

Agenda Item No: 5

Report to: Charity Committee

Date of Meeting: 29th March 2011

Report Title: White Rock Baths [WRB]

Report By: Simon Hubbard
Corporate Director Regeneration Homes & Communities

Purpose of Report

To propose action in respect of a number of issues relating to the White Rock Baths [WRB]:

- The issuing of a lease on an area above WRB to the Hastings Pier & White Rock Trust [HPWRT] for a Community Showroom.
- A grant application received in respect of the Community Showroom.
- The connection of sewage services to the WRB and potential Community Showroom.

Recommendation(s)

- 1. Subject to consultation with the Coastal Users' Group, to agree in principle that a lease be granted to Hastings Pier Charity for the West Light Well of White Rock Baths for a community showroom for 15 years but subject to the conditions in Para 27 of this report and to delegate this matter to the Estates Manager for action.**
- 2. That the application for £120k from HPWRT be deferred and considered at a future meeting.**
- 3. To support the continuation of work to open the Foyer and parts of the promenade level in conjunction with Lifecycle.**
- 4. To delegate to officers the arrangement of sewage connections to the White Rock Baths to a maximum value of £75k on the basis outlined in this report.**

Reasons for Recommendations

To enable decisions by the Charity Committee on grant aid to be taken in a structured process.

To allow urgent negotiations with Lifecycle and HPWRT to be taken forward.

Wards Affected

All wards.

Area(s) Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness

Crime and Fear of Crime (Section 17)

Risk Management

Environmental Issues

Economic/Financial Implications

Yes

Human Rights Act

Organisational Consequences

Background Information

Background Information Report

Handover note - Appendix A.

Letter, Dyer Commercial - Appendix B

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Background Information

1. The White Rock Baths were constructed in the 1870's and reconstructed in 1931 under the management of Sydney Little the 'Concrete King' and latterly used as an Ice Rink, Roller Rink and Café.
2. For those who have not been able to visit the premises, almost all of the premises are underground apart from the entrance foyer and previous café area. The structure itself is made of reinforced concrete.
3. Although the building is not listed, it is within the White Rock Conservation Area. Since its closure in 1997, it has been marketed as a 'unique opportunity in a prime tourist seafront location' but without success. There has been interest but this appears to have dissipated when the scale of costs of restoration becomes clear to potential entrepreneurs.
4. Structural Surveys were carried out in 2009, 2005 and 1999 in order to review the state of the building. Visitors will know that the basement level of the building floods and it appears this is linked to the tides. The lower floor where the boiler room, plant and water settling tanks were located is totally unusable. The pool level and promenade level are potentially useable but require extensive renovation and a clear community and/or commercial purpose.
5. A study was commissioned from Campbell Reith Hill and received in October 2003 to examine the feasibility of turning it into an underground car park. It identified 3 options:
 - Refurbished giving 80 spaces £35k – 40k per space [2003 prices]
 - Demolish and new build: 392 spaces £25k – 30k per space [2003 prices]
 - Infill bottom layer and: 259 spaces £25k – 30k per space [2003 prices] and larger car park

This was thought too expensive to be viable. Since then, it has been marketed unsuccessfully and there is even a marketing brochure. Despite several attempts there has been no interest which did not fade away when the costs of bringing the whole area into use became clear.

6. Connisbee undertook a survey of the structure condition in 2009. Despite the obvious dereliction in parts the engineers considered that its structural integrity was not yet compromised enough to question its support of the promenade and that the sea walls continued to protect the road. Despite continued decline there was no evidence of potential for major collapse, although a yearly inspection is now recommended. A further inspection has just been undertaken but this is too late for inclusion in this draft of the report.
7. Despite the fact that the restoration of the whole structure appears highly challenging, there has been considerable interest in smaller scale attempts to utilise the promenade and first floor levels as usable facilities. This wish has been heightened by the improvements currently being made at the Stade in the shape of the Jerwood Gallery, Stade Open Space (SOS) and community facilities. Local people and businesses wish to revitalise more of the Foreshore and Seafront and to spread the benefits of regeneration westwards. The destruction of the pier makes it

still more important to demonstrate that other parts of the seafront can be improved while the future of the pier itself is addressed. This approach is fully complimentary to objectives of the Foreshore Trust to promote the public use and enjoyment of the foreshore.

