

MAIDSTONE BOROUGH COUNCIL

COBTREE MANOR ESTATE CHARITY COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY
23 MARCH 2016

Present: **Councillor McLoughlin (Chairman), and**
 Councillors Perry, Cox, Mrs Ring and Mrs Wilson

Also Present: **Mr Roger Hext – Cobtree Charity Trust Ltd**

135. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Mrs Blackmore and Paterson.

136. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Mrs Ring was substituting for Councillor Mrs Blackmore and Councillor Cox was substituting for Councillor Paterson.

137. URGENT ITEM

The Chairman stated that, in his opinion, the report of the Cobtree Officer relating to the Cobtree Manor Estate Update Report should be dealt with as an urgent item as there were a number of recommendations that needed approving:-

- that due to the fact that the events programme had started, the proposed charges for the events needed to be agreed;
- a request had been received from a farmer to sow crops on the Forstal Field and if this was approved then the ground needed to be prepared quickly to enable a crop to be sown this year; and
- the Cobtree Trust would like formal approval of the proposal from Kent Wildlife Trust to enable the formal awarding of their grant.

138. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

139. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

140. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

141. EXEMPT ITEMS

RESOLVED: That the items on Part II of the agenda be taken in private as proposed.

142. MINUTES OF THE MEETING HELD ON 27 JANUARY 2016

RESOLVED: That the Minutes of the meeting held on 27 January 2016 be approved as a correct record and signed.

143. REPORT OF THE HEAD OF FINANCE AND RESOURCES - MANAGEMENT LETTER 2014/15 - UPDATE REPORT

The Committee considered the report of the Head of Finance and Resources setting out the current position with regard to the issues identified in the External Auditor's Management Letter that accompanied the Accounts for 2014/15.

Members were reminded that the External Auditors had recommended that the Charity should have its own accounting records separate from the Council; that the Council stop reclaiming input VAT on behalf of the Charity; and that consideration should be given to changing the legal status of the Charity.

Members were given an update by Officers on these three issues and were advised that:-

- that a spreadsheet had been set up in the Council's financial management system, Agresso which allowed the financial transactions of the Charity to be processed separately;
- the Auditors had considered the VAT status of the Charity in a separate report and recommended that the Council cease reclaiming input VAT on behalf of the Charity as it considered that the management fee paid to Mytime for running the Golf Course at Cobtree was a lease payment. However, it has been confirmed that the management fee was for running the Golf Course on behalf of the Trust and not a fee for the lease. Therefore this fee was considered a standard rated supply and therefore all input VAT could be reclaimed.

Although the VAT had been claimed correctly, the Auditors recommended that the Trust should be registered separately for VAT as the taxable supplies for the Trust are over the threshold for registering for VAT and these supplies are separate to the Council's supplies.

- the Auditors had recommended that consideration be given to changing the legal status of the Charity. The Head of Mid Kent Legal Partnership had indicated that a review of all the charitable bodies would be undertaken and a report would be brought back to

the Committee once this work has been completed. If there was a change to the legal structure of the Charity then this could require a new company to be set up.

In response to questions by Members, Officers confirmed that:

- the Head of Mid Kent Legal Partnership would be asked to submit terms of reference for the review to Members before carrying out the review of the charities.
- the Trustees' liability issue would be investigated and a report would come back to the next meeting.
- MBC enforce the car parking in Cobtree but the machines are the property of Cobtree Manor Estate Trust. This is dealt with by separate arrangement at no cost to the Trust although the Council receive the income from any fines.

RESOLVED:

- (1) That the Committee notes the current position with regards to the issues identified in the External Auditor's Management Letter that accompanied the Accounts for 2014/15;
- (2) That legal advice is sought on the setting up a new company;
- (3) That Officers report back to the next meeting on the Trustee's liability issue and the response to the auditor's recommendations; and
- (4) That the Charity be registered as a separate body for VAT purposes.

Voting: For: 5 Against: 0 Abstentions: 0

144. **REPORT OF THE HEAD OF FINANCE AND RESOURCES - APPOINTMENT OF EXTERNAL AUDITORS**

The Committee considered the report of the Head of Finance and Resources which related to the appointment of External Auditors for the Trust.

Members noted that following the decision of King and Taylor not to provide external audit services to the Charity at the end of 2013/14 financial year, responsibility had been passed to UHY Hacker Young for the 2014/15 financial year.

Officers advised that a decision needed to be made on whether to continue with UHY Hacker Young for the next two financial years or give consideration to appointing another External Auditor.

Members noted that due to the nature of the Charity and its relationship with the Council, the financial aspects are somewhat complex and UHY

Hacker Young have started to develop an understanding of this so it would seem appropriate to continue to use them.

RESOLVED: That UHY Hacker Young be appointed external auditors to the Charity for the financial years 2015/16 and 2016/17.

