

CHARITABLE TRUST COMMITTEE
Agenda

Date Wednesday 18 December 2019

Time 4.00 pm

Venue Lees Suite, 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 Sian Walter-Browne in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Sian Walter-Browne Tel. 0161 770 5151 or email sian.walter-browne@oldham.ov.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, 13 December 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 Urgent Business

Urgent business, if any, introduced by the Chair



- 3 Declarations of Interest

 To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.
- 4 Public Question Time

 To receive Questions from the Public, in accordance with the Council's Constitution.
- 5 Minutes of Previous Meeting (Pages 1 - 4)

 The Minutes of the meeting of the Charitable Trust Committee held on 5th September 2019 are attached for approval.
- 6 Former DSO Building, Adjoining Land & Public Convenience Block, High Crompton Park, Rochdale Road, Shaw. (Pages 5 - 12)
- 7 William Hague Trust - Update on the sale of the Hollies, Frederick Street, Werneth (Pages 13 - 20)
- 8 Werneth Youth Centre Asset 220 (Werneth Ward) (Pages 21 - 22)

- The Council is required to make up the deficit this year of £29,000, which is an increase of £1,237 compared to 2017/18. This is funded from the Councils Asset Management budget.
- The Trust has investments of £54,000 which are managed by the Council.

Options/Alternatives considered:-

- To approve the accounts as set out in Appendix A and make the appropriate annual submission to the Charity Commission by 31 January 2020.
- 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.

RESOLVED that the Trustees approved the Clayton Playing Fields Trust accounts for the year ended 31 March 2019.

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CONSULTATION WITH REGARDS TO CHARITABLE USE OF LEES RECREATION GROUND WITHIN THE SNIPE CLOUGH AREA

Consideration was given to a report of the Strategic Director of Reform which provided the Committee with an update on the consultation undertaken, as advised by the Charitable Trustees.

The Committee was informed that Lees Recreation Ground was gifted on 21st February 1911 between Samuel Whitehead and Charles Whitehead of the first part, Charles Collinge Spencer of the second part, Edwards Trustram of the third part, Sarah Ann Lees and the Donor, Marjory Lees of the fourth part and the Corporation of the fifth part.

A sealed order of the Charity Commission Board for the recreation ground for secondary schools was agreed on 26th May 1911, to continue to use Lees Recreation Ground exclusively for any secondary or other school or schools, the whole of the endowment to be applied to educational purposes. An amendment followed on 3rd June 1938, trusted to the Corporation that they would use the land thereby assigned for a recreation ground for the Municipal secondary School of the Borough of Oldham or for any additional secondary school or schools of a like character.

At its last meeting, the Committee granted permission to the Northern Roots project team to conduct a consultation exercise with local communities and stakeholders with a view to possibly widening the objectives of the charitable use of the Lees Recreation Ground land and to consider whether or not to swap the location of the land to a more accessible/suitable location within the proposed Northern Roots site.

The consultation took place from 24th June 2019 to 23rd August 2019 and three responses were received. One response ticked

the box for nature-based educational activities, but no further comments were provided. The other two responses ticked the box for a multi-functional use sports pitch and again no further comments were provided.

The Committee was informed that the Council had received written advice from the Charity Commission with regard to amending the objects of a charity.

The advice which was given was:

When deciding the new purposes of a charity the Trustees had to consider

- 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 Trustees of the charity were required to set out what they thought the new purposes of the charitable trust should be and explain how they related to the three considerations. The Trustees were required to provide minutes of the meeting at which these matters were considered and concluded.

The Charity Commission expected Trustees to have carried out an appropriate consultation exercise to help them inform their decision making regarding whether any of the criteria for making a scheme had been met and if so, what new purposes were appropriate. The advice went on to say that the consultation would need to be appropriate to the situation.

The advice listed what needed to be done namely:

- Consult with stakeholders and consider the results and make any necessary modification to the proposals.
- Pass a resolution at a meeting of the Trustees to formally apply for the scheme.

