

Agenda for a meeting of the Regulatory and Appeals Committee (sitting as Trustees) to be held on Monday 14 May 2018 at 3.30 pm, or on the rising of the earlier meeting of the Committee whichever is the later, in the Banqueting Hall, City Hall, Bradford

Members of the Committee – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT AND INDEPENDENT
Brown Rickard	Warburton Amran Lee Watson	Griffiths

Alternates:

CONSERVATIVE	LABOUR
Ellis	Azam S Hussain Lal Wainwright

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.
- **A legal briefing for all Members will take place at 0915 in the Banqueting Hall on the day of the meeting.**
- Applicants, objectors, Ward Councillors and other interested persons are advised that the Committee may visit any of the sites that appear on this Agenda during the day of the meeting, without prior notification. The Committee will then reconvene in the meeting room after any visits in order to determine the matters concerned.
- At the discretion of the Chair, representatives of both the applicant(s) and objector(s) may be allowed to speak on a particular application for a maximum of five minutes in total.
- For the item marked * Members may wish to consider whether there is a need to exclude the public for any part of the item. Further information can be obtained from the relevant contact officer.

From:

Michael Bowness
Interim City Solicitor
Agenda Contact: Sheila Farnhill
Phone: 01274 432268
E-Mail: sheila.farnhill@bradford.gov.uk

To:

A. PROCEDURAL ITEMS

1. ALTERNATE MEMBERS (Standing Order 34)

The City Solicitor will report the names of alternate Members who are attending the meeting in place of appointed Members.

2. DISCLOSURES OF INTEREST

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from Members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the Member during the meeting.

Notes:

- (1) *Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) *Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) *Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) *Officers must disclose interests in accordance with Council Standing Order 44.*

3. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Sheila Farnhill - 01274 432268)

B. BUSINESS ITEMS

4. * **REQUEST FOR SALE OF FORMER PARK KEEPER'S LODGE,
WIBSEY PARK, BEACON ROAD, WIBSEY, BRADFORD** 1 - 14
Wibsey

A report will be presented by the Strategic Director, Place in respect of a request for the sale of the former Park Keeper's Lodge and grounds at Wibsey Park, Beacon Road, Bradford (**Document "BA"**).

The report explains that the plot forms part of the land known as Wibsey Park, which is a registered charity of which the Council is Sole Trustee. The condition of the lodge has been assessed and it has been declared surplus to the operational requirements of the Parks and Greenspace Service. It is therefore suggested that the buildings and land be sold and the capital receipt used for improvements to the remainder of the park for the benefit of its users.

Recommended –

- (1) That the Strategic Director, Place be authorised to advertise the sale of the former Park Keeper's Lodge and grounds at Wibsey Park, Beacon Road Bradford and, subject to no objections being received, to make the necessary arrangements to sell the property through the Council's Sale of Assets process and to reinvest the proceeds in the Park.**
- (2) That, should objections be received to the sale, the Strategic Director, Place submit a further report to this Committee for consideration.**

(Phil Barker – 01274 432616)

This page is intentionally left blank



Report of the Director of Place to the meeting of the Regulatory and Appeals Committee to be held on 14 May 2018.

BA

Subject:

**Request for the Sale of former Park Keepers Lodge, Beacon Road,
Wibsey Bradford.**

Summary statement:

This report covers a request for the sale of the former Park Keepers Lodge and grounds at Wibsey Park, Beacon Road Bradford. This plot forms part of the land known as Wibsey Park which is a registered charity (1042146) of which the Council is Sole Trustee.

The Committee has delegated authority to act on behalf of the Council as Trustee. This is in line with Charity Commission guidance to provide a separation between the Council's statutory functions and its role as Trustee.

Steve Hartley
Strategic Director Department of
Place

Portfolio: Department of Place

Report Contact: Phil Barker
Assistant Director Sport and Leisure
Phone: (01274) 432616
E-mail: phil.barker@bradford.gov.uk

Overview & Scrutiny Area:

Regulatory and Appeals

1. SUMMARY

- 1.1 This report covers a request for the sale of the former Park Keepers Lodge and grounds at Wibsey Park, Beacon Road Bradford. This plot forms part of the land known as Wibsey Park which is a registered charity (1042146) of which the Council is Sole Trustee.
- 1.2 The Committee has delegated authority to act on behalf of the Council as Trustee. This is, in line with Charity Commission guidance, to provide a separation between the Council's statutory functions and its role as Trustee.

