

WEST DUNBARTONSHIRE COUNCIL INTERNAL AUDIT SERVICES

CLYDEBANK LEISURE CENTRE DEVELOPMENT



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Personnel referred to in this report :

Dan Henderson **Former Director of Development & Environmental
Services and Chair of Clydebank Development Group**

Ronnie Dinnie **Then Head of Land Services**

Irving Hodgson **Then Head of Regeneration Services**

Eleanor McAllister **Managing Director of Clydebank Rebuilt Limited
Group Legal Advisor**

Estates Representative

Auditors: **Lorraine Coyne**
 Jim Leitch

1. DIRECTOR'S SUMMARY

INTRODUCTION

Since 2003, a group of Council Officers and staff from Clydebank Rebuilt have been meeting to progress the Clydebank Plan 2003 to 2010. As part of the plan, it was proposed to build a supermarket on a site currently occupied by the Council's leisure facility, the Play Drome. A new leisure facility would be built at a site on Clydebank Waterfront, utilising the funds received from the sale of the Play Drome site.

The idea of a supermarket on the Play Drome site had been proposed by CIS, the Council's partners in the Clydebank Shopping Centre, who had obtained outline planning permission for the development. The proposal was in reaction to the owners of the major regeneration site at Clydebank Waterfront expressing an interest in the development of a superstore and related shopping at their waterfront location. CIS considered that this would have a seriously detrimental effect upon the financial interests of both the CIS and WDC with respect to Clydebank Shopping Centre.

SALE OF THE PLAY DROME SITE

In December 2003, the Group's legal advisor examined the titles to the Play Drome site and confirmed that other parties, including Clydebank Co-op, Dalmuir Credit Union and Abbotsford Church, owned small parcels of land on this site and that it would be necessary to negotiate with the other landowners to obtain a formal landowners agreement. The group were of the opinion that this would not cause them major difficulties nor impinge on the marketing of the site, although they have still not obtained agreement with the parties involved. Matters progressed until early in 2006 when the group were ready to put the site on the market, the Group's Legal Advisor highlighted that CIS enjoyed rights of access across parts of the site.

The group did not foresee a problem at this stage as the idea of a supermarket development was originally proposed by CIS and discussions with CIS had taken place at an earlier stage. However, the group appointed an agent in June 2006 to market the site and it was his opinion that the site could not be marketed to obtain the required amount because of the access rights held by CIS and, therefore, further negotiations with CIS were required to alter the access rights. CIS subsequently appointed AXA as their property agents and AXA indicated to Senior Council Officers that they did not wish a supermarket development at this site. Negotiations with AXA to alter their access rights and allow the Council a clear title, which would permit sale of the site, were never concluded and AXA, on behalf of CIS, placed their interest in Clydebank Shopping Centre on the open market.

Opinion recently received from Queen's Counsel expresses the view that the access rights might not be quite as onerous as originally thought and that the major part of the site could be sold, but with a provision requiring vehicular access along a line to be determined by agreement with all relevant parties.

In the Auditors' opinion, the group should have been more vigorous in their attempts to identify and negotiate with all parties that have an interest in the site as this is essential to facilitate the sale.

PURCHASE OF THE QUEENS QUAYS SITE

In July 2004, Clydeside Regeneration Limited agreed to offer the Council four acres of land at their Clydebank Waterfront development for the purposes of a civic/leisure facility.

In November 2005, the Community Safety and Environmental Services Committee considered a report that agreement had been reached with Clydeside Regeneration Limited concerning the transfer to WDC of 4.25 acres of land at Queens' Quays. The purchase price payable by the Council is £1 and in addition the sellers shall pay to Council a heritage contribution of £300,000. This transfer would be the subject to a number of conditions including that the land should be used for leisure and/or heritage facilities that the Council are obliged to have commenced development by September 2008, otherwise the site would be returned to Clydeside Regeneration Limited.

