

**Charity number: 1105649**

**Hastings and St Leonards Foreshore Charitable Trust**

**Trustee's report and financial statements**

**for the year ended 31 March 2011**

# Hastings and St Leonards Foreshore Charitable Trust

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# Hastings and St Leonards Foreshore Charitable Trust

Also known as the "Foreshore Trust"

## Report of the trustee for the year ended 31 March 2011

### Information

- 1. Trustees**
- Hugh Marriage OBE (Chair of Board of Trustees) (Until 13 January 2011)  
Jerry le Sueur (Until 13 January 2011)  
Councillor Ann Bird (Until 13 January 2011)  
Councillor Bruce Dowling (Until 13 January 2011)
- Hastings Borough Council (Trustee from 13 January 2011)  
Town Hall, Hastings, East Sussex, TN34 1QR  
(Acting through its Charity Committee)
- Charity Committee Members :
- Councillor Paul Barlow (Chair)  
Councillor Jay Kramer  
Councillor Robert Cooke
- 2. Charity number** 1105649
- 3. Accountants**
- Manningtons  
7 Wellington Square  
Hastings  
East Sussex TN34 1PD
- 4. Auditors**
- Buzzacott LLP  
130 Wood Street  
London EC2V 6DL
- 5. Bankers**
- Co-operative Bank  
PO Box 101  
1 Balloon Street  
Manchester M60 4EP

## **Hastings and St Leonards Foreshore Charitable Trust**

Also known as the "Foreshore Trust"

### **Report of the trustee for the year ended 31 March 2011**

#### **6. Structure, Governance and Management**

##### *Overview*

The governing documents of the Charity are a conveyance from the Crown to Hastings Corporation dated 8 September 1893 and Charity Commission Scheme ref. no. 981/1011 made on 13 January 2011 (the 2011 Scheme).

The 1893 Conveyance provides that the length of foreshore between Ecclesbourne Glen and Grosvenor Gardens shall be held for the common use, benefit and enjoyment of Her Majesty's subjects and the public generally for ever. Later conveyances in 1925, 1933 and 1934 conveyed the remainder of the foreshore to the Hastings Corporation on the same Trusts.

The Hastings Borough Council Act 1988 varies the Trusts to permit certain uses on delineated areas of land and for the Council to charge for that use, whether provided by the Council itself or by another on the Council's behalf.

The 2011 Scheme extended the objects of the Charity to include such charitable purposes within the Borough of Hastings as the Trustee thinks fit.

##### *Changes in the year*

The 2011 Scheme had the effect of revoking the Charity Commission Scheme dated 22 March 2006 which appointed independent Trustees and Council nominated Trustees and appointing Hastings Borough Council as the Trustee for all purposes. This report is completed by the Trustee under the 2011 Scheme.

##### *Governance*

i) The Trustee, Hastings Borough Council, is a principal local authority established under the Local Government Act 1972 and, as such, has corporate status. As a local authority, the Trustee acts through decisions of elected members and delegations to committees, sub-committees and officers. The Local Government Act 2000 introduced executive decision making and the legislation provided for a split between decisions which are reserved to the Council, to the Executive or according to local choice. Where the function in question is not reserved to Council or a local choice function, the default provision in the legislation is that the function and decision-making relating to it are the preserve of the executive. This represents the position regarding the Council's function or power to administer charities, that is to say that the administration of charities is an executive function and so only the Cabinet, a committee of Cabinet or officers acting under delegations from Cabinet are legally competent to make decisions relating to the Charity.

ii) The Protector

When considering the request of the former independent Trustees to appoint the Council as Trustee, the Commission were concerned regarding the potential conflict of interest between the Council's position as charitable Trustee and as local authority and how to address this. Part of the solution was the requirement in the 2011 Scheme for the appointment of a Protector. Pending the making of the 2011 Scheme, the former Trustees interviewed and selected a suitably qualified person to fill the position of Protector once the 2011 Scheme was made. When made, the 2011 Scheme appointed Christopher May, MA, FCA, as the first Protector of the Charity for a 3 year term of office. The Protector has been kept informed regarding the Charity and has been active in attending meetings of the Charity Committee and commenting on reports recommending action to the Committee.

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iii) During the time leading up to the making of the 2011 Scheme, the Council's Cabinet were aware of the issues of conflict of interest and loyalty for the members of the Cabinet, which is made up in part of Lead Members with particular responsibilities for Council services, and determined to delegate its functions in relation to the Charity to a committee of Cabinet, called the Charity Committee. Due to the legislative position, only members of Cabinet can sit on a committee of Cabinet. In order to reduce the incidence of conflict of loyalty as much as possible in the situation, Cabinet recommended to Council that Council appoint a further member of Cabinet from the Leading political group on the Council who was to have no portfolio of responsibility for Council services but would be the chair of the Charity Committee. The remaining members of the Committee of three were drawn from those members of Cabinet with the least likelihood of a conflict of loyalties arising. The three members of the Charity Committee for the period 13 January to 31 March 2011 were Councillors Paul Barlow, Chair, Jay Kramer and Robert Cooke.

