

ASHFIELD DISTRICT COUNCIL



Ashfield

Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Charities Committee

Date: **Monday, 19th September, 2016**

Time: **6.30 pm**

Venue: **Committee Room, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

Lynn Cain

l.cain@ashfield-dc.gov.uk

01623 457317

CHARITIES COMMITTEE

Membership

Chairman: Councillor David Griffiths

Councillors:

Chris Baron
Amanda Brown

Tony Brewer
Phil Rostance

FILMING/AUDIO RECORDING NOTICE

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SUMMONS

You are hereby requested to attend a meeting of the Charities Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. Declarations of Disclosable Pecuniary and Non Disclosable Pecuniary/Other Interests.
3. To receive and approve as a correct record the minutes of the meeting of the Committee held on 11th July, 2016. 5 - 8
4. Teversal Community Centre and Recreation Ground (Charity Number 522310) - Update. 9 - 14
5. Trust Funds. 15 - 18

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CHARITIES COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Monday, 11th July, 2016 at 6.30 pm

Present: Councillor David Griffiths in the Chair;

Councillors Cheryl Butler (substitute for Chris Baron), Tony Brewer, Amanda Brown and Phil Rostance.

Apology for Absence: Councillor Chris Baron.

Officers Present: Lynn Cain, Ruth Dennis and David Greenwood.

In Attendance: Councillor Mike Smith.

CC.1 Declarations of Disclosable Pecuniary and Non Disclosable Pecuniary/Other Interests

No declarations of interest were made.

CC.2 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 16th March, 2016, as now submitted, be received and approved.

CC.3 Teversal Community Centre and Recreation Ground (Charity Number 522310) - Update

The Assistant Chief Executive (Governance) and Monitoring Officer presented the report and took the opportunity to update the Committee on progress since the previous Charities Committee meeting held on 16th March, 2016 as follows:-

Temporary Facilities for the Cricket Club

Temporary changing facilities would continue to be provided to the Cricket Club for the current season with a new licence to be entered into for the new season (on the same terms as the previous licence) with an agreed termination date of 1st December, 2016.

Financial Position

The Trust's Accounts for the financial year 2014/15 reported a retained deficit of £104k with the cumulative deficit to the end of March 2016 showing at just over £120k. To date, for 2016/17, the Council had made a further £181.26 payment on behalf of the Trust.

In relation to progress for entering into the proposed Leases, Committee Members were updated on the following:-

Football Club

The Council had been informed that the Football Club wanted to enter into a dialogue about the possibility of it taking over the Trust in its entirety from the Council. Legal advice had been obtained by the Club which recommended them to refrain from commenting about the lease until after the Council has replied about the Club taking over the Trust. In addition, no quotes had yet been received in relation to the works to the kitchen.

Bowls Club

The Bowls Club had advised the Council that it was unable to enter into a lease as it could not afford to pay the rent and cover the other costs associated with taking on the lease.

Cricket Club

The Cricket Club informed the Council that it was not able to accept the terms of a lease if the temporary facility was to be removed during 2017 as this would not allow sufficient time to obtain funding for, and build, a new permanent facility. Dialogue was entered into and an offer was made by the Council to extend the retention of the temporary facilities for a further year until 2018.

The Cricket Club had subsequently confirmed that it wished to continue working with the Council and might consider signing a lease if the temporary facility remains on site on a rolling one year extension negotiated on an annual basis.

Visitors Centre

The Visitors Centre had signed and agreed to the heads of terms and the process of drafting the lease had commenced. Once drafted, the Council would be seeking confirmation of acceptance of the terms from CISWO and to advertise the lease, as set out in earlier reports to Committee, before seeking permission from the Charities Committee.

Football Club Proposal

As outlined above, the Football Club had informed the Council that it wished to enter into a dialogue about the possibility of it taking over the Trust in its entirety from the Council.

The Council was of the belief that the future operation of the site was a separate matter to the ongoing lease negotiations. The future running of the Trust was a matter for all the users of the site to be involved in and the Council would be happy to hold discussions regarding the Football Club's proposals if all groups confirmed that they were in favour of such a proposal.

