

<b>Body:</b>	<b>Cabinet</b>
<b>Date:</b>	<b>3 February 2016</b>
<b>Subject:</b>	<b>Coastal Communities Fund</b>
<b>Report of:</b>	<b>Phillip Evans, Senior Head of Tourism and Enterprise.</b>
<b>Ward(s)</b>	All
<b>Purpose</b>	This report updates members on progress of CCF projects and a proposal for the café in Princes Park.
<b>Decision Type:</b>	Key decision.
<b>Recommendation</b>	Cabinet is recommended to: <ul style="list-style-type: none"> <li>1. Note progress of Coastal Communities Funded capital and revenue projects.</li> <li>2. Agree a waiver of the Financial Procedure Rules to allow the award of a ten year lease to the University of Brighton for the café in Princes Park without a competitive process.</li> <li>3. Delegate authority to the Senior Head of Tourism and Enterprise and in consultation with the Cabinet portfolio holder for Tourism to take all necessary steps to complete the lease arrangements with the University of Brighton.</li> </ul>
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## **1.0 Background/Introduction**

1.1 Eastbourne Borough Council was granted £1.83m Coastal Communities Funds in February 2015 following a successful bid. The key criteria for receipt of the funding are to create 118 jobs (direct and indirect), through a mixed portfolio of capital and revenue projects, and to spend all funds by December 2016.

## **2.0 Project progress**

2.1 Delivery of projects started in March 2015 and all projects are at various stages. Our revenue partners; Towner Gallery, TechResort and Building Partnerships each have clearly defined targets/outcomes for jobs created, cash flow, individual projects, training and skills.

2.2 Recruitment of key posts within HEDP and our partners is complete, progress against key outcomes is monitored regularly and support given where appropriate. Partners are generally on track to deliver their key

outcomes, they will achieve them all by December 2016, and all grant monies will be spent.

- 2.3 The improvements to the upper facades in Seaside Road were the first capital project to be successfully completed in October 2015. Of the two commercial units being re-furbished, work is due to start on one in February and we are on site in the second. Both will be complete by the summer.
- 2.4 Sea Houses Square improvements to the plaza will commence in February 2016. They will include new lighting, hard and soft landscaping and a mosaic designed by the community.
- 2.5 Internal audit have reviewed two projects; one capital and one revenue to ensure we meet the funders requirements. Assurance was obtained from the audit which allowed the DCLG declaration to be signed and a report will be issued soon.

### **3.0 Princes Park**

- 3.1 Over £900,000 of the CCF funds will be used to improve Princes Park in key areas; a new main entrance linked to the promenade by a new zebra crossing, a new central plaza will lead visitors from the new entrance to the café, which will be completely refurbished including new decking overlooking the lake.

### **4.0 Café**

- 4.1 The refurbishment of the café is one of the main projects for CCF. We have full planning approval for the work, been out to tender based on an original budget of £395k. Works are scheduled to start in February 2016.
- 4.2 An option for the refurbished café would be to seek a new arrangement with Pistachios. Given the CCF investment into the café we would expect a higher rent than currently achieved. However, we would not achieve the added value benefits detailed later in this report. Alternatively a new tenant could be identified.
- 4.3 Pistachios in the Park have been the lessee of the café since 2012 on a modest rent which reflected the fabric of the building at the time; their lease was due to end in June 2017. We have been in regular contact with Pistachios; pre and post CCF bid, particularly about closure of the café during the refurbishment.
- 4.4 The discussions have remained positive and Pistachios are keen to work in partnership with EBC on other similar outlets in the future. Pistachios decided to legally surrender their lease on 22 December 2015. They have agreed to a joint press release with the owner of Pistachios stating 'Pistachios have enjoyed working in partnership with the council, the investment in the park and refurbishment of the café will secure the long term future of this much loved park'.
- 4.5 Therefore, we now have full vacant possession of the café prior to commencing works.