#### *Consultation*

The 2011 Scheme reflects the responses to consultation on the draft Scheme and makes provision for consultation in two areas of the Charity's operation.

#### i) Coastal Users Group

The Trustee is required to consult with and have regard to the recommendations of the Coastal Users Group in relation to certain matters, namely:-

- the standards or specifications for the maintenance of the charity's land
- the Charity's policy relating to events and activities to be held on the Charity's land and any event/activity outside that policy
- the Charity's policy relating to the exercise of any power under the Hastings Borough Council Act 1988 or otherwise to manage, let, sell or otherwise dispose of the Charity's property
- the exercise of the powers under the previous bullet otherwise than in accordance with the agreed policy.

The Coastal Users' Group was an existing consultative group set up by the Council as local authority to consult with interested parties in relation to matters affecting the front line of the Council's area. The 2011 Scheme provides for a Coastal Advisory Group and the Commission were satisfied that the Coastal Users' Group would be suitable to fulfil this role. The Charity Committee consulted with the Group on its constitution and membership prior to formally agreeing this.

The Trustee has been actively consulting with the Coastal User Group in the establishment of policies affecting the Foreshore and proposals for leasing of the Charity's land.

#### ii) Grant Advisory Panel

The new object to distribute surpluses, after meeting the costs of administering the Charity and managing its assets (including the repair and insurance of its land and buildings), through grants for charitable purposes in the Borough, is subject to consultation with the Grant Advisory Panel. The 2011 Scheme provides that consultation is to take place concerning the grant criteria, grant processes and grant determinations. The Charity Committee made 5 appointments to the Grant Advisory Panel at its meeting on 29 March 2011 and agreed the constitution of the Panel. The members of the Panel are independent of the Council and are required to have knowledge and experience of the voluntary and charity sector, particularly in Hastings.

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#### *Delegation to Officers*

At its first meeting on 25 January 2011, the Charity Committee agreed a Scheme of Delegation to Officers. The Scheme of Delegations follows the pattern of the Council's Scheme of Delegations to Officers, in that the Chief Executive or his duly authorised nominee is authorised within the plan and budget agreed by the Charity Committee to undertake the day to day operation and management of the Charity. The authority is general and subject to certain exceptions including the disposal of land, use of the Charity's land for events outside of the agreed policy, grants for charitable purposes and specification for and the award of contracts affecting the Charity, which are all subject to consultation with the two consultative groups and then decision of the Charity Committee. The Scheme of Delegation emphasises that the Chief Executive or his nominee acting under the delegations must be mindful that they are acting on behalf of the Charity and not the Council and ensure that at all times they act in the best interests of the Charity.

The Chief Executive is Roy Mawford and the officers he authorises for most purposes affecting the Charity's day to day operation and management are:-

Virginia Gilbert, Head of Leisure and Amenities Services

Peter Grace, Head of Financial Services

Amy Terry, Estates Manager

Jayne Butters, Borough Solicitor and Monitoring Officer - legal advisor and authorised signatory on behalf of the Charity.

In case of actual or potential conflict of interest for officers, independent advisors are instructed on behalf of the Charity e.g. surveyors, solicitors.

#### **7. Training and Induction for the Trustee**

Prior to the making of the 2011 Scheme, the Borough Solicitor undertook a briefing session for councillors and officers of the Council, entitled "the Foreshore Trust - past, present and future". In summary the briefing recounted the history and the position going forward under the draft Scheme as it then was. In order to keep new councillors advised on the history and their awareness raised it is intended that this briefing will be included in the induction training for new members of the Council.

The former Foreshore Trustees instructed their solicitors to prepare a guidance note for the Council as Trustee and a guidance note for the Protector. These documents were formally adopted by the Charity Committee at its first meeting on 25 January 2011, following a briefing session for the three members of the Committee on the content of the guidance notes.

In March 2011 training on charity law and practice was given to councillors and officers by solicitors practising in the area of charity law. All training has been offered to all members of the Council to raise awareness and to keep them advised.

#### **8. Risk Management**

Following the transfer of the trusteeship to the Council a risk register has been compiled. To date this has identified the key financial risks facing the Trust. The risk register is being further developed to include the identification of significant risks along with the identification of relevant controls and responsibilities.

## **Hastings and St Leonards Foreshore Charitable Trust**

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### **Report of the trustee for the year ended 31 March 2011**

#### **9. Objectives**

The 2011 Scheme states the objects of the Charity to be:-

- i) to hold and maintain the charity's land for the objects set out in the trusts of the Charity, namely for the common use, benefit and enjoyment of all Her Majesty's subjects and of the public for the time being for ever; and
- ii) subject to i) above, such charitable purposes within the area of the Borough of Hastings as the Trustee thinks fit.

The Scheme expressly provides that income and capital are first to be applied in meeting the proper costs of administering the Charity and of managing its assets including the repair and insurance of its land and buildings. After payment of these costs, the Trustee must apply the remaining income in furthering the objects of the Charity.

