

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.