

CHARITABLE TRUST COMMITTEE

Agenda

Date Wednesday 23rd March 2022

Time 6.00 pm

Venue Crompton Suite, Civic Centre, 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 the Constitutional Services team in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Peter Thompson; telephone 0161 770 5151 or e-mail – peter.thompson@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 Friday, 18th March 2022.

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.

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4. FILMING – This meeting will be recorded for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be recorded, except where there are confidential or exempt items and the footage will be on our website. This activity promotes democratic engagement in accordance with section 100A(9) of the Local Government Act 1972. The cameras will focus on the proceedings of the meeting. As far as possible, this will avoid areas specifically designated for members of the public who prefer not to be filmed. Disruptive and anti-social behaviour will always be filmed.

Any member of the public who attends a meeting and objects to being filmed for the Council's broadcast should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

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MEMBERSHIP OF THE CHARITABLE TRUST COMMITTEE IS AS FOLLOWS:

Councillors Byrne, Hamblett, F Hussain (Vice-Chair), Iqbal (Chair) and C. Phythian

Item No

- 1 Apologies for Absence
- 2 Urgent Business
Urgent business, if any, to be introduced by the Chair.
- 3 Declarations of Interests
To receive Declarations of Interests in any contract or matter to be considered at the meeting.
- 4 Public Question Time
To receive Questions from members of the public, in accordance with the Council's Constitution.
- 5 Minutes (Pages 1 - 4)
To consider the Minutes of the meeting of the Charitable Trustee Committee held 12th July 2021.
- 6 Werneth Lifelong Learning Centre, Werneth Park, Frederick Street, Oldham (Pages 5 - 10)
- 7 Dunwood Park (Pages 11 - 14)
- 8 Sarah Anne Lees Charitable Endowment (Pages 15 - 16)



CHARITABLE TRUST COMMITTEE
12/07/2021 at 1.00 pm

Present: Councillor Iqbal (Chair)
Councillors Byrne, Hamblett, F Hussain (Vice-Chair) and Garry
(Substitute)

Also in Attendance:

Rebecca Butterworth – Legal Services
Daniel Meadowcroft – Environmental Services
Christine Wood – Constitutional Services

1 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Phythian.

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**

No public questions had been received.

5 **MINUTES OF PREVIOUS MEETING - 10TH MARCH 2021**

RESOLVED - That the minutes of the meeting held on 10th
March 2021 be approved as a correct record.

6 **WERNETH LIFELONG LEARNING CENTRE, WERNETH
PARK, FREDERICK STREET, OLDHAM**

The Committee considered a report requesting permission from the Charitable Trust Committee, to obtain the necessary agreement, including a disposal of land, to install a fibre-optic cable and associated infrastructure into Werneth Lifelong Learning Centre, located in Werneth Park.

The Committee was reminded that at the meeting of the Charitable Trust Committee held on 10th March 2021 that it had been resolved that

1. Officers be instructed to commission a surveyor's report on behalf of the Trustees for the proposed disposal; and should the surveyor's report advise that the proposed disposal should be advertised:
2. The advertisement of the proposed disposal for such period and in such manner as is advised in the surveyor's report be approved.

The Committee was advised that following meeting of the Charitable Trust Committee on 10th March, 2021, Fletcher CRE had been instructed to carry out a survey on behalf of the Committee. The survey had been carried out by John Fletcher, a suitably qualified surveyor, experienced in providing surveys for charitable land disposals. The survey had taken place on 7th May 2021, following which the surveyor had provided a report for the Committee's consideration which was attached to the reported at Appendix 3.

Key points from the surveyor's report were outlined to the Committee as follows:

That in this case there was no requirement to advertise as the proposals:

- a) Had no effect on the open market value; and
- b) Required no structural alterations; and
- c) Involved no change of use.

That the terms of the wayleave are the best that the charity could reasonably obtain. It was confirmed that the proposed disposal and entering the wayleaves with Virgin Media did not prejudice the market value of the property and that the installation of the fibre cable would not be to the detriment of the building.

The regulations required that both pre-disposal and post-disposal valuations were provided. The charity could then consider whether it was in their best interests to agree to the disposal. The surveyor had advised that no value needed to be provided, as the building was not being sold.

The surveyor had submitted that there should be no premium paid for entering into the wayleave agreement and the building would benefit from the fibre installation.

