

Report to the Cabinet

Report reference: C-085-2015/16

Date of meeting: 7 April 2016



Committee: Neighbourhoods and Community Services Select Committee

Subject: Establishment of a Development Trust

Responsible Officer: Julie Chandler (01992 564214).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

(1) That the recommendation from the Neighbourhoods and Community Services Select Committee for the Council to establish a Development Trust for Epping Forest and Lowewood Museums, to operate in parallel with the management of the Museum, Heritage and Culture Service be agreed; and

(2) That the establishment of a Development Trust be progressed on the basis of establishing a Company Limited by Guarantee and Registered Charity.

Executive Summary:

Although the Museum Service has previously had significant success in securing funding from external agencies, a lack of charitable status has limited the number of Trusts that the Council can apply to. Therefore, to help support the sustainability of the Museum, Heritage and Culture Service in the future, a feasibility study was undertaken in 2015 to identify Trust options, to operate in parallel to the Council's management of the District Museum and Lowewood Museum, which is managed on behalf of Broxbourne Borough Council

At its meeting on 3 March 2016, Cabinet agreed for our Committee to consider the findings of the study and the potential for establishment of a Development Trust for the Museum, Heritage and Cultural Services section of the Council. This report therefore provides the information discussed at our meeting on 15 March 2016 and seeks Cabinet agreement to proceed with work to establish a trust as a Company, Limited by Guarantee and Registered Charity.

Reasons for Proposed Decision:

We believe that a Development Trust would be very beneficial in supporting the future sustainability of the Museum, Heritage and Culture service of the Council and would enable significant value to be added to the work of the service.

Other Options for Action:

The only other option would be for the Council to remain with the status quo and to continue to seek external funding from current organisations. However, we felt that this would significantly limit the opportunities for development of the museums, due to the highly competitive funding environment.

Report:

Background

1. We were advised that in April 2015, officers were successful in securing £55,000 funding from Arts Council England (ACE) as part of its' Resilience Programme, to undertake two feasibility studies. The aim of the studies was to investigate opportunities for supporting resilience of the Museum, Heritage and Culture (MHC) service over the long-term and during economic austerity.
2. Two Consultancies were appointed to undertake the required work; the Management Centre and Barker Langham, both of which had a high level of experience in the cultural sector and significant expertise in the areas to be considered.
3. The Management Centre was appointed to undertake a fundraising study including the establishment of Development Trust, and were given the brief to investigate a stand - alone 'entity' that would be able to access funding opportunities that the Council would be prohibited from. Additional legal advice was provided by Winckworth Sherwood Legal Consultants in relation to the establishment of the proposed Trust entity.
4. Barker Langham were awarded the contract to investigate business and income generating opportunities, across both the Council's own MHC service and Lowewood Museum, which is managed on behalf of Broxbourne Borough Council under a Service Level Agreement.

Potential Structure for the Development Trust

5. As part of the fundraising study the Management Centre undertook comparator interviews with three museum services that have been through a similar transition; Hampshire Cultural Trust, Norfolk Museums Service and Maidstone Museum Foundation. These interviews indicated the positive benefits of setting up a separate charitable entity, which included ability to access a range of funding possibilities that were not previously available to them, opportunity to secure additional grants and donations and the ability to claim Gift Aid on qualifying ticket sales.
6. All of the comparators were structured as a Company Limited by Guarantee and Registered Charity and although two of them had considered other options, including that of Community Interest Company, this was felt to be the tried, tested and trusted route. None of the comparators had found this structure a barrier to anything they would like to do.
7. We therefore agree with the recommendation from the Fundraising Strategy, which is to use the structure of a Company Limited by Guarantee and Registered Charity as the best option for the Council.

Board and Governance of the Trust

8. We are aware that one of the key things to come out of the comparator interviews was the important role of the Board and the positive benefits that an effective Board can bring beyond being a legal necessity. We therefore agree that the Council should focus on a skills-based approach to the board, rather than focussing solely on people's connections or access to funders.
9. As there are minimum legal requirements for the Board, it will be up to the Council to decide the extent of active engagement in fundraising and supporting the museums that the

board has, and this could be as limited as a mechanism for receiving donations. However, we are in agreement that that the Council would gain most benefit from a Board that is independent and actively engaged. Such a Board adds fundraising capacity, in terms of networks and skills as well as time, to that of staff. A demonstrably independent Board will also reassure donors and funders that they are not simply giving to the Local Authority in a different guise.

10. We also noted that there needs to be a close relationship between the charity and the Museum Service, and that the Board will need to have a good understanding of the museum, its work and the priorities and constraints of the staff. This is to ensure alignment, so that the charity is supporting the museum in its priorities, rather than expecting the museum to deliver on the charity's priorities.