Negotiations have been on-going since that date and, although a contract has been agreed, the transaction has still not been concluded. In the auditors' opinion, there have been reasons for the delays in purchasing the Queens Quays site, including issues regarding titles to the temporary access, issues with spoil heaps and mainly, delays by the sellers.

In September 2007, Clydeside Regeneration Limited e-mailed Irving Hodgson to the effect that they would be happy to extend the option agreement for four years, until August 2012, although they would like this to coincide with them receiving planning permission for their housing development at Clydebank Waterfront. However, the agreement has still not been finalised.

EXPENDITURE ON THE QUEENS QUAYS SITE

Due to a Council decision in 2004 that the Play Drome should not close until an alternative leisure facility was available, the Community Safety and Environmental Services Committee of 2nd February 2005 authorised the relevant directors to progress indicative drawings and specifications to facilitate the tendering of a contract for this new facility.

In April 2005, Dan Henderson, then Director of Development and Environmental Services, instructed Clydebank Rebuilt to commission architects to progress indicative drawings to take matters forward. At that stage funding of £560,000 had been allocated to the Queens Quay site. Due to the stated desire of securing an alternative facility before closing the existing centre, it is acknowledged that some up front fees and expenses would be incurred.

In November 2005, the Committee considered a report from Mr. Henderson, which stated that the Council has obtained 4.25 acres of ground and agreed that enabling works and works to the quay walls be progressed. Although agreement had been reached, the sale had not been concluded. In the Auditors' opinion, the fact that the sale had not been concluded was not made sufficiently clear to members.

In August 2006, the group realised there was a serious problem with the sale of the Play Drome site, by which time over £700,000 had been spent at Queens Quays.

The purchase of the Queens Quays site has still not been concluded but expenditure at the site now totals £780,000, excluding legal fees of obtaining a professor's opinion and hiring a QC regarding the Play Drome site access problems, which have been paid by WDC.

RECENT DEVELOPMENTS

AXA, on behalf of CIS, have now proposed a joint exercise with the Council to market the shopping centre. Although discussions between AXA and the Council are continuing, there could be further delays in marketing the site or, alternatively, the sale may not generate the amount required to build a replacement leisure facility.

CONCLUSIONS

The sale of the Play Drome site for the amount needed to build a replacement leisure facility is crucial to the whole scheme. In the auditors' opinion, more should have been done regarding investigating the site title and the lease conditions and in negotiating with all interested parties to obtain a landowners agreement that would have allowed the site to be sold. Negotiations with all parties have still to be finalised some four years later.

In the auditors' opinion, there have been reasons for the delays in purchasing the Queens Quays site but were mainly due to delays caused by the sellers. However, a considerable sum of money has been spent on site preparations on land that the Council does not own, without Council being satisfactorily informed that this land had not legally transferred.

Given that the group were of the opinion that there would be no difficulty in selling the Play Drome site, then it was essential that site preparations and design work had been completed if a new leisure facility was to be in place before the Play Drome closed. It is the Auditors' opinion that Committee/Council should have been informed of the difficulties with the Play Drome site and that the purchase of the Queens Quays site had still not been concluded.

Clydeside Regeneration Limited has now indicated that it is willing to extend the option agreement for four years but would like it to coincide with them receiving planning permission for their housing development at Clydebank Waterfront. An additional four years should allow time for a replacement leisure facility to be started, unless there are difficulties with their housing development plans.

As negotiations with all interested parties are still continuing, it may be appropriate for the Chief Executive to report on the latest position in order that Council can make an informed decision about whether or not to proceed with the entire project.

2. MAIN REPORT

2.1 INTRODUCTION

2.1.1 At the Council meeting of 27th June 2007, a motion was adopted as follows:

- (1) that the Council notes, with concern, the current position of the ongoing issues in relation to the proposed supermarket/leisure development and, in particular, the level of expenditure that had been committed in respect of land not yet in the Council's ownership;
- (2) that the Council notes, with concern, that risks to the Council had not been properly identified in the report;
- (3) that there be no further expenditure committed, or any expressions of any further funding given, unless with the express prior approval of Council; and
- (4) that the Council's Internal Auditors be requested to investigate the matter, forthwith, and provide a report on their findings to the Council at the appropriate time.

