

CHARITABLE TRUST COMMITTEE
Agenda

- Date Wednesday 5 September 2018
- Time 6.30 pm
- Venue Crompton A Room, Civic Centre, Oldham, West Street, Oldham, OL1 1NL
- Notes 1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Lori Hughes in advance of the meeting.
2. CONTACT OFFICER for this Agenda is Lori Hughes Tel. 0161 770 5151 or email lori.hughes@oldham.gov.uk
3. PUBLIC QUESTIONS – Any member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the Contact officer by 12 Noon on Friday, 31st August 2018.
4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

MEMBERSHIP OF THE CHARITABLE TRUST COMMITTEE IS AS FOLLOWS:

Councillors Brock, Turner, Brownridge, F Hussain and Moores

Item No

1 Election of Chair

The Panel is asked to elect a Chair for the duration of the Municipal Year 2018/19.

- 2 Apologies For Absence
- 3 Urgent Business
Urgent business, if any, introduced by the Chair
- 4 Declarations of Interest
To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.
- 5 Public Question Time
To receive Questions from the Public, in accordance with the Council's Constitution.
- 6 Minutes of Previous Meeting (Pages 1 - 2)
The Minutes of the Charitable Trust Committee held on 19th September 2017 are attached for approval.
- 7 Clayton Playing Fields - Annual Report for the Year Ended 31st March 2018 (Pages 3 - 8)
- 8 Land at Shaw Road End Car Park, Broadway Royton (Pages 9 - 18)
- 9 Exclusion of the Press and Public
That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they contain exempt information under paragraphs 3 of Part 1 of Schedule 12A of the Act, and it would not, on balance, be in the public interest to disclose the reports.
- 10 William Hague Trust - Proposed Sale of The Hollies, Frederick Street, Oldham (Pages 19 - 50)
- 11 146 Werneth Hall Road (Pages 51 - 134)



CHARITABLE TRUST COMMITTEE
19/09/2017 at 6.00 pm

Present: Councillor Iqbal (Chair)
Councillors M Bashforth, Harkness, McCann (Substitute) and
Phythian

Also in Attendance:

Elizabeth Cunningham-
Doyle
Fabiola Fuschi

Solicitor, Oldham Metropolitan
Borough Council (OMBC)
Constitutional Services Officer,
OMBC

Keith Moss

Interim Senior Estates Surveyor,
Unity Partnership

1 **ELECTION OF CHAIR**

The Committee was asked to elect a Chair for the duration of the Municipal Year 2017/18.

RESOLVED that Councillor Iqbal be nominated Chair of the Charitable Trust Committee for the duration of the Municipal Year 2017/18

2 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Gloster who was substituted by Councillor McCann.

3 **URGENT BUSINESS**

There were no items of urgent business received.

4 **DECLARATIONS OF INTEREST**

Councillor Iqbal declared a personal interest at Item 8 – Former Werneth Youth Centre, 146 Werneth Hall Road, Werneth, by virtue of his appointment as Ward Councillor in Werneth.

5 **PUBLIC QUESTION TIME**

There were no public questions received.

6 **TERMS OF REFERENCE**

The Committee gave consideration to the terms of reference of the Charitable Trust Committee which had been approved at the Full Council meeting on 12th July 2017.

The report was presented by the Council's Corporate Solicitor who explained that the Committee had been established to exercise the Council's common law / statutory duty to act as charitable trustee. This was a separate responsibility from the executive function and the Council was asked to act as charitable trustee on behalf of the community.

A list of property assets subject to charitable trusts where the Council was the sole trustee was attached to the report. Decisions on these assets would be made by the Charitable Trust Committee.

It was also explained that if a conflict of interests between the Council and one of the trust funds rose, the trustee would need to look at independent external advice.

It was reported that assurance had been received from the Council's Finance team that the Trusts' assets were held and accounted separately from the Council's properties.

RESOLVED that the terms of reference of the Charitable Trust Committee be noted.

7 **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they contain exempt information under paragraph 3 of Part 1 of Schedule 12A of the Act, and it would not, on balance, be in the public interest to disclose the reports.

