

Agenda Item No: 9

Report to: Charity Committee

Date of Meeting: 9 December 2013

Report Title: Commercial Sites - Update on Additional Facilities and Activities on Hastings & St Leonards Seafront

Report By: Virginia Gilbert
Head of Amenities, Resorts and Leisure

Purpose of Report

To update the Charity Committee report of December 2012 and recommend further action for the sites on Foreshore Trust land

Recommendation(s)

- 1. That the listed Foreshore Trust sites are marketed where legally permissible and commercially viable, subject to advice from HBC Environmental Health and Planning Departments.**
- 2. For the platform area adjacent to the Bathing Pool site (site 18), that this site is removed from commercial consideration.**
- 3. For potential uses of land at Pelham Beach (site 5), the feasibility and cost of extending the Hastings Act 1988 is explored and the Charity Commission is approached to seek approval for the granting of a commercial licence.**

Reasons for Recommendations

A report to the Charity Committee in December 2012 described the demand and gaps in provision for certain facilities and activities on both Foreshore Trust and Hastings Borough Council land and property.

It recommended that further legal advice was sought to clarify the position with the Hastings Borough Council Act 1988 and this has now been given.

Introduction

1. A report to the Charity Committee in December 2012 described the gaps in service provision, regular enquiries, commercial enquiries and widespread support for developing additional facilities and activities for users of the seafront and foreshore.
2. It recommended that specific legal advice was sought by the Council's Chief Legal Officer to clarify options for the use of particular Foreshore Trust owned sites within the conditions of the Hastings Borough Council Act 1988.

Legal Position

3. The land in question is held in the first place for use in specie for the charitable purposes specified in the conveyance of 8 September 1893. This means that the use of the land is likely to be interpreted within the meaning of the original purpose within that conveyance, "for the common benefit and enjoyment of all Her Majesty's subjects and of the public"
4. Our legal advice has interpreted that as meaning using the land as a place of resort for air and exercise and other forms of recreation or other leisure time or the public at large and also for official and unofficial activities related to the sea including the making of reasonable provision for the health and safety of the public.
5. The objects of the charity were extended by the Charity Commission Scheme dated 13 January 2011 as follows, " the furtherance of such other charitable purposes within the Borough of Hastings as the Trustee thinks fit". Previous correspondence with the Charity Commission indicate that they interpret that clause solely to the use of the land and not to income derived from letting of otherwise disposing of it.
6. The Council want to regenerate the area of Foreshore but legal advice has always been that the land outside of the Hastings Borough Council Act 1988 does not meet with the Charity's objects if it benefits another legal entity financially on a commercial basis.
7. In order to attempt to do so in respect of specific land there would have to be good reason to do so ie. that the land in question does not fit with the objects of the Trust. It would be necessary to undertake consultation and also request the permission of the Charity Commission. The Charity Commission's current strategy is to confine its activities largely to its regulatory role and not to offer advice to individual activities.
8. Legal advice suggested swapping land from that of the Trust with Hastings Borough Council's land. That would also need the permission of the Charity Commission. The only other alternative that was mooted by Legal Services was the possible amendment of the Hastings Borough Council Act 1988 to include some of the Trust Land. Land within the remit of that Act is allowed to be used in a far less prescriptive way. It is likely that undertaking this exercise would be expensive, time

consuming and would need to involve the Charity Commission. However, more investigative work could be undertaken in pursuing any of these options.

9. In summary there are four potential options for Foreshore Trust owned land that is outside of the Hastings Borough Council Act 1988.

(1) For the Foreshore Trust through Hastings Borough Council to directly provide the service, activity or facility

(2) For other local charities to provide the service, activity or facility under licence

(3) To seek prior Charity Commission consent/approval for a licence to be granted to a commercial body based on evidence to support that the proposal is reasonably in keeping with existing activities, affordable and provides a facility which is open to the public and that there is no more pressing charitable demand.

(4) To seek an amendment of the Hastings Borough Council Act 1988 to include additional Trust Land.

10. In relation to the specific Foreshore Trust owned sites the following course of action is recommended

Site 5 - That option 3 and 4 are pursued with the costs and practicalities of an amendment to the Hastings Act being identified and that initial dialogue is had with the Charity Commission to seek their support in principle for consent/approval being given where evidence is made to support this.

Site 18 - We have taken into account the existing agreement to lease the larger former Bathing Pool site for the Lido proposal and ongoing development of this project. It is recommended that the identical but HBC owned platform directly west is marketed as an alternative for short term opportunities until we are clear on future of the larger site and the outcome of options explored for site 5.

