

Agenda Item No:

Report to: Charity Committee

Date of Meeting: 7th June 2011

Report Title: Stade Hall Lease

Report By: Kevin Boorman
Head of Destination Management & Marketing

Purpose of Report

To recommend that the Charity Committee delegates authority to the Stade Community Trust to manage the facilities on the Stade

Recommendation(s)

- 1. The Charity Committee agrees in principle the proposals set out in the report and delegates authority to the Chief Executive or his nominee to agree the final terms and documentation in consultation with the Chair.**

Reasons for Recommendations

The management of the new Stade facilities by a new community group was encouraged during the bidding process for external funding for the work and creates a sustainable model for the future operation of the facilities as well as being consistent with and promoting the objects of the Foreshore Trust.

Introduction

1. The Foreshore Trust ('FT') owns much of the land on the Stade and the FT boundary cuts diagonally across the Stade Open Space from the north west corner to the south east corner; the land to the south of this line includes the Stade Hall (the community building, including the hall itself), the public toilets, and the shell expected to house the seafood training kitchen/'Classroom On The Coast'. The Stade Café is not on FT land, nor is the Jerwood Gallery, following a land swap.
2. Hastings Borough Council decided at an early stage of discussion on plans to improve the Stade that it wanted the site to be sustainable, and not to be an ongoing drain on Council – and indeed, following the making of the Charity Commission scheme, FT - resources. The site was developed using a cocktail of funding, including £2m from CABE (the Commission for Architecture and the Built Environment) under the previous Government's 'Sea Change' scheme. This requires strong community engagement and involvement.
3. A model was therefore developed whereby the Stade site (Stade Hall and Stade Open Space) becomes managed by a community group. Whilst the building (Stade Hall) is on land owned by the FT, the Stade Open Space comprises land jointly owned by HBC and the FT – the actual split of the Stade Open Space land is roughly 60% FT, 40% HBC.
4. Discussions have taken place with the Stade Community Trust (SCT), which is the community group established for this purpose. It is proposed that the Stade Hall is leased to the SCT and that day to day management of the Stade Open Space is undertaken by the SCT under a management agreement with the Foreshore Trust and the Council.. The SCT is currently registering for charitable status and this paper suggests how the detail arrangements might work. As explained below, the leasing arrangement with the Stade Community Trust cannot be completed until it is registered as a charity, but, once it has been registered, it is hoped that this can be progressed as quickly as possible. This paper seeks in principle agreement for such a proposal, with the detail to be agreed by the Estates Manager, in consultation with the Chair of the Charity Committee.

The Facilities

5. The Stade facilities being referred to here are the Stade Open Space, including the supply of electricity and water across the site, the Stade Hall (excluding the public toilets) and also two meeting rooms on the ground floor of the East Hastings Sea Angling Association building ('EHSAA') which the EHSAA are making available to the community.
6. Charges will need to be made to hire the Stade facilities, because of the need to maintain the Stade Hall and keep it in a good state for hire, and to ensure that the Stade Open Space is cleaned after events (although other maintenance, the cleaning of the public toilets and Stade Open Space will be carried out by HBC, in the same way that the Council used to maintain and clean the old Stade Coach and Lorry Park, and Stade toilets, with a recharge to the FT in respect of land and buildings in FT ownership.).

7. As noted above, the Sea Change funding for the Stade project was based on a bid which saw widespread use of the Stade Open Space, and Stade Hall, by the community, and also the provision of events, for both residents and visitors. Although the Stade Community Trust will be a registered charity, it is accepted that it will probably need to employ at the very least a site manager, and casual labour as needed to assist the site manager.
8. The previous trustees of the FT, when it was run independently of the Council, were very supportive of the Stade improvements, seeing it as a way of helping the regeneration of the town by providing better facilities for residents and visitors, at the same time as ensuring that the aims and objectives of the FT were met. The previous trustees agreed that the Stade Community Group (as it then was) would rent the facilities at a peppercorn.

The Stade Community Trust

9. The Stade Community Trust is in the process of applying for charitable status. It has been developed following considerable community involvement, and has been formed by a working group including representatives from Hastings Voluntary Action, The Excellence Cluster, Hastings Fishermen's Protection Society, The Stade Partnership, The East Hastings Sea Angling Association, Hastings Old Town Residents Association, and Hastings Borough Council. A copy of its Mems and Arts is included as Appendix A.