The survey had confirmed that it would be in the best interests of the charity to proceed with the proposed disposition and that as there had been no requirement to advertise the proposals, it had not been advertised and there were therefore no comments received for the Committee to consider.

The Committee was advised that to comply with the Charity Commission guidance, and to agree to the proposed wayleave/disposition, the Committee was requested to consider the surveyor's report and make two decisions:

Consider whether it would be in the best interests of the Charity to agree to the disposal. The surveyor had advised that it would be in the best interest of the Charity; and

Consider whether the terms of the disposal were the best that could reasonably be obtained for the charity which would enable Werneth Lifelong Learning Centre to be included in the Local

Full Fibre Networks Programme (LFFN). The surveyor had submitted that there should be no premium paid as the building would benefit from the fibre installation and that the terms of the wayleave were the best that could reasonably be achieved for the charity.

The Committee was requested to consider authorising one of the following two options:

Option 1 (Preferred Option)

- Agree that it would be in the best interest of the charity to agree to the proposed disposal; and
- Agree that the terms of the disposal are the best that could reasonably be obtained for the charity; and
- Give its consent to Council Officers to enter into the wayleave agreement with Virgin Media Business Ltd and Virgin Media Ltd to enable a fibre-optic cable to Werneth Lifelong Learning Centre through Werneth Park.

Option 2

Not to agree that it would be in the best interest of the charity to agree to the proposed disposal or not to agree that the terms of disposal are the best that could reasonably be obtained.

Property, Procurement, IT, Financial, legal, environmental and health and safety implications in relation to the proposals were outlined within the report and to the Committee.

In response to queries around current and future internet access, it was confirmed that currently, there was not a dark fibre service provided but that Virgin Media was the provider of the dark cable. It was also confirmed that the Council would have a 30 year right to the cable and was free to use the service provider of choice. Existing providers would be phased out, but not ceased until new providers were in place.

It was also confirmed in response to queries, that there was no requirement for planning permission for this project. In response to concerns around car parking whilst work was being undertaken, it was agreed that Daniel Meadowcroft would feedback comments in relation to these concerns at the next project meeting in relation to this issue.

RESOLVED – That the Charitable Trust Committee Approve Option 1 as follows:

1. Agree that it would be in the best interests of the charity to agree to the proposed disposal; and
2. Agree that the terms of the disposal are the best that could reasonably be obtained for the charity; and

3. Gives consent to Council Officers to enter into the wayleave agreement with Virgin Media Business Ltd and Virgin Media Ltd to enable a fibre-optic cable to Werneth Lifelong Learning Centre through Werneth Park.



The meeting started at 1pm and ended at 1.40pm

Report to CHARITABLE TRUST COMMITTEE

Werneth Lifelong Learning Centre, Werneth Park, Frederick Street, Oldham

Officer Contact: Dominic Whelan, Chief Operating Officer, Unity Partnership

Report Author: Daniel Meadowcroft, Highways Lead and Monitoring Officer
Ext. 2049

23 March 2022

Reason for Decision

To seek permission from the Charitable Trust Committee to agree to amend the route that a fibre-optic cable will take through Werneth Park into Werneth Lifelong Learning Centre, and obtain the necessary agreements from the Committee to amend the wayleave agreement.

Recommendations

It is recommended that the Charitable Trust Committee:

1. Decide whether or not to agree to the proposed amendment to the fibre optic cable route in Werneth Park / Werneth Lifelong Learning Centre and grant its consent to amend the wayleave agreement to reflect the proposed new route.

Werneth Lifelong Learning Centre

1 Background

- 1.1 Werneth Park, including the Lifelong Learning Centre, 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).
- 1.2 Oldham Council is taking part in a Greater Manchester wide Local Full Fibre Network (LFFN) programme to provide fibre connectivity to public buildings, partly funded by a grant from central government and partly funded by the council. Virgin Media Business Limited was awarded the contract to deliver this infrastructure following a competitive tender process.
- 1.3 Werneth Lifelong Learning Centre is situated on the charity land edged red on the plan appended to this report, labelled "Community Centre" on the plan (Appendix 1).
- 1.4 Physical Infrastructure Access (PIA) is a mechanism that allows third party communications providers, including Virgin Media, to utilise Openreach's existing access infrastructure (e.g. ducts and telegraph poles) to lay their own cables.

