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**26 January 2024**

**Advice to Hurstpierpoint & Sayers Village Centre Charity**

Hurstpierpoint Village Centre is a registered charity, Charity No. 305265, previously known as the Hurstpierpoint Village Centre Association. Hurstpierpoint & Sayers Common Parish Council was appointed as sole trustee of the charity in 2019. The charity was previously managed by trustees from the community but they felt they lacked the skills to manage a large, busy centre and were concerned about potential liability, which led to them requesting that the Parish Council take on responsibility for managing the charity and centre as sole trustee.

Since taking over the hall, Hurstpierpoint & Sayers Common Parish Council (HPC) in its role as sole trustee has been discussing the future management of the hall. Consideration has been given as to whether HPC should take over the management of the centre in its statutory capacity, rather than the hall being managed as a charity. The PC has asked AirS to provide an independent report to:

1. review the advantages and disadvantages of the current arrangements for the Village Centre, considering what is in the best interests of the charity
2. set out the specific advantages and disadvantages to aid the decision whether to seek permission to dissolve the Charity
3. carry out a cost-benefit analysis (with full cost implications included where possible) for maintaining or otherwise the Village Centre charity covering the financial and legal implications e.g. on business rates, VAT, residual lease values, legal fees and specific external grants that could contribute to the running costs of the charity, if any
4. make recommendations to the trustee as a result of the above analysis.

## 1.0 BACKGROUND

### 1.1 The charity

Hurstpierpoint Village Centre has the usual purposes for a community hall charity but with the inclusion of the purpose “the advancement of education” which reflects the origins of the charity in 1965 as a Community Association rather than a village hall:

*To promote the benefit to the inhabitants of Hurstpierpoint and neighbourhood (hereinafter called "the Area of Benefit") without distinction of sex or political, religious or other opinions by the provision and management of a Village Centre (hereinafter called "the Centre") for the advancement of education and to provide facilities in the interests of social welfare for recreation and leisure-time occupation with the object of improving the conditions of life for the said inhabitants.*

The Charity's governing document is the constitution of Hurstpierpoint Village Centre Association, adopted 19/02/1965, as amended on 22/05/1975, as amended on 03/11/2003, as amended on 29/06/2011, and by order of the Charity Commission dated 18/04/2005, as amended by resolution taken at an EGM on 20 February 2019.

In 2018/19 AirS gave professional advice to the trustees on the correct procedure for appointing the Parish Council as sole trustee, liaising with the Charity Commission and preparing the resolution under s280 of the Charities Act 2011 which amended the governing document accordingly. The correct version of the governing document is lodged with the Charity Commission.

### 1.2 Village Centre description

The centre is on a site owned by West Sussex County Council. It shares the site with the library and former parish council office. The main hall was constructed in the late 1960s and the foyer, library and small meeting room (former PC office) were added on the east side of the building in the late 1980s. An extension to the west side of the building, including the small hall (with lobby, toilets, kitchen) and the pre-school office, was added around 2004. The current parish council office was added to the south-east corner of the building in 2013.

### 1.3 Charity land

#### *1.3.1 Main lease*

The Village Centre was built by the Association so the building is owned by the charity. The charity currently leases the land on which the centre is built from WSCC under a 50-year lease (land registry number WSX280419) from 18 February 2004 to 17 February 2054. A peppercorn annual rent is payable. The Parish council is named as custodian trustee in the lease, holding the title on behalf of the charity, and is thus now both custodian and managing trustee, ie sole trustee.

Under the lease, the charity is responsible for repairing and maintaining the building as well as for a share of the upkeep of shared areas (with the attached library). The lease was varied by a deed of variation in April 2014 to remove the requirement to reroof the library building on payment of £30,000 (WSX280419). There is no break clause in the lease.

#### *1.3.2 Underlease*

The current parish council office (added in 2013) was leased by the charity to the parish council under a 41-year lease, from 8 April 2014 to 15 February 2054 (so terminating with the head lease. Note that the head lease precludes underletting (Clause 5.12.2) and so the permission of the landlord would have been required, as well as the rules around the disposal of charitable land observed. Generally, occupational licences are preferred for village hall spaces, ensuring that the space can revert to charitable use if needed and to ensure that permanent rights are not acquired to use the space, which would represent a loss of a charitable asset.

