

Charities and Trusts Committee

Thursday 18 April 2024

13:30

County Buildings, Stafford

The meeting will be webcast live and archived for 12 months. It can be viewed at the following link: <https://staffordshire.public-i.tv/core/portal/home>

John Tradewell
Deputy Chief Executive and Director for Corporate Services
10 April 2024

Agenda

- 1. Apologies**
- 2. Declaration of Interests**
- 3. Minutes of the meeting held on 14 November 2023** (Pages 3 - 6)
- 4. Tamworth Youth Centre Fund** (Pages 7 - 22)
- 5. Exclusion of the Public**

The Chairman to move:

“That the public be excluded from the meeting for the following items of business which involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 indicated below”.

Part Two
(reports in this section are exempt)

Membership	
Phil Hewitt Thomas Jay David Smith (Vice-Chair)	Paul Snape (Chair) Mark Winnington

Notes for Members of the Press and Public

Filming of Meetings

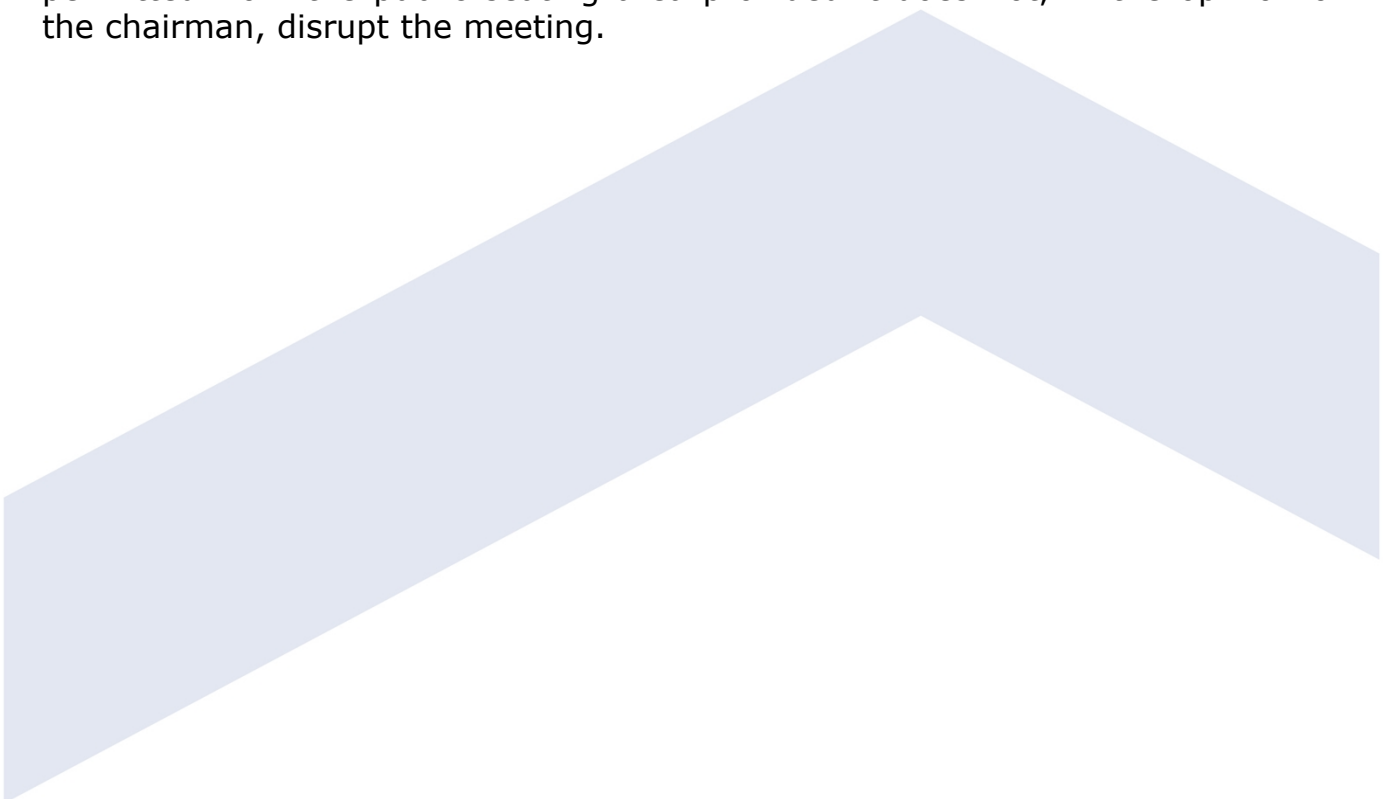
Staffordshire County Council is defined as a Data Controller under the Data Protection Act 2018. The County Council has agreed that public meetings should be the subject of live web transmission 'webcasting'. Fixed cameras are located within meeting room for this purpose.

