

### 3. COUNCIL CHARITABLE LAND – ANNUAL OPERATIONAL REPORT

#### 1.0 INTRODUCTION

- 1.1 The Council being a trust corporation, by virtue of the Local Government Acts, is the Trustee of the Charities mentioned in Section 2 of this report and is appointed the Trustee pursuant to Section 210 of the Local Government Act 1972 by virtue of being the statutory successor to the Cuckfield Urban District Council, the Cuckfield Rural District Council, the Burgess Hill Urban District Council and the East Grinstead Urban District Council.
- 1.2 The trustees of all registered charities in England and Wales are required by Section 162 Charities Act 2011 to prepare an annual report containing the information required by the Charities (Accounts and Reports) Regulations 2005 regarding the activities of the charity in the preceding financial year.
- 1.3 The Council as Trustee comprises all the Members of the Council, who by virtue of their office as Members of the Council are the managing trustees of the Charities mentioned in Section 2 of this report. Members of the Council receive specific training on their roles and responsibilities as Charity Trustees as part of their Member training. The names of Members of the Council holding office for the period 1st April 2012 to 31st March 2013, the period for which this report relates, who have served as a Charity Trustee are set out in the table below:

	Mandy Thomas-Atkin (Chairman)	
	Gordon Marples (Vice-Chairman)	
Jonathan Ash-Edwards	Bruce Forbes	Gary Marsh
Simon Banham	Richard Goddard	Peter Martin
Stephen Barnett	Susan Hatton	Edward Matthews
Andrew Barrett-Miles	Ginny Heard	Simon McMenemy
Richard Bates	Christopher Hersey	Pru Moore
Edward Belsey	Margaret Hersey	John O'Brien
Margaret Belsey	Catrin Ingham	Peter Reed
Liz Bennett	Anne Jones	Robert Salisbury
Katy Bourne	Denis Jones	Susan Seward
Heidi Brunson	Graham Knight	Ian Simpson
Jack Callaghan	Jim Knight	Christopher Snowling
Cherry Catharine	Jacqui Landriani	Dick Sweatman
Phillip Coote	Andrew Lea	Colin Trumble
Mims Davies	Mike Livesey	Neville Walker
John de Mierre	Andrew MacNaughton	Garry Wall
David Dorking	Bob Mainstone	Norman Webster
Kathleen Dumbovic	Natalie March	Emily White
Tim Farmer		

- 1.4 Since an Annual Operational Report on the activities of the Charities and the Accounts of the Charities, as appended to this report, must be submitted to, considered and approved by the Members as sitting Charity Trustees and not as Members of the Council, it is necessary to call a special meeting of the Members of the Council to sit as the Charity Trustees.
- 1.5 All of the Charities mentioned in Section 2 of this report are unincorporated associations and their principal office is Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, West Sussex RH16 1SS.

- 1.6 The Council's Chief Executive, Kathryn Hall, was the Chief Executive of the Charities mentioned in Section 2 of this report for the period covered by this report and the routine operational management of the Charities is delegated to and shared by the Council's Head of Leisure and Sustainability and the Council's Property and Assets Manager. Any major operational management decisions that might affect the interests of the Charities are made by the Charity Trustees.
- 1.7 The Charities' solicitor is the Solicitor to the Council, their bankers are the Cooperative Bank plc and Mr Hugh Barron (CPFA) independently examines their Accounts.
- 1.8 This report provides a review of the operational activities of the Charities managed by the Council and a statement of each charity's financial affairs for the period 1st April 2012 to 31st March 2013. A copy of the Accounts for each charity is annexed to this report and together they comprise the Charity's Annual Report and Accounts.

## **2.0 CHARITIES OPERATIONAL REPORT**

### **2.1 General**

- 2.1.1 Project work on these sites have been directed at maintaining the quality of these facilities and securing their income generating capacity to offset the costs of providing these publicly accessible open spaces and their facilities.

