

# Sustainable Funding Project (Norfolk)



## Taking on the responsibilities of a building.

### Introduction

One major asset when seeking to diversify income is having the ability to utilise a building to generate rental income or use as a base for trading.

There are a variety of routes by which voluntary and community organisations acquire a building. They may own the building outright but often they will have some form of lease, licence or tenancy. Whatever the status of the occupancy, managing a building is a major task which carries risks as well as the potential benefits.

Managing buildings can involve specialist input at the start and there are many things to consider such as Health & Safety, Disability Discrimination Act compliance, maintaining heating systems and dealing with petty vandalism.

If you are a charity and the building is used for both charitable and non-charitable activities there are further considerations to be taken into account.

You may need to recruit additional skills if this is a new area of work for your organisation as managing a building is a 24 hours a day, 7 days a week commitment. Someone has to be responsible for the property whether it is being used or not (be prepared for the 3 a.m. telephone call regarding an alarm being triggered).

Any funder or lender will need a detailed report on how you are addressing all appropriate issues before releasing funds.

### Does your constitution need changing ?

For unincorporated (non-company) charities and voluntary groups the risks here are considerable. By law the individual trustees who “hold” the property are personally liable for any charges (such as a mortgage) on the premises if the organisation defaults on payments.

Incorporating (registering as a company) provides some protection here as it is the company which “holds” the property. Individuals are only personally liable in the case of fraud, negligence or wrongful trading (trading at a loss).

It will also be necessary to check that your constitution allows your organisation to hold property and this needs to be resolved prior to entering into any lease, tenancy agreement or purchase contract.

See [www.charity-commission.gov.uk/](http://www.charity-commission.gov.uk/)

### Physical condition

Does the building comply with current health & safety regulations? Is there an up to date fire risk assessment in place? Does it meet the requirements of the Disability Discrimination Act ? Does it need significant repairs or renovation immediately or in the near future? How will such works be funded?

It is always advisable to get a full structural survey carried out to highlight any major defects and the potential costs to remedy these defects.

### Purchase/lease costs

What will the full cost of acquiring the building be? As well as the purchase or lease price there will be legal and survey fees and planning consent costs to cover.

### Running Costs

How much will the building cost to run? Rates, buildings and content insurance, heating, lighting, water, cleaning, security, staffing, service charges, rent are just some of the costs to be considered.

### Planning permission

Does the building have planning permission for the activities you intend to run in the premises? If you are intending major repairs or renovation do these works comply with planning and are there any specific planning requirements/restrictions that will impact upon repair costs?

### Does it meet your needs?

Think about the activities you intend to run in the building. Is there enough space and adequate public transport or parking to enable this use? Will people be safe in and around the building at night if you intend evening use? Are there restrictions in the lease which prevent you carrying out certain activities? Does the building allow you to grow and develop in the future?

These issues are generally explored within a detailed feasibility study to guide a decision on whether to take on the building and to provide the information needed to get the right level of finance in place. It is essential that

professional advice and input is obtained when producing this study on your behalf as it is crucial that the study provides accurate and detailed information on these issues.

### Charitable and non-charitable use of buildings

If your organisation is a registered charity or intends to become one, there are specific issues to consider if the building will be used for a variety of activities and not solely occupied by you or only used for charitable purposes.

Common examples of non-charitable use of community buildings include:

- activities carried out for the private profit of the organiser – such as events selling products such as clothing or cosmetics.
- private functions – such as parties or wedding receptions.
- social contact and entertainment activities – such as dance classes.

The income from these activities is non-charitable and so is potentially liable for tax and VAT if the taxable income overall is above the small scale ancillary trading threshold.

See [www.hmrc.gov.uk/charities/guidance-notes/annex4/sectiona.htm](http://www.hmrc.gov.uk/charities/guidance-notes/annex4/sectiona.htm)

### Alcohol

If your group is planning to run a mixed use building or to sell alcohol you need to seek expert advice on the potential charity law and tax implications.

With regard to selling alcohol, as well as needing a liquor licence, for charities the sale of alcohol has specific rules. It may be permissible if the sale is connected to carrying out the charitable activities. This is known as an “ancillary activity”.

For example a village hall or community centre providing facilities to play games and sports can provide refreshments (including alcohol) to the participants and spectators – but only to the participants and spectators. The same rule would apply to a local arts centre or theatre providing refreshments for people who attend an exhibition or performance.

The sale of alcohol in this way is permitted under charity law and any profits should be exempt from tax provided the total income from the sales is less than the thresholds for small scale ancillary trading.

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