

Meeting: Cabinet

Date: 20th February 2020

Wards Affected: All Paignton Wards

Report Title: Contractors Compound on Paignton Green

Is the decision a key decision? No

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Cllr Swithin Long and Cllr Mike Morey

Supporting Officer Contact Details: Kevin Mowat, Director of Place, 01803 208433, email kevin.mowat@torbay.gov.uk

1. Proposal and Introduction

- 1.1 Planning permission has been granted for development of the sites of the buildings formerly known as “The Lighthouse” and “The Park Hotel” Esplanade Road, Paignton.
- 1.2 The Council has been approached by the contractors (Midas Construction Ltd) acting for the developers of the above site of for permission to use part of Paignton Green as a contractor’s compound while development takes place on the building sites.
- 1.3 The proposed term is for a period of 74 weeks for which Midas would pay a licence fee of £28,900. The detailed terms of the licence are set out at Appendix 1 and a Plan is set out in Appendix 2.
- 1.4 Placing a compound on Paignton Green would breach the wording of a covenant (“the Covenant”) placed over the Green in 2013. In essence the Covenant states that the Council would not allow any permanent structure on the Green. A copy of the Covenant is set out at Appendix 3.

2. Reason for Proposal

- 2.1 The Covenant was intended to protect Paignton Green from development by preventing permanent structures. The proposal is a technical breach of the Covenant but will not affect the long-term protection afforded by the Covenant.
- 2.2 The Lighthouse and Park Hotel sites are very constrained and not easily served by any alternative compound in a different location; granting the licence will better enable the prompt development of a highly visible seafront site. These developments will also support economic regeneration for Paignton at a very important time when grant bids, which link to the town centre, are being prepared for Future High Street Funding.

3. Recommendation(s) / Proposed Decision

3.1 That the licence to Midas on the terms set at Appendix 1 be granted.

3.2 That the income received from the licence be utilised as follows;

- (i) a £4,000 grant be given to Paignton Community Partnership to support their activities for the benefit of Paignton,
- (ii) £24,900 be allocated as funding for the delivery of the English Riviera Airshow.

Appendices

Appendix 1: Heads of Terms for licence agreement

Appendix 2: Plan EM3407

Appendix 3: Copy covenant dated 12 June 2013

Background Documents

Supporting Information and Impact Assessment

Service / Policy:	Director Place
Cabinet Member	Swithin Long/Mike Morey
Director	Kevin Mowat

Version:	2	Date:	12.2.2020	Author:	Kevin Mowat/James Oram
----------	---	-------	-----------	---------	------------------------

Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>If the Council grants the licence there will be a technical breach of the Covenant.</p>
2.	<p>What is the current situation?</p> <p>The Council is committed to the long term preservation of Paignton Green. In order to achieve this a voluntary covenant was entered into in 2013 following an unsuccessful application to Register Paignton Green as a town or village green.</p> <p>The definition of “Permanent Structure” in the Covenant is, “any structure intended to remain on the land for a period greater than 6 months in any period of 12 consecutive months”. Given this definition, the proposed licence for 74 weeks would be a breach of the Covenant.</p>

3.	<p>What options have been considered?</p> <p><u>To not grant the Licence</u> This would mean that the development of the Lighthouse and the Park sites would be impacted.</p> <p><u>To grant a Licence for 6 months and then move the compound</u> It might be possible to relocate the compound elsewhere on Paignton Green after 6 months and then relocate the compound back to the original location for the remainder of the proposed licence term. This would not cause a technical breach of the Covenant but imposes additional costs on the Developer for no real benefit for the Council or the community of Paignton.</p> <p><u>To grant the Licence for a compound in an alternative location</u> Other sites have been explored close to the Victoria Centre car park or Colin Road car park but Midas have indicated that these locations are not viable sites.</p>
4.	<p>How does this proposal support the ambitions and principles of the</p>

	<p>Corporate Plan 2015-19?</p> <p>This proposal supports the Corporate Plan ambition of Prosperous Torbay by facilitating the development of a highly visible site which will provide employment opportunities both during the construction of the development and permanent jobs when the sites are operational as hotels. It will also bring valuable income to the Council during the licence period.</p>
<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The Covenant is expressed to be for the Paignton Wards and the Members of these wards have been consulted together with the TDA. Regeneration within Paignton and the town centre is supported by the Ward Councillors and the TDA.</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>The Ward Councillors have been consulted, as well as the Paignton Community Partnership and the Paignton Green users group, which includes event organisers.</p>

Section 2: Implications and Impact Assessment

7.	<p>What are the financial and legal implications?</p> <p>The proposal would bring an income of £28,900.</p> <p>Whilst there would be a technical breach of the Covenant, for which an aggrieved person could seek to enforce by way of an injunction in the High Court, the risks of this being successful are low. The spirit of the Covenant is to preserve Paignton Green from permanent future development and this proposal does not seek to allow any permanent development on the Green (considering the 'normal' definition of permanent i.e. 'lasting or intended to last or remain unchanged indefinitely).</p>
8.	<p>What are the risks?</p> <p>Should a person be aggrieved by the proposal then they could seek to enforce the Covenant by way of an injunction in the High Court. The risks are low as a person would need to show that this decision goes against the spirit of the Covenant, which is to preserve Paignton Green from future development. This proposal does not seek to allow any permanent development on the Green.</p> <p>There is clearly a risk of impact to the delivery of the developments and associated investment on the sites of the former Lighthouse and Park Hotel.</p>
9.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable for this policy.</p>
10.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The professional advice of the TDA has been used to achieve the best possible terms on which to grant a licence in this location.</p>
11.	<p>What are key findings from the consultation you have carried out?</p> <p>It is understood that the Community Partnership have recognised that the developments and investment being undertaken in this key seafront location are important to Paignton and that although the contractor's compound located on the Green is not ideal, it is probably a necessary requirement to deliver progress at pace.</p>

12.	Amendments to Proposal / Mitigating Actions None applicable.
-----	--

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			No differential impact
People with caring Responsibilities			No differential impact
People with a disability			No differential impact
Women or men			No differential impact
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact
Religion or belief (including lack of belief)			No differential impact
People who are lesbian, gay or bisexual			No differential impact
People who are transgendered			No differential impact
People who are in a marriage or civil partnership			No differential impact
Women who are pregnant / on maternity leave			No differential impact

	Socio-economic impacts (Including impact on child poverty issues and deprivation)	This proposal facilitates much needed development of a site and investment in Paignton, that will bring the employment benefits set out above	
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)		No differential impact
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None	
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None	