The Trustees were recommended consider the outcome of the informal consultation which had taken place in the light of the conditions and make a decision with regard to a proposal to widen the objectives of the Lees Recreation Ground which would form the basis for a formal consultation process as appropriate to the situation.

RESOLVED that:

1. The report and the outcome of the informal consultation process which has taken place to date with regard to the use of the Lees Recreation Ground be noted.
2. The proposal to widen the objects of the Lees Recreation Ground Trust to nature-based educational activities, as both close to and in the spirit of the original gift and in the light of current social and economic circumstances, be agreed.

3. Officers were instructed to carry out a consultation on the proposal to widen the objects of the Lees Recreation Ground Trust on behalf of the Trustees to nature-based educational activities and report back to the Trustees the outcome of the consultation process.

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146 WERNETH HALL ROAD, WERNETH

The Committee gave consideration to a report of the Director of Legal Services which provided an update on the consultation undertaken as advised by the Charity Commission.

The Committee was informed that 146 Werneth Hall Road was a former residential property which was gifted to the Council by Sarah Lees by a deed dated 8th 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”.

At the meeting of the Committee on 13th June 2019, the Committee authorised officers to make an application to the Charity Commission for a Cy-pres Scheme to widen the objects of the Sarah Lees Charity and to seek an order for sale of the premises known as 146 Werneth Hall Road.

The Charity Commission had considered the application and had provided a draft Cy-pres Scheme. The draft scheme authorised the sale of the premises, with a caveat that the net proceeds should be held upon trust as an endowment. This meant that the interest only on the capital investment could be distributed to further the objects of the Charity.

The proposed new objects of the Charity had been accepted by the Charity Commission as *“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 Committee was recommended to approve the draft Cy-pres scheme and authorise officers to proceed with a marketing exercise to sell the premises known as 146 Werneth Hall Road for market value once the scheme has been finalised by the Charity Commission.

RESOLVED that ;-

1. The draft Cy-pres scheme be approved
2. Officers be authorised to proceed with a marketing exercise to sell the premises known as 146 Werneth Hall Road for market value once the scheme has been finalised by the Charity Commission.

The meeting started at 6.00 pm and ended at 6.28 pm

Report to CHARITABLE TRUST COMMITTEE

Former DSO Building, Adjoining Land & Public Convenience Block, High Crompton Park, Rochdale Road, Shaw.

Portfolio Holder:

Cllr Ateeque Ur-Rehman

Cabinet Member for Neighbourhoods Services

Officer Contact: Nikolaj Dockree, Senior Consultant Surveyor, Unity Partnership Ex.4146

18th December 2019

Reason for Decision

The purpose of the report is to provide the Charitable Trust Committee with an update in respect of the application to the Charity Commission for an Order permitting the disposal of the subject land to the Council as a connected person.

Recommendations

It is recommended that the Charitable Trust Committee considers and approves the draft Order provided by the Charity Commission appended to this report.

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 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 1. 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 is not affected by the proposal to dispose of the site.
- 2.3. Rather than making a financial payment to the Charitable Trust, the Council acting in its statutory capacity would like to enter into a land swap arrangement with the Council acting in its capacity as a charitable trustee to swap the Blue Land for the Green Land which, whilst forming part of the current park area, is not subject to a Charitable Trust. (See the plan at Appendix 1)
- 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. Further to the meeting of the Charitable Trust Committee in June 2019 legal officers, acting on behalf of the Charitable Trustees, submitted an application to the Charity Commission for an Order for the disposal of the subject land to the Council as a connected person. The Charity Commission made some preliminary requisitions and subsequently drafted the Order permitting the land swap. The draft order is appended to this report at Appendix 2.
- 2.6. The Charitable Trust Committee is now requested to consider and approve the Order as drafted so that the purchaser of the DSO building can complete the renovation works to the building in order to open the premises as a Café/Eatery for the benefit of the general public.

3. Consultation

N/A

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.