## **5.0 University of Brighton**

- 5.1 As part of a wider strategic discussion on the future role of the university in Eastbourne, they have provided a detailed written proposal for the use of the café as both an operating outlet and as a training venue for students and local people. This will support their main faculty of Tourism and Leisure.
- 5.2 The surrender of their lease by Pistachios has enabled these discussions to go to the next stage. Without the surrender the university would not have considered investing in the café due to the risk of Pistachios re-occupying the café once works were completed.
- 5.3 Heads of terms for the university's lease have been agreed in principle; 10 years lease at a market valuation rent, three years rent free period, reflecting their capital investment of circa £280K.
- 5.4 We have reviewed the University's key requirements for the café; they can all be accommodated in our planned works with minimal contract variations to cover areas of overlap. The University will separately procure and contract manage the fit out works e.g. new kitchen, seating etc which will be overseen by ourselves.

## **6.0 Legal advice**

### *6.1 Contract Procedure Rules.*

The proposed arrangements will not create a works or services contract with the University and the Contract Procedure Rules will therefore not be engaged. This is because the Council is not seeking to impose any legally enforceable obligations on the University in relation to the provision of works or services.

### *6.2 Disposal of land.*

Subject to certain conditions, the Council has the power to dispose of its land in any manner it wishes and receive consideration for its land under Section 123 of the Local Government Act 1972. Disposal in this context includes granting a lease.

The Secretary of State's consent is needed if the Council receives less than the "best consideration that can reasonably be obtained" other than when granting a short tenancy. The Council is under a duty to achieve a particular outcome (best price reasonably obtainable) and not a duty to conduct a particular process. Therefore, it is possible to meet this requirement via an external market valuation and it is not necessary to go through an open tender process.

We will obtain a commercial rental valuation as the basis for the lease rental prior to completion to meet this requirement

### *6.3 Financial Procedure Rules (FPR's).*

The Council's Financial Procedure Rules also require that normally

disposal of assets should be by way of competitive process or auction unless following consultation with the Finance Director, Cabinet agrees otherwise. As a general principle, Cabinet should only agree to waive these requirements if there are good and objectively demonstrable grounds for doing so.

In deciding to waive any requirement, Cabinet should have regard to its general fiduciary duty to its wider taxpayers and the duty to achieve best value from its procurement arrangements.

#### 6.4 *Waiver from FPR's.*

The proposal offers some distinct advantages to the Council, fits with the overall regeneration ambitions being delivered through DDF and justifies a waiver from the Financial Procedure Rules because it:

1. Represents a commitment to a continued offer in the Town by the university at a time of overall strategic review and potential change.
2. Enhances the opportunities and offer for students living in the town.
3. Will create both an attractive café offer alongside training and job opportunities for students and local people.
4. Secures significant additional capital investment into the café and will help make sure we can deliver the highest possible quality new facility.
5. Coupled with the long term commitment of the university we will secure best consideration via a commercial rent valuation.

### **7.0 Consultation**

7.1 Consultation with the Finance Director and CMT has been ongoing. Member consultation has taken place at the Strategic Property Board and with local ward members via the Driving Devonshire Forward steering group.

### **8.0 Recommendation**

8.1 Cabinet is recommended to:

1. Note progress of Coastal Communities Funded capital and revenue projects.
2. Agree a waiver of the Financial Procedure Rules to allow the award of a ten year lease to the University of Brighton for the café in Princes Park without a competitive process.
3. Delegate authority to the Senior Head of Tourism and Enterprise and in consultation with the Cabinet portfolio holder for Tourism to take all necessary steps to complete the lease arrangements with the University of Brighton.

### **9.0 Key Risks**

9.1 Should the waiver not be agreed then the University of Brighton may not enter into a competitive process, resulting in a loss of £280K capital injection.

**10.0 Staffing and Resources**

10.1 There are no staffing implications. Managing contract variations and lease terms can be absorbed within HEDP.

**11.0 Legal**

11.1 There are no further legal implications other than those at section 6 above.

**12.0 Background Papers: None**

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