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If you have privacy concerns about the webcast or do not wish to have your image captured, then please contact the Member and Democratic Services officer named at the top right of the agenda.

Recording by Press and Public

Recording (including by the use of social media) by the Press and Public is permitted from the public seating area provided it does not, in the opinion of the chairman, disrupt the meeting.



Minutes of the Charities and Trusts Committee Meeting held on 14 November 2023

Present: Paul Snape (Chair)

Attendance
David Smith (Vice-Chair)

Also in attendance:

Apologies: Phil Hewitt

Part One

8. Apologies

9. Declaration of Interests

There were no declarations of Interest on this occasion.

10. Minutes of the meeting held on 13 June 2023

Resolved – That the minutes of the meeting held on 13 June 2023 be approved and signed by the Chair as an accurate record.

11. Nicholson Institute - LUF Refurbishment Project

The committee received a report on the Nicholson Institute (NI) – LUF Refurbishment Project. The Nicholson Institute is held in Trust by Staffordshire County Council and its use is shared between the County Council's Library Service and Staffordshire Moorlands District Council. Leek and Buxton College, which is part of the University of Derby, no longer use the building.

Staffordshire Moorlands District Council was awarded Levelling Up Funding (LUF) earlier in 2023 for the repairs and renovation of the Nicholson Institute. As part of the funding agreement Staffordshire Moorlands District Council would take the role of 'Client' and be responsible for the successful delivery of the project, with the County acting as a lead stakeholder and landlord during and post project.

The lower ground floor of the NI was not currently occupied due to issues with damp, general poor internal condition, and poor access. The first phase of the project would refurbish this space bringing it back into use and provide a segregated new access.

The Levelling Up Funding budget allocated to phase one is £1.4m, which would focus on the lower ground floor works, and would take 18 weeks with pre-construction stages estimated to take 37 weeks. It was anticipated that works would start on site on the 20th May 2024, with handover in September 2024.

Resolved – That (a) For the Charities and Trusts Committee to review the contents of the report and provide a recommendation to proceed with the LUF funded refurbishment project lead by Staffordshire Moorlands District Council.

(b) For the Charities and Trust Committee to delegate authority to the Assistant Director for Commercial and Assets to approve the Schedule of Works, together with the plans and specifications required to complete a project to the required standards, and to agree a Licence for Alterations and any other documents required to implement these works.

(c) Officers to return with a further detailed update in respect of the occupation and use of the building, once agreed and finalised.

12. Endowment Charities Annual Accounts 2022/23

The Committee received a report on the Endowment Charities' Annual Accounts 2022/23 for the 12 Charities where the Council is the Custodian Trustee. The Committee were asked to approve the Trustee's Annual Reports for the 3 Charities where Staffordshire County Council has been appointed Custodian Trustee.

The Committee were also informed that 3 of the 12 Charities, with income levels of over £25,000, had their annual reports included for approval by the Committee, which have been audited by the Staffordshire Internal Audit Service, prior to submission to the Charity Commission.

Resolved – That (a) the Charities and Trusts Committee approve the Annual Accounts for 2022/23 for the 12 Charities where the Council is the Custodian Trustee; and

(b) the Charities and Trusts Committee approve the Trustee's Annual Reports for the 3 Charities which are required to submit such to the Charity Commission.

13. Exclusion of the Public

Resolved - That the public be excluded from the meeting for the following items of business which involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A (as amended) of

the Local Government Act 1972.

Chair

Local Members Interest

Cllr Robert Pritchard – Tamworth, Perrycrofts

Charities and Trusts Committee - Thursday 18 January 2024

Tamworth Youth Centre Fund (Charity Number 522734)

Items for Consideration

The Committee are asked to consider whether to:

- a. reaffirm the previous decision to sell the Property and use the sale proceeds to create an annual grants programme to further the charitable objectives;
- b. approve the revised scheme wording as shown in Appendix 2; and
- c. approve the publication of the public notice as shown in Appendix 3 for a period of one month and delegate approval to the Assistant Director for Commercial and Assets to approve the completion and submission to the Charity Commission of the Form of Declaration following the expiry of the public notice.

