

Report to CHARITABLE TRUST COMMITTEE

Land at Shaw Road End Park, Broadway, Royton [Royton South]

Report Author: Mark Prestwich, Principal Development Surveyor
Ext. 1660

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Reason for Decision

The purpose of the report is to;

- Provide the Charitable Trust Committee with an overview in respect to an area of land known as Shaw Road End Park which was acquired by the Council subject to trusts requiring it to be used for the purposes of exercise and recreation (“Charity Land”);
- Seek approval for the Council to formally register the charitable trust with the Charity Commission;
- Provide Members of the Charitable Trust Committee with details of a recent request from Oldham Borough Council (“the Council”) to enter into a land swap agreement with the Council whereby part of the Charity Land would be exchanged with other land owned by the Council which is not covered by the charitable trusts (“Land Swap”);
- Seek approval to instruct an independent Surveyor to act on behalf of the Charitable Trust Committee and prepare a valuation in accordance with the Charities (Qualified Surveyors’ Reports) Regulations 1992.
- Seek approval to advertise the proposal to proceed with the Land Swap and invite public feedback.

Recommendations

It is recommended that the Charitable Trust Committee;

- Notes the background in respect to the acquisition of the land shown edged red and edged blue on the attached plan (see Appendix One), that forming the Charity Land;
- Authorises Council officers to take steps to arrange for the charitable trusts affecting the Charity Land, to be registered with the Charity Commission;

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- Notes the request from the Council to enter into an agreement for the Land Swap with the Charitable Trust involving the land shown coloured pink on the Plan (“Pink Land”) which is part of the Charity Land.
 - Appoints an independent chartered surveyor in order to prepare valuations of the Charity Land, together with the area of land owned by the Council in its statutory capacity being shown edged green on the Plan (“Green Land”). The valuation reports will be prepared in accordance with the Charities (Qualified Surveyors’ Reports) Regulations 1992.
 - Advertises the proposal to proceed with the Land Swap involving exchanging the Pink Land with the Green Land in accordance with the consultation strategy detailed in Section 4.2 of the report.
 - Requests that a further report is prepared for consideration by the Charitable Trust Committee once the independent surveyor’s report has been received and the public consultation completed.

Land at Shaw Road End Park, Broadway, Royton [Royton South]

1 Background

- 1.1 On 31 December 1932, the Urban District Council for the District of Royton (as predecessors to Oldham Council) acquired the area of land shown edged blue on the attached plan (see Appendix One). The Council acquired the land for the sum of £471.13s.4p (four hundred and seventy one pounds thirteen shillings and four pence) and as part of the conveyance agreed, “that it will hold the said hereditaments upon trust for the use thereof by the public for the purposes of exercise and recreation pursuant to the provisions of the said Acts of Parliament”.
- 1.2 On 28 November 1933, the Council similarly acquired the area of land shown edged red on the attached plan. The Council acquired the land for the sum of £100 (one hundred pounds) and as part of the conveyance agreed “that it will hold the said hereditaments upon trust for the use thereof by the public for the purposes of exercise and recreation pursuant to the provisions of the Public Health Act 1875 and the Open Spaces Act 1906 or either of them”.
- 1.3 Having reviewed historical plans, it would appear that, following acquisition, the vast majority of this land was set out as a formal park - consistent with the Council’s undertaking to utilise the site for use in support of exercise and recreation - since c.1935.
- 1.4 In relation to that part of the area of land edged red which is shown shaded pink (the ‘Pink Land’) however, following acquisition, this area of land did not form part of the park and was simply left to form a banked area down to the nearby watercourse until c.1965 when the land was levelled. Following the expansion of the adjoining Our Lady’s School in 1979, the subject area was again upgraded to form a landscaped entrance into the comprehensive school although, from c.1990, the use of land was again altered, creating an informal parking area for staff and visitors attending the School. Whilst the former Our Lady’s School was demolished in 2013, the use of the Pink Land as informal car parking has remained, with the current appearance of the site shown in Appendix Two.

2 Current Position

- 2.1 Oldham Council (in its statutory capacity) owns the former Our Lady’s School and are looking to promote the site as a residential development opportunity. In a similar capacity, the Council also own the area of land shown edged green (‘the Green Land’). Whilst the former School site benefits from access from Vaughan Street (which traditionally has been the main entrance into the School site), in order to provide a secondary access, the Council would like to acquire the Pink Land from the Trust.
- 2.2 The remainder of the Charity Land, i.e. the area edged red (and not shaded pink) and the area edged blue would be unaffected by the proposal.
- 2.3 Rather than making a financial payment to the Charitable Trust, the Council (in its statutory capacity) would like to enter into land swap arrangement whereby, it would swap the Pink Land for the Green Land which, whilst forming part of the formal current park area, is not subject to charitable trusts.

