

BY EMAIL to CSCorres1@charitycommission.gov.uk

Ms Rosie Stokes
Charity Commission for England and Wales
PO Box 211
Bootle L20 7YX

Your ref: RS/C-101454

7th March 2025

BRUTON SCHOOL FOR GIRLS TRUST (1085577-1) (BSGT)

Dear Ms Stokes,

Thank you for your letter of 28th January, and for agreeing to extend the deadline for our submission to Friday 7th March. We, that is Bruton Town Council, are most grateful to you for showing such consideration and flexibility.

Before answering your questions I should emphasise three things:

- i. We are not a provider of educational services and have no plans to establish ourselves as one.
- ii. We do not have a proposed scheme and we do **not** support proposals to change the objects of the charity, other than anything that might be required by the Equality Act 2010 (see §5.3 of your Decision Review of 2nd December 2024)
- iii. We initially accepted the Trustees' claim that it was necessary to sell the Designated Land (see our December 2023 response to your initial consultation), but for reasons which are set out below (and were mentioned in our consultation response of August 2024) we no longer believe that this is true.

Here is the information you request, following your numbering:

1. Further explanation of what we believe the charity could do under such amended objects.

We do not believe there is any need to change the charity's objects. In response to your Decision Review of 2nd December 2024 the East Somerset Federation [the Federation] has submitted *Revised Proposals* for a Special Educational Needs and Disability [SEND] School on the Designated Land, and this would enable the BSG Trust to continue fulfilling its existing objects without having to sell the land. We understand that Sexey's Foundation Trust has also submitted proposals which would enable the BSG Trust to fulfil its existing objects without having to sell the land.

2. How this is feasible given the charity has no funds and only holds the land and buildings which the trustee informs us are in need of renovation.

A lack of funds on the part of the landlord is not a problem if the tenant maintains the land and buildings. A relevant local example of this is the relationship between Sexey's Foundation Trust [the Foundation Trust] and Sexey's School, a relationship which closely resembles that between the BSG Trust and Bruton School for Girls. (For much of their history the two trusts and the two schools were parallel institutions and had close connections). According to the Sexey's School Chair of Governors (who is also a Foundation Trustee), the Foundation Trust has little in the way of funds, but this does not impede the operation of either the School or the Foundation Trust.

The Federation is an experienced education provider which operates Bruton Primary School and other Local Authority maintained schools and private pre-schools in and near Bruton. Its *Revised Proposals* demonstrates the financial viability of the proposed SEND school on the BSG site and includes provision for the repair and maintenance of the land and buildings (see also 3b below).

3. Explanation of how the charity would provide education. Would the charity run the new school or make its land available to schools in the area?

The charity could make the Designated Land available to the Federation which would operate a SEND school on the site. In addition the charity could make land available to other local schools, like Sexey's School which is a near neighbour, so that they too could provide education on the site.

If you are proposing the charity makes the land available to schools in the area, please provide evidence to show:

a. there are schools in the area that want to use the land and on what terms.

The Federation has informed your Commission of its wish to use the land for a SEND school, and we understand that Sexey's Foundation Trust has also made proposals. We are sure that both institutions can explain the terms of what they propose.

b. how the charity could pay for any capital works needed to ensure the buildings on the land could be used and for the general upkeep and maintenance of the land and buildings and insurance given it has no funds.

The Federation has advised us that the Somerset Council capital budget for new SEND schools is unrestricted, and that the Local Authority has “*set aside significant funds to facilitate capital works and provide specialist equipment as necessary*” and is fully supportive of the Federation’s proposals.

c. How the charity could make the buildings on its land available for use by schools given some of its buildings cross over onto land held by the Bruton School for Girls company and that company is going to sell its land.

The Bruton School for Girls company is a Charitable Company (Company number 04094352, Charity number 1085577), linked to the Bruton School for Girls Trust (Charity number 1085577-1), and up to now the activities and interests of both charities have been closely aligned and mutually supportive. If the BSG Trust were to accept the Federation’s proposals it would not need to alter its charitable objects, except for any changes required by the 2010 Equality Act. There is an expectation that the Charitable Company would remain supportive since Trustees have a fiduciary duty to act in the best interests of their charities, regardless of any other interests that they may have. Even though the Charitable Company is unable to provide education on the BSG site it could continue to fulfil its charitable objects by transferring some or all of its land and buildings to a body which *will* continue to provide education on the BSG site.

