

The Second Quothquan Charitable Trust

Registered Charity No. 273229

Introduction

1. This is a statement of the results of an inquiry under section 8 of the Charities Act 1993 ("the Act").

2. The Second Quothquan Charitable Trust ("the Charity") was established under the terms of a trust deed dated 11 February 1977, and was registered as a charity on 27 April 1977. The Charity's object, in summary, is to apply its funds for general charitable purposes. In the year ending 31 December 2004, its income was just over £930,000. [REDACTED]

Background and Issues

3. In 2004, examination of the Charity's annual accounts by the Commission's Monitoring team resulted in a number of queries. The queries were chiefly in relation to the Charity's involvement in property development and land transactions.

4. The Commission was concerned because some of the transactions appeared to involve the trustees in their personal capacities, and this normally requires the Commission's consent under section 36 of the Act. Furthermore, it appeared that in some cases the trustees might not have obtained necessary professional advice in relation to the disposal of land owned by the Charity. This is also a requirement of section 36.

5. There were, in addition, some concerns about the format of the Charity's accounts, which did not appear to conform fully to the requirements of the Statement of Recommended Practice (SoRP) for charities.

6. On 4 October 2004, the Commission decided to open a formal inquiry in order to examine the issues more closely.

Actions Taken

7. The Commission's inquiry officer set out the concerns and corresponded at length with the trustees and with the Charity's legal advisers. [REDACTED] consulted the planning department of the local authority in whose area the Charity was based, and obtained detailed advice from the Commission's legal officers and accountants.

8. The trustees cooperated fully with the Commission throughout the inquiry, and provided a very full account of the Charity's history, its activities and their vision for its future. This

included plans for the development of a Christian-orientated community providing a mix of housing including some social housing (such as affordable shared ownership and starter homes).

Findings

9. The inquiry found that some twenty-five percent of the housing development would comprise charitable housing. The development was to be completed in five phases, with a church and community facilities comprising the fourth phase.

10. It was to be administered and financed under a complex arrangement involving other bodies, some of which were charities in which the trustees had an executive role. The purpose of the transactions was, essentially, to generate funds in a tax-efficient manner for charitable application.

11. The trustees acknowledged that the financial arrangements might appear on the surface to be unnecessarily complex, but the inquiry found no evidence of inappropriate activity. The rationale behind the apparent complexity was to maximise the effective use of funds, and in fact it was clear that the Charity had flourished under the stewardship of the trustees.

12. Although the inquiry was unable to determine conclusively whether any of the transactions constituted a disposal of charity land, the trustees had in fact obtained surveyors' reports before the transactions were undertaken, thereby ensuring that any requirement under section 36 of the Act had been satisfied. The reports confirmed that the transactions were in the interests of the Charity.

13. The Commission's accountancy specialists reviewed the Charity's accounts and examined the trustees' responses in relation to the concerns about SoRP compliance. The inquiry considered that all of the issues had been satisfactorily resolved.

Outcome of the Inquiry

14. The Commission is satisfied with the trustees' response to the concerns raised, and acknowledged that some of them had arisen because of the complex and sometimes novel nature of the trustees' activities.

15. The Commission also discussed with the trustees the application of section 36 of the Charities Act 1993 in relation to the disposal of charity property. The trustees were invited to consult the Commission for advice if any issues were to arise in the future.

16. The inquiry was closed in May 2006.

Wider Lessons

17. The Commission encourages and welcomes innovation in the delivery of charitable benefit. However, trustees need to remember that their charities' reports and accounts are open to public inspection, and very complex arrangements may give the appearance of impropriety where none is present. Trustees should therefore ensure that their charities' activities and financial management are reported in a manner that is not only accurate but also open and transparent.