

THE CHARITY KNOWN AS COBTREE MANOR ESTATE

COBTREE MANOR ESTATE CHARITY COMMITTEE

20 NOVEMBER 2009

REPORT OF THE COBTREE OFFICER

Report Prepared by: Brian Latimer – Cobtree Officer

1. COBTREE MANOR ESTATE – ACQUISITION OF THE SHARE OF THE COUNCIL IN THE RECEIPTS OF LAND

1.1 Issue for Decision

1.1.1 To consider in principle the possible acquisition of the Council's share in the receipts of land forming part of the Cobtree Manor Park Golf Course and Manor Park.

Recommendation of the the Cobtree Officer

1.1.2 It is recommended that:

- (i) Members agree in principle to the possible acquisition of the Council owned land forming part of the Cobtree Manor Park Golf Course and Manor Park;
- (ii) The matter be considered further following the receipt of comment from the Charity Commission; and
- (iii) Should the Charity Commission raise no objection in principle, instruct Officers to seek a valuation to inform the further consideration by Members.

1.2 Reasons for Recommendation - Background

1.2.1 When the Cobtree Estate was first developed for public use in 1974 an additional area of land was acquired by the Council to facilitate the development of the Cobtree Manor Park Golf Course without taking too much land from within the Cobtree Estate designated for the proposed parkland area. The land in question was acquired for £10,000.00.

1.2.2 Later, when the Council took steps to regularise the operation and management of the Charity; to ensure a greater separation of the Charity's affairs from those of the Council acting as the

local authority; a decision was taken to retain the acquired land within the Council's (local authority) direct ownership. The decision was taken on the basis that the local authority would maintain an interest in the Golf Course and would continue to receive a financial benefit from its operation. To this end the Charity receives a 7/9th share of the income generated by the golf course, whilst the Council receives 2/9ths (such ratio reflecting the proportion of land on the golf course in the relative ownerships and the number of holes affected by the land in question).

1.2.3 As the operation and management of the Charity has matured the decision taken by the Council has raised a number of difficult questions and, most recently, difficulties over the funding of proposed developments which have been accorded different levels of priority by the local authority as opposed to that of the Charity.

1.2.4 Had the sum of £10,000.00 referred to at 1.3.1 been included in the original calculated "debt" to the Council, it is possible that that the total debt would have been repaid; this is on the basis that although the local authority has continued to contribute 2/9's of the costs of operating the golf course, there has always been an annual surplus from which the local authority has benefited in similar proportion.

1.3 Current Proposal

1.3.1 The local authority has now approached the Charity about the possible acquisition of this the 2/9ths share of the receipts generated by the golf course held by the Council.

1.3.2 It is considered inevitable that, under the circumstances, the Charity Commission will wish to express a view on the matter, and your officers have, therefore, made an in principle enquiry about the possible acquisition. It is hoped a reply from the Commission will be available in time for your meeting.

1.3.3 In the past the Charity Commission has indicated that a charity's permanent endowment may be used for the acquisition of additional charity land. However, it has also indicated that it would expect a replenishment of the endowment fund, pound for pound, within an agreed period of time. Should the acquisition be allowed to progress the Commission may also require the preparation of an appropriate "scheme"; a document which would be prepared by the Commission in consultation with the Council and then subjected to a period of public consultation before being approved.

- 1.3.4 The immediate benefit from acquiring this land is that it will allow the charity, within the context of the existing management contract, total control over the operation and management of the golf course, and to benefit from the total income generated through the management contract. The surplus generated each year varies depending upon the level of expenditure, but it is always a positive figure.
- 1.3.5 Of course, under this proposal the Charity will take responsibility for the Council's current 2/9ths share of the costs of repair, maintenance, and improvement.
- 1.3.6 Members are reminded that the whole reason for the existence of the Charity is the 1971 lease of the Cobtree Estate. Therefore, by the charity acquiring this land, the land will become part of the Cobtree Estate within the context of the Lease and will thus pass to the Cobtree Charity Trust Limited (as freeholder to the Estate) when the lease terminates in 961 years time.
- 1.3.7 A final decision will, of course, also depend on the valuation and the level of funding available. Providing there are no in principle objections from the Charity Commission, your officers seek consent to instruct a valuation to be prepared by an appropriately qualified and experienced Chartered surveyor.
- 1.3.8 Depending on that valuation, and the subsequent decision on the suggested acquisition, this may result in a substantial short to medium term diminution in the permanent endowment which may have a significant impact on the Charity's ability to bring about the proposed enhancements to the Cobtree Manor Park; and this is a consideration which Members may wish to bear in mind.
- 1.4 Alternative Action and why not Recommended
- 1.4.1 The alternative course of action is to reject the approach from the local authority and to continue as at present. This course of action is not recommended as the potential benefits to the Charity can only be appraised effectively once all the information has been received.
- 1.5 Impact on Charity Objects
- 1.5.1 The possible acquisition of the additional land may enhance the Charity's ability to implement its objects.

1.6 Risk Management

1.6.1 There are two significant risks which need to be considered:

- (i) The cost of acquisition of the land may diminish the Charity's ability to bring about desirable enhancements to the Cobtree Manor Park: and,
- (ii) The future cost of operating the Golf course may increase significantly and/or the income derived from contract management may diminish over time; such costs and dis-benefits will be borne by the Charity alone if the acquisition proceeds.

Other Implications

1.8.1

Financial	<input checked="" type="checkbox"/>
Staffing	<input type="checkbox"/>
Legal	<input checked="" type="checkbox"/>
Social Inclusion	<input type="checkbox"/>
Considerations for Disabled Persons	<input type="checkbox"/>
Environmental/Sustainable Development	<input type="checkbox"/>
Community Safety	<input type="checkbox"/>
Human Rights Act	<input type="checkbox"/>
Procurement	<input type="checkbox"/>

1.8.2 There are likely to be significant financial implication for the Charity, and these will need to be evaluated prior to a final decision.

1.8.3 There will be a legal process which the Charity Commission will require the Council to follow before the use of the Charity's permanent endowment can be sanctioned.

Background Documents

NO REPORT WILL BE ACCEPTED WITHOUT THIS BOX BEING COMPLETED

Is this a Key Decision? Yes No

If yes, when did it appear in the Forward Plan? _____

Is this an Urgent Key Decision? Yes No

Reason for Urgency