Report of the Director of Deputy Chief Executive and Director for Corporate Services

Summary

1. The Committee has previously agreed to the principle of the disposal of the Youth Centre property, as shown edged in red in Annex A ('the Property'), and the arrangements to manage the income from capital invested for the benefit of the charitable objectives.
2. Further draft revised objectives have been received from the Charity Commission and are presented for approval by the Committee.
3. Before deciding whether to amend the scheme the Charity Commission require the Committee to:
 - (a) confirm whether they are still happy to proceed with the amended scheme and their rationale for this decision; and
 - (b) advertise a public notice of the scheme amendments for a period of one month on the property, two local notice boards, on Staffordshire County Council's website and the Charity Committee's website.

Staffordshire County Council's role as a Charity Trustee

4. Charity Trustees are required to ensure that any decisions made on behalf of the Charity are in the best interests of the Charity and consistent with the Charity's objects and powers.
5. When making decisions for the Charity, the Charity Trustees are therefore required to:
 - a) act within their powers;
 - b) act in good faith and only in the interests of the Charity;
 - c) make sure they are sufficiently informed;
 - d) take account of all relevant factors;
 - e) ignore any irrelevant factors;
 - f) manage conflicts of interests; and
 - g) make decisions that are within the range of decisions that a reasonable trustee body could make.
6. Where a local authority is a trustee of a Charity there can often be a conflict of interest between the interests of the local authority and the Charity. In order to manage any potential conflicts Staffordshire County Council set up the Committee whose decision-making process is separate to the decisions making process of Staffordshire County Council.
7. In this instance there is a potential conflict because Staffordshire County Council are the tenant of the Property following the grant of a lease dated the 23rd June 1977 for a term of 99 years. A decision to sell the Property would require the surrender of this lease and the Charity Trustees must therefore ensure that any decisions made are in the best interest of the Charity, in line with paragraph 5 above and that the rationale for such decisions are clearly documented.
8. In addition, as referred to in the previous reports the proposed sale would be a joint sale with Staffordshire County Council who own adjoining land. If a joint sale proceeds it is expected that a synergistic premium will be received in addition to the market value. However, again the Charity Trustees must ensure that they are comfortable that this is in the best interest of the Charity, in line with paragraph 5 above and that the rationale for such decisions are clearly documented.

Report

Decision to amend the Scheme

9. Prior to making the application to amend the Scheme the Committee was presented with a report on the 15th June 2021 which set out the available options for the future use of the Property and the advantages and disadvantages for each option. These options were to:
- (a) maintain the status quo and take no further action;
 - (b) make an application to change the charitable objectives to enable the sale of the Property and the appointment of quasi management trustees to deliver an annual grants programme in accordance with the charitable objectives; or
 - (c) to source a new tenant as Staffordshire County Council and the current occupiers were no longer able to use the Property in accordance with the charitable objectives.

A summary of the advantages and disadvantages highlighted in this report are set out in Appendix 1.

10. At that time, option b was favoured by the Charity Trustees on the basis that the current tenants and occupiers were not able to use the Property fully in accordance with the charitable objectives and that it had not been possible to source an alternative tenant who was able to further the charitable objectives and take on the repairing liability for the Property. Accordingly, the best way to further the charitable objectives was considered to be the sale of the Property with the sale proceeds being used to create an annual grants programme.

11. Before amending the Scheme the Charity Commission required a formal consultation to be undertaken which received 6 responses. 2 supported the proposed sale and reinvestment, 3 supported maintaining the status quo but this would mean that the charitable objectives would still not be fully complied with and 1 party supported reletting the Property but that party was not in a position to take on the repairing liability of the Property themselves. The consultation specifically asked that the parties only supported reletting the Property if they were able to take on a lease of the Property due to the difficulty in sourcing tenants.

12. The reports set out in the background documents contain a detailed record of the information which has been available to the Charity Trustees when making prior decisions. This information remains accurate save that Humankind served notice and ceased to occupy the Property with effect from the 31st March 2024. MPFT are continuing to deliver the service previously provided by Humankind but they do not wish to occupy the

Property for this purpose on a long term basis and only wish for a short term occupation while other premises are undertaking alternations. When MPFT vacate later this year the property will therefore be vacant.

