

18 December 2017

Helen Harris  
Director of Legal and Democratic Services  
London Borough of Ealing

By email only to harrish@ealing.gov.uk

Dear Helen Harris

## **Re: Victoria Hall Charitable Trust**

Further to our letter of 18 December 2017 to the Charity Commission, copied to you.

Owing to concerns about the nature and scope of the current consultation regarding the proposed cy pres scheme relating to the Victoria Hall Trust, Ealing Voice asks that the consultation is withdrawn and reissued in an acceptable format.

We further ask that the motion to delegate authority for decisions relating to the scheme to a general purposes sub-committee is withdrawn from the agenda of the London Borough of Ealing full council meeting of 19 December 2017.

Please see below:

### **Background**

1. Ealing Voice ("EV") sought and obtained registration of Ealing Town Hall, part of the buildings of which are subject to the 1893 Victoria Hall Trust ("the trust"), as an asset of community value in 2016.
2. At a scrutiny committee meeting around that time Helen Harris, as Director of Legal and Democratic Services at the London Borough of Ealing ("LBE"), gave the opinion that the trust no longer applied. Whilst we are not alleging that this opinion was given in bad faith it has led to various parties proceeding under false premises. EV was prejudiced in putting together a bid to operate the town hall and ultimately decided not to proceed. The commercial hotel operator Mastcraft Limited, LBE's chosen purchaser for the town hall, will have incurred costs in working up a proposal that could be rendered inoperable due to the existence of the trust. Ultimately LBE could be held responsible for any ensuing costs from either party.

3. Without apology or explanation regarding the above, LBE has now asked EV, as a stakeholder, for its opinion on a proposed cy pres scheme (“the scheme”) to vary the terms of the trust.
4. EV submitted a freedom of information (“FOI”) request to obtain copies of documents concerning various matters including exactly which part of the buildings were built with funds raised by public subscription and are therefore subject to the terms of the trust. As a result of financial and other questions arising from consideration of documents received we submitted a further FOI request covering these matters. LBE has to date only partially complied with our initial FOI request and has not responded to the follow-up at all, thus we are not yet in a position to consider all pertinent matters and comment fully.
5. Although it was not made clear in the public consultation it is clear from correspondence with the Charity Commission (“CC”) that LBE’s rationale for varying the terms of the trust is to allow disposal of the town hall buildings, including those covered by the trust, to Mastcraft, on a 250 year lease.
6. Whilst LBE has granted a one month extension to the time period for the consultation for consideration of documents made available under FOI they have nevertheless included a motion on the agenda item of the full council meeting on Tuesday 19 December seeking permission that decisions relating to the trust are delegated to the General Purposes Sub-Committee. EV contends that councillors have not been given sufficient information to make this decision partly due to lack of financial statements, are not aware of their fiduciary responsibility and potential liability as trustees, and even in some cases are not aware that they are acting as trustees.

## **The Consultation**

7. EV believes that the terms of reference of, and information supplied within, the consultation are deficient and do not meet the requirements detailed by the Charity Commission (“CC”) in correspondence with LBE - as released under FOI.
8. The consultation is misleading in that it does not explain fully the original terms of the trust which LBE seeks to have changed by way of the scheme and only refers to the limited new objects. (See “The Trust” below)
9. Nor does it refer to, and seek opinion on, the right to dispose of the Victoria Hall buildings by way of a lease to a commercial operator.
10. CC has required LBE to consult on the change of charitable objects and the disposal as both of these form the scheme.
11. CC has also required LBE to consult on whether defined criteria for making a scheme to vary the trust have been met at all - this has not been done - and to the extent that such criteria have been considered by LBE they have not been detailed. EV contends that the trust in its original form remains relevant and viable (See “The Trust” below)

12. The comment 'doubts have arisen as to the validity of the charitable purposes' is not evidenced and both misleads consultees as to the reason for the proposed scheme and underplays its scope.
13. It is clear to EV that the purpose of the proposed scheme is to allow disposal of the trust buildings to a commercial operator, who will presumably seek to make and retain profits from their use, without compensating the trust – this is nowhere referred to in the consultation.

## **The Trust**

14. To precis the terms of the trust:

*To let the Victoria Hall, associated rooms and offices (as constructed with funds obtained from public subscription) for the purpose of meetings, entertainments, balls, bazaars, and other gatherings for which charges are to be made. To provide from these proceeds for the maintenance, repair and operating costs of the buildings and at all times to keep the hall, rooms and offices in good and substantial repair. At the discretion of the trustees to divide any remaining balance between local charities, philanthropic or charitable institutions.*

15. EV is seeking to clarify exactly which parts of the buildings on the town hall site were constructed using funds raised by public subscription, but it is clear from the FOI documents received to date that these include both the Victoria Hall and the Princes Room (Hall) below along with ancillary rooms. Subject to clarification EV assumes that these ancillary rooms include, but are not necessarily limited to, the kitchens, toilets, cloakrooms, dressing rooms, bar, northernmost service access staircase, basement storage areas and offices accessed from backstage.
16. The Hall, rooms and offices have a capital value of many millions of pounds and bring in an income of a number of hundred thousand pounds a year. Due to the lack of independent accounts for the trust it is not clear to what extent the trust currently subsidises, and has historically subsidised, other parts of the town hall which is being managed as a single entity. This situation would be entrenched in perpetuity were the proposed deal with Mastcraft to proceed.
17. It is clear from FOI information that funds belonging to the trust have been used historically to cover the costs of providing pensions and housing for certain local people. Whilst this is not in contravention of the spirit of the trust it may be in contravention of the trust agreement in the event that appropriate provision was not first made for maintenance and upkeep of the trust assets.
18. The current trustees are assumed to be the mayor, aldermen and burgesses of the London Borough of Ealing – this must be taken to mean the 'Full Council'. It appears that councillors have not been made aware of the ongoing existence of the trust, their fiduciary responsibilities and potential liabilities as trustees, and that these are distinct from their position as councillors.
19. In fact it appears that the trust has not been operated correctly for many years: separate accounts do not appear to have been kept, money which should have

been spent on or reserved for maintenance has been distributed elsewhere, LBE itself does not appear to have knowledge of many facts pertinent to the trust - notwithstanding this it has proposed to vary the terms.

20. EV would argue strongly that the original terms of the trust remain workable. With the borough's increasingly diverse population due to grow by 25% over the next 10 years, the trust's role is as necessary as it has ever been. Loss of the Victoria Hall and its ancillary rooms as places for meetings and gatherings would deprive the borough of a key facility that should be bringing together Ealing's new residents and helping them to integrate with the existing community.
21. If the full council remain negligent in their duties as trustees a scheme should be created by CC to appoint alternative trustees
22. Furthermore, subject to examination of accounts which have been requested under FOI but not yet received, or consideration of past income and expenditure in their absence, EV believe that LBE should make available funds to put the hall into good and substantial repair as is required by the terms of trust.

Please confirm that you have received this letter, that the consultation will be withdrawn and reissued (ideally following consultation between LBE, CC and EV), and that the motion will be withdrawn from the LBE full council meeting on 19 December 2017 pending issue of a full report to councillors explaining the true situation and their responsibilities and liabilities – including those of ongoing cost risk.

EV believes that it would be productive to have a meeting to discuss this matter, and asks that LBE proceeds cautiously in light of the above.

Kind regards

*Ealing Voice*

cc - Charity Commission