2 Current Position

- 2.1 Werneth Lifelong Learning Centre has been put forward for inclusion in the LFFN programme. An initial survey of the site was undertaken to identify a proposed route into the building.
- 2.2 Werneth Lifelong Learning Centre and Werneth Park are owned by the Council in its capacity as a Charitable Trust. The Council is therefore required to seek consent from the trustees (Charitable Trust Committee) to agree a disposal which will enable the Council to enter into the proposed wayleave agreement.
- 2.3 At the meeting held on 12 July 2021, the Charitable Trust Committee after considering a surveyor's report agreed to the disposal and gave its consent to enter into a wayleave agreement with Virgin Media Business Limited (the Supplier) and Virgin Media Limited (the Operator) for the agreed route which is shown in Appendix 2.
- 2.4 Following the meeting, having received all necessary consents, Oldham Council entered into a wayleave agreement with Virgin Media Ltd and Virgin Media Business Ltd for the route that was agreed in Appendix 2.
- 2.5 Under the current agreement, Virgin Media would need to install some underground ducting into the cellar. This would involve excavating part of the car park to lay the ducting, and drilling a hole in the cellar wall through which the ducting would be presented.

3 **New proposals**

- 3.1 There is an existing Openreach duct running from Frederick Street, through Werneth Park, which presents itself in the cellar of Werneth Lifelong Learning Centre.
- 3.2 In order to minimize disruption, Virgin Media have proposed to amend the route for the LFFN connection. The proposed route will take advantage of PIA to utilise the existing Openreach duct to route its cable directly into the cellar of Werneth Lifelong Learning Centre. Please see Appendix 3 for full details of the proposed amended route.
- 3.3 If Virgin Media are permitted by this Committee to route their cable through the Openreach ducting, this would mean that the cable could be fed through existing ducting for the full route through the park, directly into the cellar of the Lifelong Learning Centre.
- 3.4 Using the existing Openreach ducting would reduce disruption to users of the park and the Lifelong Learning Centre as it would not be necessary to excavate a section of the car park to install ducting.
- 3.5 Making use the Openreach ducting would also be beneficial to the fabric of the building, since it already presents into the cellar. Therefore there would no longer be a need to drill a new hole in the wall for the new ducting.

4 **Decisions and Options**

- 4.1 Following the surveyor's advice that was presented to the Committee on 19 July 2021, the Committee has already agreed that it would be in the charity's best interests to agree to the disposal and given its consent to enter into the wayleave agreement.
- 4.2 The wayleave agreement that was entered into is specific to the route that was previously agreed to by the Committee, as identified in Appendix 2. The terms of the agreement do not allow Virgin Media to deviate from the agreed route.
- 4.3 Therefore the Committee is now being asked to decide:

Option 1

- agree to the proposed amended route as identified in Appendix 3
- give its consent to Council officers to amend the wayleave agreement to reflect the new route.

Option 2

- not agree to the proposed amended route

5 **Preferred Option**

- 5.1 The preferred Option is Option 1 – to agree to the proposed amended route and to give its consent to amend the wayleave agreement to reflect the new route.

-
- 5.2 Agreeing to the new route would remove the need to excavate a section of the car park to install the new ducting and also remove the need to drill a new hole in the cellar wall.

6 **Next Steps**

- 6.1 If the committee agrees to Option 1 then the Council will amend the wayleave agreement with Virgin Media Ltd and Virgin Media Business Ltd to reflect the new route as identified in this report and will then proceed with the installation.
- 6.2 If the committee agrees to Option 2 then the Council will instruct Virgin Media Business Ltd to proceed with the installation in accordance with the original proposals that have already been approved in the wayleave agreement.

7 **Financial Implications**

- 7.1 There are no direct financial implications arising from the recommended option . Any costs arising from the proposal to agree to the proposed amended route and to consent to amend the wayleave agreement to reflect the new route is contained within the agreed contract price.
(AC)

8 **Legal Services Comments**

- 8.1 The report of John Fletcher, Fletcher CRE prepared for the Committee confirmed the terms on which the wayleave was proposed, was the best that could reasonably be obtained for the Charity.
- 8.2 On this basis, the Charitable Trustees, in accordance with the guidance issued by the Charity Commission, and in compliance with Section 119 of the Charities Act 2011, agreed to enter into the wayleave.
- 8.3 The proposed amendment will make use of an existing duct, which will reduce the footprint of land that would be subject to access rights to areas where communications infrastructure is already installed. There is therefore unlikely to be a detriment to the Charity in the proposed change of route, reducing the necessary infrastructure to both the car park and to the exterior of the building.
- 8.4 The Charitable Trustees need to consider the proposals and confirm whether they agree to the alteration on the basis that this is in the best interests of the Charity.
(RB)