Under the lease, the Parish Council pays the charity 8% of annual overheads of the village centre in arrears, based on the centre's annual accounts for the prior period ending in March. The overheads include gas, electricity and water, repairs and maintenance, buildings insurance, cost of fire procedures and an agreed payment to a sinking fund to cover future major repairs. The PC is also responsible for keeping the office decorated and in good repair.

The Parish Council paid £2662 for use of the space in 2022-23, which a quick look at office rents in the area indicates to approximate to a commercial rent, as required under charity law for space utilised by a local authority for its statutory purposes. The payment is also roughly in line with the lease's requirements, based on costs in the 2022/3 report, excluding cleaning costs (which are not directly mentioned but perhaps should be included) and assuming an 8% contribution to a £10,000 sinking fund for larger maintenance projects, which is the sum allowed in previous years.

The lease can be terminated early on its anniversary, with 12 months' notice of early termination being required.

#### *1.3.3 Former parish office lease*

There is a separate 50-year lease (land registry number WSX166265) for the former parish council office (now the small meeting room), which runs from 15 September 1989 to 14 September 2039. According to the Land Registry entry, this is between WSCC and HPC and a previous councillor has confirmed this. No lease is available to view.

The charity has been hiring out the room as well as taking responsibility for maintenance and upkeep. There may have been an informal agreement in place that in return for underletting the new parish council office to HPC the charity was allowed use of the old office so that space available for charitable use was not lost. Looking through past PC/charity minutes may shed light on this.

If HPC wishes to take over the hiring of this room, it will need to agree with the village hall charity an appropriate amount to reimburse the charity for lighting, heating, use of toilets and kitchens, cleaning, contribution to maintenance etc – as with the current lease between HPC and the village centre. It might be felt to be easier to leave the current arrangements in place.

### 1.4 Current objectives, governance and management

The PC would like the facility to be available for the benefit of the community until at least the end of the lease in 2054 but is concerned about its financial viability going forwards.

In addition to acting as sole trustee for the Village Centre, HPC also runs another community building, Court Bushes Community Hub, in its statutory capacity as well as several recreation grounds and other community assets. The PC sees possible advantages in running both halls in its statutory capacity, and the scope for this is discussed further below.

Hiring charges are harmonised across the two halls and a 25% discount is offered to qualifying hirers (not for profit local groups and clubs that provide a service for the community or social engagement opportunities) so that charges remain affordable by such groups.

### *1.4.1 Governance*

The PC is running the charity effectively with clear separation of their roles as charity trustee and statutory body, eg agendas and minutes are on charity headed paper, management meetings of the charity are held separately from Parish Council meetings, accounts are kept separately and reporting to the Charity Commission is up to date and in line with requirements.

The PC is aware that decisions about the administration and operation of the charity need to be taken solely in the best interests of the charity and its beneficiaries.

The PC is also aware of potential conflicts of interest in the dual role it holds. As charity trustee it must act in a way which best serves the charity's purpose, but Parish Council councillors and employees have a duty to ensure that they act in the best interests of tax payers. In appointing AirS to carry out an independent report on the pros and cons of maintaining the current governance and management of the charity, the Parish Council is recognising and seeking to address those potential conflicts of interest.

### *1.4.2 Current usage and management*

The centre is very well used and the two larger halls are almost at capacity, particularly during the week. There is still significant capacity for hiring the two smaller rooms (one of which is the former parish office – see above). As efforts to increase usage have not been successful, the decision has been made to allow exclusive use of the small meeting room by West Sussex Association of Local Councils for an annual fee on a year by year basis, and an occupational licence is advised.[1]

HPC has taken on additional staff to help manage the hall, and the charity is currently paying the Parish Council a management fee of £13,050 per annum. The council has a knowledgeable and effective team in place to carry out the work of managing the hall. Fire safety and gas and electrical checks are carried out regularly, along with legionella and asbestos checks. The PC feels that costs could be reduced if the hall management could be streamlined by integrating it further with the management of the other hall and with the systems of the parish council, for example for financial accounting, rather than having to

[1] Note that if sole use of the small meeting room is agreed directly between HPC and WSCC, then there will have to be an additional agreement between HPC and the charity regarding a contribution to running and maintenance costs paid by the charity - see 1.3.3 above.

keep meetings, minutes, financial accounts and reporting separate. Possible savings are discussed below.

