

REPORT



REPORT OF	MEETING	DATE	ITEM NO
DIRECTOR COMMUNITY SERVICES DIRECTOR STRATEGIC DEVELOPMENT	POLICY DEVELOPMENT SCRUTINY COMMITTEE	16 MARCH 2010	5

BEACH ACTIVITY MANAGEMENT SCHEME – LICENCE FOR WIND & WHEEL SPORT ACTIVITY

Public Item

This item is for consideration in the public part of the meeting.

Summary

At a previous scrutiny meeting Members agreed to establish a working group to consider recommending to the portfolio holder whether a licence (limited in scope and duration) should be considered for Trax Windsports to operate wind and wheel sport on the beach. The recommendation from the working group is contained in the body of the report and Members are requested to consider the matter further.

Recommendation

1. That Members take into account the recommendation of the working group and consider recommending to the portfolio holder whether a licence (limited in scope and duration) should be considered for Trax Windsports to operate wind and wheel sports on the beach.

Reasons for recommendation

1. To progress the decision made at the previous meeting.

Alternative options considered and rejected

Not to consider the interest expressed by Trax in operating wind and wheel sports – rejected because this is an appropriate matter for Members' consideration.

Continued....

Cabinet Portfolio

The item falls within the following Cabinet portfolio:

Leisure and Culture:

Councillor Susan Fazackerley

Report

1. At the meeting of Policy Development Committee on 4 February 2010 Members considered a report entitled 'Beach Activity Management Scheme'. The resolution of that meeting was:

1. To note the consultation draft beach activity management scheme and agree that further consultation should take place.

2. That allowing shooting on the coast, on land owned by the Council, is inappropriate and should be prohibited.

3. Members recommend the formation of a working group to assist officers and portfolio holder in assessing the impact of wind and wheel sports on the beach, before a recommendation is made to the portfolio holder on the granting of a licence (of limited scope and duration) for the operation of wind and wheel sports.

2. This report addresses the final part of the resolution regarding the recommendation to the portfolio holder on the granting of a licence (of a limited scope and duration) for the operation of wind and wheel sports on the beach.

3. The working group of Members comprised:

- Cllr Fabian Craig-Wilson
- Cllr Kiran Mulholland
- Cllr Howard Henshaw
- Cllr Elaine Silverwood
- Cllr Heather Speak

4. The group met with the Portfolio Holder, Cllr Susan Fazackerley, to progress the issue on Friday 26 February 2010. This comprised round table Member discussions and included a site visit to the Trax Windsports Centre where staff key to the delivery of the activities were available to discuss the proposal. The visit also included the opportunity to inspect the types of vehicles / equipment likely to be in use, and a demonstration of wind powered wheel sports. Members and officers were advised of the centre's safety management system which consolidated the documentation provided previously.

5. Members focussed on how the safety of the public could be ensured, in particular by querying the effectiveness of marshalling. Members also discussed the liability of the Council for health and safety issues and were keen to ensure that the Council's costs in managing any liability by monitoring health and safety controls should be passed on to Trax.

6. Members were keen that officers should continue to look at the detail of the risk assessments, with support from the Council's health and safety advisory service, in order to ensure that the control measures identified by Trax were appropriate and that the liability of the Council was minimised. This would be a prerequisite of the licence being issued.

7. As a result of further discussions the working group made the following recommendation:

That any licence should specify that Trax Windsports must obtain third party health and safety accreditation (from an appropriately recognised body) with a particular emphasis on the audit of control measures in place to reduce the risk to members of the public. Any costs incurred by the Council for health and safety monitoring of these activities should be met by Trax Windsports and the company must provide all reasonable assistance to the Council to facilitate monitoring of the control measures in place so that the Council can fulfil it's health and safety responsibilities.

8. The draft heads of terms presented to Members as part of the previous report are attached at Appendix 1. Similarly that report identified the planning considerations which are currently under consideration. These matters require resolution before the heads of terms of the licence can be agreed by the Portfolio Holder.