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- 4.3. The Council does not hold revenue budgets for the asset and is not currently incurring expenditure on the asset. The asset is currently 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)

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 should follow any guidance published by the Charity Commission in seeking to dispose of any charity land. The Council followed the recommendations made in the guidance and sought an independent valuation of both sites to be exchanged and carried out a statutory consultation exercise.

- 5.2. At its meeting in June 2019, the Charitable Trustee Committee considered the outcome of the independent valuation exercise and the statutory consultation exercise and decided that it would be in the best interests of the charitable trust to proceed with the disposal of the site and to instruct officers to request an order from the Charity Commission for the disposal of the charitable land. This was because the Council owns both the Blue Land and the Green Land (albeit in different capacities) and as such, the Council would be making a disposal to a connected person which would require the permission of the Charity Commission.

- 5.3. Legal Services on behalf of the charitable trustees, applied to the Charity Commission for an Order for the disposal of the subject land to a connected person, namely the Council, and the Charity Commission has provided a draft Order for the Charitable Trustees to approve. A copy of the draft Order is appended to this report at Appendix 2

- 5.4. The Charity Commission requires confirmation of the formal approval of the draft Order by way of a resolution of the Charitable Trust Committee. (Elizabeth Cunningham Doyle)

6. **Co-operative Agenda**

7. None.

8. **IT Implications**

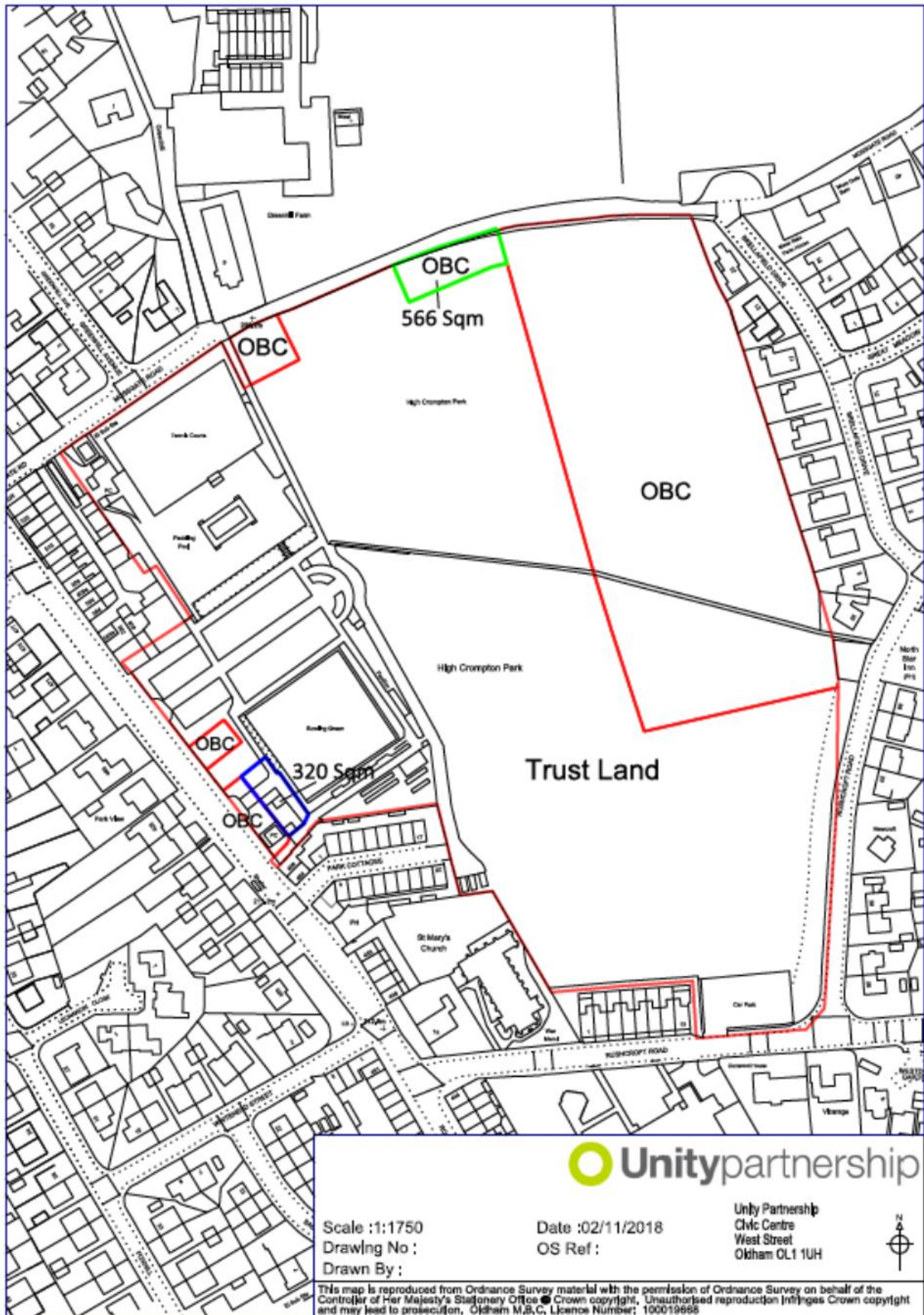
- 8.1. None.

