

CHARITABLE TRUST COMMITTEE ***Agenda***

Date Monday 15 April 2024

Time 6.00 pm

Venue Level 4 Meeting Room 4D, 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 Constitutional Services in advance of the meeting.
 2. CONTACT OFFICER for this Agenda is Constitutional Services Tel. 0161 770 5151 or email constitutional.services@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 Wednesday, 10 April 2024.
 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.

Please also note the Public attendance Protocol on the Council's Website

https://www.oldham.gov.uk/homepage/1449/attending_council_meetings

MEMBERSHIP OF THE CHARITABLE TRUST COMMITTEE IS AS FOLLOWS:

Councillors Birch, Byrne, J. Harrison, Malik and Marland

- 1 Apologies For Absence
- 2 Urgent Business
Urgent business, if any, introduced by the Chair
- 3 Declarations of Interest
To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.
- 4 Public Question Time
To receive Questions from the Public, in accordance with the Council's Constitution.
- 5 Minutes of Previous Meeting (Pages 1 - 2)
The Minutes of the meeting held on 5th March 2024 are attached for approval.
- 6 Archie Brown Charitable Trust (Pages 3 - 14)
Approval of draft scheme from Charity Commission re alteration of objects of charity and request for instruction to legal services to progress issue of scheme by charity commission
- 7 Exclusion of the Press and Public
To consider that the press and public be excluded from the meeting for the following item of business, pursuant to Section 100A(4) of the Local Government Act 1972 on the grounds that discussions may involve the likely disclosure of exempt information, under paragraph(s) 3 as defined in the provisions of Part 1 of Schedule 12A of the Act, to the Local Government Act 1972 and public interest would not be served in publishing the information.
- 8 Clayton Playing Fields (Pages 15 - 32)
Proposed new agreement with Oldham Athletic Football Club for mid week use and maintenance of 2 football pitches.



CHARITABLE TRUST COMMITTEE
05/03/2024 at 6.00 pm

Present: Councillors Byrne (Chair), J. Harrison and Marland

Also in Attendance: Zoe Theofilopoulos (Solicitor)
Durga Paul (Constitutional Services)

1 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Birch and Malik.

2 **URGENT BUSINESS**

There were no items of urgent business received.

3 **DECLARATIONS OF INTEREST**

There were no declarations of interest received.

4 **PUBLIC QUESTION TIME**

There were no public questions received.

5 **MINUTES OF PREVIOUS MEETING**

RESOLVED that the minutes of the meeting held on 29th November 2023 be approved as a correct record.

6 **THE SARAH ANNE LEES CHARITABLE TRUST**

IT IS HEREBY RESOLVED that in respect of the charitable trust known as "The Sarah Anne Lees Charitable Trust" ("the Charity") an application to the Charity Commission shall be made to seek for authority for the Charity to spend up to 100% of its capital funds (which is permanent endowment) via donations and/or (on application) grant funding, to appropriate bodies or organisations that provide assistance or services in keeping with the objects of the charity.

IT IS FURTHER RESOLVED that Oldham Borough Council Legal Services are instructed by the Charitable Trust Committee to apply for this authority on behalf of the Charity and to submit a Statement of Reasons as per the Report to the Charitable Trust Committee dated 21 February 2024

7 **ARCHIE BROWN CHARITABLE TRUST UPDATE**

RESOLVED That the update is noted by the Charitable Trust Committee.

The meeting started at 6.01pm and ended at 6.09pm

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BRIEFING TO CHARITABLE TRUST COMMITTEE

CHARITY : THE ARCHIE BROWN CHARITABLE TRUST

SUBJECT: APPROVAL OF DRAFT SCHEME FROM CHARITY COMMISSION RE ALTERATION OF OBJECTS OF CHARITY AND REQUEST FOR INSTRUCTION TO LEGAL SERVICES TO PROGRESS ISSUE OF SCHEME BY CHARITY COMMISSION

DATE: 10 APRIL 2024

A. Reminder as to background

The CTC has already resolved that the sale by auction of the Charity's long leasehold interest in the property known as 439 Middleton Road should be progressed as soon as possible.

A Scheme from the Charity Commission has been requested to enable this sale and also possibly the grant of a new lease of the garage at the Property to the Co-op at an annual rent (the Co-op being the current tenant holding over after expiry of the contractual term of a previous lease of the garage). Please note that the Co-op is to be offered the opportunity instead of buying the Charity's interest in the garage prior to the sale by auction of the Property.