8 **FORMER WERNETH YOUTH CENTRE, 146 WERNETH HALL ROAD, WERNETH.**

The Committee gave consideration to the commercially sensitive information in relation to Item 8 – Former Werneth Youth Centre, 146, Werneth Hall Road, Werneth.

RESOLVED that:

1. The course of actions outlined in Option 1 of the report be agreed.
2. Contact be made with the Charity Commission as per Option 1 of the report.
3. A meeting of the Charitable Trust Committee be convened following receipt of information from the Charity Commission.

The meeting started at 6.00 pm and ended at 6.18 pm



Oldham
Council

Trustee Annual General Meeting

Clayton Playing Fields Trust - Annual Report for the Year Ended 31st March 2018

Officer Contact: Anne Ryans – Director of Finance

Report Author: Jamie Kelly - Accountant
Ext: 1090

5th September 2018

Reason for the Decision

The purpose of this report is to present the attached accounts (Appendix A) so that the Trustees can make an appropriate resolution at their Annual General Meeting and approve the Accounts of the Clayton Playing Fields Trust for the year ended 31st March 2018.

Recommendations

That Trustees approve the Clayton Playing Fields Trust Accounts for the year ended 31st March 2018.

Clayton Playing Fields Trust – Annual Report for the Year Ended 31st March 2018

1 Background

- 1.1 The Charity Commission requires all charities to hold an annual general meeting and approve the latest year's financial statements at the meeting. It is also a requirement that an annual return is sent to the Charity Commission with, amongst other things, the main financial details. The presentation of this report and approval of its recommendations will enable the Trustees to discharge this requirement.

2 Current Position

- 2.1 The tables below summarise the financial position of the Trust as at 31st March 2018. The accounts are presented in full at Appendix A.

Table 1 – Revenue Account

Revenue Account	2017/18 £	2016/17 £
Expenses	35,085	34,336
Income from Lettings	(6,962)	(12,343)
Interest on Investments	(360)	(360)
Total income for activities	<u>(7,322)</u>	<u>(12,703)</u>
Deficit prior to Oldham Council contribution	27,763	21,633
Oldham Council contribution	27,763	21,633

Balance Sheet	2017/18 £	2016/17 £
Investments	54,500	54,500
Accumulated fund	54,500	54,500

The key points to note are:

- Expenses of £35,085 were incurred. This is slightly higher than the £34,336 incurred in 2016/17.
- Income from lettings was £6,962, which is £5,381 lower than the £12,343 received in 2016/17.
- Interest on investments was £360, being the same as in 2016/17.
- The Council is required to make up the deficit this year of £27,763, which is an increase of £6,130 compared to 2016/17. This is funded from the Councils Environmental Services budget.
- The Trust has investments of £54,500, which are managed by the Council.

3 Options/Alternatives

3.1 The options available to the Trustees are:

- (a) To approve the accounts as set out in Appendix A and make the appropriate annual submission to the Charity Commission by 31st January 2019
- (b) To not approve the accounts as set out in Appendix A. This would mean that the Trust would not be able to make a resolution at their Annual General Meeting and comply with the financial requirements of the Charity Commission

4 Preferred Option

4.1 The preferred option is for the Trustees to approve the accounts so that the Trustees can make an appropriate resolution at their annual general meeting as required by the Charity Commission.

5 Consultation

5.1 Appropriate officers have been consulted in compiling this report.

6 Financial implications

6.1 The total Oldham Council contribution of administering the Clayton Playing Fields for the financial year 2016/17 as set out in Appendix A was £27,763. A budget to support this contribution is held within Environmental Services as part of the Economy, Skills and Neighbourhoods Directorate.

6.2 The accounts show an increase in revenue support from the Council to Clayton Playing Fields. This is due to a decrease in pitch bookings from the previous year.

- 6.3 On approval of the accounts, an annual return for the year ended 31st March 2018 will be submitted to the Charity Commission to comply with their deadline of 31st January 2019.

(Matthew Kearns – Senior Accountant)

7 Legal Services Comments

None

8 Co-operative Agenda

- 8.1 The operation of the playing fields supports the Council's co-operative agenda by providing a facility for local clubs which they would not individually be able to sustain.

