

This report will be made public on 11 April 2023



Report number: **FPPG/22/09**

To: Folkestone Parks and Pleasure Ground Charity – Board of Trustees
Date: 19th April 2023
Head of Service: Andy Blaszkowicz, Director – Housing & Operations
Subject: Folkestone Parks and Pleasure Grounds – East Cliff Pavilion Update

Summary: This report provides the Board with an update in relation to the East Cliff Pavilion and alterations made to the Property by the tenant.

Recommendations:

1. To receive and note report FPPG/22/09.
2. To agree that a License for Alteration is granted to regularise the alterations made to the East Cliff Pavilion by the tenant.

1. BACKGROUND

- 1.1 Folkestone & Hythe District Council ('FHDC'/the 'Council') act as trustees on behalf of the Folkestone Parks and Pleasure Grounds Charity ('FPPG'/the Charity') in managing the Charity's assets.
- 1.2 The Board considered report FPPG/22/07 on 25 January 2023 and resolved to agree:
 - **'that in respect of the East Cliff Pavilion, before any licence is given to allow alterations, a report is taken the FPPG trustees for consideration'**.
- 1.3 This report provides the Board with a summary of the lease terms of the East Cliff Pavilion ('ECP' / 'the Property'), a description of the accommodation within the Property, the alterations made to it and proposed by way of planning applications, and a legal commentary on the changes.

2. INTRODUCTION

- 2.1 The ECP is located at Wear Bay Road, Folkestone, and is let on a long lease by the Council, as trustees of FPPG, to the tenant. The Property has been closed to the public for several years, aside from a brief period in c.2018 when it was opened as a bar and restaurant. There is local interest for the Property to be brought back into general use, however the Council has limited control in relation to how the Property is operated by the tenant (other than what is provided by the lease terms).
- 2.2 Numerous alterations have been made to the Property since it was leased, some with planning permission and landlord's consent, but many more without formal permission. Council officers have been following this up with the tenant to regularise the position, including various discussions in 2022.
- 2.3 Last year, officers met with the tenant and their architect and inspected the Property. In December 2022, the tenant was asked to stop their building works to the Property until the time that a scope of works could be agreed between landlord and tenant. The tenant subsequently submitted a set of drawings to both the Council as landlord, and as local planning authority, for consideration for planning permission.
- 2.4 Overall, it is considered that the tenant has made significant high-quality improvements to the Property. It is therefore recommended that a Licence for Alteration is granted to the tenant to provide retrospective consent to the changes made to the ECP by the tenant thus far. This would supplement the tenant's lease and regularise the position in accordance with its planning permissions and building control applications.

3. LEASE TERMS AND ACCOMMODATION

3.1 Lease

The lease of the ECP is let to the Tenant on the following key terms:

Lease: dated 17 June 1987 Of The East Cliff Pavilion, Wear Bay Road, Folkestone, Kent Between (1) The District Council Of Shepway (2) Overtake Ltd

Term: 119 years (expires 31/03/2106) (as amended by a Deed of Variation dated 8 December 2000)

Use: As a place of public entertainment leisure and recreation comprising a cafeteria/restaurant and bar and dance hall and for no other purpose whatsoever save that the self-contained flat on the first floor of the demised premises may be used as a residence by the tenant or an employee of the tenant.

Alterations: Lease Clause 2(5) states “Not without the landlord’s previous written consent at any time during the said term to cut maim or remove any of the main walls beams columns timbers floors or other structural parts of the demised premises or commit or permit any waste or damage to the demised premises or to the floors or timbers thereof or to make or permit any alteration in or addition to the elevation or main structure or in the external decoration thereof...”

Planning: Lease clause 2(16) provides the Tenant is ‘not to make or permit to be made any application the Local Planning Authority for any consent whatsoever concerning the demised premises without obtaining the Landlord’s prior approval thereto’.

Keep Open: Lease clause 15a obligates the tenant to: ‘...keep the demised premises open for business during reasonable hours...’

3.2 Schedule of Accommodation

The Council has limited records on its files which document the original state of the Property, with planning drawings from 2012 being the earliest record of the building layout located. Current ground and first floor plans are appended at Appendix A.

The proposed layout of the Property is illustrated by plans at Appendix B and described as follows:

Ground Floor: One Function Room; Three Bar areas; Three Kitchen areas; Chiller Room; WCs; Two Terraces

First Floor: One residential flat; and one area proposed for bridal suite.

4. ALTERATIONS TO THE PREMISES

- 4.1 Historically, numerous planning applications have been made to alter the Property (refer to Appendix C). Various permissions have been granted and alterations made, together with approvals made but not implemented. These include permission to change the building structure, its features e.g. windows, and use.
- 4.2 During the inspection of the Property in 2022, the alterations carried out at the Property were surveyed and compared to the alterations granted planning consent and documented by way of a Schedule (refer to Appendix D).
- 4.3 It was found that numerous works had not been undertaken in accordance with the planning permissions which the tenant had obtained. Therefore, they were in breach of the terms of the Lease and as well as in breach of planning. Officers requested the tenant remedy this immediately.
- 4.4 Officers also noted that there are nine applications listed on the local planning authority’s planning portal relating to Building Control applications. Landlord’s consent was not obtained for these works and neither has the landlord been provided with evidence that the works have been signed off by Building Control. Officers informed the Tenant that this matter also needed to be remedied as a

matter of urgency, requesting that evidence be provided to confirm that these applications have been resolved.

- 4.5 In December 2022, in response to officer request, the tenant submitted a retrospective planning application (22/2155/FH) for the erection of rear & side extensions and internal and external alterations to the Property, along with proposed external spiral staircase/fire escape. This application was validated in January 2023 and its determination is awaited.
- 4.6 It is recommended that, subject to approval of planning application 22/2155/FH, the tenant is granted retrospective consent to the works that have been carried out to the property by way of a Licence for Alteration.

5. CONCLUSION

Overall, it is considered that the tenant has made significant high-quality improvements to the Property. Therefore, subject to approval of planning application 22/2155/FH, It is recommended that a Licence for Alteration is granted to the tenant which would supplement the tenant's lease and provide retrospective consent to the changes made to the ECP.

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

- 6.1 **Legal Officer's Comments (EC)** The Council's Legal Services team has reviewed the lease and tenant's position in relation to the alterations made and has considered options that may be available to the landlord. Legal Services consider that the recommendation in the report; To agree that a Licence for Alteration is granted to regularise the alterations made to the East Cliff Pavilion by the tenant is appropriate.
- 6.2 **Finance Officer's Comments (JS)** There are no direct financial implications arising out of this report should the Trustees agree with the recommendations.
- 6.3 **Diversities and Equalities Implications** There are no diversities and equalities implications arising from this report.
- 6.4 **Climate Comments** There are no diversities and equalities implications arising from this report.

7. CONTACT OFFICER AND BACKGROUND DOCUMENTS

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The following background documents have been relied upon in the preparation of this report:

None.

Appendices:

Appendix A.i. - Existing Ground floor plan

Appendix A.ii. - Existing First floor plan

Appendix B.i. - Proposed Ground Floor Plan

Appendix B.ii. - Proposed First Floor Plan

Appendix C: East Cliff Pavilion Planning History

Appendix D: Schedule of Tenant Alterations