Council would therefore authorise the Chairman of the Charities Committee, supported by relevant officers, to enter into a dialogue with the users of the site and in particular the Football Club to explore this proposal further, should the Football Club confirm its acceptance of the proposed lease terms by 5th August, 2016.

RESOLVED that

- a) approval be given to enter into a further Licence with the Cricket Club for the current season pending lease negotiations, on the same terms as the previous Licence, to terminate on 1st December, 2016;
- b) the current financial position as set out in the report, be noted;
- c) the acceptance of the heads of terms by the Visitors Centre, be noted;
- d) the heads of terms with the Cricket Club be amended to enable the temporary facility to remain on site on a rolling one year extension, negotiated on an annual basis, with such extension being subject to the Cricket Club progressing with its plans to build a new changing facility in a timely manner to the Council's satisfaction;
- e) approval be given to serve notice to quit on any Club, giving 6 months' notice, who have not confirmed their acceptance of the proposed heads of terms by 5th August, 2016;
- f) to seek interest from other similar sporting/recreational clubs/organisations with a view to offering leases (as previously approved at Council on 10th December, 2015, Min. Ref. C.62 refers);
- g) in the event that the Football Club confirms its acceptance of the proposed lease terms by 5th August, 2016, to authorise the Chairman of the Charities Committee, supported by relevant officers, to enter into a dialogue with the users of the site and in particular the Football Club to explore the Football Club's proposal to take over the operation of the Trust.

Reasons:

To comply with the Scheme (Constitution) of the Teversal Community Centre and Recreation Ground, the Council's Constitution and charities legislation overall. The Trustee must act in the best interests of the long term future of the Trust and seek to generate income to sustain the charity.

The meeting closed at 6.40 pm

Chairman.

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Agenda Item 4

REPORT TO: CHARITIES COMMITTEE **DATE:** 19 SEPTEMBER 2016
HEADING: TEVERSAL COMMUNITY CENTRE AND RECREATION GROUND
(CHARITY NUMBER 522310) - UPDATE
**PORTFOLIO
HOLDER:** N/A
KEY DECISION: NO **SUBJECT TO CALL-IN:** NO

1. PURPOSE OF REPORT

To provide members with an up to date position in respect of the Teversal Community Centre and Recreation Ground (Charity Number 522310).

For the Committee to make recommendations to the Council.

2. RECOMMENDATION(S)

Committee is asked to consider making the following recommendations to Council:

- a) To note the current financial position as set out in the report;
- b) To note the acceptance of the heads of terms by the Visitors Centre;
- c) To amend the heads of terms with the Cricket Club to enable the temporary facility to remain on site on a rolling one year extension negotiated on an annual basis such extension to be subject to the Cricket Club progressing with its plans to build a new changing facility in a timely manner to the Council's satisfaction;
- d) To note the Football Club's proposals regarding the long term future of the operation of the Trust and, in the event that the Football Club confirms its acceptance of the proposed lease terms by **31 October 2016**, to authorise the Chairman of the Charities Committee, supported by relevant officers, to enter into a dialogue with the users of the site and in particular the Football Club to explore the Football Club's proposal to take over the operation of the Trust;
- e) To reiterate, in the event that all issues relating to lease proposals have been resolved, that the Council is committed to working with all the Clubs and the Visitors Centre for the positive development of the site to ensure the long term future of the Trust;
- f) To serve notice to quit on any Club, giving 6 months' notice, which has not confirmed its acceptance of the proposed heads of terms by **31 October 2016** and consequently to seek interest from other similar sporting/recreational clubs/organisations with a view to offering leases (as previously approved at Council on 10 December 2015, Min. Ref. C.62 refers) which become vacant.
- g) Consider giving approval for The Rotary Foundation Charity End Polio Walk (Rotary Clubs of Sutton-in-Ashfield and Kirkby-in-Ashfield) to be held on Sunday, 25 September 2016

3. REASONS FOR RECOMMENDATION(S)

To comply with the Scheme (Constitution) of the Teversal Community Centre and Recreation Ground, the Council's Constitution and charities legislation overall.

The Trustee must act in the best interests of the long term future of the Trust and seek to generate income to sustain the charity.

4. ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

The Constitution of the Teversal Community Centre and Recreation Ground, the Council's Constitution and charities legislation must be complied with.