9 Human Resources Comments

- 9.1 None

10 Risk Assessments

- 10.1 None Required

11 IT Implications

- 11.1 None.

12 Property Implications

- 12.1 Revenue corporate property budgets have supported the works at Clayton Playing Fields in 2017/18.

- 12.2 Going forward, health & safety day-to-day repairs and maintenance will be financed by the Corporate Landlord budget. It is not anticipated that further capital will available.

(Peter Wood)

13 Procurement Implications

- 13.1 None.

14 Environmental and Health & Safety Implications

- 14.1 None

15 Equality, community cohesion and crime implications

- 15.1 None

16 Equality Impact Assessment Completed?

16.1 N/A.

17 Key Decision

17.1 No

18 Key Decision Reference

18.1 N/A

19 Background Papers

19.1 None

20 Appendices

20.1 Appendix A – Clayton Playing Fields Trust Accounts

Appendix A

Clayton Playing Fields Trust

Revenue Account for the Year Ended 31st March 2018

Detail	Notes	2017/18 £	2016/17 £
Expenditure			
Grounds Maintenance		29,091	28,364
Insurance	1	570	548
Administration	2	5,424	5,424
Total Expenditure		<u>35,085</u>	<u>34,336</u>
Income			
Football pitches	3	(6,962)	(12,343)
Interest on Investments	4	(360)	(360)
Total Income (excl. Oldham Council contribution)		(7,322)	(12,703)
Contribution from Oldham Council (Environmental Services revenue budget)		(27,763)	(21,633)
Total Income		<u>(35,085)</u>	<u>(34,336)</u>

Notes to the Revenue Account

- 1 A nominal amount has been charged for insurance
- 2 Administration charges are based on clerical assistance provided through the Economy, Skills and Neighbourhoods Directorate and equates to 0.25 FTE.
- 3 A certain level of free use is provided, which has not been quantified.
- 4 Investment income is derived from the investment of the Trust's accumulated fund as part of the Council's overall cash balances. Interest is credited in line with the investment rate received by the Council.

Balance Sheet for the Year Ended 31st March 2018

Detail	2017/18 £	2016/17 £
Investments	54,500	54,500
Accumulated Fund	54,500	54,500



Report to CHARITABLE TRUST COMMITTEE

Land at Shaw Road End Park, Broadway, Royton [Royton South]

Report Author: Mark Prestwich, Principal Development Surveyor
Ext. 1660

5th September 2018

Reason for Decision

The purpose of the report is to;

- Provide the Charitable Trust Committee with an overview in respect to an area of land known as Shaw Road End Park which was acquired by the Council subject to trusts requiring it to be used for the purposes of exercise and recreation ("Charity Land");
- Seek approval for the Council to formally register the charitable trust with the Charity Commission;
- Provide Members of the Charitable Trust Committee with details of a recent request from Oldham Borough Council ("the Council") to enter into a land swap agreement with the Council whereby part of the Charity Land would be exchanged with other land owned by the Council which is not covered by the charitable trusts ("Land Swap");
- Seek approval to instruct an independent Surveyor to act on behalf of the Charitable Trust Committee and prepare a valuation in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992.
- Seek approval to advertise the proposal to proceed with the Land Swap and invite public feedback.

Recommendations

It is recommended that the Charitable Trust Committee;

- Notes the background in respect to the acquisition of the land shown edged red and edged blue on the attached plan (see Appendix One), that forming the Charity Land;
- Authorises Council officers to take steps to arrange for the charitable trusts affecting the Charity Land, to be registered with the Charity Commission;

-
- Notes the request from the Council to enter into an agreement for the Land Swap with the Charitable Trust involving the land shown coloured pink on the Plan (“Pink Land”) which is part of the Charity Land.
 - Appoints an independent chartered surveyor in order to prepare valuations of the Charity Land, together with the area of land owned by the Council in its statutory capacity being shown edged green on the Plan (“Green Land”). The valuation reports will be prepared in accordance with the Charities (Qualified Surveyors’ Reports) Regulations 1992.
 - Advertises the proposal to proceed with the Land Swap involving exchanging the Pink Land with the Green Land in accordance with the consultation strategy detailed in Section 4.2 of the report.
 - Requests that a further report is prepared for consideration by the Charitable Trust Committee once the independent surveyor’s report has been received and the public consultation completed.

