

Brighton & Hove City Council

Policy & Resources Committee

Agenda Item 105

Subject: Permission to Establish an Urgency Sub-Committee to Oversee Disposal of 31 Palmeira Avenue, Hove also known as Penny Gobby House.

Date of meeting: 19th January 2023

Report of: Executive Director Families, Children & Learning

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 To seek approval to set up an urgency sub-committee to act on behalf of the Council as sole trustee of the Jeanne Saunders Centre (Penny Gobby House) (the Charity), the Charity that owns 31 Palmeira Avenue, Hove, known as the Jeanne Saunders Centre/Penny Gobby House (the Property)

2. Recommendations

2.1 That Committee agrees to establish an urgency sub-committee which will consist of three members, nominated by group leaders to make decisions on behalf of the Council acting as trustee of the Penny Gobby House School Charity on:

- the disposal of 31 Palmeira Avenue, Hove currently occupied by the Jeanne Saunders Centre ('Penny Gobby House') charity
- the purchase of the Annexe at Connaught Road by the Charity
- arrangements to ringfence any net surplus proceeds of sale for the Charity's use
- the establishment of a management committee.

3. Context and background information

3.1 On 13 September 1979 Ivan Makels and Minni Gobby, the then trustees of the charity known as the Penny Gobby House School, in the name and on behalf of the Official Custodian for Charities transferred the Property to East Sussex County Council (ESCC). The Property formed part of the endowment of the charity known as the Penny Gobby House School and its transfer was authorised by an order of the Charity Commissioners.

3.2 Following the local government reorganisation in 1997 the Property was transferred from ESCC to Brighton & Hove City Council and the Property

now vests in the Council in its capacity as sole trustee.

- 3.3 The Property has for several years not been suitable for the promotion of the Charity's aims. The Property is used to provide a specialist nursery providing care and early education for children with SEND in the year before they start school. The Property is a converted residential building over 4 floors with no lift. Over the years this has created challenges, with many children having to be carried around the building by staff and compliance with disability equality legislation has proven difficult to create disabled access to all parts of the building.
- 3.4 To ensure the future success of the Charity's aims, the proposal is that the Charity disposes of the Property on the open market and uses the proceeds of the sale to acquire a property that is owned by the Council and known as the Annexe located at Connaught Road.
- 3.5 Policy & Resources Committee (P&R) has the powers to authorise the acquisition and disposal of any land held by the Council. In the Council's capacity as sole trustee of this Charity, P&R would be able to authorise the sale of the Property and the acquisition of the Annexe at Connaught Road. However, it is essential that in making and exercising its powers as trustee, P&R acts by reference to the Charity's interest alone and not by reference to any other consideration of its interests as local authority.
- 3.6 The Council needs to establish a suitable process for dealing and managing the conflict of interest between the Council in its capacity as trustee of the Charity, and its capacity as landowner. All decision-making processes need to be fully documented to show that the Council acted in an appropriate and informed way to manage this conflict of interest. The proposal is that the Charity acquires the Annexe from the Council, and members of P&R will therefore be involved in the decision to acquire the Annexe. For that reason it is necessary, in order to avoid a conflict of interest, to ask members who are not on P&R to sit on the urgency sub-committee. This avoids the same members making decisions on both sides of the proposed transaction.
- 3.7 An urgency sub-committee consisting of members who are not on the P&R Committee will act on behalf of the Council in its capacity as sole trustee and would have regard only to the interest of the Charity.
- 3.8 The decisions of the Urgency Sub-Committee acting on behalf of the Council as charitable trustee would be:
 - the disposal of the Property
 - the purchase of the Annexe at Connaught Road by the Charity
 - arrangements to ringfence any net surplus proceeds of sale for the Charity's use; and
 - the establishment of a management committee.
- 3.9 It is likely that the purchase of the Annexe at Connaught Road will be at a

lesser value than the sale of the Property and there will be funds which will need to be protected and spent in accordance with the Charity's objectives, which are "To promote the care, welfare, interest, treatment, education and advancement of young children with Special Educational Needs".

