



## Case Report

# The Shakespeare Birthplace Trust (209302)

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## About the charity

The charity maintains and preserves the 5 homes and gardens directly linked to Shakespeare and his family in Stratford-upon-Avon, including grade 1 listed Anne Hathaway's Cottage and Gardens. In addition, it maintains a museum and a library of books, manuscripts, records of historic interest, pictures, photographs and objects of antiquity with particular reference to William Shakespeare, his life, works and times. The charity seeks to promote the appreciation and study of Shakespeare's works, life and times all over the world.

## Why the Charity Commission got involved

The charity owns land to the rear of the boundary of Anne Hathaway's Cottage. A proposal to build a road across this land to link 2 new housing developments has existed for many years. The charity opposed the development plans and link road proposals, using charity funds to fight the decision. The Secretary of State allowed the developers' appeal against Stratford District Council's initial rejection of the plans in 2013 and the High Court rejected the council's subsequent legal challenge.

Following confirmation that the development scheme was going ahead, it decided that it would need to reevaluate its existing position. The charity arranged a meeting in October for the trustees to discuss a detailed report it had commissioned and make their decision.

We received a complaint that the charity was proposing to dispose of land to enable the road to be built, but did not have the necessary power to do so. If the charity did not have the power, it would need us to confer power by a scheme (legal document). Because the charity's governing document is an Act of Parliament (the Shakespeare Birthplace, & Trust Act, 1961) this change would require Parliamentary approval, which is a lengthy process.

## The action we took

As the trustees had already scheduled a meeting in October to make a decision on the land sale, we urgently contacted the charity and asked for an immediate response to our questions. The charity replied promptly.

## What we found

The charity has power to sell land that is not part of the Shakespeare Birthplace properties and not of historic interest as being associated with William Shakespeare or members of his family. We were not provided with any evidence by the complainants to prove that the land in question was of historic interest. The charity assured us that it has carried out considerable research and had not been able to establish a specific connection between the land and William Shakespeare or members of his family. The trustees were therefore able to confirm that they could rely on the power of sale in their governing document.

The trustees were aware of the need to act only in the best interests of the charity and the commission referred them to its decision making guidance. Knowing that the decision was likely to be controversial and the trustee body divided, the charity engaged the Electoral Reform Services to oversee the vote and ensure a robust and impartial process.

At the meeting, the trustees decided in principle to sell a small parcel of the land, with suitable safeguards to protect the setting of the cottage and gardens. In the interests of transparency, the charity immediately put a detailed press release on its website (and issued the press release widely to the media) explaining its decision and how this benefitted the charity.

## Impact of our involvement

We were able to establish that the sale was within the charity's powers and our consent was not required. We also established that the trustees understood their responsibilities in decision making (including managing conflicts of interest) and there were no other regulatory issues relating to the disposal that required our involvement. We explained this to the complainants.

## Lessons for other charities

The trustees are responsible for governing the charity and making decisions about how it should be run. Making decisions is one of the most important parts of the trustees' role.

Trustees must act solely in their charity's best interests, and must manage their charity's resources responsibly. When making difficult decisions, charity trustees must ensure they follow a properly structured and informed process, giving trustees oversight and control, designed to take forward the charity's objects. We have provided guidance which sets out the key principles that charity trustees should follow to make sound decisions and fulfil their legal responsibilities.

Trustees should also be as open and transparent as possible when dealing with an issue which could affect the reputation of the charity or has significant public interest. Providing appropriate and timely information can help to manage concerns and avoid complaints.

For further guidance on decision making by charity trustees, see our guidance [It's your decision \(CC27\)](#).

To find out more about trustees' duties, see our guidance [The essential trustee \(CC3\)](#).