Land at Shaw Road End Park, Broadway, Royton [Royton South]

1 Background

- 1.1 On 31 December 1932, the Urban District Council for the District of Royton (as predecessors to Oldham Council) acquired the area of land shown edged blue on the attached plan (see Appendix One). The Council acquired the land for the sum of £471.13s.4p (four hundred and seventy one pounds thirteen shillings and four pence) and as part of the conveyance agreed, “that it will hold the said hereditaments upon trust for the use thereof by the public for the purposes of exercise and recreation pursuant to the provisions of the said Acts of Parliament”.
- 1.2 On 28 November 1933, the Council similarly acquired the area of land shown edged red on the attached plan. The Council acquired the land for the sum of £100 (one hundred pounds) and as part of the conveyance agreed “that it will hold the said hereditaments upon trust for the use thereof by the public for the purposes of exercise and recreation pursuant to the provisions of the Public Health Act 1875 and the Open Spaces Act 1906 or either of them”.
- 1.3 Having reviewed historical plans, it would appear that, following acquisition, the vast majority of this land was set out as a formal park - consistent with the Council’s undertaking to utilise the site for use in support of exercise and recreation - since c.1935.
- 1.4 In relation to that part of the area of land edged red which is shown shaded pink (the ‘Pink Land’) however, following acquisition, this area of land did not form part of the park and was simply left to form a banked area down to the nearby watercourse until c.1965 when the land was levelled. Following the expansion of the adjoining Our Lady’s School in 1979, the subject area was again upgraded to form a landscaped entrance into the comprehensive school although, from c.1990, the use of land was again altered, creating an informal parking area for staff and visitors attending the School. Whilst the former Our Lady’s School was demolished in 2013, the use of the Pink Land as informal car parking has remained, with the current appearance of the site shown in Appendix Two.

2 Current Position

- 2.1 Oldham Council (in its statutory capacity) owns the former Our Lady’s School and are looking to promote the site as a residential development opportunity. In a similar capacity, the Council also own the area of land shown edged green (‘the Green Land’). Whilst the former School site benefits from access from Vaughan Street (which traditionally has been the main entrance into the School site), in order to provide a secondary access, the Council would like to acquire the Pink Land from the Trust.
- 2.2 The remainder of the Charity Land, i.e. the area edged red (and not shaded pink) and the area edged blue would be unaffected by the proposal.
- 2.3 Rather than making a financial payment to the Charitable Trust, the Council (in its statutory capacity) would like to enter into land swap arrangement whereby, it would swap the Pink Land for the Green Land which, whilst forming part of the formal current park area, is not subject to charitable trusts.

2.3 As such, the offer is one whereby, the Trust would swap the Pink Land, (measuring 1,393sq.m or thereabouts), for the Green Land (measuring 2,954sq.m or thereabouts).

3 **Options/Alternatives**

3.1 There would be a number of options available and these can be summarised as follows;

Option 1 - Do Nothing

3.2 The Trust could choose to do nothing and not proceed with the Land Swap. In proceeding with this approach, the Charitable Trust will continue to own Pink Land and the Council (in its statutory capacity), would continue to own the Green Land.

3.3 As indicated in Section 1 above, the current use of the Pink Land - as an area of informal car parking - would be considered to be a breach of the charitable trusts (to use the land for the purposes of exercise and recreation) and therefore, in doing nothing, the current arrangements would simply continue the breach of charitable trust objects.

3.4 In theory, despite being set out and being incorporated into the main park, this approach would also allow the Council (in its statutory capacity) to dispose of the Green Land for alternative (residential) uses.

