

HASTINGS AND ST LEONARDS FORESHORE CHARITABLE TRUST

ANNUAL PUBLIC MEETING

QUESTIONS SUBMITTED (1 – 24 in writing and 25 – 29 oral)

1. Cycle track – Bexhill to Hastings - Sustrans

There appears to have been some confusion regarding the ownership of parts of the land known as West of Haven (the site off Port Cinques Way facing westwards).

This resulted in a delay with the commencement of the Sustrans cycle track project, due, we understand to the uncertainty of land ownership. This work is now to commence on 5 September so presumably any ownership queries have now been resolved?

Could the Trustees kindly confirm the precise ownership of land in this area and also confirm who is the beneficiary of the licence fees paid by beach hut owners on this stretch of land – currently beach hut owners pay their annual licence fees to Hastings Borough Council.

Does the Foreshore Trust own any of this land – the planning application relating to the construction of the cycle track lists Rother/Hastings Borough Council/The Environment Agency and Down (Dawn?) Oak Trust as the registered owners. Is this correct?

Reply

This area of land is not in the ownership of the Foreshore Trust. There was some delay whilst this was clarified. The annual beach hut fees are payable to Hastings Borough Council, as beneficial owner of this land.

2. Can you please explain why, in the Foreshore spending plan, provision is being made in period 2012-2013 for £30K expenditure on concrete repairs to the pier area toilets? This matter is also referred to on page 14, item 48. Also, where exactly are these presumably disused toilets located and is it intended to bring them back into public use? Those in front of the pier are on the landward side of the Trust's boundary and is thus not the responsibility of the Trust.

Reply

There are closed toilets on Trust land between the Pier and the White Rock Baths. The concrete repairs have been identified by Conisbee, structural engineers, to maintain the structural integrity of under-promenade passageways, promenade level entrances and raised concrete areas which

support railings. The toilets will not be reopened. £30,000 is an estimate provided by Conisbee; the final figure will be produced after more detailed investigation and tendering of the works.

3. On page 14, item 48, the spending plan includes reference to liability for repairs to amongst other items, groynes. As was shown by the previous chair of the Trust when HBS tried to assign such responsibility to the Trust, these are not the responsibility of the Trust but the Department for the Environment. Can you please explain why the trustees now believe it is the responsibility of the Trust?

Reply

Item 48 refers to inspections and general maintenance carried out by the HBC Foreshore team which includes the groynes on Trust land. DEFRA has traditionally been the source of 100% funding for major capital works to groynes, although they now indicate that they will be seeking contributions from local stakeholders for any future works. DEFRA will continue to require assurances that there is a programme of inspections and routine maintenance carried out locally.

4. Can you please explain the justification for the proposed granting of £167K in the current period to a possible tenant (LifeCycle) for the purpose of fitting out part of the White Rock Baths complex? Surely such expenditure needs to be justified as providing an appropriate commercial return on the Trust's investment.

Reply

Business plan, page 12, item 34 states that 'the LifeCycle proposal ... will be the subject of separate reports to the Charity Committee and to HBC's Cabinet before any decisions on funding are made'. The business case for investment by the Trust will be included in the report.

5. Have the trustees given proper consideration to a report (reference 090022/SP/BS) prepared by Conisbee in 2009 regarding the option of demolition and foamed concrete to infill the existing underground area of the White Rock Baths complex, thus avoiding an ongoing drain on Trust finances? A maintenance figure exceeding £1 million is indicated sometime beyond 2016, additional to £352K in the current period. How can this be justified as providing a commercial return as is required under charity law?

Reply

Other options for the White Rock Baths, including those in the 2009 Conisbee report, will be evaluated before any funding decisions are made. The figures quoted above are estimates of works necessary to bring the entire structure of the Baths back into use and are included in the business plan as information for future budgeting. There is no such proposal at this time.

6. The trustees are proposing to purchase 10 new chalets for the Marina area at a cost of £10K. What is the expected annual return on that investment and does it meet the requirements for return on capital investment? Additionally, where exactly on Trust land are they to be located and has planning permission been granted?

Reply

The expected annual return at current fee levels is approximately £7,000. The investment pays for itself within the second year which is an acceptable return on investment. The chalets will be located on the lower promenade, west of the concrete Marina chalets and in front of the Marina car park. Planning permission has not yet been sought.