5. BACKGROUND

Previous Decisions of Committee and Council

Members will recall that the Council at its meeting on 14 April 2016 considered the recommendations of the Charities Committee held on 16 March 2016. The Council (Min. C.96 refers) made the following decisions (in summary):

- a) to note that the rental levels are reasonable following the external surveyor's validation;
- b) the Clubs and the Visitors' Centre to be offered an incremental rental discount over 3 years;
- c) the Council agreed to upgrade the Football Club's kitchen facilities subject to a maximum cost of £1,500 (to be provided with three suitable quotes);
- d) the Bowls Club and Visitors' Centre to be offered a lease with a 30 year term with a 12 months break clause;
- e) the Cricket Club to be offered a 30 year term with no break clause due to the financial risk to the Authority should the Cricket Club not be successful in accessing funding for a permanent changing facility thus preventing the Council from relocating the temporary changing facility currently located at the Cricket Club site, to its earmarked location of Titchfield Park during 2016/2017;
- f) the guarantor clauses in all the leases to be removed;
- g) all the Clubs to be responsible for legionella testing;
- h) the preferred option is for the Council to be responsible for sourcing the Buildings Insurance and recharging the costs to the Clubs and the Visitors' Centre but should the Clubs and Visitors' Centre insist on providing their own insurance, it be mandatory that documentary evidence is provided by the Clubs and Visitors' Centre to ensure that the buildings are adequately insured, with the Clubs and Visitors' Centre being liable for any shortfall in a subsequent claim;
- i) the works to remove the car park lighting from the supply to the Visitors' Centre be approved (the cost being met by the Council) with the Visitors' Centre being reimbursed for the electricity previously used by the Council to provide lighting on the car parking site once a satisfactory comparison of past and present electricity supply bills has been undertaken;
- j) confirmation that the Clubs and the Visitors' Centre are responsible for all the maintenance of the area and buildings leased to them;
- k) approval was given for two events to take place on the site in April and August 2016;
- l) the Clubs and Visitors' Centre be required to confirm their acceptance of the agreed heads of terms by 13th May, 2016.

Updated Position

Temporary Facilities for the Cricket Club

Temporary changing facilities continued to be provided to the Cricket Club for the current cricket season.

Financial Position

The Trust's Accounts for the financial year 2014/15 report a retained deficit of £104k. This is a debt owed to the Council, which has had no option but to fund various works to the site in the absence of any funding from the Trust.

The cumulative deficit for Teversal Trust to the end of March 2016 was just over £120k. To date, for 2016/17, the Council has made a further £8,242 payment on behalf of the Trust, giving an overall deficit of £128.3k.

Progress with Leases

The Clubs were required to provide written confirmation to the Council by **13 May 2016** that they accepted the Council's heads of terms to enter into a lease.

A summary of the current position for each Club and the Visitors Centre is set out below.

a) Football Club

The Football Club has informed the Council that it would like to enter into a dialogue about the possibility of it taking over the Trust in its entirety from the Council.

The Football Club has informed the Council that it has obtained legal advice in relation to the proposed lease. It is understood that the Football Club has been advised to refrain from commenting about the lease until after the Council has replied about the Club taking over the trust; they have been advised to concentrate on which is more important to the Football Club first and the Club feels taking over the trust is its priority.

No quotes have been received in relation to the works to the kitchen.

b) Bowls Club

The Bowls Club has said it is unable to enter into a lease as it cannot afford to pay the rent and cover other costs associated with taking on a lease (such as the insurance).

c) Cricket Club

The Cricket Club informed the Council that it was not able to accept the terms of a lease if the temporary facility was to be removed during 2017 as this would not provide sufficient time to obtain funding for, and build, a new permanent facility. Further dialogue was entered into and an offer was made by the Council to extend the retention of the temporary facilities for a further year until 2018. The Cricket Club has confirmed that it wishes to continue working with the Council. To this end, the Cricket Club has said that it may consider signing a lease if the temporary facility remains on site on a rolling one year extension negotiated on an annual basis.

d) Visitors Centre

The Visitors Centre has signed and agreed to the heads of terms and the process of drafting the lease has commenced. Once drafted, the Council will seek confirmation of acceptance of the terms from CISWO and advertise the lease as set out in earlier reports to Committee, before seeking permission from the Charities Committee.