Option 2 - Obtain independent surveyor's advice, with a view to progressing a sale

3.5 Alternatively, the Charitable Trust could choose to obtain independent advice, from a surveyor acting on behalf of the Charitable Trust. The advice would have to be compliant with the Charities (Qualified Surveyors' Reports) Regulations 1992 and would determine whether it would be in the interest of the Charitable Trust to do nothing, to proceed with the Land Swap, or whether it would be more advantageous to market the Pink Land (and seek a cash alternative).

3.6 The cost of the advice provided to the Charitable Trust would be borne by the Council and three local, surveyors have been approached to provide a report of this matter. The parties and cost of the advice can be summarised as follows;

Breakey Nuttall - £795.00

Ryder & Dutton - £800.00

Stannybrook Property Consultants - £750.00

4 **Preferred Option**

4.1 The charitable trusts subject to which the Charity Land is held are not currently the subject of a charity registered at the Charity Commission. Therefore, to avoid any ambiguity moving forward, it is recommended that steps are undertaken to formally register the status of the Charitable Trust with the Charity Commission. This step would help protect the Charity Land and provide clarity regarding the status of the Charity Land in the future.

4.2 During this registration process, it is further recommended that the Charitable Trust Committee commissions a report to be produced by Stannybrook Property Consultants in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992. Whilst this report is being prepared by the independent surveyor, it is also proposed that the Charitable Trust Committee carries out a public consultation exercise, seeking feedback on the proposals to swap the Pink Land with the Green Land (only). The consultation will take the form of both (two) public notices in the local press and notices erected on the site.

4.3 Prior to making any decision, the results of the surveyors report, together with the feedback received following the public consultation exercise could then be considered by the Charitable Trust Committee at a further meeting. The Consultation would be in the name of the Council acting in its capacity as a charitable trustee and not in its capacity as a statutory body.

5 **Consultation**

5.1 No consultation has been carried out to date and the report is recommending that details of the proposals are shared with members of the public, as part of a formal public consultation period, prior to formalising a decision on whether to do nothing or swap the Pink Land.

6 **Financial Implications**

Revenue Comments

6.1 The purpose of this report is to engage with Trust Committee with the proposal of a land swap.

6.2 The Council has does not hold revenue budgets for the asset and is not currently incurring expenditure on the asset. The asset is maintained by Environmental Services and will continue to do so after the land swap and up until future disposal.

6.3 Any disposal costs will initially be funded by Oldham Council, but a further report will be needed on the full disposal of the site.

[Jamie Kelly – Accountant]

Capital Comments

6.4 There are no capital financial implications for the proposed transaction. However there will be a change to the asset in relation to categorisation, from 100% land and buildings to be part land and buildings and part infrastructure asset.

[Jit Kara]

7 **Legal Services Comments**

7.1 The Council acting in its capacity as a charitable trustee is advised to follow the guidance published by the Charity Commission in seeking to dispose of charity land. The proposal outlined in the body of the report to seek an independent valuation of both of the sites to be exchanged follows the recommendation in the guidance. However, following receipt of the independent valuations, the Charitable Trustee Committee will need to request an order from the Charity Commission for the disposal of the charitable land. This is because the Council owns both the Pink Land and the Green Land (albeit in different capacities) which are the subject of the proposed Land Swap and as such the Council would be making a disposal to a connected person.

[Elizabeth Cunningham Doyle]

8. **Co-operative Agenda**

8.1 None.

9 **IT Implications**

9.1 None.

10 **Property Implications**

10.1 Despite paying a monetary premium for the acquisition of the Charity Land, the Council has undertaken to hold the land on charitable trusts. It is therefore proposed that rather than leaving the status of the land open to interpretation or unclear, by registering the charitable trusts relating to the Charity Land at the Charity Commission, the status of the Charity Land would be clearer for future reference and will make obtaining a Charity Commission order (referred to above) enabling the proposed Land Swap more straight forward.