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- 2.3 As such, the offer is one whereby, the Trust would swap the Pink Land, (measuring 1,393sq.m or thereabouts), for the Green Land (measuring 2,954sq.m or thereabouts).

3 **Options/Alternatives**

- 3.1 There would be a number of options available and these can be summarised as follows;

Option 1 - Do Nothing

- 3.2 The Trust could choose to do nothing and not proceed with the Land Swap. In proceeding with this approach, the Charitable Trust will continue to own Pink Land and the Council (in its statutory capacity), would continue to own the Green Land.

- 3.3 As indicated in Section 1 above, the current use of the Pink Land - as an area of informal car parking - would be considered to be a breach of the charitable trusts (to use the land for the purposes of exercise and recreation) and therefore, in doing nothing, the current arrangements would simply continue the breach of charitable trust objects.

- 3.4 In theory, despite being set out and being incorporated into the main park, this approach would also allow the Council (in its statutory capacity) to dispose of the Green Land for alternative (residential) uses.

Option 2 - Obtain independent surveyor's advice, with a view to progressing a sale

- 3.5 Alternatively, the Charitable Trust could choose to obtain independent advice, from a surveyor acting on behalf of the Charitable Trust. The advice would have to be compliant with the Charities (Qualified Surveyors' Reports) Regulations 1992 and would determine whether it would be in the interest of the Charitable Trust to do nothing, to proceed with the Land Swap, or whether it would be more advantageous to market the Pink Land (and seek a cash alternative).

- 3.6 The cost of the advice provided to the Charitable Trust would be borne by the Council and three local, surveyors have been approached to provide a report of this matter. The parties and cost of the advice can be summarised as follows;

Breakey Nuttall - £795.00
Ryder & Dutton - £800.00
Stannybrook Property Consultants - £750.00

4 **Preferred Option**

- 4.1 The charitable trusts subject to which the Charity Land is held are not currently the subject of a charity registered at the Charity Commission. Therefore, to avoid any ambiguity moving forward, it is recommended that steps are undertaken to formally register the status of the Charitable Trust with the Charity Commission. This step would help protect the Charity Land and provide clarity regarding the status of the Charity Land in the future.

- 4.2 During this registration process, it is further recommended that the Charitable Trust Committee commissions a report to be produced by Stannybrook Property Consultants in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992. Whilst this report is being prepared by the independent surveyor, it is also proposed that the Charitable Trust Committee carries out a public consultation exercise, seeking feedback on the proposals to swap the Pink Land with the Green Land (only). The consultation will take the form of both (two) public notices in the local press and notices erected on the site.

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- 4.3 Prior to making any decision, the results of the surveyors report, together with the feedback received following the public consultation exercise could then be considered by the Charitable Trust Committee at a further meeting. The Consultation would be in the name of the Council acting in its capacity as a charitable trustee and not in its capacity as a statutory body.

5 **Consultation**

- 5.1 No consultation has been carried out to date and the report is recommending that details of the proposals are shared with members of the public, as part of a formal public consultation period, prior to formalising a decision on whether to do nothing or swap the Pink Land.

6 **Financial Implications**

Revenue Comments

- 6.1 The purpose of this report is to engage with Trust Committee with the proposal of a land swap.
- 6.2 The Council has does not hold revenue budgets for the asset and is not currently incurring expenditure on the asset. The asset is maintained by Environmental Services and will continue to do so 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 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]

7 **Legal Services Comments**

- 7.1 The Council acting in its capacity as a charitable trustee is advised to follow the guidance published by the Charity Commission in seeking to dispose of charity land. The proposal outlined in the body of the report to seek an independent valuation of both of the sites to be exchanged follows the recommendation in the guidance. However, following receipt of the independent valuations, the Charitable Trustee Committee will need to request an order from the Charity Commission for the disposal of the charitable land. This is because the Council owns both the Pink Land and the Green Land (albeit in different capacities) which are the subject of the proposed Land Swap and as such the Council would be making a disposal to a connected person.

[Elizabeth Cunningham Doyle]

8. **Co-operative Agenda**

- 8.1 None.

9 **IT Implications**

- 9.1 None.

