

This Report will be made public on 12 September 2023

Report Number **C/23/36**

To: Cabinet
Date: 20 September 2023
Status: Non key
Responsible Officer: Samuel Aligbe, Chief Officer – Corporate Estate and Development; and Helen Hensel – Estates & Assets Lead Specialist
Cabinet Member: Cllr Jeremy Speakman – Cabinet Member for Assets and Operations

SUBJECT: LEAS LIFT PROJECT

SUMMARY: In 2021, Folkestone & Hythe District Council ('FHDC' / 'the Council') made a commitment to support the reintroduction of the Leas Lift, a closed funicular railway in Folkestone which is owned by The Radnor Estate. The Council's Place Plan highlights a specific action for reinstatement of the Leas Lift. The Leas Lift Community Interest Organisation (LLCIO) has been established to deliver the project to reinstate the lift. Part of the project involves 'Additional Land' located adjacent to the lift in which the Council has a long leasehold interest. The LLCIO has approached the Council with a request to transfer part of its leasehold land to facilitate the project. To do this, there are two options available to the Council: vary its lease of The Leas to remove the area of land in question, to be surrendered to the landlord; or grant a sublease of the land to the LLCIO. The former option is being recommended to Cabinet.

REASONS FOR RECOMMENDATIONS:

It is recommended that approval is given to vary the Council's lease of the Leas to support the Leas Lift project by surrendering the Additional Land, which can then be transferred by the freeholder to the LLCIO for nil consideration. The project will support the reinstatement of the Leas Lift, generating socio-economic, environmental and community benefits that are considered significant to outweigh the value of the Additional Land.

RECOMMENDATIONS:

1. To receive and note report C/23/36.
2. Vary the Council's lease of the Leas to surrender the Additional Land to support the Leas Lift project.

1. BACKGROUND

- 1.1 The Leas Lift is a grade II* listed funicular railway in Folkestone which is owned by The Radnor Estate. It was deemed unsafe and closed in 2017, requiring extensive repairs required to keep it in operation. Prior to its closure it would transport passengers between the cliff top of The Leas and the Lower Sandgate Road, adjacent to the sea at the bottom. Historically, the Council also had a lease of the Lift and operated it for a number of years, until handing it back in 2009.
- 1.2 In 2021, the Council made a commitment to support the reintroduction of the Leas Lift (refer to Appendix A). The Council's Place Plan highlighted a specific action for reinstatement of the Leas Lift as part of its Mission 4: Moving Sustainably. One of the desired outcomes is for the refurbishment of heritage assets enabling them to be open for the public to use. Furthermore its reinstatement will provide an accessible link that connects the coast to the town centre and mitigates the steep level change. A further commitment to the project was made by the Council to the LLCIO in May 2023 (refer to Appendix B).

2. CONSULTATION

- 2.1 Following the closure of the Lift, the Folkestone Leas Lift Community Interest Company was established in January 2018, with funding from the Radnor Estate and the Roger De Haan Charitable Trust, for the sole purpose of fundraising to restore the Leas Lift and ensure that it can continue to operate for the benefit of the local community. An application was submitted to the Charities Commission in May 2021 to support future fundraising appeals and the company was subsequently registered as a Charitable Incorporated Organisation in January 2022.
- 2.2 The LLCIO has been established to deliver the project to reinstate the Leas Lift. On 11th July 2023, a planning application – reference 23/0536 (and 23/0565 listed building consent application) – was approved for the LLCIO's proposal to refurbish and redevelop the site of the Leas Lift (refer to Appendix Ci – red line boundary of planning application; and Appendices Cii and Ciii – additional planning drawings). This includes plans to develop the Leas Lift building on the Lower Sandgate Road to provide extended café facilities, and installation of a ramp at the top of the Lift on The Leas to provide disabled access.
- 2.3 Part of the project involves land ('Additional Land' – see Appendix E) adjacent to the Lift in which the Council has a long leasehold interest by way of a 999-year lease of The Leas granted by the freeholder, the Radnor Estate. The map below shows part of the extent of the Council's long leasehold interest (coloured green).



Appendix D highlights the Leas Lift planning application area (hatched blue) and illustrates the boundary of the Council's leasehold interest (green dashed line). Appendix E illustrates the extent of the Additional Land (outlined red) required by the LLCIO to deliver the project. This includes two main parts, one located at the bottom of the lift and the other at the top of the lift on The Leas:

1. Site 1: adjacent to the Leas Lift building (to the west) at the bottom of the lift on the Lower Sandgate Road (refer to picture below). This land forms part of a steep vegetated bank and is currently unused, and not maintained, by the Council.

The LLCIO wants to use this land to extend the current café in the Leas Lift building. This will involve piling the site and building an extension comprising a kitchen/bar, additional toilets and seating area, as well as a terrace for external seating. It forms part of the planning consent (refer to Appendix Cii).



2. Site 2: is located on The Leas, to the west of the Leas Lift ticket office, and above the Council's former deckchair store (which is located beneath The Leas).

The LLCIO wants to use this land to provide disabled access to the refurbished lift and the planning application illustrates the installation of a ramp at Site 2 (refer to Appendix Ciii).