### *1.4.3 Future maintenance and improvement - priorities*

A building survey was carried out in February 2021 to assess and prioritise immediate and future maintenance needs. The report concluded that the centre is in need of some modernisation. Whilst immediate maintenance priorities have been dealt with, windows, doors and roof finish are all over 20 years old and toilet fittings in the foyer are showing their age. Funds will be needed in the medium to long term to address these issues.

There are plans to carry out an energy audit to look at ways of reducing energy use and costs, and to consider generation of own energy through renewables, particularly solar panels. This is particularly urgent as the hall's electricity bill jumped by almost 300% in the year 1 April 22 to 31 March 23 (Annual report and accounts, 22/23). Consequently, recent announcements regarding a lower rate of VAT on energy saving materials for charitable buildings and funding now available to charities for energy-saving measures via the Department for Culture, Media and Sport will be relevant to any decision about the future of the charity.

### 1.5 Finances

When the Parish council took over as sole trustee in 2019, reserves were £110,000 but these have now reduced to £88,886 (annual report 22/23). Considerable maintenance work has, however, been carried out during this time, and the PC has been able to draw on the charity's reserves to cover the work.

Prior to the transfer to sole trusteeship and the Covid pandemic, hall income exceeded expenditure, enabling the trustees regularly to put aside any surplus into a sinking fund for future maintenance (£10,000 in 2019). When the PC took over management in 2019/20 the combination of heavy maintenance costs and management charges created a deficit in revenue finances. During the pandemic the drop in hire income was partially offset by the Retail, Hospitality and Leisure grants (which were available to charitable halls but not to PCs running halls in a statutory capacity) and the accounts for 2021/22 show that £13,097 was received in Covid grants. Nonetheless, the combination of loss of hire income coupled with further maintenance/improvement work created a net deficit for a further two years.

| | 2023 | 2022 | 2021 | 2020 | 2019 | 2018 |
|---|---|---|---|---|---|---|
| Income | £50,531 | £54,810 | £19,309 | £37,910 | £49,056 | £42,814 |
| Expenditure | £49,921 | £61,043 | £31,183 | £56,918 | £38,038 | £35,890 |
| Net income | £610 | (£6,233) | (£11,874) | (£19,008) | £11,018 | £6,924 |

**Source: Annual reports & accounts submitted to the Charity Commission**

With improved facilities and hire income there is the prospect that the reserve will not need to be used further and that funds may again be available to be set aside. A review of hiring charges may be appropriate to ensure that income generated is sufficient to cover running costs, maintain reserves and provide a fund for future maintenance, whilst keeping fees for community groups as low as possible. [2]

## 2.0 PROCESS FOR MOVING TO A PC-RUN HALL

Before considering the advantages and disadvantages of the current arrangements versus the PC running the centre in its statutory capacity, we will first set out the process that would be required if the hall and land were to be disposed of by the charity.

### 2.1 Charity Commission requirements

The charity would need to follow the legal requirements for charities considering disposing of land set out here:

[Selling, leasing or otherwise disposing of charity land in England and Wales - GOV.UK (www.gov.uk)]

Surrender of the lease with WSCC (or assignment of the lease to the PC if this proves to be possible) is subject to the same legal requirements as other forms of disposal. These are as follows:

- The trustees must be sure that disposal is in the best interests of the charity, which is what this report will consider.
- The charity's governing document must allow for disposal of land (the village centre's governing document does include a clause to this effect)

Charity Commission consent is not required for disposal provided the following steps are followed:

- obtain and consider a valuation report from a professional adviser (acceptable qualifications are listed in the guidance. For a community hall, an RICS professional is usual).
- be satisfied, that the proposed terms are the best that can be reasonably obtained for the charity

Note that although the freehold of the land is held by WSCC, the building was constructed by the charity. As it would be difficult for the charity to remove the building at the end of the lease, it is normal in such situations for a long lease to be put in place so that the charity would still have received value for money if for any reason WSCC refused to extend the

[2] As a general principle halls have historically been advised to retain reserves of at least 3 months' running costs plus a sinking fund for future maintenance costs. However, as a result of the pandemic, many halls are now aiming for a reserve of 6 months' running costs, plus provision for maintenance. A template for calculation of a maintenance reserve, prepared by Ringmer Village Hall, is available from AirS.

lease in future (although under the Landlord and Tenant Act 1954, part 2, the charity may have security of tenure in the longer term).

Consequently, any decision by the charity to relinquish the lease early in favour of the PC (following a public meeting) would be required by the Charity Commission to be subject to a valuation report and potentially payment by the PC of a sum representing the value of the remaining lease and the building. (This was the advice given by Surrey Hills solicitors in relation to another parish when the trustees and PC were looking at a similar situation).

**2.2 Provisions of the charity's governing document with regard to disposal of land**

Clause 13.1 of the governing document allows the sole trustee to dispose of the land, although this clause refers to sale rather than surrender. However, the clause also refers to the provisions of Sections 117 to 123 of the Charities Act 2011, which include surrender of leases.

A resolution to surrender the lease would be required at a special general meeting to which all inhabitants aged 18 or upwards in the area of benefit are invited, and a majority agreeing to the resolution must be obtained. Not less than fourteen days' notice of the meeting and the terms of the resolution must be given, and notices posted in a conspicuous place/placed on the charity's property/advertised in a local newsletter (Clause 13.2).

Clause 13.4 specifies how any monies belonging to the charity from the disposal must be spent, either:

- For the purchase or lease of other charity property to be held upon the trusts of the charity, or
- Towards 'such other charitable purposes or objects for the benefit of the inhabitants of the area of benefit as may be approved by the Charity Commission

As the proposal is that the PC take on the running of the hall, the charity would not be taking on new property, so the second option above would apply.

The PC would therefore need to approach the Charity Commission to ask for a scheme, ie a new governing document setting out new purposes for which the charity's assets are to be used. It is likely to be asked as part of this process why it believes this course of action would be "in the best interests of the charity" and provide evidence of community consultation about the use to which the charity's funds should be put.

One of the roles of the Charity Commission is to protect charity assets and so it follows the general principle that charity property being transferred must:

• continue to be charity property

• continue to be used for similar purposes to those for which it was originally used.

However, a charity cannot transfer its property to a non-charitable body or for a non-charitable purpose eg charity land could not be transferred to a local authority to form part of its statutory property, even if it were to be used for purposes similar to those formerly undertaken by the charity. See: Trustee handbook (publishing.service.gov.uk).

Therefore, the charity's assets after disposal of the hall are very unlikely to be given to the PC, even if held in an earmarked reserve. Whilst the Charity Commission and modern charity law allows for more flexibility than previously, it is unlikely the Commission would allow a transfer to a non-charitable organisation unless the assets had fallen to a very low level. They are charity assets and would have to remain within a charity structure, governed by a Charity Commission Scheme, requiring separate meetings, accounts and reporting as currently.[3]

### 2.3 Assignment of the lease

The last part of the process of transferring the hall to the PC would be for the PC to negotiate with WSCC to agree to amend or assign the current lease, or create a new lease. We understand that WSCC has indicated that it would accede to a request to assign or amend the current lease. (Note that the head lease with WSCC does not currently allow assignment or underletting (Clause 5.12.2)). Legal costs would likely be payable by the current tenant, ie the charity, if the lease was amended or assigned as is what the lease provides for and is what happened when the lease was varied in April 2014.

