

8 February 2021

Katie Fielding
Wiltshire Association of Local Councils

Our Reference: Wilt 21/247
Your Reference: TPC0121

By email only: kfielding@communityfirst.org.uk

Dear Katie,

Re: Client: Tisbury Parish Council
Subject Matter: Grant to a Community Benefit Society

I have been allocated this request to advise upon and I have seen your email dated 29 January 2021.

The issue in this request is whether the Parish Council has the power to make a grant to a Community Benefit Society (CBS).

A CBS has been set up to provide an environmentally friendly mobile shop. The shop will be in an electrically powered van and goods will be sold loose so that customers will be required to bring their own containers. Some of the goods sold are already available in traditional packaging from local shops.

The CBS is not registered as a charity but the structure only permits the payment of interest on any money invested in the enterprise. The money invested can be withdrawn with accumulated interest but any profits made by the enterprise must be held and reinvested in the business. The CBS can employ paid staff (as can a charity).

There is no restriction on who can be made a grant under section 137 of the Local Government Act 1972. The only restrictions are that it cannot be used to avoid an existing restriction, it must benefit more than one person and the benefit to the community must be sufficient to justify the amount concerned. I understand that the amount requested by the CBS is £240.

The Parish Council can use its power under section 137 of the 1972 Act to make a grant to the CBS. However, the Parish Council has a power and not a duty and must therefore consider whether making such a grant is appropriate given the other demands on its funding and the limit to section 137 expenditure of £8.32 per local elector (£8.41 for 2021/2022). Only the Parish Council can make

the judgement about whether the grant is appropriate taking into account the possible need to publicly justify the decision if challenged.

I hope that this clarifies the position but if the council requires any further information or advice please contact NALC again.

Yours sincerely,

Gary Barker
Solicitor
NALC