

Report to: **Cabinet**



Date of Meeting 12 May 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release

Seaton Jurassic

Report summary:

This report sets out the current position in relation to Seaton Jurassic Visitor Centre and Devon Wildlife Trust's (DWT) proposed exit of the building on 17th September 2021 and the recommended steps EDDC will need to take over the next few months.

Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

Recommendation:

- (1) That Cabinet note the position with Seaton Jurassic Visitor Centre and agree the next steps outlined in the report.

Reason for recommendation:

The centre will fall back under the direct responsibility of the Council in September 2021 and members will need to be able to consider options on future use.

Officer: Simon Davey – Strategic Lead Finance

Portfolio(s) (check which apply):

- ☐ Climate Action and Emergencies
- ☒ Coast, Country and Environment
- ☐ Council and Corporate Co-ordination
- ☒ Culture, Tourism, Leisure and Sport
- ☐ Democracy and Transparency
- ☒ Economy and Assets
- ☐ Finance
- ☐ Strategic Planning
- ☐ Sustainable Homes and Communities

Equalities impact Low Impact

Climate change Medium Impact

Risk: Medium Risk; The responsibility for the building will fall to the Council from the 17th September. This has immediate financial implications with rates, insurance and other liabilities and the reputational implications of such a facility not being in use. There are also obligations the Council must follow in accordance with funding agreements when the centre was built.

Links to background information

Link to [Council Plan](#):

Priorities (check which apply)

- ☒ Outstanding Place and Environment
 - ☐ Outstanding Homes and Communities
 - ☒ Outstanding Economic Growth, Productivity, and Prosperity
 - ☐ Outstanding Council and Council Services
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Report in full

Background

Seaton Jurassic Centre occupies a prominent position in the heart of Seaton. It opened in March 2016 and cost £4.2m, with £1.7m provided by external funding from Heritage Lottery Fund, Devon County Council, Seaton Town Council, Coastal Community Fund and other smaller donors. The building was leased to Devon Wildlife Trust (DWT) for a period of 35 years after a Tender process and they have operated the Centre for the last five years under a shared profit arrangement.

DWT have sublet part of the building to a café operator to generate an income stream and there is also a small tourist information facility within the building which is run by DWT and we understand funded by the Town Council.

DWT have approached EDDC as landlord to terminate their lease early as they claim the current operation is not viable. The trading agreement that sits alongside the lease does allow for their occupation to cease under certain conditions.

It is understood that DWT are likely to have limited opening of the centre during the coming months, exact details are unclear.

Aside from the decision of DWT to vacate, there are significant building defects identified over the past few months by both DWT and EDDC that will need remedying before the building can be used further. The issues known to date relate to the plant within the building as opposed to the construction itself but requires further exploration and addressing to ensure that the building can be operational.

DWT wrote to EDDC on 12th March 2021 to confirm they wished to step away from the Centre as the risk of committing further funds to upgrading the Displays was too great when considering the losses they'd made in recent years. DWT have requested an exit date of 17th September 2021. Legal Services have advised DWT that a compliant break notice must be served following the provisions set out in the Trading Agreement as there is no break clause in the lease itself. A response is awaited but its expected conditions will be met in order to facilitate their requested exit date. Once the correct notice has been served the Council will need to enter into discussion with DWT in respect of the conditions of them returning the Centre to EDDC – repairing & maintenance

responsibilities, dealings with sub tenants and other operators, tenant's fixtures and fittings and stock on premises. We will also need to address the keep-open provisions for the period until their lease ends.

The building and all associated liabilities – rates, insurance, utilities etc. will fall to EDDC from the date DWT legally exit the building and until a new occupier is identified and takes on the Centre. These costs are being established but rates alone are £17,465 a year.

The Café Kitchen operated by Taste Of The West was professionally designed and installed fully equipped with microwaves, fridges etc. prior to the commencement of DWT's occupation so will remain as part of the building when they exit and will be available to use by a Café operator.

Principal Funding Agreements are with DCC, CCF & HLF. These documents are currently being reviewed and the legal obligations on both parties will be considered. It is important for EDDC to follow the obligations within these funding agreements to ensure that there is no financial penalty for the Centre closing at this premature date. Any new use of the Centre will likely need to be supported by the Funding agreements. Discussions need to proceed with the funders to ascertain what the funders' positions are at this time and to understand what future use can be made of the premises without jeopardising the funding as this will be key to EDDC next steps.

This work will be resource intensive for the Place, Assets & Commercialisation service but also for other parts of the Council. It is intended the work will be led by an Interim Place & Prosperity Surveyor, already appointed, but it needs to be recognised that the resource costs of taking this forward will be significant – dealing with DWT, liaising with funders, preparing an options report, tendering (if proceed down that route) and putting in place a new lease. For the tendering but also the building issues, the Council is likely to need to bring in external consultants to advice. Furthermore, the building defects will need to be put right before any new use is applied and the costs of this alone will likely be significant. A detailed breakdown of costs will be presented in due course as part of any options report.

Next Steps

Before the Council can make a decision on how this building is to be used after September there are a number of steps that need to be considered as set out below.

1. Further due diligence in respect of:
 - a. The obligations and arrangements for DWT to vacate including service and acceptance of a valid break notice as permitted within the trading agreement.
 - b. The building condition and implications on future uses.
 - c. Obligations through funding agreements over future uses.
2. Options report on future uses – Following soft market engagement and viability appraisals, consider scenarios of EDDC operating versus marketing to 3rd party operators.

There has already been credible interest shown in the future operation of the building and the Council is likely to wish to tie in future use with its own tourism priorities and the promotion of the Wetlands.

3. Options report to be presented to Cabinet/Council for decision.
4. Alongside the 3 steps above, appraise and plan for EDDC holding costs until such time as a new operator (EDDC or other) is occupying and trading. Undertake possible steps to mitigate these costs.

Financial implications:

There are no direct implications at this stage but the future financial implications could be significant.

Legal implications:

Legal Services are assisting in assisting colleagues in dealing with the vacation of DWT from the Seaton Jurassic Building. It is key that the provisions of the legal documentation are followed to avoid additional risk to the Council. The provisions of the funding agreements need to be considered to avoid the risk of early payback of any of the funding streams.