

# HASTINGS AND ST LEONARDS FORESHORE CHARITABLE TRUST

## PUBLIC CONSULTATION ABOUT TRUST LAND AT THE STADE

15 January 2010

1. This document launches the trustees' public consultation about proposals in relation to land owned by the Hastings and St Leonards Foreshore Charitable Trust ("the Trust") at and around the Stade at Hastings. The key elements of the proposals are:

- (i) the creation of a quality public open space on and around the site of the current coach and lorry park and Fishmarket car park;
- (ii) the upgrading and relocation of certain facilities, including public lavatories and a community centre, on the site of the current Fishmarket car park; and
- (iii) the exchange of a small parcel of Trust land, which Hastings Borough Council ("the Council") wishes to acquire for an art gallery, for a portion of Pelham Place car park which is owned by the Council.

2. The Trust is a registered charity which owns land in and around the foreshore at Hastings for charitable purposes, being '*the common use benefit and enjoyment of all Her Majesty's subjects and of the public for the time being forever*'. The Trust's land is, therefore, specie land (or designated land) meaning that it is land held by the Trust in furtherance of its charitable purposes.

3. The disposal of specie land is regulated by sections 36 and 37 of the Charities Act 1993, which includes a requirement (section 36(6) of the Charities Act 1993) to give public notice of the disposal of specie land and consider representations made in relation to the proposed disposition. As mentioned above, it is intended that a small parcel of Trust land be disposed of, in return for a portion of Pelham Place car park. This aspect of the consultation is, therefore, made in accordance with section 36(6) of the Charities Act 1993. Details about the land exchange are set out at paragraphs 23 -30 of this document.

4. The consultation is launched on 15 January 2010 and will close at 5.30 p.m. on 16 February 2010. The trustees will meet to consider the results of the consultation shortly after the closing date.

5. Responses to this consultation may be made by email to [stade@marriages.me.uk](mailto:stade@marriages.me.uk) or by post to the Trust's legal adviser, Neasa Coen, at Berwin Leighton Paisner LLP, Adelaide House, London Bridge, London EC4R 9HA. Email enquiries can also be made to [stade@marriages.me.uk](mailto:stade@marriages.me.uk). Responses which are received after 5.30 p.m. on 16 February 2010 will not be considered.

6. Background information about the Trust can be found on the Charity Commission's website and at [www.marriages.me.uk/hughhtml/hastings.htm](http://www.marriages.me.uk/hughhtml/hastings.htm). This document should be read in conjunction with the documents produced by the Council in connection with the proposals. These documents, including a plan of the proposed new site, are available from the Council. The planning approval references for the site are HS/FA/09/00576 and HS/FA/09/00577.

### **The proposals**

7. As is well known, the Council, in conjunction with the regional development agency, SEEDA, and East Sussex County Council has been developing ambitious plans for the development of the Stade and these proposals have already been the subject of much discussion and consultation in the town.

8. The Council has secured, through the Government's Sea Change programme, SEEDA and the County Council, over £3m to upgrade the Trust's land, create this open space and provide additional facilities on it, together with necessary services and access. This represents a very significant investment in the Trust's land.

9. Since some of the land involved in this development is owned by the Trust, before the proposals can proceed, the trustees are consulting publicly about the plans. This consultation will assist them to ascertain whether the proposals, if brought into effect, would be to the benefit of the Trust and its beneficiaries.

### **Creation of a public open space on the site of the coach and lorry park**

10. The main element of Trust land which is the subject of the proposed development is the area which is currently used as a coach and lorry park and the Fishmarket car park. Car parking is permitted on the Trust land as an ancillary purpose under the Hastings Borough Council Act 1988 but it does not represent a primary charitable purpose.

11. It is proposed that this land should once again become an open space, architect-designed to a high quality, freely available to the public, providing a wider and more accessible route to the beach and with some infrastructure (like hard surface and electricity points) to support festivals and activities. The Council currently expects that there will be about nine festivals or similar events on the open space each year. The open space will be about 1.75 acres in all, of which just under one acre is owned by the Trust.

12. All this is in line with the practice of using the coach and lorry park for events like the Seafood and Wine Festival and the Classic Car show, which the trustees have allowed without charge since 2006. It is the view of the trustees that restoring this land as permanent public open space in conjunction with the development of the Stade is completely in line with the charitable objects of the Trust. This is because the Trust's objects envisage the use of the land by the public and the proposed high-quality open space which will be developed will allow the public to enjoy the land again. The work to develop the area which is currently used as a coach and lorry park and the Fishmarket car park will cost about £1.6m which will come out of public funds, at no cost to the Trust.

