

## Kidd Legacy being part of Central Park Dartford Kent

Sole Trustee's Annual Report for the period 1 April 2019 to 31 March 2020

### 1. Reference and administration details

<b>Registered Charity Number</b>	1134257
<b>Charity's principal address</b>	Civic Centre Home Gardens Dartford Kent DA1 1DR
<b>Land Registry Title Number</b>	K915198
<b>Ward</b>	Town
<b>Trustee</b>	The Dartford Borough Council
<b>Independent Examiner</b>	Not appointed
<b>Bankers</b>	Lloyd's Bank plc, 46 High Street, Dartford, Kent, DA1 1BY
<b>Solicitors</b>	No external appointment
<b>Investment Advisers</b>	Not appointed

### 2. Structure, governance and management

#### Structure

2.1 By an Indenture dated 28 September 1903 (the 1903 Indenture), an area of land adjoining Central Park Dartford was bequeathed on charitable trust, by Colonel Charles Newman Kidd, to the Urban District Council of Dartford and, on local government reorganisation in 1974, the trusteeship passed to The Dartford Borough Council, a local authority. The 1903 Indenture prescribes that the land will be 'appropriated and used in perpetuity as a public recreation ground and for no other purpose whatsoever' i.e. the land is to be held on trust by The Dartford Borough Council (the Council), for recreational purposes. The land is commonly referred to, locally, as the Kidd Legacy land or Kidd Legacy charity (the Charity).

The Charity is governed by a Scheme made by the Charity Commission on 16 February 2010.

### **Governance**

2.2 In order to be a charity, a body must be established for exclusively charitable purposes. Whilst local authorities and charities often both have close interests in local topics, the Charity needs to be independent of the Council as local authority, in that decisions about the administration and operation of the Charity need to be taken solely in the interests of the Charity with a view to furthering its charitable purposes and for no other purpose.

2.3 To avoid inherent conflicts of interest between the Council's role as local authority and its role as trustee of the Charity and to safeguard the Charity's Object, the Council has established a trustee committee known as 'The Deed, Trust and Obligations Committee' (comprised of elected councillors and co-optees (independent members)) to operate and manage the Charity's affairs, with the following functions:

1. To be the body who, on behalf of the sole trustee, safeguards the Object, the Charity's property, funds and the beneficiaries' interests within the Guiding Principles referred to below.
2. To ensure that the accounts and the general administration of the Charity comply with statutory regulations.
3. To ensure that the Charity's funds are not co-mingled.
4. To do anything else, within the law, which promotes, or helps to promote, the Object.

2.4 The Deed, Trust and Obligations Committee has adopted a Conflicts of Interest Policy (approved by the Charity Commission) which is intended to assist the Committee in identifying conflicts, to avoid conflicts arising at all and, where conflicts do arise, to assist the Committee to manage those conflicts in order to avoid perceived and actual problems occurring. Provided that the Committee is mindful of its obligations on behalf of the Charity, is seen to act in accordance with those obligations and manages any conflicts of interest accordingly, there will not be bias in matters related to charity decisions. The Committee is also aware of the Charity Commission's conflicts of interest guide issued in May 2014.

2.5 Elected Councillors, Co-optees and Council Officers are bound by Codes of Conduct. Details of Committee members' related party transactions are disclosed in note 1 to the accounts. Committee members are required to disclose all relevant interests (disclosable pecuniary interests or prejudicial interests), register disclosable pecuniary interests with the Council's Monitoring Officer and in accordance with the [Member] Code of Conduct (adopted 26 July 2012 [Min.No.35]), withdraw from decisions where a conflict of interest arises.

2.6 Council Officers keep under regular review the possibility of any actual or potential conflict of interest between the interest of the Charity and those of the Council in its corporate/local authority landowner capacity. Independent advice is commissioned when the need arises.

## Management

2.7 The Deed, Trust and Obligations Committee complies with the following principles in the interests of the Charity (the Guiding Principles):

- (a) To act reasonably i.e. decisions should be within the range of decisions which a reasonable body of trustees could have made;
- (b) To act within the powers conferred upon it and the established rules for procedures dealing with issues of the kind under consideration;
- (c) To act in good faith;
- (d) To adequately inform itself in order to make the decision in question, including comprehensive risk analysis and, where necessary, to make further enquiries and, where appropriate, to consider legal and other professional advice;
- (e) To not take into consideration any factors which it is not proper for it to take into account;
- (f) To consider any factors which it should take into account;
- (g) To avoid conflicts of interest.