8. The Council was approached in 2009 by Laurence Bell and Catherine Parr, the owners of the White Rock Hotel. At this point their interest was the covering of the 'wells' in the building to improve the amenity of the seafront. Whilst very interested in this approach, the Council looked what it would take to improve the buildings to open the premises on a limited basis.
9. The council have undertaken a costing for the buildings and wells:

Option 1	Refurbishment Central Core above prom	£125k
Option 2	Refurbishment Central Core above and below prom	£147k
Option 3	Eastern Well Deck	£185k
Option 4	Western Well Deck	£181k
Option 5	Both Well Decks	£344k

The Council's Cabinet agreed to set aside a sum of £179k for work at the White Rock if a suitable scheme could be found and this sum remains available.

Parties interested in the Baths

10. There are two major strands of interest currently for the use of the Baths. They are not (as far as officers are aware) in anyway in competition. The first of these by an organisation called Lifecycle and the second is the Hastings Pier and White Rock Trust (HPWRT).

11. Any proposed use for the WRB needs to take into account the activities allowed under the Hastings Borough Council Act 1988. The permitted activities are:

- Religious and cultural activities
- Entertainments
- Amusements
- Leisure activities
- Illuminations
- Information
- Sale of refreshments and beach requests

This fairly extensive list of activities appear to allow either of the proposed activities discussed in this report.

12. It is appropriate to consider these matters at this early stage in the Charity Committees work because:

- There have been significant delays in the negotiations with Lifecycle caused by the flooding in the building impeding proper estimate of costs and the assessment of a finalised Business Plan. It is important not to lose the opportunity to consider this option.

- There are issues relating to the connection of sewage services which affect the viability of both proposals, but will need to be addressed to encourage any interest in WRB.
- HPWRT are engaged in negotiation for funding with other parties and need to have clarity about the Charity Committees inclusions and timescales.

LifeCycle

13. Two 'community business' proposals were submitted but only one was sustained through more detailed discussions. This proposal was for the establishment of 'Lifecycle', and has made the following component parts:

- Promenade bicycle hire with supporting service, bike hire and repair
- Promenade level café
- Soft learn to ride and bike area
- Indoor BMX area
- Climbing wall
- Under 18s alcohol free venue
- Winter ice skating
- Exhibition space

14. The previous Trustees were aware of and engaged in addressing these issues. These are referred to in Trust reports in his 'handover' note to the Borough Solicitor, copied to the Protector Hugh marriage - refers in some detail to the supportive view taken by the Trustees and the issues that need to be addressed. These comments are attached as Appendix 'A'.

15. Phase 1 (upon which later phases would be dependant) includes the opening of the business, establishment of a cycle hire business, the children's bike training area and the Promenade Café.

- This will involve making repairs to the outside and courtyard walls, renovating the windows and doors for the Entrance Building, repairing the roof of the Entrance Building, redecoration, suitable signage, clear interior and complete internal renovation of staircase to courtyard level, re-installation of toilets at courtyard level, disabled access, basic space for rental cycle storage and for service and repair at downstairs level.
- Children's learn to ride a bike in the open courtyard, including installation of a soft playground floor across the area to prevent grazes if falling off. To provide a free, sheltered learning area for local children with family members, as well as having professional tuition available if required. Benefits include: safe environment for learning to ride a bike, family activity, encourages bike use, free resource for local families.
- Promenade Level Café: a simple café service coffees, fresh juices, ice creams, drinks, snacks and pre-prepared food, which inside seating area. Option for some outside tables in summer overlooking the sea and courtyard cycle learner area for parents. Range of snacks and refreshments for cyclists, and for parents and children using the learn to ride facilities. Benefits include: provides comfortable facilities for parents visiting with children, a place to stop for refreshment on the seafront, contributes to lively, attractive atmosphere.

16. Lifecycle have submitted a business plan which has been discussed with finance and property colleagues. However, they have not been able to finalise discussions around either the lease or the connection of essential services due to the building being partially flooded since October. The reason for this is the failure of electricity supply which has proved very difficult to address but it is expected they will have access in the next fortnight.
17. It is clear already however, that the premises do not have a functioning connection to a sewage system of any kind. I am advised that the original system involved a kind of septic tank at the bottom of the building with sewage then being pumped up to main sewers beneath the road. It is not possible to bring the building back into use without sewage connection and it is proposed that the charity committee should authorise officers to arrange this, subject to a proper investigation and obtaining estimates. Although the internal arrangement will need to be agreed in conjunction with Lifecycle or other future occupier the principle of connection to sewage appears obligatory. It is suggested that this matter is delegated to officers to a financial limit of £75,000 without further referral to Committee.
18. The previous trustees appointed Humberts, a firm who are specialist in the leisure industry to consider the proposal. The restoration of power to the building will enable Humberts to have access to the premises so their views can be presented to a future meeting where a decision regarding a lease could be considered.
19. It is strongly suggested that, provided satisfactory negotiations can be concluded, that this option is pursued in partnership with Lifecycle and the Borough Council.
 - It would achieve the delivery of activity within the Trusts purposes utilising both private investment and financial support from Hastings Borough Council.
 - It would be a milestone in increasing use of the foreshore area westwards towards St Leonards.

