

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Single Member Decision Cllr Paul Crossley – Leader of the Council Cllr David Bellotti - Cabinet Member for Community Resources	
MEETING/ DECISION DATE:	On or after 7th March 2015	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2756
TITLE:	Net Profit Calculation – Thermae Bath Spa	
AN OPEN PUBLIC ITEM		

1 THE ISSUE

- 1.1 To authorise Officers to agree variations on an annual basis, to the calculation of the Net Profit for Thermae Bath Spa (the Spa) with the operator TDC, on the basis these are beneficial to the Council's financial and property interests.

2 RECOMMENDATION

The Cabinet Member agrees:

- 2.1 That the profit share calculation for the Spa may be varied annually in the financial interests of the Council;
- 2.2 That the Chief Executive, in consultation with the Chief Financial Officer is delegated authority to agree any such variations;

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 Section 5 of the report sets out the current financial arrangements between the Council and TDC.
- 3.2 The proposals set in this report would be on the basis of additional financial benefits for the Council.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 This proposal supports the successful operation of the Spa including the potential enhancement of the Council's financial interests.
- 4.2 The Council's powers to hold and manage land are contained in a number of statutes, primarily the Local Government Act 1972.

- 4.3 The Council has particular responsibility under the County of Avon Act 1982 in respect of certain hot springs, including those which supply the Spa. It is not considered that the proposals will have any adverse impact to the water supply to the Spa.

5 THE REPORT

- 5.1 The Council and TDC are parties to a Lease, a Water Supply Agreement and a Content Agreement each dated 12 July 2006 (the Lease, WSA and Content Agreement respectively). These documents entitle TDC to occupy and operate the Spa.
- 5.2 TDC was acquired by YTL Hotels in January 2014 following consent to the sale being granted by the Council at that time.
- 5.3 Under the lease, the Council receives a rent comprised of a number of elements, including a share of appropriately calculated Net Profits. The specific details for the Net Profit calculation are set out in appropriate schedules to the documents set out in 5.1 above.
- 5.4 The changing ownership, management and operational arrangements for the Spa means the original basis set out for the calculation of Net Profit in the schedules, does not reflect the current operation of the Spa and in some cases could disincentivise efficient operating practises and investment in the facilities to the financial detriment of the Council.
- 5.5 It is therefore proposed that the Net Profit calculation could be varied on an annual basis where it can be clearly demonstrated the variations proposed would provide additional financial benefit to the Council and the operator.
- 5.6 This variation would form part of the annual process for agreeing and signing off the Council's relevant share of the Net Profits.

6 RATIONALE

- 6.1 The approach will provide the opportunity to reflect operational changes at the Spa in the calculation of the profit share to ensure both parties are incentivised to deliver additional financial performance.

7 OTHER OPTIONS CONSIDERED

- 7.1 Alternative options for changes to the profit share have been considered, including a revision to the original documents set out in 5.1 above. This was felt to be inappropriate given the developing nature of the Spa operation and the underpinning requirement to ensure any annual variations would provide additional financial benefits beyond that reflected in original documents.

8 CONSULTATION

- 8.1 The Cabinet Member, Chief Executive and Monitoring Officer have been consulted.

9 RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

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