### **2.2 Beech Hurst Gardens, Haywards Heath – Charity No: 305202**

- 2.2.1 The Charity was constituted by a Declaration of Trust dated 2nd March 1950 when Gardens were gifted to the Council's predecessor, the Urban District Council of Cuckfield, by the trustees of the late William Johnson Yapp to be administered by the Council upon charitable trust.
- 2.2.2 The object of the Charity is the provision of a public park and recreation ground for the benefit of the inhabitants of Haywards Heath. The trustees powers of management are very restrictive and are limited to providing facilities for the use and enjoyment of the inhabitants of Haywards Heath for educational, scientific, cultural or recreational purposes and for any of the charitable purposes set out in Section 4 of the Physical Training and Recreation Act 1937 and not for any purposes that are not charitable. By virtue of a Scheme made by the Charity Commissioners on 1st March 1996, the Council now has the power, subject to complying with charity law and the prior written consent of the Charity Commissioners, to sell or let part of the Charity's property provided that this will not unduly interfere with the objects of the Charity.
- 2.2.3 These gardens represent a major park for the town of Haywards Heath, while attracting visitors from outside the district. Regular maintenance has provided a high quality facility. A Steering Group for the gardens has now been in existence for many years. The friends group that was established in 2010/11 is now struggling as there is a lack of volunteers willing to form an administrative committee. It has been agreed that Haywards Heath Town Council's South East in Bloom Committee will form the administrative 'umbrella' for this group. The site received another 'Green Flag' award in July 2012 and will be assessed in 2013 via a 'mystery shopping' inspection.
- 2.2.4 The eighth year's trading figures for the Family Restaurant were again very good this year and a turnover rent of some £31k was received in addition to the £30k base

rent. This represents the best years trading since the restaurant opened which reflects the recent investment by Mitchells and Butlers Retail Limited in internal upgrades, re-branding as a Harvesters and improved site signage, etc.

2.2.5 The income generated and expenditure incurred at this site is split between restricted and unrestricted funds the former relates to the cottages, and restaurant facility, with the sporting facilities being unrestricted funds. Total income generated from petanque, events, tennis, rent from the cottages, leases, and licences (including the restaurant), on the site totalled £125k. This sum includes supplementary rental income as detailed in paragraph 2.2.4 of this report. Overall running costs excluding depreciation amounted to £91k of which £89k related to buildings and ground maintenance costs (including a £12k capital scheme for footpath works) with the rest being utilities expenditure. This therefore produced a surplus in 2012/13 of £34k at this site which when added to prior years gives a total surplus of £105k, currently shown as a Debtor balance.

2.2.6 We are seeking to maximise the potential income generation from the on-site kiosk by converting the interior suitable for a modest café outlet to be run as a concession with associated disabled toilet facilities. These works which are planned to be undertaken in the next few months will cost £35k and will be met from the prior year surpluses as previously agreed by the trustees at their meeting on the 21st November 2012. Additionally at the same meeting £34k was approved to be spent on improvement works to the playground at Beech Hurst gardens from prior year surpluses. Therefore after these improvements have been undertaken in 2013/14 the surplus will be reduced to £36k.

2.2.7 The cottages at Beech Hurst are let on Assured Shorthold Tenancy Agreements. All five cottages are currently let. This has given the opportunity to subsume this last extended garden back into the park, which has been successfully completed. Under the terms of the Assured Shorthold Tenancy Agreements, the landlord is responsible for the maintenance/repair of the structure and exterior of the premises as well as any installations provided for space, heating and sanitation and for the supply of water, gas and electricity. The tenant is responsible for keeping the garden and interior of the premises in a good and tidy condition.

### **2.3 Richard Worsley Recreation Ground, Cuckfield (known as Cuckfield Recreation Ground) – Charity No: 206789**

2.3.1 The Charity was constituted by Conveyance dated 1st July 1920 when the Park was gifted to the Council's predecessor, the Urban District Council of Cuckfield, by Frances Pendleburg Worsley to be administered by the Council upon charitable trust.

2.3.2 The object of the Charity is the provision of a Public Recreation Ground for the use and benefit of the inhabitants of the former Urban District of Cuckfield and the Parish of Cuckfield Rural, and as a perpetual memorial to her late husband, who died on the 9th November 1916, and as a memorial to those who gave their lives in the Great War 1914-18. The Council's powers of management are restricted to using the property for charitable purposes. By virtue of a Scheme made by the Charity Commissioners on 15th May 2000, the Council now has limited power, subject to complying with charity law and the prior written consent of the Charity Commissioners, to let part of the Charity's property provided that this will not unduly interfere with the objects of the Charity.

2.3.3 The grounds to this popular and well used venue were regularly maintained. In total income of £7k was generated in 2012/13 mainly from pitch and event hiring, hire of

the tennis courts and ground rental for the tennis pavilion with £1k being generated from a modest café facility. Operated within the pavilion building, the income generated contributed to the grounds maintenance and upkeep of the tennis courts, pavilion, playgrounds and paddling pool expenditure of £40k.

- 2.3.4 Further to last year's approach from the tennis club who wish to take on a lease of the courts, a further report will be provided to Trustees on this issue in due course.

## **2.4 Fairfield Recreation Ground, Burgess Hill – Charity No: 305187**

2.4.1 The Charity's property comprises the eastern end of the recreation ground. The Charity was constituted by Conveyance dated 1st October 1891 when the Park was gifted to the Council's predecessor, the Burgess Hill Local Board, by the Churchwardens and Overseers of the Parish of Clayton to be administered by the Council upon charitable trust. The Charity was enrolled on the books of the Charity Commissioners under the Mortmain and Charitable Uses Act 1888.