Update on individual sites

Site No.	Details	Owner	Progress
1	Rock a Nore Car Park (east) – potential position for a catering vehicle or kiosk adjacent to the Southern Water Pumping Station Building.	HBC	The site has been publicly advertised and expressions of interest invited. Planning permission would not be required for a vehicle.
2	Rear of the Boating Lake, strip of land between the Go Karts and East Hastings Sea Angling Association compound - potential site for beach	FT	Increased interest and value given the proposal to enhance the Boating Lake area. Planning permission would be required for a new building.

	concessions, equipment hire, catering		
3	Land Adjacent to existing kiosks between Adventure Golf Kiosks and Hastings & St Leonards Angling Club - for the provision of additional kiosks (to be provided and operated by the Adventure Golf company)	FT	No further action required from HBC/CC as the land is leased and operated by Adventure Golf.
4	Land at Pelham Beach (west of the Lifeguard Station) - for use by concessions to provide beach facilities (e.g. kayak hire, bicycle hire, beach goods). There is a possibility that bespoke kiosks could also be provided.	FT	Under present restrictions, the Foreshore Trust, through the HBC seasonal lifeguard service, could consider operation of additional hire facilities itself. Careful investigation of the business case and other implications of running a commercial operation will be required before this can be considered further. There is a possibility of external funding for cycle hire, for example, through one of the proposed FLAG projects.
5	Land at Pelham Beach - potential new building to house Lifeguards/Beach Office/Miniature Railway Station/Catering	FT	Explore the potential for either varying the extent of the Hastings Act or prior consent from the Charity Commission to allow a commercial licence.
6	White Rock Baths - promenade level entrance building, wells and surrounding areas. Various potential uses	FT	The promenade level building is currently being refurbished and has agreed to be let to Hastings Pier Charity. Other parts of the building are the subject of a current feasibility study and potential proposal.
7	Bottle Alley - potential for use of existing kiosks spaces within lower level or development of kiosks and trading areas on the upper level for various uses.	HBC	Existing kiosks on the lower level are not considered suitable for letting. The upper level will be publicly advertised for expressions of interest for potential catering kiosk locations, subject to necessary planning consent.
8	Warrior Square, unused former W.C. and platform above - potential for various uses	HBC	Now trading successfully as a cafe
9	Warrior Square, unused former Beach Office - potential for various uses	HBC	The building has been actively marketed and a number of expressions of interest received. These are currently being evaluated and it is hoped the building will be operational by spring 2015
10	Warrior Square - West Store,	HBC	Removed as operationally required

11	former Angling Club has potential for various uses. Warrior Square - beach decking to support potential refreshment providers Wet Store	FT	by HBC following withdrawal from Bulverhythe yard Estimates have been obtained and planning advice sought. Will review the benefits to support any proposals for the former Beach Office
12	Promenade, opposite Marine Court - potential area suggested for markets	HBC	Regeneration have been promoting this space as a potential site.
13	Marina, area adjacent to car park current licence for Ice Creams.	HBC	Licence granted from 1 April 2013 until 31 October 2015
14	Marina, lower promenade - proposal to site 10 seasonal beach chalets for short term letting	FT	Included in the 2013-14 Foreshore Trust Business Plan. Expected availability Easter 2014
15	Sea Road - one of two potential sites suggested for catering kiosks	HBC	A well developed proposal has been actively supported. Further advice from Env. Health & costings for providing electricity, water and drainage are needed
16	Sea Road - second of two potential sites suggested for catering kiosks	HBC	Awaiting outcome of site 15
17	Sea Road - current licence for Ice Creams	HBC	Licence granted from 1 April 2013 until 31 October 2015
18	Sea Road, platform adjoining site of former Bathing Pool - potential for catering kiosk	FT	Based on legal advice obtained it is recommended that the similar HBC platform directly west of this site is marketed instead.
19	Former Bathing Poll site - potential for various short term uses	HBC	Subject of current planning consent and lease agreed in principle.
20	Hastings to Bexhill, pedestrian and cycle link. Potential site for catering/cycle hire	HBC/FT	It is unlikely that there is sufficient demand at present, a specific site could be advertised to test the for interest

Planning

- General planning advice and likely conditions was given on all of the sites following a tour with planning officers, and specific advice has also been given on proposals for sites 9, 16 & 17.
- To try and assist potential both potential operators and the planning process we have also obtained some examples of the type of kiosk design that may be acceptable within conservation areas.

Recommendations

13. That the listed Foreshore Trust sites are marketed where legally permissible and commercially viable, subject to advice from HBC Environmental Health and Planning Departments.
14. For the platform area adjacent to the Bathing Pool site (site 18), that this site is removed from commercial consideration.
15. For potential uses of land at Pelham Beach (site 5), that the feasibility and cost of extending the Hastings Act 1988 is explored and the Charity Commission is approached to seek approval for the granting of a commercial licence.

Wards Affected

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

Area(s) Affected

Central Hastings, East Hastings, 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	Yes
Human Rights Act	No
Organisational Consequences	Yes
Local People's Views	Yes

Background Information

sites map

Officer to Contact

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