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## REPORT TO CHARITABLE TRUST COMMITTEE

# FORMER DSO BUILDING, ADJOINING LAND & PUBLIC CONVENIENCE BLOCK. HIGH CROMPTON PARK, ROCHDALE ROAD, SHAW.

**Nikolaj Dockree, Senior Consultant Surveyor, Unity Partnership  
Ex.4146**

**26<sup>th</sup> November 2018**

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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 and a building known as the Former DSO building.
- 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 on the attached plan (see Appendix One), that forming which is the “Charity Land”.
- Notes the request from the Council to enter into an agreement for the Land Swap with the Charitable Trust involving the land shown edged blue on the Plan (“Blue Land”) which is part of the Charity Land.

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- 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 Blue Land with the Green Land in accordance with the statutory 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.
  - Grants a licence to the developer to enter onto the Charity Land to undertake the essential works to the former DSO building.

## **Land at High Crompton Park – (The former DSO Building)**

### **1. Background**

- 1.1. The former DSO Building is situated on the Charity Land blue on the plan appended to this report (Appendix 1 ) has been part of various marketing campaigns since 2014 with only very limited interest which did not convert into a deliverable deal.
- 1.2. Officers have now undertaken a fresh marketing exercise and tenders were received on the 19<sup>th</sup> February 2018. A single tender was received from a joint bid by a local developer and a local restaurant owner to refurbish the building and create a Café Eatery.
- 1.3. The Parks Service currently use the ground floor space in the DSO Building for the storage of equipment and materials, but this could possibly be relocated to the nearby compound though the use of metal containers has previously attracted a number of complaints from residents on Park Cottages.
- 1.4. Despite the application of anti-climb paint and warning notices affixed to the existing public convenience block, Park Service advises that it is regularly used by children as a staging point to access the main roof of the DSO Building, who then dislodge slates and throw them onto the surrounding walk-ways and bowling green. Officers are aware of a hole in the roof of the DSO Building, but its' unsafe condition means this is not readily reparable at low cost. A contractor has advised that a structural report is required and also scaffolding to be erected prior to carrying out any repair works. Unity Partnership has estimated the total cost to be in the region of £12k. Additional measures are however to be put in place to prevent the continued unauthorised access. It is understood the Police are aware of the problems of anti-social behaviour.
- 1.5. Re-provision of the public conveniences within the DSO building would present an opportunity to prevent such anti-social behavior from continuing as well as drastically reducing the health & safety and insurance risks associated with such activity.
- 1.6. Since the sale of the building was approved the building has continued to deteriorate and the developer has confirmed they would need to halt this if they are to stand by the offer and business plan they submitted. As such they have requested earlier access under licence to undertake essential works and understand this is entirely at their own risk and cost. This would allow roofing work and pointing work to commence and in the process eliminate an ongoing and growing public risk from falling masonry and tiles. It should be noted that careful drafting of the licence allowing such entry is required to maximise the chance of avoiding the Council becoming bound by the legal concept of "estoppel" to proceed with the grant of a lease to the developer, should say the Charity Commission refuse to grant an order allowing the Land Swap.

### **2. Current Position**

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- 2.1. Oldham Council (in its statutory capacity) owns sections of the Park, as shown on the plan in Appendix 2 and since the latest tender exercise was completed it has come to light that part of the Blue Land which is part of the area being offered for sale by the grant of a 250 year lease, is Charitable Trust land. The remaining area of the proposed area to be leased is owned by Oldham Council.
  - 2.2. The remainder of the Charity Land within High Crompton Park 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 a land swap arrangement whereby, it would swap the Blue Land for the Green Land which, whilst forming part of the current park area, is not subject to the Charitable Trust.
  - 2.4. As such, the offer is one whereby, the Trust would swap the Blue Land, (measuring 320 sq.m or thereabouts), for the Green Land (measuring 566 sq.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.
- 3.3 This option would retain the risks of a dilapidated building on the Charitable Trust Land and the liabilities therein. As such this option is not recommended.

#### **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 valuation 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 proceed with the Land Swap on the basis that the value of the Council Land is equal to or in excess of the Charitable Trust land.
- 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

- 3.7 In parallel with the above, enter into a licence with the developer to allow them to undertake essential maintenance work. It is noted that this work will be undertaken at the developer's own risk and cost.

### 4 **Preferred Option**

- 4.1 Option 2 is recommended as this will facilitate the refurbishment of a dangerous and dilapidated building presently on the Charity Land. The value of the land with the dilapidated former DSO Building is the Blue Land is expected to be less than or equal to the value of the Green Land so the Trust will simply benefit from the removal of the risks

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of being adjacent to the dilapidated DSO Building whilst their land holding and the value of this will be maintained, if not enhanced.

4.3 Prior to making any decision, the results of the surveyors report, together with the feedback received following the statutory public consultation exercise under section 121(2) Charities Act 2011 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 the Council as a statutory body.