#### **10. Achievements and Performance**

The Trustee has taken on the role as Trustee late in the financial year and so the activity of its Charity Committee has been largely concerned with the proper establishment of the structure under which it is to operate into the future. In the short time between the making of the Scheme on 13 January 2011 the Charity Committee has met three times and the main business has been:

- committing the Council as Trustee to the provisions of the 2011 Scheme including the original trusts of the conveyance of 8 September 1893
- adoption of the guidance prepared by the former Trustees
- adoption of a summary of governance arrangements
- adoption of a conflicts of interest policy
- adoption of a scheme of delegation to officers and authorisation of bank account signatories
- approval of the constitutions and membership of the Coastal Users' Group and the Grant Advisory Panel
- approval of a land event and use policy
- agreement of the budget for 2011/12 and financial report
- commissioning officers to prepare a business plan
- agreeing an extension to the seafront cycle route across the Foreshore
- consideration of proposals for the bringing back into use of the former White Rock Baths

However, whilst the Council undertook the role as Trustee from January 2011, it has been operating and managing the Foreshore and its assets without interruption over many years, latterly under the direction of the former Trustees. This included:

- keeping the Charity's land safe and clean
- operating the Charity's car parks
- managing its tenanted premises
- arranging and facilitating events on the Foreshore
- undertaking routine maintenance and repair
- seeking expressions of interest to bring the former White Rock Baths back into use

#### *Stade Development*

The former Trustees have been working in co-operation with the Council in recent years to develop the Stade area of the Charity's land for the benefit of users of the Foreshore. The Stade area is partly in Council ownership and partly in Trust ownership. The development is the combination of the Jerwood Gallery and the Stade Open Space, community facilities (the Stade Hall and public toilets with exceptional disabled accommodation) and Stade café. The Jerwood Gallery, on Council owned land, is privately funded but the other facilities result from the Council's application for funding from the Commission for Architecture and the Built Environment (CABE), South East England Development Agency (SEEDA), East Sussex County Council, with significant funding also being provided by Hastings Borough Council. Management of the Stade Open Space (approximately 60% in Trust ownership) and the Stade Hall (wholly Trust owned) is intended to be undertaken by a community organisation. When the development is completed in the near future it is expected to provide considerable public benefit in the facilities offered.

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#### *White Rock Baths*

The Trust is keen to see the use, or at least the partial use of the White Rock bath site. To this end it has so far agreed to spend £75,000 on the removal of rubble and asbestos to help facilitate the regeneration of this key site on the foreshore.

#### *Volley Ball Court*

As part of the lease renewal of the Mini Golf/Adventure Golf area the tenant, Arnold Palmer Putting Courses Limited (APPC), has commenced construction of a volley ball court on Pelham Beach. This will be available for public use but will be managed and maintained by APPC.

#### *Pelham Beach Multi Use Games Area - 'Pelham Playa'*

As stated last year this is owned and maintained by the Trust, but managed on a day-to-day basis by Hastings Old Town Residents Association (HOTRA), with the support of Arnold Palmer Putting Courses Limited. Since the opening the new facility has been used far more than expected and has been very popular.

#### *Renewal of Leases*

The Miniature Railway lease was renewed on 12 January and the new operator has made a number of improvements. Negotiations on a new lease continue with Stade Developments (which includes Flamingo Park).

### **11. Public Benefit**

The original objects of the Charity, which subsist under the 2011 Scheme, express clearly that the Foreshore is to be held for the benefit of Her Majesty's subjects and the public generally for ever. When the land is beach and beach alone, the objects are achieved by ensuring that the public have free and safe access to the Foreshore and the simple pleasures that brings. However, maintaining land in this condition has a cost and the Charity requires an income to meet its expenditure costs. The Hastings Borough Council Act 1988 varied the original Trusts to permit certain uses on defined areas of the Trust's land. For example, paid parking was permissible at Rock a Nore Car Park and at Pelham Car Park and leisure facilities were permitted in the Stade area on such terms as the Council saw fit. These variations to the Trust powers enabled the generation of income to meet the costs of maintaining the Foreshore. The uses permitted under the Act, however, are seen as complementary to the Trust objects and the Trustee will exercise its powers under the Act to satisfy the requirement for the benefit to the public.

So far as is possible and subject to the uses permitted under the Act, the aim of the Trustees is that the Foreshore should be accessible by all members of the public who wish to visit it. At the same time, part of the Foreshore is a working beach and so health and safety considerations apply.

In previous reports the former Trustees have made reference to their lack of power to use Trust surpluses for the public benefit and looked to the new object set out in the 2011 to distribute surpluses as grants for charitable purposes within the Borough of Hastings. The present Trustee is reviewing the benefit to the public of:

- longer term proposals for the public use of the Foreshore
- the meeting of costs of administration of the Charity and of the repair and maintenance of its land and assets
- undertaking considerable capital works to assets such as the former White Rock Baths which requires considerable capital outlay in order to start to bring it back into sustainable use
- the distribution of surplus income in the form of grants for charitable purposes in the Borough

There will be different views on how the public benefit is best achieved and the Charity Committee will continue to consult with the Coastal Users' Group on proposals for the future of the Foreshore and specifications and standards of maintenance and with the Grant Advisory Panel on the grant criteria and grants processes.

