

Local Members Interest
Cllr Robert Pritchard – Tamworth, Perrycrofts

Charities and Trusts Committee - Tuesday 14 June 2022

Tamworth Youth Centre Fund (Charity Number 522734)

Recommendations

I recommend that the Committee:

- a. Approves the Charity Commission being informed of the outcome of the consultation and the progression of the current application with the Charity Commission to amend the charitable scheme to enable the sale of the Property and the reinvestment of the sale proceeds into an endowment to be run by appointed managing trustees if deemed appropriate by the Committee;
- b. Approves the sale of the Property to Tamworth Borough Council, subject to revised valuation advice; and
- c. Delegates approval to the Assistant Director for Commercial and Assets to agree sale and fund management terms for the approval of the Committee.

Report of the Director for Corporate Services

Summary

1. The Committee are asked to consider whether they still favour the amendment to the charitable scheme to enable the sale of the Property and the reinvestment of the sale proceeds following the outcome of the public consultation as referred to in the 'Background-Consultation' below.
2. The Committee are asked to confirm whether, if the scheme is amended, they support a direct sale of the Property to Tamworth Borough Council rather than a sale of the Property on the open market, subject to appropriate independent valuation advice.

Staffordshire County Council's role as a Charity Trustee

3. Trustees have and must accept ultimate responsibility for directing the affairs of a charity, ensuring that it is solvent, well-run and delivers the charitable outcomes for the public benefit for which it has been set up.
4. Local Authorities are well suited to being a charity trustee as they are:

- a. rooted in the local community;
 - b. open and transparent in their dealings;
 - c. highly accountable for their actions, and
 - d. have the high standards of public conduct embedded in the way they work.
3. Charity trustees have a duty to act solely in the best interests of the charity and its beneficiaries with a view to furthering its charitable purposes and for no other purpose whatsoever. They must also ensure that any charitable assets are managed independently and prudently in accordance with their charitable purpose and any restrictions in the charity's governing document.

Proposal

5. The Charity own the property known as Tamworth Youth Centre, Spinning School Lane, Tamworth, B79 7BD ('the Tamworth Youth Centre') which is shown edged in red on the plan annexed hereto at Annex A.
6. The properties around the Tamworth Youth Centre form part of the Gungate development area and are owned by Staffordshire County Council, Tamworth Borough Council.
7. The Tamworth Borough Council's Gungate Masterplan sets out the potential development opportunities for the wider Gungate area which are broad and include mixed use town centre accommodation, health and leisure facilities.
8. Staffordshire County Council own the land edged in red on the plan annexed hereto at Annex B (save for the extent of the Tamworth Youth Centre) which includes the former Magistrates Court and former Connexions building.
9. Tamworth Borough Council own the land edged in green on the plan annexed hereto at Annex B which includes the Gala Bingo Hall and car park areas.
10. The Committee resolved on the 15th June 2021 to make an application to the Charity Commission to amend the scheme of the Charity to enable the sale of the Property as part of the wider scheme.
11. Tamworth Borough Council have now approached Staffordshire County Council about acquiring the land owned by Staffordshire County Council and the Charity, rather than a joint sale as previously proposed.

12. Tamworth Borough Council would prefer to acquire these assets directly so that they have full control over the delivery of the Gungate Masterplan. As part of this, Tamworth Borough Council are preparing a £20,000,000 bid for the Levelling Up Fund and have the support of Homes England and South Staffordshire College. Land assembly is a critical step to achieving this funding award.
13. Previous valuations for the properties in the area indicate a synergistic value from a joint disposal. It is proposed to obtain updates to the valuation to include specific independent valuation advice on the joint disposal being the best price for the charity asset as required by legislation.

Report

Background

14. After consideration of the options for the future use of the Property, on the 15th June 2021 the Committee made the following resolution:

RESOLVED – That (a) an application be made to the Charity Commission to amend the charitable scheme to enable the sale of the Property and the reinvestment of the sale proceeds as part of an endowment in line with previous Charities and Trust Committee approvals across all Staffordshire County Council Charitable Funds.

(b) an annual grant programme to be run by appointed quasi management trustees to deliver against the charitable objectives.

(c) the marketing of the sale of the Property jointly with adjoining landowners;

(d) approval of sale be delegation to the Assistance Director for Commercial and Assets;

(e) fund management be undertaken in the normal way for charity trusts capital.

15. An application has been made to the Charity Commission to amend the scheme and as part of this application the Charity Commission have requested a consultation on the future options for the Property.
16. A summary of the outcome of the consultation undertaken is set out in Annex C. A total of 6 responses were received but only 5 of these responses provided comments on the proposals.
17. Of the 6 responses received, 3 individuals favoured maintaining the status quo, 2 individuals favoured the sale of the Property and the reinvestment of the sale proceeds and 1 individual favoured sourcing an alternative tenant.