2.4.2 The object of the Charity is the provision of a place of exercise and recreation for the benefit of the inhabitants of the Parish of Clayton (now part of the Parish of Hassocks) and the neighbourhood. The Council's powers of management are restricted to using the property for charitable purposes within the meaning of the Recreational Charities Act 1958 now the Charities Act 2011.

2.4.3 There has been no change to the charity section of the site. The grounds were regularly maintained.

2.4.4 The property comprises a popular public recreation ground on which is located a drained football pitch. Regular maintenance by the Council has provided a high quality facility. This continues to be used regularly by sports clubs generating much needed income of £5k, which has helped to offset expenditure of £16k for sports pitch maintenance and associated facility running costs.

## **2.5 Public Open Spaces, Lucastes Avenue Haywards Heath – Charity No: 233890**

2.5.1 The land was gifted to the Council's predecessor, the Urban District Council of Haywards Heath, for use as public open space in perpetuity by a Conveyance dated 9th January 1932. The Charity was constituted by an Order of the Secretary of State for Education and Science made on 26th January 1965 pursuant to section 18 of the Charities Act 1960 and the land was declared a charitable foundation, and the Cuckfield Urban District was appointed Charity Trustee.

2.5.2 The object of the Charity is the provision of public open space for the enjoyment of the inhabitants of Haywards Heath.

2.5.3 The land comprises mainly roadside grass verges and woodland belts at the eastern end in Lucastes Avenue, which are regularly maintained by the Council. It has no income generating potential.

## **2.6 Ashurst Wood Recreation Ground, East Grinstead – Charity No: 305162**

2.6.1 The Charity was constituted by a Conveyance dated 22nd September 1954, when the Park was gifted to the Council's predecessor, the Urban District Council of East Grinstead, by the Trustees of Ashurst Wood Recreation Ground.

- 2.6.2 The object of the Charity is the provision of the open space for the recreation of adults and as a playground for children and youths of the village of Ashurst Wood as public open space. The Council's powers of management are restricted to using the property for charitable purposes within the meaning of the Recreational Charities Act 1958 now the Charities Act 2011.
- 2.6.3 The recreation ground comprises a number of recreational facilities including a children's playground. The soccer pitches continue to be very well used. All facilities were regularly maintained.
- 2.6.4 £5k income was received for football pitch and pavilion hire. The income contributed towards expenditure of £11k for grounds and general upkeep of the facilities. This is broadly similar to last year.

## **2.7 St Johns Park, Burgess Hill – Charity No: 305189**

- 2.7.1 The Charity's property comprises only the eastern half of the park. The Charity was constituted by a Conveyance dated 24th April 1891 when the Park was gifted to the Council's predecessors, the Burgess Hill Local Board, upon charitable trust.
- 2.7.2 The object of the Charity is the provision of a Public Park and Pleasure Ground for the benefit of the inhabitants and visitors to St John's Common. The Council's powers of management are restricted to using the property for charitable purposes within the meaning of the Recreational Charities Act 1958 now the Charities Act 2011.
- 2.7.3 The grounds of this popular park for Burgess Hill were regularly maintained.
- 2.7.4 Income of £11k was generated in 2012/13 mainly from cricket pitch, event, and pavilion hire. This income helped offset total expenditure of £110k for the cricket outfield maintenance and the general upkeep of the pavilion and grounds. This includes invest to save expenditure of £55k on the pavilion.
- 2.7.5 In 2013 the cricket club will be seeking to replace the existing cricket nets with new ones on the same footprint of land which has officer support in principle. To facilitate this, the club may wish to seek an extension of their existing licence agreement (covering their maintenance and use of the cricket square) to undertake similar terms covering the existing site of the cricket nets. This will be reported on in due course.
- 2.7.6 The refreshment kiosk within the pavilion was also operated during the summer on a trial basis and generated £1k income over this period. This trial may form the basis of a further report to trustees seeking approval to formalise these arrangements through a licence or similar agreement. An additional paved area was provided during 2012 to assist in making this café area a more viable proposition.

## **2.8 Public Walk and Pleasure Ground, Lindfield (known as West Common) Charity No: 305324**

- 2.8.1 The land was acquired by the Council's predecessor, the Urban District Council of Cuckfield pursuant to section 164 of the Public Health Act 1875 and constitutes public open space. The Charity was constituted when the land was enrolled on the books of the Ministry of Education pursuant to Section 6(2) of the Mortmain and Charitable Uses Act 1888 and Section 1 of the Mortmain and Charitable Uses Act Amendment Act 1892.