This report details Internal Audit's findings.

2.2 SCOPE OF THE AUDIT

2.2.1 The main issues examined by Internal Audit were:

- The proposed sale of the Play Drome site.
- The negotiations to purchase the site at Queen's Quays for a leisure/heritage development (To re-site the Play Drome).
- Expenditure in relation to the proposed leisure/heritage development.

2.2.2 Internal Audit examined the appropriate records and minutes in addition to interviewing the members of the project team.

2.3 FINDINGS - PROPOSED SALE OF THE PLAY DROME SITE

2.3.1 In 2004, the Planning Committee granted outline planning consent for a supermarket development at a site to the East of the Southern part of Clydebank Shopping Centre, where the Council's leisure facility, the Play Drome, is currently situated. The application had been submitted by the CIS, the Council's tenants and partners in the Clydebank Shopping Centre, with a view to ensuring that an opportunity would exist for future retail and supermarket development to be concentrated within the town centre area rather than in other development sites. A site had become available at Clydebank Waterfront and CIS were of the opinion that a competing development would have a seriously detrimental effect on the financial interests of both the CIS and WDC with respect to Clydebank Shopping Centre. Consequently, it was necessary to demonstrate that a superstore development at Clydebank Shopping Centre could be achieved within a reasonable timescale.

It was proposed that the Council's leisure facility be relocated to a site that could be acquired from Clydeside Regeneration Limited, the private sector owners of the large development at Clydebank Waterfront. The new leisure facility would be funded by the sale of the Play Drome site for a supermarket development, in line with the planning consent. On 2nd February 2005, the Community Safety and Environmental Services Committee instructed that the Play Drome site be offered for disposal on the open market.

Having regard to a previous Council decision that the Play Drome should not close until an alternative leisure facility was available, the Committee authorised the relevant directors to progress indicative drawings and specifications to facilitate the tendering of a contract for this new facility.

Clydebank Rebuilt Limited, an Urban Regeneration Company established jointly by WDC and Scottish Enterprise Dunbartonshire, were engaged to act as the Council's agents in respect of this development.

2.3.2 Prior to this, the Clydebank Development Group (Comprising Council Officers and staff from Clydebank Rebuilt) had been meeting to progress the Clydebank Plan 2003 to 2010, which had been approved by Council on 26th November 2003.

2.3.3 At the Clydebank Development Group meeting of 4th December 2003, during discussion on the superstore development, the group "Agreed that it was vital to identify all the site ownerships relating to the entire area under consideration".

2.3.4 2nd November 2005 - Community Safety and Environmental Services Committee

A report by the Director of Development and Environmental Services noted that, "With regard to the proposed supermarket site, Clydebank Rebuilt have recently been in touch with the other proprietors (Clydebank Co-operative and Dalmuir Credit Union) regarding finalisation of a land owner agreement to facilitate the development".

2.3.5 12th January 2006 - Clydebank Development Group meeting

It was noted that Clydebank Rebuilt had some months previously, commissioned Colliers CRE to put in place a landowners agreement with the Co-op and the Credit Union but that this had dragged on largely because of delays by the other two landowners' agent.

It was also stated that, "A range of technical and legal matters need to be definitively clarified before offering the site to the market, particularly title-related matters".

2.3.6 15th March 2006 - E-Mail from Group Legal Advisor to Dan Henderson

This e-mail states that CIS have rights of access over various areas within the proposed subjects of sale and that a formal variation to the lease would be required. The Legal Advisor states that as CIS are well aware of our intentions, it is not unreasonable to suppose that they would have raised any objections by now.

He also notes that dealing with CIS will not remove all possible obstacles to the development and adds, "If the existing public roads there are to be stopped up and objections are received to such proposals then a hearing on such objections may be necessary".

