

CULTURE, RECREATION & TOURISM CABINET MEMBER MEETING

Agenda Item 59

Brighton & Hove City
Council

Subject:	Seafront Lettings Policy		
Date of Meeting:	22nd March 2011		
Report of:	<i>Strategic Director of Communities</i>		
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Key Decision:	Yes	CRT 20949	
Wards Affected:	Seafront Wards		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Council is the freehold owner of most of the land and properties all along the seafront from Hove to Saltdean. Therefore, the council has the opportunity to enable a range of different uses to take place along the seafront for the benefit of residents and visitors.
- 1.2 This policy is intended as a framework for officers to manage the numerous requests for leases and licences from operators for the seafront. The management of the seafront property portfolio will be further informed by the emerging Seafront Strategy which will be the subject of member consultation and a future report.

2. RECOMMENDATIONS:

- (1) That the Cabinet Member for Culture, Recreation and Tourism approves the policy for the lettings of licences and leases on the seafront.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The seafront is a prime asset for the city and it is very important that a balance of uses is allowed on the seafront to enable the economic impact of the city to be maximised.

- 3.2 Furthermore there is a requirement under section 123 of the Local Government Action 1972 that a Local Authority is legally required to achieve best value when letting a property for a term of 7 years or more, unless it can show that the amount foregone is within the terms of the General Consent. The council owns over 200 properties on the seafront and it is important that where appropriate the commercial return on a property is maximised, e.g. bars and nightclubs, whilst for other opportunities the commercial return may be less of an issue e.g. use of arches by artists, when the wider seafront offer is being developed as an attraction for local people and visitors.
- 3.3 Properties and areas of land are either leased or licensed to an operator. The simple difference between these two forms of agreement is that a lease grants exclusive possession of a property for the duration of the lease, whereas a licence does not grant exclusive possession and is often more temporary or subject to break clauses exercisable at short notice.
- 3.4 Due to the popularity of the city's seafront it is not surprising that there is considerable demand for use of properties and areas of land on the seafront. The following policy is therefore proposed:
- 3.4.1 Vacant Properties
It is proposed to advertise and tender all vacant properties giving clear indication of user clause, security of tenure and length of term. Applicants will be asked to provide detailed proposals and business plans. The best operator will be sought, not necessarily the highest bidder. Where appropriate interviews will be undertaken.
- 3.4.2 Vacant Sites (Permanent)
It is proposed to advertise and tender all major sites such as Peter Pans. A brief will be provided identifying the type of operation required. Applicants will be asked to provide detailed proposals and business plans. The best operator will be sought, not necessarily the highest bidder. Where appropriate interviews will be undertaken.
- 3.4.3 Temporary Licences (i.e. up to 1 year)
Catering or Retail
If a site becomes available and is considered appropriate for a catering or retail concession it is proposed to tender these licences as there is a proven track record on the seafront of profitability and an established market.
- 3.4.4 Temporary Licences (i.e. up to 1 year)
New Creative Leisure/Attraction
If approached by an operator with a new creative idea it is proposed to not necessarily tender the licence unless we are aware of similar operators. There is a higher element of risk and degree of entrepreneurism associated with these types of operation and comfort needs to be given to operators that their ideas will not necessarily be put out to the market. The intention is to take advantage of new innovations and be in a position to act quickly, ensuring new opportunities are not missed and to become a prime location for product launches.

3.4.5 Renewals

Where a lease or licence is outside the terms of Part 2 of the Landlord and Tenant Act 1954, the council has the unfettered right to decide whether to renew or not renew at the end of the term. The proposal is to base that decision on the grounds of good track record, established goodwill in the location and amount of financial investment. Where a lease is within the Act the council must comply with the terms of the Act when considering whether or not to renew the lease, as explained in the legal implications in section 5 of this report. Each renewal is to be considered on an individual basis in relation to the particular property. Decisions on lease or licence renewals will be carried out in consultation with the Cabinet Member. Where a lease/licence is not renewed or comes back to the council through any other process it will be advertised and tendered.

3.4.6 Approaches by Operators/Developers

It is proposed to highlight new approaches from operators, forthcoming lease renewals, vacant properties, vacant sites and concessions in regular consultation with the Cabinet Member.

3.4.7 Use of Agents

It is proposed not to go to tender on agent work as generally minimal fees are involved but it is proposed to use a variety of local commercial agents. A tender process will however be undertaken if a property or site is of a particular size (i.e. rent over £10,000) or specialist nature which warrants a particular level of expertise.

3.5 The following licences have been granted for concession for the 2011 season:

Ice Cream Concession at Black Rock
Bungee at the Albion Groyne
Play area on Old Pentanque west of West Pier
Play area at Kings Alfred playground

3.6 The Peter Pans site in Madeira Drive will shortly be marketed for a family leisure facility/attraction for use over the 2011 summer period. The site can then be marketed for a permanent attraction to complement the other leisure developments in the area e.g. Yellowwave and Adventure Golf.

3.7 The management of the seafront property portfolio will be informed by the emerging Seafront Strategy and the asset management strategy for the council.

4. **CONSULTATION**

4.1 Consultation has taken place with the council's Estates team.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no direct financial implications arising from the recommendations in this report. The income budget for the seafront properties is in the region of £1m and any costs incurred will be met from existing resources.

Finance Officer Consulted: Michelle Herrington Date: 24.02.11

5.2 Legal Implications:

5.2.1 Paragraph 3.2 of this report refers to s123 Local Government Act 1972 and the General Consent. The General Disposal Consent 2003 permits the council to dispose at less than best consideration, where (a) it considers that the disposal will promote or improve economic, social or environmental well-being and (b) the difference between market value and the consideration received does not exceed £2Million.

5.2.2 Paragraph 3.4.5 of this report refers to Part 2 of the Landlord and Tenant Act 1954. That Act affords security of tenure to commercial tenants in certain circumstances and restricts the council's position when it is time to consider whether or not leases within the Act should be renewed. It is usually possible to get leased premises back at the end of the term where they are required for council purposes or for redevelopment. It is often the case that break clauses are secured within leases and in order for such clauses to be effective the act has to be disappplied and contracted out.

Lawyer Consulted: Bob Bruce Date: 22.02.11

5.3 Equalities Implications:

The aim of the policy is to give potential operators a clear framework in which their business offer will be considered.

5.4 Sustainability Implications:

The sustainability of businesses on the seafront is very important to the city's economy and therefore it is very important that the council is able to achieve a balance of maximising a return from its assets while enabling businesses to be viable.

5.5 Crime & Disorder Implications:

There are no direct crime and disorder implications.

5.6 Risk and Opportunity Management Implications:

The policy is intended to balance the risk involved in a lease or licence for the council with a return on an asset.

5.7 Corporate / Citywide Implications:

The seafront is a prime economic asset for the city.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 The options for leases and licences are indicated in the report.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 To provide a policy for officers to consider requests for leases and licences on the seafront.

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents In Members' Rooms

1. None

Background Documents

1. None

