

## ***CHARITABLE TRUST COMMITTEE***

### ***Agenda***

Date Thursday 13 June 2019

Time 5.00 pm

Venue Shaw 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 Mark Hardman in advance of the meeting.
  2. CONTACT OFFICER for this Agenda is Mark Hardman Tel. 0161 770 5151 or email [mark.hardman@rochdale.gov.uk](mailto:mark.hardman@rochdale.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 Monday, 10 June 2019.
  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 F Hussain, Ali, Hamblett, Iqbal (Chair) and Stretton

Item No

1 Apologies For Absence

- 2 Appointment of Vice Chair  
To consider the appointment of a Vice Chair for the Committee for the 2019/20 Municipal Year.
- 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 - 6)  
The Minutes of the meeting of the Charitable Trust Committee held on 26 November 2018 are attached for approval.
- 7 Land at Shaw Road End Park, Broadway, Royton (Pages 7 - 14)
- 8 Former DSO building, adjoining land & public convenience block - High Crompton Park, Rochdale Road, Shaw (Pages 15 - 22)
- 9 Werneth Park Music Rooms (Pages 23 - 32)
- 10 146 Werneth Hall Road, Werneth (Pages 33 - 40)
- 11 Consultation with regards to Charitable Use of Lees Recreation Ground within the Snipe Clough area (Pages 41 - 58)

**CHARITABLE TRUST COMMITTEE**  
**26/11/2018 at 6.00 pm**



**Oldham**  
Council

**Present:** Councillor Brownridge (Chair)  
Councillors Turner, Davis (Substitute), Goodwin (Substitute) and  
Harrison (Substitute)

Also in Attendance:

Elizabeth Cunningham- Doyle	Legal Services
Lori Hughes	Constitutional Services
Ben Hill	Strategic Regeneration
Zaiem Khan	District Co-ordinator
Mark Prestwich	Strategic Regeneration

1           **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor F. Hussain  
and Councillor Moores.

2           **URGENT BUSINESS**

There were no items of urgent business received.

3           **DECLARATIONS OF INTEREST**

There were no declarations of interest received.

4           **PUBLIC QUESTION TIME**

There were no public questions received.

5           **MINUTES OF PREVIOUS MEETING**

**RESOLVED** that the minutes of the meeting held on 5<sup>th</sup>  
September 2018 be approved as a correct record.

6           **FORMER DSO BUILDING, ADJOINING LAND AND PUBLIC  
CONVENIENCE BLOCK, HIGH CROMPTON PARK,  
ROCHDALE ROAD, SHAW**

Consideration was given to a report which provided an overview  
in respect to an area of land and building known as the “Former  
DSO Building” and details of a recent request from the Council  
to enter into a land swap agreement which would be exchanged  
with other land owned by Council not covered by the charitable  
trust.

The background to the site and the proposals were outlined in  
the report.

The former DSO Building was situated on Charity Land and had  
been part of various marketing campaigns since 2014 with only  
limited interest. A fresh marketing exercise had been  
undertaken and tenders received.

Members were informed that the sale had not yet been  
approved, the members as trustees would approve any sale  
after a statutory process had been followed. Members were

informed that the building was in a poor state and in urgent need of repair. Members were requested to authorise the sealing of a deed to grant the licence to allow emergency repairs by the developer at their own risk.

### Options Considered

1. The Committee could choose to do nothing and not proceed with the land swap.
2. The Committee could choose to obtain independent valuation advice from a surveyor acting on behalf of the Charitable Trust.

### **RESOLVED that:**

1. The background in respect to the acquisition of the land shown edged red at Appendix One to the report that formed what was the 'Charity Lane' be noted.
2. The request from the Council to enter into an agreement for the Land Swap with the Charitable Trust which involved the land show edged blue on the plan contained with the report which was part of the Charity Land be noted.
3. An independent chartered surveyor be appointed to prepare valuations of the area of Charity Land in question, together with the area of land owned by the Council in its statutory capacity being shown edged green on the plan ("Green Land") in the report. The valuation reports to be prepared in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992.
4. The proposal to proceed with the land swap which involves exchanging the "Blue Land" with the "Green Land" as outlined in the report be advertised in accordance with the statutory consultation strategy detailed in Section 5.1 of the report.
5. A further report be prepared for consideration by the Charitable Trust Committee when the independent surveyor's report had been received and the public consultation completed.
6. A licence be granted to the developer to enter onto Charity Land to undertake the essential works to the former DSO building.

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### **LAND AT SHAW ROAD END PARK, BROADWAY, ROYTON**

Consideration was given to a report which provided an update on the activities following the previous Charitable Trust Committee meeting held in September 2018 which included the result of the consultation and an independent valuation prepared on behalf of the Charity. The Committee was asked, after noting the results of the consultation and independent valuation advice, to provide authority for officers to proceed with the proposed land swap.

The background to the site and current position were outlined in the report. Legal officers had taken steps to formally register the subject charity with the Charity Commission. As the Charity did not generate an income in excess of £5,000 and there were no 'exceptional circumstances', the trust could not be registered.

Consultation had been undertaken which included site notices and a notice in the Manchester Evening News. A written representation was provided and included at Appendix 3 of the report.

Members sought and received clarification on the car park, how it contributed to the park and the terms of the deed. Members also sought and received clarification on the representations received. Car parking in the area was at a premium. Any development would be addressed through a planning application. There was a desire for provision of parking to support the park. The formal recreational areas of the park would be safeguarded and through any discussions of redevelopment of the former Our Lady's site, S.106 funding would be investigated and the adjoining park could be an obvious beneficiary.

#### Options Considered

1. The Committee could choose to do nothing and not proceed with the swap.
2. The Committee could choose to accept the advice contained in the independent surveyor's report that it would be in the financial interest of the Trust to proceed with the swap.

#### **RESOLVED that:**

1. The position related to the formal registration of the charity with the Charity Commission be noted.
2. The responses received following the consultation under S.121 of the Charities Act into the land swap proposal were fully considered. Members considered that the proposed land swap would be in the best interests of the charitable trust because the land to be exchanged is an area of the park which is most intensively used for recreation.
3. The contents of the independent valuation report prepared in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992 in respect to the two areas of land due for possible inclusion within any land swap proposals be noted.
4. Council officers be authorised to apply for an order from the Charity Commission for a disposal to a connected person so that the land swap could be completed.

Consideration was given to an update on the sale of the Hollies, Frederick Street, Werneth.



**Oldham**  
Council

The background to the site was outlined in the report.

A Section 121 Notice was placed on site and in the Manchester Evening News between 5 October and 6 November 2018. No representations or objections were received.

Progress with the sale of the property had been slow. To date no firm commitment had been given to accept or sign the Heads of Terms. The developer has requested changes and engagement has taken place through solicitors.

It was confirmed that the Charity Commission did not have any objection to the sale of the property. Members were informed of the independent panel which had been established to manage the Trust whilst it was being used by the Council in its executive capacity. It had met on 22<sup>nd</sup> November 2018 and a decision to proceed with the sale with a longstop date for exchange of contract prior to Christmas had been agreed at that meeting.

Members sought and received information on the preferred bidder and were informed that proof of funds had been provided. Members were also informed of funds which had been set up in a separate charitable trust and were advised that the money was available to be distributed.

#### Options Considered

1. Continue with the sale of the land to Greenstone Construction Ltd. But if no exchange of contracts on the sale has taken place by Christmas 2018, the site was to be remarketed.
2. Re-market the site.
3. Continue with the sale to Greenstone with no deadline for substantial progress.

#### **RESOLVED that:**

1. The slow progress made with regards to the sale of the Hollies to Greenstone Construction Ltd be noted.
2. Delegated authority be given to officers for the site to be remarketed in January 2019 in accordance with Charity Commission's Guidance if an exchange of contracts on the sale has not taken place by Christmas 2018.
3. Funding which had been received and held in a separate charitable trust could be distributed.

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#### **146 WERNETH HALL ROAD, WERNETH**

Consideration to a report which provided an update, following an informal approach to the Charity Commission, to advise of positive discussions with Action Together who had confirmed a willingness to work with the Council for a targeted public consultation to be undertaken to ascertain where funds from a future sale of the property could be distributed. The Charity

Commission had confirmed that the approach, if adopted, would not be inconsistent with the provisions of Section 67 of the Charities Act 2011 and provided guidance as to how the consultation should proceed. If the consultation proceeded with the Commission's directions and provided clear research of evidence and need, and compatibility amongst local charities, there was every expectation that the Council would grant a scheme which provided a power of sale to allow the distribution of proceeds from a future sale of the property.

The Committee was asked to consider the response from the Charity Commission, and if satisfied, proceed to instruct officers to commence a formal targeted consultation exercise and report back to the Committee on the outcome of the consultation process in due course. Consultees included Action Together and the Oldham Interfaith Forum and others. Members also suggested Oldham Youth Council and Uniformed Organisations for engagement with young people.

#### Option Considered

The Committee were not required to consider options in this case owing to the fact that the Council was acting in its capacity as Charitable Trustee and not in its capacity as a statutory body acting under local government legislation.

**RESOLVED** that officers be authorised to carry out a consultation exercise on behalf of the Charitable Trustees of 146 Werneth Hall Road on the proposal to widen the objects of the charity to include:

“To advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health.”

The meeting started at 6.00 pm and ended at 6.30 pm

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## Report to CHARITABLE TRUST COMMITTEE

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

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

**13 June 2019**

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### Reason for Decision

The purpose of the report is to;

- Provide the Charitable Trust Committee with an update of activities following the previous meeting in November 2018 and;
- To approve the Order of the Charity Commission authorizing Oldham Borough Council to enter into the land swap
- To authorise officers of the Council to execute the order and enter into the agreements for the land swap.

### Recommendations

It is recommended that the Charitable Trust Committee authorise officers to execute the Order of the Charity Commission and complete the necessary arrangements to swap the land belonging to the Shaw Road End Park Trust shaded pink, with the land owned by the Council shaded green on the plan annexed to this report (Appendix 1).

