

CHARITY BOARD

Title of Report: CLOSURE OF 'BUNGAY TOWN SPORTS ASSOCIATION' AND 'HALESWORTH SWIMMING POOL' REGISTERED CHARITIES (REP1937)

Meeting Date: Wednesday, 14 November 2018

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MATTER FOR DECISION

Approval to close two registered charities, namely 'Bungay Town Sports Association' and 'Halesworth Swimming Pool'

1 WAVENEY DISTRICT COUNCIL'S CHARITABLE ROLE

- 1.1 At the last Waveney District Council (WDC) Charity Board meeting held on 24th January 2018, approval was given to transfer the trusteeship of two charities, the 'Frank Thomas Arnold Bequest' and 'Nicholas Everitt Park', from WDC to Lowestoft Town Council and Oulton Broad Parish Council respectively, on the 1st April 2018.
- 1.2 WDC remains trustee for two further charities, the 'Bungay Town Sports Association' and the 'Halesworth Swimming Pool'. Both of these charities are no longer active.
- 1.3 The individual councillors of WDC are not separate trustees but instead the Council itself, corporately, is the sole trustee of the charities. The Council has in place a separate Charity Board of the Council (made up of all 48 Councillors) to make decisions relating to these charities.
- 1.4 This report seeks agreement from the Charity Board to formally close the two charities that WDC remains trustee for, on the basis that these charities are no longer operating. If approval is given, the necessary arrangements will be made with the Charity Commission to remove the charities from the Charities Register.

2 BUNGAY TOWN SPORTS ASSOCIATION

- 2.1 'Bungay Town Sports Association' was registered as a charity on 1st March 1965. The Charity is governed by a Trust Deed dated 19th December 1949 which relates to a lease of the same date. The lease was in relation to the land at 'Maltings Meadow' next to Ditchingham Dam, which is outside of the WDC district boundary.
- 2.2 The original lease was between Brigadier Carr and the Bungay Town Sports Club Trustees. The name of the Club was then changed to Bungay Town Sports Association.

- 2.3 It would appear that Bungay Urban District Council subsequently took over trusteeship of the Club, and WDC then inherited trusteeship following its creation in 1974, having taken over responsibility for those assets and leases that Bungay UDC were previously responsible for.
- 2.4 The purpose of the original charity was: “For the purpose of cricket, football or other games or recreations, and for the maintenance and improvement of the physical wellbeing of persons resident in the town of Bungay and the surrounding district, by the provision of facilities for physical training and recreation”.
- 2.5 The original operation of the charity was solely in relation to the sports facilities at Maltings Meadow, Pirnhow Street, Ditchingham, pursuant to the lease that provided for use of this area.
- 2.6 The original lease was for a term of 50 years, from 6th April 1947. A further lease for a term of 12 years from 5th April 1994 was granted on 15th April 1996 to WDC. Both leases have expired and all legal interest in the land reverted to the Owner.
- 2.7 The operation of Maltings Meadow was taken over in around 2005 by a group made up of the Bungay and District Sports Association, the Football Foundation, Suffolk County Council, the Land Fill Tax Scheme, and other local groups such as Bungay Town Trust, Bungay Town Council and Ditchingham Parish Council.
- 2.8 Whilst the facility has been operated by a different group for some time, WDC remains listed as the trustee of the original charity. WDC contacted the Charity Commission in 2008 to ask for the Council’s details to be removed from the record for this charity, but this does not appear to have been actioned by the Charity Commission.
- 2.9 As is required, WDC, as trustee, has provided an Annual Update each year to the Charity Commission to show the balance of the charity’s accounts. The Charity Commission holds these records from the 2012/13 financial year to the current year. The balance of the accounts for this period has been nil in each year.
- 2.10 On the basis that the original charity is no longer operating, the Council no longer has any interest in the facility, and the charity does not hold any funds or property, it is proposed that the charity is now formally closed.