2. BACKGROUND

- 2.1 The Parks and Greenspaces Service, which manages the park and the lodge on behalf of the trustees, has assessed the condition of the lodge and declared it surplus to their operational requirements. As such they are requesting that the trustees agree to the sale of the buildings and land and use the capital receipt for improvements to the remainder of the Park.
- 2.2 The Council holds property known as Wibsey Park, Wibsey Park Avenue, Wibsey, Bradford, which property is registered under title number WYK909727 on trust as Recreation Ground for the inhabitants of the North Bierley and neighbourhood by virtue of an Inclosure Award under the Wibsey Slack and Low Moor Inclosure Act 1880. A copy of the Title and Title plan are attached as **Appendix A**.

Wibsey Park Recreation Ground is a registered charity – charity number 1042146 – with its charitable objectives being “recreation ground for the inhabitants of North Bierley and neighbourhood”

- 2.3 Independent Legal advice has been sort to advise the Trustees of their obligations in considering the request and any restriction through the charity documentation. A copy of their report is attached as **Not for Publication Appendix D**:

The Council in its capacity as trustees should be aware that:

- The lodge does not, in effect, form part of the recreation ground and as such is separate and apart from the main body of Charity Land.
- That the sale of lodge would not alter or affect the current trusts of the charity i.e.: would not materially affect the nature of the trust and, therefore, provided that the sale was deemed to be in the best interest of the charity (not the Council.) consent of the Charity Commission would not be required.
- The enclosure award does not grant an express power of sale, however, it is advised that the Trustees have the power of sale of the lodge under the Trusts of Land and Appointment of Trustees Act 1996 act as its disposal will not alter or affect the trust.

- The Charity Commission have confirmed that, in their opinion, and based on information provided by the Council, the Trustees can sell the lodge using section 117 – 121 of the charities act 2011 and that the disposal of the land will not affect or alter the objectives of the Charity. If the Trustees adhere to the provisions of of the Charities Act 2011 the consent of the Charity Commission will not be required for the sale. A copy of the charity commission advice is attached as **Appendix C:**

3. OTHER CONSIDERATIONS

3 THE REQUEST

- 3.1 This report covers a request for the sale of the former Park Keepers Lodge and grounds at Wibsey Park, Beacon Road Bradford. This plot forms part of the land known as Wibsey Park which is a registered charity (1042146) of which the Council is Sole Trustee.
- 3.2 The lodge and associated land and out buildings amounts to 670 m2. This is a small proportion of the total area of Wibsey Park. (0.61% of the total area). Attached as **Appendix B** is a plan showing the extent of the land subject to the sale.
- 3.3 The land under consideration is the former park keeper's lodge that was last occupied May 2016. The site has been subjected to repeated vandalism and other antisocial behaviour and is now in an uninhabitable condition without serious investment.
- 3.4 The Council have, in their position as managers, have undertaken a buildings conditions survey report that identifies that there is a backlog of maintenance to the property.
- 3.5 The independent valuation has indicated a guide sale price of £95,000 less professional fees for this building and land. The net funds remaining would be ring fenced to the charity and park to be used for capital projects delivering the aims and objectives of the charity.

4. Legal Appraisal:

- 4.1 Under Section 6 of the Trustees of Land and Appointment of Trustees Act 1996, the Trustees have the powers of an absolute owner in relation to any land. This therefore includes the power to sell or otherwise dispose of an interest in the land. Section 8 provides that where, as in this case, land is subject to a Charitable Trust the power of disposal cannot be constrained by a provision in the original disposition.
- 4.2 As required by the Charities Act 2011 a written report has been obtained from a qualified surveyor acting exclusively for the trust. Subject to the Committee, acting as Trustee, being satisfied that the valuation represents the best price reasonably obtainable, consent of the Charity Commission will not be required if it chooses to approve the sale on those terms.
- 4.3 Independent legal advice has been obtained and the report is attached as **Not for Publication Appendix D**

- 4.4 The independent valuation of the land was assessed at £95,000. (**Valuation dated 18th March 2015 – Not for Publication Appendix E**)
- 4.5 As required by the Charities Act 2011 and the Local Government Act 1972 notice off the proposed sale will have to be advertised in the local press.
- 4.6 The Committee as Trustee must consider the representations made and take them into account in reaching its decision.