2.3.7 13th June 2006 - Clydebank Development Group meeting

Alan Robertson of Clydebank Rebuilt confirmed that Alistair Coates of Colliers CRE had been appointed agent to market the site.

Alan Robertson noted that there have been problems with access rights and that the issue was with CIS and not the Clydebank Co-op. Irving Hodgson noted that CIS had appointed AXA Fund Managers to manage their property portfolio and that AXA were not aware of the supermarket proposal.

2.3.8 17th August 2006 - Clydebank Development Group meeting

Irving Hodgson confirmed that CIS have specific rights of access over parts of the site, which causes difficulties as it limits what can be built or sold on without the explicit consent of the CIS to vary these rights.

2.3.9 13th June 2007 - Community Safety and Environmental Services Committee

A report by the Acting Director of HRES (Housing Services) noted that AXA have declined to agree the necessary variation to their lease terms and subsequently put the CIS interest in Clydebank Shopping Centre on the market.

AXA identified a preferred bidder but the sale has yet to be concluded.

2.3.10 24th September 2007 - Opinion from Christopher Haddow, Q.C.

Counsel advises that at present access is provided via Abbotsford Road and must still be provided by this road "unless and until some suitably appropriate alternative access can be provided".

He is also more positive concerning the possibility of success at the Lands Tribunal.

Counsel further advises that the major part of the site could be developed but that it will have to be marketed with a provision requiring "maintenance of vehicular access along a line to be determined by agreement" which will allow for continuing vehicular access to the Church, Three Queens Square and the two service yards which give access to the rear of the Co-op and the Phase 2 shopping units.

2.3.11 January 2008 - Discussions between WDC and AXA

Discussions between Council and AXA officials are now on-going. AXA has indicated to Council officers that they would prefer a joint venture with WDC to sell Clydebank Shopping Centre on the open market. However, this raises the possibility of either further delays in selling the Play Drome site or alternatively, not receiving sufficient income to build a replacement leisure facility. This matter is currently being considered and will be reported to Council/Committee in due course.

2.3.12 INTERVIEWS WITH GROUP MEMBERS

The following members of the group were interviewed:

Dan Henderson	Former Director of Development and Environmental Services and Chair of the Group
Ronnie Dinnie	Then Head of Land Services. On the group due to his remit for Leisure Services and Roads
Irving Hodgson	Then Head of Regeneration Services. On the group due to his remit for Planning and Regeneration
Eleanor McAllister	Managing Director of Clydebank Rebuilt
Group Legal Advisor.	Part of the group due to his Legal Expertise
Estates Representative.	Part of the group due to his knowledge of property matters

Generally, the group were aware of the need to improve the southern part of Clydebank Shopping Centre and maintain all major retailing in Clydebank within the Centre.

They realised that there could be some access problems but thought that these would be mostly minor due to the involvement of CIS in the original plans.

It did not become clear until August 2006 that the access problems were greater than originally anticipated. With hindsight, it is largely acknowledged that a considerably higher priority should have been given to negotiating with all interested parties to ensure that there were no hindrances to the sale.

2.3.13 SUMMARY

- Given the possibility of a superstore development at Clydebank Waterfront, it was essential to develop a viable alternative at Clydebank Shopping Centre.
- Ownership of the Play Drome site was examined in December 2003. Although the group were aware of certain access and title problems, the full extent of the access rights enjoyed by CIS was not documented until March 2006.
- The superstore was originally a CIS proposal and therefore, it was assumed that they would not raise any objections to the sale of the site by the Council. This subsequently proved not to be the case.
- Occupiers of other premises have access rights over the site and would certainly require access rights over the new development or a suitable alternative. Although the group opened negotiations with some of the other landowners, these have not been satisfactorily concluded.
- If the Council cannot obtain clear title to the site, without hindrances, it will limit the price that can be obtained, which will jeopardise the replacement leisure facility project.
- The group did not want to market the site too early due to the requirement of having a replacement leisure facility in place before the Play Drome is closed.
- Therefore, there was a requirement to start preliminary works on the replacement facility before there was any certainty about the price that could be obtained for the Play Drome site.
- Queen's Counsel gave an opinion that the Play Drome site can be marketed but with a provision that vehicular access is maintained to the Church, Three Queens Square, Clydebank Co-op and the Phase 2 shopping units
- Negotiations are still required with all interested parties in order to resolve the access problems, as the new facility cannot proceed until they are resolved and the Play Drome site is sold.
- WDC and AXA officials are discussing the way ahead. However, this raises the possibility either of further delays to the project or that the sum received from the Play Drome site will be insufficient to build a replacement leisure facility.