Hastings Pier and White Rock Trust (HPWRT)

20. HPWRT are seeking two areas of support from the Charity Committee. The first of these is the agreement of a lease of peppercorn rent for the installation of a community showroom over the West Light Well of the White Rock Baths. This would be accomplished by putting a decking across the well which would be a semi permanent fixture. It would be a light weight prefabricated building. The Trust intend to relocate the community showroom to the Pier, if and when it is sufficiently restored to allow this. They are also seeking a grant of £120k for its establishment.
21. Planning permission has been granted for the erection of the structure to provide a temporary showroom, gallery, office and shop for a period of three years. The HPWRT intends that the building will be fully serviced.
22. The HPWRT intends that the showroom will house its existing retail, community engagement, promotional and fundraising activities and will serve as an information portal for a range of local cultural, educational, heritage, leisure and business activities. It is proposed that these operations would continue at this site until the HPWRT is successful in its efforts to acquire and renovate Hastings Pier. Success in this respect is dependent on the Council acquiring the Pier through a Compulsory Purchase Order and transferring ownership to the HPWRT, and the HPWRT being

successful in its application to the Heritage Lottery Fund (HLF) for a grant of £8.7m to restore the Pier. A decision on this application is anticipated in April.

23. Representatives of the HPWRT discussed their showroom and grant proposal with the previous chair of the Foreshore Trust in the latter part of 2010. At that time the Trust did not have the powers to make charitable grants, but it was acknowledged by the Chair that, under the new scheme, such powers would exist. The HPWRT was advised that an application for a charitable grant would need to demonstrate a clear benefit both for the Foreshore Trust and for the community. The HPWRT has now itself achieved charitable status.
24. The HPWRT has applied to the Community Builders Fund for a combination loan – grant for the bulk of the costs of the project, and has been advised that the application cannot be considered without a written offer of funding to underwrite the loan element.
25. Attached to this report is a business plan and cash flow forecast that forms part of HPWRT application for financial support from the Charity Committee. It is worth noting that the HPWRT states on page 2 of the business plan that the establishment of the showroom will help to unlock the proposed Heritage Lottery Fund grant.
26. It is proposed that this request be deferred. As yet no full assessment of the likely availability for grant aid has been undertaken and neither the grant advisory panel set up, or a grant making process has been agreed. Members may also wish to consider this application alongside other potential applicants later in the year.
27. The Trust has requested a 15 year lease at a peppercorn rent with a tenant only break clause exercisable by the tenant only. They are also seeking the provision of water, electricity and sewage services. On behalf of the Trust the Council commissioned advice on the terms by external surveyors. The conclusions of this are:
 - The valuation of the lease be at peppercorn
 - Recommends the tenant pays for drainage
 - Sub letting or assignment is prohibited
 - Landlords breaks are included (to allow for possible redevelopment)
 - The tenant break clause is not operational until February 2014 to match the expiry of the temporary planning permission.

It is worth commenting further upon the sewage issue. The showroom is clearly outside the White Rock Baths. For it to be connected to existing sewers, has been estimated as costing at least £46k. The process would require digging a new deep access to the main sewer and it is not clear what other services might be effected or additional costs encountered. This is not a practical option. It has been suggested to HPWRT that they could install a temporary septic tank or other system below the showroom at far lesser cost.

28. It is suggested that the functions proposed in the community showroom match the cultural, information giving, and refreshment activities that are permitted under the Hastings Act 1988. The platform upon which the showroom would stand would continue to be of benefit after the showroom has moved elsewhere. It therefore seems appropriate to negotiate a lease based on the points in 26 above.