2.8 The Deed, Trust and Obligations Committee's membership during 2019/20 comprised the following elected Councillors and (voting) co-optees:

1. Councillor A R Lloyd (Chairman)
2. Councillor J A Kite MBE (Vice-Chairman)
3. Councillor Mrs. A E D Barham (w.e.f. 22 May 2019)
4. Councillor Mrs. R M Currans (w.e.f. 22 May 2019)
5. Councillor M J Davis
6. Councillor T A Maddison
7. Councillor A J Oakley-Dow (w.e.f. 22 May 2019)
8. Councillor D Swinerd
9. Councillor Mrs. P A Thurlow
10. Mr R A Estcourt (Independent Member)
11. Mr A R Martin (Independent Member)
12. Mr S J Maynard (Independent Member)
13. Mr K Moore (Independent Member) (w.e.f. 31 October 2019)
  
14. Councillor S H Brown (1 April to 21 May 2019)
15. Councillor K M Kelly (1 April to 2 May 2019)
16. Councillor R Lees (1 April to 2 May 2019)

2.9 As a matter of law, the Committee members do not assume the individual responsibilities of trustees.

2.10 Whilst the Deed, Trust and Obligations Committee has the ultimate responsibility for the conduct of the Charity and makes the strategic decisions, as well as monitoring the performance of the Charity, it has to operate the day to day management through Council Officers; this in particular applies to the physical maintenance of the Charity's land. The day to day management of the Charity land has been delegated, by the

Deed, Trust and Obligations Committee, to the Strategic Director (Internal Services). The Strategic Director (Internal Services) is accountable to the Deed, Trust and Obligations Committee and it is the Committee's task to monitor that she discharges her duties to the Charity.

- 2.11 The maintenance of the Charity land is managed by the Council's Waste and Parks section, part of the Strategic Directorate (External Services).

### **Risk management**

- 2.12 The Deed, Trust and Obligations Committee considers the major risks to which the Charity is exposed, reviews those risks, and establishes systems and procedures to manage them. The Committee considers the viability of investment returns on the permanent endowment to constitute the Charity's major financial risk, and recent extreme volatility in world financial markets has demonstrated this risk.

The Deed, Trust and Obligations Committee has delegated the management of the permanent endowment to the Council, where the sum invested benefits from the Council's average rate of return on its investments. The average rate of interest achieved by the Council is calculated at year end (as a percentage) and is independently verified by the Council's investment advisers, Arlingclose Limited; this percentage is then applied to the sum of the Charity's permanent endowment and its accumulated unrestricted funds. The Charity's funds are held entirely separately from the Council's own monies.

The risks associated with conflicts of interest are managed in accordance with the Codes referred to in sections 2.4 and 2.5 above.

### **Training**

- 2.13 Induction and training are critical for the development of good trustees – a professional approach is expected at all times. All Committee members have received an induction from the Head of Legal Services, thus ensuring that they fully understand the Council's charitable role, its operations, staff, ethos and values. The induction process sets out what is expected of trustees by the charities which are administered by the Committee, the law and the Charity Commission. Committee members have been trained on the 2012 [Member] Code of Conduct.

## **3. Objectives and activities for the public benefit**

The Deed, Trust and Obligations Committee has referred to, and has had regard to, the Charity Commission's general guidance on public benefit when deciding what activities the Charity should undertake in reviewing the Committee's aims and objectives and in planning future activities on the Charity's land. In particular, the Deed, Trust and Obligations Committee considers how planned activities will contribute to the Object.

### *Summary of object*

The Object of the Charity is 'the appropriation and use of the land in perpetuity as a public

recreation ground and for no other purpose whatsoever”.

*Summary of main activities  
in relation to these objects  
for the year 2019/20*

The Charity land is used for recreational purposes in accordance with the Object. The Charity land is maintained to an appropriate standard, in keeping with the remainder of Central Park.

The use of the Charity land as a ‘green gym fitness park’ through the installation of green gym equipment on the Charity land, at nil cost to the Charity, has an identifiable public benefit to Dartford Borough residents who may not otherwise keep fit. The ‘green gym fitness’ initiative provides equal and open access for all Dartford Borough communities to fitness and healthy active living. It is considered that the ‘green gym fitness’ initiative complements and furthers the Object ‘to improve the conditions of life for the inhabitants of Dartford’ and provides an added facility for the public benefit.

