

Local Members Interest

Cllr Robert Pritchard – Tamworth, Perrycrofts

Charities and Trusts Committee - Tuesday 13 June 2023

Tamworth Youth Centre Fund (Charity Number 522734)

Recommendations

I recommend that the Committee:

- a. Approves the revised scheme wording as shown in Appendix 1;
- b. Notes the updated valuation advice in accordance with Charity Commission disposal rules;
- c. Agrees to the surrender of the Lease of the land to Staffordshire County Council; and
- d. Delegates approval to the Assistant Director for Commercial and Assets to agree the final terms of the sale except for the price, the details of the lease surrender, and to agree the fund management arrangements.

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 and the arrangements to manage the income from capital invested for the benefit of the charitable objectives.
2. Draft revised objectives have been agreed with the Charity Commission and are presented for approval by the committee.
3. Progress on the disposal is presented with an up-to-date valuation report and recommendations of the valuer in relation to disposal.
4. Approval is required to surrender the lease of the property with Staffordshire County Council.

Staffordshire County Council's role as a Charity Trustee

5. 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.

6. 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.

Report

Revised Scheme Wording

7. An application has been made to the Charity Commission to amend the scheme and as part of this application the Charity Commission.
8. The commission asked for a consultation on the proposals and the results of that consultation have been shared with the commission following consideration by the committee.
9. The full revised scheme is included in Appendix 1 in its draft form until agreed by this committee and accepted by the Charity Commission.
10. The current wording of the Objects is,
 - ".. 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 persons..."
11. The draft revised scheme from the Charity Commission included the following suggestions for the revised 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.

Or

The object of the charity is to advance in life and [help young people in the area of benefit through:

(a) The provision of recreational and leisure time activities provided in the interest of social welfare, designed to improve their conditions of life;

(b) Providing support and activities which develop their skills, capacities and capabilities to enable them to participate in society as mature and responsible individuals.”

12. The revised Objects of the Charity as previously put forward by officers and recommended to committee is proposed as,

“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.”

Sale of the property

13. In accordance with the Charity Act 2011, a valuation report has been obtained by a qualified surveyor.

14. The report and the terms of engagement state that the report is in accordance with the Charity Act requirements.

15. The report places a market value on the property of £421,500. With an additional synergistic value of £46,750 if sold with the adjacent properties.

16. Staffordshire County Council are in support of the sale of their land to Tamworth Borough Council based on a similar valuation exercise and will formally consider disposal of council assets to Tamworth borough Council at the Property Sub committee on 7th June. The decision of that committee will be verbally reported to this committee.

17. The valuation assumes that property is free to develop and therefore the existing 99 year lease from 23rd June 1977 to the County Council from the Trust will need to be surrendered. The consent to surrender will also be reported to the committee.

18. It will be for Staffordshire County Council in its corporate capacity to ensure that any sub tenant and users of the property vacate to allow the sale, this will be at the County Council's own cost and not that of the trust. Alternatively, Tamworth Borough Council may accept the siting sub-tenant for a period of time until its development is ready to progress.
19. Should the County Council decide to sell its property to Tamworth Borough Council then the synergistic value materialises and the report recommends sale of the youth centre property to Tamworth Borough Council rather than an advertised open market sale.
20. Tamworth Borough Council have expressed a desire to continue with the acquisition, but any sale will be subject to contract.
21. Members are reminded of the proposals to manage the income to deliver the charitable objectives utilising the council's voluntary sector capacity contract.
22. This will come at a cost unless alternative arrangements can be put in place. Council officer time is not available for this purpose.

Equalities Implications

23. 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.
24. Also, the objectives of the charity are specific to a defined group, that group remains the same.

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. That valuation advice has now been received and is present in this report and its appendices.
27. As a reminder these obligations in relation to disposal are that 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.
28. Those requirements are addressed in the valuation report.
29. Proposals for managing the investment income will include for ensuring that the scheme objectives are met and frequent reporting to this committee.

Resource and value for Money Implications

30. Members are reminded that the decision to change the objectives and to sell the property to provide income to invest in the trust 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

31. If the committee does not agree to the proposed changes and disposal or 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.
32. Any future sale may not achieve the same value if this is not part of a wider disposal.

List of Background Documents/Appendices:

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

Annex A – Plan showing extent of Tamworth Youth Centre

Appendix 1 – Tamworth Youth Centre Proposed Revised Scheme

Appendix 2 – Valuation Report Tamworth Youth Centre

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Annex A – Plan showing extent of Tamworth Youth Centre

