

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
CORPORATE SERVICE	FINANCE AND DEMOCRACY COMMITTEE	7 OCTOBER 2021	5
<b>LYTHAM INSTITUTE – CONSULTATION ON THE OBJECTS</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The council began a consultation in 2020 on possible changes to the Objects of the Lytham Institute charity, of which it is the sole corporate trustee. The consultation was interrupted by the pandemic but has now been completed. The results of the consultation have been analysed and are included in the appendix to the report.

The consultation has been carried out on the Objects of the charity as part of the process to submit revised Objects for approval by the Charity Commission. Several respondents commented on the Institute building rather than the Objects of the Trust with some indicating that the revised Objects should include specific commitments to the Institute building.

Other respondents provided feedback that was not about the Objects, this has been included and will be used to inform any improvements to the Trust where appropriate. The purpose of the consultation was to receive feedback on the proposed Objects for the Trust that would be consistent with modern day Objects in delivering benefit to the community.

### RECOMMENDATIONS

1. The council, as the sole corporate trustee of the Lytham Institute Trust, applies to the Charity Commission to make a cy-pres scheme to change the Objects of the charity from its existing objects to the following:

*“To further or benefit the residents of Lytham and the neighbourhood, without distinction of gender, sexual orientation, race or of political, religious, or other opinions by providing facilities in the interests of social welfare for learning, recreation, and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.*

*In furtherance of these objects but not otherwise, the trustees shall have power to maintain or manage or co-operate with any statutory authority in the maintenance and management of the Lytham Institute building or other appropriate premises for activities promoted by the charity in furtherance of the above objects.”*

2. The Trust consider feedback provided through the consultation exercise that commented on other aspects of the Trust and assets when delivering the Objects of the Trust.

### SUMMARY OF PREVIOUS DECISIONS

[Finance and Democracy Committee – 22 July 2019](#)

The Committee AGREED to

1. Register the Lytham Institute as a charitable trust, and then seek immediate advice and discussion with the Charity Commission on the governance and future management of the trust.
2. Open discussions with community groups and interested stakeholders to determine the most effective use of the Institute to fulfil the required objectives of the Trust

[Finance and Democracy Committee 17 February 2020](#)

It was therefore RESOLVED for the item to be referred to Council on the 9th March 2020.

[Ide.cmis.uk.com/fylde/MeetingsCalendar/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/1202/Committee/17/Default.aspx](http://Ide.cmis.uk.com/fylde/MeetingsCalendar/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/1202/Committee/17/Default.aspx)" [Council 9 March 2020](#)

It was therefore RESOVLED

1. That the council acting as trustee of the Lytham Institute approve the proposed objects as set out in paragraph 12 of the report for consultation in accordance with the Charity Commission guidance;
2. That the council acting as the trustee of the Lytham Institute accept the recent advice of the Charity Commission that administrative provisions as referred to in paragraph 13 of the report should be adopted by way of a resolution under section 280 of the Charities Act 2011 and instruct the officers to draft detailed administrative provisions, to include the matters set out in paragraph 13, to be considered by members prior to consultation;
3. That the council acting as trustee of the Lytham Institute approve consultation on the proposed objects, with the stakeholders listed in paragraph 15 of the report, with a deadline date of April 20th after which all feedback will be considered by members prior to submission of the proposed revised objects to the Charity Commission; and
4. The council acknowledges that, under part 3 of the constitution, Finance and Democracy Committee is the appropriate forum to take future decisions of the council as trustee of the Lytham Institute, in line with Charity Commission guidance that decisions by local authorities in their capacity as charity trustee should be taken through their normal decision-making procedures; and that a special meeting of the committee is scheduled to consider the feedback from the consultation on 1 above.

Delegated decision 3 April 2020

To suspend the Lytham Institute Consultation for an undetermined period with the commitment to re-open the consultation at the first opportunity after the return to normal business.