7. In addition to the proposed additional 10 chalets, how many other beach chalets/huts does the Trust own and/or derive income from and what is the annual income?

Reply

The Trusts has 10 privately-owned chalets on its land and the annual income for the year for these chalets is £2.8k.

8. If the Trust does not control or administer the public toilets on The Stade and Pelham car park, why is the Trust charged by HBC for the maintenance and cleaning? For year 2010 the charge was £134K and in 2009 £153K. The reduction is assumed to be caused by the closure of the old Stade toilets, a saving of £19K. By comparison, £134K for looking after a single, much smaller and more modern facility at Pelham looks rather odd.

Reply

The public toilets at the Stade and at Pelham car park are located on Trust land and therefore maintenance and cleaning costs are recharged to the Trust by the Council. The charge covers both Stade and Pelham facilities, which are the busiest facilities in the Town and are amongst the few that are staffed by attendants.

9. If the Trust does not own, control or administer any streets why is the Trust charged by HBC for the street cleansing? For year 2010 the charge was £94.4K and in 2009 £89K. If it covers all the Trust land then for the duration of the period in question the land area was reduced by the construction activities on The Stade.

Reply

Street cleansing in this context encompasses cleansing of beaches, car parks and the Trust's areas of promenade. Street cleansing contract prices are updated annually in line with the retail price index.

10. In the business plan, provision is made for £2K per year for Stade barrier maintenance. What is the location of these barriers and why are they the responsibility of the Trust?

Reply

The barriers are located on Trust land at the East Parade entrance to the foreshore, between the Stade open space and the new public toilets. The budget represents an annual maintenance contract.

11. Who are the members of the Coastal User/Advisor’s Group and what is the qualification for membership?

Reply

There follows an extract from the Coastal Users Group Constitution which was agreed by Charity Committee at its March meeting.

Membership of the Group

a. The Membership is to reflect those groups and organisations which:-

- use the Foreshore for leisure and pleasure purposes,
- are engaged in providing leisure for other users,
- statutory agencies with responsibilities affecting the Foreshore;
- those with an interest in the Foreshore;

Including but not exclusively as follows:-

Councillors and Council Officers	Head of Amenities, Waste & Leisure Services	Type 1A (non voting)
	Resort Services Manager	Type 1A (non voting)
	Lead Member – Amenities	Type 1A (non voting)
	Ward Councillor – West St Leonards	Type 1
	Ward Councillor – Central St Leonards	Type 1
	Ward Councillor – Castle	Type 1
	Ward Councillor – Old Hastings	Type 1
Statutory Services	Environment Agency	Type 2
	Maritime & Coastguard Agency	Type 2
	Southern Water Services	Type 2
	Sussex Police	Type 2
	Seaspace	Type 2
	Royal National Lifeboat Institution	Type 2
	Area Management	Type 2

	Boards (North, South, East, Central)	
Attractions & Non-Commercial	Fishermen's Museum	Type 1
	Shipwreck Museum and Nautical Heritage Assoc.	Type 1
	Hastings Pier & White Rock Trust	Type 1
	Stade Partnership	Type 1
	Heritage Group (rep. tbc)	Type 1
Representing Commercial Interests	Hastings Fishermen's Protection Society	Type 1
	White Rock & America Ground Business Group	Type 1
	Hastings Arts Forum	Type 1
	Hotel & Tourism Assoc.	Type 1
	Stade Amusements	Type 1
	Blue Reef	Type 1
	Hastings Crazy Golf	Type 1
	Central St Leonards Business Group	Type 1
	Hastings Area Chamber of Commerce	Type 1
Leisure – Non-profit	East Hastings Sea Angling Association	Type 1
	Hastings and District Canoe Club	Type 1
	Hastings and St Leonards Rowing Club	Type 1
	Hastings and St Leonards Sailing Club	Type 1
	Hastings and St Leonards Sub Aqua Club	Type 1
	Hastings Sea Cadets	Type 1
	Hastings Voluntary Lifeguard Club	Type 1
	1066 Board Riders	Type 1
	Hastings and St Leonards Sea Angling Club	Type 1
	Hastings Urban Bikes	Type 1
	West of Haven Fishermen's Association	Type 1
	West of Haven Beach Users Association (Beach Huts)	Type 1
	Hastings Motorboat & Yacht Club	Type 1
Community	Hastings and Rother	Type 1

	Disability Forum	
	Castle Ward Forum	Type 1
	Gensing and Central St Leonards Forum	Type 1
	Hastings Old Town Residents Association	Type 1

Note on third column:

Type 1 –full membership with voting rights

Type 1A – as above but without voting rights

Type 2 – limited membership where members are sent agendas and minutes and can be invited or request to be invited for relevant items.

No voting rights

Type 3 – additional guest members could be invited for particularly relevant items. No voting rights.

- b. The Membership is not fixed and it may be added to with the agreement of the Group.
- c. Each member shall send one representative or substitute to a meeting of the Group.
- d. Each member shall advise the secretary of the name of its duly authorised representative and substitute.
- e. A person who is a member of the Grant Advisory Panel appointed under the Scheme shall not be eligible to act as representative of a member organisation on the Group.
- f. Each member is expected to
 - contribute positively towards the workings of the Group; and
 - at all times when considering matters under paragraph 3(1) above keep in mind that the Foreshore is held for the common use, benefit and enjoyment of Her Majesty's subjects and the public generally, and for those purposes permitted by the Hastings Borough Council Act 1988.
- g. Membership of the Group is permanent. However, a member may be expelled from membership of the Group by resolution of the Group at a General Meeting, approved by not less than two thirds of the members present and voting, if in their opinion the member has conducted itself in such a way as to compromise or conflict with to the objectives of the Group.
- h. Likewise a member's representative may be removed from the Group and the member will be given the option to appoint a different representative or leave the Group
- i. In both cases the member will be given the opportunity to answer the allegations before a meeting of the Group, called with no less than 10 working days' notice to the member concerned.

12. Can the trustees please explain why the landward boundary from Carlisle Parade, westwards, faithfully follows the line of the sea wall – with a major exception. From the eastern edge of the pier the boundary suddenly departs from the sea wall line to enclose the White Rock Baths. By the admission of the chair of the trustees in a recent Observer newspaper item, the White Rock Baths are the single biggest liability of the Trust. With the very suspicious deviation from the line adopted elsewhere, HBC appears to have offloaded responsibility for this decayed construction to a charitable Trust. Such an exaggerated deviation surely cannot be explained by any natural geographical feature upon which the original 1898 Conveyance was based. On what basis has it been assumed that any part of the WRB’s complex is the responsibility of the Trust? It’s worth remembering that the WRB’s complex was purchased from a Mr. A.D. Thorpe by Hastings Corporation in 1925.

Reply

The plan to the 1893 trust conveyance from the Crown to Hastings Corporation shows this to be the boundary. Indeed, the old seawall forms the northern boundary of the White Rock Baths building. The 1988 Hastings Borough Council Act provides that this is one of the areas delineated for permitted uses other than those prescribed by the 1893 trust conveyance. The former Trustees examined the boundaries of the Trust in detail as part of their second claim against the Council but we are not aware that at any time the boundary was questioned.

13. Have the trustees acquainted Cllr. Hodges, the chair of the Coastal User/Advisors Group, with the fact that the paving at Winkle Island is not the responsibility of the Foreshore Trust; or was he simply suggesting at the August 16th. group meeting an application to the Trust for discretionary funding?

Reply

The paving at Winkle Island is part of the highway and is thus the responsibility of East Sussex County Council. The area is not eligible for Trust funding.

14. Can the trustees assure us that the cost of the temporary generator hire to service the new community complex on The Stade is not the responsibility of the Trust.

Reply

Yes. The generator is a temporary measure pending the commissioning of a new substation to serve the site.

15. According to the Income statements, the current financial year is budgeted to show a reduction of approximately £75,500 from the last financial year. Can the trustees please explain that reduction, it's 50% more than they are allowing for charitable grants?

Reply

The figures for 2010-11 include £110k of income from a land swap. This income will not re-occur in 2011-12.

However on a positive note there has been some budgeted income growth from car parking which combined with the reduction in operating costs (legal and other fees) is expected to reduce the effect of the income reduction.