9. **Property Implications**

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

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

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- 9.3. None.
 - 9.4. **Equality, community cohesion and crime implications**
 - 9.5. None.
 - 9.6. **Equality Impact Assessment Completed?**
 - 9.7. No.
 - 9.8. **Key Decision**
 - 9.9. No.
 - 9.10. **Key Decision Reference**
 - 9.11. Not applicable.
 - 10. **Background Papers**
 - 10.1. None.
 - 11. **Appendices**
 - 11.1. Appendix One – Plan
 - 11.2. Appendix Two - Order



**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

HIGH CROMPTON PARK TRUST

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

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

Land at High Crompton Park, Rochdale Road, Shaw, Oldham registered at HM Land Registry under title number MAN321088 which is subject to a deed of gift on part of the land including the subject land which totals 320 square metres.

PART 2

Land at High Crompton Park, Rochdale Road, Shaw, Oldham registered at HM Land Registry under title number MAN321088 which lies adjacent to the northern boundary of the park which is not subject to a deed of gift which totals 566 square metres.

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Report to Charitable Trustee Committee

William Hague Trust – Update on the sale of the Hollies, Frederick Street, Werneth

Report Author: Ben Hill – Principal Regeneration Officer
Ext. 5261

18 December 2019

Reason for Decision

To update the committee on the sale of 'The Hollies', Frederick Street, Werneth.

Recommendations

To note the progress made with regards to the sale of The Hollies to Greenstone Construction Ltd.

Update on the sale of 'The Hollies', Frederick Street, Werneth

1 Background

- 1.1 In August 2018 Charities Committee approved the sale of the Hollies to Greenstone Construction Ltd.
- 1.2 Progress in completing the legal agreement for sale proved to be slow and in November 2018 (Report attached at Appendix 1) the Charities Committee confirmed that they were satisfied to continue with the sale of the land to Greenstone Construction Ltd but if no substantial progress has been made by 31 December 2018, then the site to be re-marketed.
- 1.3 The Agreement for Sale was completed on 21 December 2018. Under the terms of this agreement Greenstone were required to pay £93,000 on exchange (21 December 2018), a further £183,000 by 21 December 2019 with the remainder (£640,500) by 21 June 2020 or within 5 days of receiving Planning Permission if that happens prior to this date.
- 1.4 The first payment has been made (£93,000) and Greenstone have confirmed that they are ready to make the second payment (£183,000) on time.

2 Current Position

- 2.1 Greenstone Construction Ltd have requested an extension of time for a further 6 months to make the final payment by 21 December 2020. They state that this is because of unforeseen issues on another site they are developing in Royton.
- 2.2 Greenstone claim the project has stalled due to promised funding from the Greater Manchester Housing Investment Fund being delayed which has had a knock effect for their plans for The Hollies. Officers are aware that there have been delays with their application the Housing Investment Fund which have now been resolved.

