

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)
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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)
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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

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:
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“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