13. The trustees have noted that the Council is proposing to build a café to serve the new open space, but this will be situated entirely on Council land and does not affect the Trust land.

### **Upgrading and relocation of public facilities**

14. The development of the Stade also involves demolishing one building on Trust land and providing a modern replacement. The existing building which houses the public lavatories and, formerly, the police station and tourist office, has come to the end of its life and urgently needs replacement. It is proposed that this will be demolished and replaced by a building on the site of the current Fishmarket car park that will provide new public lavatories in line with modern standards. Although this is largely a like-for-like replacement, the disabled facilities will be significantly better. The new building will be owned by the Trust, but will be procured at no cost to the Trust. It is the trustees' view that this essential work is very much in the interests of the Trust and its beneficiaries.

15. The new building can be used in support of outdoor events on the open space. It will also house two new facilities. First, it is proposed that there will be a community hall for general public use by local community groups. This will be run by a not-for-profit management committee made up of local community representatives, under the auspices of Hastings Voluntary Action.

16. Hastings Voluntary Action is the Council for Voluntary Service for Hastings and St Leonards and has operated in the town in one form or another for 100 years or more. The trustees welcome the link which these new facilities will give between the Trust and Hastings Voluntary Action.

17. Secondly, it is proposed that the building will house a training kitchen for fishmongers and other persons working in the fishing industry. This idea came from members of the local community at an early consultation session and has been enthusiastically received, notably by Billingsgate Seafood Training School which, like the Trust, is a registered charity. The training kitchen will be managed under the arrangements agreed for the building as a whole by the management committee, under the auspices of Hastings Voluntary Action. The management arrangements for

the community hall, training kitchen and open space have been the subject of considerable work by Hastings Voluntary Action.

18. The Trust has close links with the fishing industry in Hastings as the fleet (one of the few in the UK which is recognised for its sustainable methods of fishing by the Marine Stewardship Council) which is the largest beach-based fishing fleet in Europe, launches from the Trust's beach. It is obviously important for the future of fishing in Hastings for the town to be able to develop the full range of skills associated with fishing and the trustees welcome this link with another charity. The arrangements under which the various parties will occupy the building have not been agreed, but the trustees will ensure that they comply with the requirements of charity law, so far as the Trust is concerned.

19. Also included in the plans is a proposal to upgrade the East Hastings Angling Society's building, which is owned by the Trust, including the provision of a lift to make the first floor fully accessible. The cost of the new buildings and the improvements to the East Hastings Sea Angling Association together come also to about £1.6m, but again at no cost to the Trust.

20. At first sight it looks as if the Trust stands to lose about £100,000 of revenue annually from the change in use of the coach and lorry park and the Fishmarket car park. The trustees are aware of their duty to protect the Trust's income and they have therefore considered this issue carefully on the basis of data provided by the Council in relation to car parking. That said, the trustees could decide to forego income if a charitable purpose would be fulfilled, provided that the loss of income did not hinder the Trust's future operation, place it in a financially precarious position or increase risk in any other way. On the basis of information provided to date, it would appear that:

- at least some of the car parking occupancy will shift to the Trust's other car parks (being Pelham Place car park and Rock-a-Nore car park which are located within walking distance of the current site) where the trustees understand that there is generally spare capacity: the Trust is, after all, a major provider of parking in Hastings.
- principally through its car parks, the Trust stands to benefit from increased visitor numbers, festivals and events. Many of these visitors are likely to come from outside Hastings (and, therefore, use car parking facilities).
- there will doubtless be efficiency and cost savings in maintaining and operating a smaller number of car parks at higher capacity.

21. The trustees are also of the view that:

- the Trust's beneficiaries will benefit from the upgrading of public lavatories, the community hall and the creation and upgrading of the open space.

- the value of the Trust's land is likely to be increased as a result of the construction of the community facilities building on it
- even if, assuming a worst-case scenario, the Trust lost £100,000 of income per annum, the trustees are of the view that this would not have an adverse impact on the Trust's financial position, now or in the future.

22. All these proposals for the Stade open space seem to the trustees to be very much in the interest of the Trust and its beneficiaries. These proposals should create a high-quality and extremely pleasant public open space on the foreshore, absolutely in line with the Trust's objects to make the foreshore accessible to the public.

### **An exchange of land with Hastings Borough Council**

23. Besides the coach and lorry park and the Fishmarket car park, the Trust owns the greater part of Pelham Place and nearly all of Rock-a-Nore car parks. In the summer of 2009 the Trust approached the Council with a proposal to purchase the most northerly part of Pelham Place car park so that the Trust would then own the whole of that car park. This would remove the possibility of a dispute between the Trust and the Council about apportioning revenues and costs. The Council responded favourably and arrangements were made to obtain a valuation of that land, in accordance with the requirements of the charity law.

