

ASHFIELD DISTRICT COUNCIL



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

Agenda

Charities Committee

Date: **Wednesday, 5th April, 2017**

Time: **6.30 pm**

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

For any further information please contact:

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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 19th September, 2016. 5 - 10
4. Teversal Community Centre and Recreation Ground (Charity Number 522310) - Update. 11 - 16
5. Trust Funds. 17 - 20

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CHARITIES COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,
on Monday, 19th September, 2016 at 6.30 pm

Present: Councillor David Griffiths in the Chair;
Councillors Chris Baron, Amanda Brown and
Phil Rostance.

Apology for Absence: Councillor Tony Brewer.

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

In Attendance: Councillor Cheryl Butler, Councillor Helen Hollis
and Councillor Paul Roberts.

CC.4 Declarations of Disclosable Pecuniary and Non Disclosable Pecuniary/Other Interests

Councillor Helen Hollis, in attendance at the meeting only, declared a non disclosable pecuniary/other interest in relation to her current position as Chairman of the Teversal Grange Advisory Committee.

CC.5 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 11th July, 2016, as now submitted, be received and approved.

CC.6 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 11th July, 2016 as follows:-

Financial Position

The cumulative deficit for the Trust to the end of March 2016 stood at just over £120k. For 2016/17 the Council had made a further payment of £8,242 on behalf of the Trust to cover water and general maintenance works.

Progress with Leases

Football Club

The Football Club had informed the Council that it wished to enter into dialogue regarding the possibility of taking over the Trust in its entirety from

the Council. In relation to the lease, the Club had taken legal advice and had been advised to refrain from signing the lease until the discussions regarding the taking over of the Trust had been completed. No quotes had yet been received in relation to the repair works to the kitchen.

Bowls Club

The Bowls Club had said that they were unable to enter into a lease because they could not afford to pay the rent as well as the other costs associated with taking on the lease.

The Cricket Club

The Cricket Club had informed the Council that it would not be able to accept the terms of the lease if the temporary facility was to be removed during 2017 as this would not provide sufficient time to obtain and build a permanent facility. The Council agreed to extend the retention of the temporary facility until 2018 but further dialogue had resulted in the Cricket Club declaring that they would consider signing the lease if the temporary facility remained on the site on a rolling one year extension, negotiated on an annual basis. The Council had provisionally acceded to this request (to submit to Council for approval) subject to being satisfied as to progress regarding the acquisition and building of the new permanent facility.

Visitors Centre

The Visitors Centre had signed and agreed to the heads of terms and the lease was now in the process of being drafted. Once drafted, the Council would be seeking confirmation from CISWO, advertising the lease and then finally seeking permission from the Charities Commission.

Football Club – Proposal for the Trust

The Football Club had 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 Council saw the future operation of the whole Trust site as a separate matter to the ongoing lease negotiations and believed that the future running of the Trust should be a matter for all the users of the site to be involved in. The Council advised that they would be happy to hold discussions if all groups confirmed that they were in favour of such a proposal. Following the Teversal Grange Advisory Committee meeting held on 15th September, 2016 at which the Clubs were represented, the Football Club advised officers that they were looking to provide administrative support for the Trust, in full collaboration with the other Clubs and Visitors Centre, rather than autonomously run the Trust. The Council agreed that discussions could take place with all interested parties as a separate issue to the lease negotiations.

Forthcoming Event

The Committee were asked to consider giving their approval to a Rotary Club Foundation Charity event as outlined in the report.

The Club representatives, in attendance at the meeting, were then offered the opportunity to make any comments/representations to the Committee and they duly raised the following:-

Football Club

The Football Club representative stated that they hoped to start negotiations for the possible takeover of the Trust prior to signing their lease. In the event that the takeover was successful, they would not require the Clubs on site to obtain leases or pay rent so any signing up to leases at this point seemed premature and should be held in abeyance until all negotiations for the possible takeover of the Trust had been finalised.

They also advised Committee that should they be successful in taking over the Trust they would wish to see the Teversal Grange Advisory Committee continue with a membership made up of 2 representatives per Club and a neutral Chairman to preside over all proceedings.

Bowls Club

The Bowls Club representative asked Members to note that the Club were able to pay the associated costs of the lease requirements (i.e. legionella testing and insurance) but would not be in a position to afford the rental payments. The Club were fortunate to have all the infrastructure they required (permanent changing facilities, tea rooms etc.) and did not need to sign up to a lease to enable them to draw down additional funding for any future development.

The Club at present only had 35 paying Members and the income from subscriptions would not be enough to run the Club and also pay the rental requirements of the lease. The majority of their membership was made up of older people, many retired on a fixed income. Any hike in subscriptions to offset the cost of the lease rental could force many of the members to subsequently leave.

Clubs and Visitors Centre

Concerns were raised at the Teversal Grange Advisory Committee meeting surrounding communications from the Council to the Clubs and Visitors Centre in relation to applications for forthcoming events on the site. Collectively, they asked if the Locality and Community Empowerment Team could advise the Clubs and Visitors Centre at a much earlier stage should an application be submitted by an organisation wishing to use the Teversal Trust site for a planned event.

RESOLVED

that Council be recommended to approve the following:-

- a) to note the current financial position as outlined in the report;
- b) to note the acceptance of the heads of terms by the Visitors Centre;
- c) amendment of the heads of terms with the Cricket Club to enable the temporary facility (provided by the Council) to remain on site until a permanent replacement is built, 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;

- d) the Football Club's proposals regarding the long term future of the operation of the Trust be noted 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 operation of the Trust;
- e) amendment of the heads of terms with the Bowls Club to offer a nominal rent for the lease, negotiated by the Council (and set by the Charities Committee) on a yearly basis, based on the Club's membership (number of paying members) and its forecasted ability to cover the cost of any rent charged within a given year (the Club being responsible for the timely submission of its accounts each year to enable negotiations to be duly undertaken),
- f) to reiterate, in the event that all issues relating to lease proposals have been resolved, that the Council remains 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;
- g) 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;
- h) agreement for the Rotary Foundation Charity End Polio Walk (Rotary Clubs of Sutton-in-Ashfield and Kirkby-in-Ashfield) event to take place on Sunday, 25 September 2016.

Reason:

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.

CC.7 Trust Funds

The Assistant Chief Executive (Governance) and Monitoring Officer presented the report and reminded Members of their previous decision to transfer funds from the William Booth Charity for the Poor to the Community Food Bank at Annesley Woodhouse once the organisation had achieved the requisite charitable status.

The Food Bank had recently confirmed that they had experienced significant difficulties with completing their submission to the Charity Commission (to achieve charitable status) due to the application forms being changed half way through the process. However, having overcome the difficulties with the submission process, the application had now been submitted to the Charity Commission for their consideration. Committee were therefore asked to

confirm acceptance of the recommendation to Council to continue to hold the funds until the Food Bank achieve charitable status.

RESOLVED

that Council be recommended to approve 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 once their application for charitable status has been finalised.

Reason:

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

The meeting closed at 7.25 pm

Chairman.

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Report To:	CHARITIES COMMITTEE	Date:	5 APRIL 2017
Heading:	TEVERSAL COMMUNITY CENTRE AND RECREATION GROUND (CHARITY NUMBER 522310) - UPDATE		
Portfolio Holder:	N/A		
Ward/s:	STANTON HILL AND TEVERSAL		
Key Decision:	NO		
Subject To Call-In:	NO		

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).

Recommendation(s)

Committee is asked to:

- a) Note the current financial position as set out in the report;
- b) Note the acceptance of the heads of terms by all the current users of the site and to note the progress made in respect of the leases and the next steps;
- c) Note that the Football Club will update the Trust regarding its proposals for the future in due course;
- d) Consider giving approval for two events run by Sutton Harriers during April and August this year (the Booth Decorators League Race and the Notts AAA's Summer League) as set out in the report and note the comments of the Advisory Committee;
- e) Note the position in relation to the energy costs as set out in the report.

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.

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.

Detailed Information

Advisory Committee

An Advisory Committee took place on 23 March 2017. Issues raised or feedback received from the sports clubs and Visitors Centre are included below.

Temporary Facilities for the Cricket Club

Temporary changing facilities continue to be provided to the Cricket Club by the Council for the current cricket season. A licence for the use of the Cricket Club is being drafted at the time this report was written and should have been made available to the Cricket Club by the time of the Committee meeting.

Financial Position

See financial implications below.

Progress with Leases

The Clubs were required to provide written confirmation to the Council by 31 October 2016 that they accepted the Council's heads of terms to enter into a lease. The Visitors Centre had already given their confirmation to the heads of terms in May 2016. The Football Club, Cricket Club and Bowls Club have all since confirmed their acceptance to the heads of terms as approved by Council.

The Clubs and the Visitors Centre were all given draft leases for consideration during March 2017. The Council will now proceed to advertise the proposed leases in accordance with the charities legislation and write to CISWO to obtain their permission to enter in to the leases prior to seeking consent from the Charity Commission.

Future Proposal for the Trust

The Committee will recall that the Football Club has informed the Council that it would like to enter into a dialogue about the possibility of a new charity taking over the Trust in its entirety from the Council. The Council agreed at its meeting in October 2016 to hold discussions about the proposals. 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. 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.

Following the Council meeting in October 2016, the Football Club asked the Council to meet with a resident of the local area who has no existing links with any of the Clubs but has experience running charities to see if they could be of assistance as an independent representative. The meeting took place in November 2016 and various information was provided as part of that meeting and in writing afterwards. No further meetings or discussions have been held to date. At the advisory Committee Meeting on 23 March the Football Club confirmed that is speaking to the other Sports Clubs about the proposals and will feed this back to the Council in due course.

Forthcoming Events

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

Event Name: Booth Decorators League Race and Notts AAA's Summer League

Dates: 11 April 2017 and 2 August 2017

Time: 7.15pm – 8.30pm

Event Organisers: Sutton Harriers

Event Location: Teversal Visitor Centre and Trails Network

Anticipated Attendance Numbers: 250 - 300

Event Description: Free running races for the local athletic clubs and running clubs in Nottinghamshire and Derbyshire on the Teversal Trail Network. The group provide Marshalls along the running route and for car parking. First Aid cover will be provided by St. Johns Ambulance. Group will clean site of any litter after the event.

Facilities Used: Trails Network. Site car park and field next to cricket club for car parking – Marshalls provided. Teversal F.C. changing and toilet facilities. Visitor Centre to open for additional toilet facilities.

Any other information: Group will apply for a race permit from UK Athletics when the races are approved. Risk Assessment, Route Plan and Public Liability Insurance provided with application. Applicant has already made contact with the NCC Officer who is jointly responsible for part of the trails.

The Football Club and Visitors Centre confirmed that they were aware of the events and the request to use their facilities and were both happy for their facilities to be used.

On a general note, the Sports Clubs and Visitors Centre asked if the Council had considered charging other groups to use the facilities for such event. They were also concerned about the considerable use made of the car park, especially by vehicles with horse boxes, and wondered if there was scope to introduce parking charges or even simply locate an honest box on site for people to make a donation for the car park. The Committee is asked to consider these comments.

Utility Costs

At the Advisory Committee meeting, the Visitors Centre raised concerns that the car park floodlights were still linked to their electricity supply and they were still paying for the energy use; they were also still waiting for the Trust to refund them the energy costs as previously agreed.

The Council's Energy Co-ordinator has since confirmed that all the occupants on site have their own utility accounts now, with the exception of the water supply to the football club and Visitor Centre, which is still shared. A new connection has been laid to the football club so these accounts can be separated once a few items which have been snagged are completed which hopefully should be soon.

The lighting connection got delayed because the Energy Coordinator was trying to find a solution which didn't involve digging up the car park, and subsequently because the lights being connected to didn't have a live feed. The Energy Coordinator has requested an updated quote for the works and once this is received the works will be able to go ahead but this will involve digging up the car park to make the connection.

The Energy Coordinator will liaise with the Visitors Centre to ensure it is reimburse for the lighting energy costs as soon as possible.

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.

Finance:

This report is effective from 5 April 2017 and has the following financial implications:

Budget Area	Implication
General Fund – Revenue Budget	The deficit relating to the Teversal Trust which the Council carries in its Balance Sheet is £120k at the end of financial year 2015/16. A provision for doubtful debt for £120k was created in 2015/16 and this is also carried forward in the balance sheet. In 2016/17 to date the Council is committed to £12k of expenditure on behalf of the Trust, relating to work on the utilities on the site, and legionella monitoring. When the leases have been agreed, the tenants will have responsibility for all the day to day running costs of their areas, with the Trust retaining responsibility for the shared car park. This responsibility should, in the future, be funded by the rental income from the tenants, with the result that the Trust should not incur further deficits in future financial years.
General Fund – Capital Programme	No implications
Housing Revenue Account – Revenue Budget	No implications
Housing Revenue Account – Capital Programme	No implications

Human Resources / Equality and Diversity:

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

Other Implications:

None

Reason(s) for Urgency (if applicable):

N/A

Exempt Report:

N/A

Background Papers

None

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Report To:	CHARITIES COMMITTEE	Date:	5 th April 2017
Heading:	TRUST FUNDS		
Portfolio Holder:	N/A		
Ward/s:			
Key Decision:	NO		
Subject To Call-In:	NO		

Purpose Of Report

To provide an update to the report given to the Committee on 19 September 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.

Recommendation(s)

It is recommended the Committee recommend to Council:

That the Authority, as trustee, exercise its transfer power as set out in section 268 of the Charities Act 2011, to transfer the funds from the William Booth Charity for the Poor to Community Food Bank Kirkby Woodhouse. The trust currently holds a permanent endowment and it is recommended that this be liquidated as part of this transfer so that the funds can be transferred as a whole.

To authorise the Chief Finance Officer and Assistant Chief Executive (Governance) to carry out all necessary actions to implement the Council's decision.

Reasons For Recommendation(s)

The decision made previously was to transfer the funds from the William Booth Charity for the Poor to the Food Bank once they were awarded charitable status. Charitable status was awarded to the Community Food Bank Kirkby Woodhouse on 8 December 2016. The Community Food Bank Kirkby Woodhouse has a similar purpose to the William Booth Charity for the Poor which is why it is recommended that the funds are now transferred to them.

In respect of the investment it is believed that the Community Food Bank would benefit from readily available money as opposed to the small dividend that the investment provides. It is therefore recommended that the investment is liquidated before transfer to enable the Community Food Bank to immediately put the funds to use to assist the residents of Ashfield.

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 in some cases the lack of relevant purpose it is considered that greater benefit will be gained by transferring the funds to similar local charities.

Detailed Information

William Booth Charity for the Poor – Balance as at 31.03.17 £1971.59 (in bank) Investment Value £2036.68 at 31.03.17

This was established in 1944 and operates under a scheme from 1994 for the benefit of the residents of Annesley Woodhouse experiencing hardship. In addition to the funds in the bank the trust also holds a permanent endowment in the form of an investment.

The Community Food Bank Kirkby Woodhouse is run at All Saints Church, Annesley and St Johns Church, Kirkby Woodhouse. Their purpose is to improve the quality of life for residents in food crisis in Annesley, Newstead, Kirkby Woodhouse and the Nuncargate area by providing food parcels and signposting service users to appropriate agencies.

The previous decision 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 Community Food Bank Kirkby Woodhouse have confirmed that they now have charitable status and their registration number is 1170616.

At the time the trust was created there was an initial investment of £166 13s 4d in a Savings Bond. During the life of the trust this sum has been transferred into the investment the trust holds now. This investment does yield a small dividend each year but its value is based on shares.

Implications

Corporate Plan:

Stronger and more resilient communities where people want to live, work, play and be involved

- Helping vulnerable people access the support they need, when they need it
- Reduction in fuel demand across the district (domestic and business properties)
- Improve Community Health and Wellbeing

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 spending/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. The Charity Commission have been consulted and have raised no objections in respect of this trust. 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.

Finance:

This report is effective once approved by Council and has the following financial implications:

Budget Area	Implication
General Fund – Revenue Budget	The funds held by the Council on behalf of the William Booth Charity for the Poor (as outlined in the report) shall be liquidated and paid over to the Community Food Bank Kirkby Woodhouse.
General Fund – Capital Programme	
Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

Human Resources / Equality and Diversity:

N/A

Other Implications:

N/A

Background Papers

N/A

Report Author and Contact Officer

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