In line with The Dartford Borough Council’s (acting in its corporate capacity/as local authority landowner) overall vision for Central Park Dartford, environmental enhancement of the Charity land was undertaken in the public benefit and at nil cost to the Charity, by the siting of an Edwardian-style bandstand (to replace the original Edwardian feature), and the construction of footpaths to link it to Central Park. The bandstand has an identifiable public benefit to Dartford Borough residents and provides a new cultural and recreational venue to attract people into Central Park and the open spaces beyond. The programme of events includes quality musical events e.g. bands, orchestras etc., as well as other recreational events for local residents.

The Council, acting in its corporate capacity as local authority landowner, has assumed responsibility for the management,

maintenance etc. of the green gym fitness equipment and the bandstand.

The Council, acting in its corporate capacity as local authority/landowner, has agreed to lessen the Charity's exposure to ongoing grounds maintenance of the Charity land, by subsidising any shortfall.

### *Key objectives for the ensuing financial year 2020/21*

Once Covid 19 restrictions are lifted the Council will continue to provide cultural and recreational events on the Charity land. These events will have an identifiable public benefit to Dartford Borough residents and will accord with the Charity's Object.

## **4. Measuring achievements and performance**

The Council aims to improve the quality of green space in and around Central Park Dartford and open up access to, and through, the Park.

The environmental enhancements to, and around, the Charity land provide and/or assist in the provision of facilities for recreation or other leisure time occupation in the interest of social welfare, with such facilities being provided to the public at large, in accordance with the Object of providing a recreation ground, in perpetuity, for inhabitants of the Borough of Dartford.

## **5. Financial Review**

**Financial review** The Income and Expenditure Account for the Charity for the financial year 2019/20 is appended to this report. This account has been compiled on an accruals basis, which matches the way the Council accounts for the income and expenditure.

The Charity received £275,000 from the proceeds of the sale of .089hc of Charity land (adjacent to Lowfield Street Dartford), in April 2004. Subsequently, £5,000 was paid for an equivalent area of land (.089hc) in Central Park to replace that area of Charity land adjacent to Lowfield Street Dartford sold in 2004.

The sole trustee holds the sum of £270,000 as investment permanent endowment.

The grounds maintenance of the Charity land during 2019/2020 was undertaken by Dartford Borough Council

as part of the general maintenance of Central Park. The grounds maintenance contract was retendered in 2017 and a new contractor was appointed from 1st January 2018. The first full year of the contract was 2018/19.

The new contractor's schedule of rates differed from the previous contractor in relation to the specific tasks carried out on the Kidd Legacy land. This has led to a reduction in the costs attached to the Kidd Legacy land. The contract is for 5 years plus a possible further 5 years, so the only increase will be an annual one in line with CPI. For 2019/20 the charge was £4,428.

The income in 2019/20 is lower than 2018/19 for several reasons. Firstly, in 18/19 there were 2 Easter funfairs (April 2018 and March 2019) whereas the Easter funfair in March 2020 had to be cancelled due to Covid 19 restrictions. Secondly, like 18/19 there was a summer funfair in 19/20 for the Dartford festival however the Half Term Circus in 18/19 was a one off as they had made such a loss in 18/19 they advised the Council they would not be returning in 19/20.

Income for 20/21 is likely to be even lower than 19/20. The Dartford festival was cancelled due to Covid 19 restrictions and as Easter falls in April 2021, unless the funfair comes early there may be no funfair income in 20/21.

At 31 March 2020, the Charity held balances of £343,346, made up of £270,000 permanent endowment, which is held and invested in order to produce income in furthering the Object and other sums (cumulative interest and other receipts). Spending any funds held as permanent endowment requires the consent of the Charity Commission.

## 6. Declaration

The Deed, Trust and Obligations Committee, on behalf of The Dartford Borough Council as sole trustee, declares that it has approved the sole trustee's Annual Return and further declares that there are no serious and/or significant incidents that it should have reported, but has not.

Signed by the Chairman of the  
Deed, Trust and Obligations Committee  
on behalf of The Dartford Borough Council  
as sole trustee

Signature .....