4.4 Officers recommend entering into the licence with the developer to allow the developer to park vehicles equipment and materials on the Blue Land in connection with undertaking the essential works on the former DSO building to the extent that it is situated on the Blue Land

## 5 **Consultation and Charity Commission Order**

5.1 No public consultation has been carried out to date and the report is recommending that details of the proposals are shared with members of the public by means of a formal notice published in a newspaper circulating in the area under section 121(2) Charities Act 2011, as part of a formal public consultation process, prior to formalising a decision on whether to do nothing or swap the Blue Land with the Green 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 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, and the statutory consultation process conducted under Section 121 (2) Charities Act 2011, the Charitable Trustee Committee will need to meet to consider the outcome of the valuation and the consultation process and if they decide to proceed request an order from the Charity Commission for the disposal of the charitable land. This is because the Council owns both the Blue 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.

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7.2 The Trustees would be advised to permit access to the former DSO premises to carry out the essential repairs. The grant of a licence would be the best option to afford such access and mitigate any outstanding liability arising from the poor state of the building.

[Elizabeth Cunningham Doyle]

8. **Co-operative Agenda**

8.1 None.

9 **IT Implications**

9.1 None.

10 **Property Implications**

10.1 All Property implications are covered in this report. [Roslayn Smith]

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 – Land Ownership – High Crompton Park

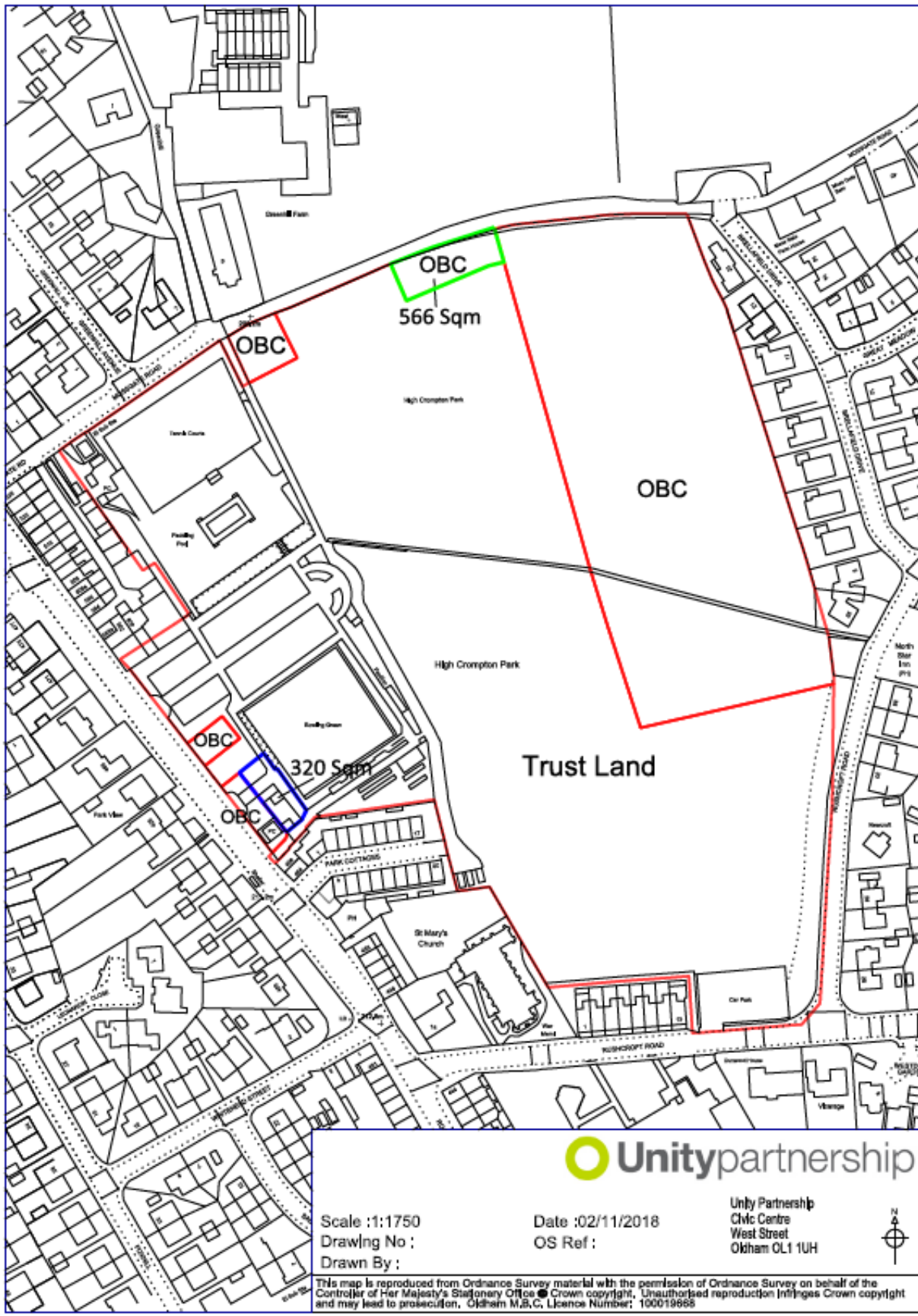
Appendix Three – Site Photographs



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Appendix Two





**Unitypartnership**

Scale :1:1750  
 Drawing No :  
 Drawn By :

Date :02/11/2018  
 OS Ref :

Unity Partnership  
 Civic Centre  
 West Street  
 Okham CL1 1UH



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Appendix Three