13. Before amending the Scheme the Charity Commission require the Charity Trustees to again consider the options for the future use of the Property and to evidence in the minutes the rationale for this decision and how the Charity Trustees consider the results of the consultation inform their decision.

Revised Scheme Wording

14. The governing document of the Charity confirms that the Charity Trustees shall hold the Property upon trust to permit the same to be appropriated and used for the *'promotion of the social, mental, moral physical and spiritual well-being of boys and girls resident in Tamworth aforesaid and the surrounding district by the provision of facilities for social and physical training, education and recreation'*.

15. On the 13th June 2023, the Committee approved a revised objective to, *'To promote social, mental, moral, physical and spiritual well-being of younger residents under 25 years of age in Tamworth and the surrounding district with the object of improving the condition of life for the same persons'*.

16. The Charity Commission have proposed further amendments to the proposed objectives on the basis that the governing document focuses on assisting in the provisions of recreation facilities for young people. Accordingly, the Charity Commission have proposed the following objectives for the amended scheme:

To provide or assist in the provision of facilities for recreation or other leisure time occupation of persons under 25 years of age who are resident in the area of benefit with the object of improving the conditions of life for the said persons.

17. It is for the Charity Trustees to determine whether the wording of the amended scheme is in accordance with the spirit of the original gift and whether this is suitable and effective in light of the current social and economic circumstances.

Public Notice

18. When the proposed amendments to the Scheme are approved by the Charity Trustees the Charity Commission required a public notice of the

scheme amendments, in the form set out in Appendix 3, to be advertised for a period of one month on the property, two local notice boards, on Staffordshire County Council's website and the Charity Commission's website.

19. If the Charity Commission receive any representations on the draft scheme, then they will need to consider these and a decision will need to be made by the Charity Commission on whether the scheme can proceed or not.
20. An update on the outcome of the public notice will be provided at the next Committee meeting.

Equalities Implications

21. The statutory functions discharged by the Charity Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011 (as amended by the Charities Act 2022), Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions.
22. Also, the objectives of the charity are specific to a defined group, that group remains the same.

Legal Implications

23. Paragraphs 4 – 7 above set out the Charity Trustee's responsibilities. These responsibilities, and the consequences of not making a decision in line with these responsibilities, are set out in further detail by the Charity Commission in the guidance issued to Charity Trustee's which can be reviewed via the following link: [It's your decision: charity trustees and decision making - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/its-your-decision-charity-trustees-and-decision-making)

24. To make a decision to amend the Scheme the Charity Trustees must be satisfied and able to evidence that the original charitable objectives can no longer be fulfilled and the amended scheme must comply with the cy-pres doctrine to allow the wishes of the donor to be carried out even if the original purpose of the gift is no longer possible in light of current social and economic circumstances.

25. Following this doctrine the Charity Commission can amend a Scheme under s62 of the Charities Act 2011 when the objectives set out in the governing document:

- (a) can no longer be carried out, or not in the way laid down in the governing document
- (b) have been fulfilled, or adequately provided for in other ways (for example, out of public funds)
- (c) do not provide a use for all of the charity's income or property
- (d) use outdated definitions of areas, places, or classes of people
- (e) have ceased to be charitable in law
- (f) have stopped being a useful way of using the funds or property (for example, providing for very small payments or gifts of food or fuel to beneficiaries)
- (g) where two or more charities with similar objects want to merge but do not have the legal power to do so

Resource and value for Money Implications

26. Members are reminded that the decision to change the objectives and to sell the Property to provide income to invest in the charitable objectives have to be made on the basis that this is right course of action for the Charity trust alone and not any other local authority benefit.

Risk Implications

27. If the Committee does not agree to the proposed changes and disposal or the Charity Commission do not approve the amended Scheme then there is a risk that the Tamworth Youth Centre may no longer be able to be used in accordance with the charitable purposes.