9. **Co-operative Agenda**

- 9.1 N/A - The co-operative agenda relates to Executive functions of the Council and is not applicable to charitable assets

10 **Human Resources Comments**

- 10.1 N/A

11 **Risk Assessments**

11.1 All works will be carried out according to approved risk assessments and method statements. (DM)

12 **IT Implications**

12.1 IT active equipment is located within the Comms Cabinet within the basement. The only changes required for the future would be upgrades / replacements to active equipment already in use.
(JC)

13 **Property Implications**

13.1 The installation of LFFN fibre connectivity to the building, would not be to the detriment of the building as detailed within this report and will benefit from the fibre installation. The proposed amended route will make use of an existing Openreach duct that presents into the cellar. Consequently, there would be no need for an additional penetration into the cellar wall to install the Virgin Media duct.
(RS)

14 **Procurement Implications**

14.1 None

15 **Environmental and Health & Safety Implications**

15.1 The proposed amendment would remove the need to excavate a section of the car park to lay the new ducting. The proposed route will follow the existing communication routes into the building. The existing Openreach ducting presents directly into the cellar where the IT network cabinet is located so there would be zero visual impact to the outside of the building, and no scarring of the surface where the new ducting would have been installed.

15.2 All works will be carried out according to approved risk assessments and method statements. (DM)

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

16.1 None

17 **Implications for Children and Young People**

17.1 None.

18 **Equality Impact Assessment Completed?**

18.1 No

19 **Key Decision**

19.1 No

20 **Key Decision Reference**

20.1 N/A

21 **Background Papers**

21.1 Deed of Gift – Werneth Park, 8 January 1936



DEED OF GIFT
wernth park 8th Jan

22 **Appendices**

22.1 Appendix 1 – Red edged plan of Werneth Park and Werneth Lifelong Learning Centre



1446 Werneth
Lifelong Learning Cē

22.2 Appendix 2 – Current approved wayleave plans



1446 Werneth
Lifelong Learning Cē

22.3 Appendix 3 – Proposed amended route for wayleave agreement



Proposed New
Route.pdf

Dunwood Park (inc. King George V Field) (Asset Number L01141)

Charity Number 1086949

Dunwood Park is a mixed formal and informal park situated at Woodend in the Beal Valley in Shaw; and running along the side of the Metrolink line. The park was originally opened on 14th September 1914, but was transformed in 2011/12 by the grant of over £1 million of Heritage Lottery Funding, and supporting Council funds, which completely renovated the facilities.

The park effectively separates into two parts; the larger, northern section of the park is formed by a long strip of land leading to the Jubilee area on the edge of the Borough; and is largely wooded. It provides a mixture of formal and informal pathways through the woodland and along the River Beal. In this section there is also a stone memorial drinking fountain from the First World War and a concrete covered polystyrene children's climbing block.

The southern element being a formal park providing a children's play area, bowling green & pavilion, tennis courts / multi-use game court, growing hub, formal gardens with public art and a meeting room with public conveniences building. The meeting room building has been named The McGrother Building after Michael McGrother, the former Chair of the Friends of Dunwood Park who died as the park was being renovated. It is a relatively recently constructed community meeting room / public convenience building of traditional brick construction with a multi-pitched tile roof and is approximately 96 m². Of this 96 m² approximately 40 m² is occupied by the public conveniences and approximately 56 m² by the cafe.

The McGrother Building has been let for the last few years as a café. Regrettably, the current tenant has given notice to terminate the lease because they cannot provide a cost-effective service and their occupation will end on 21 July 2022.

The café is an important facility for the park and the surrounding community and Ward Members are keen to ensure the café service continue to be provided continuously through the summer and beyond. Several parties have expressed an interest in leasing the premises and therefore because of the tight deadline to secure a new tenant for July 2022 Unity Partnership (UPL) have started a marketing exercise, including preparing letting particulars, advertising the café on the UPL website and erecting a "To Let board" at the property. Rental offers are being sought for the building with some use of a forecourt area on the basis of:

- a 3 year lease, "contracted out" of the security of tenure provisions of the Landlord and Tenant Act 1954,
- the tenant being responsible for internal repair and decoration
- the tenant to be responsible for business rates and utility charges
- the tenant making the toilets available for public use, every day, and be responsible for their cleaning
- the tenant shall not make any structural alterations to the premises

- to be used as a café, with possible community use
- the landlord will insure the building and repair and decorate the exterior

The property is currently let at £5,000 per annum, but with rising occupational costs it is optimistic to think that this can be achieved now through this letting process. All applicants will be asked to give a rental offer, demonstrate their experience, business plan, community benefit and conditions attached to enable an assessment of each application and assess which potential occupier will provide the best café operation and best enhance the park and surrounding area.