11 **Environmental and Health & Safety Implications**

11.1 None.

12 **Equality, community cohesion and crime implications**

12.1 None.

13 **Equality Impact Assessment Completed?**

14.1 No.

14 **Key Decision**

14.1 No.

15 **Key Decision Reference**

15.1 Not applicable.

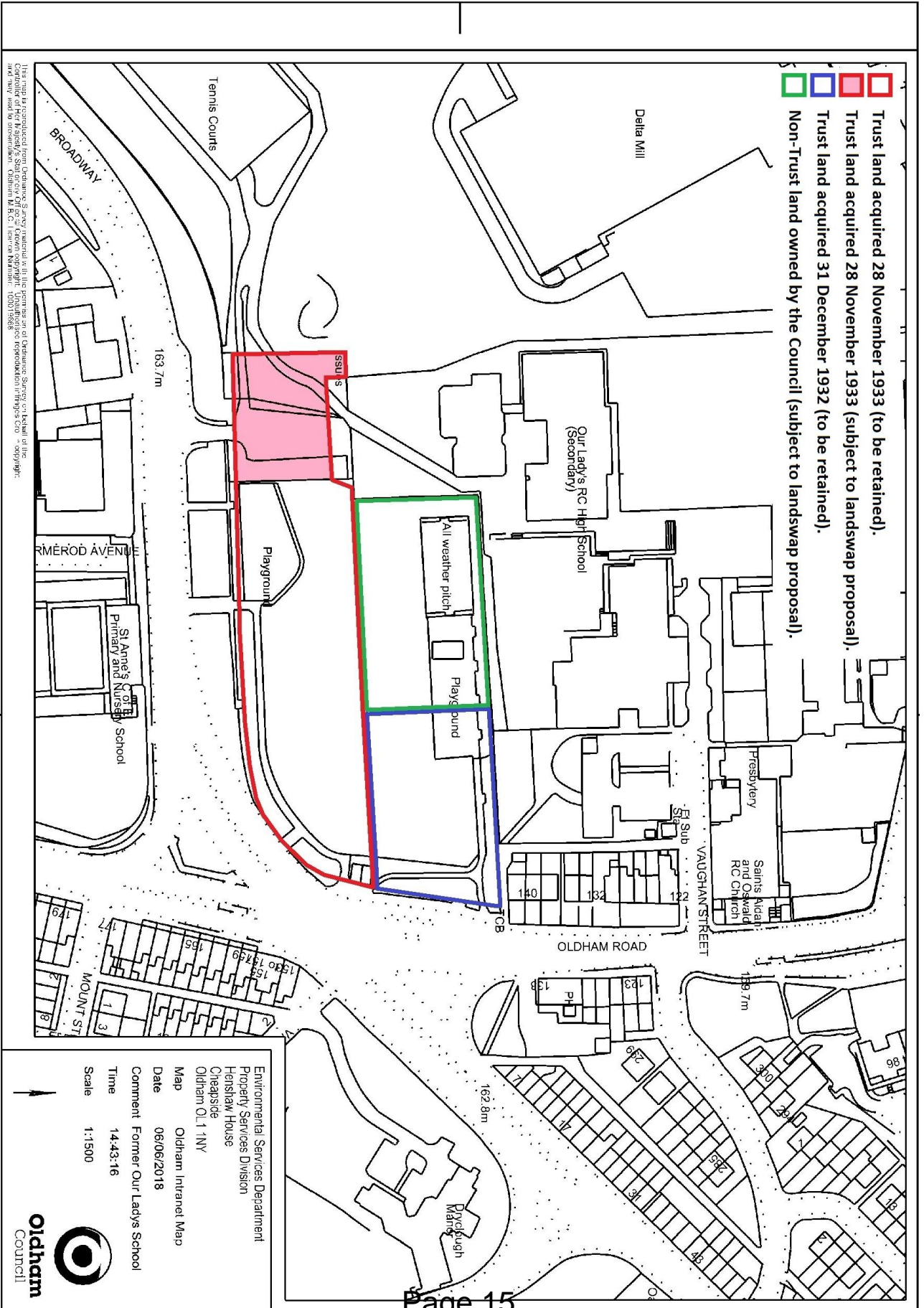
16 **Background Papers**

16.1 None.

17 **Appendices**

17.1 Appendix One – Plan.
Appendix Two – Photograph of the existing car park (i.e. the Pink Land)

Appendix One



Appendix Two





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