

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Policy and Resources
Date:	1 November 2018
Title:	The Liss School Trust – Transfer between Sites
Report From:	Director of Culture Communities and Business Services

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1. Recommendations

- 1.1. That approval be given to the transfer of the charitable trusts relating to the former junior school at Liss to the current site of Liss Infant School in order to be able to fulfil the objects of the charity.
- 1.2. That the Director of Culture Communities and Business Services (Strategic Manager - Assets and Development) be authorised to settle detailed terms for the proposed transfer.

2. Executive Summary

- 2.1. This paper seeks to:
 - set out the background to the proposal and the reasons for the report
 - confirm the specific requirements of the Charity Commission
 - consider the proposed transfer of the charitable trust
 - consider the valuation and finance implications

3. Background Information

- 3.1. The former Liss Junior School at the junction of Rake Road and Mill Road, Liss was established subject to a charitable trust under the Elementary Education Act 1870. Hampshire County Council is the sole corporate trustee to the charity. The site is shown edged black on the attached plan and comprises approx. 0.117 ha. (0.288 acres)
- 3.2. The purpose of the charity was for the former Liss Junior School site to be used for the advancement of education of children and young people of statutory age resident within the civil parish of Liss.
- 3.3. When the junior school at Rake Road closed in the early 1990s, the site ceased being used for educational purposes. In 1997 the site was let on a 25 year lease to Liss Community Association for community purposes and

continues in such use. It has now been established that this use is in breach of the objects of the charity.

- 3.4. The charitable trust should have been transferred at the time to part of the site of Liss County Infant and (new) Junior Schools at Hill Brow Road, Liss. In 2001 a new draft charitable scheme was produced by the Charity Commission to establish the 'Liss School Trust' on the site of the Liss Infant School building. However, this was not completed and the matter was left in abeyance.

4. Charity Commission Requirements

- 4.1. The Charity Commission has determined that any decision to authorise the transfer of the charitable trust must be made on behalf of the County Council acting in its capacity as sole trustee to the charity and in the best interests of the charity, and any County Council local authority considerations must not play a role in the decision making.
- 4.2. Part of the current infant school site will be transferred from the County Council to The Liss School Trust for which the County Council is sole trustee. By its very nature, this is a transfer between connected parties and the Charity Commission's consent is required. The Commission needs to be satisfied that steps have been taken to manage any potential conflict of interest.
- 4.3. The Commission require an independent surveyor's report which demonstrates that the land is being replaced with at least equivalent land in terms of value and amenity and this has been obtained.
- 4.4. This Executive Member report is a key part of satisfying the Charity Commission's requirements.

5. Proposed Transfer of Charitable Trust

- 5.1. It is now intended to transfer the charitable trust relating to the former junior school at Liss to the site of the buildings footprint of Liss Infant School in order to be able to fulfil the charity's object outlined above. The new site is shown edged black on the attached plan and comprises approximately 0.186 ha. (0.46 acres)
- 5.2. Under the power given in the Charities Act 2011, an Order is to be made by the Charity Commission which authorises the transfer of the land, and that the Scheme which governed the charity previously known as Liss Junior School will subsequently be known as the Liss School Trust (3000018). The area to be transferred to the Trust is restricted to the buildings footprint of the infant school in order to avoid the need for consent under section 77 of the School Standards and Framework Act 1998. The Trust will enjoy rights of access over the car park, shown hatched on the plan.
- 5.3. A consequence of the transfer is that the Council will hold the freehold of the former junior school site at Rake Road free of charitable trusts. The Council will then be free to manage and / or dispose of the site as it wishes, including the intended freehold transfer of the site to the occupying Community

Association. However the future of the Rake Road site has no bearing on this decision by the charity sole trustee.

- 5.4. There will not be an actual disposal of land, rather an order is made by the Charity Commission to authorise the exchange of charity land under powers given in sections 105 and 117 of the Charities Act 2011.

6. Valuation and Finance

- 6.1. An independent valuation has been provided by Daniells Harrison Chartered Surveyors which is attached as Appendix 2 to the report. This demonstrates that the value and amenity value of the replacement site (the buildings footprint of Liss Infant School) is in excess of the original charitable trust site (former Liss Junior School at Rake Road). It is therefore considered that proceeding with this transfer of trusts is in the charity's best interests.
- 6.2. No actual consideration will pass as a result of the charitable trust transfer.

7. Consultation and Equalities

- 7.1. The Charity Commission has confirmed that it will not be necessary for public notice to be given of the proposed transfer of trusts and a consultation process is not required.
- 7.2. However the governors and head teachers of both Liss Infant and Junior Schools, and also the Chairman of Liss Triangle Community Association have been consulted. No objections have been raised.
- 7.3. The transfer of the charitable trusts has no impact on the day-to-day management and operations of Liss Infant School.
- 7.4. There are no equalities issues arising from the proposal.

CORPORATE OR LEGAL INFORMATION:**Links to the Strategic Plan**

Hampshire maintains strong and sustainable economic growth and prosperity:	no
People in Hampshire live safe, healthy and independent lives:	no
People in Hampshire enjoy a rich and diverse environment:	no
People in Hampshire enjoy being part of strong, inclusive communities:	no
<p>This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because: The Charity Commission has determined that any decision to authorise the transfer of the charitable trust must be made on behalf of the County Council acting in its capacity as sole trustee to the charity and in the best interests of the charity, and any County Council local authority considerations must not play a role in the decision making.</p>	

Other Significant Links

Links to previous Member decisions:	
<u>Title</u> NONE	<u>Date</u>
Direct links to specific legislation or Government Directives	
<u>Title</u> Charities Act	<u>Date</u> 1993

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1 The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2 Equalities Impact Assessment:

The proposal has no impact on groups with protected characteristics. The proposal merely addresses an issue relating to the charitable trust following an historic school relocation.

2 Impact on Crime and Disorder:

2.1 The potential impact on crime and disorder has been considered and no impact has been identified.

3 Climate Change:

3.1 The proposal has no impact in terms of climate change, the County Council's carbon footprint or energy consumption.