2.4 FINDINGS - PURCHASE OF THE QUEENS' QUAYS SITE

- 2.4.1 Following on from the decision to sell the site on which the Play Drome is currently located, it was proposed that the Council's leisure facility be relocated to a site at Clydebank Waterfront that could be acquired from Clydeside Regeneration Limited.
- 2.4.2 28th July 2004 - Letter from Eleanor McAllister to Tim Huntingford
Eleanor writes, "I am happy to confirm that Clydeside Regeneration has agreed to offer an option of four acres for two years, adjacent to the College for the purposes of a civic/leisure facility.
- 2.4.3 2nd February 2005 - Community Safety and Environmental Services Committee
A report by the Director of Development and Environmental Services noted that, "Officers of the Council have sought to secure from the developer a land and financial contribution in respect of the museum/heritage element and negotiations concerning this are nearing conclusion".
- 2.4.4 22nd April 2005 - E-Mail from Group Legal Advisor to Group Members
This e-mail concerns the draft offer to sell the Queens' Quays site to WDC and mentions that the titles to the temporary access area to the site are "a mess" and lists various points where agreement, either has been reached, or is still to be achieved.
10th May 2005, a meeting was held with the seller's solicitors.
22nd September 2005, at a Group meeting, "Transfer of the ownership of the 4 acre site is almost completed with only an issue regarding sewage capacity to be concluded. Anticipated the disposal may be concluded within the week".
- 2.4.5 2nd November 2005 - Community Safety and Environmental Services Committee
The Committee considered a report by the Director of DES that agreement had been arrived at with Clydeside Regeneration Limited concerning the transfer to WDC of 4.25 acres of land at Queens' Quays. The purchase price payable by the Council is £1 and in addition the sellers shall pay to the Council a heritage contribution of £300,000. This transfer would be the subject to a number of conditions including that the land should be used for leisure and/or heritage facilities and that the Council are obliged to have commenced development by September 2008, although there is provision to extend this date by a year for the purposes of awarding the building contract. In the event that this condition is not met, the site would be conveyed back to Clydeside Regeneration Limited.
- 2.4.6 12th January 2006 - Group meeting
The Group Legal Advisor reported that the missives had been concluded but there was an issue regarding spoil heaps on the site.

2.4.7 16th August 2007 - E-Mail from Group Legal Advisor to Irving Hodgson

Regarding the acquisition of the 4 acre site, the solicitor writes, "I note that Clydeside Regeneration have in principle agreed to an extension of the target date in respect of the leisure facility. It is relatively simple to do a letter amending the missives in respect of this change. However, I think it is important that we revisit the missives as a whole to ensure they still meet our requirements. In particular there are clauses in the missives relating to temporary access rights etc., which will need to be checked to ensure that they are still appropriate in relation to the current situation on the ground given that building works are already underway/completed on other parts of the site".

2.4.8 11th September 2007 - Clydeside Regeneration Limited

Clydeside Regeneration e-mailed Irving Hodgson to the effect that they are willing to extend the option agreement at the Queens Quay site for four years to August 2012, although they state that they are not trying to make the extension of the option agreement dependent on their receiving detailed planning consent, they would like this "to coincide with the granting of the detailed planning application", for their housing development at Clydebank Waterfront. The planning application is currently progressing through the normal channels and is expected to be decided by May 2008.

