



Saxilby with Ingleby Parish Council

Non-confidential

Agree a process, including community consultation, to consider whether to continue the progression of lease of the St Andrews Community Centre following receipt of the valuation.

Report to: Extra-Ordinary Full Council 24-03

Report by: Clerk and Responsible Financial Officer

Power/duty which decision falls under:

General Power of Competence, Localism Act 2011 /
Local Government (Miscellaneous Provisions) Act 1976 s19

Which council objective(s) it falls under:

- Maintain and improve community facilities and amenities
- Retain and encourage employment and tourism opportunities
- Improve the well-being of residents
- To foster public participation and engagement

Public Sector Equality Duty (*Consider how policies/decisions affect those protected under the Equality Act*)
This will need to be considered during the process.

Consideration on carbon reduction:

This will need to be considered during the process.

Consideration of risk management in relation to the proposal¹

Does the report consider any new activity? If 'Yes', has a risk assessment including risk management proposals for consideration been included for consideration and adoption by the council? (*Financial Regulation 17b*)

There is potential for a change in activity. A risk assessment and risk management proposals will be included prior to a final decision being made.

¹Risk areas to consider - strategic/operational, likelihood/impact, add to risk register?, any contingency planning needed?

REPORT

Agree a process, including community consultation, to consider whether to continue the progression of lease of the St Andrews Community Centre following receipt of the valuation.

Background

The council previously agreed to progress with the lease for the community centre.

This extra-ordinary full meeting has been called by the chair of the council to discuss and agree the next steps following receipt of the professional valuation from the recreation ground charity, for the lease of the community centre. This includes a 40% reduction by the valuer since it is a community rather than commercial venture.

The professional valuation for the lease is £18,850 PA.

With this latest information received, the council needs to pause and reflect on whether agreeing a lease remains the right way forward or whether there is an alternative path that is now preferable.

There is a set process that has to be followed by a charity when it is leasing land, including to a connected party. This is laid out in guidance online including [Selling, leasing or otherwise disposing of charity land in England and Wales](#).

Leasing an asset from a charity to a custodian trustee (known as a connected party in this process) is a complicated process, where both charity and council law need to be met. This creates real challenges that need to be worked through to achieve a lease. NALC aptly capture this conflict:

Council officers and employees have a duty to ensure that they act in the best interests of tax payers and trustees have a duty to act in the best interests of the charity and its beneficiaries.

These duties can, and frequently do, conflict. A conflict can arise in a number of situations and a classic example is the sale or lease of land by one body to the other.

For example, trustees leasing or selling land to a council are under a duty to obtain the best price or rent. At the same time, council officers or employees are under a duty to ensure that tax payers' money is spent prudently.

Another example is where contracts are agreed by one body to the other.

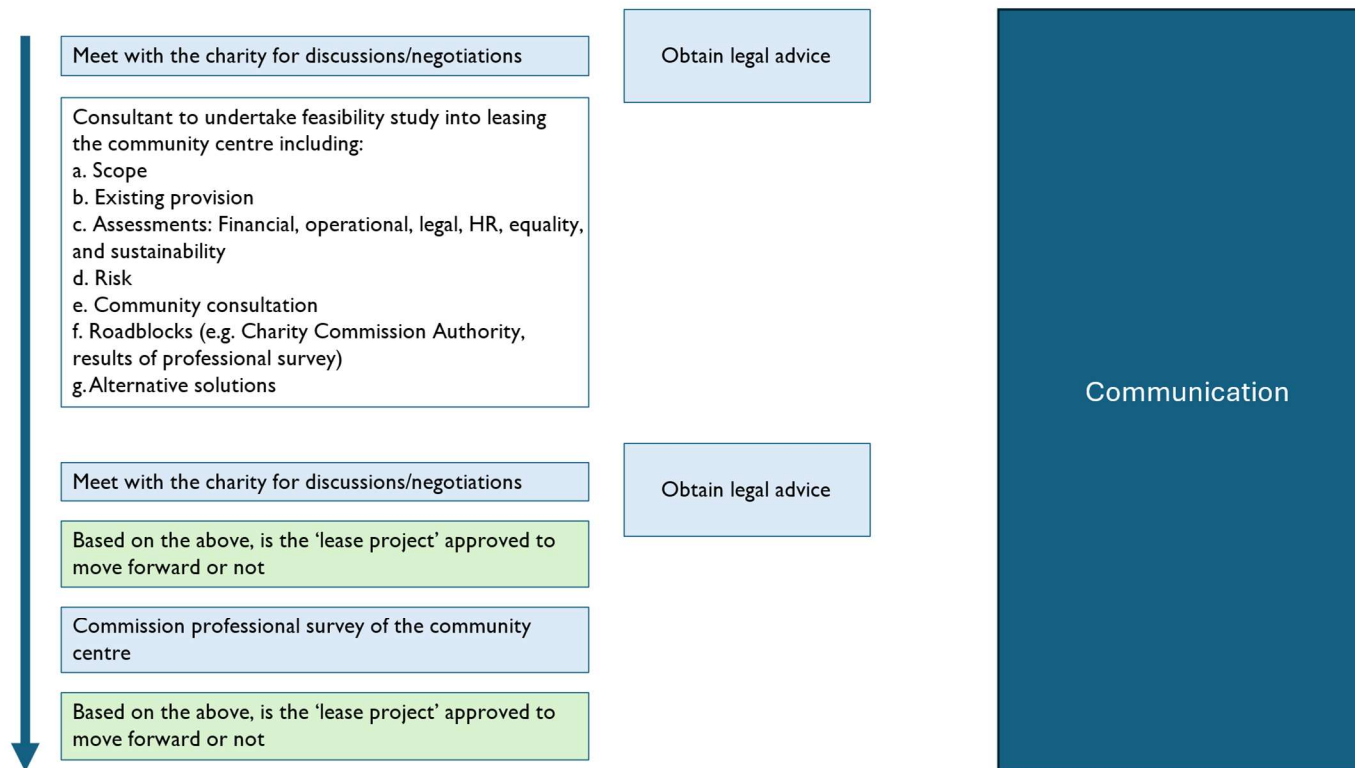
Clearly, it is extremely difficult to comply with both duties at the same time.

NALC (2022) LTN 28 Basic Charity Law.



High Level Process

The diagram below shows the proposed next steps with regards to progressing the community centre lease:





Process (Cont.)

The above diagram outlines the suggested approach to the next steps in the process of putting in place a community centre lease.

Feasibility report

It is proposed a consultant prepares a feasibility report. The reason for using a consultant is based on available capacity, expertise, and previous experience. This will mean the process is more efficient and timelier than if the study is carried out in-house.

Initial contact has been made with Local Council Consultancy, the consultancy arm of SLCC.

Regular input and output

Due to the nature of putting in place a lease, there will be input at regular points from the council's legal teamⁱ, as well as on-going discussions with the charity.

There will be continued regular communication to residents in the Foss Focus and on social media, as well as consultation with a diverse range of parties on the matter.

Exit points and alternative solutions

It is important to note, if the lease is no longer deemed feasible or viable as progress towards the lease is made, there are exit points. This means assessment will be on-going, particularly at critical points during the leasing process, for example upon receipt of a decision from the Charity Commission on granting an agreement for a lease to a connected party.

RECOMMENDATION(S):

That Full Council notes the report and agrees to:

The above process, as shown in the diagram.

ⁱ NALC (2012) LTN 75 - Lease Negotiations