It has also been requested (as instructed by the CTC) that the objects of the Charity are changed via the Scheme to enable application of the Charity's objects to the proceeds of sale of this property and interest accrued on them, as opposed to the use of the bricks and mortar only (as permitted by the original objects) but for purposes otherwise as closely as possible related to the original objects.

B. Latest Developments

The Charity Commission has written to Legal Services with a draft Scheme which Legal Services need the CTC to approve, so that they can go back to the Commission to get the Scheme finalised.

A copy of the draft Scheme and a copy of the Commission's covering letter is annexed to this Briefing for consideration.

C. Comments of Legal Services Regarding Draft Scheme

1. The Commission has proposed that the objects of the Charity are to be as follows:

“The object of the charity is to relieve people of pensionable age resident in Oldham who are in need, by providing grants to charities or other voluntary organisations who offer facilities and services calculated to relieve the needs of such persons.”

This is much briefer and less detailed than the alteration proposed and advertised locally which stated that it is proposed that the objects of the Charity would be changed to read as follows:

“To use the assets and monies held by the Charity (whether those assets and monies are classified as “permanent endowment” or not) together with any income earned on such assets and monies, in order to provide financial support and assistance to one or more organisations/bodies of a charitable or voluntary nature that offer practical, social and/or financial support and assistance to persons of pensionable age and above. This will be done by the Charity making grants (on application by the bodies in question) and/or simple donations by the Charity to such bodies.”

The Commission do explain why they have done this in their covering letter. They state:

“This drafting of objects is more in-keeping with our standard model objects for the relief of the elderly. The issue of expenditure of permanent endowment would not be addressed in the objects clause. The process of how charities/voluntary organisations apply for the funds would also not be dealt with in the objects clause.”

Legal Services have no issue with the Commission’s proposals.

2. The power of sale is, very usefully, very general and will allow disposals as long as they meet the requirements of the Charities Act.
3. Please can the CTC consider the draft Scheme and if it approves it, can the CTC confirm that it agrees the draft Scheme and we suggest the wording for such approval is as follows:

DRAFT RESOLUTION

“IT IS HEREBY RESOLVED that the draft Scheme issued by the Charity Commission and sent to Legal Services with their covering letter dated 25 March 2024 is approved by the CTC and that Legal Services are hereby

authorised and instructed to notify the Charity Commission accordingly and request the issue of the final Scheme as soon as possible.”

D. Comments of Legal Services on Various Points in the Letter from The Charity Commission dated 25 March 2024.

Unfortunately, despite making it very clear that we have already publicised the proposed sale and change of objects (as requested by the Commission!) and given the Commission full details of this and the responses, they seem to be asking for this information again and intimate that a further public notice may be required.

We propose to remind them of what has already been done in this regard.

If by any chance the Commission do insist on the actual draft Scheme being publicised, please can the CTC resolve to allow this publication of the draft Scheme. We shall do what we can to persuade the Commission that any further public notice is likely to confuse the public as they have already been notified of the proposals and their responses invited.

The suggested wording for the required resolution is set out below.

DRAFT RESOLUTION

“IT IS HEREBY RESOLVED THAT if the Charity Commission request that the draft Scheme for the Archie Brown Charitable Trust issued by the Charity Commission be the subject of a public notice that Legal Services are authorised and instructed by the Charitable Trust Committee to arrange for such public notice.”

Legal and Democratic Services, Oldham Borough Council

10 April 2024.

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CHARITY COMMISSION
FOR ENGLAND AND WALES

Ms Z Theofilopoulos

by email:

[zoe.theofilopoulos@oldham.g](mailto:zoe.theofilopoulos@oldham.gov.uk)

[ov.uk](mailto:zoe.theofilopoulos@oldham.gov.uk)

Charity Commission

PO Box 211

Bootle

L20 7YX

T: 0300 065 1801

Your ref:

Our ref: BNWJ/C-091262

Date: 25 March 2024.

Dear Ms Theofilopoulos,

Re: Archie Brown Charitable Trust

Thank you for your emails. May we take this opportunity to apologise for the delay in contacting you.

Please find attached a draft Scheme for your consideration. I would draw your attention to the following: -

New objects of the Charity

You have proposed that the new objects of the charity should be: -

To use the assets and monies held by the Charity (whether those assets and monies are classified as "permanent endowment" or not) together with any income earned on such assets and monies, in order to provide financial support and assistance to one or more organisations/bodies of a charitable or voluntary nature that offer practical, social and/or financial support and assistance to persons of pensionable age and above. This will be done by the Charity making grants (on application by the bodies in question) and/or simple donations by the Charity to such bodies.