Conditions in the original agreement with Clydeside Regeneration allow them to withdraw from the contract if they do not receive planning permission that they consider to be satisfactory.

2.4.9 SUMMARY

- Discussions on the purchase of this site have been on-going since July 2004.
- There have been a series of problems including, titles to the temporary access areas at the site, sewage capacity, spoil heaps and various delays caused by the site owners.
- Over £500,000 has been spent on site preparations on land that the Council does not own
- In addition, almost £270,000 has been spent on design works for a new leisure facility, which will not be built unless the sale of the Play Drome site and purchase of the Queens Quay site are satisfactorily concluded.
- Although the time limit on the development may be relaxed, this appears to be dependent on planning permission for the residential development being received. Accordingly, there can be no guarantee, at this time, that the Council will eventually own the Queens Quay site.

2.5 EXPENDITURE ON THE PROPOSED LEISURE/HERITAGE DEVELOPMENT

2.5.1 Due to a previous Council decision that the Play Drome should not close until an alternative leisure facility was available, the Community Safety and Environmental Services Committee of 2nd February 2005 authorised the relevant directors to progress indicative drawings and specifications to facilitate the tendering of a contract for this new facility.

2.5.2 5th April 2005 - Dan Henderson wrote to the Technical Services Section
DH writes, "At the Council meeting on 30 March 2005, the General Services Capital Programme 2005/06 was agreed with £1.61m worth of funding being approved for Clydebank Rebuilt.

The Clydebank Plan 2003-2010 indicates WDC funding of £1.61m for the year 2005/06 and specifically under the heading Queens Quays Civic/Heritage - Civic Facility, £560,000 is identified.

In light of decisions taken by Committee/Council I now wish to instruct Clydebank Rebuilt to commission architects to progress indicative drawings and specifications in order to take matters forward".

2.5.3 22nd September 2005 - Group Meeting

The group discussed the site investigation report, which advised that there was some contamination on site but that there were also a number of physical obstructions, i.e. crane bases, a tunnel and some piles that would have to be removed to present the site in a developable condition. Indicative costs were £300,000.

In addition, work on the Quay walls was required for the whole Waterfront site and the cost relating to the four acre site would be £530,000.

2.5.4 2nd November 2005 - Community Safety and Environmental Services Committee

The Director of DES submitted a report on the progress of the developments and asked the Committee to agree proposals for decontamination, remediation and enabling works at the four acre Queens Quays site.

The report stated that, "The Council has obtained 4.25 acres of ground", listed the main points from the site investigation report and mentioned that remedial works to the Quay walls would cost £530,000 approximately.

The Committee agreed, "To note and endorse the actions taken, and proposed, to progress developments at this location" and "That (i) decontamination/remediation works and enabling works, and (ii) work to quay walls be progressed by Clydebank Rebuilt at the 4.25 acre site at Queens Quays to the extent of the budget available to them for such purposes".

The Committee were not informed that the legal transfer of the site had still not been accomplished nor that the Play Drome site had not been marketed and therefore, there was a risk that funding might not have been in place.

WDC INTERNAL AUDIT - CLYDEBANK LEISURE CENTRE DEVELOPMENTS

2.5.5 Clydebank Rebuilt submitted invoices to the Council as follows (Figures are shown net of VAT):

25/10/05 - Civic Facility	£60,000
28/03/06 - Civic Facility	£250,000
09/08/06 - Queens Quays Leisure Facility	£400,000
15/02/07 - Queens Quays Leisure Facility	£70,000

2.5.6 A more detailed analysis of expenditure is attached as Appendix 1 but this can be summarised as follows:

Enabling Construction Costs/Site Investigations	£72,167
Service Connections	£50,000
Design Fees	£234,755
Site Preparation (Clearance, Renovate Quay Walls, etc)	£390,089
Planning Fees	£13,000
Mock up of design	£20,000

2.5.7 Although the group were advised of the extent of the access rights held by the CIS over the Play Drome site in March 2006, this was still not thought to be a problem due to the involvement of CIS. Only by August 2006 did the group realise there was a serious problem, by which time over £700,000 had been spent. Most of the additional costs that were incurred after August 2006 were to bring the design up to the next stage.

