

Local Members' Interest	
Robert Pritchard	Tamworth

Charities and Trusts Committee

Tamworth Youth Centre Fund (Charity Number 522734) (‘the Charity’)

Background

1. 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.
2. The properties around the Tamworth Youth Centre form part of the Gungate development area and are owned by Staffordshire County Council, Tamworth Borough Council and the Office of the Police and Crime Commissioner for Staffordshire.
3. The Tamworth Borough Council Gungate Masterplan (see [Hyperlink Below](#)) 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. [Closed consultations | Tamworth Borough Council](#)
4. 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.
5. 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.
6. Staffordshire County Council and Tamworth Borough Council are exploring the options of a joint sale of their land and it is proposed that the Committee consider whether it is in the best interests of the Charity to also be a party to any joint sale.
7. It is understood that The Office of the Police and Crime Commissioner for Staffordshire are separately progressing a sale of the former police station shown edged in blue on the plan at Annex B so this area may not form part of the wider proposal.

Report of the Director for Corporate Services

The Staffordshire County Council’s role as a Charity Trustee

1. 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.

2. Local Authorities are well suited to being a charity trustee as they are: -
 - rooted in the local community
 - open and transparent in their dealings
 - highly accountable for their actions, and
 - 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.

Recommendations

The Committee is asked to consider the following options which are further set out in Annex C for wider discussion by the Committee.

1. Do Nothing
2. Disposal of the property and use of capital to support the charities objectives, via
 - a. an application being 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, if deemed appropriate by the Committee,
 - c. the marketing of the sale of the Property jointly with adjoining landowners; and
 - d. delegation of approval to the Assistance Director for Commercial and Assets to agree sale and
 - e. fund management be undertaken in the normal way for charity trusts capital.
3. Retain the property asset and consider alternative tenant arrangements for its use to support the objectives.

Background – Charity

1. The Governing documents for the Charity are the Conveyance dated the 29th September 1944 and the Scheme dated the 5th March 1979, copies of which are annexed hereto at Annex D.
2. In accordance with the Governing documents, the Trustees shall hold the Tamworth Youth Centre 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 and education and recreation.
3. Staffordshire County Council are currently the sole trustee of the Charity and are required to apply clear income of the Charity in providing or assisting 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 with the object of improving the conditions of life for the said person.
4. The Trustees do have the power under the scheme to delegate management and control of the Tamworth Youth Centre but they do not currently have the power to sell the Tamworth Youth Centre and may need to apply to the Charity Commission to amend the scheme to permit a sale if it is considered to be in the best interests of the Charity to proceed with the proposal.

Background - Tamworth Youth Centre

1. Staffordshire County Council leased the Tamworth Youth Centre from the Charity for 99 years from the 23rd June 1977.
2. The lease from the trust to Staffordshire County Council has no break provisions, and as such can only be determined by agreement
3. Until April 2015, Staffordshire County Council's Youth Services used the Tamworth Youth Centre in compliance with the objects of the Charity.
4. With effect from 1st April 2015 the Youth Service ceased to exist, and associated budget support was withdrawn. Accordingly, in total 32 youth centres were transferred, leased, closed and disposed of.
5. Staffordshire County Council therefore no longer have a use for the Tamworth Youth Centre but have kept Tamworth Youth Centre operational in order to facilitate and accommodate community users and to support the objectives of the Charity.
6. This has been achieved by the continued use of the Tamworth Youth Centre by local community organisations and an underlease to a Staffordshire County Council commissioned service (ADS and more recently , Humankind) who managed the Tamworth Youth Centre and enabled the users to continue to use the facility ('the Underlease').
7. The Underlease is a peppercorn rent but the undertenant takes on responsibility for running costs and maintenance in return.
8. In accordance with the terms of the Underlease, the Tamworth Youth Centre is currently used by Tamworth Radio, Liberty, Bowls, BMX, Table Tennis Clubs. However, these occupiers may not be using the Tamworth Youth Centre entirely in accordance with the Charities objects.

9. If the proposal for the sale of the Tamworth Youth Centre is approved Staffordshire County Council intend to work with The Staffordshire Council of Voluntary Youth Services Stafford ('SCVYS') to support the current users to relocate to suitable alternative accommodations.

Background – Charity Finances

1. Since 2015 revenue income accrued on behalf of the Charitable Trust has not been promoted or distributed. Prior to this, managers of the youth service formed a Tamworth Youth Centre Committee to distribute grants for the income annually.
4. Current Revenue income from the investment is £1500 per annum. The balance currently stands at £11,000.
5. If the proposal for the sale of the Tamworth Youth Centre is approved then it would be intended for the proceeds of the sale to be reinvested as part of an endowment in line with previous Charities and Trust Committee approvals across all Staffordshire County Council Charitable Funds.
6. Following investment, it is estimated that the current income of £1,500 per annum could increase by approximately £6,500 per annum for distribution in accordance with the objectives of the Charity.

