

Report on behalf of Kevin Kendall, Chief Property Officer

Report to:	County Council
Date:	20 May 2016
Subject:	Future Use of Bourne Town Hall

Summary:

This report outlines progress made over the last 15 months in relation to the future use of Bourne Town Hall and asks the 77 members of Lincolnshire County Council ("the Council"), **in their capacity as trustees of Bourne Town Hall**, to agree on next steps.

This report seeks the Council's agreement as trustee to pursue a preferred option of transferring ownership of Bourne Town Hall to a new or existing charity or charitable trust in order for the Town Hall to be used for the benefit of the people of Bourne. Should this not prove to be a viable option then approval is sought for the disposal of the Town Hall and for all sale proceeds to be used for the benefit of the residents of Bourne.

In progressing one or other of the options outlined above the Council is requested to approve the amendments to the Terms of Reference for the Bourne Town Hall Trust Management Committee outlined in Appendix A in order to delegate responsibility to the Committee to finalise one or other of the options on behalf of the County Council as trustees.

It is important to note that the Council as charity trustee is responsible for the control and management of the administration of Bourne Town Hall, which is an independent charitable trust, with a charitable purpose that is wholly separate from the activities of the Council. This means that decisions about the administration and operation of Bourne Town Hall must be taken solely in the interests of furthering its charitable purposes, and not in furtherance of the Council's own interests as a local authority.

Recommendation(s):

The Council, in its role as trustee of Bourne Town Hall, is requested to approve that;

- A preferred option is pursued of transferring ownership of Bourne Town Hall to a new or existing charity to be held on charitable trusts consistent with the spirit of the original gift, in order for the Town Hall to be used for

the benefit of the people of Bourne, as intended by the original donor.

- Should the preferred option not prove to be viable then Bourne Town Hall should be disposed of with sale proceeds used for the benefit of the residents of Bourne.
- The Terms of Reference of the Bourne Town Hall Trust Management Committee be revised as set out in Appendix A and authority is delegated to the Committee to exercise the Delegated Activities as defined in the revised Terms of Reference.

1. Background

The Bourne Town Hall is a Grade II Listed building, situated within a Conservation Area in the centre of Bourne town. The Town Hall was gifted by way of a Deed of Gift ("the Deed") from the Marquis of Exeter dated 11th October 1821 to be held on trust for the benefit of the people of Bourne. This means that the Town Hall is a charitable trust with the original Deed of Gift as its governing document. The Deed sets out the purposes for which the Town Hall can be used.

The purposes as set out in the Deed are to provide a town hall and market for Bourne, for the benefit of the public and to contribute towards the town's general prosperity and welfare. A lot has changed since 1821; some of the purposes are outdated and no longer relevant in today's society. However, the spirit of the original gift of benefitting the residents of Bourne is clear.

In 1974, on local government reorganisation, the Council acquired Bourne Town Hall to be held on trust for the benefit of the people of Bourne. The Council is therefore the sole corporate trustee of Bourne Town Hall. The Town Hall has been used for a variety of purposes since that time but has been unoccupied since South Kesteven District Council vacated the property in 2013.

Bourne Town Hall is an independent charitable trust, with a charitable purpose that is wholly separate from the activities of the Council. The Council, as charity trustee, is responsible for the control and management of Bourne Town Hall and in doing so has a legal duty to act at all times in a manner that furthers the charitable purposes of Bourne Town Hall. The Council must also comply with charity law and the terms of the Deed. Other applicable legislation includes health and safety law and equality law.

It is recognised that Bourne Town Hall is not currently being used in a way that furthers its charitable purposes for the benefit of the people of Bourne. In this regard the following factors are noted:

- The charitable purposes for which Bourne Town Hall is to be used are either outdated or provided elsewhere in the town and/or by other means.
- The structure of Bourne Town Hall will continue to deteriorate if left unoccupied, causing risks to health and safety.

- In the absence of any income being generated by Bourne Town Hall or any other available funds, the Council (as the local authority) is meeting the costs of maintaining the Town Hall using public funds.

Establishment of Bourne Town Hall Trust Management Committee

The Council's dual role of charity trustee of an independent charitable trust and local authority creates a conflict of interest.

