



REPORT FROM: CORPORATE DIRECTOR

TO: POLICY AND RESOURCES COMMITTEE

DATE: 19th SEPTEMBER, 2019

Report Author: Philip Mousdale

Tel. No: 01282 661

E-mail: Philip.mousdale@pendle.gov.uk

PETER BIRTWISTLE TRUST

PURPOSE OF REPORT:

To consider a request to transfer the Peter Birtwistle Trust properties to a new Charitable Incorporated Organisation.

RECOMMENDATION

That the request be approved.

REASON FOR RECOMMENDATION

To assist with the modernisation of the Trust.

1. The Peter Birtwistle Trust is a Charity established under a Charity Commission scheme dated 4th December 1951. The Trust subsequently became a Housing Association on 1st December 1993 under a Scheme approved by the Charity Commission as varied by a further Order of the Commission in 2006.
2. The Charity is administered and managed by its Managing Trustees and Pendle Council is appointed as Custodian Trustee under the 1993 Scheme. The Trust's properties are registered in the name of the Council. There are no other legal responsibilities on the Council other than that it is entitled to nominate the Managing Trustees (this is exercised by the Colne and District Committee).
3. A Charitable Incorporated Organisation (CIO) is a relatively new form of charitable entity and the Trust's Managing Trustees consider that its format is now appropriate for the Charity. It can for example employ staff, manage properties and enter into contracts and there is limited personal liability for the trustees. The Trustees therefore feel it provides the basis for the Charity's future development and management independently of the Council.
4. The new Peter Birtwistle Trust ICO was registered with the Charity Commission in May this year. Clause 3 sets out its Objects as follows:

The prevention or relief of poverty by the provision of social housing in the form of almshouse accommodation for poor persons who are aged 60 years or over and who (except in special cases to be approved by the Charity Commission) were either born in the area of benefit, or have resided in the said area for not less than ten years. The area of benefit is the Town of Colne as constituted on 27th May 1918.

5. These are virtually the same as those in the 1993 Scheme referred to above.
6. The Managing Trustees now wish to transfer the existing Charity's properties to the new Charity. The transfer would be subject to all existing liabilities and would amount to a transfer as a going concern.
7. For this to happen it would be necessary for the Council as Custodian Trustee to transfer the properties to the new Charity. There would also be a Transfer of Undertaking so that the assets pass subject to existing liabilities and the Charity's accountants will prepare accounts to record this.
8. The new Charity would novate an existing mortgage on 12-16 Keighley Road so that the Council would be released from it.
9. In reality the Trust has been operating independently of the Council for a considerable number of years now and the creation of a modern ICO recognises this. The Council's role has been limited to holding the deeds to its properties and appointing trustees which with the creation of the ICO are now outdated.
10. It is recommended that the Trust's request be agreed

IMPLICATIONS

Policy: None arising from the report.

Financial: None save that the Council will be released from any potential financial risk arising from the mortgage on 12-16 Keighley Road.

Legal: The Head of Legal Services will agree the necessary legal documentation.

Risk Management: None arising from the report.

Health and Safety: None arising from the report.

Sustainability: None arising from the report.

Community Safety: None arising from the report.

Equality and Diversity: None arising from the report.

APPENDIX - None

LIST OF BACKGROUND PAPERS - None