Background - The Staffordshire Council of Voluntary Youth Services Stafford ('SCVYS')

1. It is considered that the appointment of quasi management trustees may be an effective way to allocate income and/or approve grants on behalf of the Charity in accordance with the objectives of the Charity.
2. SCVYS have been identified as a possible suitable quasi management trustee and would charge the Charity an administrative/management fee of £1000 per annum.
3. SCVYS have considerable experience in providing support to voluntary and community sector organisations for young people and are commissioned by Staffordshire County Council as their key infrastructure partner. SCVYS also have experience in administering and running grant programmes for the voluntary and community sector in Staffordshire.
4. It is proposed that if a sale is agreed and SCVYS appointed as quasi management trustees, that SCVYS will seek bids from Tamworth youth groups/ organisations and analyse these on their merits and in accordance with the objectives of the Trust and then submit annual reports to the Trustees outlining the grants awarded and some examples of impact.

Equalities Implications

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

1. 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 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.
2. 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 quasi management trustees would be the best way to comply with the objects of the Charity.
3. 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 work with SCVYS to support the current users in finding alternative and appropriate accommodation.

Resource and value for Money Implications

1. 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 sale costs including the surrender of the lease with Staffordshire County Council. There will also be marketing fees.
2. Staffordshire County Council's Estates & Valuation Manager has undertaken an information valuation of the Tamworth Youth Centre and considers that a sale value of £185,000 may be achieved. The costs above are a required expenditure to achieve this return.

Risk Implications

Provided the consent of the Charity Commission is obtained and the sale and reinvestment of the sale proceeds, if agreed, are carried out in accordance with the objects of the Charity there is a minimal risk to the Charity.

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.

Report Author:

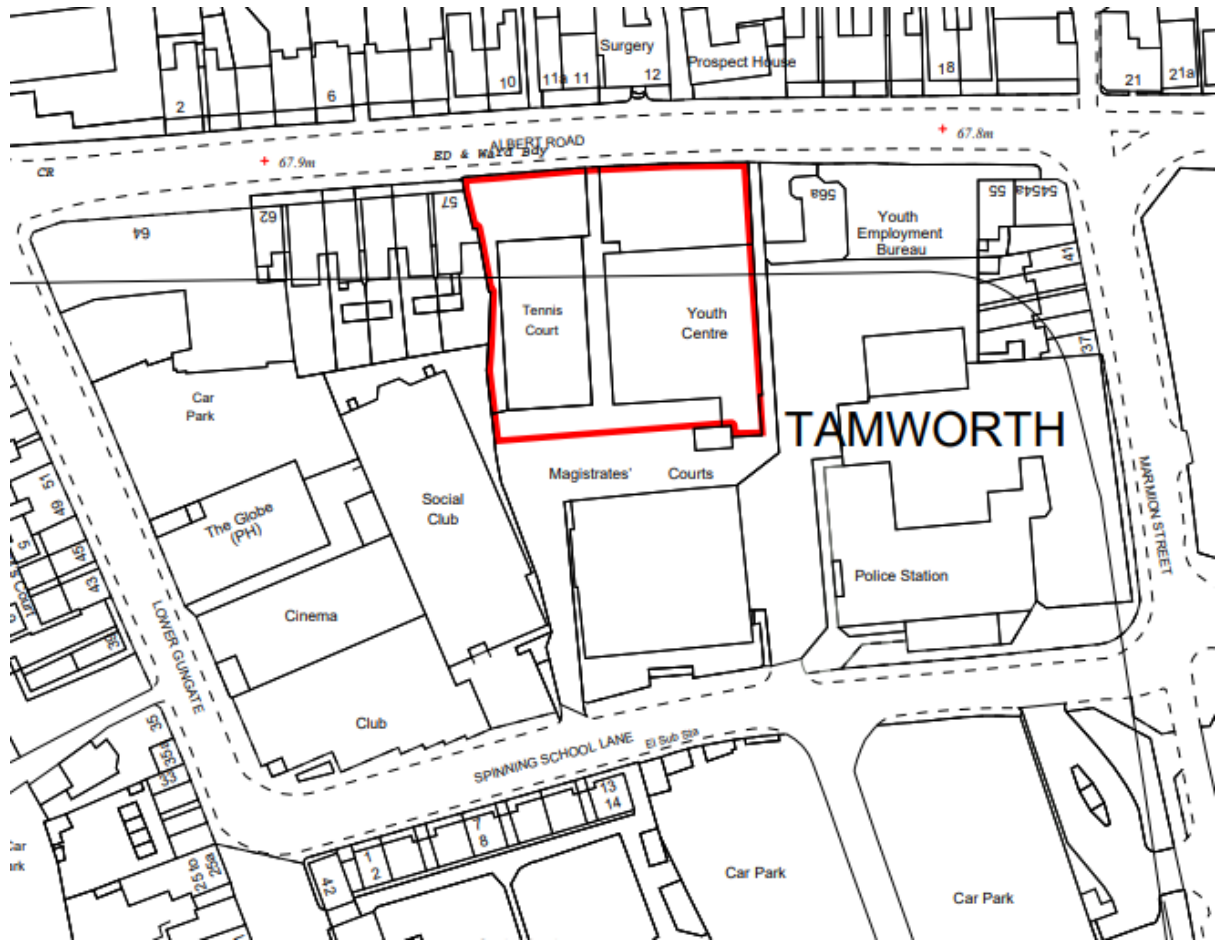
Report Authors:

Tim Leese: Strategic Delivery Manager

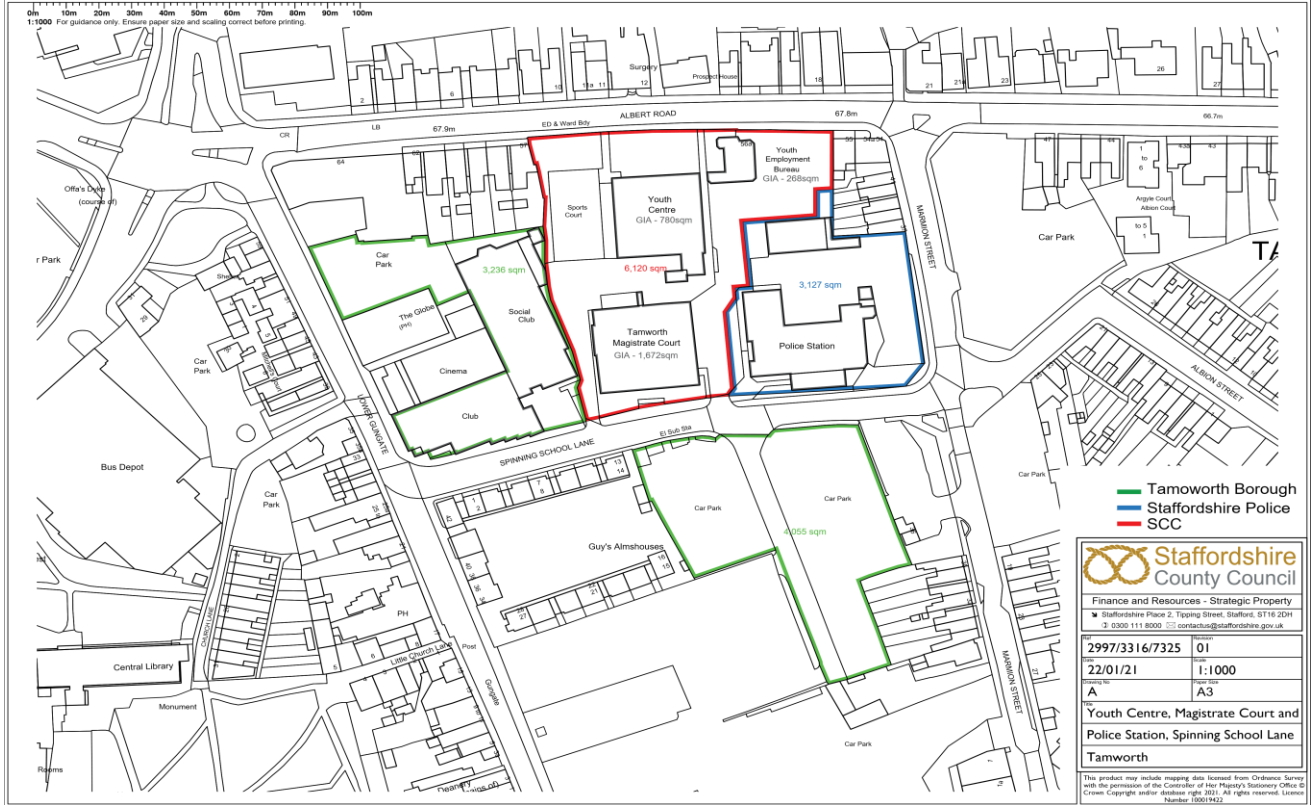
Helen Matthews: Project Manager-Strategic Property

Vanessa Rigby: Senior Solicitor.

Annex A – Plan showing extent of Tamworth Youth Centre



Annex B – Plan showing the Gungate Development Area



Annex C – Options

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.

Annex D – Governing Documents