5. **FINANCIAL & RESOURCE APPRAISAL**

- 5.1 An independent valuation of the land has been undertaken on behalf of the Trustees in line with the Charity Commission requirements. A copy of the report is appended as **Not for Publication Appendix E**.

6. **RISK MANAGEMENT AND GOVERNANCE ISSUES**

CONSIDERATION OF THE REQUEST

- 6.1 As indicated above, the Committee acting as Trustee will need to be satisfied that the price payable is the best that can reasonably be obtained as suggested by the view of the independent surveyor.

- 6.2 In addition the Committee must consider the proposal in terms of what is in the best interests of the charity. Charity Commission Guidance advises that this means;

"Acting in the charity's best interest's means always doing what the trustees decide will best enable the charity to carry out its purposes, both now and for the future."

- 6.3 The purposes of the Trust are;

"Recreation ground for the inhabitants of North Bierley and Neighbourhood" and to be used for amateur sport for the general public and mankind and to provide buildings facilities and open space.

- 6.4 The question for the Trustees therefore is how disposing of the area of land will benefit the Park from the perspective of the inhabitants of North Bierley and Neighbourhood and how it would do so more than through retaining the land. If there are negatives as well as positives then a balance will have to be drawn between them to find the optimal position for the Park and the public.

- 6.5 The area of land available to the public will be no less than available now. The lodge and surrounding land and buildings has never formed part of the publicly accessible land is has solely been used as a depot and / or residential property. Given that holding the land for the provision of a park is the core object, the Trustees should assume that it should be retained unless satisfied that the disposal will lead overall to a better park or pleasure ground with greater benefit to the inhabitants.

- 6.6 The loss of this small area of land is unlikely to have an adverse impact on the Park as an amenity or the inhabitants.

6.7 It is proposed that the proceeds from any sale would be reinvested in the remainder of the site for the benefit of the users of the Park. Works could be agreed with the friends of Wibsey Park and other user groups. This would overall improve the Park as an amenity and more than outweigh the loss of the small area.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

None

7.2 SUSTAINABILITY IMPLICATIONS

None

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

7.4 COMMUNITY SAFETY IMPLICATIONS

None

7.5 HUMAN RIGHTS ACT

None

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

None

8. NOT FOR PUBLICATION DOCUMENTS

Appendix D: Independent Legal Advice

Appendix E: Independent Valuation

Not for publication (NFP) under Paragraph 5 (Legal Privilege) of Schedule 12A Local Government Act 1972 (as amended) and it is considered that, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information for the following reason: it is in the overriding interests of proper administration that the Trustees are made fully aware of the legal implications of any decision without the risk of prejudice to the Council's case in any future legal proceedings.

9. OPTIONS

9.1 To advertise the sale of the lodge and, subject to no objections being received, sell the lodge through the Council's sale of assets process and reinvest the proceeds into the park. Should objections be received, the committee may need to reconsider its decision to dispose of the lodge in the light of such objections.

9.2 To refuse the sale of the property and associated land at this time

10. RECOMMENDATIONS

(1) That the Strategic Director, Place be authorised to advertise the sale of the former Park Keepers Lodge and grounds at Wibsey Park, Beacon Road Bradford and, subject to no objections being received, to make the necessary arrangements to sell the property through the Council's Sale of Assets process and to reinvest the proceeds in the Park.

(2) That, should objections be received to the sale, the Strategic Director, Place submit a further report to this Committee for consideration.

11. APPENDICES

Appendix A: Title Deed and Conveyance Plan showing the extent of the charity land.

Appendix B: Plan showing the area requested to be sold.