11. We agreed that a skills-based Board was essential and suggested the key skills and experience needed is as follows;

- Accounting
- Legal
- Business Management
- Income Generation
- Communications, Marketing and PR
- Knowledge of the heritage/tourism sector

In addition, it has been recommended that we include two Elected Members on an ex-officio basis, as this is important for ensuring good links and alignment between Council, Museum and Charity.

12. There are a range of methods of recruiting Board members, including open applications and targeted invitations to express interest and we suggest that the Council should incorporate open invitation into the Board recruitment, due to a number of benefits, including;

- Ability to reach candidates that we do not already know and have links to;
- In order to demonstrate the openness and independence of the charity;
- To build a sense of the charity as a way forward for the local community to support and get involved with the museums;
- To begin to build profile and recognition for the charity in the local community.

This approach will need to be supplemented by identification of individuals that would make good Board members and proactively approach them. Best practice would then be for Board members to be appointed with a specified term of service, so that they know they are only volunteering for a specified period of time; it provides a mechanism for Board members to be replaced if they are not actively engaged and it avoids the Board becoming a closed clique and ensures a regular input of new skills and perspectives.

13. The role of Chair will obviously be key to the functioning of the Board and recruitment for the chair can run in parallel to the process for other Board members. We suggest that the first Chair of the Board could be an Elected Member to ensure this position is filled early on in the recruitment process.

14. Going forward, the Board, Elected Members and Senior Management will have an important role to play in fundraising and are vital for sharing the mission and vision of both Epping Forest and Lowewood Museum. They will also need to engage with potential donors on a peer to peer basis, giving credibility to any fundraising. In addition, fundraising needs to be the responsibility of all staff, including front of house and volunteers, as they often have the most engagement with visitors.

Administration and Internal Structure

15. We are aware that the Trust will need to be supported with practical administration, and will need separate banking arrangements to the Council in order for accounts to be prepared and returns made to Companies House and the Charity Commission. It is possible for this role to be organised through the Council and it can provide the conduit between the Museums, the Council and the Board.

Way Forward

16. As Cabinet is aware, the Council potentially has an opportunity to pump prime the establishment of the Trust, through funding from the Arts Council England (ACE) Resilience Fund, which has recently opened a second round of funding to support Museums and the Arts. Our officers have already submitted an Expression of Interest (EOI) ACE, which includes funding for the appointment of a Fundraising Manager (18 x month post) and part time administrator. If successful with the EOI, we will be invited to submit a fully developed application, which needs to be in by 5 May 2016.

17. The bid submission includes reference to our current joint working with Broxbourne Borough Council in respect of Lowewood Museum and also highlights the recent collaboration with Chelmsford City Council, which would see the sharing of expertise and skills across all three areas. Within this arrangement, it is planned for the Fundraising Manager to set up a joint Development Trust for Epping Forest and Lowewood Museum Service and to support the establishment of a separate Trust for Chelmsford City Council.

18. We are in agreement that if the application to the Resilience Fund is unsuccessful, that the proposal to establish a Development Trust for the Museum, Heritage and Culture Service should still be progressed through an alternative method, to be agreed.

Resource Implications:

It is anticipated that the amount of funding that can be raised through the Development Trust will be of significant support to the future sustainability of the Museums Service

Legal and Governance Implications:

The Council will be the lead party within the Resilience Fund proposal and will direct the work related to the establishment of a Development Trust for Epping Forest and Broxbourne Councils. It is also planned to introduce a new Service Level Agreement for Management of Lowewood Museum, which will span 25 years. This has been agreed in principle by Broxbourne and the establishment of the Trust will be subject to this being formalised.

In regard to the involvement of Chelmsford City Council within the Resilience Fund proposal, if successful with the bid, an agreement will be drawn up to set out the various roles of each party.

Safer, Cleaner Greener Implications:

Not Applicable.

Consultation Undertaken:

A wide range of consultation has been undertaken as part of the two Feasibility Studies and latterly, with The Chief Executive and Chief Finance Officer of Broxbourne Borough Council and Director of Community Services from Chelmsford City Council.

Background Papers:

Fundraising Strategy and Action Plan – Management Centre
Development Trust Legal Report: Winckworth Sherwood

Risk Management:

Risk Management will be undertaken as part of the development of the second round bid, if the Council is invited to apply for Resilience Funding

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

The establishment of a Development Trust for the Council's Museum, Heritage and Culture Services would enable the support for a range of new projects and initiatives targeted at improving equality and diversity. Therefore, this report would have a significant and positive impact on different groups of people.