2.5.8 24th November 2006 - Design Team Minutes

Eleanor McAllister confirmed that the design team would need to "Stand down" on the project at the end of November due to issues regarding the land.

2.5.9 If the project is to be completely stopped then the total cost will be lost

Cost £780,000

If the project continues but is not started within the appropriate timescale and the Queens Quays site is lost, then all the expenditure associated with this site will be lost (assuming the design could be used elsewhere)

£512,256

If the sale of the Play Drome site does not generate the amount originally anticipated, then it will not be possible to proceed with this design, in which case the design costs will be lost.

£267,755

2.5.10 SUMMARY

- Due to the requirement to have a replacement leisure facility in place before the Play Drome could be closed, it was necessary to start work preparing the site before the Play Drome site was marketed.
- When Committee agreed to approve expenditure on the site, they were not properly informed by the Director of DES that the site was still not owned by WDC.
- Council was not informed that the Play Drome site had not been marketed and there was a risk that funding for the new facility might not be in place.
- More than £500,000 has been spent on a site that the Council does not own. Although Council approved this expenditure, it is the Auditors' opinion that it was not made sufficiently clear that the site had not legally transferred to the Council.
- If work is not started within the appropriate timescale, then the value of the work expended on the site will be lost.
- If the eventual sale of the Play Drome site does not generate the required amount, the Council will not be able to continue with a project of this size and the design costs of almost £270,000 will be lost.

2.6 OVERALL SUMMARY

- During the year 2003, The Clydebank Development Group had been meeting to progress the Clydebank Plan 2003 to 2010.
- At that time, CIS had expressed concern at the possibility of a superstore and related shopping being developed at Clydebank Waterfront, which would have a seriously detrimental effect on a major asset of both CIS and WDC, the Clydebank Shopping Centre.
- Consequently, it was necessary to demonstrate that a superstore development could be achieved at Clydebank Shopping Centre within a reasonable timescale.
- By December 2003, the group had earmarked the Play Drome site for redevelopment and agreed that it was vital to identify ownership of the entire area under consideration.
- In 2004, the CIS were granted outline planning permission for a supermarket development at the Council's Play Drome site in Clydebank.
- In February 2005, the Community Safety and Environmental Services Committee instructed that the Play Drome site be sold. Council had previously decided that the Play Drome should not close until an alternative leisure facility was available.
- In April 2005, funding was agreed for the Queens Quays and Dan Henderson instructed Clydebank Rebuilt to commission architects and take matters forward.
- In November 2005, the Director of DES reported that agreement had been reached for the transfer of land at Queens Quays to the Council and that remedial works would cost £530,000. It was not reported that legal transfer had still not been completed.
- In March 2006, having completed the searches, the group's legal advisor documented the extent of access rights enjoyed by CIS across the Play Drome site. The sale to the Council of the Queens Quays site had still not been concluded but £310,000 had already been spent on the new leisure facility/facility site.
- In June 2006, Colliers CRE were appointed agents to market the Play Drome site, the group became aware that AXA were acting as agents for CIS and the Group Legal Advisor supplied the group with detailed information regarding the access rights held by CIS and others across the site.
- In August 2006, Irving Hodgson informed the group that the specific rights held by CIS causes difficulties as it limits what can be built or sold without the explicit consent of CIS to vary their rights. The purchase of the Queens Quays site had still not been concluded but expenditure had risen to £710,000.

- In November 2006, expenditure on the project stopped but £780,000 had already been committed.
- In June 2007, AXA declined to agree the variation to the lease and put the CIS interest on the shopping centre on the market.
- In September 2007, Clydeside Regeneration Limited agreed to an extension by four years of the target date for the leisure development, although they would like this to coincide with them receiving planning permission for their housing development at Clydebank Waterfront.
- In September 2007, Queen's Counsel gave the opinion that the Play Drome site could be marketed but with a provision requiring vehicular access along a line to be determined by agreement.
- January 2008, Discussions are taking place between AXA and Council representatives on the way forward. However, this raises the possibility that there could be further delays in selling the Play Drome site or alternatively, the price obtained may be insufficient to build a replacement facility.