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

**1 Background**

1.1 On 26 November 2018, the Charitable Trust Committee;

- Considered and noted the results of a public consultation exercise carried out in respect to a proposed land swap involving land situated at Shaw Road End Park (the 'Pink Land' managed by the Council in its capacity as Charity Trustee and the 'Green Land' managed by the Council in its statutory capacity)..
- Considered and noted the contents of an independent valuation prepared in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992 in respect to the areas of land due for possible inclusion within the land swap proposals.
- Authorised Council officers to take steps to complete the land swap.

1.2 Following on from the meeting, an application for an Order was made to the Charity Commission on 19 December 2018.

**2 Current Position**

2.1 Following on from the application made to the Charity Commission on 19 December 2018, on 14 May 2019, the Council received confirmation that the Charity Commission was minded to grant the Order – thus allowing the swap to take place. A draft Order was included within the initial correspondence received by the Charity Commission.

2.2 The drafting of the Order was amended following feedback from the Council, which sought to clarify the extent of the land included within the swap proposals. The drafting of the Order is now in an agreed form (see Appendix 2) and the Council would therefore be in a position to complete the agreement.

2.3 Prior to completing the Order, representatives of the Council are seeking final authority to proceed with the swap, on the basis of the current drafting and documentation previously shared with the Trust Committee.

**3 Options/Alternatives**

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

- Option 1 - Do Nothing
- Option 2 - Proceed to complete the order in accordance with the previous resolution of the Trust Committee.

**4 Preferred Option**

4.1 It is considered to be in the interest of the Trust to proceed with the swap – whereby the Trust will dispose of the Pink Land and acquire the Green Land from the Council (in its statutory capacity). In proceeding with this approach, the continued use of the Green Land – which the Trust Committee previously recognised as forming the most active part of the formal Shaw Road End Park – would be safeguarded.

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## 5 Consultation

- 5.1 The results of a public consultation exercise were previously shared with Members of the Trust Committee and considered at the meeting held on 26 November 2018.

## 6 Financial Implications

### Revenue Comments

- 6.1 The purpose of this report is to engage with the Trust Committee with the proposal of a land swap.
- 6.2 The Council does not hold revenue budgets for the asset and is not currently incurring specific expenditure on the asset. The asset is maintained by Environmental Services, the costs of which are included within the general costs of the service. This continues to be the case 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 an impact to the Asset Register affecting the use and categorisation of assets 1217 and 3075.

[Jit Kara]

## 7 Legal Services Comments

- 7.1 When Members are acting in their capacity as charitable trustees they have a duty to act in the best interests of the charity. The Charity Commission has issued some specific guidance for guidance which should be followed:

“...Act in your charity’s best interests you must:

- do what will best enable the charity to carry out its purposes, both now and in the future
- make balanced and adequately informed decisions, thinking about the long term as well as the short term
- avoid putting yourself in a position where your duty to your charity conflicts with your personal interests
- not receive any benefit from the charity unless it’s properly authorised and is clearly in the charity’s interests.”

- 7.2 When making decisions the trustees must:

- “act within your powers
- act in good faith, and only in the interests of your charity
- make sure you are sufficiently informed, taking any advice you need
- take account of all relevant factors
- ignore any irrelevant factors
- deal with conflicts of interest
- make decisions that are within the range of decisions that a reasonable trustee body could make in the circumstance”

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7.3 The Charity Commission has now issued an Order which “authorises Oldham Borough Council as trustee of the charity to enter into a land swap of the land described in Part 1 of the schedule to this order with the land described in Part 2 of the schedule, which is owned by Oldham Borough Council, even though Oldham Borough Council is a connected party (as defined in section 118 of the Charities Act 2011) (Appendix 2). In the circumstances, the Trustees would be advised to comply with the Order unless they consider that there is a good reason for not doing so.

[Elizabeth Cunningham Doyle]

8. **Co-operative Agenda**

8.1 None.

9 **IT Implications**

9.1 None.

10 **Property Implications**

10.1 The property implications have been addressed in the main body of the report.

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.

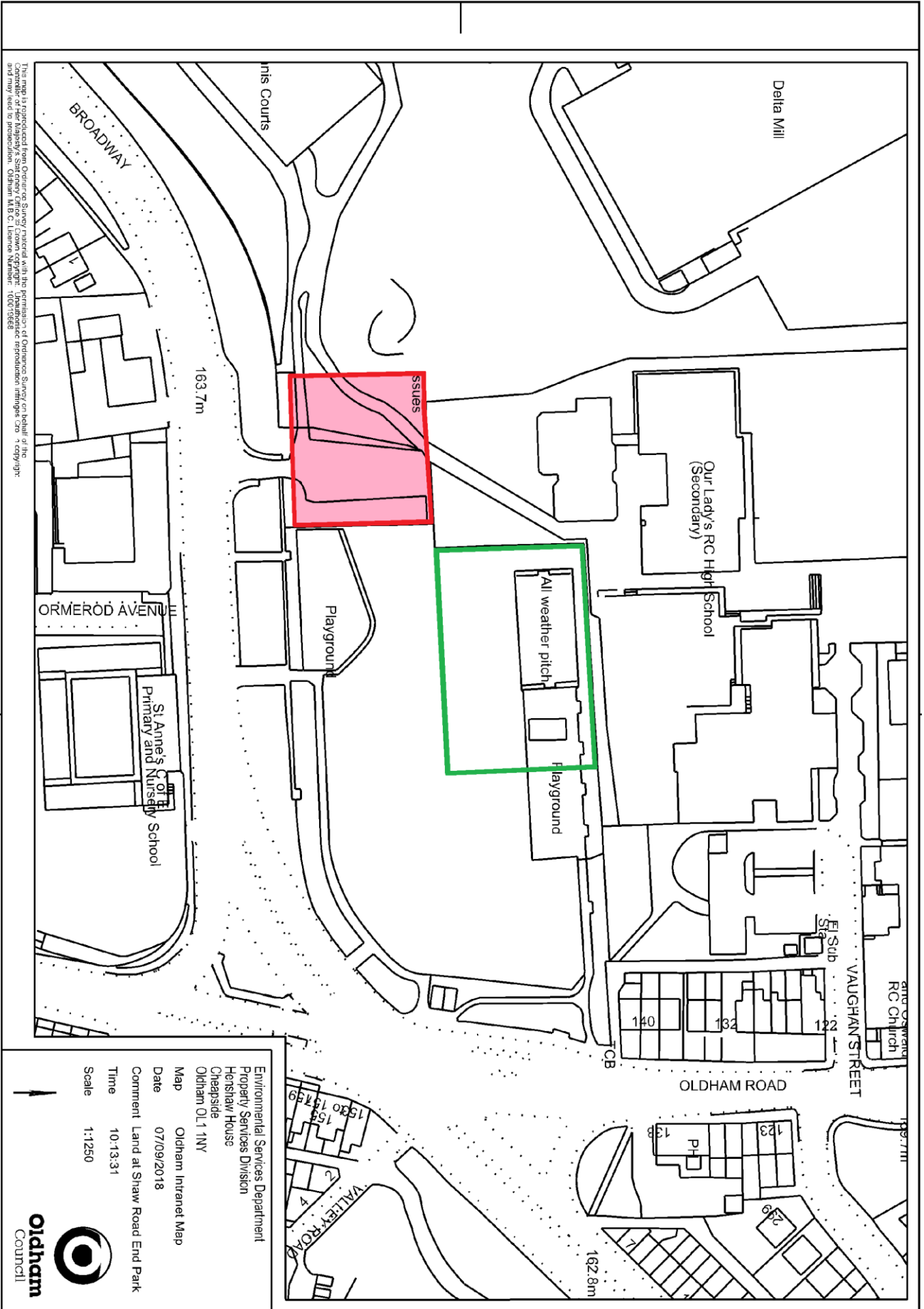
16 **Background Papers**

16.1 None.

17 **Appendices**

17.1 Appendix One - Plan.  
Appendix Two – Draft Order



Appendix One - Plan



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Environmental Services Department  
 Property Services Division  
 Henshaw House  
 Cheapside  
 Oldham OL1 1NY

Map: Oldham Intranet Map  
 Date: 07/09/2018  
 Comment: Land at Shaw Road End Park  
 Time: 10:13:31  
 Scale: 1:1250

**Oldham**  
Council

**ORDER OF  
THE CHARITY COMMISSION FOR ENGLAND AND WALES**  
to authorise the disposal of charity land under the powers given in the Charities Act 2011  
dated the  
**[Date]**  
for the charity known as  
**SHAW ROAD END PARK TRUST**

DRAFT

**A member of staff of the Charity Commission authorised to act on behalf of the  
Charity Commission**

1

Reference Number:  
Case Number: C-495238

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## **ORDER**

Being satisfied that it is expedient in the interest of the charity to do so, the Commission authorises Oldham Borough Council as trustee of the charity to enter into a land swap of the land described in Part 1 of the schedule to this order with the land described in Part 2 of the schedule, which is owned by Oldham Borough Council, even though Oldham Borough Council is a connected party (as defined in section 118 of the Charities Act 2011).

## **SCHEDULE**

### **PART 1**

Area of informal car parking/secondary entrance to former Our Ladys School, lying to the West of Shaw Road End Park, Broadway, Royton, Oldham, registered at HM Land Registry as part of title number MAN 264734.

### **PART 2**

Area of existing multi-use games area and older childrens playground to the North West corner of Shaw Road End Park, Broadway, Royton, Oldham registered at HM Land Registry under title number MAN 217310.

2

Reference Number:  
Case Number: C-495238

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## REPORT TO CHARITABLE TRUST COMMITTEE

# FORMER DSO BUILDING, ADJOINING LAND & PUBLIC CONVENIENCE BLOCK. HIGH CROMPTON PARK, ROCHDALE ROAD, SHAW.

**Nikolaj Dockree, Senior Consultant Surveyor, Unity Partnership  
Ex.4146**

**13<sup>th</sup> June 2019**

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### **Reason for Decision**

The purpose of the report is to:

- Provide the Charitable Trust Committee with an update in respect to an area of land and a building known as the Former DSO building.
- Seek Trustees approval for a further phase of works by the developer under a Licence to stabilise the building.
- Report details of the independent valuation for the Trust and Council Land
- Advise the Trust of the results of the advertisement for the land swap.