</fylde/MeetingsCalendar/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/1169/Committee/22/Default.aspx>" [Finance and Democracy Committee 25 January 2021](#)

It was RESOLVED

1. To approve the re-opening of the consultation on the proposed objects of the Lytham Institute Trust after the current national Covid-19 lockdown that was announced from 5th January 2021.
2. To approve that the re-opened consultation on the charitable objects will be for a period of 28 days with publication and promotion of the commencement date at least 7 days before the consultation is to re-open.
3. [Related to filing accounts]

### CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	√
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	√

## REPORT

### TRUST AND OBJECTS

1. The council is the sole corporate trustee of Lytham Institute, which is a registered charity. The objects of the charity are *“to maintain the said premises and the buildings now or hereafter erected thereon for public use under the provisions of the Public Libraries Acts 1892 – 1901 and the Museum and Gymnasiums Act 1891 or any Acts re-enacting or amending the said Acts or any of them”*.
2. The Public Libraries Acts 1892-1901 are now repealed. Before repeal they gave library authorities power to *“...provide all or any of the following institutions, namely, public libraries, public museums, schools for science, art galleries, and schools for art...”*. The Museums and Gymnasiums Act 1891 is also repealed. Before the repeal it gave urban authorities power to *“...provide and maintain museums for the reception of local antiquities or other objects of interest, and gymnasiums with all the apparatus ordinarily used therewith...”*.
3. In correspondence during the process of registering the charity, the Charity Commission advised that *“[a]s the charity no longer provides a library, its objects will need to be changed through a legal document known as a scheme”*. The legislation on which the original objects were founded is no longer in existence. A scheme is made by the Commission following application by the charity. It is the duty of a charity trustee to apply for the Commission to make a scheme in certain circumstances, including where the existing objects of the trust cannot be efficiently accomplished. The Commission has subsequently advised on the procedure for obtaining a scheme.
4. The objects of a charity must include only purposes that are regarded in law as being charitable. They may not include any purpose that is not regarded in law as being charitable. The Charity Commission has indicated that when deciding on changes to charitable objects they will also have regard to:
  - a. The spirit of the original gift
  - b. The desirability of securing that the new charitable purposes are close to the original purposes
  - c. The need for the charity to have purposes which are suitable and effective in the light of current social and economic circumstances

### THE CONSULTATION

5. At its meeting on 9 March 2020, the council resolved to carry out consultation on proposed new objects for the charity. The proposed objects, after advice and support from the Charity Commission were based on model objects clause set out by the Charity Commission for community centres and were:

***“To further or benefit the residents of Lytham and the neighbourhood, without distinction of sex, sexual orientation, race or of political, religious, or other opinions by providing facilities in the interests of social welfare for learning, recreation, and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.***

***In furtherance of these objects but not otherwise, the trustees shall have power to maintain or manage or co-operate with any statutory authority in the maintenance and management of the Lytham Institute building or other appropriate premises for activities promoted by the charity in furtherance of the above objects.”***

6. The consultation was suspended in April 2020 because of the coronavirus pandemic and recommenced on 2 June 2021, concluding on 30 June. The consultation was focused on the revised Objects of the Trust to properly undertake the process set out by the Charity Commission to request a cy-pres scheme to change the Objects.
7. The responses to the consultation have been analysed and are presented in Appendix 1 to the report. Several themes are evident from the open narrative provided through the consultation that are summarised below.

### THE BUILDING

8. Several responses focused on the preservation or use of the Institute building rather than the proposed Objects however, given the interest in the building and the fact that it is used to deliver the Objects of the Trust this is understandable. The feedback regarding the use of the building reflects widespread community appreciation of and affection for the building itself.<sup>1</sup> The comments include suggestion that the words “or other appropriate premises” should be removed from the proposed objects, as well as alternative uses for the building and criticism that the proposed objects do not specifically refer to the preservation of the building.
9. A charity can be set up to preserve an historic building provided that the preservation of the building is the overarching purpose in the advancement of education of the public, and there is sufficient public access to the building. The Charity Commission would need to be satisfied as to the merit of the building before accepting that its preservation is a charitable purpose<sup>2</sup>.
10. The existing 1917 objects are not concerned with the preservation of the building for its own sake. The Commission could take the view that new objects which include the preservation of the building for its own sake are not sufficiently close to the original purposes to be acceptable.
11. It is not proposed to include building preservation within the objects because the building forms part of the permanent endowment of the charity, Charity Commission consent would be needed to dispose of it and the trustees of the charity would be required to maintain it.

## **LIBRARY**

12. Some consultees suggested that the objects should require a library to be run from the building. However, the need for the objects to be changed arises in part from the fact that the present 1917 objects envisage the building being used as a library, but the library authority now provides that service elsewhere in Lytham. There is no evidence of public benefit in requiring the charity to duplicate a service that is already provided by a public authority elsewhere in the town, it is more likely to harm the existing service that the residents of Lytham canvassed to retain and continue to be delivered by the County Council.