Appendix C: Charity Commission Advice

Appendix D: Independent Legal Advice (*Not for Publication, Paragraph 5 (Legal Privilege of the Local Government Act 1972)*)

Appendix E: Independent Valuation (*Not for Publication, Paragraph 5 (Legal Privilege of the Local Government Act 1972)*)

12. BACKGROUND DOCUMENTS

None

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



Official copy of register of title

Title number WYK909727

Edition date 22.09.2009

- This official copy shows the entries on the register of title on 24 MAY 2017 at 11:58:39.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 24 May 2017.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Nottingham Office.

A: Property Register

This register describes the land and estate comprised in the title.

WEST YORKSHIRE : BRADFORD

- 1 (22.09.2009) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Wibsey Park, Wibsey Park Avenue, Wibsey, Bradford.
- 2 (22.09.2009) The mines and minerals together with ancillary powers of working are excepted.

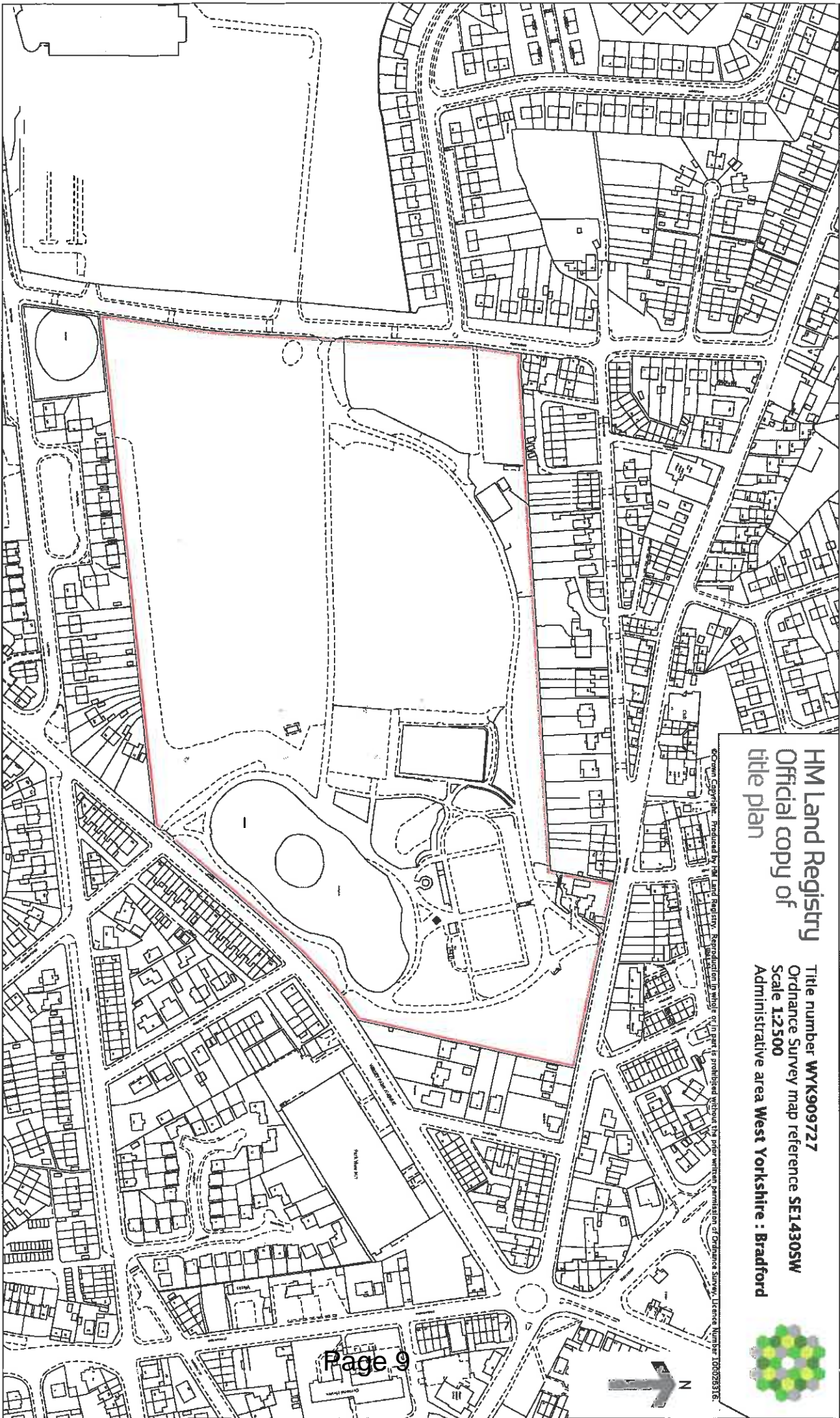
B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (22.09.2009) PROPRIETOR: CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL of City Hall, Bradford, West Yorkshire BD1 1HY the trustees of the charity known as Wibsey Park.

