

William Taylor Hague Bequest - Summary of meeting held on 10.6.11 at Civic Centre, Oldham

In attendance:

Richard Eastwood (Proposed trustee)
Gordon Travis (Proposed trustee)
Liz Welsh (Proposed trustee)
Philip Harrison (Councillor and proposed trustee)
Carl Bell (Oldham Council)
Cath Conroy (Oldham Council)
Liz Fryman (Oldham Council)
Steven Joshua (Charity Commission)

Introduction:

The meeting began with a short introduction from CB. He explained the background and that we were meeting to make some long-awaited progress and move towards making decisions about the future of the charity.

Charity Commission update:

SJ gave an overview of the situation from the Commission's perspective. He handed out copies of the Assignment of 26.2.1931, which he explained had been treated as the governing document of the charity. He said that he had checked this again with senior colleagues to establish whether the land was permanent endowment or designated land. He had been advised that the land was not permanent endowment or designated. However, it was the Commission's view that the purpose of the charity was actually contained in the terms of the original bequest (set out at the bottom of page 2 of the Assignment).

SJ went on to explain that the original bequest was a sum of £3,000 to be applied amongst institutions or societies established to relieve poverty or the sick. He said that the Assignment indicated that, rather than pay out the sum, the executor entered into an arrangement with the Council by which the land in question was transferred to it on the condition that it be used to relieve poverty or the sick.

SJ said that there was nothing within the Assignment which explained why the executor believed that he had the power to do what he did, although if a copy of the Will was obtained then this might contain more information. He said that, as it stood, it was the Commission's view was that the bequest should have been distributed as set out at the bottom of page 2 of the Assignment. Therefore, the Commission believed that the most straightforward way to resolve this matter would be to either transfer the property to another charity established to relieve poverty or the sick (which would not necessarily need to be based in Oldham) or sell the property and transfer the proceeds to such a charity. SJ said that the Commission's view was that, once new trustees had been appointed, this could be done without the further consent of the Commission.

SJ said that, on the other hand, if the proposed trustees had viable proposals to use the charity's property to relieve poverty or the sick on a long-term basis then there was an alternative approach that could be taken. He said that the trustees might

decide that the land could be retained and used directly to relieve poverty or the sick or that the land could be sold and the proceeds used to relieve poverty or the sick by making grants. He said that, if this was the case, then it would be necessary to set up a new charity established to relieve poverty or the sick with the proposed new trustees as its trustees. The land or proceeds of sale could then be transferred to this charity.

SJ explained that it would be necessary to set up a new charity because it was the Commission's view that the purpose of the existing charity was to distribute the property to another charity or charities established to relieve poverty or the sick. The existing charity's purpose did not allow it to relieve poverty or the sick in the other ways suggested. By setting up a new charity and transferring the property to it, the terms of the bequest would be satisfied in the Commission's view.

SJ said that if the proposed trustees decided to set up a new charity they could adopt one of the Commission's model governing documents e.g. the model Declaration of Trust. This would set out administrative provisions (provisions relating to the holding of meetings and the appointment of trustees etc). He said that if the Council wanted to have some involvement in the management of the new charity then, if the proposed trustees agreed, the governing document could provide for the appointment of a certain number of trustees by the Council – although this should be a minority of the total number of trustees.

SJ confirmed that, whichever option was chosen, the trustees, once appointed, would be able to rely on the statutory power contained in the Trusts of Land and Appointment of Trustees Act 1996 for power to sell the land. In selling the land the trustees would need to comply with the requirements of section 36 of the Charities Act 1993 (SJ handed out a copy of the Commission's publication CC28, which explained these requirements). CC asked whether it would be acceptable for the Council's own surveyors to provide the required report – SJ said that he would check this and confirm the position after the meeting.

SJ said that all SCW-1181 declaration forms had been processed and he could make an order now to appoint the proposed trustees. However, he was concerned about potential trustee liability since it was his understanding that the building on the land was in a poor condition but had not yet been demolished. He said it seemed to him that this issue needed to be addressed before the appointments could be made.

Property Services update:

CC explained that the Council had acquired the freehold to the land and had been able to remove a covenant requiring it to maintain a building on the land. Therefore, demolition was now possible. She confirmed that the building was in a poor condition following the fire a few years earlier. CB added that, in his opinion, it was difficult to see how demolition could be avoided.

LW pointed out that it was difficult to consider what might be possible until it was clear how much the land was worth. CC said that she would ask the Council's surveyors to provide a valuation of the land. She said that it would need to be borne in mind that costs incurred by the Council over recent years (e.g. the costs of purchasing the freehold, providing security etc) would need to be recovered from any sale proceeds. However, she was confident that the sale proceeds would be significantly more than these costs.

PH said that a local PCT owned a plot of land lying adjacent to the Hollies and he understood that they were looking to sell it. He therefore suggested that it might be worthwhile contacting the PCT and establishing whether there would be a “marriage value” if the plots were sold together. CC agreed to look into this.

Short term action plan:

PH said he agreed that the issue of trustee liability needed to be addressed given the condition of the building and that approval for this could be obtained at a Council meeting. He asked if the Commission was satisfied that the Council could complete the demolition. SJ confirmed that the Commission had previously confirmed in writing that the Council could demolish the building and recover the costs of this from any sale proceeds. He said that, ideally, a decision on whether to demolish would be taken by the proposed trustees once they were appointed. However, this was not realistic given the risk of liability if the trustees were appointed while the building was in such a bad condition.

GT suggested that it would be appropriate to get a surveyor to check that demolition would not decrease the value of the land before it took place. SJ agreed with this. CC said that she would ask the Council’s surveyor to report on this point.

It was agreed by all present that the issue of whether the building should be demolished would need to be addressed before firm proposals for the future of the charity could be put together. However, it was also agreed that possible options should be looked into in the meantime.

PH said that, from the Council’s perspective, they would welcome the use of the charity’s property to relieve poverty or the sick within the borough of Oldham. He suggested that it might be possible to sell the land and use the sale proceeds for a new project in partnership with the Council and/or a local PCT. RE asked whether the Commission would object to a new charity being established and it working in partnership with the Council and/or a PCT. SJ said that it would be acceptable, in principle, to provide services under contract from the Council and/or a PCT provided that the new charity maintained its independence from these bodies.

CB suggested that the best way forward would be for him to prepare an options paper for consideration by the Council and the proposed trustees at the next meeting. He said that he would draft this document and forward it to SJ so that he could check that it was accurate. This was agreed by all present.

SJ handed out copies of CC3 and CC21. He said that all of the Commission’s publications were available on its website. He agreed to e-mail CB with links to the relevant publications.

The meeting was concluded.