Full name Councillor Andrew Ronald Lloyd

Date 13 October 2020

## Kidd Legacy being part of Central Park Dartford Kent

Income and Expenditure Account for the period 1 April 2019 to 31 March 2020

### Trustee responsibilities in relation to financial statements

The Trustee is responsible for preparing the Trustee's Report and the financial statements in accordance with applicable law and United Kingdom Accounting Standards. The law applicable to charities in England and Wales requires the Trustee to prepare financial statements for each financial year which give a true and fair view of the state of affairs of the Charity and of the incoming resources of the Charity for that period. In preparing these financial statements, the Trustee is required to:

- (a) select suitable accounting policies and then apply them consistently;
- (b) observe the methods and principles of the Charities SORP;
- (c) make judgements and estimates that are reasonable and prudent;
- (d) state whether applicable accounting standards have been followed, subject to any departures disclosed and explained in financial statements; and
- (e) prepare financial statements on the going concern basis unless it is inappropriate to presume that the Charity will continue in business.

The Trustee is responsible for keeping accounting records which disclose with reasonable accuracy the financial position of the Charity and enable it to ascertain that the financial statements comply with the Charities Act 2011, the Charity (Accounts and Reports) Regulations 2008 and the provisions of the 1903 Indenture. The Trustee is also responsible for safeguarding the assets of the Charity and hence taking reasonable steps for the prevention and detection of fraud and other irregularities. The Trustee is responsible for the maintenance and integrity of the Charity and financial information included in Trustee publications and on the Council's website.

The annual financial statement has been prepared on an accruals basis, which matches the way the Council accounts for income and expenditure. Accruals accounting means that income and expenditure are recognised as they are earned or incurred and not as money is received or paid. For example, if an invoice relating to March 2020 is expected to arrive in April 2020, it will be accounted for in the 2019/20 accounts (the financial year it relates to), not the 2020/21 accounts (the financial year it arrives in).

There is no requirement for the Charity's accounts to be submitted to the Charity Commission, but they will be available for inspection by the public.

<b>Income and Expenditure Account</b>		
	<b>Unrestricted Funds 2019/20</b>	<b>Unrestricted Funds 2018/19</b>
<b>Income</b>		
Investment Income	2,198	2,043
Trading Activities:		
Rents	2,740	9,094
<b>Sub-total Receipts</b>	<b>4,938</b>	<b>11,137</b>
<b><u>TOTAL INCOME</u></b>	<b>4,938</b>	<b>11,137</b>
<b>Expenditure</b>		
Grounds Maintenance	4,428	4,358
Insurance Premium	1,010	1,010
<b><u>TOTAL EXPENDITURE</u></b>	<b>5,438</b>	<b>5,368</b>
<b><u>NET SURPLUS / (DEFICIT) FOR THE YEAR</u></b>	<b>500</b>	<b>(5,769)</b>
Cash and bank balances at		
30 March 2020 (31 March 2019)	343,346	343,846
Composed of:		
Permanent endowment	270,000	270,000
Interest and other net income	73,346	73,846
	<b>343,346</b>	<b>343,846</b>

## Notes:

1. The Charity is being managed on the basis of an independent budget which is being operated in line with Charity Commission's requirements. All income and expenditure is accounted for separately from the Council's corporate finances.
2. A separate bank account is kept for the Charity's monies.
3. The permanent investment endowment of £270,000 referred to in section 5 above, is part of the cash and bank balances shown above. The permanent endowment was originally £275,000, but reduced in 2008/9 by £5,000 to £270,000, by agreement of the Charity Commission, to fund the transfer of .089 hectares of land to replace Charity land sold in 2004.

4. Other than the investment permanent endowment of £270,000, all other receipts and payments have been classified as 'unrestricted funds'. These are funds that the Deed, Trust and Obligations Committee is able to spend for any of the Charity's purposes. The £270,000 permanent endowment is capital which is to be held and invested in order to produce income in furthering the Object. The Deed, Trust and Obligations Committee must take care not to spend any funds held as permanent endowment without the Charity Commission's consent.

Signed by the Chairman of the Deed, Trust and Obligations Committee on behalf of The Dartford Borough Council as sole trustee

Signature .....

Full name Councillor Andrew Ronald Lloyd

Date 13 October 2020

### **NOTES TO THE ACCOUNTS**

#### **Related party transactions**

None declared