### **Recommendations**

It is recommended that the Charitable Trust Committee:

- Notes the findings of the independent valuation which has confirmed the value of both parcels of land and that the land offered to the Trust is of a greater value than the subject land.
- Notes the results of the Public Advertisement under Section 121 Charities Act 2011.
- Instructs officers to make an application to the Charity Commission for an order for the disposal of the charity land by means of a land swap with a connected person.
- Approves a further phase of works to the building by means of a licence for works

## **Land at High Crompton Park – (The former DSO Building)**

### **1. Background**

- 1.1. The former DSO Building is situated on the Charity Land edged blue on the plan appended to this report (Appendix 1).
- 1.2. The Parks Service currently uses the ground floor space in the DSO Building for the storage of equipment and materials, but this could possibly be relocated to the nearby compound.
- 1.3. Re-provision of the public conveniences within the DSO building would present an opportunity to prevent anti-social behaviour as well as drastically reducing the health & safety and insurance risks associated with such activity.
- 1.4. The DSO building is in a state of dilapidation albeit the developer has concluded roofing works as authorised by the Charitable Trust Committee in November 2018.

### **2. Current Position**

- 2.1. Oldham Council (in its statutory capacity) owns sections of the Park, as shown marked "OBC" on the plan in Appendix 2. It has come to light that part of the land being offered for sale by the Council, via a 250 year lease, happens to sit on Charitable Trust land and therefore requires the consent of the Charitable Trust Committee and the Charity Commission to dispose of the site.
- 2.2. The remainder of the Charity Land and the remaining Council Land would be unaffected by the proposal to dispose of the site.
- 2.3. Rather than making a financial payment to the Charitable Trust, the Council (in its statutory capacity) would like to enter into a land swap arrangement whereby, it would swap the Blue Land for the Green Land which, whilst forming part of the current park area, is not subject to the Charitable Trust. (See the plan at Appendix 2)
- 2.4. As such, the offer is one whereby, the Trust would swap the Blue Land, (measuring 320 sq.m or thereabouts), for the Green Land (measuring 566 sq.m or thereabouts).
- 2.5. An independent valuation was commissioned by the Charitable Trustees and undertaken by Breakey & Nuttall. This concluded that the Green Land (OBC) is valued at £14,000 and the Blue Land (Trust) is valued at £13,000. This provides the Trust with an increase in the value of its assets of £1,000.
- 2.6. The developer is seeking to undertake a further phase of works to continue to stabilise the building and ensure the internal accommodation is safe. At present the staircase and first floor is unsafe and requires further works to avoid deterioration or possible collapse.

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### 3. **Consultation**

- 3.1. A formal notice was published in the Manchester Evening News on the 5<sup>th</sup> March 2019 under section 121(2) Charities Act 2011. In parallel a public notice was placed in the park notice boards, as part of a formal public consultation process to consider whether to do nothing or swap the Blue Land with the Green Land.
- 3.2. In response to the above advert and public notices, the Council received no responses.

### 4. **Financial Implications**

#### 4.1. Revenue Comments

- 4.2. The purpose of this report is to engage with the Charitable Trust Committee with the proposal of a land swap.
- 4.3. The Council 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.

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]

#### 4.4. Capital Comments

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]

### 5. **Legal Services Comments**

- 5.1. 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.
- 5.2. The Council has sought an independent valuation of both of the sites to be exchanged and as such has followed the recommendation in the guidance.
- 5.3. The Council has also followed the guidance and conducted the statutory consultation process under Section 121 (2) Charities Act 2011. However, there have been no responses to the formal consultation exercise.
- 5.4. The Charitable Trustee Committee now needs to consider the outcome of the valuation exercise and the consultation process and if they decide that it would be in the best interests of the charitable trust to proceed with the disposal of the site, to instruct officers to request an order from the Charity Commission for the disposal of the charitable land. This is because the Council owns both the Blue Land and the Green Land (albeit in different capacities) which are both the subject

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of the proposed land swap and as such the Council would be making a disposal to a connected person which requires the permission of the Charity Commission. Elizabeth Cunningham Doyle]