3 Options/Alternatives

- 3.1 Option 1 – Continue with the sale of the land to Greenstone Construction Ltd and grant an extension of time until 21 December 2020. This option would only be given if Greenstone pay the money due on 21 December 2019 on time.
- 3.2 Option 2 – Do not grant an extension of time. If Greenstone do not make the final payment, then the legal contract would be terminated. Greenstone would lose £93,000 and also the second payment of £183,000 (should this be received).

4 Preferred Option

- 4.1 Option 1 is the preferred option as Greenstone will have already paid a non-refundable amount of £93,000 with a further £183,000 due imminently which can be used for the purposes of the charity.
- 4.2 Re-marketing the site will take at least and another 6 months before legal completion is reached with a new purchaser and it will not necessarily provide a higher offer.

5 Consultation

- 5.1 The independent trustee is being consulted and his views will be tabled at the meeting. (Ben Hill)

6 **Financial Implications**

- 6.1.1 There are no capital implications arising from this report. Should the purchaser default and the asset remarketed, a further report will contain relevant financial implications. (Jit Kara)

7 **Legal Services Comments**

- 7.1 The legal comments in relation to the duties of a charitable trustee which can be found in the previous report in Appendix 1 to this report are still pertinent.
- 7.2 The current agreement does not allow for an extension of time and therefore the Council would need to enter into a variation to the agreement for sale with Greenstone ConstructionLtd to allow for this extension. (Elizabeth Cunningham-Doyle/Rebecca Butterworth)

Report to Charitable Trustee Committee

William Hague Trust – Update on the sale of the Hollies, Frederick Street, Werneth

Report Author: Ben Hill – Principal Regeneration Officer
Ext. 5261

26 November 2018

Reason for Decision

To update the committee on the sale of 'The Hollies', Frederick Street, Werneth.

Recommendations

To note the slow progress made with regards to the sale of The Hollies to Greenstone Construction Ltd.

Delegate authority to Officers to re-market the site in accordance with Charity Commission's Guidance in January 2019 if significant progress is not made by the end of the year.

Update on the sale of 'The Hollies', Frederick Street, Werneth

1 Background

- 1.1 The Hollies was a former Day Care Centre and has a gross site area of some 3.20 acres (2.5 acres net developable area). Since being vacated in 2005 the property has suffered extensive vandalism and more recently a fire
- 1.2 The premises are subject to a Trust (William Taylor Hague bequest) and OMBC is the Charitable Trustee. In 2011, at the instigation of the Charity Commission a board of trustees was established with representation from one member of the Council and representation from two independent trustees. This was because the Charity Commission was keen to ensure appropriate independence in the decision making of the trustees to ensure that there was no conflict of interest between the competing public interests of the Council carrying out its statutory functions and the Council acting as a charitable trustee. It was vital that the trustees acted according to the objects of the charity and in the interests of its beneficiaries and not in the broader interests of the residents of the borough of Oldham. The board of trustees met regularly to make decisions in relation to the trust's assets.
- 1.3 In June 2011 the Charity Commission approved the sale of The Hollies on the condition that the capital receipt should be distributed immediately to a charity or charities established for the relieving of the sick or of poverty.
- 1.4 Approval to market the property was originally obtained in October 2011 and approved marketing of the site jointly with the adjacent Woodbank Centre. After this exercise, both sites were subsequently sold separately to different purchaser.
- 1.5 A Contract to sell the Property was entered into in July 2012 to Kumar Zaman trading as Greenstone Construction Ltd. A condition of the sale was that Greenstone submitted a planning application for the redevelopment of the Property. However, this was never submitted and so in 2016, it was considered that Greenstone was in breach of the contract and the contract was terminated and the deposit of £42,500 was retained in in a separate trust fund accordance with the terms of the contract. .
- 1.6 The opportunity was re-marketed in line with Charity Commission's published Guidance for disposal of charitable land for a period of 8 weeks commencing on 30 May 2017 until 21 July 2017.
- 1.7 Greenstone Construction Ltd was selected as its bid provided the highest value for the site. A non – returnable deposit of 30% was also offered and bank statements showing proof of funds provided. The independent trustees also recommend the acceptance of the best and final offer from Greenstone Construction Ltd.