You will note that objects in the proposed draft scheme have been amended to read: -

The object of the charity is to relieve people of pensionable age resident in Oldham who are in need, by providing grants and donations to charities or other voluntary organisations who offer facilities and services calculated to relieve the needs of such persons.

On track to meet your deadline?

Visit www.gov.uk/charity-commission for help on filing your annual return and accounts

t: 0300 066 9197 (General enquiries)

0300 066 9219 (Textphone)

w: www.gov.uk/charity-commission

This drafting of objects is more in-keeping with our standard model objects for the relief of the elderly. The issue of expenditure of permanent endowment would not be addressed in the objects clause. The process of how charities/voluntary organisations apply for the funds would also not be dealt with in the objects clause.

Permanent endowment

As previously discussed in our letter of 17 August 2023, the proceeds of any sale of 439 Middleton Road, Chadderton (the property) will be permanent endowment. 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.

You have advised that the Charitable Trust Committee would need to be able to spend the proceeds of sale (i.e. permanent endowment) if it is to make meaningful use of the charity's assets, as it is not anticipated that the income from the investment of the sale proceeds will produce a sufficient fund to make appropriate or sufficiently useful grants and donations to the bodies in question that would be appropriate recipients under the charity's new objects.

- In order for us to consider this, please advise how much of the proceeds of sale it is considered that the charity will be entitled to (and consequently what it is anticipated the yearly income from that sum invested would be)?

The garage at 439 Middleton Road, Chadderton

You have advised that external valuations and reports are being obtained for the property minus the garage and separately for the garage, as it is believed that the best outcome would be to sell the garage to the occupier (the Co-op) direct and sell the remainder of the property at auction.

This is subject to the Co-op offering the price which is advised to the charity trustees by the external valuer as representing the market value of the garage, otherwise the property will be sold as one lot at auction subject to the Co-ops statutory tenancy (following on from expiry of their lease).

Sale Proceeds

The charity owns the long underleasehold interest of the property (which subject only to the Co-ops tenancy of the garage) is an occupational interest with vacant possession. The Council (as local authority) owns the freehold interest in the property.

We note that it is intended that the charity's leasehold interest and the Council's freehold interest in the property will be sold together.

Please note that valuations (obtained by the charity trustee on behalf of the charity) should be acquired to assess the proportion of the sale price which belongs to the charity.

Public Notice

Before authorising the scheme, it is likely that we will require public notice of the scheme as it will be authorising the sale of designated land. However, to enable us to confirm this, please answer the following questions:

- Are the trustees aware of any opposition to the proposals/draft scheme?
- Do the trustees believe the scheme will be controversial?
- Have any objections been raised to the proposals? (if yes, please provide details and explain how the trustees have taken account of these objections).

It is important that we are made aware of the likely reaction to the scheme or any potential objections. In the event that we discover that the scheme was opposed (and therefore should have been publicised) it might have to be cancelled. The decision to make a scheme and the terms of the scheme can also be challenged in the Charity Tribunal.

We look forward to hearing from you.

Yours sincerely,

Bethan Wilkins-Jones

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THE CHARITY COMMISSION FOR ENGLAND AND WALES

Under the power given in the Charities Act 2011

Orders that from today, the

****DATE****

this

SCHEME

will alter or affect the existing trusts of the charity

known as

ARCHIE BROWN CHARITABLE TRUST

at

Oldham

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 existing trusts” means the Assignment of 26 November 1946 between Mr Archie Brown and Chadderton Council, the Minutes of the Meeting of Chadderton Urban District Council (in Committee) of 26 August 1946 item 616, the Minutes of the Finance, Establishment and General Purposes Committee Meetings of 14 October 1946 item 773 and 27 November 1946 item 1094.

“the charity property” means the property detailed in the Schedule to this scheme.

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

2. Administration

The charity is to be administered in accordance with its existing trusts as altered or affected by this scheme.

3. Trustee

Oldham Council is the corporate trustee of the charity.

4. Alteration of governing document

The governing document will take effect with the objects replaced by the following:

The object of the charity is to relieve people of pensionable age resident in Oldham who are in need, by providing grants to charities

or other voluntary organisations who offer facilities and services calculated to relieve the needs of such persons.

5. Power of sale

Subject to the requirements of part 7 of the Charities Act 2011, the trustees may dispose of the property identified in the Schedule to this scheme.

GENERAL PROVISIONS

6. 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

SCHEDULE

Leasehold interest in 439 Middleton Road, Chadderton, Oldham registered at H M land Registry under title number MAN418555.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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