Voting: For: 5 Against: 0 Abstentions: 0

145. REPORT OF THE COBTREE OFFICER - COBTREE MANOR ESTATE UPDATE REPORT

Members considered the urgent report of the Cobtree Officer which gave an update of the work of the Estate and the issues that affected its management.

Members noted the progress report at Appendix I together with the list of events.

The Cobtree Officer advised that:-

- A leaflet will be available mid-April detailing all the forthcoming events
- The Visitors Centre was fully functional and the charges for the car park were also operational
- Footfall in the Park continued to increase
- Kent Life had reopened for the season with a new operator which seemed to be working well
- Kent Wildlife Trust would like to install a wildlife trail between Tyland Barn and Cobtree Manor Park and to run 9 school workshops (subject to a successful funding bid)

Members were also advised that the Council had received a request from a farmer to sow crops on the Forstal Field.

Following concerns from Members, Officers agreed to:-

- Enter into a short term lease of the Forstal Field with Friningham Manor Enterprises with an annual break clause. However, certain restrictions should be applied that there should be no intensive agriculture methods used and that no harmful pesticides should be used
- Report back to Members outside the meeting on the Tree Replacement Policy
- Draw up a formal Agreement for the Wildlife trail, setting out delegated powers and working in liaison with the Chairman of the Committee

RESOLVED:

- (1) That the contents of Appendix I to the report are noted;
- (2) The changes for the draft events list ('Draft Events Charges') are approved;
- (3) The Head of Mid Kent Legal Services be delegated to enter into negotiations for a short term lease of the Forstal Field with Friningham Manor Enterprises on behalf of the Cobtree Manor Estate Trust with an annual break clause; and
- (4) That the Cobtree Officer be given delegated powers to set up a formal agreement, in liaison with the Chairman of the Committee, for the Kent Wildlife Trust to be permitted to install a wildlife trail between Tyland Barn and Cobtree Manor Park and run schools workshops subject to a successful funding bid.

Voting: For: 5 Against: 0 Abstentions: 0

146. **EXCLUSION OF THE PUBLIC FROM THE MEETING**

RESOLVED: That the public be excluded from the meeting for the following items of business because of the likely disclosure of exempt information for the reason specified having applied the Public Interest Test:

**Head of Schedule 12A and
Brief Description**

Report of the Head of Commercial
and Economic Development -
Cobtree Manor Park Finances

Paragraph 3 – Info re
Financial/Business Affairs

Report of the Head of Commercial
and Economic Development -
Cobtree Manor Golf Course

Paragraph 3 – Info re
Financial/Business Affairs

147. **REPORT OF THE HEAD OF COMMERCIAL AND ECONOMIC DEVELOPMENT -
COBTREE MANOR PARK FINANCES**

The Committee considered the exempt report of the Head of Commercial and Economic Development which set out the income generated in the park from recent commercial operations, including the café/visitor centre, and the introduction of car parking charges.

RESOLVED:

- (1) That the Committee notes the contents of the report;

- (2) That a project closure report for the new Café/Visitor Centre be brought to the next meeting; and
- (3) That a budget forecast report be brought to the next meeting.

Voting: For: 5 Against: 0 Abstentions: 0

148. REPORT OF COMMERCIAL AND ECONOMIC DEVELOPMENT - COBTREE MANOR GOLF COURSE

The Committee considered the exempt report of the Head of Commercial and Economic Development which set out the procurement process to appoint a new operator for the Golf Course including an update on the outcome of the recently issued Preliminary Market Consultation and the corresponding market interest and response.

RESOLVED:

- (1) That Cobtree Manor Estate Trust reaffirm its support for its primary strategic objectives in retaining a viable golf course into the future underpinned by a management contract, co-terminus lease for the land and buildings and a construction agreement based on a term of up to 30 years;
- (2) That subject to the necessary consents being obtained, the Head of Mid Kent Legal Partnership be given delegated powers to prepare and enter into the required legal agreements;
- (3) That authority is delegated to the Head of Commercial and Economic Development to negotiate an extension of the contract with the existing operator in order to enable the full competitive procurement process to be completed and allow sufficient time for handover to any new operator;
- (4) That authority is delegated to the Head of Mid Kent Legal Partnership to enter into an extension on the lease and management contract with the existing operator;
- (5) That authority is delegated to the Head of Commercial and Economic Development to proceed to full competitive tender as outlined above in recommendation 4;
- (6) To authorise the Head of Mid Kent Legal Services to seek all necessary consents under the terms of the lease dated 13 July 1971 from the Cobtree Charity Estate Trust Limited and from Kent County Council for the contract extension and the new contracts following the tender process; and
- (7) To agree that the potential for capital investment by Cobtree Management Estate Trust in an improved offer be included in the Invitation to Tender subject to final approval by this Committee.

Voting: For: 5 Against: 0 Abstentions: 0

149. DURATION OF MEETING

4.30 p.m. to 6.30 p.m.