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23 September 2019

Dear 

Objection to the accounts of West Rainton and Leamside Parish Council 2018/19 – Decision Letter and Statement of Reasons

We are writing to advise you of our decision and the reasons for our decision on your objection to the accounts of West Rainton and Leamside Parish Council (the Council) for year ended 31 March 2019.

Your objection

Your objection was set out in your e-mail of 18 July 2019 and the further information that you have supplied to us. The e-mail and the supporting information complied with the statutory requirements for a notice of objection to the Council's accounts for the year ended 31 March 2019 and recorded your concerns about the way the Council was managed and led.

You conveyed these concerns in the form of 4 different heads of objection. Our e-mail dated 7 August 2019 accepted 2 of these for consideration and these related to the alleged:

1. failure to carry out due diligence in respect of the demolition of the Old Sexton Building (West Rainton Cemetery) based upon a recommendation contained Cemetery Development Services Report August 2016; and
2. failure to comply with its own Grants and Donation Policy when the Parish Council made a £6,000 donation to Durham Area Youth contrary to the maximum donation figure of £250.

We have structured our decision letter to cover the following for each of these sections:

- summary of your objection;
- the work we carried out; and
- our decision and suggested action.

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Overall Conclusion

We have carefully considered the Council's explanations for the demolition of the Old Sexton Building and the grant to Durham Area Youth and the evidence that you and the Council has provided us and we consider that proper processes were followed. Accordingly, we do not intend to exercise our discretion to issue a public interest report.

You have not asked us to apply for a declaration that any items of account are unlawful but we have considered if such action would be appropriate. We have decided that the Council has taken reasonable steps to ensure that the relevant items of account are lawful. Accordingly, we will not be taking any action in respect of the matters raised in your objection.

The key points leading us to this decision are outlined in the following sections.

1. Your objection in respect of the demolition of the Old Sexton Building

You have objected to the Council spending £4,000 in 2018/19 demolishing a building that you believe was structurally sound and could have continued to be used as an equipment and signage store or refurbished and used as a community facility. You supplied photographs to support your view that the structure was secure and watertight and asserted that by not undertaking a structural survey prior to demolition the Council had not exercised due diligence. You have also noted that since demolition items previously stored in the building have been stored externally and although the ground has been levelled it has not yet been used for additional graves as was planned.

The Council's response to your objection in respect of the demolition of Old Sexton Building

Although the Council did decide to demolish the building without first obtaining a survey to ascertain if refurbishment was cheaper there was no requirement to do so. The Council acted upon the independent recommendations of the cemetery management specialist Cemetery Development Services (CDS). A planning application was lodged with Durham County Council for the demolition and a bat survey was undertaken as a part of the process as well as an asbestos risk assessment which showed asbestos present within the building. Accordingly, the Council contends that due diligence did take place.

The Council had no need for the building, in whatever condition, as all operational services are bought in. The area was deemed to be unsightly as well as being considered a health and safety risk. This was confirmed in the report by CDS who were commissioned to produce a Management Brief for the development and improvement of the Cemetery. One of the reasons for commissioning CDS report was the need to develop a new burial plan to optimise burial space for future use. This was a priority as the cost of commissioning a new burial site (over £310K) would have required a significant loan and was not considered feasible. CDS reported that *"the old sextons hut is in a state of dilapidation (Figure 2), the building has very little benefit to the cemetery and is too small for the storage of most equipment and machinery for cemetery use if most of the operational services are contracted in. It has the potential to be a health and safety risk and for that reason we would recommend it is demolished and for it to make way for more graves"*. CDC concluded that the *"old sexton building is unviable, potentially dangerous and should be demolished"*.

The Council accepts that there is some redundant signage that was in the hut that was not taken off site by the demolition contractor and are making arrangements for this to be removed. They have stated there are no council-owned assets that were in the hut and equipment stored outside such as a wheelbarrow will not deteriorate from exposure to the elements. Also, the demolition has increased the site available for graves as part of a long-term development plan that will be considered by the Council when all options have been explored.

Work carried out in respect of the demolition of Old Sexton Building

We reviewed the following key documents:

- the independent report from CDS; and
- evidence of planning approval for demolition from Durham County Council; and

We also asked the Council a series of questions, which we have shared with you together with the Council's response.

Our decision in respect of the demolition of Old Sexton Building

In our view the Council exercised proportionate due diligence by:

- commissioning an external report that considered the building's role in development plans for the cemetery; and
- undertaking a bat survey and asbestos risk assessment prior to demolition.

A structural survey would only have been necessary if the Council had decided to reject the recommendations in the report and instead seek to refurbish the building. Moreover, the Council has confirmed it had no need for the building and we believe the Council is best placed to determine if it was needed or not.

