

Please Note: The Following Document was released into the public domain on 14.05.20 to provide clarification of the rationale for the Commissioners decision on this matter.

The document was sent to the Local Government Unit of DoI on the 11th of March 2020 along with the minutes from the two meetings indicated above and attached to this post.

A decision to amend a statement in the document was made on the 3rd of June 2020 following consideration of evidence from the minutes of Laxey Commissioners in 2008 (the amendment is indicated in red text below).

17.02.20

Officers Report on the Decision Made in regard to the Changing Cubicles on Laxey Promenade

Initial Considerations

1. Discussions have been ongoing amongst the Board throughout the lifetime of Garff Commissioners (four years).
2. The building has been effectively 'derelict' throughout this time and for a period before.
3. Questions have been raised about the utility of the units; due to their small size are they are not considered fit for the purpose of 'Beach Huts'. (The small size of the units was noted against the size of the much larger 'beach hut' units elsewhere across the British Isles and in Ireland).
4. Research suggests that it would be likely that the 6 units would all be 'taken up' by 6 residents of the area or from the Island. It was noted however that the financial return would be poor when measured against the cost of refurbishment.
5. A report from a firm of structural engineers (BB consulting, dated 29.02.19) had indicated a range of major works that would have to be undertaken if the structure were to be refurbished. Three quotations for renovation had been considered and it was anticipated that the cost of restoration to the ratepayer was likely to be in excess of £30,000.

6. The options considered were as follows:

- **Full renovation by the local authority for use by the public either on annual or daily lease.**

It was deemed by the Board that this option would not achieve 'Best Value' for the ratepayer when the cost (£30,000+) was measured against the revenue that could be achieved. It was likely that this method of leasing the units would yield a return of between £600 and £1,200. This would be to the benefit of 6 residents.

This aspect was the principal reason that the option was Rejected by the Board.

- **The removal of the upper three units and use of the top section as a 'viewing terrace', etc (cost to the ratepayer £15,000 - £20,000).** This option involved removal of the top three units. This would reduce the building to just three units for rental. It was deemed by the Board that this option would not create a satisfactory balance between the need to attain 'Best Value' for the ratepayer particularly when the loss of utility was measured against the financial cost to the ratepayer.

This aspect was the principal reason that this option was Rejected by the Board.

- **An option to lease the facility commercially to an established local business had also been considered previously with expressions of interest from two parties received.**

This option was ultimately Accepted by the Board as the option that would be pursued. (A fuller analysis of the Board' s considerations of this option is summarised below).

The two proposals were compared, and Members agreed that proposals submitted by 'The Laxey Shed Company' were in the 'Best Interest' of the ratepayer. (The reasons for acceptance of this proposal are set out below).

A total of seven Members were in favour of this option. One Member was against. No abstentions.

(It was noted that a Member, who was absent from the meeting, had previously objected to the proposal to lease the building to 'The Shed Company Limited' when attending meetings. Members noted that this Member would not have been deemed able to participate in discussions or vote on any resolution due to a range of interests in the matter, both pecuniary and personal).

- **A further request for 'expressions of interest' in the commercial lease of the building.**

This option was discounted when it was considered against the perceived wider benefits that would accrue to resident/visitor amenity and to the the local economy if 'The Shed Company Limited' were offered a lease on the building. It was considered that the proposal from the Shed coupled with their successful track record made a convincing reason to make an agreement and set aside the option to advertise for further expressions of interest.

Only one Member was supportive of the option to make a request for further expressions of interest. Seven Members did not support this option.

- **Demolition of the structure and full rebuild.**

This had primarily been discounted on the grounds of the very small footprint available to build modern standard 'beach huts', or any other structure that would be beneficial to the ratepayer. Demolition and no rebuild was also an option that had been discussed previously. This was an option that was dismissed once again.

No Member signalled this option as a 'First Choice'. The Option was Rejected on the basis that it would be a 'last resort'.

Vires to Lease Local Authority Property

It was noted that there was various legislation that provided the local authority with the vires to lease buildings commercially as evidenced with the commercial leases on other local authority buildings in Laxey and across the Island.

A local authority also has a 'May' function to provide amenity facilities, or to arrange for third parties to provide amenities under the terms of the Recreation and Leisure Act 1998.

Planning Advice obtained on Change of Use & Associated Planning Matters

Advice has been obtained from a Senior Planning Officer who has responded in writing stating, "I do not believe that the principle of what you are proposing would raise a concern".

The Inspector's Report on the 'Area Plan for the East' has recently been accepted by government and on page 56 discusses 'Creative Re-use'. It goes on to make a recommendation that 'historic' structures in the "built environment should be conserved...(and) should be viewed as an asset to be promoted..."

Building Conservation Considerations

It is clear that the current structure is a longstanding feature of the built environment along Laxey Promenade. Its character is atypical and somewhat unique. Change that was insensitive could undermine the character of this section of the Promenade.