## 3.0 ADVANTAGES AND DISADVANTAGES OF THE CURRENT ARRANGEMENTS VERSUS A PC-RUN HALL

The PC is keen to look at the advantages of retaining the current arrangements for the management of the hall versus the hall being run by the PC in its statutory capacity, as with Court Bushes Community Hub.

A summary of the advantages and disadvantages of each scenario are set out in Table 1 below, including those that would arise if the charity disposed of the land.

[3] An example is Aldingbourne Parish Council, which administers the Westergate Recreation Ground Fund under a Charity Commission Scheme. The capital from the sale of the old Recreation Ground is held in a separate bank account and is used to help the charity now running the new recreation field and play area.

**Table 1: Advantages and disadvantages of current arrangements (Hurstpierpoint & Sayers Common PC as sole trustee of the charity) vs PC-run in statutory capacity**

| FACTOR | PC AS SOLE TRUSTEE | PC-RUN | NOTES |
|---|---|---|---|
| Asset protection | Due to charitable status, the charity's assets (lease, hall building, movable fittings, furniture, cash in bank and other assets) are protected for the community | PC could change its priorities and decide it no longer wishes to run the centre/foot the bill. If PC-run, no obligation to ask the community for consent to close the centre and surrender the lease. However, councillors are accountable to the electorate, who can make representations regarding the hall.<br><br>As the hall was built by the Hustpierpoint Village Centre Association using local funds, there may be opposition to the hall being handed over to the PC, and fears that the land will be developed for other purposes, so consent to disposal of the land may not be given by the community. | This is explained further in Section 2 above.<br><br>It is noted that the PC has already floated the idea, but opposition may only come to the surface when/if plans are more definite |
| Business rate relief | Due to charitable status, currently receive mandatory 80% business rate relief, 20% discretionary relief, so no business rates payable | No business rate relief available | |

| FACTOR | PC AS SOLE TRUSTEE | PC-RUN | NOTES |
|---|---|---|---|
| VAT | A charity cannot reclaim VAT paid on supplies (unless VAT registered) How VAT affects charities (VAT Notice 701/1) - GOV.UK (www.gov.uk). However, HPC as sole trustee could potentially recover (see notes).<br><br>New build charitable village halls are zero rated for VAT, providing conditions are met. Some other access-related works are also zero rated for charitable use buildings, eg access ramps, widening of doorways, accessible toilets.<br><br>The government has just announced that it will extend zero VAT rating on the installation of Energy Saving Materials (ESMs) to buildings used for a charitable purpose. | VAT could be reclaimed in the same way as currently for Court Bushes Community Hub, thus saving on costs | HMRC have treated halls run by PC as sole trustee in the same way as PC-owned, so in principle arrangements for reclaiming VAT can be the same as for the Court Bushes Community Hub. Local authorities and similar bodies (VAT Notice 749) - GOV.UK (www.gov.uk). Discussions are currently underway between ACRE and NALC and HMRC around the thresholds for exempt business activities, and there may be new guidance in 2024.<br><br>PCs often support charitable halls with grants to undertake improvement work. However, a PC can also undertake work for a charitable hall, in lieu of a grant, and reclaim VAT under Section 33 of the VAT Act 1994 (see link above). This potentially offers a more cost-effective means of providing support than grants, should HPC decide to provide financial support to the charity. Professional VAT advice would be needed by a PC where significant expenditure on improvement work was planned, owing to the complexities of individual situations. |

| FACTOR | PC AS SOLE TRUSTEE | PC-RUN | NOTES |
|---|---|---|---|
| Funding for capital improvements | Some grants are available to charities but not to PC-run halls. Examples:<br>- Leisure and hospitality government grants during Covid were not available to a PC-run hall<br>- Just announced DCMS funding for energy audits/capital measures to increase energy efficiency<br>- Ongoing Platinum Jubilee grants from DEFRA/ACRE<br>- Garfield Weston Foundation, Bernard Sunley Foundation and Sussex Community Foundation<br><br>However, it can take some explanation/persuasion to convince funders that halls run by PCs as sole trustee are eligible, and 'three separate trustees' may be required. | Potential availability of PC own funds/precept funding/PWLB/ Section 106 and other funds open to parish councils | It is also an option for the PC to support the charity through the options mentioned for PC-run eg an annual grant or grants for specific purposes, such as a new roof - or pay for work directly, with VAT reclaim advantages as outlined above, This would retain the advantages of charitable status as well as providing financial stability for the charity. |
| Funding for maintenance | It is expected that hiring charges are set to generate a surplus over | Potential availability of precept funding is a big advantage as | The PC could make available precept funding to the charity if it wanted to |