Background - Sale Options

18. It was previously the intention for a joint sale of the Property to take place together with the land in the ownership of Staffordshire County Council and Tamworth Borough Council in order to achieve the best sale price.
19. Tamworth Borough Council now wish, subject to approvals, to acquire the Property and the land owned by Staffordshire County Council so that they have sole control over the delivery of the Gungate Masterplan.
20. Staffordshire County Council are in support of the sale of their land to Tamworth Borough Council based on a joint market valuation process.
21. A joint valuation exercise with Tamworth Borough Council was undertaken in November 2021. This considered all the County Council assets in the area plus the adjacent Bingo Hall owned by TBC.] The valuation of the Youth Centre was £421,500.
22. The additional marriage value obtainable as part of the joint sale is likely to ensure that the best value can be obtained over a sale of the Property alone in the open market. This was valued at £46,750 in the above valuation.
23. It is proposed for revised valuations to be obtained and for Tamworth Borough Council to acquire the Property for the price stated in the revised valuation in accordance with the delegation previously provided by the Committee to the Assistant Director for Commercial and Assets.

Equalities Implications

24. The statutory functions discharged by the Charity Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011, Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions. However, no decision is made until the Charity Trustee has determined it is expedient in the interests of the charity.

Legal Implications

25. Management and governance arrangements for charitable trusts are set out in the constitution under which they were established. Charity trustees in making decisions must also comply with Charities Act 2011, Trustee Act 2000, other relevant legislation and guidance issued by the Charity Commission. The assets of a charity must be used in accordance

with charitable law, and the Scheme failing which this will give rise to a breach of trust. Trustees have a duty to preserve the assets of trust. Decisions made by the charity must be expedient in the interests of the charity at all times. The disposal of trust assets is an exceptional event and must be in line with appropriate professional advice. All valuation advice must conform to the requirements in Part 7 Charities Act 2011 for the disposition of trust land.

26. As stated above, in order to proceed with a sale of the Tamworth Youth Centre the consent of the Charity Commission would need to be obtained. The Charity Commission are unlikely to provide consent unless it can be demonstrated that the proceeds of sale can be used in accordance with the objects of the Charity. It is considered that the reinvestment of the sale proceeds into an endowment to be run by appointed managing trustees would be the best way to comply with the objects of the Charity.
27. When consent for the sale is held, it will be necessary to agree a surrender of the Lease of the Tamworth Youth Centre with Staffordshire County Council. As a condition of this surrender Staffordshire County Council would need to ensure, at the cost of Staffordshire County Council, the relocation of all current users as referred to above.
28. Any sale of the Property will need to comply with Part 7 of the Charity Act 2011. In accordance with Clause 119, prior to any agreement for sale, the following requirements will therefore need to be satisfied:
 - (a) obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by the trustees and acting exclusively for the charity,
 - (b) advertise the proposed disposition for such period and in such manner as is advised in the surveyor's report (unless it advises that it would not be in the best interests of the charity to advertise the proposed disposition), and
 - (c) decide that they are satisfied, having considered the surveyor's report, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity.

Resource and value for Money Implications

29. There are few financial implications for the Charity Trustee other than exposure to the legal fees associated with the application to the Charity Commission to obtain consent for the sale and the valuation and sale costs including the surrender of the lease with Staffordshire County Council. These costs are a required expenditure to achieve this return.
30. If a sale directly to Tamworth Borough Council is agreed then no marketing fees will be incurred.

Risk Implications

31. Provided the consent of the Charity Commission is obtained and the sale and reinvestment of the sale proceeds, if agreed, is carried out in accordance with the objects of the Charity and the requirements of the Charity Act 2011 there is a minimal risk to the Charity.
32. If the Charity Commission do not provide consent for the sale then there is a risk that the Tamworth Youth Centre may no longer be able to be used in accordance with the charitable purposes and may not achieve the same value on a later sale if this is not part of a wider disposal.

List of Background Documents/Appendices:

Annex A – Plan showing extent of Tamworth Youth Centre
Annex B – Plan showing the Gungate Development Area
Annex C – Consultation Response