This section should be read in conjunction with the preceding paragraph (Achievements and Performance).

## **Hastings and St Leonards Foreshore Charitable Trust**

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#### **12. Financial Review**

The audited accounts are attached to this annual report. They are in the same format as in previous years and, once again, have received an unqualified audit opinion.

The Trust's main sources of income remain that of Car parking fees and charges and rental income from property. The expenditure that the Trust incurs is as a result of providing the car parks e.g. operating costs, and the costs of maintaining and developing the foreshore. The net surplus for the year amounted to £224,597.

Investments - The Trust has significant cash balances. At 31 March 2011 these were invested as follows:-

CCLA Investment Management - £1,262,000

Co-op Bank- £305,231 (the Trust's Bank Account)

Prior to the transfer of the Trusteeship in January 2011, the majority of the activities of the Trust were undertaken by the Council on the Trusts behalf. There were a number of areas where the Trust incurred expenditure directly. These included the appointment of external legal and financial advisors, accountants and auditors.

Where the Council has been operating on the Trusts behalf before 13 January and subsequently after 13 January 2011 the Council's standing orders and financial rules and regulations have always applied in order to ensure proper financial management practices and procedures are followed.

#### *Cost of Professional advice*

Legal and Professional advisor fees - £104,702

Auditors - £12,300

Accountants - £3,000

The costs of external professional advisor fees are expected to reduce in future years following the transfer of the Trust to the Council.

#### *Trustees Expenses*

These were very limited. The costs for travel and subsistence amounted to £398 in respect of one, now former, Trustee.

#### *Reserves policy*

The policy is to be reviewed on a regular basis to take account of changes in the future plans of the Trust and perceived risks. Reserves are maintained for a variety of reasons as identified below. Namely:-

- a) An amount might be needed to meet an unforeseen emergency or other unexpected need. This amount is arrived at after considering risks and how much might be needed for such contingencies; this involves judgement of events that may occur and their likelihood.

£100,000 has been retained to meet an unforeseen emergency or other unexpected event.

- b) Expenditure budget - a small contingency fund to meet unforeseen operational costs.

A contingency of 10% (£80,000) has been retained for unexpected and unforeseen operational expenditure.

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- c) Uncertainty over future income. Most well run organisations retain reserves equivalent to a number of weeks or months of income equivalent to allow time to develop new sources of income or to cut-back on related expenditure.

Potential significant loss of income could result from a downturn in economic activity or an increase in fuel costs resulting in fewer tourists, a major disaster in the area, bad weather, pollution incident, or loss of reputation e.g. bathing water deterioration, etc .

For the present, the equivalent of 6 months income is being retained to cater for this risk which would amount to around £½ million.

- d) Planned spending commitments which cannot be met from future income would imply a need for a specific sum to be set aside - often this amount will be included within designations in the accounts.

The Repairs and Renewals programme has yet to be determined by the Charity Committee and hence the figure required remains to be determined. Given the predicted surplus for each year there is scope to include some of the recurring planned expenditure within the annual budget. There are higher cost initiatives e.g. White Rock baths, resurfacing of car parks, roadways, etc, that will necessitate identification and retention of significant sums within the accounts.

A sum of £1m was included as an estimate until further work is completed.

- e) Cash Flow - organisations require a working balance to cover 'troughs' in the cash budget.

Based on the financial year the cash flow is expected to be positive throughout the year i.e. income generated should exceed expenditure. Where significant one off expenditure is incurred e.g. resurfacing, use of reserves would be used to cover any shortfalls. As such no sum is set aside for this specific purpose - especially given the sums detailed above (a to d).

- f) In summary the Reserves to be retained amount to:-

a) Unforeseen emergency/event	£100,000
b) Unforeseen operational costs/contingency	£80,000
c) Uncertainty on income streams	£500,000
d) Planned spending commitments	£1,000,000
	<hr/>
Total	£1,680,000

**13. Plans for the Future**

The Charity committee is due to consider its future strategy at its meeting on the 7 September 2011. Subject to the Scheme's predetermination that meeting the cost of the administration and the repair and maintenance of its existing assets is the first priority, this will involve consideration of possible proposals for improvement for better income generation as well as for better facilities and attractions for the public benefit.

The Grant Advisory Panel is working on its recommendations to the Charity Committee regarding grant criteria and the grant process so that the first distribution of grants for charitable purposes can take place well before the end of the next financial year.

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The 2011 Scheme requires the Trustee to use its best endeavours to register the Charity's land with a separate title at the Land Registry. It has been determined by the Trustee that this process will be assisted, and day to day questions of responsibility for maintenance and third party claims more easily resolved between the ownership of the Trust and the Council, for the boundary to be agreed and, in places, marked on the ground. As this presents a conflict situation for the Trustee, the Charity Committee will receive its own professional advice from the surveyor instructed by the former Trustees and independent legal advice as necessary.

#### **14. Responsibilities of the Trustee**

The Trustee is responsible for preparing the trustee's report and the financial statements in accordance with applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice). Law applicable to charities in England and Wales requires the trustee to prepare financial statements for each financial year which give a true and fair view of the state of the affairs of the Trust and of the incoming resources and application of resources of the Trust for that period. In preparing these financial statements, the trustee is required to:

- select suitable accounting policies and then apply them consistently;
- observe the methods and principles in the Statement of Recommended Practice (Accounting and Reporting by Charities) (the Charities SORP);
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Trust will continue in operation.

The Trustee is responsible for keeping adequate accounting records which disclose with reasonable accuracy at any time the financial position of the Trust and enable them to ensure that the financial statements comply with the Charities Act 1993 (as amended), the Charity (Accounts and Reports) Regulations 2008 and the provisions of the Trust's governing document. They are also responsible for safeguarding the assets of the Trust and for taking reasonable steps for the prevention and detection of fraud and other irregularities.

#### **15. Accountants and Auditors**

The Trust has been grateful for the excellent work of Manningtons (Accountants), and Buzzacotts (Auditors) in meeting a far earlier closedown of the Accounts than in previous years - due to the need to report within 6 months of the end of the financial year.

It is the intention that the Trust retenders for Accountants (Final Accounts production) and external Auditor services for 2011/12 in order to continue to show value for money in its procurement activities.

#### **16. Statement of the Protector**

The 2011 Charity Scheme provides for the appointment of a Protector to the Charity. Essentially, the Protector, who is a chartered accountant acts as whistleblower and watchdog against the Council acting in breach of trust and to guard against situations where a conflict of interest is not being managed properly. As a chartered accountant he is equipped to scrutinize the Council's charity accounts. The Protector can report matters of serious concern to the Charity Commission itself. The protector must in each year prepare a statement of his or her activities and findings for publication by the trustee in its Trustee Annual Report.

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#### *Protector's Report*

The Hastings and St Leonards Foreshore Charitable Trust ("Foreshore Trust" for short) is a continuation of the existing charity which formally came into existence in September 1893, but has roots stretching much further back. Its present constitution dates from 13th January 2011, when a new charitable "Scheme" was set up by the Charity Commission to supersede the previous Scheme made in March 2006. The principal changes introduced by the new 2011 Scheme were (a) the appointment of Hastings Borough Council ("HBC") as sole Trustee, (b) the grant of a new power to make charitable grants, and (c) the appointment of a Protector to safeguard the integrity of administration of the charity. As the first Protector, one of my duties is to make an annual report about my activities and findings, to be included in the Foreshore Trust's annual report. This is the first such report and covers the period from 13th January 2011 to the date of this report.

- 1 The main reason for the appointment of a Protector arises from the need to manage the potential for conflicts of interest between HBC acting as Trustee of this charity and HBC acting in its capacity as local authority. There had over a period of years been instances of alleged breach of trust, as a result of which the Charity Commission had created a new Scheme in 2006 which excluded HBC as general trustee and substituted named individuals, the majority of whom were independent of the Council. During the period of these Schemes, the then trustees negotiated a series of legal and financial settlements with HBC under which monies were paid to the Foreshore Trust by HBC (albeit without admission of liability). This having been accomplished, the individual trustees asked that HBC be reinstated as Trustee, since it would have been very costly to continue with outside trustees frequently needing expensive professional support from lawyers, accountants and other advisers, and in any event the Foreshore Trust is heavily dependent on HBC for the day-to-day management of its car parks, property administration etc. To satisfy Charity Commission concern that the reappointment of HBC as Trustee might lead to a repeat of previous problems, it was agreed that the new Scheme should call for the appointment of a Protector whose general duty is "to ensure the integrity of the administration of the charity", in effect acting as a watchdog.
- 2 I was originally recruited in May 2009, at which time it was anticipated that the new Scheme would come into effect in the autumn of that year. In the event matters dragged on for well over another year, and I was eventually advised in December 2010 that the new Scheme would start in January 2011. In its capacity as Trustee, HBC operates through the Charity Committee of Cabinet, which met for the first time on 25th January. There was very considerable and intensive administrative activity - both for the Council and for me - to ensure that all the documents needed to establish the Trust's governance and management processes were ready to be finalised and adopted at the January meeting itself.
- 3 At that meeting a forward schedule of Charity Committee meetings was established and my intention is to attend all of these. Two of them have since taken place (on 29th March and 7 th June); in addition an unscheduled extra meeting was called for 15th February, a date on which I was unable to attend.
- 4 Under the new Scheme the Trustee must consult two advisory bodies: (1) a nominated advisory group (currently the Coastal Users' Group "CUG") in relation to major foreshore management issues, and (2) a Grant Advisory Panel which deals with the detailed process of making grants under powers given in the Scheme. The Protector is entitled to attend the meetings of these groups. To date I have attended one meeting of the Grant Advisory Panel (the inaugural meeting held on 13th April 2011). In connection with the CUG, an issue of potential disagreement arose in February 2011 between myself as Protector and the Charity Committee (representing the Trustee). This concerned the chairmanship of the CUG: a draft of the proposed constitution proposed that the Chair should be an HBC Officer - I expressed concern that this would give (or could appear to give) the Council undue influence over the agenda and conduct of this Group which is intended to provide advisory guidance to the Charity Committee on certain matters of importance. HBC took legal advice on the matter, and eventually the CUG membership expressed the view that they wished to appoint their own Chair annually (though there is no reason why the CUG member selected as Chair could not also be a Council Member or Officer). The matter was resolved on this basis in the final constitution document.