6. **Co-operative Agenda**

7. None.

8. **IT Implications**

8.1. None.

9. **Property Implications**

9.1. All Property implications are covered in this report. [Roslayn Smith]

10. **Environmental and Health & Safety Implications**

10.1. None.

11. **Equality, community cohesion and crime implications**

11.1. None.

12. **Equality Impact Assessment Completed?**

12.1. No.

13. **Key Decision**

13.1. No.

14. **Key Decision Reference**

14.1. Not applicable.

15. **Background Papers**

15.1. None.

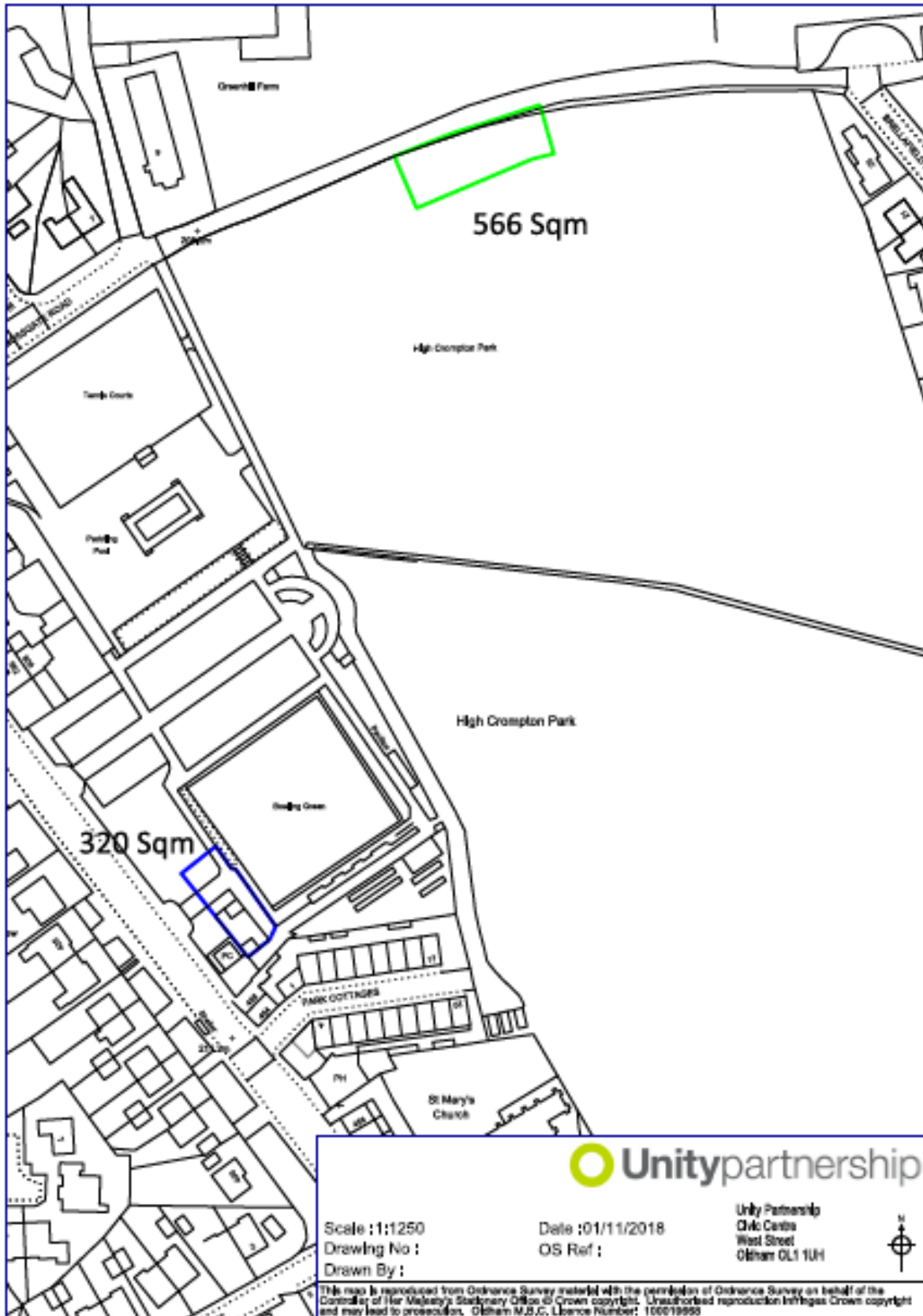
16. **Appendices**

16.1. Appendix One – Plan

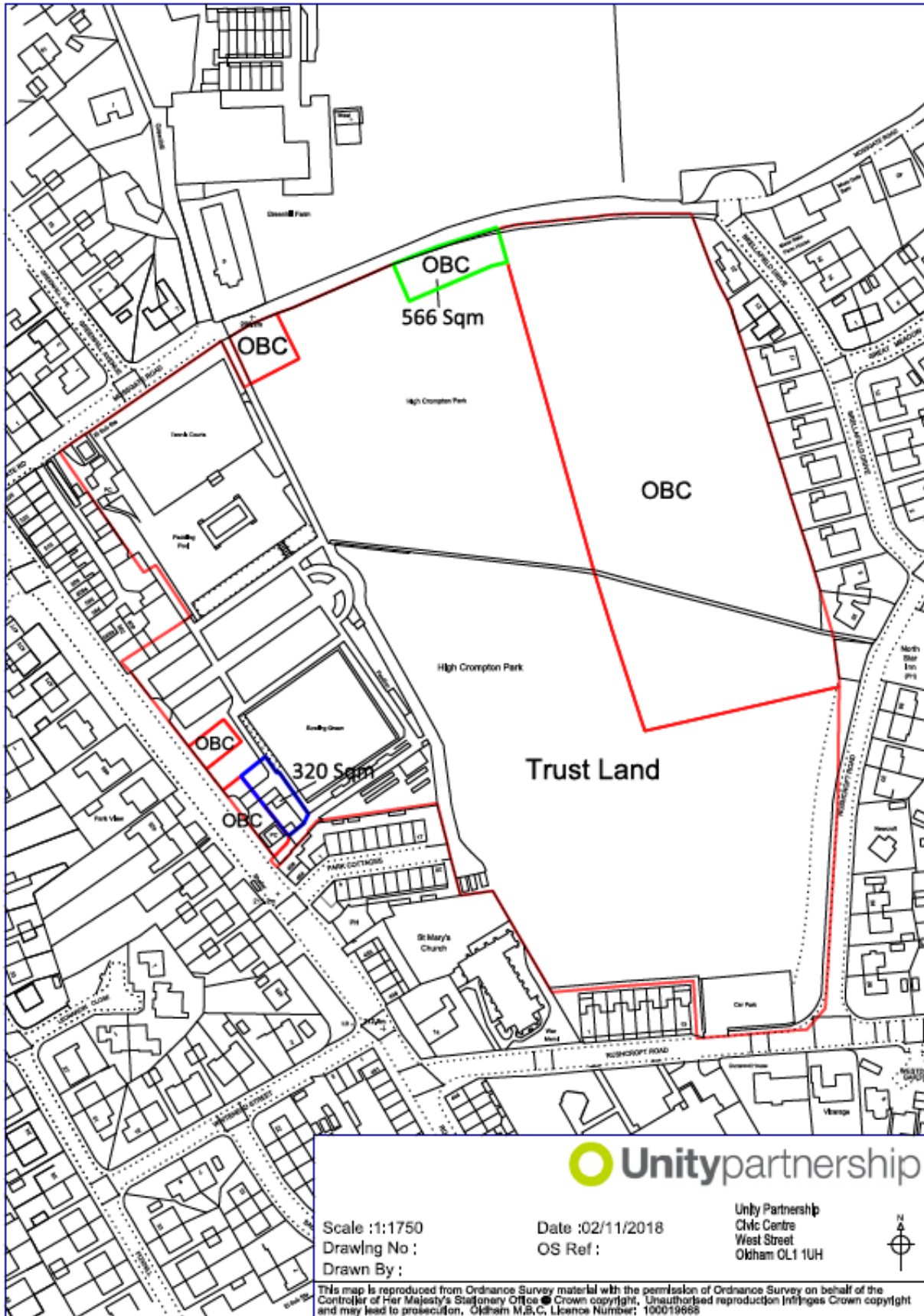
16.2. Appendix Two – Land Ownership – High Crompton Park

16.3. Appendix Three – Site Photographs

**Appendix One**



**Appendix Two**



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**Appendix Three**



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## **Report to Charitable Trust Committee**

# **Werneth Park Music Rooms**

**Officer Contact:** Bruce Penhale

**Report Author:** Zaiem Khan

**Ext.** 5162

**June 2019**

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### **Executive Summary**

To provide the Charitable Trust Committee with an update on the bid made to the Architectural Heritage Fund for a Project Viability Grant.

### **Recommendations:**

That the report be noted.

## **Werneth Park Music Rooms**

### **1 Background**

- 1.1 A briefing paper was circulated to the Charitable Trust Committee in January 2019 to authorise a bid to the Architectural Heritage Fund for a Project Viability Grant in order to engage professionals to undertake a Feasibility Study of Werneth Park Music Rooms.
- 1.2 A bid was submitted led by the Greater Manchester Building Preservation Trust, in partnership with Oldham Council.

### **2. Current Position**

- 2.1 The bid was successful and was awarded in April 2019 and has tight timescales for the project to complete 6 months from the award of the funds.
- 2.2 One of the requirements of the bid was that there needed to be engagement with local stakeholders from the community of Oldham, which due to timescales has mainly been done via email.
- 2.3 A brief (attached as Appendix 1) has been agreed for the Feasibility Study and specialist architects will be asked to provide tenders for consideration.

### **3. Feasibility Study**

- 3.1 The study will need to be completed and a report submitted by September 2019.
- 3.2 The scope of the study is described below:

To identify and secure a viable and sustainable use for the vacant Werneth Music Rooms building, which will contribute positively to the economic, social, and cultural regeneration of Werneth and the Borough of Oldham.

In order to achieve the above it will be necessary to commission a consultant to:

- produce an options appraisal and initial viability assessment.
- assess current physical condition of the buildings
- appraise options for the future of the building,
- look at developing ownership options
- consider models of community engagement

A key element will be to assess project viability through a 'viability appraisal' looking at both the costs and values of each option.

### **4. Consultation**

- 4.1 The Werneth ward Councillors and local community groups in Werneth have been updated about the project and asked for their input. The response has been supportive as they would like to see the Music Rooms regenerated.

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## **5. Financial Implications**

- 5.1 The cost of the feasibility study is expected to be £15,000. 40% of the costs i.e. £6,000 is being funded by the Greater Manchester Building Preservation Trust Limited/Architecture Heritage fund, who have provided a grant in order that the feasibility study is carried out. The balance of £9,000 will be met from the mainstream revenue budget of the Regeneration Team.
- 5.2 The Regeneration Team will commission the feasibility study, on behalf of the Council acting in its role as trustee of the Werneth Park Trust.

(Carl Holdaway - Accountant)

## **6. Legal Services Comments**

- 6.1 The Council acting in its capacity as a charitable trustee has positive duties to advance the objects of the charity. With the building in the state that it is, there is an argument to say that the Council is not discharging its duty to promote the purposes of the charity.
- 6.2 Therefore, the Members need to consider how best to advance in the objects of the charity in the light of the information provided in the report and any evidence to support an argument to say that the objects of the charity are no longer viable owing to the physical state of the building, the cost of repairs especially in the light of the specific conditions of the testator not to charge fees for music more than the cost of the cleaning and lighting.
- 6.3 The results of a feasibility study would assist the Members in considering the options available to them to widen the objects of the charity in readiness for any application to the Charity Commission for a Cy-pres scheme and or an order for sale of the premises.

(Elizabeth Cunningham Doyle)

## **7. Co-operative Agenda**

- 7.1 Not applicable

## **8. Human Resources Comments**

- 8.1 Not applicable

## **9. Risk Assessments**

- 9.1 [Reports should be forwarded where appropriate to the Head of Corporate Governance for comments. Matters should be discussed in advance of the report with the Head of Corporate Governance who will advise on the risk profile to the Council.]

## **10. IT Implications**

- 10.1 Not applicable

## **11. Property Implications**

- 11.1 There are no direct property implications arising from this report at this stage.

(Mark Elton)

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**12. Procurement Implications**

12.1 Not applicable

**13. Environmental and Health & Safety Implications**

13.1 Not applicable

**14. Equality, community cohesion and crime implications**

14.1 Not applicable

**15. Equality Impact Assessment Completed?**

15.1 Not applicable

**16. Key Decision**

16.1 Not applicable

**17. Key Decision Reference**

17.1 Not applicable

**18. Background Papers**

18.1 Not applicable

**19. Appendices**

19.1 Appendix 1 – Feasibility Study Brief

### **Werneth Park Music Rooms (Conservatory in the Park)**

#### **Project Viability Report/Appraisal – Brief**

##### **Background**

##### **GMBPT**

The Greater Manchester Building Preservation Trust (GMBPT) was registered as a Charity and Limited Company in 2004. Its aims are to restore buildings of architectural and historical interest (particularly those 'at Risk') in the ten Boroughs of Greater Manchester.

GMBPT is currently working in partnership with Oldham Council, acting as Charitable Trustee, and the Werneth Music Rooms Steering Group, to deliver the sustainable re-use of the Werneth Music Rooms (Werneth Park, Oldham). GMBPT wishes to commission a Project Viability Report/appraisal to investigate the feasibility of undertaking the repair, conversion and upgrading of these important buildings. It requires professional advice to assist in developing and appraising a set of options which will identify the most beneficial use of the building for the benefit of Oldham.

##### **Werneth Music Rooms**

Werneth Music Rooms is a complex of derelict Grade II Listed Buildings described as the 'Conservatory in the Park' on Historic England's Register under List Entry Number: 1201653. The buildings are located on the North Eastern edge of Werneth Park, adjacent to Frederick Street. The site is shown edged in red on the attached plan (see Appendix 1).

Designed in 1906 by Heywood and Ogden, for Sarah Lees, it was completed shortly after the demolition of the original house built by the Platt family in 1860 and many of the original features were salvaged following the demolition. It has strong local significance given its association with the Platt and Lees families.

The music room complex comprises 5 main elements:

- A single storey reception suite which is brick built with stone details, and has a flat roof over the perimeter spaces, with an octagonal slated roof over the principal reception area. The front elevation has a projecting portico with columns and pilasters and a parapet, flanking this are double height bays
- A double height rectangular auditorium which is brick built with a slate roof
- A glazed conservatory which fills the angle between the auditorium and the reception suite
- A glazed fernery to the immediate west of the conservatory
- To the rear of the auditorium are service areas including an entrance lodge, yards, and a boiler house

Werneth Park along with the Music Rooms was gifted to the Council on the 8th January 1936, by Dame Marjory Lees. The Council consequently holds the park and

its associated buildings in Trust and this is registered with the Charity Commission under Registered Number 521273 (described as Werneth Park).

A series of initiatives to restore and bring the buildings back into use were explored between 2002 and 2009 primarily under the Government's SRB6 initiative. Unfortunately, none of the initiatives resulted in grant funding being made available, primarily due to the country's economic circumstances and the withdrawal of major regeneration funding programmes. A feasibility study was commissioned in February 1996 for the Music Rooms (see Appendix 2). This study provides valuable background information regarding the building.

## **The Vision**

To identify and secure a viable and sustainable use for the vacant Werneth Music Rooms building.

In order to achieve the above it will be necessary to commission a consultant to produce an options appraisal and initial viability assessment. In addition to appraising options for the future of the building, it will also look at developing ownership options and undertaking models of community engagement.

Specifically, the work will involve assessing whether a proposed use for the building would be viable, by looking at a series of agreed options using a high-level semi structured approach used to appraise each option against criteria relating to Strategic Contribution, Financial Assessment, Deliverability, and Architectural Quality.