10 **Property Implications**

10.1 Despite paying a monetary premium for the acquisition of the Charity Land, the Council has undertaken to hold the land on charitable trusts. It is therefore proposed that rather than leaving the status of the land open to interpretation or unclear, by registering the charitable trusts relating to the Charity Land at the Charity Commission, the status of the Charity Land would be clearer for future reference and will make obtaining a Charity Commission order (referred to above) enabling the proposed Land Swap more straight forward.

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.

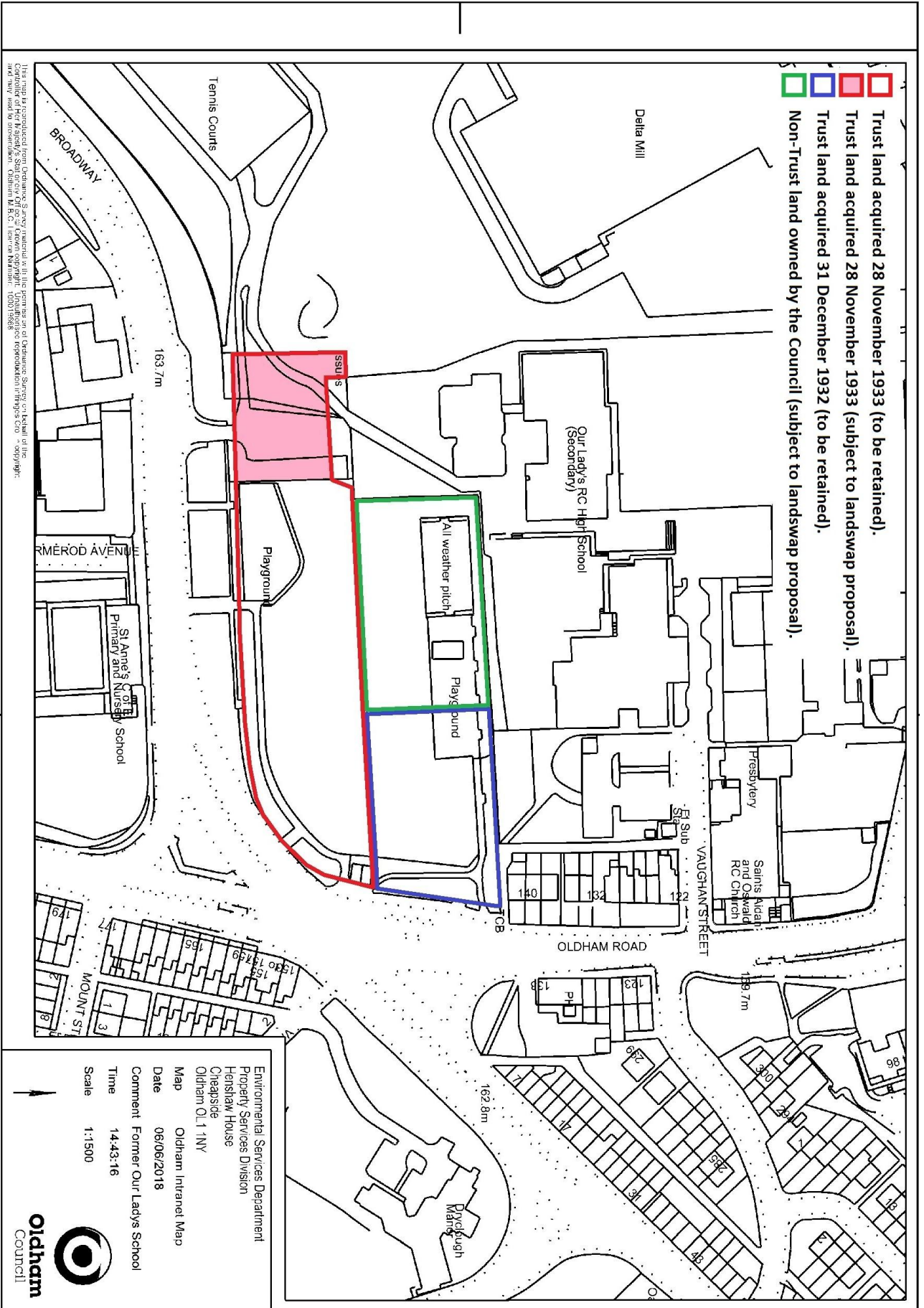
16 **Background Papers**

16.1 None.

17 **Appendices**

17.1 Appendix One – Plan.
Appendix Two – Photograph of the existing car park (i.e. the Pink Land)

Appendix One



Appendix Two