However, if refurbished sensitively by either the Commissioners or a third party it is likely to enhance the character and allure of the whole of Laxey Promenade, increasing the 'offer' provided to both residents and tourists of the whole of Laxey Promenade which is also likely to bring economic benefit to other businesses along the Promenade and in the wider area of Laxey Village.

It is also a planning and conservation requirement that the refurbishments provide a solution that retains the fundamental, longstanding character of the building. These matters will be controlled largely by the Planning Authority and through considerations by all parties of the need to conserve the character of the building and its environment.

In addition to these considerations it is stated on page 57 of the Inspectors Report on the 'Area Plan for the East' that, "The value of mid and late 20th Century architecture should not be ignored...(and that) continued use and retention of these buildings requires a pragmatic and dynamic understanding of different potential uses. A proposed use which retains a building of heritage value, but requires modification to that building, is superior to a proposal which leads only to demolition or decay of that building,"

Summary of the Decision Made

1. The Board feels that the decision that has been made is the result of several years of detailed, thorough, and robust debate. The resultant decision to lease the building to 'The Shed Company Limited' that was taken at the meeting on the 5th of February 2020 was overwhelmingly supported by Members (7 to 1), and can therefore be taken as as testament to their will and desire to have the building sensitively refurbished at a cost that does not place disproportionate burden on the ratepayer. An important consequence of this decision will also be that the amenity of the area will be maximised and enhanced for ratepayer and visitor alike. The decision will be a positive action to stimulate the local economy and bring benefits to its vitality that are likely to disseminate through other businesses in the wider Laxey area. As such, the decision

is in accord with the drive by the Commissioners and local community to participate in the DfE's various 'regeneration' and 're-branding' schemes that are currently underway in the village.

Two previously submitted expressions of interest have been considered in detail by the Board.

The consensus formed during the discussion was that the proposal from the Shed was considered the most preferable option from a business perspective.

A decision was made to offer a lease to 'The Shed Company Ltd' to be subject to the agreement of terms of the contract.

The Shed Company Limited – Track record and the Brand Created, and the Potential for an Increase in Footfall on Laxey Promenade

'The Shed Company Limited' have operated a retail refreshment outlet from premises at the southern end of Laxey Promenade which is in its fourth year. Members noted that footfall on the Promenade has increased significantly in this period. The company's marketing and branding have resulted in several prestigious awards and it has established as a highly successful business that has brought much positive publicity to Laxey, much of which 'cascades' throughout the village.

Members also believe that the business is best placed to maximise the amenity value of the building due to the immediate proximity of their current business.

The current business is located in a tiny building from which the natural expansion is into the immediately adjacent 'changing cubicle' building. It could be argued that the style of the 'changing cubicle' building also accords with the niche, quirky, branding that is characteristic of the current business and as such acquisition of a lease on the building could be viewed as an appropriate expansion of an already successful enterprise: the indication being that further stimulus will result for the local economy. Members of the Board have also noted that the owners had considered re-locating the business to another town due to the restrictions of their current building. This would likely have a degrading effect on the local economy.

The consensus amongst Board Members was that the development of the cubicles by 'The Shed' would continue the trend of increasing the footfall on the Promenade and through Laxey Village. Members compared the potential increase in footfall to the footfall that would likely be generated by renting the units to 6 individual residents; it was agreed that this option was unlikely to increase footfall with any significance.

Precedent for Leasing Commissioners' Properties

Extract from minutes of the meeting held on 05.02.20 (minute amended by the Board 06.06.20)

"It was noted that on several previous occasions other businesses who leased property from the Commissioners had been permitted to take out additional leases on buildings. It was noted that when the decision was made to award the lease of the Promenade Shelter Small Store to the tenant of the kiosk that two bids had been

received and that the kiosk tenant's had been accepted. Notices had been placed in several noticeboards in Laxey advertising the store leases, but no formal Local Government Petition process had been deemed necessary at the time this lease was awarded. It was also noted that in the case of the proposal to lease the Changing Cubicle building to The Shed Company Limited that two expressions of interest had been received. The consensus was that in both circumstances the decisions made sense in that they permitted the opportunity for each business to develop and grow to the benefit of the local economy. The consensus was that in both circumstances the decisions made sense in that it permitted the opportunity for each businesses to develop and grow to the benefit of the local economy."

It was felt that offering the Shed an extended lease would be an action that was commensurate with the opportunities provided to the Laxey Beach Stop Café which had also been based on the rationale that such an action would enhance the amenity value of the Promenade.

The Commission was made aware of other situations in which leases had been granted by central government departments without a process involving tenders.

Concluding Remark

In short, The Board are satisfied that the decision made to lease the building to 'The Shed Company Limited' brings 'Best Value' for the ratepayer.

Footnote on Members Interests

The officers have reviewed the pecuniary and personal interests of all Members and have recommended that one Member has a range of interests in this matter on several levels; both pecuniary and through personal connection, etc. It is for the Board to determine how it proceeds in this matter.

In the recommendation, none of the other 8 Members of the Board were deemed to have any pecuniary or personal interest in the matter with the consequence that their decisions would be perceived to made solely in the interest of Laxey Village and the wider Garff community.