A key element will be to assess project viability through a 'viability appraisal' looking at both the costs and values of each option. As part of the project delivery element of the report, a Steering Group structure will be recommended, along with a sustainable Business Plan.

## **The Challenge**

Investment in the recreational facilities in the Werneth area is important to the quality and enjoyment of life of the residents. The area exhibits a series of challenging economic indicators in relation to both the Borough of Oldham and the UK.

According to the 2018 Werneth Ward Profile (Appendix 3), the area has:

- Very low employment figures, and high Out of Work Benefits being issued. The level of employment suggests a high level of economic inactivity.
- Very poor adult qualifications.
- A relatively high percentage (36.8%) of all adults do not have any qualifications.
- Residents with short life expectancy, which is one of the poorest in Oldham, coupled with the ward's high percentage of residents with Long term health issues, being amongst the highest statistics for the borough.

Community engagement will be key in providing a sustainable use for the building and surrounding area. The ideas of the community will form the basis for the

identification of the most appropriate options to be tested and will provide the baseline for further funding applications to implement the preferred solution.

### **Architectural Heritage Fund (AHF) Objectives**

As AHF is a co-funder of this commission, the project will need to meet the AHF objectives relating to supporting communities, attracting investment, start-up of new enterprises, and delivering a well-managed historic environment. The project viability report/appraisal will help deliver the AHF 'Theory of Change' model and provide benefits to the community through:

- Enabling the establishment of a formal legal structure for the Steering Group to access funding and undertake any other necessary legal agreements
- Development of a robust and self-sustaining business plan

When the Music Rooms were gifted to the Council as part of Werneth Park, the Council made a declaration to “preserve the same at all times hereafter as an open space to be known as Werneth Park for the recreation and enjoyment of the people of Oldham in such manner and subject to such regulations in all respect as the Council of the Corporation may from time to time think proper but so only such buildings may be erected thereupon as will add to the existing amenities of the said Park.”

Given this, the Council, acting as Charitable Trustee of the Trust, will need to be satisfied that any proposed new use of the Music Rooms fulfils this objective. If there are no viable options which would fulfil the objective, then the Trustees would have to consider an application to the Charity Commission for a Cy-pres scheme and or an order for sale.

### **Required Services**

GMBPT requires a Project Viability Report/Appraisal for the Werneth Music Rooms that:

- Identifies and assesses three detailed options for the sustainable end use of the buildings, which will form the basis for detailed discussions with the Local Planning Authority, Historic England, and any other relevant statutory and funding bodies (other rejected options should be listed and reasons given for their rejection);
- Assesses the financial and non-financial benefits of each of the options through Multi Criteria Analysis;
- Recommends a preferred option, and the provision of a more detailed costs and benefits report to support the preferred option;
- A delivery plan which would identify:
  - The likely sources of funds for the project, which will form the basis for discussions with principal funders to ascertain their conditions and timescales and the likelihood of assistance;
  - The long-term financial viability and sustainability of the buildings in relation to the proposed end use;

- A financial assessment of the proposal including a cash flow statement for the capital phase, showing an approximate working capital requirement, its cost and security; and
- An implementation strategy, setting out the next steps, and Partner responsibilities.

Importantly, the options produced need to be sustainable and economically viable, with the likely conservation deficit indicated for each option.

AHF has provided guidance on the format of the completed report/appraisal (see Appendix 4). The report/appraisal, therefore, needs to adhere to this guidance.

It is anticipated that in order to complete the requisite report/appraisal, the following services will be required:

- A lead conservation accredited architectural consultancy - given the important architectural status and challenges the buildings will present (an understanding of these issues is key);
- Valuation expertise - to assess the end value of each of the presented options and details of the preferred option, for input into development appraisals;
- Cost consultancy services - to identify the costs of the presented options for input into development appraisals; and
- Business planning consultants - to produce a business plan for the preferred option.
- Other professionals that are deemed necessary for the report/appraisal.

## Budget

A maximum of £15,000 has been put aside for this commission.

**Programme:** It is anticipated that the Report/Appraisal will be completed within 2 months of appointment. A draft report will be required prior to this deadline for review and comment by the AHF. The conclusions and recommendations will also need to be agreed between the Steering Group, the Trustees of the Music Rooms and the lead professional for distillation into the final report.

## Timetable

Key Tasks	Date to be completed by
Tender documents circulated	14 June 2019
Tender Return Date	28 June 2019
Evaluation of Responses	3 Jul 2019
Preferred consultant selection / notification (including notification & feedback to unsuccessful consultants)	4 Jul 2019
Award of Commission	8 July 2019



Commencement of Commission	10 July 2019
Draft report submitted for review	21 Aug 2019
Final report submitted	6 September 2019

## Reporting

The lead professional appointed will be required to liaise with and report regularly to John Miller ([john.miller@htnw.co.uk](mailto:john.miller@htnw.co.uk)) of the GMBPT, and Brian Enright ([brian.enright@oldham.gov.uk](mailto:brian.enright@oldham.gov.uk)) of Oldham Council. When the appraisal report is available in draft, the professional team will be required to present the findings to GMBPT, and representatives from Oldham Council, the Steering Group and Trustees of the Music Rooms.

## Access

Arrangements should be made through Mark Elton at Oldham Council on 0161 707 1443.

## Presentation of information

All rights, including copyright to the detail of the designs, including recommendations and costs, whether in writing or electronic form, must be assigned to the Greater Manchester Building Preservation Trust and Oldham Borough Council at the final report stage. Intellectual copyright will remain with the original author. 5 copies of the final report and appendices should be provided in both electronic and bound hard copy A4 format with reduction drawings bound into the document. Hard copies of your submission should be sent to:

Greater Manchester Building Preservation Trust

The Edgar Woods Centre

Long Street Methodist Church

Lever Street

Middleton

M24 5UE

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**FOR PUBLICATION**



**Report to CHARITABLE TRUST COMMITTEE**

## **146 Werneth Hall Road, Werneth**

**Officer Contact:** Bruce Penhale

**Report Author:** Zaiem Khan  
**Ext.** 5161

**13 June 2019**

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### **Reason for Report**

To provide the committee with an update on the consultation undertaken as advised by the Charity Commission.

### **Recommendation**

To note the report.

**146 Werneth Hall Road, Werneth**

**1 Background**

1.1 146 Werneth Hall Road is a former residential property which was gifted to the Council by Sarah Lees by a deed dated 8<sup>th</sup> January 1914 with the specific request that it be “assured as a site for a school for the teaching of housewifery and other domestic tasks”. A decision is now required regarding the future of the property particularly in light of the charitable use contained within the Council’s title to the property.

1.2 At the last meeting of the Council’s Charitable Trust Committee which took place on 26<sup>th</sup> November 2018:

*“consideration was given to a report which provided an update, following an informal approach to the Charity Commission, to advise of positive discussions with Action Together who had confirmed a willingness to work with the Council for a targeted public consultation to be undertaken to ascertain where funds from a future sale of the property could be distributed. The Charity Commission had confirmed that the approach, if adopted, would not be inconsistent with the provisions of Section 67 of the Charities Act 2011 and provided guidance as to how the consultation should proceed. If the consultation proceeded with the Commission’s directions and provided clear research of evidence and need, and compatibility amongst local charities, there was every expectation that the Council would grant a scheme which provided a power of sale to allow the distribution of proceeds from a future sale of the property.*

*The Committee was asked to consider the response from the Charity Commission, and if satisfied, proceed to instruct officers to commence a formal targeted consultation exercise and report back to the Committee on the outcome of the consultation process in due course. Consultees included Action Together and the Oldham Interfaith Forum and others. Members also suggested Oldham Youth Council and Uniformed Organisations for engagement with young people.*

*RESOLVED that officers be authorised to carry out a consultation exercise on behalf of the Charitable Trustees of 146 Werneth Hall Road on the proposal to widen the objects of the charity to include:*

***“To advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health.”***

**2 Current Position**

2.1 The requisite consultation took place from 4th March 2019 to 3<sup>rd</sup> June 2019. A specific email address was set up for the purpose of the consultation to receive responses.

2.2 The consultation form was sent out via email to organisations and individuals through the following methods:

- Voluntary and Community Sector organisations and charities in Oldham via ActionTogether (local support organisation for the sector)
- Faith sector through Oldham Interfaith Forum

- Children and young people through Oldham Youth Council and Mahdlo (local youth works organisation)
- Oldham Historical Research Group and researchers via the Oldham Council Archives service
- Ward Councillors and West Oldham District Executive

2.3 Reminders were sent out encouraging people to take the opportunity to provide feedback via the consultation form.

2.4 At the close of the consultation 4 responses were received.

### 3 Consultation Feedback

3.1 Feedback was provided by return of a completed form responding to the following questions:

Whether the respondent agreed that the previous charitable objectives were outdated

If the respondent agreed with the proposed new objectives

If the respondent didn't agree with the proposed new objectives

Respondents were given the choice to suggest new objectives

Space was provided on the form for any further comments.

3.2 All respondents were in agreement that the previous charitable objects of a place "assured as a site for a school for the teaching of housewifery and other domestic tasks" were outdated.

3.3 All responses were in favour of widening the objectives from a school for housewifery to ***"To advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health."***

3.4 However, one response suggested that the suggested charitable objectives be extended with the following wording:  
and or merge with current objectives to specifically support women and children services in the area.

3.5 The consultation form gave people the opportunity to make any other comments:  
The following comments were made:

"Oldham Youth Council have seen issues around homelessness and knife crime rise for young people. Would the change of objective allow for work in these issue areas? If so we would love opportunity to work with the trust to help young people in Oldham."

"The building is now, no longer used & therefore should be offered to wider community to utilise, either by way of sale or lease."

"As an interested stakeholder in this premise please keep me informed and up to date with any changes or proposed letting/sale of these premises. We are a not for profit Charity in Oldham that already work with local families on social and educational issues and would seek to accommodate further families by use of this space. We are able to fulfil the charitable objectives proposed and would look to use this space to continue as a Trust to the local borough."