The Council relied upon the opinion of CDS and made a decision that it would be unacceptable to ignore health and safety concerns outlined in their report. The Council had access to grant funding for the demolition and the levelled area creates the potential for extra graves once redundant signage is removed, which would have cost the Council far more than the demolition cost were equivalent land to be bought.

2. Your objection in respect of the grant to Durham Area Youth

Your objection relates to your concern about the Council's £6,000 donation to Durham Area Youth, which exceeds the maximum donation figure of £250 in the Council's Grants and Donations Policy. You believe that preferential treatment was given to this organisation to the detriment of any other organisation seeking funding. You noted that approval of this donation directly contributed to a 16% increase in the Parish Council's Precept to £37,521.

The Council's response in respect of grant to Durham Area Youth

The Council has explained that the grants and donation policy does allow consideration of funding requests outside the usual application process: "*Nothing in this policy prevents the Council from providing a grant/donation to a group or organisation or project without application where the Council considers that the giving of such a grant/donation will bring benefits to the parish or its residents*". The Council maintains that following the reduction of youth services provided by Durham County Council this was an exceptional, urgent request, to ensure continuity of service provision beyond 31 March 2019.

The Council assert that no other community grants applications were rejected as a result of this funding decision and provided evidence of the decision to make an exceptional donation and raise the precept to help pay for it being properly approved and based on a written business case from Durham Area Youth leading to two other councils approving similar donations.

Section 19.3 (a) of the Local Government (Miscellaneous Provisions) Act 1976 relating to the provision of a grant towards expenses incurred by a voluntary organisation in providing recreational facilities provides a legal power for the donation. The Council did not obtain legal advice because if the use of this power was challenged the expenditure fell below the 2018/19 threshold for expenditure without a specific legal power under Section 137 of the Local Government Act 1972.

Work carried out in respect of grant to Durham Area Youth

We reviewed the following key documents:

- the Council's Grants and Donation Policy;

- The Council's business case for the donation "*Durham Area Youth: Summary Business Plan and Financial Projection*";
- Minutes of council meetings discussing the donation and the setting of the 2018/19 budget and precept; and
- The legislation relied upon by the Council as referred to above.

We also asked the Council a series of questions, which we have shared with you together with the Council's response.

Our decision in respect of grant to Durham Area Youth

We are satisfied that the Council has the legal power to make the donation to Durham Area Youth under section 19 of the Local Government (Miscellaneous Provisions) Act 1976, which empowers a local council to contribute by way of grant or loan towards the expenses incurred or to be incurred by any voluntary organisation in providing any recreational facilities.

We have also confirmed that the Council's grants and donations policy allows the £250 limit to be exceeded "*where it can be clearly demonstrated that additional funds are essential and the benefits are proportionate with the additional expenditure*". As the Council considered a written business case for this support in conjunction with 2 other parish councils impacted by the loss of County Council funded youth services the issue of whether or not to make a donation is a legitimate decision for the Council to take.

We have considered the approval process evidenced in Council minutes. The option of donating to Durham Area Youth was first discussed at the meeting on 17 October 2017 but because of the need to raise the precept a decision was deferred until a formal business case was prepared. After considering the business case, approval of a £6,000 donation was clearly evidenced on 21 December 2017 and referred to again when formally approving the 2018/19 budget and precept on 12 January 2019. We regard this as appropriate evidence of governance and transparent decision making.

Public Interest Report

Whether or not to issue a report in the public interest is a matter for us in the exercise of our discretion.

In this instance, we have decided not to issue a report in the public interest for the reasons given above.

Rights of appeal

There is no right to appeal against our decision not to exercise our discretion to issue a public interest report. As your letter of objection did not request an application to the court for a declaration that an item of account is contrary to law we do not believe there is a right of appeal against our decision not to make such an application. The rights of appeal in respect of an objection are set out in Section 28 (3) of the Local Audit and Accountability Act 2014.



Please note we have copied this letter to West Rainton and Leamside Parish Council. Appendix 1 lists the material documents we have used in reaching our decision.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C Waddell'.

Cameron Waddell
Partner
For and on behalf of Mazars LLP

Appendix One

Material documents

Minutes of the Council meetings and associated reports published on the Council's website at <http://westrainton.parish.durham.gov.uk/agendas-minutes/ordinary-meeting-minutes/>

Legislation (available via <http://www.legislation.gov.uk>)

- Local Government Act 1972; and
- Local Government (Miscellaneous Provisions) Act 1976.

We have not provided again material documents previously shared with you but for completeness list them here:

- *'A Management Brief for West Rainton Cemetery'* Cemetery Development Services, August 2016
- Letter from Durham County Council granting planning approval for the demolition, 15 February 2019;
- Grants and Donation Policy, on the Council's website;
- *'Durham Area Youth: Summary Business Plan and Financial Projection'*, 21 December 2017.