numbers using the revenue receipt or larger numbers, funded via the increased revenue. Please note the comments included in section 6 of this report from the Councils Section 151 Officer.

Options 2,4,5,6 & 7 (Appendix 1) show additional revenue being generated above the current status Quo (Option 1 Benchmark – Appendix 1). This additional revenue could be used to introduce more beach huts which would seek to increase revenue.

The Committee is advised to consider the Council's overall risk appetite noting that Option 2 affords greatly reduced risk when compared against options 4,5,6 7. These options come with a significant capital financing need.

2. PROPOSAL(S):

1 - That the Economic Committee approve for the Council to proceed with the beach hut review as set out in Option 2 including information within the body of the report and the attached viability appraisal at Appendix 1.

2 - That the Economic Committee approve for the Council to proceed with the award of beach hut leases on Council owned and rented beach huts for a term of 3 years.

3 - That the Economic Committee approve for the Council to proceed with the award of beach hut leases on all privately owned beach huts for a term of 7 years.

4 – That the Economic Committee approve for the Council to proceed with the inclusion of a lease clause that ensures that the Council obtain a financial receipt on the assignment of a private beach hut lease as set out in section 1.5 of the report. The fee payable will be 6 x the annual ground rent payable at the time of sale or 20% of the sale price agreed, whichever is the larger of the two sums.

5 - That the Economic Committee approve for the Council to proceed with the inclusion of a lease clause that permits any beach hut customer the right (upon suitable payment) to rent out their beach hut, as set out in the body of the main report (section 1.7).

6 - That the Economic Committee approve for the Council to proceed with the inclusion of an annual rent increase clause (3%) within all beach hut leases issued as set out in the body of the main report (section 1.8).

7 – That the Economic Committee delegate authority to the Group Head of Corporate Support & s151 Officer and the Group Head of Technical Services to alter the use of a small proportion (circa 30 No.) of future provided beach hut units under control of the Council so that the Council may explore alternative commercial uses including letting out to local businesses, daily / weekly rentals and in the event they are not considered to be financially viable, following a minimum 12 month period of operation these may be returned to normal service use.

3. OPTIONS:

A summary of the options assessed is included below identifying what the options include. These options are discussed in more detail within Appendix 1. This information should be read in connection with the following information below.

There are numerous Options available to the Council in respect of the future structure of the beach hut service. This section of the report looks to assess various options open to the Council, including a hybrid option, to provide the Committee with understanding of the financials of this non-statutory, stand-alone commercial service.

3.1 - Option 1 - Existing Position as at 1st April 2021 (Status Quo – Benchmark)

3.2 - Option 2 - As Option 1 but with a 30% uplift in rental price.

3.3 - Option 3 – This option sees the removal of all privately owned beach huts on expiry of the current 5-year lease on 31st March 2022. Supply and install new composite beach hut replacements on vacated sites for rent. Rent to be the same as 2021/22 season.

3.4 - Option 4 – As Option 3 but with a 30% uplift in rental price.

3.5 - Option 5 - This option sees the removal of all privately owned beach huts on expiry of the current 5-year lease on 31st March 2022. Supply and install new composite beach huts on vacated plots and then dispose of the beach huts on long lease (15 years) on the open market attracting a lease premium receipt.

For the business case Property & Estates have assumed a lease premium receipt of £12,000 will be obtained for each beach hut on open market disposal. Under this option the Council are to retain 32 huts for renting out to businesses (see Appendices 1 & 2).

3.6 - Option 6 – As Option 5 but for the purposes of the business case Property & Estates have assumed a lease premium receipt of £15,000 will be obtained for each beach hut on open market disposal. Under this option the Council are to retain 32 huts for renting out to businesses (see Appendices 1 & 2).

3.7 - Option 7 - Hybrid Option - Retain 70 privately owned huts with 30% increase in rent on 2021/22 prices. This option sees the removal of 80 privately owned beach huts on expiry of the current 5-year lease on 31st March 2022. Supply Install 80 new composite huts on vacated plots and dispose of 11 new increased size beach huts (Ferring) on long lease (15 years). Anticipated lease premium receipt of £25,000 each upon open market disposal.