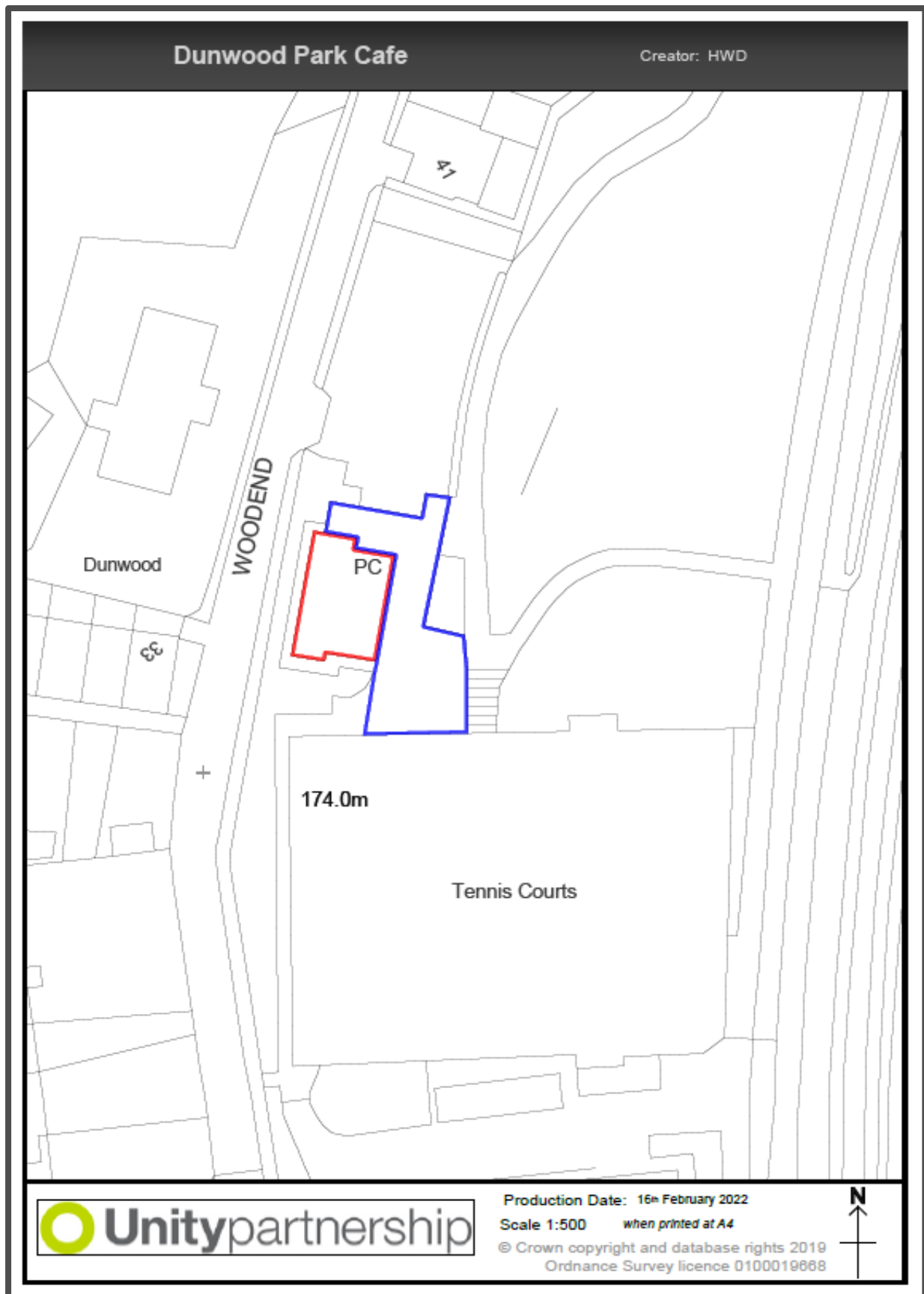
The Charitable Trust Committee's authority is now required for Unity/Council Estates colleagues to continue the marketing and in consultation with Ward Members to proceed with the selection of the most suitable tenant for the café and negotiate and complete a lease by July 2022.