- 3.10 The Urgency Sub-Committee will progress the decisions required, and Will report these back to the P&R Committee for information purposes only. Once this has taken place, then the Council will be able to move forward with seeking a recommendation to dispose of the Annexe building at Connaught Road.
- 3.11 The business of the Management Committee will be to oversee the activities of the Charity and undertake the day-to-day administration and prudent financial management of the net surplus proceeds to ensure that the monies are used in furtherance of the Charity's aims. The report to the Urgency Sub-Committee will contain detailed proposals and terms of reference for that Management Committee.

4. Analysis and consideration of alternative options

- 4.1 The Property has for several years not been suitable for the promotion of the Charity's aims. The Property is a converted residential building over 4 floors with no lift, and compliance with disability equality legislation has proven difficult to create disabled access to all parts of the building.
- 4.2 An urgency sub-committee is required to ensure that the Council is acting in the best interests of the Charity.

5. Community Engagement and Consultation

- 5.1 No consultation or community engagement is required at this stage.

6. Conclusion

- 6.1 Setting up an urgency sub-committee is an appropriate and informed way of managing the conflict of interest situation.

7. Financial implications

- 7.1 There are no financial implications arising from this proposal at this stage.

Name of Finance Officer Consulted: Steve Williams Date Consulted: 14/12/22

8. Legal implications

- 8.1 The Articles in the constitution states that each Committee of the Council may appoint an Urgency Sub-Committee to exercise its powers.

- 8.2 Urgency Sub-Committee's normally consist of the Chair of the Committee, As well as two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between Political Groups. However, this is not a strict requirement and in this case is not appropriate as the Council needs to be able to demonstrate that there is no conflict of interest between the members taking decisions on behalf of the Council in its role as charitable trustee and the members who are likely to make the decision on behalf of the Council as landowner to dispose of a council property to the Charity. Group Leaders are therefore asked to nominate members who do not ordinarily sit on Policy & Resources Committee.
- 8.3 A meeting of the Urgency Sub-Committee may be called in situations of urgency but can also be called where a majority of members decide to do so at an Ordinary or Special Committee meeting. This is what is recommended in this report.
- 8.2 Urgency Sub-Committee may exercise the powers of the Committee. Every decision of each Urgency Sub-Committee shall be reported for information to the next ordinary meeting of the relevant Committee

Name of Lawyer Consulted: Joanne Dunyaglo

Date Consulted: 14/12/22

9. Equalities implications

- 9.1 The Council's vision for our children and young people with Special Educational Needs is set out in the Brighton & Hove Special Educational Needs and Disability (SEND) Strategy 2021-2026. The aim is to enhance the outcomes and life chances of young people across the city so that they can achieve the very best they can to lead happy, healthy and good lives.
- 9.2 The Charity is an outstanding specialist nursery for young children with SEND, offering them the opportunity of being able to access a split-curriculum offer to attend a mainstream provision as well as having more specialist support provided by the Charity.
- 9.3 Assessing and supporting needs in Nursery increases the opportunity to enable children to access mainstream school rather than taking a special school path. For those whose needs are picked up early enough, provisions can be put into place to enable children to access mainstream school placements, and for those that require a special school placement they can be supported in having Education Health and Care Plans (EHCPs) put into place to ensure that needs are met via this specialist route.
- 9.4 The Property has areas that are difficult to provide disabled access to, which make it difficult to comply with legislative requirements in respect of disability equality.

10. Sustainability implications

- 10.1 There have always been issues with the Property not being suitable for young children with mobility needs. The Property is a converted residential building which is 4 floors with no lift and many stairs. The property also needs a lot of ongoing maintenance.
- 10.2 The Annexe at Connaught Road offers the space for the development of the provision, the opportunity to increase the cohorts of young people accessing this service and the ability to comply with legislative requirements to offer an enhanced and bespoke environment.

11. Other implications

- 11.1 There are no other implications arising from this proposal.