Risk Assessment

9. Once the details of the licence are agreed, the operational risk register will be amended to address the risks identified.

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List of Background Papers		
Name of document	Date	Where available for inspection
Agenda & Minutes Policy Development Committee	04/02/10	www.fylde.gov.uk

Attached documents

1. Appendix 1 – Draft Heads of Terms for Temporary Licence for Wind and Wheel Sports Activity

IMPLICATIONS	
Finance	No implications at this stage.
Legal	Legal issues will be addressed at the drafting stage of licence preparation. The planning considerations identified in the previous report require further consideration.

Community Safety	No implications arising from this report.
Human Rights and Equalities	No implications arising from this report.
Sustainability and Environmental Impact	Key issues identified in previous reports
Health & Safety and Risk Management	Subject to further consultation and incorporation into operational risk register as appropriate.

Appendix 1

DRAFT HEADS OF TERMS FOR LIMITED SCOPE / DURATION LICENCE FOR WIND & WHEEL SPORTS

1. **Licensor** Fylde Borough Council, Town Hall, Lytham St Annes, Lancashire. FY8 1LW (FBC)
2. **Licensee** Trax Windsports
3. **Land** The part of the beach at St. Annes on Sea which is shown edged in red on the attached plan
4. **Term** From 1 April 2010 to 31 October 2010
5. **Licence fee** To be agreed
6. **Use** Restricted to the use of, and training in the use of kites, mini yachts, kite buggies (class 8a), speed sails and kite landboards
7. **Statutory Requirements** The Licensee will comply with all Statutory Enactments requirements Regulations and Instruments and will comply with the byelaws rules and regulations of the Council and all other competent authorities and with the reasonable directions of the Council's authorised officers issued from time to time
8. **Nuisance** The Licensee will exercise the rights hereby granted in an orderly manner without any unnecessary obstruction of the foreshore to the use thereof by the public and not to do or permit cause or suffer to be done anything in or upon the foreshore or promenades which may be or in the opinion of the Council become a nuisance annoyance disturbance or source of damage to the Council or to the owners or occupiers of neighbouring land or to the public
9. **Insurance** The Licensee shall be responsible for:-
Public liability insurance to insure against claims arising out of their actions or omissions with respect to third parties while on the land to the value of £5million in any one claim, unlimited in any one year and which indemnifies FBC from any claims arising out of the use of the land
10. **Advertising and promotion** Proposals to erect signs or posters or the addition of any lettering to the facility will require the consent of FBC agreement over the type, content and locations, and in any event the prior written approval of FBC.
11. **Advertising** The Licensee shall not do anything other upon the foreshore other than is permitted in this agreement and shall not advertise in any way and shall conduct the activities in a quiet and orderly manner
12. **Supervision** Any officer of the Council the coastguard or any

police officer is authorised and appointed to supervise the activities on the foreshore and to enforce regulations made by the Council with reference thereto

- 13. Sandwinning** All activities will take place in areas which avoid locations in use for sandwinning and will give way to vehicles and equipment on the beach for that purpose
- 14. Planning** The Licensee will obtain any necessary planning consents and shall observe fully the conditions as required in any planning permission.
- 15. Assignment** The Licence is personal to the licensee and is not transferable.
- 16. Beach Management** The Licensee will ensure that all activities take place in accordance with the requirements and recommendations of the Lytham St Annes Beach Activity Management Scheme and the Safer Sands implementation Group.
- 17. Risk management** The Licensee will, at his own expense, prepare all necessary risk management plans and will ensure that all activities take place in accordance with the recommendations in those plans
- 18. Environment** The licensee will, at his own expense, prepare all necessary environmental impact reports and will ensure that all activities take place in accordance with the recommendations in those reports
- 19. Costs** FBC and Licensee shall be responsible for their own legal and surveyor's fees in completing the agreement.