- 2.8.2 The object of the Charity is the provision of a Public Walk and Pleasure Ground pursuant to Section 164 of the Public Health Act 1875 for the benefit of the local inhabitants of Lindfield. The Council's powers of management are restricted to using the property for charitable purposes within the meaning of the Recreational Charities Act 1958 now the Charities Act 2011.
- 2.8.3 This land forms a linear open space surrounded by busy public highways with little income generating potential. The site continues to be regularly maintained.

## **2.9 Brooklands Park eastern end (unregistered charity)**

- 2.9.1 The Charity's property comprises only the eastern half of the park. The Charity was constituted by a Conveyance dated 4th July 1906 when the land was gifted to the Council's predecessors, the East Grinstead Urban District Council to be held upon trust for the purpose of providing a public park and recreation ground.
- 2.9.2 The object of the Charity is the provision of a Public Park and Recreation Ground for the benefit of the inhabitants East Grinstead, the neighbourhood and the public generally. The Council's powers of management are restricted to using the property for charitable purposes within the meaning of the Recreational Charities Act 1958 now the Charities Act 2011.
- 2.9.3 The grounds of this popular park for East Grinstead were regularly maintained.
- 2.9.4 The planning proposal for this land has been delayed by the implications of the habitats directive affecting the Ashdown Forest. An application is likely to come forward before the end of the year.

## **3.0 CHARITIES ACCOUNTS**

- 3.1 From 1st March 1996 new reporting regulations came into effect such that from the financial year 1996/97, the Council, as Charity Trustees is obliged to complete annual returns for each of the managed Charities under its control. The accounts are attached as Appendix 1 to this report. They set out the details of income and expenditure for each Trust Site for the financial year commencing on 1st April 2012 and ending on 31st March 2013.
- 3.2 At the request of the Charity Commissioners, the 2000/2001 accounts for Beech Hurst Gardens, Fairfield Recreation Ground, Richard Worsley and St Johns Park Charities were independently examined by Hugh Barron (CPFA), a qualified accountant experienced in the independent examination of Charity Accounts, on behalf of the Council. His report recommended that the accounts of the Charities administered by the Council should be prepared on an accruals accounting basis. The appendix attached details the financial affairs for each Trust for the financial year commencing on 1st April 2012 and ending on 31st March 2013 in that format. The accounts of those Charities with income or expenditure that exceeds £100,000 are subject to independent examination. However, the Council has for the sake of consistency elected to have all the Charities accounts independently examined and the accounts for the financial year 2012/13 were examined by Hugh Barron (CPFA) in June 2013. His reports on the accounts for each Trust are attached to the end of the accounts.
- 3.3 The returns to the Charity Commission will be completed on the basis of these figures. In line with recommended practice, the Trust Fund Assets are no longer consolidated within the balance sheet in the Council's Statement of Accounts.

3.4 Members should note that in the case of any charity where the charity's expenditure exceeds its income and that the shortfall is met from the Council's own resources.

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 All income and expenditure shown in the 2012/13 Charity Accounts were accommodated within the 2012/2013 Revenue Budget.

#### **5.0 RISK ANALYSIS**

5.1 By compiling detailed annual operational and financial reports, the Trustees are minimising their risks of not complying with current legislation and Charity Commission requirements. This report will form part of the Annual Returns for each Charity referred to in the report.

#### **6.0 CONCLUSION**

6.1.1 The Trust property has been held and maintained satisfactorily during the period 1st April 2012 to 31st March 2013.

#### **7.0 RECOMMENDATIONS**

**The Charity Trustees are recommended to:**

**7.1 Note and agree the contents of this report; ratify the actions taken and approve the Charities' Accounts for 2012/2013.**

#### **BACKGROUND PAPERS**

Leisure and Sustainability, Property, Legal and Finance files

#### **ENVIRONMENTAL IMPLICATIONS STATEMENT**

This report raised no environmental implications.

#### **LIAISON WITH LOCAL COUNCILS**

No Town or Parish consultation has taken place for the purposes of this report; however consultation takes place for all major works and new initiatives.

#### **COMPLIANCE WITH CODE OF PRACTICE ON COMMITMENTS**

All costs and income relating to charitable land were accommodated within the 2012/2013 Revenue Budget.

**Charity Accounts  
2012/13**

**Mid Sussex District Council as Charity Trustees of:**

**Beech Hurst Gardens  
Ashurst Wood Recreation Ground  
Richard Worsley Recreation Ground  
St John's Park  
Fairfield Road Recreation Ground  
Lucastes Avenue Open Space  
West Common Public Walk and Pleasure Ground**