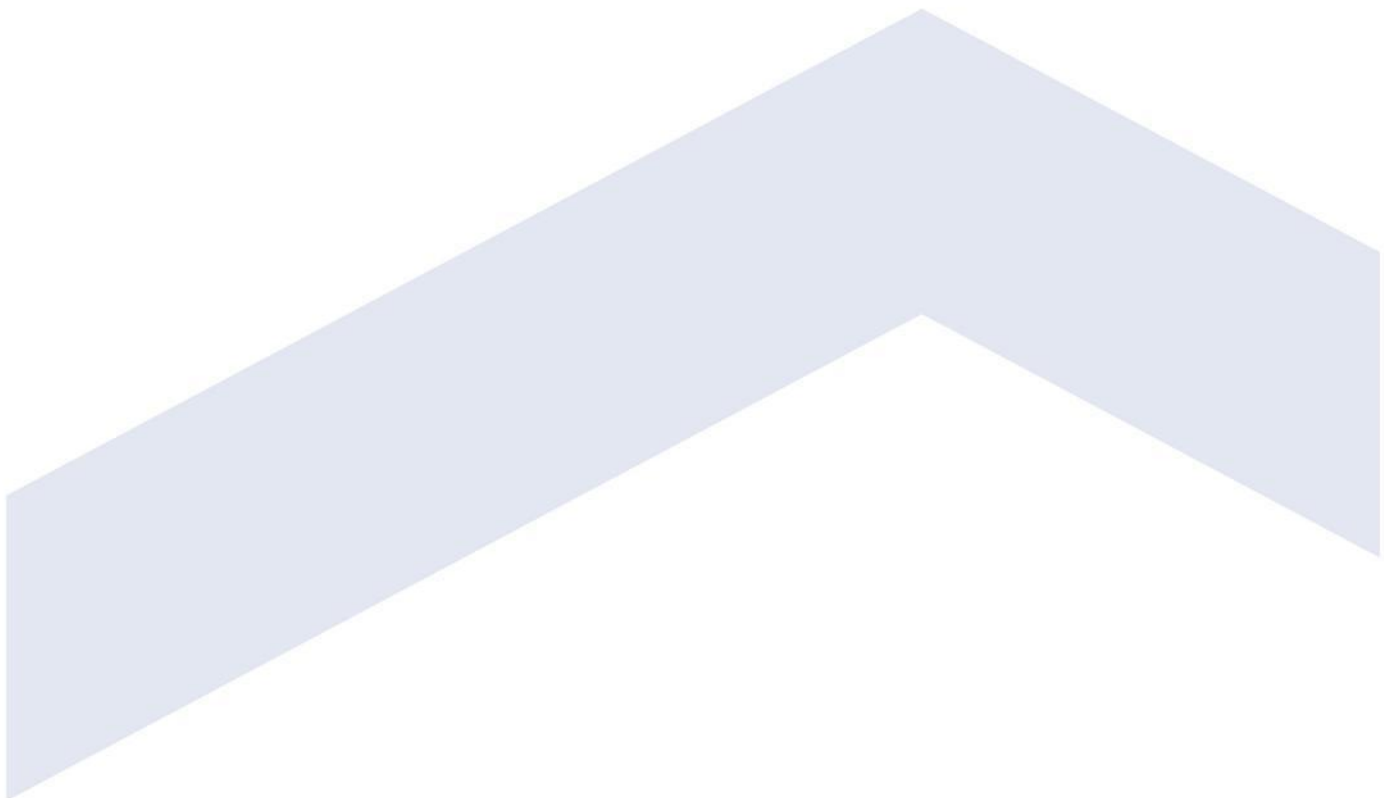
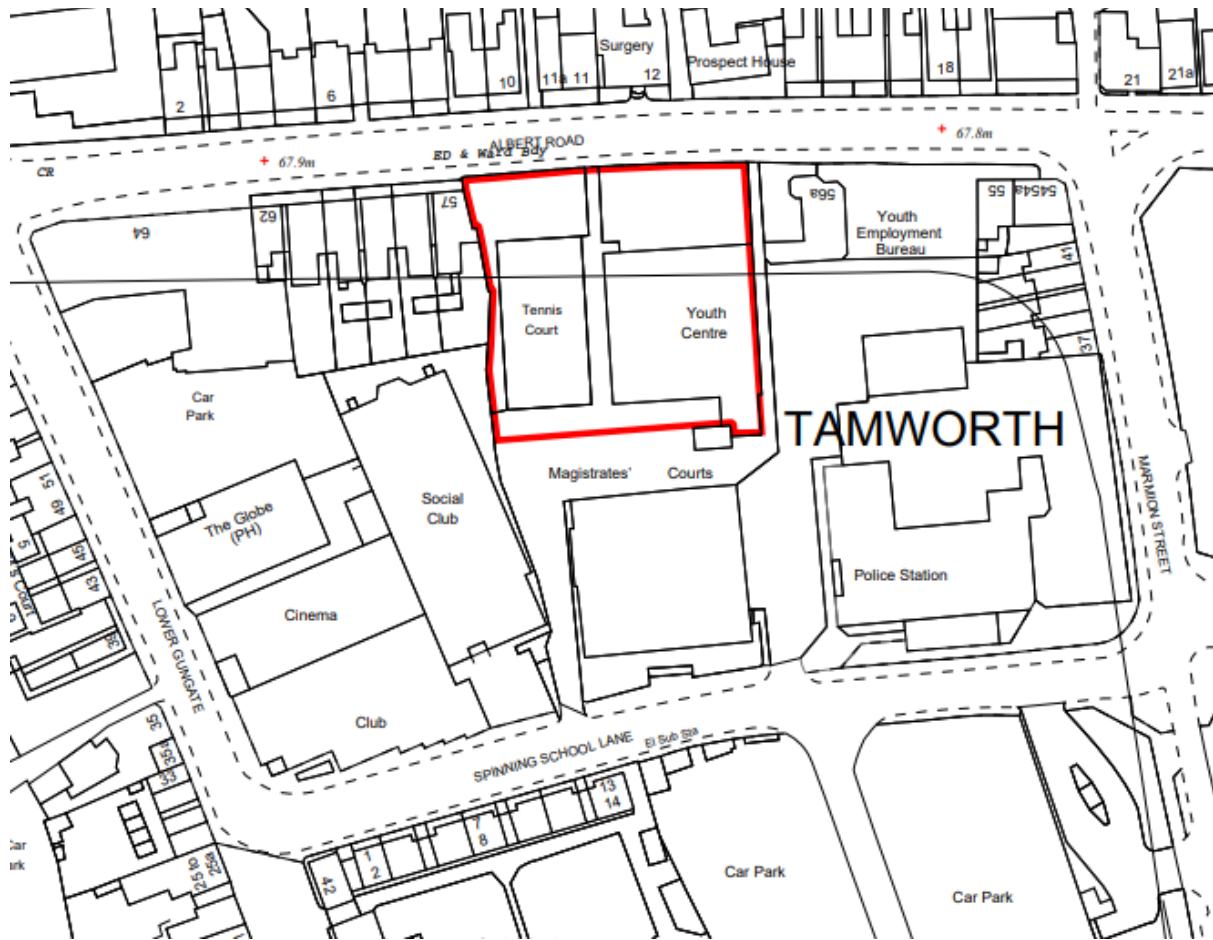
Contact Details