| FACTOR | PC AS SOLE TRUSTEE | PC-RUN | NOTES |
|---|---|---|---|
| | and above running costs for a maintenance reserve, but this can be difficult as the building ages and maintenance costs rise, and may conflict with objectives to keep the hall affordable. | maintenance costs are not generally eligible for grant funding. | help keep hire charges affordable, or give small grants to users to pay hire fees, or make up the 25% discount currently given to local community groups through a grant to the charity. |
| Availability of funding for activities | Many small grants available to village hall charities to run activities eg warm hubs, digital inclusion | Other funding schemes possibly open to PCs | |
| Community engagement/volunteers | Remaining as a charity leaves open the option of handing back to the community to run at some point in the future (although currently felt to be unlikely by councillors and the Clerk, it does happen, eg Boxgrove VH was formerly run by the PC as sole trustee of the charity after vols gave up in the 1960s, and became a CIO when new volunteers stepped forward to run it after it was rebuilt by the sole trustee in 2010 | This option would not be open if the hall is PC-run rather than charitable. | |
| Tax treatment | Charities do not pay corporation tax on charitable activities (primary purpose trading) and | Check the tax situation with regard to PCs with local ALC | |



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| FACTOR | PC AS SOLE TRUSTEE | PC-RUN | NOTES |
|---|---|---|---|
| | non-primary purpose up to a limit, or stamp duty or inheritance tax.<br><br>Charities can register for Gift Aid and claim back tax on donations (25%). | PC cannot register for Gift Aid as not a charity. | |
| Management | Paid clerk(s) manage the hall effectively.<br><br>Charity currently paying £13,050 management fee to the parish council (as opposed to the work being done by volunteers as would be the case with trustees from the wider community).<br><br>Need for separate meetings, accounts/ accounting licence and reporting to the Charity Commission increases the time needed/cost for this work. | Paid clerks would continue to manage the hall effectively.<br><br>There may be an opportunity to negotiate better deals on utilities, maintenance etc as running two halls, but this is also possible if the hall remains a charity with PC as sole trustee.<br><br>As the charity is likely to continue with a Charity Commission scheme, there will still be a need to hold separate meetings, keep separate accounts and report to the Charity Commission. However, volunteers from the community may be more willing to step up as trustees. | Without liability concerns, it might be possible to recruit volunteers eg treasurer to reduce PC management fee? Could a group be set up to do some of the work, eg maintenance? It is noted that ex-trustees are still involved with the hall. Would they be willing to devote time to fundraising? |
| Non-primary purpose trading | Strict limits on non-primary purpose trading requiring setting up of a separate organisation if eg a regular bar/café is required in the future and proceeds exceed permitted turnover | Charity rules would not apply. | |

| FACTOR | PC AS SOLE TRUSTEE | PC-RUN | NOTES |
|---|---|---|---|
| Conflicts of interest | PCs as sole trustee have the difficult task of separating their role as trustee of the village hall (in which they must put the best interests of the charity first) from their statutory, public duties (where they must put their tax payers first). However potential conflicts of interest are currently being managed effectively. | These would be removed, making decisions about the hall simpler | Fee paid for parish council office space should be at a commercial rate (charity cannot subsidise). The clarity/transparency of the commercial charge is an important aspect of addressing the conflict of interest for the PC as tenant of the charity.<br><br>Management charges should be at the local hourly rate for such services. |
| Main lease | Lease with WSCC in place to 17/2/54for 50 years at a peppercorn rent. | Current lease does not allow assignment or underletting so discussions with WSCC required, and legal costs to amend the lease (payable by current tenant)<br><br>CC rules regarding disposal of charity land would have to be followed. Possible residual value of lease/building payable by PC to charity if PC takes over in statutory capacity.<br><br>Risk that WSCC, the freeholder, may decide to charge rent on new lease, rather than a peppercorn rent as currently, as no longer charitable. | |