## **OTHER RESPONSES**

13. Some consultees have made specific suggestions for uses that could be accommodated in the building, governance of the trust and sources of funding. The suggestions are welcome but are not appropriate for the objects of the trust, which are intended to state as a high-level objective what the charity is set up to achieve.

## **NEXT STEPS**

14. As set out above, it is ultimately up to the Charity Commission, not the council or the Trust, whether to amend the objects by making a scheme.
15. The next step is for the council, as trustee of the charity, to ask the Charity Commission to make a cy-pres scheme to amend the objects of the charity by substituting the clause set out in paragraph 5 of this report (or such other wording as the committee determines) for the existing objects of the charity.
16. The Commission would then decide whether to make a draft scheme. Given the public interest in the Institute, the Commission is likely to require that formal public notice be given of a draft scheme (as opposed to the informal consultation noted in this report), and would then consider any representations, before making a final decision whether to make the scheme.

## **ADMINISTRATIVE PROVISIONS**

17. At the meeting on March 9<sup>th</sup>, 2020, it was agreed:

*That the council acting as the trustee of the Lytham Institute accept the recent advice of the Charity Commission that administrative provisions as referred to in paragraph 13 of the report should be adopted by way of a resolution under section 280 of the Charities Act 2011 and instruct the officers to draft detailed administrative provisions, to include the matters set out in paragraph 13, to be considered by members prior to consultation.*

According to its [Wikipedia entry](#), it was built as a mechanics' institute and opened in 1878. The building was extended in 1898 to include a reading room, gymnasium and classrooms. It is a handsome and well-regarded building, with “dark red and yellow and black brick dressings, including dentil sill bands and quoins, steep coped gables with jaunty finials, and lancets [and] bay windows of yellow brick” (Hartwell, Clare and Pevsner, Nikolaus (2009), *The buildings of England - Lancashire: North*, Yale University Press, p.435, quoted in Wikipedia).

85918/RR9-Interim.pdf" [Review of the Register of Charities: Preservation and Conservation](#) (Charity Commission), especially paragraph 4 and annex A.

18. This report addresses the important matter of the draft Objects and the result of the consultation that the Charity Commission require. Work on possible administrative clauses will be picked up in the next few weeks as resources become available subject to no further demand from COVID related activity. The clauses will be subject to consultation before a proposal is brought before this committee at the first opportunity after the Charity Commission have made the change to the Objects.

IMPLICATIONS	
Finance	No direct financial implications.
Legal	The trust is not a separate entity to the council and individual councillors or officers are not trustees of the trust. The duties of the council as trustee of Lytham Institute charity are set out in law, principally the Charities Act 2011. The council cannot use any trust property for its own purposes, but only for the purposes of the charity. Public opinion or expectations cannot displace any duty that the council is subject to as trustee.
Community Safety	There are no material community safety implications.
Human Rights and Equalities	There are no known human rights and equalities implications.
Sustainability and Environmental Impact	There are no sustainability or environmental impacts because of the report
Health & Safety and Risk Management	The principal risk associated with the Institute is that the council will fail to comply with its obligations as trustee. The processes set out in this report should prevent this.

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Guidance: How to write charitable purposes	Accessed 25 August 2021	<a href="http://www.gov.uk/guidance/how-to-write-charitable-purposes">http://www.gov.uk/guidance/how-to-write-charitable-purposes</a>
English Heritage listing information	Accessed 25 August 2021	<a href="https://historicengland.org.uk/listing/the-list/list-entry/1291791">https://historicengland.org.uk/listing/the-list/list-entry/1291791</a> <a href="https://historicengland.org.uk/listing/the-list/list-entry/1291791">https://historicengland.org.uk/listing/the-list/list-entry/1291791</a>
Charity Commission operational guidance OG 519 Unincorporated Charities: Changes to Governing Documents and Transfer of Property (Charities Act sections 268, 275 and 280)	Accessed 25 August 2021	<a href="http://ogs.charitycommission.gov.uk/g519a001.aspx">http://ogs.charitycommission.gov.uk/g519a001.aspx</a> <a href="http://ogs.charitycommission.gov.uk/g519a001.aspx">http://ogs.charitycommission.gov.uk/g519a001.aspx</a>

#### Appendix 1 – Analysis Report on the Consultation on the Objects of the Trust