



Operational Case Report

Brilley School Charity and Brilley and Michaelchurch Village Hall

About the charities

Brilley School Charity ('the school charity') owned the land and building from which the Brilley VC Church of England School was run, in the parish of Brilley, Herefordshire.

Why the commission got involved

The trustees of the school charity contacted the commission to explain that the Church of England School had closed in August 2007. They wished to dissolve the charity. The school charity's trustees had also obtained the necessary consent from the Department of Education to dispose of the land: there was no obligation to pay proceeds of sale to the local authority. They had considered selling the land, but had come to the view that the best option was to transfer the land to Brilley and Michaelchurch Village Hall ('the village hall charity'). This charity existed to improve the conditions of life of the residents of the parish of Brilley by providing and maintaining recreational facilities. The village hall was adjacent to the school land and had rights over parts of that land to enable access to the hall. The two sets of trustees had discussed the matter and agreed to this proposal.

The school charity's trustees could not simply gift the land to the village hall charity because the objects of the two charities were not the same or similar enough. Therefore, our involvement would be needed if the proposal was to go ahead.

What we found

It was clear that at least one of the legal tests for making a scheme under the Charities Act had been met: the school charity's purposes could no longer be achieved. We needed to consider whether other legal tests were met, for example that the property of both charities could be more effectively used for common purposes taking into account the relevant circumstances.

We considered the school charity trustees' arguments about selling the land, for example about the close proximity of the village hall. It was also argued that the village hall charity was very active in the community and that educational activities were organised in the hall for all age groups. The intention was to organise more educational and recreational activities inside and outside the hall after demolishing the school building and making good the land.

We also established that Brillley residents had been consulted on the plans through public meetings at the hall and that residents had been supportive. We asked about the views of the local Diocesan Board of Finance (DBF), which was the custodian trustee. We learnt that there were some outstanding issues relating to costs that the local DBF had incurred, and we advised the trustees to come to an agreement with the local DBF about this.

What we did

We concluded that there were grounds to draft a scheme for **both** charities. This scheme would:

- widen the objects of the village hall charity, so that - in addition to recreation - the charity would advance education for the public benefit in the parish
- transfer the property from the school charity to the village hall charity
- vest the property in the Official Custodian of Charities in trust for the village hall charity

After drafting the scheme, local public notice was given. No representations were received. The scheme was brought to effect on the 1 October 2014.

Impact of our involvement

By making this 'merger' scheme, we enabled charitable property to continue to be used in the community, by a local charity, for both educational and recreational objects. Neither set of trustees had the power to achieve this merger without the commission's involvement.

The trustees of both charities demonstrated that they had made an informed decision, for example, by obtaining Department of Education consent and by taking account of the issues surrounding the sale of the property and the needs and views of the local community. They did this before coming to us, which meant we did not have to advise the trustees to take further steps or consider other options before making our assessment of whether we could offer a scheme.

Lessons for other charities

Charity trustees are responsible for delivering the charitable outcomes for the public benefit that the charity was set up to achieve. To do this, trustees must consider what changes need to be made if the charity's objects can no longer be achieved; and where the objects can be achieved, what changes may be needed to ensure the charity continues to be effective.

Not all charities need a scheme: trustees should read our guidance on [changing governing documents](#).

In all cases when the commission receives a scheme application, we will consider what consultation the trustees have undertaken to help them conclude that changing the objects is necessary and/or decide on their proposed changes.