List of Background Documents/Appendices:

Charities and Trusts Committee Report 15th June 2021
Charities and Trusts Committee Report 14th June 2022
Charities and Trusts Committee Report 13th June 2023

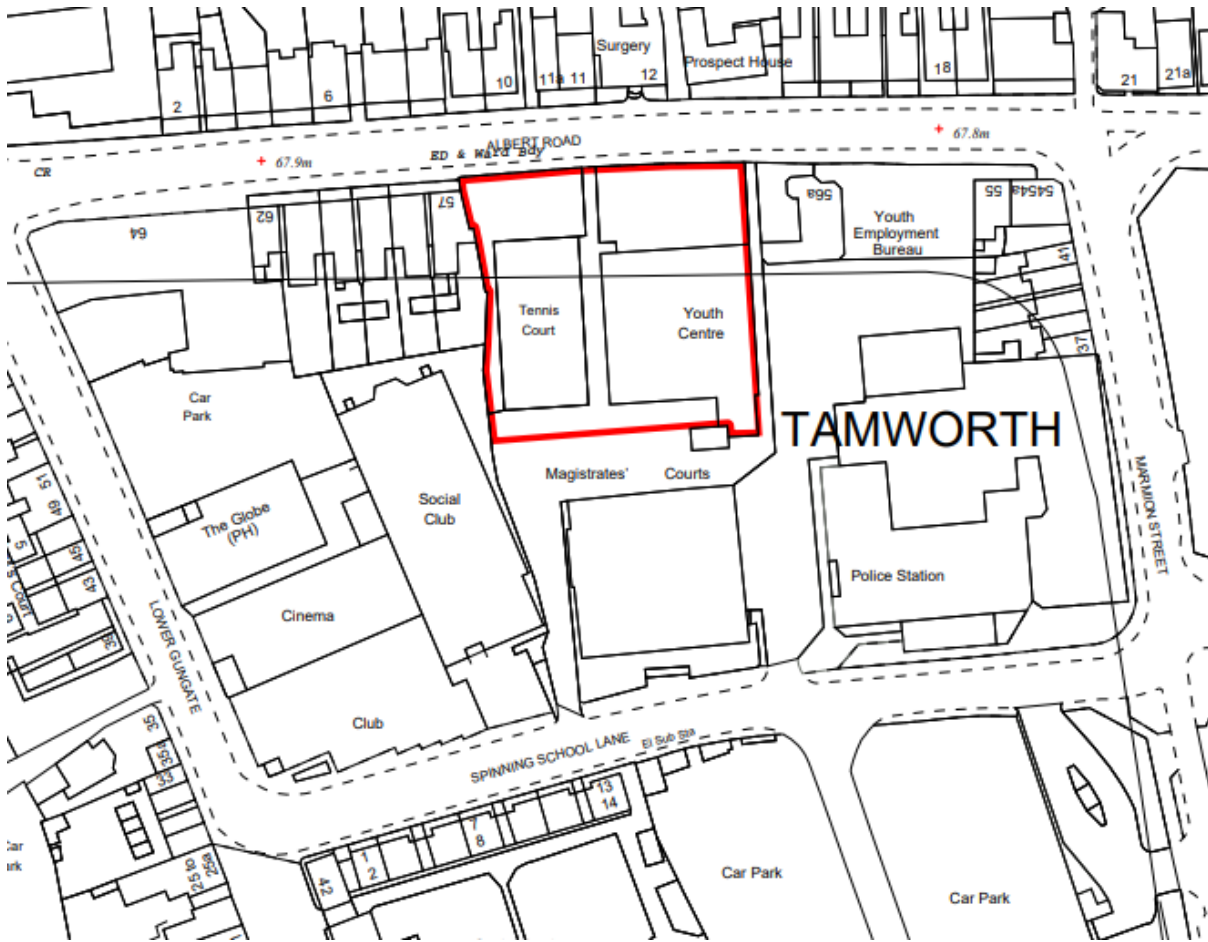
Annex A – Plan showing extent of Tamworth Youth Centre

Appendix 1 – Abstract of Report 15th June 2021
Appendix 2 – Tamworth Youth Centre Proposed Revised Scheme
Appendix 3 – Form of Public Notice and Declaration

Contact Details

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Annex A – Plan showing extent of Tamworth Youth Centre



Appendix 1 – Abstract of Annex C of the Report 15th June 2021

1. Do Nothing

Advantages

- Enables current tenants to continue to use the building

Disadvantages

- Currently the former TYC is not delivering any benefit in line with the TYC Charitable objectives as it is not used by groups for young people and this would continue.
- The condition of the building would deteriorate further due to continued pressures on maintenance budgets.
- Retaining the former TYC would prevent the sale of the other SCC property holdings and prevent further development on this site.

2. Change the charitable objectives to enable the sale of the former TYC and appoint SCVYS as quasi management trustees to deliver an annual grants programme to deliver against the charitable objectives on behalf of the TYC Trustees.