16. Why are the trustees contributing £5K to the cost of cycle route maintenance in year 2012-2013. This was an ESCC/Sustrans project, part of which runs across Trust land. Surely ESCC should be responsible for maintaining their creation?

Reply

This budget item refers to the cycle route along the promenade, not the ESCC/Sustrans project, and represents an estimate of the Trust's portion of costs for periodic surface repairs and relining, where the cycle route is on Trust land.

17. For the same reasons, why are the trustees obliged to budget £7K for cycle route signs in the current financial year.

Reply

This item refers to signs for the new cycle route extension from the Pier to the Stade, which is generally on Trust land.

18. Have the trustees considered charging the Dutch government backdated mooring charges for the good ship Amsterdam that they have parked on the foreshore? HBC parking control are quick enough off the mark if it's a car parked illegally on Trust land.

Reply

As this question appears to be asked with tongue in cheek, the appropriate response would seem to be that it is quite likely that they have acquired squatters' rights!

19. Can you tell me why the criterion for panel member selection is "...knowledge and experience of the voluntary and charitable sector in the area of the Borough of Hastings" - won't this lay panel members open to charges of prejudicial conflict of interest? Why wasn't the main

criterion "knowledge of the grant giving process"? - it is, after all, up to the applicant to make a case for the award of a grant.

Reply

This was the criterion for selection set down by the Charity Commission in their Scheme made on 13 January 2011. The Constitution of the Grant Advisory Panel, agreed by Charity Committee on 29 March 2011, includes a paragraph on Conflict of Interest as follows:-

Conflict of interest

- a. If any member or a representative of a member present at a meeting has a private or personal financial interest, or his/her employer, partner, business associate, relative or close friend has such an interest in any matter to be considered at the meeting, he/she as soon as practicable after the start of the meeting shall disclose the fact to the meeting and withdraw during discussion and voting.
- b. Failure to abide by the rule in paragraph 8a., may result in action under paragraphs 5 e and f above.

Paragraph 5e and f make provision for expulsion from the Group.

20. Are the Chair and the other Trustees aware of the continuing environmental problems relating to noise from land owned by the Trust? The local topography means that any noise created on the Stade is essentially channelled up the valley of the Old Town and residents have for quite some time been disturbed by noise from both Flamingo Park and Stade Amusements. The Topscan ride in particular causes a lot of disturbance and many complaints have been made to the environmental department at HBC. Have the Trustees been informed by HBC of these ongoing problems?

Reply

The Environmental Health team receive a small number of complaints regarding noise from various activities in the area, typically noise from amusement rides or amusement machines. All are investigated and the appropriate action taken. The Topscan ride has been assessed and is not causing a noise nuisance so no action can be required. Mr Saunders-Rawlins is aware of this conclusion and the offer has been made for him to ask us to visit at a time when he can hear the machine, to date this offer has not been taken up.

The Head of Environmental Health states that he investigates complaints about noise under Environmental Protection Act nuisance provisions but would not consider approaching trustees/owners unless he substantiated a complaint about nuisance and was experiencing difficulty in securing the abatement of the nuisance.

21. We were assured that when events took place on the recently opened Stade open space that if any sound amplification were to take place, all speakers would be directed out to sea and away from the Old Town. This was not the case during the recent Pirate Day and the noise was considered by many to be excessive.

Reply

Whilst there is no requirement for speakers to point out to sea, there should not be excessive noise from events taking place on the Stade Open Space. It is accepted that the noise during the evening of Pirate Day was excessive, and HBC officers did intervene. The organiser accepted this and in fact, stopped the show to prevent the noise nuisance continuing. This will be monitored in future.

22. What is being done about the huge amount of unauthorised parking that takes place on Trust land? A short time ago the area to the north of the EHSAA building on the beach was enclosed with wooden piles and cables to create a private car park. It is now virtually impossible for residents and visitors to cross this space to access the beach. Similarly, the area between the Lifeboat Station and the EHSAA appears to have become a free-for-all parking area when at weekends in particular a great numbers of people choose to park there making access to the beach very difficult.

