

Agenda Item No:

Report to: Charity Committee

Date of Meeting: 7 September 2011

Report Title: UPDATE ON FORESHORE TRUST BOUNDARY

Report By: Jayne Butters
Borough Solicitor

Purpose of Report

To keep the Committee up to date on the progress with registration of the Charity's land ownership.

Recommendation(s)

- 1. That the Committee notes progress with the application to register the Charity's land title at the Land Registry.**

Reasons for Recommendations

It is provided in the Charity Commission Scheme that the Council, as Trustee, uses its best endeavours to register the Charity's land title at the Land Registry and, therefore, it is important that the Committee receives updates until registration is achieved.

Introduction

1. The Charity Commission Scheme provides that the Trustee must use its best endeavours to register the Charity's land with the Land Registry. Once the land title is registered the Council must within 14 days must publish in a reasonably accessible way sufficient details of the Charity's land to enable member of the public to identify it.
2. The Scheme requirement follows on from the settlement of the second claim made by the former Trustees which requires that the two titles, ie of the Council and of the Charity, be separately registered. This application was commenced jointly between the former Trustees and the Council before the Scheme was made passing the Trusteeship to the Council. At that time the Charity and the Council were separately represented. It was accepted by both parties that it was not in the interests of the Charity to delay the Scheme until the land was registered at the Land Registry as it was anticipated that this might take some time.

The Boundary Plan

3. As anticipated the Land Registry have raised a number of issues. One important matter raised was the thickness of the line on the settlement plan and the Registry have refined the line and have requested further definition of the boundary line so that it accords with Ordnance Survey features.
4. It was agreed that it would be beneficial if such definition were such as to be able to identify on the ground where the ownership/responsibility of the Charity ends and where that of the Council begins. As this is a clear area of potential conflict of interest, David Powell FRICS, who advised the former Trustees and is a specialist in boundary demarcation and disputes, was instructed to represent the Charity in discussion with officers regarding where the line should be.
5. This work is ongoing. As the settlement boundary projected on to the ground represents a relatively wide area of land, it is possible to reach sensible, pragmatic decisions on where the boundary should actually be whilst staying within the settlement agreement terms. There has been some agreement though there are some important matters of principle still to be resolved. The exercise is worthwhile so that there will be greater clarity on ownership and entitlement to income as well as responsibility for maintenance and repair and public liability.
6. It is anticipated that final recommendations will come through to Charity Committee on behalf of the Charity and Cabinet on behalf of the Council for final agreement at the December meetings. In view of the conflict of interest for the Council, I am seeking independent legal advice for the Committee on the recommendations coming forward in December.
7. Once Cabinet and Charity Committee have approved a final plan, this can be submitted to the Land Registry for registration.

Wards Affected

Castle, Central St. Leonards, Old Hastings, West St. Leonards

Area(s) Affected

None

Policy Implications

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

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

Background Information

Charity Commission Scheme dated 13 January 2011

Officer to Contact

Jayne Butters, Borough Solicitor and Monitoring Officer
jbutters@hastings.gov.uk
01424 451733