Monitoring Officer's Comments

29. When the issue of conflict of interest for the Council was discussed with the Charity Commission, one of the internal checks on this was that the Borough Solicitor and Monitoring Officer would include a paragraph in the report highlighting any conflicts of interest for the Charity Committee as a committee of the Cabinet. When the Committee is considering any matter in which the Council has an interest, its first duty is to the Charity and to make a decision which is in the best interests of the Charity.
30. There can be no doubt that the restoration of the Hastings Pier is a high priority for the Borough Council. This has to be seen as a potential conflict of interest for the members of the Committee. However, the fact that it is a high priority for the Borough Council does not mean that there is automatically a conflict of interest for the Charity Committee members. Whilst there are elements of economic regeneration in the proposals for the restoration of the Pier, which are not charitable purposes, nevertheless there are clear benefits for users of the Foreshore in having a restored Pier available for access in the midst of the Foreshore. It is suggested that there is no significant conflict of interest for members of the Charity Committee in considering a proposal which contributes towards this Council priority. However, in order to protect the Charity against any perceived conflict of interest, the Council commissioned a report from an independent surveyor rather than seeking advice from the Council's Estates Manager. The full report is shown in Appendix B to this report.
31. The Lifecycle proposal is still to be presented for decision in regards of a lease. This will be brought to a future meeting with the options of a qualified surveyor. The disposition (if agreed) would then need to be advertised and then a decision taken on its terms are the best that can be reasonably obtained (Section 36 Charities Act 1993).
32. As regards the proposed lease to the Hastings Pier Charity. If the disposal is to another charity otherwise than for the best price that can reasonably be obtained and is authorised to be so made by the trusts of the Foreshore Trust, then the restrictions imposed by Section 36 Charities Act 1993 do not apply. The proposed lease is at a peppercorn and the Hastings Borough Council Act 1988 authorises the Council to use this particular area of land for the purposes set out in paragraph 11 above and to allow any other person to use any such land for such a permitted purpose and may let any part of the land on such terms and conditions as they think fit. The tenant must be a charity and the HPWRT indicate that they have established a charity for this purpose, the Hastings Pier Charity. Any lease would be in the name of the Hastings Pier Charity.
33. The Scheme provides that there must be consultation with the Coastal Users' Group in relation to:
- The Charity's policy relating to the exercise of any power under the Hastings Borough Council Act 1988 or otherwise to manage, let sell or otherwise dispose of the Charity's property.
 - The exercise, other than in accordance with its established policies, of any power under the Hastings Borough Council Act 1988 or otherwise to manage, let sell or otherwise dispose of the Charity's property.

No consultation has as yet taken place with the Coastal Users' Group and, therefore, this should be undertaken before a final decision can be made in relation to either proposal. In the event that the Committee agrees recommendation 1 to this report, should the Group make recommendations other than as recommended by this report in relation to the proposed lease to the Hastings Pier Charity, a further report will be brought forward.

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Appendix B cannot be published on the Council's website. A copy may be obtained from Elaine Wood, Principal Committee Administrator, email ewood@hastings.gov.uk or tel. 01424 451717.

White Rock Baths

a) LifeCycle

The handover note records the current state-of-play on the application by LifeCycle to establish a bicycle hire facility in the White Rock Baths building and their possible increased use of the building at a later stage. The trustees have been keen to return the baths to some kind of productive use, not least to try to revive this part of Hastings near St Leonards. It is not attractive, nor good for the area, to have a derelict building on such a prominent position on the seafront. In the trustees' view, the LifeCycle proposal would enhance the area whilst not being in competition with existing businesses (unlike, for instance, another café or a conference centre). The trustees have, therefore, endorsed and supported this proposal and instructed Humberts to assess the proper rent.

b) Hastings Pier and White Rock Trust

The handover note also records the possible application by Hastings Pier and White Rock Trust (HPWRT) to establish a community showroom in a prefabricated building erected over the western bay of the White Rock Baths site. The trustees have been anxious to help HPWRT with its difficult and important task of trying to get the pier restored. But HPWRT is not a charity so any lease which the Foreshore Trust were to grant HPWRT would have to be at the full commercial rate.

The trustees have had detailed discussion with HPWRT about this, including agreeing draft Heads of Terms for lease. One outcome has been the proposal for HPWRT to establish a charity to operate the community showroom. This would greatly simplify the position as far as the Foreshore Trust is concerned as the trustees are prepared to allow charities which have objects which fit with those of the Foreshore Trust to have leases at peppercorn rate (as happens with RNL). The trustees would support this as we would welcome being able to support HPWRT's endeavours in this way.

Of course, if HPWRT were to establish a charity it would be possible for the Foreshore Trust (following the sealing of the new scheme and subject to its provisions) to make a grant to the new charity; but the trustees have made no undertaking in this respect.

In relation to both LifeCycle and the HPWRT proposal, the trustees were proposing to take no further action until planning permission had been granted.