Assistant Director: Ian Turner, Assistant Director for Commercial and Assets

Report Author: Tim Leese
Job Title: Strategic Delivery Manager
Telephone No.: 07814 372627
E-Mail Address: tim.leese@staffordshire.gov.uk



Annex A – Plan showing extent of Tamworth Youth Centre



Annex C – Consultation Response

Option 1 - maintaining the status quo – comments received

Tamworth Grassroots Basketball Academy

Option 1 -presents our organisation with an opportunity to fulfil the objectives of the Charity. We currently see circa 150 children each week over 8 sessions of Basketball at Rawlett Leisure Centre. These children range between the ages of 6-17years. Due to cost and availability, we are restricted with time and availability due to the shared community use at Rawlett. We would welcome a facility we could use daily to provision for the on court and off court activities for the Basketball club.

Option 2 - takes away the opportunity for our children who have wish to play Basketball in a safe a secure outdoor space. The children often attend for recreation in the caged outdoor court area. All other courts in Tamworth are littered with broken glass and are unkept. We have recently enquired with Basketball England about outdoor court regeneration which they are ready to support in assisting us to improve the conditions of a chosen court.

Option 3 - we would love the opportunity to take on the premises but as we are volunteers and the club is funded through subs, we could not afford the quoted maintenance costs.

Tamworth Resident

Option 1. It is enviable that eventually some form of youth service will be set up again and if the building is sold or in long term lease to another user, the building will not be used. I am aware of several organisations who used to use the building and would need premises if rent can be kept competitive. Surely low rent but used daily would work out more cost effective than no one using it and no rent?

Option 2 - sale of the Property and the reinvestment of the sale proceeds – comments received

Heart of Tamworth Community Project

Having consulted with trustees (who include local councillors), we agree that option 2 represents the best way forward.

However, we would like assurance that the value represented by TYT's share will be spent on Tamworth's young people, and, in particular, that the County Council recognises its obligations in respect of this.

We are pleased to see that income from the sale of the property would be restricted for charitable purposes. However, we would like to understand what these might be.

We would suggest that once the property has been sold, a body could meet to discuss how best to use the proceeds. Maybe another project that requires a building might be the way ahead, if the proceeds paid for that facility? Similarly, could the funding be used to run a new youth project in the town centre or support young people who are homeless?

Finally, we are supportive of the need to regenerate the town centre and recognise how this plot of land would contribute to that.

Tamworth Resident

Having read the options for the future use of charity funds I would welcome option 2 as this would still benefit the young people of Tamworth. The idea of a trust set up to offer grants to young people's needs in Tamworth is the best option and will allow the charity funds to grow with the sale of land and property.

Option 3 - sourcing an alternative tenant – comments received

Tamworth Resident

Doing nothing isn't an option.
Option 2 I have doubts about where the money will end up, will it go to pay those deciding who gets handouts.
Option 3 is the only viable answer