24. However, alongside this, the Council was developing proposals with the Jerwood Foundation to build an art gallery on council land on the Stade. A small part of this gallery would fall on Trust land and, following the refusal by the Charity Commission to allow the Trust to lease this parcel of land for the proposed Jerwood Gallery, the Council asked the Trust to accept their land at Pelham Place car park in exchange for this small parcel of land for the gallery.

25. Accordingly, the trustees obtained valuations both for the portion of Pelham Place car park and the parcel of land for the gallery. A plan of each parcel of land is set out at Appendix I to this document. The gallery parcel is currently used as part of the coach and lorry park and was valued at £100,000. The portion of land at Pelham Place car park was valued at £95,000. The Council has offered to agree the exchange. The Council is content to swap the land and pay a further sum of £5,000 (to make up the difference between the valuations and achieve an equality of exchange) and a sum of £10,000 which would put it beyond doubt that the exchange is to the benefit of the Trust.

26. The trustees have always made it clear that they very much favour the Jerwood gallery proposal and consider this to be greatly in the interest of the people of Hastings. But the opinion of the Charity Commission is that the trustees must not give any weight to this in assessing whether the exchange of land is, or is not, to the benefit of the Trust and nor do they do so. As it is proposed that no part of the Jerwood Gallery will now be on Trust land, any considerations about the gallery are

irrelevant to the Trust and cannot be taken into account either by the trustees or consultees. Whether the land exchange is in the interests of the Trust and its beneficiaries must be decided solely on the terms of the exchange itself.

27. The trustees have looked at this proposed exchange and weighed it carefully. The Trust would be relinquishing 0.08 hectares of land used as coach and lorry park to the Council in return for about 30 car parking spaces at Pelham Place; it would receive a £10,000 premium; and the additional land at Pelham Place would provide approximately £10,000 pa of additional income to the Trust. Solely on the basis of this calculation, the trustees consider that this land exchange would clearly benefit the Trust.

28. In addition, the Trust obtains further benefit because the land exchange consolidates ownership of Pelham Place car park such that it would be held solely by the Trust. As well as easing administration (in that following the land exchange it will no longer be necessary to apportion income from Pelham Place car park between the Trust and the Council), the commercial value of the site is likely to increase. Moreover, both the land to be transferred away and the land to be received are used for parking and as a result specie land is being exchanged for land which is to be used for the same purpose. Because the Trust's land is specie land, this is an issue on which the trustees must seek and consider the views of the public through consultation before proceeding.

29. If the exchange of land outlined above is to proceed, it will be necessary to approach the Charity Commission for an order authorising the exchange (under section 36(1) of the Charities Act 1993). An order will be needed because the Council is custodian trustee of the Trust and is therefore connected with the Trust under charity law.

30. There will be a need for a new electricity sub-station for the Stade. One proposal is for this to be on Trust land immediately to the east of the proposed art gallery. The trustees are taking legal advice on issues relating to the sub-station so have excluded the sub-station proposal from this consultation.

## **Conclusion**

31. The proposals for the Stade represent probably the first systematic development of the area. At the moment, the Trust's land at the Stade and the area around it is home to boats and the fishing fleet; the RNLI's lifeboat house; the funfair with its boating lake and high rides; and a number of amusements, like Arnold Palmer golf, the miniature railway, the Go-Kart track, an amusement arcade and extensive car parks.

32. The conversion of parking for coaches and lorries, and some cars, into the proposed Stade open space with its new public facilities is a major upgrade – indeed, if it were in place today there would be public outcry if someone were to suggest

that the open space should be closed off to the public and used as a coach and lorry park. That is why the trustees unhesitatingly commend these proposals.

33. The trustees would be grateful for any views, comments or representations on the benefit to the Trust and its beneficiaries arising from the proposals set out in this document (to include the proposals relating to the land exchange) either by email to [stade@marriages.me.uk](mailto:stade@marriages.me.uk) or post to the Trust's legal adviser, Neasa Coen, at Berwin Leighton Paisner LLP, Adelaide House, London Bridge, London EC4R 9HA before 5.30 p.m. on 16 February 2010.

Approved by the board of trustees and signed on its behalf by:

Chair:

A handwritten signature in black ink, appearing to read "Hugh Marriage". The signature is written in a cursive style and is slightly tilted to the right.

Hugh Marriage OBE

Date: 15 January 2010

## Appendix I

### Plan of land to be transferred from the Trust to the Council

The land in question is indicated in solid black.



### Plan of land to be received by the Trust from the Council

The land in question is indicated in solid black.

