



# Agenda

Meeting: **Folkestone Parks and Pleasure Grounds Charity**  
Date: **20 April 2023**  
Time: **6.00 pm**  
Place: **Council Chamber - Civic Centre Folkestone**

To: Councillors John Collier, Ray Field, David Godfrey,  
Mrs Jennifer Hollingsbee, David Monk, Stuart Peall, Tim Prater,  
Lesley Whybrow and David Wimble

The Committee will consider the matters listed below at the date, time and place shown above. The meeting will be open to the press and public.

Members of the Committee who wish to have information on any matter arising on the agenda which is not fully covered in these papers are requested to give notice prior to the meeting to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>.

Please note there will be 37 seats available for members of the public, which will be reserved for those speaking or participating at the meeting. The remaining available seats will be given on a first come, first served basis.

## 6. **Urgent item of business - Events Application to use Mermaid Beach**

This report details the recent event application that has been received for an event to be held on Mermaid Beach, Folkestone.

**Queries about the agenda? Need a different format?**

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Email: or download from our website  
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# Agenda Item 6



This report will be made public on 19 April 2023 (urgent item of business)

Report number: **FPPG/22/11**

**To:** Folkestone Parks and Pleasure Ground Charity – Board of Trustees

**Date:** 20<sup>th</sup> April 2023

**Head of Service:** Andy Blaszkwicz, Director – Housing & Operations

**Chief Officer:** Andrina Smith, Chief HR Officer

**Subject:** Events Application to use Mermaid Beach

**Summary:** This report details the recent event application that has been received for an event to be held on Mermaid Beach, Folkestone.

## **RECOMMENDATIONS:**

- 1. To receive and note report FPPG/22/11.**
- 2. For the Trustees to consider whether they are supportive of this event.**
- 3. If the Trustees are supportive of the event going ahead for officers to consult with representatives of the Radnor Estate to see if they are receptive to a temporary release of the covenants that would affect the event.**
- 4. To note that any legal fees associated with the release of the covenant are to be met by the event organiser.**

## 1. BACKGROUND

- 1.1 An event application was received on the 3rd March 2023 from Unforeseen Productions CIC for an event they would like to hold on Mermaid Beach, Folkestone on the 1<sup>st</sup> and 2<sup>nd</sup> July 2023.
- 1.2 The event is proposed to be a ticketed electronic music festival that will take place over 2 days between 11am and 11pm on each day.
- 1.3 The event will feature community contributors, artists, performers, market traders, food and drink vendors, activities and electronic music.
- 1.4 The fees for the event payable to the Charity would be £1250 per day for 5 days, totalling £6250.
- 1.5 The organisers would require access to Mermaid Beach from the 29<sup>th</sup> June 2023 until the 3<sup>rd</sup> July inclusive, which includes days for the setting up of the event. The proposed layout of the event is shown below in an illustration provided by Unforeseen Productions CIC as part of their application.



- 1.6 The application was sent out for consultation and as part of this process information was received that there are covenants on Mermaid Beach which may prevent the event from taking place.
- 1.7 The event organiser has since been advised that the beach would not be suitable due to the covenants on the land. However, they have asked for the covenants to be temporarily released so that the event can take place. The organiser has also indicated that they would like to organise the event every year and hopefully grow the number of attendees.

- 1.8 Even though permission has not been given for the use of the land, the event organiser has advised that he has already incurred expenditure of £15,990 securing artists, having web content created and paying deposits.
- 1.9 The organiser has also completed an application for a Temporary Event Notice (TEN's) for this event. The application states that he wishes to sell alcohol and provide regulated entertainment for up to 499 people including staff, organisers and performers.
- 1.10 The TEN's application was received on the 24<sup>th</sup> March 2023, with the fee of £21. The application was acknowledged on the 27<sup>th</sup> March 2023 by the Council. No objections were received from the statutory consultees. Whilst the TEN's has been issued (by default as no objections) this does not constitute approval for the organiser to use the land.
- 1.11 Mermaid Beach is part of the Radnor Folkestone Estate and is subject to various restrictive covenants over it by virtue of the transfer dated 25 March 1994. These are set out in the Third Schedule of the Transfer and the covenants for which we would need Radnor's consent are as follows: -
- Paragraph 1 - "Not at any time to use the Property or any part thereof for any purpose whatsoever except as a place of enjoyment by the inhabitants of the town of Folkestone and of the neighbourhood in general as a quiet undeveloped open area to be enjoyed primarily by pedestrians and those seeking pleasant and peaceful surroundings subject to such regulations byelaws and provisions for the management of the same as the Purchaser shall from time to time think fit ...".
  - Paragraph 1(d) "Not to allow any motor vehicle to park anywhere on the Property except on both sides of the Toll Road and on the area defined and shown by black hatching on the said plan hereto".
  - Paragraph 2 - "Not to allow any kind of advertising whatsoever and not to place or allow the placing of notices placards or any other media which may tend to deteriorate the natural beauty of the area on any part of the Property Except those notices and other forms of advertising necessary to the management of the area and such others that may first be approved of in writing by the Vendor's Agents".
  - Paragraph 3 – "Not to sell or allow the sale of any matter article or intoxicating or other liquor on any part of the Property except from the existing restaurant tea chalet and ice cream kiosk shown on the plan attached hereto and not to set up or allow the setting up of any booth stall or other structure for the sale of goods of any nature whatsoever ...".
- 1.12 The Council has contacted Smith Woolley to obtain their view regarding requesting a temporary lift of the covenants to allow the event to take place. They have confirmed that they may support the Council's decision, however because the event is to be ticketed and it is using a public space this could create an issue which will need further consideration.

## **2. RISK MANAGEMENT ISSUES**

- 2.1 The perceived risk to the Council is shown below:

<b>Perceived risk</b>	<b>Seriousness</b>	<b>Likelihood</b>	<b>Preventative action</b>
Potential claim from the event organiser if permission to hold the event on Charity land is denied	High	Low	Permission to use FPPG Charity land has not been granted at this point. Therefore any work or expenditure by the event organiser is 'at risk'. TEN's consultation list to be updated to include Corporate Property who are able to advise on restrictive covenants.
Non-compliance with the land covenants and restrictions for Mermaid Beach	Medium	High	Not allowing the temporary release of the covenants
General disruption i.e. noise and litter from the event attendees	Medium	High	Not allowing the temporary release of the covenants

### **3. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS**

#### **3.1 Legal Officer's Comments (NM)**

The legal issues regarding the restrictive covenants have been set out in the body of the report. The event cannot proceed unless the Radnor Estate agree to temporarily lift the restrictive covenants. If Radnor are minded to agree on this occasion this does not mean that they will agree to this event being held every year and the event organiser should be made aware of this.

Although not a legal issue, events on the beach have been refused in the last few years due to the existence of the restrictive covenants. If this event is permitted the Charity / Council may find that similar applications to use the beach for events will be made by other parties. Firstly, permission would be needed each time from the Radnor Estate who may refuse. It is recommended that the Charity / Council should adopt a consistent approach in relation to potential future requests to avoid reputational issues arising if the Charity and the Council are seen not to be acting fairly.

#### **3.2 Finance Officer's Comments (TM)**

There are no financial implications from this report.

#### **3.3 Diversities and Equalities Implications (GE)**

There are no equality and diversity issues directly arising from this report.

#### **3.4 Climate Change Implications (OF)**

There are no climate change implications arising from this report.

#### **4. CONTACT OFFICERS AND BACKGROUND DOCUMENTS**

Councilors with any questions arising out of this report should contact the following officer prior to the meeting.

Andrina Smith, Chief HR Officer

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