4. CONSULTATION

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		X
Relevant District Ward Councillors		X
Other groups/persons (please specify)	Chair and Vice Chair of the Economic Committee	

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	X	
Legal	X	
Human Rights/Equality Impact Assessment		X
Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X

Asset Management/Property/Land	X	
Technology		X
Other (please explain)		X

6. IMPLICATIONS:

Financial

The options considered all have some significant financial implications and carry varying amounts of risk, including reputational risk to the Council.

Option 2 has the advantage of being the most secure option. Although a 30% increase in rent, will be met by some customer resistance, should tenants decide not to renew their lease, the department is confident that alternative tenants can be found quickly as there is a waiting list to acquire beach huts from the Council. The additional rental income of £45,760 per annum forecasted from this option will significantly increase revenue income, helping to offset the Council's forecasted deficit in future years.

Options 3 to 5 are discarded as they all are considered too high a risk to the Council financially, without the required return to justify the additional risk (risk premium).

Option 6 is a high-risk option. Although this option potentially realises extra revenue income, it carries high risk, both financial and reputational and the reputational damage could result in the failure of this option. The assumed income levels may not be realised if there is significant resistance to the changes. This option also requires significant levels of investment.

External advice has been procured from the Council's Treasury Management advisors in relation to the correct financial classification of the income from this option. The main section of the advice is shown below:

Where an Authority grants an operating lease over a property or an item of plant or equipment, the asset is retained in the Balance Sheet. Rental income is credited to the Other Operating Expenditure line in the Comprehensive Income and Expenditure Statement. Credits are made on a straight-line basis over the life of the lease, even if this does not match the pattern of payments (e.g. there is a premium paid at the commencement of the lease). Initial direct costs incurred in negotiating and arranging the lease are added to the carrying amount of the relevant asset and charged as an expense over the lease term on the same basis as rental income.

The implication of the advice obtained is that all the income is released to revenue, and there is no capital receipt. Option 6 is dependent on the Council investing in replacement Beach Huts. At present, £250,000 is included in the approved Capital Programme. Any further investment in beach huts would require approval as part of the budget process or a capital supplementary estimate in the current year.

Legal

The role out of the recommended option (Option 2) will involve the Council's Legal Services team in the drafting of a new leases and the issuing of leases in a phased manner as the renting and disposals under lease progress. This works is done in

consultation with staff in Property & Estates.

Options 5, 6 and 7 all include the removal of tenants from privately owned beach huts on the expiry of the current 5-year lease ending on 31 March 2022. As such, these options all involve a higher degree of uncertainty. If the tenant did not leave on expiry of the current lease, potentially further legal action would be required which would be potentially costly and time consuming. Further, during that period were the tenant was still in situ the Council may not be able to obtain rent.

Options 5, 6 and 7 all include granting 15-year leases which will involve the Council's Legal Services team drafting a new lease and issuing thereafter. However, this is far more complex legally than the lease required in Option 2 and will require far greater legal input as they will also have to be registered at HM Land Registry and the administrative process thereafter.

The legal costs which would be passed on to tenants for 15-year leases would be approx. £750 per lease (for Options 5, 6 & 7). This would not include the cost of any other legal action that may be required should a current tenant not leave.

The legal costs for preparing the shorter leases in Options 1, 2, 3 & 4 which would be passed on to tenants for the shorter leases would be approx. £150 per lease.

Asset Management / Property / Land.

The Property & Estates team will be involved in the management of the beach hut service moving forward including the issuing of title plans and leases and will lead on formally instructing the Council's legal services team.

7. REASON FOR THE DECISION:

The existing five-year leases are due to expire on the 31st March 2022 to the privately owned beach huts. The annual leases for the Council owned and rented beach huts are also due to expire on the 31st March 2021. This report looks to review the current arrangements and set out several options available to the Council as it moves into the next period of lease term.

The focus of the options considered is to attain service improvements, financial viability, and the securing of increased revenue for the Council in order that it can work towards meeting the growing demand for beach huts across the district.

For the above reasons the recommended decision within this report is considered to be in the best interests of the Council.

8. BACKGROUND PAPERS:

Appendix 1 – Options & viability appraisal – financial summary and comments for each Option.