

CORPORATE COMMITTEE 02 DECEMBER 2021

Report title: Update - Tower Hamlets Environmental Trust (Central Hill Estate)

Wards: Gipsy Hill

Portfolio: Cabinet Member for Housing and Homelessness: Councillor Maria Kay

Report Authorised by: Bayo Dosunmu: Strategic Director for Resident Services

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REPORT SUMMARY

Following the report presented at Corporate Committee in January 2021 that outlined the long-standing issue for the administration of the Tower Hamlets Environmental Trust (THET) funds which was part of a 1996 development agreement with the Council for a garage site on Central Hill Estate, this report provides an update on how the fund will be administered and resident engagement to date, as requested by Corporate Committee.

FINANCE SUMMARY

There are no financial implications for the Council's budget arising from this report.

The funds available for disbursement on the charitable purpose are £399,514.77. The outstanding issues over land charges have been resolved and the funds were received by the Council on 5 November 2021.

RECOMMENDATIONS

1. To note the proposed process for administration of the fund
2. To note the findings of consultation to date
3. To agree to further consultation with residents in line with recommendation 1

1. CONTEXT

- 1.1 The January 2021 report set out the background to the development agreement between the Council and Tower Hamlets Environmental Trust (THET). THET went into administration in 2008 since when the funds have resided with the liquidators' solicitors.
- 1.2 Corporate Committee agreed the January 2021 recommendations and that no steps be taken by the Council concerning administration of the funds until (a) consultation with stakeholders, covering residents, councillors' and officers had been undertaken; and (b) findings from the consultation exercise ((a) above) was shared with Corporate Committee.

2. PROPOSAL AND REASONS

- 2.1 The funds were received on 5 November 2021 and will be held in a ringfenced account in trust for the charitable purposes as outlined in the original report to Corporate Committee.
- 2.2 The Council will proceed with discharging its duties as corporate trustee by delegating administration of the fund to the Strategic Director for Resident Services.
- 2.3 Using the findings of the initial resident consultation, project plans will be drawn up in conjunction with residents, the Tenants & Residents Association and Councillors to enable further resident consultation. On completion of this exercise, projects will be firmed up in line with the requirements of THET and an Officer Delegated Decision Report submitted for agreement by the Strategic Director for Resident Services.
- 2.4 Once agreed a responsible procurement exercise will be undertaken enabling the projects to proceed. All projects will be managed by the Liveability Team which is responsible for the management of the six regeneration estates.
- 2.5 An annual report to be submitted to Corporate Committee detailing actions taken including consultation undertaken, monies spent and confirmation of projects underway and those completed.

3. FINANCE

- 3.1 The funds held by the Council for the charitable purpose are £399,514.77 and will be held separately on the Council's balance sheet.
- 3.2 There are 8 charges yet to be discharged on first disposal which would generate further funds in future years (one charge has been discharged since this matter last went to Corporate Committee in January 2021) which has increased the amount held by the solicitors.
- 3.3 The funds are ringfenced and can only be used on the Central Hill Housing Estate.

4. LEGAL AND DEMOCRACY

- 4.1 Under the Council's Constitution, Corporate Committee is responsible for exercising the functions, powers and duties of the Council as trustee of all trusts for which the Council is corporate trustee as detailed in paragraph 8 of its terms of reference, Constitution page 30:
 - (8) To exercise the functions, powers and duties of the Council as Trustee of Trusts. To exercise the functions, powers and duties of the Council as Trustee of all trusts for which the Council is corporate trustee except insofar as those functions have been delegated to Strategic Directors of the Council.

The Corporate Committee may further delegate power to the senior officer – in this case the Strategic Director of Resident Services – to administer the trust.

- 4.2 The Order of the High Court of 19 December 2011 determined that the charges arising from the 1996 development agreement between the council and the THET and all proceeds thereof were held on trust for the charitable purpose of the 'Off Site Works' on Central Hill Estate.
- 4.3 The Council was appointed corporate trustee of those charges and proceeds under a Scheme made by the Charity Commission on 17 September 2012, which was replaced by an amended one on 8 November 2013. Under section 69 of the Charities Act 2011 the Charity Commission may establish a scheme for the administration of a charity, may appoint a trustee for a trustee and may entitle any person to call for or make a transfer of any payment.
- 4.4 Charity trustees have a common law duty to promote the charitable purposes of their charity. Their functions and duties are subject to the legal and regulatory framework that applies to charities. In this case the primary framework is contained in the Charities Act 2011.
- 4.5 Since this matter last went before Corporate Committee in January 2021 one additional charge – on 1 New Green Place - has been discharged and the net proceeds after legal fees are £155,519.80. The transfer of the funds was delayed due to technical issues with the land charges and the disposal of 1 New Green Place, but these have recently been resolved, allowing for the payment of the funds to the Council. The total sum duly transferred on 5 November 2021 to the Council was £399,514.77. This is the net proceeds after legal fees levied on the funds by the solicitors for the liquidators. The funds will be held on trust in a ringfenced account and are available for disbursement on the charitable purpose outlined in paragraph 4.2.
- 4.6 In paragraph 5.5 of this report it is stated that a complainant has requested arbitration. It is for Corporate Committee to discharge the functions of the trustee in the furtherance of the charitable purpose and to ensure that funds are applied to the charitable purpose. Trustees' duties cannot legally be discharged through arbitration.
- 4.7 There were no further comments from Democratic Services.