Football Club's Proposal for the Trust

The Football Club has informed the Council that it would like to enter into a dialogue about the possibility of it taking over the Trust in its entirety from the Council.

The future operation of the Trust site as a whole has been seen by the Council as a separate matter to the ongoing lease negotiations. The Council believes that the future running of the Trust should be a matter for all the users of the site to be involved in and would be happy to hold discussions regarding the Football Club's proposals if all groups confirm that they are in favour of such a proposal. The transfer of a Trust to another entity would also require the involvement of CISWO and approval from the Charity Commission in due course and would therefore take some considerable time to bring to a conclusion. The Charity Commission may impose certain restrictions or requirements on any new Trust and the drafting of a new Trust Constitution.

Council 21 July 2016

The Charities Committee met on 11 July 2016 and made a number of recommendations to Council on 21 July 2016.

The Council deferred consideration of the recommendations (Minute C.23 refers).

Advisory Committee

An Advisory Committee is due to be held on 15 September 2016. Feedback and comments from the Advisory Committee will be given verbally to the Charities Committee.

Forthcoming Event

The Charities Committee is asked to consider giving approval for the following event to take place on the site:

Name of Event: The Rotary Foundation Charity End Polio Walk (Rotary Clubs of Sutton-in-Ashfield and Kirkby-in-Ashfield)

Date of Event: Sunday, 25 September 2016

Event Venue: Teversal Trails and facilities at Teversal Trust site including Visitors Centre, Car Park and grassed area.

Event Time: 13:30 to 16:00

Event Details: Trail walk from the Visitors Centre to Pleasley and return.

Estimated Number of Attendees: 50

Car Parking: Main car park at Trust site

Stewards: 10

First Aid cover provided.

Recommendations

Committee is asked to consider making the following recommendations to Council:

- a) To note the current financial position as set out in the report;
- b) To note the acceptance of the heads of terms by the Visitors Centre;
- c) To amend the heads of terms with the Cricket Club to enable the temporary facility to remain on site on a rolling one year extension negotiated on an annual basis such extension to be subject to the Cricket Club progressing with its plans to build a new changing facility in a timely manner to the Council's satisfaction;

- d) To note the Football Club's proposals regarding the long term future of the operation of the Trust and, in the event that the Football Club confirms its acceptance of the proposed lease terms by 31 October 2016, to authorise the Chairman of the Charities Committee, supported by relevant officers, to enter into a dialogue with the users of the site and in particular the Football Club to explore the Football Club's proposal to take over the operation of the Trust;
- e) To reiterate, in the event that all issues relating to lease proposals have been resolved, that the Council is committed to working with all the Clubs and the Visitors Centre for the positive development of the site to ensure the long term future of the Trust site;
- f) To serve notice to quit on any Club, giving 6 months' notice, which has not confirmed its acceptance of the proposed heads of terms by **31 October 2016** and to seek interest from other similar sporting/recreational clubs/organisations with a view to offering leases (as previously approved at Council on 10 December 2015, Min. Ref. C.62 refers) which become vacant.
- g) Consider giving approval for The Rotary Foundation Charity End Polio Walk (Rotary Clubs of Sutton-in-Ashfield and Kirkby-in-Ashfield) to be held on Sunday, 25 September 2016

6. IMPLICATIONS

Corporate Plan:

Enable thriving, prosperous and self-sufficient communities where people shape their own futures.

Ensure the best use of our assets.

Legal:

The legal and constitutional issues are detailed in the report.

Financial:

See "Financial Position" above.

Health and Well-Being / Environmental Management and Sustainability:

The overall purpose of the trust potentially benefits the health and well-being of residents of the District.

Human Resources:

There are no human resource issues identified in the report.

Diversity/Equality:

There are no diversity or equality issues identified in the report.

Community Safety:

There are no community safety issues identified in the report.