Reply

At the moment, there is still unregulated access onto the beach via the access road between the Fishmarket and the Jerwood Gallery. 'Blockers' (heavy duty barriers) are being installed on this road, and the access point to the east of the Fishmarket, next week; only bona fide fob holders will be able to gain access after that time. We share the concern of the former Trustees regarding unauthorised parking on Trust land and, once the works on the Stade are completed and the contractors away, we will take steps to deal with unauthorised parking on Foreshore Trust land.

23. We assume that the Foreshore Trust gave consent as landlords, and HBC as planning authority, for the various developments that have taken place on the Stade Amusments/Flamingo Park site. Consent was given for the south east corner of the boating lake to be in filled with the planning application as presented to HBC clearly showing an attractive finish to the site as well as three seating units making the area 'user-friendly' and a place where our visitors might sit and eat their picnics etc. There is still no sign of the decorative finish nor the seating. HBC's response is that as the work was done over four years ago it has become lawful development and they have no powers to insist that the

lessees do any further work in the area. Are the Trust happy with this situation? Also, the planting in the troughs in this area is pathetic, it is poorly maintained and an eyesore.

Reply

The members of Charity Committee have recently undertaken an inspection of the Stade Amusements/Flamingo Park site with HBC officers. Following this it has been agreed that the officers will meet with the tenant to discuss management of the site and this will include the issues raised here.

24. The previous Chair of the Trust asked the lessee of Stade Amusements/Flamingo Park to cease using the western perimeter of the site, (adjacent to the public path that passes between the pain part of the site and the Boating Lake), as a car park. It seems with his departure the lessee feels that it is very much 'business as usual' and on most days there are at least two cars parked on this area contrary to the previous Chair's request. Can the Trustees do something about this?

Reply

The members of Charity Committee have recently undertaken an inspection of the Stade Amusements/Flamingo Park site with HBC officers. Following this it has been agreed that the officers will meet with the tenant to discuss management of the site and this will include the issues raised here.

25. What was the cause of the delay in the provision of mains power to the Stade Improvement Site and installation of the electricity sub-station? When was it likely to be resolved and who was the responsible officer?

Reply

Legal difficulties mean that UK Power Networks, the electricity distributor, had not yet installed their substation. It had taken longer than expected to resolve but the Head of Communications and Marketing together with officers of the Legal Department were working hard to resolve the matter. The Council was currently having to pay over £10 000 per month in generator hire and diesel costs to run Stade Hall and the Stade café. Some of these costs would be recovered from the tenants, who would be expected to contribute what they would have paid had they bought their electricity through the mains network.

26. Does the Foreshore Trust have a responsibility to maintain the foreshore in its current position? A 99 year lease has been granted to the Stade Gallery and it cannot be known how the sea will behave over those years.

Reply

The Trust has a duty to maintain the foreshore for health and safety reasons. The land occupied by the Gallery is covered by a Shoreline Management plan to maintain the current level of defence for the 100 years. DEFRA had granted funds for works required as a result of climate change.

The Council has powers as a Coast Protection Authority to carry out coast protection works and the increased value of the land and assets are likely to improve our ability to apply for grant funding based on cost/benefit ratios.

27. Would the Foreshore Trust be responsible to hold the line of the foreshore to satisfy the lease requirements of the Gallery?

Reply

The Trust would not be responsible for leases granted by the Council. Any responsibility as neighbour for problems arising from forces of nature and coast protection would be a matter to be dealt with by law.

28. Was the Council or the Trust responsible for fencing off an area of lane to the North East of the East Hastings Angling Association premises and restricting public access across the site? Also how many vehicles were permitted to park in this area?

Reply

The decision to allow the demarcation of this area of land was jointly taken by the East Hastings Angling Association, the Hastings Fishermen's Protection Society, and Hastings Borough Council who were managing the land on behalf of the Foreshore Trust at the time of the installation of the fencing. The Foreshore Trust was informed. Pedestrian access had been maintained across the site. Vehicles permitted to park on the site are strictly administered by the Angling Association and are only allowed to do so if displaying a specific permit confirming that the member is at sea.

29. The payment to the Trust of £1.7 million by the Council will not last forever and the income to the Trust will be less in future. Will the income be sufficient to meet the requirement for maintenance?

Reply

25% of income in future years will be made available for payment of grants. The remainder would be available to cover maintenance liabilities if required and the Trust also retains a sufficiently large reserve to cover unexpected expenditure.