2 Current Position

- 2.1 The proposed disposal of the land was advertised via a Notice under S121 (2) Charities Act 2011. This is a public notice inviting representations from members of the public within the timescale prescribed which must not be less than one month from the date of the notice.
 - 2.2 The S121 Notice was placed on site and in the Manchester Evening News between 5th October and 6th November 2018. No representations or objections were received within the given time period
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- 2.3 Whilst progress with the sale of the property is being made negotiations have been slow. CPSE's and draft agreements have been issued and various queries around issues such as title and insurance clarified.
- 2.4 To date no firm commitment has been given to accept or sign the Heads of Terms. The most recent communication from the purchaser was to try to renegotiate the level of deposit from 30% to 5% and increase the long stop date from 9 months to 18 months for planning to be secured and all monies paid. This has been rejected and the purchaser was given until 16th November to inform us of his intentions to continue with the sale as per his offer.
- 2.5 It is proposed that if no substantial progress with the sale is made by end of the year, the site should be remarketed in accordance with the Charity Commission's published Guidance for disposal of charitable land in January 2019.

3 Options/Alternatives

- 3.1 Option 1 – Continue with the sale of the land to Greenstone Construction Ltd but if no substantial progress has been made by 31 December 2018, then the site to be re-marketed.
- 3.2 Option 2 – Re-market the site. Whilst progress with Greenstone and its solicitors has been slow, there has been correspondence and some progress. As such this option could be seen as being heavy handed.
- 3.3 Option 3 – Continue with the sale to Greenstone with no deadline set for substantial progress.

4 Preferred Option

- 4.1 Option 1 is the preferred option as re-marketing the site will take time and not necessarily provide a higher offer. The site was marketed widely last time with adverts placed in national media (Estates Gazette).

5 Consultation

- 5.1 Consultation has taken place with the board of trustees referred to in paragraph 1.2 above including the two independent trustees and their advice will be tabled at the meeting of the Charitable Trust Committee.

6 Financial Implications

6.1 Capital Implications

- 6.1.1 There are no capital implications arising from this report. Should the asset be remarketed, a further report will contain relevant financial implications.

(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.”

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”

7.2 This is the second attempt to sell the Property and the progress of the current sale has been slow. The Charity Commission first approved the sale of the site in June 2011 with the capital receipt to be distributed immediately. The decision to continue and try to progress the sale with Greenstone needs to be balanced with the need to act within the best interests of the Charity and advance the purposes of the Charity.

Victoria Tunnicliffe and Elizabeth Cunningham-Doyle

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Report to Charitable Trustee Committee

Werneth Youth Centre Asset 220 (Werneth Ward)

Officer Contact: Helen Lockwood Executive Director Economy and Skills and Neighbourhoods

Report Author: Elizabeth Cunningham Doyle Legal and Democratic Services

Ext. 770 4840a

18 December 2019

Update Report

To apprise the members of the Charitable Trust Committee that on 11th September 2019 the Charity Commission granted a Cy Pres Scheme and an Order for the sale of the premises known as 146 Werneth Park Road. The new objects of the charity are as follows:

“The object of the charity is 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.

Sale of land

(1) Subject to the requirements of part 7 of the Charities Act 2011, the trustees may sell the land identified in the schedule to this scheme.

(2) The proceeds of any such sale must be invested.”

In the meantime, following the requirements of Part 7 of the Charities Act 2011 and the statutory guidance issued by the Charity Commission, officers have obtained a valuation of the premises and have prepared a formal notice under section 121 the Act to advertise the proposed sale of the premises in a newspaper circulating in the area. The notice invites representations from members of the public. Once the notice period of one month

has expired the officers will advertise the premises for sale in accordance with the recommendations of the independent surveyor.

Recommendations

To note the update report.