



APSE Parks, Horticulture & Grounds Maintenance Advisory Group (Southern Region)

redundant parks buildings a commercial opportunity?

- Marketing your parks buildings for commercial rent or lease
- Key considerations when determining the terms of the tenancy
- Success in Luton and Challenges overcome

Rick Donnelly



- Facilities Manager Luton Borough Council Parks Service
- 10 years in Property Section – redundant
- Then got the Parks Service role

MARKETING

Taken as read....

- Size of the building
- Exact location
- Building condition

All lend themselves to commercial usage

The price/value reflects these matters. Disposal is still possible but not at highest consideration.

- Consider:-
- Planning
- Valuation / Best Value
- Commercial Disposal
- Less commercial disposal

SURVEYORS

- Get One !
- Needed for valuation, marketing, enquiries, viewings
- In house or external
- Basics are common sense, the more info you have the easier their job and the better you can haggle over fees !

MARKETING 1

PLANNING

- Determine planning status
- Land Use Classes are on National Planning Portal
- Helps shape your thinking on how disposal will interact with the park
- Outright commercial disposals come with planning permission

MARKETING 2 VALUATION / BEST VALUE

- Market Value
- Ask a surveyor
- Best Value
- Ask a Lawyer
- S123 Local Govt Act 1972
- Planning legislation
- Treasury guidance managing public money 2013
- Local Govt Act 1999
- Public Services Act 2012 – obligation to consider social value

MAREKTING 3

COMMERCIAL DISPOSAL

- Market Price – independent valuation ? (District Valuer?)
- DCLG - Local Authority Assets - Disposal Guidance - March 2016
- Lease or rent (see later)
- Market through surveyor, agent, online, own contacts
- Property auction or sealed bids
- In depressed market respond to marketing responses

MARKETING 4 LESS

COMMERCIAL DISPOSAL

- If looking for a pro public service disposal, public service orientated tenant or activity
- Option of asking for added value (Big contract easy, small ones document the process to death !)

MARKETING 5

RENT OR LEASE

- Lease – set term – one to a thousand years
- Legal interest in the land – exclusive possession
- Tenancy/Rent – generally ongoing, short term, more flexibility
- Issue is permanent disposal or set term. A permanent disposal within a park unlikely?

TERMS TENANCY

1 . TO LEASE OR NOT TO LEASE

- Should you have a written contract? (or how to make a lawyer unwell !)
- Yes you should but it costs money
- SLAs (service level agreements) not a commercial alternative but in case its sufficient?
- You create a legal contract/lease by first writing Heads of Terms

TERMS OF TENANCY 2

- DEMISE – What the asset consists of - description plus plan.
- PARTIES – legally who are you contracting with – who represents them
- LENGTH TENURE – matters to a tenant as they can secure finance against tenure
- SECURITY OF TENURE –
L&T Act 1954 s24-28
- OPTION TO DETERMINE – the Dear John clauses
- ALIENATION – subletting to you and me

TERMS OF TENANCY 3

- PERMITTED USE – the legal use – should link to the planning class use
- HOURS OF ACCESS – no midnight ramblers
- REPAIR OBLIGATIONS – your burden or theirs !

FRI – Full Repair & Insuring

Compliance – works to keep public

buildings safe. If you pass them on, part of corporate contract ?

- Fire alarm testing
- Water safety testing
- Asbestos works/record keeping
- Electrical safety tests
- Gas appliance tests
- Fire risk assessment plus updating
- Generic H&S inspections and records
- PAT

TERMS OF TENANCY 4

- Specific Clauses – unique to site
- Rent – how much, when, how to increase
- Are business rates included ?
- Building Insurance – part of a multi property policy so recharge ?
- Service Charges – the variable charges related to building and land maintenance. (FM) Some of them bound to be relevant in a park

SUCCESS IN LUTON

1

- What success ? !!
- Trusts formed over ten years ago in Luton, taken all the soft centred chocolates, left Parks with the ones that shatter grannys dentures !

SUCCESS IN LUTON 2

- Sports Pavilions – short term leases to asset transfers
- Cant lease public open space
- Lease to community trusts
- Lease to religious / cultural trusts
- Do “due diligence” are they financially sustainable ?
- Fields in Trust can be restrictive to leases / tenants – breaking news for us !