| FACTOR | PC AS SOLE TRUSTEE | PC-RUN | NOTES |
|---|---|---|---|
| Underlease | Charity underlets an office to the PC for an annual rent, which was £2662 in 2022-23. Rent is calculated as: 8% of annual overheads of the village centre in arrears (includes gas, electricity and water, repairs and maintenance, buildings insurance, cost of fire procedures and an agreed payment to a sinking fund to cover future major repairs). The PC also responsible for keeping the office decorated and in good repair.<br><br>The PC can terminate the lease on each anniversary, with 12 months' notice to be given. | A termination charge would likely be payable to the charity in lieu of notice if the PC takes over the hall if a year's notice of termination of the lease is not given, as is required. Professional advice will be needed. | |

**4.0 Financial costs and benefits of moving to a PC-run hall**

Drawing on the advantages and disadvantages outlined in Table 1, the Table 2 below brings together an overview of the costs and benefits of relinquishing charitable status and moving to a PC-run hall.



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**Table 2: Financial costs and benefits of moving to PC-run hall**

| COSTS OF MOVING TO PC-RUN HALL | BENEFITS | NEUTRAL |
|---|---|---|
| • Business rates (currently £0 with mandatory and discretionary relief) would be payable. Current figure is £4608 for 1.04.23 to 1.04.24, but this is based on an out of date footprint so likely to go up to **c £11,000** (Clerk's estimate) in the future. | • Potential small saving on management costs fees due to streamlining of processes and economies of scale - difficult to quantify. | • As the existing charity is almost certain to remain with different objects, the requirement to run separate meetings, finances, reporting will remain, with associated costs. However, community trustees may be found to run the charity with its remaining assets. |
| • Lost access to some grants previously available to charity. Difficult to quantify amounts but PC would not be eligible for recent national funds eg Platinum Jubilee, DCMS/Groundwork for energy efficiency works (£150,000) Covid grants would not have been available | • Potential availability of PC own funds/precept funding/PWLB/ Section 106 and other funds open to parish councils, although the PC could also make these funds available to the charity and retain the advantages of charitable status. | |
| • Loss of charity's current cash assets of **£85,998** (Charity Commission are not likely to approve their transfer to a non-charitable organisation) | • Possible recovery of 20% VAT on supplies, saving on running costs. Very rough estimate **C £3,000** based on 22/23 accounts.<br>• Recovery of VAT on major future maintenance or refurbishment works (but possibly subject to limits when relates to exempt business activities like hiring out rooms for a fee). Professional VAT advice should be taken | |

| COSTS OF MOVING TO PC-RUN HALL | BENEFITS | NEUTRAL |
|---|---|---|
| • Business rates (currently £0 with mandatory and discretionary relief) would be payable. Current figure is £4608 for 1.04.23 to 1.04.24, but this is based on an out of date footprint so likely to go up to **c £11,000** (Clerk's estimate) in the future. | • Potential small saving on management costs fees due to streamlining of processes and economies of scale - difficult to quantify. | • As the existing charity is almost certain to remain with different objects, the requirement to run separate meetings, finances, reporting will remain, with associated costs. However, community trustees may be found to run the charity with its remaining assets. |
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| COSTS OF MOVING TO PC-RUN HALL | BENEFITS | NEUTRAL |
|---|---|---|
| • Probable need to purchase from the charity or replace furniture, equipment etc owned by the charity **£10,855** (last available valuation in annual accounts, 2019) | | |
| • Surveyor's fee (part of CC requirement for land disposal) in the region of **£1,000** | | |
| • Possible increase in rent if PC takes on new lease – **PC needs to speak to WSCC** | | |
| • Possible residual value to be paid to charity if WSCC agree to reassignment of lease – **professional surveyor needed to advise** | | |
| • Possible termination charge payable to the charity in lieu of notice on the underlease - **professional surveyor needed to advise** | | |
| • Legal costs incurred to reassign the lease (if possible) or draw up new lease, probably including costs incurred by WSCC as these were paid by the tenant in the 2004 lease, and register the lease with the land registry. **£1000?** | | |