Making the Stade Facilities Work

10. It is clearly impractical for the Council's Charity Committee to micro-manage the Stade facilities, nor is it desirable. It is therefore proposed to enter into a lease of the Stade Hall and management agreement for the facilities. The SCT will retain the income from the site, which will be used to run their operation, and help maintain the facilities they operate. As a charity, their power to charge is limited to covering their expenditure and they are not permitted to make a profit. The Council, as beneficial owner of approximately 40% of the open space, will make a contribution to the costs of the SCT relating to the management of the open space, commensurate with the percentage ownership of the open space area.
11. The level of charges set to hire the Stade facilities will be determined by the Stade Community Trust, and will have regard to whether the hirer is a commercial, not for profit, public sector or charitable organisation. Bookings will be taken in accordance with the general policy for events on FT land, agreed by the Charity Committee on 29th March 2011.
12. Events should be held in accordance with charitable objects of the FT, and events will not be permitted which conflict with these aims and objects.
13. The Council as Trustee retains the right to veto any event, but this power will only be used in the most exceptional circumstances, where the use is clearly inappropriate e.g. political rally, adult entertainment on the open space, gambling, shows involving extreme violence, provided always that the proposed use is consistent with FT objects.

14. It is proposed that the FT enter into a full repairing lease with the Stade Community Trust for their use of the Stade Hall (including the training kitchen/Classroom On The Coast but not the public toilets), and a management agreement for managing the Stade Open Space. The proposed Heads of Terms for the lease is included as Appendix B, though it is recommended that the finalisation of the terms and documentation of the lease and management agreement is delegated to the Estates Manager and Borough Solicitor in consultation with the Chair of the Committee.
15. Routine cleaning and maintenance of the Stade Open Space will be met by HBC, and the costs relating to Foreshore Trust ownership will be recharged to the Foreshore Trust in the usual way. However, special arrangements needed for events will be the responsibility of the Stade Community Trust (who will pass this responsibility on where appropriate to the individual event hirers).
16. The Coastal Users Group was consulted on an earlier draft of these proposals at their meeting of 10th March 2011, and no objections were raised, and they were updated at their meeting of 18th May with again no objections being made.

Monitoring Officer's Comments

17. The power of charities to dispose of land held in trust for a charity is strictly limited by the Charities Act 1993. There is some relaxation of the requirements if the disposition, in this case a lease, is made to another charity otherwise than for the best price that can be reasonably maintained and is authorised to be made by the trusts of the charity making the disposition. Once the SCT is registered as a charity, it will be possible to proceed with the proposed arrangements under this particular provision.
18. Whilst the proposed lease is from one charity to another, the objects of the two charities are not the same. The user clause in the lease, therefore, will make it clear that the use of the Stade Hall must be consistent with the objects of the Foreshore Trust. Compliance with the objects of the Foreshore Trust is the overriding objective in relation to both the use of the Stade Hall and the Stade Open Space.
19. The former Trustees supported these proposals and it is considered that the arrangement is consistent with and promotes the FT's object to hold the land for the common use, benefit and enjoyment of Her Majesty's subjects and the public generally.
20. Members need to remain mindful of the position in law that the Trustee may contract with another to manage the trust estate on its behalf but the responsibility to ensure compliance with the Trust remains with the Trustee. The control lies within the terms of the lease and management agreement documents and their enforcement by the Council as Trustee.

Recommendation:

21. The Charity Committee agrees in principle the proposals set out in the report and delegates authority to the Chief Executive or his nominee to agree the final terms and documentation in consultation with the Chair.

Reasons for recommendation

22. The management of the new Stade facilities by a new community group was encouraged during the bidding process for external funding for the work and creates a sustainable model for the future operation of the facilities as well as being consistent with and promoting the objects of the Foreshore Trust.

Wards Affected

Old Hastings

Area(s) Affected

East Hastings

Policy Implications

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

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues	No
Economic/Financial Implications	Yes
Human Rights Act	No
Organisational Consequences	Yes

Background Information

Officer to Contact

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Appendix B cannot be published on the Council's website because it consists of a table. A copy may be obtained from Elaine Wood, Principal Committee Administrator, email ewood@hastings.gov.uk or tel. 01424 421717