## Hastings and St Leonards Foreshore Charitable Trust

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### Report of the trustee for the year ended 31 March 2011

- 5 Among the major issues discussed at the March and June meetings of the Charity Committee were:
- The development of a medium/long term business plan to identify both likely opportunities and the likely financial burden of a comprehensive programme for repairs, renewal and improvement, including in particular the White Rock Baths site which is in very poor condition. The business plan is due to come before the Charity Committee shortly.
  - Financial reserves policy. This was considered at the June meeting; it was concluded that pending the availability of an approved business plan, a very prudent reserves policy was required. This would amount to £680,000 plus sufficient funds to be able to meet the spending demands of the business plan (ie to the extent that these demands are regarded as unlikely to be capable of being funded out of future income) - an illustrative indication of this additional element was put at £1 million, ie making a total of £1.68 million.
- 6 A further important issue for consideration was the level of grants that could be distributed under the objects of the Foreshore Trust as set out in the Scheme of 13th January 2011. There is, naturally enough, considerable public interest in this issue.

Clause 3 of the Scheme reads as follows:

*"The objects of the charity are:*

*(1) To hold and maintain the charity's land for the objects set out in the trusts of the charity, namely for the common use, benefit and enjoyment of all Her Majesty's subjects and of the public for the time being for ever; and*

*(2) Subject to sub-clause (1) above, such charitable purposes within the area of the Borough of Hastings as the trustee thinks fit."*

This makes very clear that the use of funds for charitable purposes is a secondary object and must not prejudice the maintenance and management of the charity's land.

At the June meeting the Charity Committee determined that, out of an estimated surplus for the year ended 31st March 2011 of £229,000 (and in the context of net current assets at that date of £1,778,000) the sum of £50,000 should be made available during 2011/12 for charitable purposes within the area of the Borough of Hastings. The Committee commented, as recorded in the draft Minutes of that meeting, that:

*"The Council had the responsibility for the proper management of the financial affairs of the Trust. The use of any potential surpluses generated by the Trust had to be determined in the light of affordability. The level of Reserves to be maintained was dependent on the future plans of the Trust and also the potential financial risks that the Trust could face in the years to come. Given the financial position of the Trust, and a surplus expected in 2011/12, but that longer term planning is still to be completed, the establishment of a very prudent level of grant allocations for this year needed to be determined."*

It is expected that these matters will be revisited when the business plan is complete and future spending requirements on the maintenance of the foreshore land are clearer, since these matters will clearly have a major effect on the financial situation of the Foreshore Trust and its reserves policy.

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### **Report of the trustee for the year ended 31 March 2011**

- 7 The terms of the Scheme require that the Protector must report to the Charity Commission "any matter which he has reasonable cause to believe is likely to be relevant for the purposes of the exercise by the Commission of any of its functions". The latter are detailed in the Charities Act 1993: the most relevant items concern the quality of administration by the Trustee (HBC) and the identification and investigation of any apparent misconduct or mismanagement in the administration of the Foreshore Trust. I confirm that I know of no matter which would necessitate making any such report to the Commission.
- 8 I have established a website (at [www.hslforeshore.org.uk](http://www.hslforeshore.org.uk)) to enable anyone interested to read in more detail about the background and affairs of the Foreshore Trust; it also provides a mechanism for anyone to get in touch with me, if the need arises.

Christopher May FCA  
Protector  
8th August 2011

#### **17. Concluding remarks**

The transfer of the trusteeship to the Council in January 2011 concluded a long and difficult process. The Trust and the Council owes a debt of gratitude to all former trustees and in particular Hugh Marriage OBE and Jerry le Sueur for seeing this process through to the end.

The Trust is now taking the opportunity to concentrate efforts on ensuring a secure and viable future for the Trust and, subject to available resources, to distribute grants to the benefit of the Community.