5. CONSULTATION AND CO-PRODUCTION

- 5.1 A consultation exercise was undertaken during September 2021 with residents of Central Hill estate – details attached.
- 5.2 A leaflet advising of the consultation was delivered to all residents on 2 September which was followed up with emails and text messages on 7 September.
- 5.3 A total of 39 responses was received with the most popular options being improvements to (i) CCTV, (ii) refuse and recycling facilities, (iii) play areas and (iv) gardening resources.
- 5.4 In the comments section the three priority issues are (i) improved lighting, (ii) CCTV / barriers to prevent fly-tipping / car theft and (iii) fly-tipping
- 5.5 Since the consultation exercise closed there has been one complaint and a number of Freedom of Information Request, all linked and related to the consultation process. The complainant has requested that the discussion on THET go to independent arbitration on the basis that the consultation was not done in line with Corporate Committee's recommendations.

6. RISK MANAGEMENT

- 6.1 In addition to the risks outlined in the January 2021 report, the only other risk relates to spend of the fund. Central Hill estate is scheduled for regeneration over the next 15 years and it is possible some funded projects may have a limited lifespan.
- 6.2 To mitigate this risk some projects may have to be delayed until (at least) after master planning to better understand how the estate will be developed.

7. EQUALITIES IMPACT ASSESSMENT

- 7.1 A full Equalities Impact Assessment (EIA) was completed for the March 2017 Cabinet report on the Regeneration of Central Hill Estate, which is detailed in the background documents listed below. The EIA found that Black and Minority Ethnic residents are disproportionately affected by poor housing conditions on the estate. At the time over 45% of tenants were from Black and Minority Ethnic communities and almost 60% of households are in receipt of Housing Benefit – in full or part.
- 7.2 The Equalities Team do not consider a new EIA is required at this stage as the proposals for spending the funds on environmental and security off sites work have not started yet as this is a proposed mechanism for enabling that to happen.
- 7.3 Any environmental and security works the fund does enable to happen in the future will enhance the community for protected characteristic groups such as those with disability, young children and pregnant by promoting better well-being and a safer environment.

8. COMMUNITY SAFETY

- 8.1 The funds have to be used for improving the environment and security on the Central Hill Estate and so will benefit Central Hill's community safety.

9. ORGANISATIONAL IMPLICATIONS

Environmental

- 9.1 The funds will be used to improve the environment of Central Hill Estate and these will be as sustainable as possible within the parameters of the estate's regeneration.

Health

- 9.2 The funds will be used to improve resident wellbeing on the estate by helping to improve the environment and security.

Corporate Parenting

- 9.3 There are no corporate parenting implications.

Staffing and accommodation

- 9.4 Implementation of the proposals in this report and administration of the trust will require officer time but this will be absorbed in day-to-day operations and will not require any additional headcount. There are no accommodation implications.

Responsible Procurement

- 9.5 There are no responsible procurement implications.

10. TIMETABLE FOR IMPLEMENTATION

- 10.1 The recommendations would become active upon approval by Corporate Committee.

Audit Trail

Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Maria Kay	Cabinet Member (Housing and Homelessness)	05.11.21	15.11.21	
Councillors Jennifer Brathwaite, Matthew Bennett and Peter Elliott	Ward Councillors for Gipsy Hill	05.11.21	16.11.21	
Bayo Dosunmu, Strategic Director	Resident Services	05.11.21	16.11.21	
Hamant Bharadia Assistant Director, Financial Planning and Management	Finance and Investment	05.11.21	05.11.21	3
David Thomas, Legal Services	Legal and Governance	05.11.21	05.11.21	4
Chloe Morris, Democratic Services	Legal and Governance	04.11.21	08.11.21	

REPORT HISTORY

Original discussion with Cabinet Member	14.12.20
Report deadline	19.11.21
Date final report sent	19.11.21
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Date first appeared on forward plan	N/A
Key decision reasons	N/A
Background information	Corporate Committee Report January 2021
Appendices	A - Consultation Letter B - Online Survey C - Consultation Results