3 HALESWORTH SWIMMING POOL

- 3.1 ‘Halesworth Swimming Pool’ was registered as a charity on 3rd July 1981. The Charity is governed by a lease dated 31st March 1976 which leased the swimming pool facility from Halesworth Playing Field Association (landlord) to WDC (tenant).
- 3.2 The purpose of the charity was: “For the purposes of a public swimming pool, and as a swimming pool for the use of local schools and local organisations outside of public hours, for the purposes of physical training and recreation and social development, through the medium of recreation, for the benefit of the inhabitants of the parish of Halesworth and its immediate vicinity without distinction of sex or of political, religious or other opinions”.

- 3.3 The 1976 lease was terminated by agreement between WDC and the landlord in 2010. The agreement stated that rather than WDC leaving the facility in the condition required by the lease, WDC would instead pay for the demolition of the pool. This was completed in 2010.
- 3.4 Whilst the facility no longer exists, WDC remains listed as trustee of the original charity.
- 3.5 As is required, WDC, as trustee, has provided an Annual Update each year to the Charity Commission to show the balance of the charity's accounts. The Charity Commission holds these records from the 2012/13 financial year to the current year.
- 3.6 The account activity for the 2012/13 and 2013/14 financial year's shows £619 expenditure relating to insurance costs, and £971 income relating to a refund from Essex and Suffolk Water. From the 2014/15 financial year onwards the balance of the account has been nil in each year.
- 3.7 On the basis that the original charity is no longer operating, the facility is no longer in existence, and the charity does not hold any funds or property, it is proposed that the charity is now formally closed.

4 PROCEDURE FOR CLOSING A CHARITY

- 4.1 Charities can close for a number reasons, such as a merger with another charity, the original purpose of the charity having been met or no longer being relevant, losing funds or funding, or a lack of members.
- 4.2 In the case of the Bungay Town Sports Association, the charity is no longer operating and the facilities the charity was linked to at Maltings Meadow are now being operated by other groups, the lease with WDC having terminated. The charity is therefore no longer required for its original purpose.
- 4.3 In the case of the Halesworth Swimming Pool, the swimming pool facility no longer exists and the original lease that governed the charity has been terminated. The charity is therefore no longer required for its original purpose.
- 4.4 Before a charity can close, consideration must be given to whether any remaining funds can be transferred to another charity with a compatible purpose. In the case of both charities, as the balance of funds is nil, this does not apply.
- 4.5 Consideration must also be given to any restricted funds, unspent grant money, money from fund-raising appeals, and any 'linked charities'. Again these issues do not apply to the two charities.
- 4.6 Consideration must also be given to the disposal of any land or property owned by the charity. The charities do not own any land or property and so these issues do not apply.
- 4.7 The process for closing a charity (the 'dissolution provisions') is usually found in the charities governing document.

4.8 In the case of both charities, there are no specific dissolution provisions or governance provisions provided for in the leases that the charities were originally created in pursuance of, and we have been unable to locate any other governing documentation that confirms the dissolution provisions.

4.9 It is proposed that in the absence of any specific dissolution provisions, that the closure of the charities be agreed by way of a meeting of the Charity Board. If this agreement is given, this decision will then be communicated to the Charity Commission. There is a legal requirement to inform the Charity Commission if a registered charity ceases to exist, and the Commission must then remove it from the register of charities.

4.10 The charities accounts must be kept for at least six years after the year they were made. The Finance Team will ensure copies of the relevant records are retained for the required time period.

5 REASON FOR RECOMMENDATION

5.1 To approve the closure of the Bungay Town Sports Association and Halesworth Swimming Pool charities. Both charities are no longer operating, they do not hold any funds, and do not own any land or property. In both cases they are no longer required for their original purpose.

RECOMMENDATIONS

1. That the Charity Board approves the closure of the charity known as ‘Bungay Town Sports Association’ on the grounds that the charity is no longer operating and holds no funds or property, and is no longer required for its original purpose.
2. That the Charity Board approves the closure of the charity known as ‘Halesworth Swimming Pool’ on the grounds that the charity is no longer operating and holds no funds or property, and is no longer required for its original purpose.
3. That notification is given to the Charity Commission of the closure of the charities and the necessary arrangements made to have the charities removed from the Charities Register.

APPENDICES - None

BACKGROUND PAPERS - None