Could Good Interfaith Relation Building be added to the objective of the charity.

---

## 4 Recommendations

- 4.1 To note the consultation exercise which has not returned any objections although the response rate was low. The comments provided do not contradict or oppose the proposed new objects but offer suggestions to widen the proposed objectives of the charity.
- 4.2 The Charitable Trust Committee is asked to:
- consider the outcome of the consultation process and in the light of the comments and feedback received to resolve that a cy-pres scheme application should be made to the Charity Commission to change the objectives below as follows and to include any broader objectives which it thinks appropriate:  
“To advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health.”
  - To give an explanation for its decision in the light of the legal comments below.
  - To authorize officers to make the application to the Charity Commission for the Cy-pres scheme to widen the objectives of the charity and to apply for a waiver from issuing a public notice in additions to the advertisement for sale.

## 5 Financial Implications

- 5.1 There are no capital finance implication at this time, only staff time in undertaking the necessary application for the cy-pres scheme. Further financial comments will be added to a future report following the consultation.

(Jit Kara)

## 6. Legal Services Comments

- 6.1 Legal Services have been in consultation with the Charity Commission at the behest of the Charitable Trust Committee and have received a comprehensive response from Mr Tim Reese at the Charity Commission who has confirmed the advice given in his letter of 20<sup>th</sup> June 2018 a copy of which is appended to this report at Appendix 2.
- 6.2 In his letter he confirms that he is satisfied that the criteria for making a Cy-pres Scheme under Section 62 Charities Act 2011 are met.
- 6.3 In the accompanying email dated 22<sup>nd</sup> October 2018 (see Appendix 3) the Charity Commission has indicated that it may be willing to grant a Cy-pres scheme provided the trustees follow the advice given in its letter of 20<sup>th</sup> June. The Commission has also suggested some widened objects for the charity. However, the Commission expects trustees to have carried out a consultation exercise appropriate to the situation to help inform their decision making as to whether or not the new purposes are appropriate.
- 6.4 The Trustees are now invited to consider the outcome of the consultation exercise and to make a decision with regard to the proposed objectives for the charity in the light of the responses received. In making its decision the Trustees should explain how the revised objectives relate to the three considerations below namely:
- The spirit of the original gift
  - The desirability of providing the new purposes that are closest to the original and

- 
- The necessity for the new purposes to be suitable and effective in light of current social and economic circumstances.
  - Whether the Trustees believe the scheme to be controversial.

6.5 Once the Trustees have made a resolution in relation to the proposed objectives they should then consider authorizing officers to make an application to the Charity Commission for a Cy-pres scheme to widen the objectives of the charity and at the same time make an order for the disposal of the premises.

6.6 Normally the Charity Commission would not consider an application for a power of sale to be included with the Cy-pres scheme unless a public notice of the proposed disposal had been published in addition to advertising the property for sale in order to obtain the best price. However, the Charity Commission may consider waiving this requirement upon request in writing if it considers that there has already been public discussion of the proposed disposal. Therefore, the Trustees are invited to authorize Officers to make an application in writing to waive the requirement for a further public notice in addition to any advertisement for sale.

(Elizabeth Cunningham Doyle)

## 7. **Co-operative Agenda**

7.1 Not applicable

## 8 **Human Resources Comments**

8.1 Not applicable

## 9 **Risk Assessments**

9.1 None

## 10 **IT Implications**

10.1 Not applicable

## 11 **Property Implications**

11.1 There are no immediate property implications arising from the content of this report.  
(Mark Elton)

## 12 **Procurement Implications**

12.1 Not applicable

## 13 **Environmental and Health & Safety Implications**

13.1 Not applicable

## 14 **Equality, community cohesion and crime implications**

14.1 Not applicable

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15 **Equality Impact Assessment Completed?**

15.1 Not applicable

16 **Key Decision**

16.1 Not applicable

17 **Key Decision Reference**

17.1 Not applicable

18 **Background Papers**

18.1 Report to the Charitable Trustees Committee meeting – 19<sup>th</sup> September 2017.

18.2 Report to Charitable Trust Committee meeting – 26<sup>th</sup> November 2018

19 **Appendices**

19.1 Appendix 1 Consultation Form



## Trust of Mrs Sarah Anne Lees – 146 Werneth Hall Road

### Public Consultation



#### **Background:**

146 Werneth Hall Road was gifted to the people of Oldham in perpetuity by Sarah Anne Lees in 1914. The original purpose set out in the charitable gift was that the building was to be used for the teaching of housewifery for local people.

The Charitable Trusts Committee has held the building in Trust on behalf of the original charity and now due to its condition are considering selling the building. The sale value of the building would then be held by the Charitable Trust Committee to distribute for the purpose of the charitable gift.

#### **The Proposal**

As the original charitable objectives are outdated the Charitable Trust Committee has approached the Charities Commission to widen the objectives from a school for housewifery to

*" To advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health".*

#### **Purpose of the consultation**

As key local stakeholders you are being consulted on the proposed changes to the charitable objectives of the original gift of 146 Werneth Road.

# Trust of Mrs Sarah Anne Lees – 146 Werneth Hall Road

## Public Consultation

### Stakeholder Feedback

Please can you provide a response to the question below by either deleting Yes or No:

The original charitable objectives of a school for housewifery are outdated and should be changed **Yes / No**

Please would you highlight your most appropriate response and provide any further comments that you may have about the proposal to widen the objectives of the charity to the following:

" To advance the education of the public by grant funding charities offering training and learning in the life skills necessary to manage financial hardship, social or economic deprivation, social exclusion or poor mental or physical health".

1. I agree with the proposal to change the charitable objectives
2. I **do not** agree with the proposal to change the original charitable objectives
3. I feel the charitable objective should be changed

to \_\_\_\_\_  
\_\_\_\_\_

Other comments:

Please email completed forms to: [146WernethHallRd@oldham.gov.uk](mailto:146WernethHallRd@oldham.gov.uk)

For further information please call 0161 770 5162

Closing Date for responses is Monday 3<sup>rd</sup> June 2019



## **Report to CHARITABLE TRUST COMMITTEE**

### **Consultation with regards to Charitable Use of Lees Recreation Ground within the Snipe Clough area**

**Officer Contact:** Rebekah Sutcliffe, Strategic Director of Reform

**Report Author:** Anna da Silva, Project Director, Northern Roots  
**Ext.** N/A

**13<sup>th</sup> June 2019**

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#### **Reason for Decision**

The land which is the subject of charitable trusts is no longer being used as a recreational ground for secondary school pupils or other school pupils. Permission is sought to carry out a consultation exercise with the public to ascertain whether or not there is interest in broadening the scope of the charitable objectives to ensure the charitable use of the land in question.

#### **Recommendations**

Authorize officers of the Council to conduct a consultation exercise to seek feedback from the public on the possibility of extending the objectives of the :Lees Recreation Ground charity.

## **Consultation with regards to Charitable Use of Lees Recreation Ground within the Snipe Clough area**

### **1 Background**

- 1.1 The Northern Roots project is a proposal to develop the UK's largest urban farm and eco-park, on 160 acres of land at Snipe Clough, immediately adjacent to the Alexandra Park depot. Northern Roots presents a significant opportunity to further develop and establish Oldham as a green and growing town for the benefit of residents, Greater Manchester and beyond.

More work is needed to further develop ideas and interest in the project, as well as identifying sites and opportunities for events, investment and activities. Getting communities involved is key to the success of this project as well as seeking engagement and interest from other organisations, investors and experts.

### **2 Current Position**

- 2.1 Within the Northern Roots project, work is ongoing to clarify the position with regards to land title and permissions, and implications for developing facilities and activities on Snipe Clough. The process of setting up a Northern Roots Charitable company is underway. Conversations have been initiated with potential funders and supporters, and planning is underway for community and stakeholder engagement, and for the delivery of early stage pilot projects.
- 2.2 Within the context of this exploratory work, the project team has become aware of the fact that an area of land within the proposed Northern Roots site, identified on the appended H.M Land Registry Plan, is subject to a charitable covenant requiring it to be used for purposes of secondary school recreational activities. The land in question known as Lees Recreation Ground was subject to a charitable endowment registered with the Charity Commission on 26<sup>th</sup> May 1911 to be used exclusively for any secondary or other school or schools. The land is no longer being used for the designated purposes owing to the fact that there is no longer a secondary school adjacent to the land in question and the primary school adjacent to Snipe Clough has its own recreational land.
- 2.3 The Northern Roots project team is, therefore, requesting permission from the Charitable Trust Committee to conduct a consultation exercise with local communities and stakeholders with a view to possibly widening the objectives of the charitable use of this parcel of land and at the same time considering whether or not to swap the location of the land to a more accessible/suitable location within the proposed Northern Roots site.

### **3 Options/Alternatives**

- 3.1 N/A

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#### 4 **Preferred Option**

4.1 N/A

#### 5 **Consultation**

5.1 The project team is seeking permission to carry out a consultation exercise about the possibility of updating the charitable purposes for the parcel of land in question and considering the options for repositioning the site within the Northern Roots project boundary.

#### 6 **Financial Implications**

6.1 A budget has been established to progress the project through feasibility of £705k. This is across financial years 2019/20 and 2020/21 with the first allocation being £365k.

6.2 There is an allocation within each year for community engagement and events of £25k. All costs for consultation discussed in this report can be incurred through this budget line.

(Sam Smith)

#### 7 **Legal Services Comments**

7.1 The Council has received the following advice from the Charity Commission in relation to applying for a Cy-pres scheme to widen the objectives of the charity.

“In altering the purpose of a charity by a scheme the steps to be followed are set out in the Charities Act 2011. In summary, it is necessary to :

- Firstly identify the circumstances that make it necessary to alter the present purposes and ensure they meet the criteria for making a scheme; and
- Secondly, consider the similar purposes that the charity should now have – that is the use to which the charity’s property might now be put.
- Consult with stakeholders and consider the results if this has not already been done and make any necessary modification to the proposals.”

