

<b>CULTURE, RECREATION &amp; TOURISM CABINET MEMBER MEETING</b>	<b>Agenda Item 66</b>  Brighton & Hove City Council
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<b>Subject:</b>	<b>Foredown Tower Update</b>		
<b>Date of Meeting:</b>	<b>23 March 2010</b>		
<b>Report of:</b>	<b>Director of Housing, Culture &amp; Enterprise</b>		
<b>Contact Officer:</b>	<b>Janita Bagshawe</b>	<b>Tel:</b>	<b>292840</b>
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<b>Key Decision:</b>	No		
<b>Wards Affected:</b>	Portslade North and Hangleton & Knoll		

**FOR GENERAL RELEASE/ EXEMPTIONS**

**1 SUMMARY AND POLICY CONTEXT:**

- 1.1 Following from the Culture, Recreation & Tourism Cabinet Member Meeting of 15 September 2009, negotiations have been taking place regarding a lease agreement with the Hove & Adur Sea Cadets to run Foredown Tower.
- 1.2 The Hove & Adur Sea Cadets have now indicated their wish to establish a Community Interest Company and for that Company to be the signatory to the lease agreement.

**2 RECOMMENDATIONS:**

- 2.1 That the Cabinet Member Meeting approves the request to the Community Interest Company becoming the signatory to the lease agreement.

**3 RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 On 16 September 2008 the Culture Tourism and Recreation Cabinet Member Meeting resolved that the Director of Culture & Enterprise and Director of Finance and Resources be instructed to enter into discussions and negotiations with the Hove and Adur Sea Cadets for a full repairing 25 year lease on a peppercorn rent for the Tower for community usage. The Heads of Terms of the proposed lease reflect the recommendations made at that meeting.
- 3.2 On 15 September 2009, the Culture, Recreation & Tourism Cabinet Member Meeting approved the Heads of Terms agreement and authorised the Director of

Culture & Enterprise and Director of Finance & Resources to enter into the lease on those terms with the Hove & Adur Sea Cadets.

- 3.3 Hove & Adur Sea Cadets have now indicated that they wish to form a Community Interest Company as a vehicle to take the lease.

#### **4 COMMUNITY INTEREST COMPANIES**

- 4.1 The concept of a Community Interest Company ("CIC") was launched in 2005, as a custom-made vehicle for social enterprises that want to use their profits and assets for the public good. They have more flexibility and less regulation than charities, but more regulation than companies. They are governed by the Companies (Audit, Investigations and Community Enterprise) Act 2004 and the Community Interest Company Regulations 2005. CICs have similar requirements to other companies and are subject to dual regulation by Companies House and the CIC Regulator. A CIC cannot be a charity, although a charity may be able to convert to a CIC with Charity Commission consent. The members of a CIC make key decisions and a board of directors carry out day to day activities.

- 4.2 The key principles governing the operation of CICs which are relevant here are:

- (a) the Asset Lock;
- (b) the Community Interest Test; and
- (c) annual reporting.

- 4.3 The Asset Lock provides that assets, cash and property owned by the CIC can only be used for the stated community purpose and the CIC must name another asset locked body to receive any surplus assets upon winding up. If no such body is nominated the CIC Regulator will award the assets to a body which has the most similar objects.

In this case Hove and Adur Sea Cadet Unit is itself named as the asset-locked body in the proposed CIC's Articles of Association.

- 4.4 To satisfy the Community Interest Test the CIC must demonstrate that a reasonable person would perceive their activities as being in the interests of the community, with the community not being unduly restricted or politically motivated.

The Articles of Association (see Appendix 2), paragraph 5, set out the objects of the Company as being to carry on activities which benefit the community and in particular provide facilities and equipment for groups using the South Downs and meeting spaces for youth organisations and community groups. Further detail is given in the Declarations on Formation of a Community Interest Company (Appendix 3).

- 4.5 An Annual CIC Report contains information such as directors' salaries, any assets transferred and a description of how it has benefited the community and involved stakeholders.

- 4.6 The issue of whether the Council should be represented within the CIC, which has been suggested by the Cadets, was discussed at the Culture, Tourism and Enterprise Overview and Scrutiny Committee Meeting on 4 February 2010. Those

Councillors who expressed a view indicated that, given the terms of the proposed lease, there was no need for Councillors or officers to sit on the Board of the CIC, although it would be most desirable to have community representation. To date no other community organisations have expressed an interest in taking part in the CIC.

- 4.7 Hove and Adur Sea Cadet Unit is the sole subscriber to the Memorandum of Association. The Board is initially to comprise of two Directors, being Commander Ian Wright, Chairman of the Unit Management Committee, and Michael Halsey, an accountant and another member of the Committee. The Directors are bound to manage the Company in accordance with the Objects.

## **5 FINANCIAL & OTHER IMPLICATIONS:**

### **5.1 Financial Implications:**

The formation of the Community Interest Company allows the Trustees of the Sea Cadets greater protection against personal liability, but shouldn't impact financially upon the council itself. The basic implications remain the same as in previous reports – that granting a full repairing lease (at peppercorn rent) would save the authority significant repair costs to the Tower, keep the building open for use and additionally provide a small revenue saving.

*Finance Officer Consulted: Peter Francis*      *Date: 24.2.10*

### **5.2 Legal Implications:**

The legal implications have been included above, most notably in section 4.

*Lawyer Consulted: Carl Hearsom*      *Date: 24.2.10*

### **5.3 Equalities Implications:**

The recruitment policy of the Hove & Adur Sea Cadet unit is to recruit from all backgrounds regardless of race and religion. Subscription rates are kept as low as possible to be affordable for families on low income or unemployed.

### **5.4 Sustainability Implications:**

As has previously been stated, the Tower is not sustainable in its current form as a visitor attraction.

### **5.5 Crime & Disorder Implications:**

There are no direct crime and disorder implications.

### **5.6 Risk & Opportunity Management Implications:**

There are no direct risk and opportunity management implications.

### **5.7 Corporate/Citywide Implications:**

Agreement of a lease arrangement with the Hove & Adur Sea Cadets will enable some current services to continue to be run at Foredown Tower whilst providing a new opportunity for young people in the Portslade area.

**6 EVALUATION OF ANY ALTERNATIVE OPTION(S):**

None.

**7 REASONS FOR REPORT RECOMMENDATIONS:**

- 7.1 Entering into a lease agreement with the Hove & Adur Sea Cadets will provide a community facility at Foredown Tower for community groups, an access point for the Downs and facilities for walkers, and secure the future of an important local building.

**SUPPORTING DOCUMENTATION**

**Appendix 1: Draft Memorandum of Association**

**Appendix 2: Draft Articles of Association**

**Appendix 3: Form CIC 36, Declarations on Formation of a Community Interest Company.**