

5. 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 45 Charities Act 1993 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 2008 to 31st March 2009, the period for which this report relates, who have served as a charity trustee are set out in the table below:

Mrs. Margaret Hersey (Chairman)
Clive Chapman (Vice-Chairman)

Jonathan Ash-Edwards	Brian Hall	Gary Marsh
Mrs. Margaret Baker	Ms. Sophia Harrison	Peter Martin
Mrs. Eileen Balsdon	Mrs. Sue Hatton	Edward Matthews
Stephen Barnett	Ms. Dorothy Hatswell	Pru Moore
Andrew Barrett-Miles	Paddy Henry	Ian Pearce
Richard Bates	Chris Hersey	Peter Reed
John Belsey	Chris Jerrey	Mrs. Heather Ross
Mrs. Liz Bennett	Mrs. Anne Jones	Mrs. Susan Seward
Mrs. Brenda Binge	James Joyce-Nelson	Graham Knight
Andrew Brock	Mrs. Jane Keel	Mrs. Janice Henwood
Mrs. Heidi Brunson	Mrs. Susanna Kemp	Christopher Snowling
Patrick Cutler	Edward King	James Temple-Smithson
Ian Dixon	Mrs. Jacqui Landriani	Mandy Thomas-Atkin
Mrs. Kathleen Dumbovic	Andrew Lea	Julian Thorpe
Mrs. Gina Field	Edward Michael Livesey	Garry Wall
Irene Balls	Andrew MacNaughton	Mike Watts
Bernard Gillbard	Jack Callaghan	
Mrs. Jean Glynn	Gordon Marples	

- 1.4 Since an Annual Operational Report on the activities of the Charities mentioned in Section 2 of this report and the Accounts of the Charities mentioned in Section 2 of this report must be submitted to, considered and approved by the Members 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, Mr John Jory, is the Chief Executive of the Charities mentioned in Section 2 of this report and the routine operational management of the Charities is delegated to and shared by the Council's Head of Leisure and Sustainability, Mr. Mark Fischer, and the Council's Property Manager, Mr David Waite. 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 2008 to 31st March 2009. 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 User Group is now well established. There have been further improvements to the borders and accessibility within the site as well as re-construction of the pergola feature that had reached the end of its useful life. The site was subject to another application for 'Green Flag' status during the year (results anticipated July 2009).
- 2.2.4 The fourth year's trading figures for the Family Restaurant were again somewhat disappointing reflecting the economic conditions and so only the base rent was collected with no supplementary turnover rent for this period.

- 2.2.5 The restaurant complex at Beech Hurst leased to Whitbread PLC on 6th October 2003 was assigned to Mitchells and Butlers Retail Ltd on 4th January 2007. This followed a resolution made at the annual Charity Trustees meeting held on 27th September 2006.
- 2.2.6 Following a request from Mitchells and Butlers Retail Ltd to re-brand the Restaurant Complex the Charity Trustees considered a report on 27th February 2008 when they authorised the Solicitor of the Council to grant landlord's consent to minor alterations including the erection of new signage necessary to complete the re-branding exercise. These works were satisfactorily carried out.
- 2.2.7 Income was also generated from a number of leases and licences on the site, hirings of the pitch and putt golf course, temporary refreshments from the site kiosk, tennis courts and rental from the cottages. This income contributed to the upkeep of the grounds and necessary building repairs. The site has been regularly maintained.
- 2.2.8 The cottages at Beech Hurst are let on Assured Shorthold Tenancy Agreements. All five cottages are currently let and the rents have been slightly increased following a recent rent review.

Under the terms of the Assured Shorthold Tenancy Agreement, the Council is responsible for the maintenance/repair of the structure and interior 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.

The Council have a five-year 'repairs and renewals programme' that covers backlog and essential repairs to the cottages.

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. Income was generated from pitch and event hirings, hire of the tennis courts and ground rental for the tennis pavilion. The income generated contributed to the grounds maintenance and upkeep of the tennis courts, pavilion, playgrounds and paddling pool.

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.
- 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, which has helped to offset sports pitch maintenance.

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.
- 2.6.3 There has been no change to the facilities. A detailed study of all the District's pavilions and the access to them has led the Council to embark on a major programme of works in future years to address dilapidations of its building stock and to ensure the building is brought up to an acceptable standard for disabled access.

Options for alterations to meet future demand by user groups are being considered following representations from existing users. Ashurst Wood pavilion is in this future programme of works, part of the Council's Asset Management Plan. 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 Income was received for football pitch and pavilion hire. The income contributed towards the maintenance of the trust property.

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.
- 2.7.3 The grounds of this popular park for Burgess Hill were regularly maintained.
- 2.7.4 Income was generated from pitch hirings for cricket, event and pavilion hirings. This contributed towards the cricket outfield maintenance and the upkeep of the pavilion.

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.
- 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.

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 2008 and ending on 31st March 2009.

- 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 2008 and ending on 31st March 2009 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 2008/09 were examined by Hugh Barron (CPFA) in June 2009. 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 each charity 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 2008/09 Charity Accounts were accommodated within the 2008/2009 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 2008 to 31st March 2009.

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 2008/2009***

BACKGROUND PAPERS:

Outdoor Business, Property, legal and finance files

ENVIRONMENTAL IMPLICATIONS STATEMENT:

This report raised no environmental implications.

LIASON 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 2008/2009 Revenue Budget.

**Charity Accounts
2008/09**

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***