The Guidance from the Charity Commission explains that the Commission “expects Trustees to carry out a consultation exercise to consider whether any new purposes align with the spirit of the original gift, the desirability of providing new purposes that are close to the original and the necessity for the new purposes to be suitable and effective in light of current social and economic circumstances.”

The Guidance explains that the Commission “expects trustees to have carried out appropriate consultation to help inform their decision-making regarding whether any of the criteria for making a scheme have been met and if so what new purposes are appropriate. The consultation would need to be appropriate to the situation.”

The Northern Roots project is planning to consult on the ambitions of the project over the summer period and it was felt that it would be appropriate to use this opportunity to consult members of the public on widening the objectives of the charity at the same time to ascertain whether or not there is public interest in broadening the objective so that the land in question can be fully utilized in line with the spirit of the gift. ( Elizabeth Cunningham Doyle)

- 
8. **Co-operative Agenda**
- 8.1 N/A
- 9 **Human Resources Comments**
- 9.1 None
- 10 **Risk Assessments**
- 10.1 None
- 11 **IT Implications**
- 11.1 None
- 12 **Property Implications**
- 12.1 The land is not currently in use, or under active management. The proposal is the broaden access to the land, and increase its use for the benefit of the residents in the borough of Oldham. (Roger Frith)
- 13 **Procurement Implications**
- 13.1 None
- 14 **Environmental and Health & Safety Implications**
- 14.1 None
- 15 **Equality, community cohesion and crime implications**
- 15.1 Any potential implications, and mitigations for those implications, will be explored through the consultation about the charitable use of the land in question. The objective is to broaden access to and use of the land, and reduce anti-social behaviour.
- 16 **Equality Impact Assessment Completed?**
- 16.1 No
- 17 **Key Decision**
- 17.1 No
- 18 **Key Decision Reference**
- 18.1 N/A
- 19 **Background Papers**
- 19.1 None
- 20 **Appendices**
- 20.1 Title Deed for the land in question

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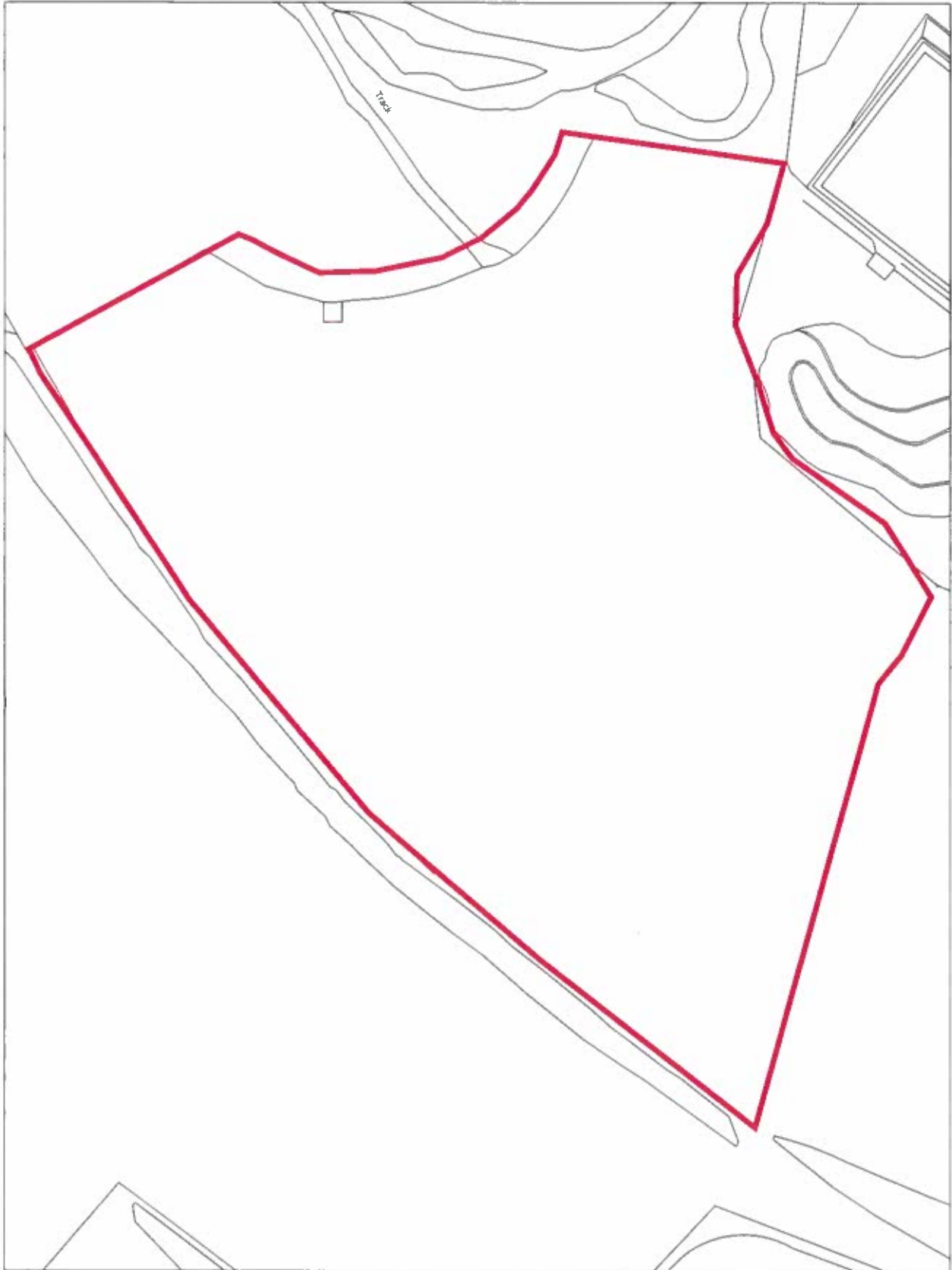
20.2 Charity commission order with regards to the land in question

20.3 Covenant agreement setting out the conditions on the usage of the land in question.

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# 1911 Assignment



Drawn by:	JW
Division:	
Drawing No:	
Date: 10:01:19	Scale: 1:1250

Oldham Council  
 Civic Centre  
 West Street  
 Oldham  
 OL1 1UT





OLDHAM BC  
CIVIC CENTRE PO BOX 33 OLDHAM  
710000



Date  
13 February 2019

Your ref  
1911

Our ref  
RCS/MAN331886

## Completion of registration

Title number                   **MAN331886**

Property                         **land lying to the east of Brook Lane,  
Oldham**

Registered proprietor   **Oldham Borough Council**

Your application lodged on 12 February 2019 has been completed. An official copy of the register is enclosed together with an official copy of the title plan.

The official copy shows the entries in the individual register of title as at the date and time stated on it. You do not need to reply unless you think a mistake has been made in completing your application.

An owner's property is probably their most valuable asset so it's important to protect it from the risk of fraud. Please read our property fraud advice at [www.gov.uk/protect-land-property-from-fraud](http://www.gov.uk/protect-land-property-from-fraud)

### **Important information about the address for service**

If we need to write to an owner, a mortgage lender or other party who has an interest noted in the register, we will write to them at their address shown in the register. We will also use this address if we need to issue any formal notice to an owner or other party as a result of an application being made. Notices are often sent as a safeguard against fraud so it is important that this address is correct and up-to-date. If it is not, the property owner or other party may not receive our letter or notice and could suffer a loss as a result.

Up to three addresses for service can be entered in the register. At least one of these must be a postal address, but this does not have to be in the United Kingdom; the other two may be a DX address, a UK or overseas postal address or an email address.

Please let us know at once of any changes to an address for service.

For information on how a property owner can apply to change their contact details or add an address, please see [www.gov.uk/government/publications/updating-registered-owners-contact-address](http://www.gov.uk/government/publications/updating-registered-owners-contact-address) on GOV.UK (or search for "COG1") or contact HM Land Registry Customer Support (0300 006 0411) (0300 006 0422 for Welsh speakers service) from Monday to Friday between 8am and 6pm.

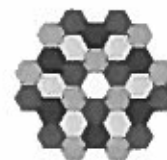
If you require this correspondence in an alternative format, please let us know.

HM Land Registry  
Fylde Office  
PO Box 75  
Gloucester  
GL14 9BD

DX 321601 Gloucester 33

Tel 0300 006 0411  
fylde.office  
@landregistry.gov.uk

[www.gov.uk/land-registry](http://www.gov.uk/land-registry)



# Official copy of register of title

Title number MAN331886

Edition date 12.02.2019

- This official copy shows the entries in the register of title on 13 February 2019 at 08:08:33.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 13 February 2019.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title, see [www.gov.uk/land-registry](http://www.gov.uk/land-registry).
- This title is dealt with by HM Land Registry Fylde Office.

## A: Property register

This register describes the land and estate comprised in the title.

GREATER MANCHESTER : OLDHAM

- 1 (12.02.2019) The Leasehold land demised by the lease referred to below which lies within the area shown edged with red on the plan of the above Title filed at the Registry and being land lying to the east of Brook Lane, Oldham.
- 2 (12.02.2019) The mines and minerals excepted by the Lease are excluded from this registration.
- 3 (12.02.2019) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:
  - Date : 1 December 1908
  - Term : 999 years from 1 November 1908
  - Parties : (1) The Reverend Walter Muirhead Hope
  - (2) The Ecclesiastical Commissioners For England
  - (3) The Reverend Frederic Wilson Cooper
  - (4) Charles Collinge Spencer

NOTE: The lease comprises also other land.
- 4 (12.02.2019) The land has the benefit of any legal easements granted by a Assignment of the land in this title dated 21 February 1911 made between (1) Sam Whitehead and James Whitehead (2) Charles Collinge Spencer (3) Edward Trustram (4) Sarah Anne Lees and Marjory Lees and (5) Oldham Corporation.

NOTE: Copy filed.

## B: Proprietorship register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title good leasehold

- 1 (12.02.2019) PROPRIETOR: OLDHAM BOROUGH COUNCIL of PO Box 33, Civic Centre, West Street, Oldham OL1 1UL.
- 2 (12.02.2019) RESTRICTION: No disposition by the proprietor of the registered estate to which section 117-121 or section 124 of the Charities Act 2011 applies is to be registered unless the instrument contains a certificate complying with section 122(3) or section 125(2) of that Act as appropriate.