## 5.0 Summary and recommendations

It can be seen that changing from a charitable to a PC-run hall would result in a considerable loss of income to the hall:

- As noted above, given the current level of assets, including cash in the bank and possible payment by HPC for the residual value of the lease and for early termination of the underlease, it is likely that the Charity Commission would insist on a scheme to govern future use of the charity's existing assets. Therefore, the charity would remain in existence, with agreed new objects, and the PC (or other trustees) would have to continue to run it. Its current funds would not therefore be available to the PC to help maintain a PC-run hall.
- The hall's other assets, such as furniture and equipment would also need to be sold and the funds added to the assets of the charity, so they would not be available to a non-charitable PC-run hall without them being paid for
- A PC-run hall would need to pay business rates, which are projected to increase considerably.
- Savings on management costs would not outweigh these losses/costs, especially with the likelihood that the charity would remain in existence and so would still need to be managed, with separate meetings, finances and reporting.
- With VAT, the PC could potentially reclaim for a PC-run hall in the same way it does currently with Court Bushes Community Hub, subject to limits on reclaiming for business exempt activities, but the savings again would not outweigh the loss outlined above. In addition, it may be that clarification of the VAT situation enables the PC in its role as sole trustee to reclaim VAT on supplies. Note also that the PC can already recover VAT when it pays for items and gifts them to the charity in lieu of a grant.
- Whilst the difficulty of funding ongoing maintenance costs with an aging building is a factor to consider, there is no guarantee of precept funding for the hall if it is PC-run - priorities for use of the precept may change in the future. Current charitable status provides protection for the hall and other assets through the requirement to seek the agreement of the community to disposal of the hall and through Charity Commission regulations.
- The process required for disposal of the hall by the charity would also incur costs and disposal may not be agreed to by the community.

In many ways, the charity has the best of both worlds in the current situation, being able to draw on the management capacity of the Parish Council, whilst also having access to business rate relief and grants only open to charities, as well as the ability to approach the PC for financial support in the same way as any other charity.

Taking all of these factors into account, we **recommend** that:

- the charity remains in existence in its current form, with PC as sole trustee

- if the charity's financial assets become exhausted or very low in the future, the decision could be revisited and the charity potentially then dissolved, if it is in the charity's best interests at that point
- alternatively the decision could be left until the lease is close to ending
- the Parish Council should take professional VAT advice on reclaiming VAT on charitable hall expenditure and keep a watch on developments in relation to reclaiming VAT by PCs acting as sole trustee (WSALC will be able to advise)
- the Parish Council as sole trustee should apply for an energy audit to access the new capital grants available through DCMS
- the Parish Council could encourage volunteer involvement to reduce management costs and help with fundraising to support the hall
- if the PC decides to hire out the former parish office directly, it will need to put in place an agreement with the village hall charity to contribute to running and maintenance costs paid by the charity - see 1.3.3 above.

**Angela Milligan**
**AirS Community Buildings Adviser**

**Louise Beaton**
**Community Halls Consultant**

*Disclaimer: please note that any advice or guidance provided should not be taken as a substitute for professional legal or other advice.*

**References**

Briefing Note – Future of Charity – prepared by the Parish Clerk for the Annual General Meeting, 27 July 2023

Trustee handbook (publishing.service.gov.uk)

Selling, leasing or otherwise disposing of charity land in England and Wales - GOV.UK (www.gov.uk)

ACRE Information Sheet 36: Village Halls run by Parish Councils as sole trustee

ACRE Information Sheet 18: Village Halls and VAT on building work and other purchases

Local authorities and similar bodies (VAT Notice 749) – GOV.UK (www.gov.uk).

How VAT affects charities (VAT Notice 701/1) - GOV.UK (www.gov.uk)