Signed by the Chair of the Charity Committee on behalf of the Committee and the Council



**Councillor Paul Barlow**  
**Chair of Charity Committee**

Date: 25 August 2011

## **Hastings and St Leonards Foreshore Charitable Trust**

### **Independent auditor's report to the trustee of Hastings and St Leonards Foreshore Charitable Trust**

We have audited the financial statements of Hastings and St Leonards Foreshore Charitable Trust for the year ended 31 March 2011 which comprise the Statement of Financial Activities, the Balance Sheet, the principle accounting policies and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice).

This report is made solely to the trustee, as a body, in accordance with Section 43 of the Charities Act 1993 and with regulations made under Section 44 of that Act. Our audit work has been undertaken so that we might state to the trustee those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the charity and the trustee as a body, for our audit work, for this report, or for the opinions we have formed.

#### **Respective responsibilities of the trustee and auditors**

As explained more fully in the Trustee's Responsibilities Statement set out in the Trustee's Annual Report, the trustee is responsible for the preparation of financial statements which give a true and fair view.

We have been appointed as auditors under Section 43 of the Charities Act 1993 and report in accordance with regulations made under section 44 of that Act. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's (APB's) Ethical Standards for Auditors.

#### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the charity's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the trustees; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Trustee's Report to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material inconsistencies we consider the implications for our report.

#### **Opinion**

In our opinion the financial statements:

- give a true and fair view of the state of the charity's affairs as at 31 March 2011 and of its incoming resources and application of resources for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been prepared in accordance with the requirements of the Charities Act 1993.

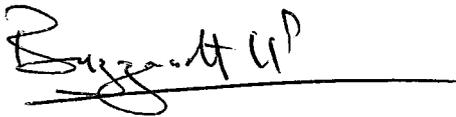
## **Hastings and St Leonards Foreshore Charitable Trust**

### **Independent auditor's report to the trustee of Hastings and St Leonards Foreshore Charitable Trust**

#### **Matters on which we are required to report by exception**

We have nothing to report in respect of the following matters where the Charities Act 1993 requires us to report to you if, in our opinion:

- the information given in the Trustees' Annual Report is inconsistent in any material respect with the financial statements; or
- sufficient accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records and returns; or
- we have not received all the information and explanations we require for our audit.



**Buzzacott LLP**  
**Statutory Auditor**  
**26 August 2011**

**130 Wood Street**  
**London**  
**EC2V 6DL**

Buzzacott LLP is eligible to act as an auditor in terms of section 1212 of the Companies Act 2006

## Hastings and St Leonards Foreshore Charitable Trust

### Statement of financial activities

For the year ended 31 March 2011

	Notes	2011 Total £	2010 Total £
<b>Incoming resources</b>			
Incoming resources from generating funds:			
Investment income	2	7,366	19,613
Incoming resources from charitable activities	3	1,015,392	1,077,736
Other incoming resources	4	110,000	-
<b>Total incoming resources</b>		<u>1,132,758</u>	<u>1,097,349</u>
<b>Resources expended</b>			
Charitable activities	5	745,982	870,698
Governance costs	6	162,179	154,566
<b>Total resources expended</b>		<u>908,161</u>	<u>1,025,264</u>
<b>Net movement in funds</b>		224,597	72,085
Total funds brought forward		<u>1,767,161</u>	<u>1,695,076</u>
<b>Total funds carried forward</b>		<u>1,991,758</u>	<u>1,767,161</u>

The statement of financial activities includes all gains and losses in the year and therefore a separate statement of total recognised gains and losses has not been prepared.

All of the above amounts relate to continuing activities.

All funds are unrestricted.

The notes on pages 17 to 20 form an integral part of these financial statements.

## Hastings and St Leonards Foreshore Charitable Trust

### Balance sheet as at 31 March 2011

	Notes	£	2011 £	£	2010 £
<b>Fixed assets</b>					
Tangible assets	9		214,018		1,030
<b>Current assets</b>					
Debtors	10	250,741		577,863	
Cash at bank and in hand		1,567,231		1,293,297	
		1,817,972		1,871,160	
<b>Creditors: amounts falling due within one year</b>	11	(40,232)		(105,029)	
<b>Net current assets</b>			1,777,740		1,766,131
<b>Net assets</b>			1,991,758		1,767,161
<b>Funds</b>					
Unrestricted income funds			1,991,758		1,767,161
<b>Total funds</b>			1,991,758		1,767,161

The financial statements were approved by the trustee on 25 August 2011 and signed on its behalf by



**Councillor Paul Barlow**  
Chair of Charity Committee

The notes on pages 17 to 20 form an integral part of these financial statements.

# Hastings and St Leonards Foreshore Charitable Trust

## Notes to financial statements for the year ended 31 March 2011

### 1. Accounting policies

The principal accounting policies are summarised below. The accounting policies have been applied consistently throughout the year and the preceding year.

#### 1.1. Basis of accounting

The financial statements are prepared under the historical cost convention and in accordance with the Statement of Recommended Practice 'Accounting and Reporting by Charities' (SORP 2005 2nd edition) and the Charities Act 1993.

#### 1.2. Cashflow

The charity has taken advantage of the exemption in FRS1 from the requirement to produce a cashflow statement because it is a small charity.

