

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

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Reason for Decision

To seek permission from the Charitable Trust Committee to obtain the necessary agreements, including a disposal of land, to install a fibre-optic cable and associated infrastructure into Werneth Lifelong Learning Centre located in Werneth Park

Recommendations

It is recommended that the Charitable Trust Committee:

1. Instruct officers to commission a surveyor's report on behalf of the committee for the proposed disposal

And should the surveyor's report advise that the proposed disposal should be advertised,

2. Agree to advertise the proposed disposal for such period and in such manner as is advised in the surveyor's report

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 The building is currently used by the Community / Adult Learning Section as an Education Centre for adults.
- 1.5 The provision of this infrastructure will support the Centre in delivering its services to Oldham residents, helping them to improve their skillset – an objective in the Oldham Plan.

2 Current Position

- 2.1 Werneth Lifelong Learning Centre has been put forward for inclusion in the LFFN programme. A preliminary survey of the site has been undertaken to identify a proposed route into the building
 - 2.2 Oldham Council will need to enter into a wayleave agreement with Virgin Media Business Limited (the supplier) and Virgin Media Limited (the operator) to allow the required infrastructure and cable to be laid both within the grounds of Werneth Park and in Werneth Lifelong Learning Centre. The route identified for the proposed connection and Wayleave Agreement is appended to this report (Appendix 2).
 - 2.3 As the land is 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.
 - 2.4 Although the proposed granting of a wayleave is not a disposal in property law, the Charity Commission's guidance states that the granting of a wayleave on charitable land should be considered a disposal.
 - 2.5 In order to agree to the disposal the trustees are required to:
 - Instruct a qualified surveyor acting exclusively for the charity to write a report on the proposed disposal
 - Advertise the proposed disposal for such period and in such manner as is advised in the surveyor's report*
 - Consider the surveyor's report and decide that they are satisfied that the terms of the proposed disposal are the best that can reasonably be obtained for the charity.
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* N.B. It is only necessary for the trustees to advertise the proposed disposal if advised to do so by the surveyor in their report.

3 **Options/Alternatives**

3.1 There are two recommendations:

1. Instruct officers to commission a surveyor's report on behalf of the committee for the proposed disposal

And should the surveyor's report advise that the proposed disposal should be advertised,

2. Agree to advertise the proposed disposal for such period and in such manner as is advised in the surveyor's report

3.2 Option 1

- Agree to recommendations 1 and 2

Option 2

- Agree to recommendation 1 only

Option 3

- Not to agree to the recommendations

4 **Preferred Option**

4.1 The preferred Option is Option 1 – to instruct officers to commission of a surveyor's report on behalf of the committee for the proposed disposal, and if required by the surveyor's report to do so, agree to advertising of the disposal.

4.2 Agreeing a disposal is a necessary to grant a wayleave agreement to Virgin Media which will allow the fibre-optic cable to be installed into the building. Selecting Option 1 would allow the trustees to fulfil their obligations in the most timely manner.

4.3 If the committee agrees to Option 1 or 2, the report will be brought to this committee for its consideration and the committee will be asked to agree to the disposal to allow the council to enter into the wayleave agreement with Virgin Media.

4.4 If the committee does not agree to commission a survey, then it would not be possible to enter into a wayleave agreement. Consequently it would not be possible to proceed with the works and Werneth Lifelong Learning Centre would not receive the benefit of the proposed fibre connection.

5 **Consultation**

5.1 If the committee agrees to Option 1 and the surveyor's report requires the disposal to be advertised, it will be advertised for such period and in such a manner as required by the report. Any comments received as a result of this advertisement will be brought to this committee for its consideration along with the surveyor's report.

6 Financial Implications

- 6.1 The Cabinet report 'Local Full Fibre Networks Programme' approved on 19 August 2019, approved a project sum of £1,585k, including £60k specifically for project management resources, this will be used to fund the surveyors report and the advert if it is required. Sufficient funds remain to fund the proposed expenditure (Andy Cooper).

7 Legal Services Comments

- 7.1 The recommendations in the report follow the Charity Commission's Operational Guidance on Disposals of charity land. The guidance confirms that the requirements of Section 119 of Charities Act 2011 also apply to the grant of a wayleave.

- 7.2 " Section 119 requires the charity trustees to:

- *Obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by the trustees and acting exclusively for the charity (section 119(1)(a), ChA 2011); and*
- *Advertise the proposed disposition for such period and in such manner as is advised in the surveyor's report (unless the surveyor advises that it would not be in the best interests of the charity to advertise the proposed disposition) (section 119(1)(b), ChA 2011); and*
- *Decide that they are satisfied, having considered the surveyor's report, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity (section 119(1)(c), ChA 2011).*

- 7.3 *It is therefore only necessary for the charity's trustees to advertise the proposed disposition, if advised to do so by the surveyor in their report.*

- 7.4 *The surveyor's report must cover the prescribed matters referred to in the Schedule to the Charities (Qualified Surveyors' Reports) Regulations 1992".*

- 7.5 Provided the Charitable Trustees follow the guidance issued by the Charity Commission the Trustees will be in compliance with the legal requirements of Section 119 Charities Act 2011 in relation to the disposal of land including a wayleave. (Elizabeth Cunningham Doyle)

8. Co-operative Agenda

- 8.1 The provision of this infrastructure will support the Centre in delivering its services to Oldham residents, helping them to improve their skillset – an objective in the Oldham Plan.

Improving the skills of Oldham residents will open up opportunities that otherwise might not have been available to them, championing fairness and equality of opportunity for those residents.

9 Human Resources Comments

- 9.1 N/A

10 Risk Assessments

- 10.1 [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.]
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- 11 **IT Implications**
- 11.1 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. (John Cook)
- 12 **Property Implications**
- 12.1 “The installation of LFFN fibre connectivity to the building, would enhance the Life Long Learning Centre’s training functions and supports the Council’s Digital Transformation Programme. Therefore I would agree to this disposal to facilitate the wayleave agreement.” (Peter Wood)
- 13 **Procurement Implications**
- 13.1 None
- 14 **Environmental and Health & Safety Implications**
- 14.1 The proposed connection will involve excavating a tarmac section of the car park at the Frederick Road entrance to the park to lay ducting to the building for the cable to run into. The proposed route will follow existing communication routes into the building and the tarmac will be reinstated like-for-like. The ducting will be installed directly into the cellar where the IT network cabinet is located so there will be zero visual impact to the outside of the building.
- 14.2 All works will be carried out according to approved risk assessments and method statements, and the works area and excavation will be appropriately signed and guarded to ensure safety of service users, park users and operatives during the works.
- 15 **Equality, community cohesion and crime implications**
- 15.1 The proposed works will benefit people of a lower socio-economic status and people who are learning English as a second language. The proposed connection would assist the centre in delivering its services to residents, helping them to improve their skills which may open up better-paid employment opportunities which would in turn reduce poverty.
- 16 **Implications for Children and Young People**
- 16.1 None.
- 17 **Equality Impact Assessment Completed?**
- 17.1 No
- 18 **Key Decision**
- 18.1 No
- 19 **Key Decision Reference**
- 19.1 N/A
- 20 **Background Papers**
- 20.1 Deed of Gift – Werneth Park, 8 January 1936
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DEED OF GIFT
wernth park 8th Jan

21 **Appendices**

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



1446 Werneth
Lifelong Learning Centre

21.2 Appendix 2 – Proposed route for wayleave agreement



1446 Werneth
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