

Agenda Item No:

Report to: Charity Committee

Date of Meeting: 10 December 2012

Report Title: Land at Marine Parade - Go Kart site

Report By: Peter Grace
Head of Finance

Purpose of Report

To seek approval to grant a lease.

Recommendation(s)

1. That Charity Committee agrees to grant a new lease of the site subject to any objections resulting from the legal process of public notification; and
2. That Charity Committee delegates to the Estates Manager in consultation with the Chair the authority to agree the final terms of the lease.

Reasons for Recommendations

An external Surveyor's report has been obtained which recommends proposed lease terms that are considered to be the best that can reasonably be obtained for the charity.

Background

1. The Go Kart site lease expires on 31 December 2012. Under the terms of the Landlord & Tenant Act the tenant is entitled to a new tenancy.

New Lease

2. A report, in compliance with the Charities Act, has been provided by GVA Grimley Ltd. This is confidential to the Trustees, and the Protector, as it contains recommendations in respect of the terms of the new lease, including the rent.
3. The report concludes that it is in the Charity's interest to enter into a new lease.

Coastal Users Group

4. Under the Scheme the Council must consult with the Coastal Users Group on:
 - 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 established policies, of any power under the Hastings Borough Council Act 1988 or otherwise to manage, let see or otherwise dispose of the charity's property.
5. The Trustees must have regard to the recommendations of the Coastal Users Group.
6. The minutes of the Coastal User's Group meeting held on 29 November will be available at the meeting

Monitoring Officer's Comments

7. There is strict regulation of the disposal of land and land interests of charities under Section 36 Charities Act 1993. The general provision is that there is to be no disposition of land held in trust without an order of the Charity Commission or the Court unless the provisions set out in the section are satisfied. For a commercial lease of more than 7 years the trustees:
 - Must obtain and consider on the proposed disposition views from a qualified surveyor instructed by the trustee and acting exclusively on behalf of the charity;
 - Advertise the proposed disposition for such period and in such manner as the surveyor recommends in the report, unless the surveyor has advised that it is not in the best interests of the charity to advertise it; and
 - Decide that it is satisfied, having considered the report, that the terms of the proposed disposition are the best that can reasonably be obtained for the charity.

8. The Act goes on to make special provision for what is described as "specie land", i.e. land held in trust for the charity where the objects provide that the land is to be used for the purposes or particular purposes of the charity as opposed to investment land. This area is such land, i.e. it is held on the trust to hold for the common use, benefit or enjoyment of Her Majesty's subjects and the public generally. By virtue of the Hastings Borough Council Act 1988 the permitted uses under the Trust for this specified area are extended to include "religious and cultural activities, entertainments, amusements, sports, leisure activities, illuminations, information, and the sale of refreshments and beach requisites".
9. The requirement in respect of any proposed disposition of specie land is that the proposal must first be advertised inviting representations to be made no less than one month from the date of the notice and the Trustee must take into consideration any representations made within that time.
10. When the legal notices are published if there are any objections these will be reported back to a future Charity Committee meeting to be considered.

Conclusion

11. It is proposed that the Council's Estates Manager proceeds to negotiate Heads of Terms for a new lease in accordance with the GVA Grimley report.

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Area(s) Affected

Central Hastings, East Hastings, North St. Leonards, South St. Leonards

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
Local People's Views	No

Background Information

None

Officer to Contact

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