#### 1.3. Incoming resources

All incoming resources are included in the statement of financial activities when the charity is entitled to the income and the amount can be quantified with reasonable accuracy. The following specific policies are applied to particular categories of income:

Income from investments is included in the year in which it is receivable.

#### 1.4. Resources expended

Expenditure is recognised on an accrual basis as a liability is incurred. Expenditure includes any VAT which cannot be fully recovered, and is reported as part of the expenditure to which it relates.

Charitable expenditure comprises those costs incurred by the charity in the delivery of its activities and services for its beneficiaries. It includes both costs that can be allocated directly to such activities and those costs of an indirect nature necessary to support them.

Governance costs include those incurred in the governance of the charity and its assets and are primarily associated with financing and with constitutional and statutory requirements.

#### 1.5. Tangible fixed assets and depreciation

Tangible fixed assets are stated at cost less accumulated depreciation. Depreciation is provided at rates calculated to write off the cost less residual value of each asset over its expected useful life, as follows:

Land	-	not depreciated
Plant and equipment	-	over 15 years straight line

The land comprising the foreshore of Hastings and St Leonards was sold to the Trust by the Crown in September 1893 for £400 and subsequent purchases between 1925 and 1934 for a further £630. No valuation of this land has ever been carried out and it is recorded at cost. Land valued at £95,000 was acquired in 2010 as part of a land swap with Hastings Borough Council. The trustees are of the opinion that the open market value is materially in excess of the carrying value of the land.

#### 1.6. Staff and pension schemes

The charity has no employees but is charged the relevant portion of those undertaking work in pursuance of the charity's objectives. These are employed by Hastings Borough Council and have the choice of being in the relevant defined benefit local government pension scheme.

## Hastings and St Leonards Foreshore Charitable Trust

### Notes to financial statements for the year ended 31 March 2011

#### 2. Investment income

	2011	2010
	£	£
Bank interest receivable	7,366	16,733
Other interest receivable	-	2,880
	<u>7,366</u>	<u>19,613</u>

#### 3. Incoming resources from charitable activities

	2011	2010
	£	£
Car parking	839,426	907,973
Rents	165,653	151,610
Other income	10,313	18,153
	<u>1,015,392</u>	<u>1,077,736</u>

#### 4. Other incoming resources

	2011	2010
	Total	Total
	£	£
Gain on disposal of tangible fixed assets	110,000	-
	<u>110,000</u>	<u>-</u>

On 28 May 2010, the Trust entered into a land swap agreement with Hastings Borough Council. The Trust acquired a strip of land within Pelham Place car park valued at £95,000 and received additional consideration of £15,000 in exchange for the land at the Stade Coach and Lorry park, valued at £110,000.

#### 5. Costs of charitable activities - by activity

	2011	2010
	£	£
Car parking	206,328	263,321
Foreshore management	318,646	378,668
Street cleansing	92,436	94,563
Public conveniences	128,572	134,146
	<u>745,982</u>	<u>870,698</u>

## Hastings and St Leonards Foreshore Charitable Trust

### Notes to financial statements for the year ended 31 March 2011

#### 6. Governance costs

	2011 £	2010 £
Accountancy fees	3,000	3,231
Auditor remuneration	12,300	12,044
Protector's fees	5,997	2,907
Legal and professional fees	104,702	134,753
HBC management charges	34,711	-
Trustees' indemnity insurance	1,071	1,071
Trustees' reimbursement and meeting costs	398	560
	<u>162,179</u>	<u>154,566</u>

#### 7. Employees

There are no direct employees.

#### 8. Trustees' emoluments

No remuneration was paid to trustees during the year. Expenses of £398 were paid to one trustee for travel costs.

#### 9. Tangible fixed assets

	Land and buildings freehold £	Plant and equipment £	Total £
<b>Cost</b>			
At 1 April 2010	1,030	-	1,030
Additions	95,000	122,058	217,058
At 31 March 2011	<u>96,030</u>	<u>122,058</u>	<u>218,088</u>
<b>Depreciation</b>			
At 1 April 2010	-	-	-
Charge for the year	-	4,070	4,070
At 31 March 2011	<u>-</u>	<u>4,070</u>	<u>4,070</u>
<b>Net book values</b>			
At 31 March 2011	<u>96,030</u>	<u>117,988</u>	<u>214,018</u>
At 31 March 2010	<u>1,030</u>	<u>-</u>	<u>1,030</u>

## Hastings and St Leonards Foreshore Charitable Trust

### Notes to financial statements for the year ended 31 March 2011

#### 10. Debtors

	2011	2010
	£	£
Amounts owed by Hastings Borough Council	250,741	577,863

#### 11. Creditors: amounts falling due within one year

	2011	2010
	£	£
Trade creditors	20,944	44,177
Amounts owed to Hastings Borough Council	-	9,250
Accruals and deferred income	19,288	51,602
	<u>40,232</u>	<u>105,029</u>