Conversely, if the Charitable Company were to adopt an unsupportive attitude and seek to sell its land, regardless of any prejudicial effect on the interests of the BSG Trust, the sale value of the Charitable Company land and buildings would be considerably reduced by the position of the Designated Land. As your question suggests, this would particularly apply to buildings which straddle the Charitable Company land and the Designated Land. In such circumstances the Charitable Company’s beneficiaries would be poorly served by such a sale.

The objects of both the BSG Trust and the BSG Charitable Company would be best served if they continued to support the provision of education on the Designated Land and the Charitable Company land.

You also requested explanation of two further questions:

1) How our proposed scheme meets the criteria in s 67(3) of the Charities Act 2011

For the avoidance of doubt I should reiterate that we are not proposing a new scheme because we believe that the existing scheme remains fit for purpose, apart from any alteration which might be required by the 2010 Equality Act.

As regards §67 (3) of the Charities Act 2011, we understand that when your Commission is considering the making of a new Scheme it must take three matters into account:

(a) the spirit of the original gift

As noted above, the histories of the BSG Trust and Sexey's Foundation Trust are parallel and inter-connected. In its August 2024 response to your Commission's Amended Draft Scheme [the Amended Scheme] the Foundation Trust explained why it has a claim to be "*the most appropriate and suitable heir to the Bruton Girls for School Trust legacy*" should the current BSG Trustees feel unable to continue to deliver the original purposes.

(b) the desirability of securing that the property is applied for charitable purposes which are close to the original purposes

The objects of the BSG Trust are very similar to those of the Sexey's Foundation Trust, and for most of its history Bruton School for Girls was state-funded, like Sexey's School. Altering the BSG Trust's charitable objects in such a way that it could no longer make educational provision through the State sector would amount to a radical and unnecessary change, a repudiation of the Trust's traditions. The Amended Scheme's proposal to limit beneficiaries to those receiving subsidised places or bursaries at private schools is inappropriate and anachronistic in 21st Century Britain.

(c) the need for the relevant charity to have purposes which are suitable and effective in the light of current social and economic circumstances.

Current social and economic circumstances are causing serious distress to many children who have special educational needs but are placed in mainstream schools, including Sexey's School and Bruton Primary School, and as a result, more and more parents feel forced to home-educate their children. The economic costs of self-funding children's education are substantial, especially when one parent is obliged to give up paid employment, and the costs to the children in terms of social, psychological and developmental harms are likely to be even more substantial. This may be less widely reported than problems associated with rising fees at expensive private schools (like King's School Bruton, and its preparatory school, Hazelgrove),

although they educate a small minority (c.7%) of the UK's children, but the challenges facing children with special educational needs and their families are every bit as real, and considerably more severe.

In 1901, ten years after Sexey's School had been established as a trade school for Bruton boys, Bruton School for Girls was established in order to provide an equivalent for Bruton girls, but today it is children with special educational needs and disabilities who suffer from insufficient local educational provision. The establishment of a SEND school on the Designated Land would be a highly suitable and effective way of adapting the charitable purposes of the original gift to current social and economic circumstances.

2) Why our proposal is more appropriate than that proposed in the Charity Commission's Amended Draft Scheme of July 2023

In summary, the establishment of a SEND school on the Designated Land is closer to the spirit of the original gift, it does not seek to limit the beneficiaries to the cohort of children receiving subsidised places at private schools, and given that Somerset has a shortfall of 600-700 SEND places it is a suitable and effective way of addressing current social and economic needs.

Additional comments

It has become clear that the objects of the BSG Trust and the BSG Charitable Company can be met without the need to sell land, contrary to what was supposed in 2023. It is therefore particularly disappointing that in the three months since the Charity Commission published its Decision Review (on 2 December 2024) the BSG Trustees have not seen fit to engage with the East Somerset Federation, or with Sexey's School, or with Sexey's Foundation Trust. One would expect responsible Trustees to work actively and closely with both 'alternative providers' (East Somerset Federation and Sexey's Foundation Trust), and with the BSG Charitable Company, in a serious effort to deliver the objects of both the Trust and the Charitable Company in the fairest, most effective and most appropriate way.

Yours sincerely

Lisa Newby, Town Clerk
For and on behalf of Bruton Town Council