At the meeting of the County Council on 20th February 2015 it was agreed that a Bourne Town Hall Trust Management Committee (the 'Committee') made up of five county councillors should be established. Original Terms of Reference, agreed at the 20th February 2015 meeting, sought to achieve an appropriate balance between enabling suitably efficient decision-making in the management of the Council's obligations as charity trustee with the proper reservation of major decision-making to the full Council.

Section 1.1 of these original Terms of Reference also highlighted the three key aims of the Committee;

- 1.1 *The Committee shall carry out the following tasks ("the Tasks") on behalf of the Council as trustee of the Charity:*
- (a) *undertake an appraisal of the Options;*
 - (b) *undertake public consultation with the residents of Bourne town in respect of the Options and future use of the Hall;*
 - (c) *deliver a comprehensive report to the Council setting out the Committee's recommendations as to the future use of the Hall, such recommendations to have regard to the outcome of the Committee's public consultation with the residents of Bourne ("the Report"), in accordance with paragraph 8.3 below.*

Work of the Committee

The Committee has met throughout 2015 and the early part of 2016. As set out in the Terms of Reference, the Committee has had responsibility for undertaking an options appraisal in relation to the Town Hall, overseeing a consultation process with people local to Bourne and delivering this report to today's meeting of the County Council making recommendations in relation to the future of the building.

Options Appraisal

In conjunction with legal advisors, Geldards LLP, who have advised the Council in respect of its role as charity trustee, the Committee produced a shortlist of possible options for the future use of the Town Hall. These were as follows;

- a) Retain the building and use it for the Charitable Purposes as set out in the original Deed of Gift**

Effectively no change to the current arrangements.

b) Retain the building and amend the original Charitable Purposes

The Trustee would retain the building and apply to the Charity Commission for consent to adopt amended purposes. These must be charitable and as close as possible to the spirit of the original gift. This would essentially amount to a modernisation of the existing Charitable Purposes.

c) Appoint a new trustee(s) to take on the building

A close alternative to the previous option would involve retaining Bourne Town Hall and apply to the Charity Commission for amended purposes but appoint a new corporate trustee or a body of individual trustees to take on the charitable trust (instead of the Council continuing as sole trustee).

d) Create a new charity to take on the building

This would involve the Council forming a new incorporated charity, perhaps in collaboration with another organisation or group of individuals, to which the building would be transferred. It is still likely that the charitable purposes would need amending but this would allow for Bourne Town Hall to be managed by a new independent entity that is furthering purposes close to the spirit of the original purposes.

e) Transfer the building to another charity

This would involve the Trustee transferring the building to another local charity or charitable trust that carries on projects or delivers services that are similar to the original purposes of the gift. Again, an application to the Charity Commission to amend the charitable purposes will likely be required.

f) Sell the building and use the proceeds of the sale as intended by the original gift

This would involve the Trustee selling the building and using the proceeds of sale for the benefit of the residents of Bourne (as intended by the original gift).

Consultation

With the Options agreed the Committee commissioned officers from the Council's Community Engagement Team to carry out a consultation exercise.

A full public consultation process took place between Thursday 1st October 2015 and Thursday 31st December 2015. The consultation included a wide range of communications, events and meetings, including an on-line consultation (paper copies were made available).

There were twelve public drop-in sessions held, where members of the public were able to ask questions and complete questionnaires. These events were advertised on the Council's website and in the local press. The events were arranged to be as inclusive as possible and were held at different times of the day and week with a variety of local venues used.

A questionnaire was produced to give people the opportunity to express their views on the proposals. This was on the Council's website and was made available at the public drop in sessions.

- A total of 654 questionnaires distributed:
 - 40 to the local Army Cadets
 - 200 to Councillor H N J Powell (to be passed to local residents)
 - 414 to local people / participants

The full consultation document, online questionnaire and any other documents were published on the Council's website and questionnaires were made available in the South Kesteven District Council Offices in Bourne.

Summary of Consultation Results

The consultation survey received a total of 169 responses of which 30 were submitted electronically and 139 via paper returns.