3. OPTIONS

The Radnor Estate is supportive of the project and has agreed to transfer the freehold of the Leas Lift land to the LLCIO for nil consideration. The Council has been asked if it will also agree to the transfer of part of its Leas leasehold land (for nil consideration) to facilitate the project. To support the project in accordance with the Council's commitments, in particular through its Place Plan, there are two options available to the Council:

1. Vary the Council's lease of The Leas to surrender part, which would be the Additional Land associated with the project; or
2. Grant a long sublease of the Additional Land to the LLCIO.

Option 1 is being recommended to Cabinet. A valuation of the proposed transaction has been undertaken by the Council's appointed Valuer and the Additional Land has been valued at £74,000. The Valuer sought to assess whether the proposed transfer for less than best consideration will exceed the limits of the Local Government Act 1972 and in particular 'best value' (Section 123). Instances where land values exceed a £2m threshold require ministerial consent for disposal. Therefore, in this case no further consent is required. Furthermore, although the land has a nominal value attributed to it, the valuation does not account for any socio-economic benefits from the proposed refurbishment works. It is anticipated that reinstatement of the lift will be beneficial to the community and wider area. Whilst these benefits are difficult to quantify, the Valuer envisages that they will outweigh the value of the Additional Land and they are supportive of a transfer at nil consideration.

4. RISK MANAGEMENT ISSUES

4.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
Land not transferred	High	Low	Proceed with Option 1

5. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

5.1 Legal Officer's Comments (EC)

The consideration must be the best reasonably obtainable in the current market. Section 123 of the Local Government Act 1972 (s123 LGA) provides that 'best consideration' in practice means that the appropriate evidence has been gathered regarding the valuation and subsequent offer. In other words, an audit trail must be shown; and one may pursue 'off market' offers so long as there is evidence and that the consideration has economic value (i.e. is quantifiable).

A Council can be found in breach of Section 123, if it has "(i) failed to take proper advice; (ii) failed to follow proper advice for reasons that cannot be justified; or (iii) has followed advice that was so plainly erroneous that in accepting it the local authority must have known, or at least ought to have known, that it was acting unreasonably".

The only time Secretary of State consent would be required is if the undervalue was over £2 million.

Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003, provides guidance on disposal at an undervalue. If the disposal will contribute towards the promotion or improvement of the economic or social or environmental well-being of its area *and* the undervalue is less than £2 million, then the Council can proceed under s123 of the LGA 1972. In this case it is possible to argue that the land will be used towards the promotion of the environmental, social and economic wellbeing of the area.

The Council will also need to ensure that the transaction does not breach any of the terms of the Subsidy Control Act 2022 if it is viewed that there has been financial assistance to the LLCIO.

5.2 Finance Officer's Comments (OO)

The financial implications are predominantly contained within the main body of this report. However, information about the financial governance concerning disposals is provided within the Council's financial procedure rules, which provide guidance on the disposal of land and buildings. These guidelines must be adhered to by all officers. An extract from section 8.7 of the financial procedure rules is provided below:

Chief officers, and those other officers reporting directly to a chief officer, must ensure that records and assets are properly maintained and securely held. Any disposal of an asset, no longer required by the Council, must be done in a manner approved by the Chief Finance Officer (S151 Officer) and in accordance with the relevant law, regulations and government guidance, issued from time to time.

5.3 Corporate Property Officer's Comments (SA)

Although the Additional Land has been valued at £74,000, it is proposed that it is surrendered for nil consideration. This is because the wider socio-economic and community benefits of the Leas Lift project, although difficult to quantify precisely, are considered to provide justification for a disposition below market value. Reinstatement of the lift and the wider Leas Lift project will provide longer term environmental and socio-economic benefits to the Folkestone community and it is therefore a project in which the council is fully supportive. This project intervention facilitates the creation of another heritage and leisure asset within the town in a key strategic location close to the renowned areas of the Leas and the Lower Leas Coastal Park. This will support the growth of these locations as visitor destinations both locally and regionally. Furthermore, the reinstatement of the Leas Lift will enable environmentally friendly movement around the town centre with access to the beach front, including opening up the steep level change to facilitate access for everyone. The project will also generate employment opportunities for the town through operation of the lift and café. The multiplier effect of the socio-economic and environmental outcomes of the project justifies the disposition of the Additional Land.

5.4 **Diversities and Equalities Implications**

The report does not have an impact on diversities nor equalities.

5.5 **Climate Change Implications**

There are no climate implications arising from the report. The reinstatement of the Leas Lift will provide an accessible link that connects the coast to the town centre and mitigates the steep level change providing an environmentally friendly transport route from the top of The Leas to the seafront.

6. **CONTACT OFFICERS AND BACKGROUND DOCUMENTS**

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

Helen Hensel, Estates & Assets Lead Specialist
Email: helen.hensel@folkestone-hythe.gov.uk

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

Appendices:

- Appendix A – Council Letter of Support 2021
- Appendix B – Council Letter of Support 2023
- Appendix Ci – red line boundary of planning application
- Appendix Cii and Ciii – planning drawings
- Appendix D – Leas Lift planning application area
- Appendix E – Additional Land