Other Implications:

None

BACKGROUND PAPERS

None

REPORT AUTHOR AND CONTACT OFFICER

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Agenda Item 5

REPORT TO: CHARITIES COMMITTEE **DATE:** 19 SEPTEMBER 2016
HEADING: TRUST FUNDS
PORTFOLIO HOLDER: N/A
KEY DECISION: NO **SUBJECT TO CALL-IN:** NO

1. PURPOSE OF REPORT

To provide an update to the report given to the Committee on 16 March 2016 regarding the William Booth Charity, the funds of which have remained unused for several years either due to the purpose no longer being relevant and/or there being limited funds available. It will be beneficial to the residents of Ashfield for the monies in these trust funds to be transferred to a charitable organisation with a similar purpose as the existing trust fund.

2. RECOMMENDATION(S)

It is recommended the Committee recommend to Council that:

The funds from the William Booth Charity for the Poor continue to be held by the Authority until they can be transferred to the Community Food Bank.

3. REASONS FOR RECOMMENDATION(S)

The decision made previously was to transfer the funds from the William Booth Charity for the Poor once they were awarded charitable status however the Food Bank does not yet have charitable status. The Food Bank has a similar purpose to the William Booth Charity for the Poor which is why it is recommended that the Authority continues to hold these funds until the Food Bank receive charitable status.

4. ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

The Committee could suggest alternative charities however the decision to close would then need to be deferred to allow further investigation into that charity.

The Committee could choose to spend the remaining trust monies before winding up, however, due to the small amounts involved and the lack of relevant purpose it is considered that greater benefit will be gained by transferring the funds to the Community Food Bank.

5. BACKGROUND

- a) **William Booth Charity for the Poor – Balance as at 31.03.16 £1971.59 (in bank)
Investment Value £2205.48 at 30.06.16**

This was established in 1944 and operates under a scheme from 1994 for the benefit of the residents of Annesley Woodhouse experiencing hardship.

The food bank run at All Saints Church, Annesley and St Johns Church, Kirkby Woodhouse is run by the Church themselves and is called the Community Food Bank. Enquiries have been made and they have confirmed that they are in the process of obtaining charitable status for the food bank. The food bank assists residents in Annesley, Newstead, Kirkby Woodhouse and the Nuncargate area by providing food parcels.

The previous decision of Council, following the recommendation of this Committee, was to transfer the funds from the William Booth Charity for the Poor to the Community Food Bank once they are awarded charitable status. The Food Bank has confirmed that following the last meeting it had significant difficulties with the submission to the Charity Commission, they were being assisted by a volunteer and during the process the necessary forms were changed which created further delay for the organisation. The application has now been submitted and is with the Charity Commission for their consideration.

6. IMPLICATIONS

Corporate Plan:

Priority Theme: Health and Wellbeing

Within this, the Council will have a targeted approach to improving health and well-being in areas of greatest need.

Priority Theme: Place and Communities

- Enable thriving, prosperous and self-sufficient communities where people shape their own futures.
- Develop resident-led partnerships across the district.
- More people involved in community/voluntary work.

Legal:

The Law allows charities to be closed for a number of reasons. Such reasons include insufficient funds to achieve the purpose or that the original purpose is no longer relevant.

Before a charity can close the Trustees must consider if effective use of the remaining funds can be made by transferring them to another charity with a compatible purpose. Any debts or liabilities must also be cleared before spend/transferring any remaining assets.

If a registered charity is closed the Charity Commission must be informed.

After a charity is wound up the Trustees must ensure its financial records are retained for at least 6 years from when they were made.

If a charity was originally given property to be held by it forever it is said to be a “permanent endowment”. This could be the case where money was given for a charitable purpose and the donor specified the money should be invested with only the income to spend on the purposes of the trust. In such cases, to spend or transfer the money may require Charity Commission consent. To transfer the money Trustees must hold a meeting to make such a decision, agree by at least two thirds of them voting that it is the right thing to do, the trustees must decide how to transfer the assets and ensure they are used for substantially similar purposes.

Financial:

The William Booth Charity for the Poor Trust Fund balance will be paid over once appropriate legal status arrangements are in place.

Health and Well-Being / Environmental Management and Sustainability: No implications

Human Resources: No implications

Diversity/Equality: No implications

Community Safety: No implications

Other Implications: None

BACKGROUND PAPERS

None.

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