Consultation Survey Options	Number	%
Retain the building and use it for the Charitable Purposes as set out in the original Deed	38	22%
Retaining the building and amending the original Charitable Purposes	37	22%
Appointing a new trustee(s) to take on the building	5	3%
Creating a new charity to take on the building	23	14%
Transferring the building to another charity	30	18%
Selling the building (use the proceeds of sale for the benefit of the residents of Bourne)	36	21%
	169	

The consultation document also provided the opportunity for respondents to suggest how the building could be used in the future. The majority of respondents favoured some type of community activity that benefitted local people although

there were a wide range of purposes suggested. Some commercial uses were also proposed including the building being used as a public house or cinema.

Next Steps

The Committee received a consultation summary report from the Community Engagement Team, considered it in detail and continued to reference it as it agreed on next steps.

Although the consultation did not highlight a consensus on a preferred option it did show that only 22% of the respondents wanted to retain the current arrangements, whilst cumulatively:

- 78% of respondents wanted to see the charitable purposes used differently
- 79% of respondents wanted to see the building retained for charitable purposes.

During the Consultation period the Committee had been approached by a number of interested parties based in Bourne who expressed an interest in beginning a dialogue with the Council regarding the future use of the Town Hall. Based on conclusions drawn from the Consultation, the Committee agreed that contact should be made with the interested parties and two initial meetings took place in Bourne during February and March 2016 between members of the Committee and representatives from the interested parties. These discussions culminated in the interested parties agreeing to form a steering group and nominating representatives to sit on this group.

An initial meeting took place between members of the Committee and the Steering Group in Bourne on 12th April 2016. Significant progress was made at this meeting and the steering group expressed a wish to commence a feasibility study to explore suitable uses for the Town Hall and potential sources of funding for initial set-up and on-going costs. The Committee was encouraging of this approach and made a provisional offer of a limited amount of architect support to assist with the feasibility study and officer support from the Council's Conservation Officer. The meeting closed with confirmation by the Chairman of the Committee of the content of the discussion and the intention for the Committee to formally report back to the meeting of the County Council on 20th May.

Bourne Town Hall Trust Management Committee – Amendments to the Terms of Reference

The original Terms of Reference for the Committee were agreed by the County Council at its meeting on 20th February 2015. These Terms of Reference contained the three key activities outlined earlier in this report to develop options, to consult and then to recommend to this Council meeting. At its last meeting the Committee recognised the need to continue to meet periodically to monitor progress with the steering group's feasibility study. Additionally, should the Council be in agreement, the Terms of Reference would also need to set out delegated authority to allow the Committee to oversee the transfer of Bourne Town Hall should this be required, to determine if proposals to transfer the building are no longer viable and, if required,

to oversee the disposal of the building and to work with the Charity Commission on the development of a Charity Commission Scheme to allow for the proceeds of any sale of Bourne Town Hall to be distributed for the benefit of the residents of Bourne.

Revised Terms of Reference for the Committee are attached at Appendix A to this report and the Council is invited to agree to these revised Terms of Reference. The changes to paragraph 3 delegate to the Committee authority to take decisions on the two options referred to in the recommendations. Consequential amendments are made to the arrangements for the Committee, reflecting the extent of delegation and the fact that the Committee has now completed its original tasks.

2. Conclusion

The Council has obligations as sole corporate trustee of Bourne Town Hall. Considerable progress has been made over the last 15 months to secure the long-term future of the Town Hall and this report invites the County Council to approve further actions to achieve this end.

3. Legal Comments:

As set out in the Report the Council is considering the report in its capacity as charity trustee is responsible for the control and management of the administration of Bourne Town Hall, which is an independent charitable trust, with a charitable purpose that is wholly separate from the activities of the Council.

This means that decisions about the administration and operation of Bourne Town Hall must be taken solely in the interests of furthering its charitable purposes, and not in furtherance of the Council's own interests as a local authority.

The Report has been prepared with the assistance of specialist charity law advice.

The decision is within the remit of the Council.

4. Resource Comments:

The acceptance of the recommendations in this report places no additional financial burden on the County Council. The potential exists, dependent upon the eventual transfer of ownership of the Hall, for the existing financial obligations on the Council to maintain the building to be reduced or eliminated.

5. Consultation

a) Has Local Member Been Consulted?

b) Has Executive Councillor Been Consulted?

c) Scrutiny Comments

n/a

d) Policy Proofing Actions Required

n/a

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Draft Revised Terms of Reference

7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Nigel West, who can be contacted on nigel.west@lincolnshire.gov.uk.