

## **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.

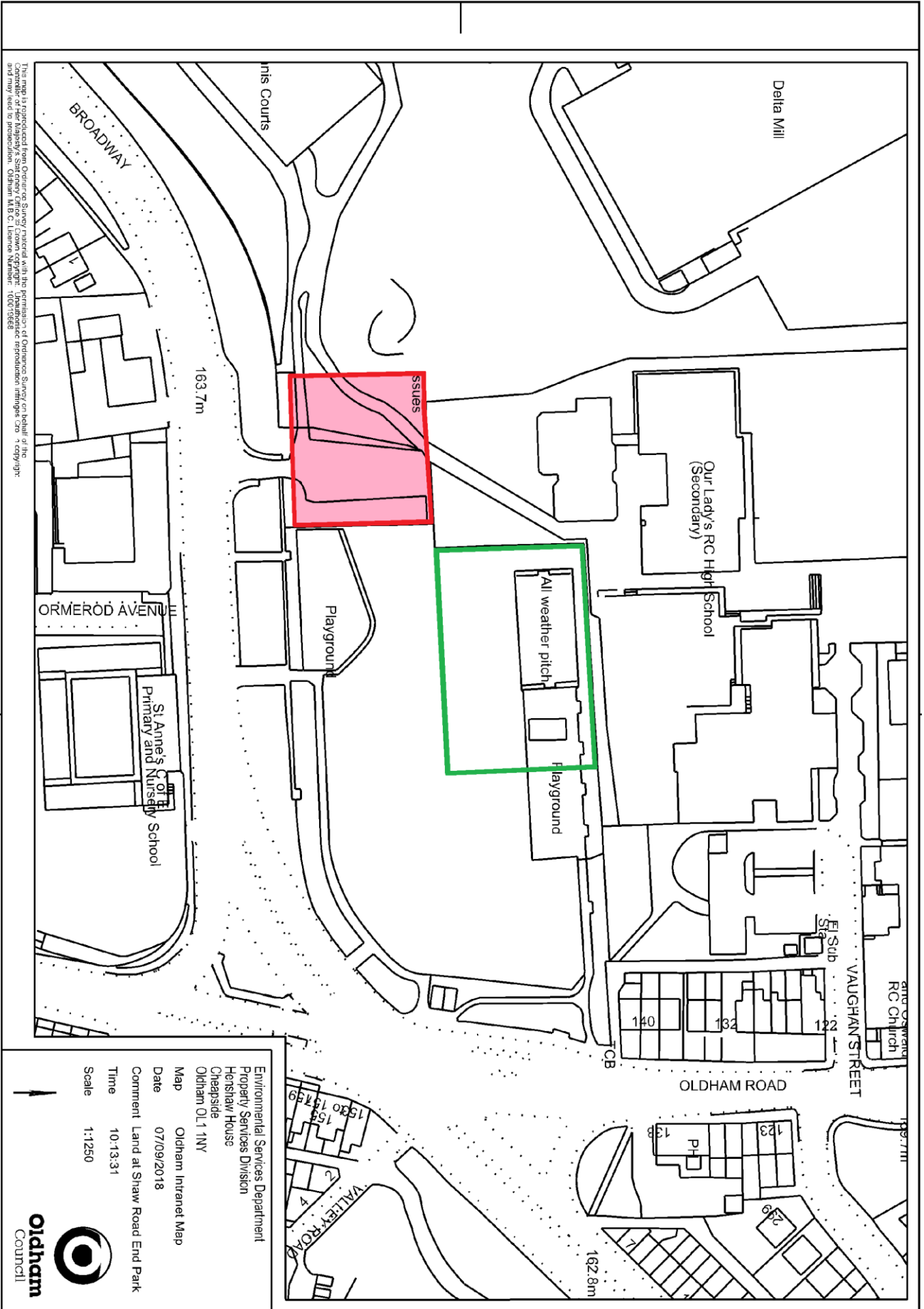
16 **Background Papers**

16.1 None.

17 **Appendices**

17.1 Appendix One - Plan.  
Appendix Two – Draft Order

Appendix One - Plan



**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**

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

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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.