Advantages

- The proposed reinvestment of the sale proceeds and grants model will realise the Charitable Trust obligations
- The SCC Charity & Trust Committee would retain the responsibility for the delivery and oversight of the TYC Charitable Trust objectives as is currently the case as the committee presently administer the TYC Fund

Disadvantages

- The SCC Charity & Trust Committee may not wish to retain the responsibility and oversight of the TYC Centre fund.

3. Source a new tenant

Advantages

- If the new tenant provided services for the young people of Tamworth the TYC Charitable Trust objectives may be realised by an extended use of the building

Disadvantages

- It would be extremely unlikely that a new tenant would be attracted to the building as they would be required to take on the repairs maintenance and running costs of the building and site area.
- Running costs from 2015 to 2021 total approximately £63,500.
- The condition of the building has a backlog maintenance of £ £578,878 with £114,252 of this being Priority 1 and 2 items.
A new tenant would be required to enable other organisations to use the building to fulfil the charitable trust obligations.

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Under the power given in the Charities Act 2011

Orders that from today, the

this

SCHEME

will govern the charity

known as

TAMWORTH YOUTH CENTRE FUND (522734)

at

Tamworth, Staffordshire

DRAFT

**A member of staff of the Charity Commission authorised to act on behalf of the
Charity Commission**

1. Definitions

In this scheme:

“the area of benefit” means the Borough of Tamworth and the surrounding district.

“the charity” means the charity identified at the beginning of this scheme.

“the Commission” means the Charity Commission for England and Wales.

“the trustee” means the trustee of the charity acting under this scheme.

2. Administration

The charity is to be administered in accordance with this scheme. This scheme replaces the former trusts of the charity.

3. Object of the charity

To provide or assist in the provision of facilities for recreation or other leisure time occupation of persons under 25 years of age who are resident in the area of benefit with the object of improving the conditions of life for the said persons.

4. Trustee

Staffordshire County Council is the trustee of the charity.

5. Sale of land

- (1) Subject to the requirements of part 7 of the Charities Act 2011, the trustees may sell the land identified in the schedule to this scheme.
- (2) Any clear proceeds of sale are investment permanent endowment and the income used for the object of the charity.

6. Use of income and capital

- (1) The trustee must firstly apply:
 - (a) the charity’s income; and
 - (b) if the trustee thinks fit, expendable endowment; and
 - (c) when the expenditure can properly be charged to it, its permanent endowmentin meeting the proper costs of administering the charity and of managing its assets.
- (2) After payment of these costs, the trustee must apply the remaining income in furthering the object of the charity.
- (3) The trustee may also apply for the object of the charity:

- (a) expendable endowment; and
- (b) permanent endowment, but only:
 - (i) where it is permitted in accordance with (and subject to the conditions in) the Charities Act 2011; or
 - (ii) on such terms (including for the replacement of the amount spent) as the Commission may approve in advance.

7. Questions relating to the Scheme

The Commission may decide any question put to it concerning:

- (1) the interpretation of this scheme; or
- (2) the propriety or validity of anything done or intended to be done under it.

SCHEDULE

Tamworth Youth Centre, Spinning School Lane, Tamworth, **as shown edged in red on the plan annexed**, which is registered at H M Land Registry under title number SF582362 and part of title number SF553116

DRAFT

Form of notice

Charity Commission

Charity: TAMWORTH YOUTH CENTRE FUND (522734)

The Commission is considering making a scheme change to the above charity's objects.

The scheme will allow the charity to sell its property and the proceeds of sale will be used to provide grants to assist in the provision of facilities for recreation or other leisure time occupation of persons under 25 years of age who are resident in the Borough of Tamworth and the surrounding district.

A copy of the draft Scheme is available at www.charitycommission.gov.uk/our-regulatory-work/how-to-comment-on-a-scheme/schemes-and-orders/

If you cannot access this, please call our Contact Centre on 0300 066 9197

Any representations on these proposals can be made to the Commission within one month from [please insert date] by completing the form on our website. Please quote: NJ/C-022560

Form of declaration

I declare that to the best of my knowledge and belief the notices in respect of the Charity Commission's proposed Scheme were published as follows:

Where published	Date put up or published or sent	Date removed / taken down
<i>Details of notice boards where notice was displayed</i>		
<i>Details of the website where notice was displayed</i>		

Full name:

Position:

Date:

