

CHARITABLE TRUST COMMITTEE
Agenda

Date Thursday 5 September 2019

Time 6.00 pm

Venue Shaw Room, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

Notes 1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Sian Walter-Browne in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Sian Walter-Browne Tel. 0161 770 5151 or email sian.walter-browne@oldham.gov.uk

3. PUBLIC QUESTIONS – Any member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the Contact officer by 12 Noon on Monday, 2 September 2019.

4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

MEMBERSHIP OF THE CHARITABLE TRUST COMMITTEE IS AS FOLLOWS:

Councillors F Hussain, Ali, Hamblett, Iqbal (Chair) and Stretton

Item No

8 146 Werneth Hall Road, Werneth (Pages 1 - 8)

This page is intentionally left blank



Oldham
Council

Report to CHARITABLE TRUST COMMITTEE

146 Werneth Hall Road, Werneth

Officer Contact: Paul Entwistle

Report Author: Elizabeth Cunningham Doyle
Ext. 4840

5th September 2019

Reason for Report

To provide the Charitable Trust Committee with an update on the consultation undertaken as advised by the Charity Commission.

Recommendation

To note the report and approve the draft Cy-Pres Scheme.

146 Werneth Hall Road, Werneth

1 Background

- 1.1 146 Werneth Hall Road is a former residential property which was gifted to the Council by Sarah Lees by a deed dated 8th January 1914 with the specific request that it be “assured as a site for a school for the teaching of housewifery and other domestic tasks”.
- 1.2 At the last meeting of the Charitable Trust Committee on 13th June 2019, the Committee authorised officers to make an application to the Charity Commission for a Cy-pres Scheme to widen the objects of the Sarah Lees Charity and to seek an order for sale of the premises known as 146 Werneth Hall Road:-

“(2) in light of the outcome of the consultation process and the comments and feedback received, a cy-pres scheme application be made to the Charity Commission to change the objectives of the charity to “To advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health”, the Committee considering there was agreement that the current objectives were outdated, that the proposed objectives remained close to the original when considering current social and economic circumstances, and that the scheme was not controversial as evidenced by the consultation responses;

(3) Officers be authorised to make an application to the Charity Commission for the Cy-pres scheme to widen the objectives of the charity and to apply for a waiver from issuing a public notice in addition to the advertisement for sale.”

- 1.3 The Charity Commission has considered the application made on behalf of the Charitable Trust Committee and has provided a draft Cy-pres Scheme, and seeks the approval of the Charitable Trustees to the draft scheme.
- 1.4 The draft scheme authorises the sale of the premises, but there is a caveat that the net proceeds should be held upon trust as an endowment. This means that the interest only on the capital investment can be distributed to further the objects of the Charity.
- 1.5 The proposed new objects of the Charity have been accepted by the Charity Commission and are as follows:-

“To advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health”

3 Consultation Feedback

- 3.1 Not applicable

4 Recommendations

- 4.1 The Charitable Trust Committee is asked to approve the draft Cy-pres scheme and that officers be authorized to proceed with a marketing exercise to sell the premises known as 146 Werneth Hall Road for market value once the scheme has been finalized by the Charity Commission.

3 **Financial Implications**

3.1 Not applicable

4 **Legal Services Comments**

4.1 Legal Services would recommend the approval of the draft Cy-pres scheme as it stands.

4.2 As explained in the body of the report the proceeds of sale will be held as a permanent endowment. The Charity Commission has provided the following explanation:

“This means that only the income obtained from the proceeds (e.g through investment) will be available to further the new objects of the charity. If the trustees would like to be able to spend the proceeds rather than just the income the Trustees will have to explain why they believe that this would be expedient and in the interests of the charity. In doing this the Trustees will need to explain:

- How spending the proceeds of sale is consistent with the spirit of the original gift; and
- Why being able to spend the permanent endowment itself, rather than just the income, would allow the charity to carry out its new purposes more effectively.

Alternatively, if, after the scheme is authorised and the land sold, the trustees believe it would be in the charity’s best interests to release the permanent endowment restriction, they could apply to us then. Further information about this process is available on our website; Spending permanent endowment.”

4.3 Therefore, Legal Services would advise proceeding with the sale of the property once the cy pres scheme has been finalised and then decide at a later stage whether or not to apply to the Charity Commission to release the permanent endowment restriction in the scheme. However, at this point in time it would be premature to make such an application and a further report to the Charitable Trust Committee would be necessary once all of the options for spending the charitable funds in the interests of the charitable objects have been fully explored and considered. (Elizabeth Cunningham Doyle)

8. **Co-operative Agenda**

8.1 Not applicable

9 **Human Resources Comments**

9.1 Not applicable

10 **Risk Assessments**

10.1 None

11 **IT Implications**

11.1 Not applicable

12 **Property Implications**

12.1 There are no immediate property implications arising from the content of this report. (Mark Elton)

-
- 13 **Procurement Implications**
- 13.1 Not applicable
- 14 **Environmental and Health & Safety Implications**
- 14.1 Not applicable
- 15 **Equality, community cohesion and crime implications**
- 15.1 Not applicable
- 16 **Equality Impact Assessment Completed?**
- 16.1 Not applicable
- 17 **Key Decision**
- 17.1 No
- 18 **Key Decision Reference**
- 18.1 Not applicable
- 19 **Background Papers**
- 19.1 Report to the Charitable Trustees Committee meeting – 19th September 2017.
- 19.2 Report to the Charitable Trustees Committee meeting - 13th June 2018
- 20 **Appendices**
- 20.1 Appendix 1 Draft Scheme

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Under the power given in the Charities Act 2011

Orders that from today, the

this

SCHEME

will govern the charity

known as

THE TRUST OF MRS SARAH ANNE LEES

at

Oldham, Greater Manchester

DRAFT

**A member of staff of the Charity Commission authorised to act on behalf of the
Charity Commission**

1. Definitions

In this scheme:

“the charity” means the charity identified at the beginning of this scheme.

“the Commission” means the Charity Commission for England and Wales.

“the trustee” means the trustee of the charity acting under this scheme.

“former trusts” means the indenture of 8 January 1914.

2. Administration

The charity is to be administered in accordance with this scheme. This scheme replaces the former trusts of the charity.

3. Trustee

Oldham Council acting in accordance with its own procedures is the trustee of the charity.

4. Object of the charity

The object of the charity is to advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health.

5. Sale of land

- (1) Subject to the requirements of part 7 of the Charities Act 2011, the trustees may sell the land identified in the schedule to this scheme.
- (2) The proceeds of any such sale must be invested.

6. Use of income and capital

- (1) The trustees must firstly apply:
 - (a) the charity’s income; and
 - (b) if the trustees think fit, expendable endowment; and
 - (c) when the expenditure can properly be charged to it, its permanent endowmentin meeting the proper costs of administering the charity and of managing its assets including the repair and insurance of its buildings.
- (2) After payment of these costs, the trustees must apply the remaining income in furthering the object of the charity.
- (3) The trustees may also apply for the object of the charity:

- (a) expendable endowment; and
- (b) permanent endowment, but only:
 - (i) where it is permitted in accordance with (and subject to the conditions in) the Charities Act 2011; or
 - (ii) on such terms (including for the replacement of the amount spent) as the Commission may approve in advance.

7. Questions relating to the Scheme

The Commission may decide any question put to it concerning:

- (1) the interpretation of this scheme; or
- (2) the propriety or validity of anything done or intended to be done under it.

DRAFT

SCHEDULE

146 Werneth Hall Road, Oldham.

DRAFT