2.7 CONCLUSIONS AND RECOMMENDATIONS

2.7.1 In order to avert the possibility of a rival development at Clydebank Waterfront, it was necessary to demonstrate that a superstore could be built at Clydebank Shopping Centre. The site currently occupied by the Play Drome was to be used and Council passed a motion that the Play Drome should not be closed until an alternative leisure facility was available. Even without a rival development within Clydebank, the increased competition from new and existing shopping centres means that Clydebank Shopping Centre needs to continually improve to remain viable.

The sale of the Play Drome site for a significant amount of money is crucial to the whole scheme. In the auditors' opinion, a considerably higher priority should have been given to negotiating with the other parties involved to ensure that there were no hindrances to the sale.

2.7.2 In the auditors' opinion, there have been genuine reasons for the delays in purchasing the Queens Quays site, largely caused by the sellers.

However, a considerable sum of money was spent in site preparations on land that the Council does not own, without Council being clearly informed that this land had not legally transferred.

Clydeside Regeneration Limited has now agreed to extend the time constraints by four years, although it is the Auditors' opinion that this is subject to them obtaining planning permission for their housing development.

2.7.3 Given that the group were of the opinion that there would be no difficulty in selling the Play Drome site for the required amount, then it was essential that site preparations had been completed if a new leisure facility was to be in place before the Play Drome closed.

However, this reinforces the requirement to own the site, without title hindrances, before starting anything more than a site investigation.

Unless all the expenditure at Queens Quay is to be lost, it is essential that the Play Drome site is sold for an amount that allows a replacement leisure facility to be built.

2.7.4 Given that negotiations are on-going with all interested parties, it may be appropriate for the Chief Executive to report on the current position in order that Council can make an informed decision about whether or not to proceed with the entire project.

WDC INTERNAL AUDIT - CLYDEBANK LEISURE CENTRE DEVELOPMENTS

Notes	LEISURE CENTRE	FUNDS COMMITTED TO END OF CURRENT AGREEMENT	PAID TO DATE	BALANCE
	1 Enabling Construction Cost - Site Investigations	7,000	7,000	0
	2 Leisure Construction Cost	0	0	0
	3 <u>Enabling Professional Fees</u>			
	4 URS	tbc 22,538	22,538	0
	5 EN - Gardiner & Theobald LLP	6,250	6,250	0
	6 <u>Leisure Professional Fees - Stage D</u>			
1	7 D - Kennedy Fitzgerald & Associates	192,755	157,755	35,000
	8 D - Gardiner & Theobald LLP	335,728	335,728	0
	9 D - Sundries	8,361	8,361	0
	10 <u>Leisure Professional Fees - Stage E</u>			
	11 E - Kennedy Fitzgerald & Associates	42,000	42,000	0
	12 E - Gardiner & Theobald LLP	46,000	46,000	0
	13 E - Sundries	0	0	0
	18 <u>General Items</u>			
2	19 Planning Fees	13,000	0	13,000
	21 Site Investigations	36,379	36,379	0
	36 Infrastructure Costs : Service Connections	50,000	50,000	0
3	36 Cladding Mock Up	20,000	0	20,000
	GROSS DEVELOPMENT COSTS	780,011	712,011	68,000
	<u>DEVELOPMENT INCOME</u>			
	1 CR Core Planned Capital Funding from WDC	780,000	780,000	0
	DEVELOPMENT INCOME	780,000	780,000	0
1	Fees Outstanding but due to Architect			
2	Fees for Planning Application - Not Submitted			
3	Fee for Cladding mock-up on site - Tenders back but not instructed			

APPENDIX 1