## C: Charges register

This register contains any charges and other matters that affect the land.

- 1 (12.02.2019) The land is subject to any rights that are reserved by the registered lease dated 1 December 1908 and affect the registered land.

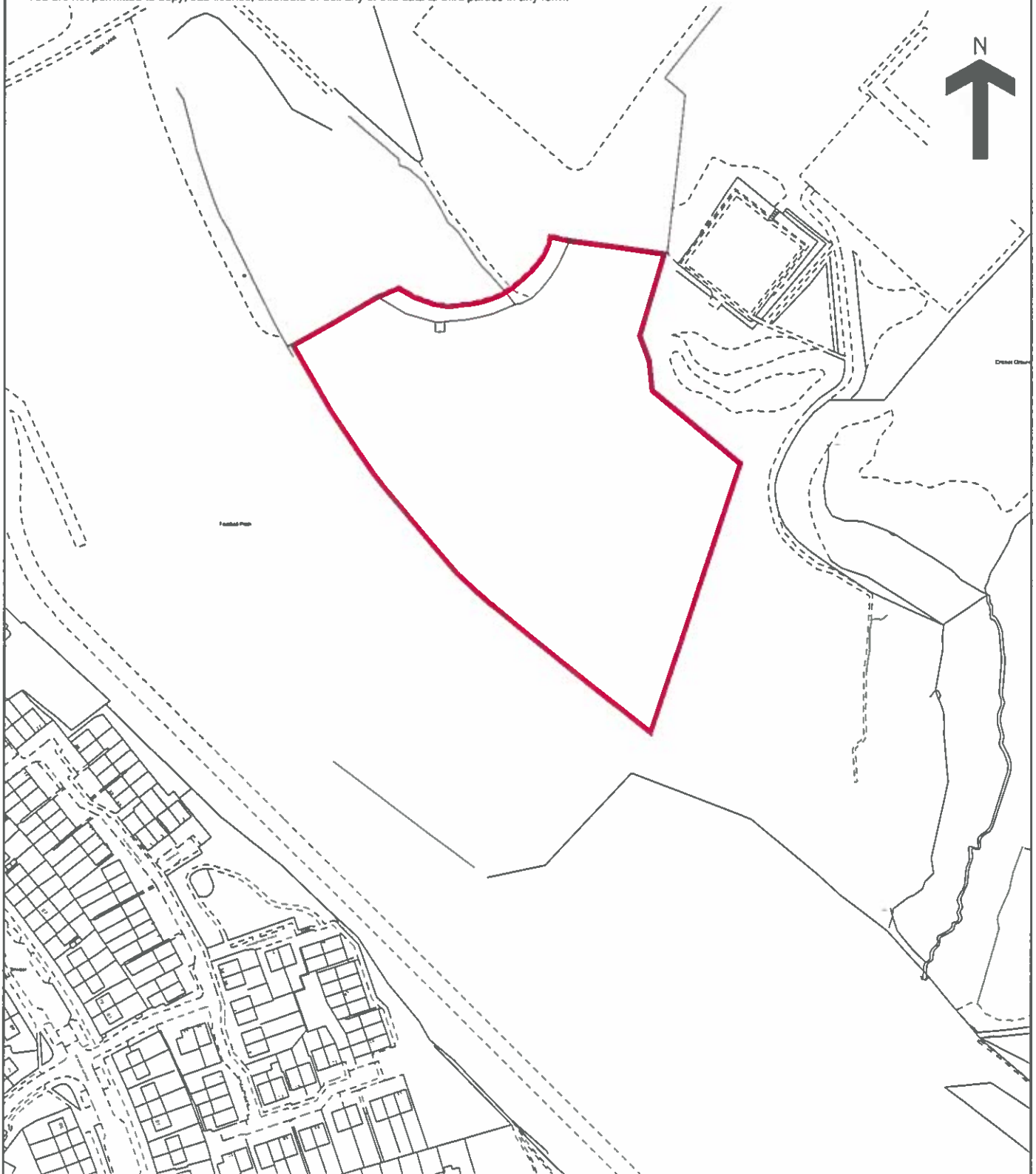
## End of register

HM Land Registry  
Official copy of  
title plan

Title number **MAN331886**  
Ordnance Survey map reference **SD9303NE**  
Scale **1:2500** reduced from 1:1250  
Administrative area **Greater Manchester: Oldham**



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**This official copy issued on 13 February 2019 shows the state of this title plan on 13 February 2019 at 08:22:18.**

It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

**This title is dealt with by HM Land Registry, Fylde Office.**

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Sealed 26th May 1911.

1566.  
11

County - LANCASTER.  
Ancient Parish - PRESTWICH.  
County Borough - OLDHAM.  
Charity - RECREATION GROUND FOR  
SECONDARY SCHOOLS.

B.  
79,392.

Order under Board of Education Act,  
1899, s.2(2), determining Educa-  
tional Endowment.

C H A R I T Y C O M M I S S I O N .

In the Matter of the Charity known as The RECREATION GROUND  
FOR SECONDARY SCHOOLS, in the County Borough of OLDHAM,  
in the Ancient Parish of PRESTWICH, in the County of  
LANCASTER, founded by Deed of 21st February 1911;  
In the Matter of "The Board of Education Act, 1899;" and  
In the Matter of "The Charitable Trusts Acts, 1853 to 1894."

THE BOARD OF CHARITY COMMISSIONERS FOR ENGLAND AND  
WALES, in execution of the provisions of the Board of Educa-  
tion Act, 1899, s.2(2):

DO HEREBY ORDER AND DETERMINE that, if and so long as  
the Recreation Ground, in the judgment of the Board of  
Education, continues to be used exclusively for any Secondary  
or other School or Schools, the whole of the endowment of  
the above-mentioned Charity is held for, or ought to be  
applied to, educational purposes.

Sealed by Order of the Board this 26th day of  
May 1911.



*Henry W. T. Bowyer*

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*Secretary.*

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T H I S A G R E E M E N T is made the *third* day of *June* One thousand nine hundred and thirty eight BETWEEN MARJORY LEES of "Westholme" Newport Street Werneth in the COUNTY BOROUGH OF OLDHAM (hereinafter called "the Donor") of the one part and the MAYOR ALDERMEN AND BURGESSES OF THE COUNTY BOROUGH OF OLDHAM (hereinafter called "the Corporation") of the other part WHEREAS by an Assignment dated the twenty first day of February One thousand nine hundred and eleven made between SAMUEL WHITEHEAD and CHARLES WHITEHEAD of the first part, CHARLES COLLINGE SPENCER of the second part, EDWARD TRUSTRAM of the third part SARAH ANN LEES and the Donor of the fourth part and the CORPORATION of the fifth part a plot of land situate at Nether Hey in Oldham aforesaid containing six acres or thereabouts was assigned <sup>unto</sup> ~~under~~ the Corporation for the residue then unexpired of a term of nine hundred and ninety nine years granted by a Lease dated the first day of December One thousand nine hundred and eight made between the Reverend Walter Muirhead Hope of the first part the Ecclesiastical Commissioners for England of the second part the Reverend Frederick Wilson Cooper of the third part and the said Charles Collinge Spencer of the fourth part WHEREAS the Corporation in the said Assignment covenanted with the said Sarah Ann Lees and the Donor and each of them that they the Corporation would use the land thereby assigned as and for a recreation ground for the Municipal Secondary School of the Borough of Oldham held at the Municipal School in Greengate Street Oldham or for any additional secondary

school or schools of a like character which might in the future be provided and maintained by the Corporation AND WHEREAS it was provided in the said assignment that the covenant therein contained for the use of the land thereby assigned as a recreation ground might be altered or varied during the joint lives of the said Sarah Ann Lees and the Donor and during the life of the survivor of them by Deed executed by the Corporation and by the said Sarah Ann Lees and the Donor or by the survivor of them provided that under such alteration or variation the land thereby assigned should be continued to be used as a recreation ground or playground for some specific or general purpose or purposes AND WHEREAS the said Sarah Ann Lees died on the fourteenth day of April One thousand nine hundred and thirty five AND WHEREAS the Board of Charity Commissioners on the twenty sixth day of May one thousand nine hundred and eleven ordered and determined that if and so long as the recreation ground comprised in the said assignment in judgement of the Board of Education continued to be used exclusively for any secondary school or schools the whole of the endowment of the said charity was to be held for and ought to be applied to educational purposes AND WHEREAS the Corporation as the Local Education Authority for the County Borough of Oldham being now desirous of using the said recreation ground for the use of the scholars of the elementary and secondary schools some of which are not schools provided and maintained by the

Corporation have requested the Donor to vary the covenant contained in the said assignment in manner hereinafter appearing which the Donor has agreed to do.

NOW THIS DEED WITNESSETH AS FOLLOWS :-

IN PURSUANCE of the said agreement and in consideration of the Premises the Donor hereby declares that the Corporation shall (notwithstanding any covenant contained in the said assignment) be at liberty to use the said piece of land comprised therein for the use of the use of the scholars of the said elementary and secondary schools or any other school or schools.

IN WITNESS whereof the Donor has hereunto set her hand and seal and the Corporation have caused their Corporate Seal to be hereunto affixed the day and year first before written.

Signed, Sealed and Delivered }  
by the said MARJORY LEES in }  
the presence of :-

*Marjory Lees.*

*H. m. Vigors.*  
*Withholding Sh.*  
*Newport St.*  
*(widow) Oldham.*

THE CORPORATE SEAL of the }  
Mayor Aldermen and Burgesses }  
of the County Borough of }  
Oldham was hereunto affixed }  
in the presence of :-

Town Clerk.

Dated 3<sup>rd</sup> June 1938

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MISS MARJORY LEES

and

THE CORPORATION OF OLDHAM.

— A G R E E M E N T. —

Relating to the variation  
and alteration of Conveyance.

T. Alker,  
Town Clerk,  
Oldham.

53239