Appendix I – Photographs

McGrother Building, Dunwood Park, Woodend, Shaw, Oldham.



Appendix II – McGrother Building and external areas (not to scale)



Sarah Anne Lees Charitable Endowment

To: Cllr J Iqbal <Javid.Iqbal@oldham.gov.uk>

Dear Councillor Iqbal

I refer to the resolution of the Charitable Trust Committed on 23rd September 2020 regarding the Sarah Anne Lees Charitable Endowment (which consists now of the proceeds of sale of the property known as 146 Werneth Hall Road). The text of the decision is set out below.

I am led to believe that the CTC wants the Legal Services Department of Oldham Borough Council to make the appropriate application on behalf of this Charity (that is on behalf of the acting charity trustees – ie the CTC) to the Charity Commission for an appropriate consent or scheme to enable this Charity to establish a mechanism (through convening an appropriate “panel” to review bids and make recommendations for final decisions to be made as to awards by the CTC) to enable community and voluntary organisations to bid for grants from this Charity, and through their bids to demonstrate how their project or activity meets the Charity’s objectives, how the funds would be used, how the activity would be sustained and how the impact of the activity would be evaluated.

The Council (as Council) will need to have an explicit instruction in writing from the CTC to have Legal Services do this piece of work for the Charity. I understand that the next meeting is this Wednesday and that there is an item on the agenda which allows for emergency items to be covered. As the next meeting is not until March 2022, I expect that the CTC would want progress to be made with this application before March 2022 and therefore I shall be grateful if you will consider using the emergency items part of the Agenda this Wednesday to confirm the CTC’s decision/resolution to instruct Legal Services to proceed with this application on behalf of the Charity/CTC.

In case you need to review the relevant items of paperwork, I attach in addition to a word copy of the printed minutes of the meeting from September 2020, a copy of the Report that was submitted relating to this issue.

I have previously given my apologies for the meeting so please get in touch prior to the meeting on Wednesday if you have any queries otherwise I look forward to receiving your written confirmation of instructions for us to proceed with the application as mentioned above.

Many thanks

Kind regards

Rebecca. Boyle

Rebecca Boyle
Group Solicitor (Corporate)
Legal and Democratic Services
Oldham Council
Civic Centre
West Street
Oldham, OL1 1UL

CHARITABLE TRUSTEE COMMITTEE – 23rd SEPTEMBER 2020 (Minute 8)

Consideration was given to a report of the Strategic Director of Communities and Reform which proposed that an application be made to the Charity Commission to release the permanent endowment of the Sarah Anne Lees Charity for distribution via means of grants to local voluntary and community organisations who could demonstrate their activity met the charitable objects.

The Committee noted the Charity's capital asset, 146 Werneth Hall Road, had recently been sold with funds of £277,069.22 now held in the charitable trust account.

The objects of the Charity were 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 noted that the income from the investment of the funds at the current time was minimal and insufficient to achieve the charitable purposes.

There were more than 1,200 voluntary and community organisations in Oldham, a significant proportion of which undertook activity which would be aligned to the objects of the charity. Covid19 had presented a further challenge with regards the financial resilience and long term viability of those organisations due to reducing their ability to fundraise or generate income whilst demand for their services had increased.

The Committee was informed that more than half of organisations surveyed in Oldham during the crisis had concerns about their financial sustainability over the next 3-6 months. Although emergency funds had been made available nationally and locally, these were largely focused on crisis response, rather than maintaining vital core activities which continued to be needed more than ever.

This presented an opportune time to invest in the sector to deliver the objects of the Charity, which were clearly in line with the needs of communities at the current time. It was proposed that a mechanism was established to enable community and voluntary organisations to bid for grants, and through this bid to demonstrate how their project or activity met the charitable objectives, how the funds would be used, how the activity would be sustained and how the impact of the activity would be evaluated. A Panel would be convened to review bids and make recommendations for a final decision to award by the Charitable Trust Committee.

RESOLVED that an application be made to the Charity Commission to release the permanent endowment of the Sarah Anne Lees Charity for distribution via means of grants to local voluntary and community organisations who could demonstrate their activity met the charitable objects.