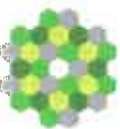
End of register



HM Land Registry
Official copy of
title plan

Title number **WYK909727**
Ordnance Survey map reference **SE1430SW**
Scale **1:2500**
Administrative area **West Yorkshire : Bradford**

© Crown Copyright. Reproduced by HM Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100029316.



This page is intentionally left blank



USE ONLY ORIGINAL PRINTED PAPER COPIES - ELECTRONICALLY TRANSMITTED COPIES FOR ID ONLY

FOR IDENTIFICATION ONLY



City of Bradford Metropolitan District Council

ESTATES and PROPERTY

www.bradford.gov.uk

1st Floor Argus Chambers, Britannia House, Bradford, BD1 1HX

Crown Copyright; Reproduced from Ordnance Survey Mapping with permission from H.M.S.O. 0100019304 SE1430	Scale 1/500@A4	Date 26-06-2017	Plan No. DCB B-107-035 SEW
---	--------------------------	---------------------------	--------------------------------------



This page is intentionally left blank



CHARITY COMMISSION
FOR ENGLAND AND WALES

Ms D Mawbey
By e-mail to
denise.mawbey@bradford.gov.uk

Charity Commission
PO Box 211
Bootle
L20 7YX

T: 0300 065 1805

Your ref: Corp/pcd/dm/
Our ref: C-466417

Date: 19 September 2017

Dear Ms Mawbey

Wibsey Park - 1042146

Thank you for your letter of 13 September. I am sorry that you did not receive a response to your earlier e-mails but the e-mail addresses you used are no longer valid. Should you need to contact us in future please use the [online forms available on our website](#).

The charity's land is 'designated land'. This means that the land is required by the charity's governing document to be used for a particular purpose.

As you acknowledge the trustees have the power to sell the land and the Commission's consent to the sale or lease is not needed, if:

- only a small part of the charity's land is being sold or leased; and
- the sale or lease does not interfere with the charity's trusts (which means that the charity's purposes can still be carried out).

To ensure that the trustees are meeting their legal duties and responsibilities to the charity, we usually strongly recommend that trustees take their own professional advice on this matter. However it appears from your letter that you are advising the trustee the charity's purposes will not be affected by the sale of the land and they have the power to sell or lease the land and will need to apply to the Commission for a Scheme. On the basis of the information provided we see no reason to disagree with this analysis.

As you point out the trustee must also ensure that the disposal meets the requirements of s117-121 of the Charities Act 2011. As the land is designated land, this includes giving public notice of the disposal and inviting representations. These requirements, and the other factors which the trustee must take into consideration, are explained in detail at the link below.

[Sales leases transfers or mortgages: what trustees need to know about disposing of charity land \(CC28\)](#)

On track to meet your deadline?

Visit www.gov.uk/charity-commission for help on filing your annual return and accounts

t: 0300 066 9197 (General enquiries)
0300 066 9219 (Textphone)

w: www.gov.uk/charity-commission

Please note that the Commission's authority will be needed if the land is to be sold or leased to a connected person. There is guidance about this including an explanation of the term connected person in the above guidance.

When making the decision to dispose of the charity's land, the trustees must apply the principles of good decision making. These are explained in detail at the link below.

[It's your decision: charity trustees and decision making \(CC27\)](#)

I hope you will find this helpful.

Yours sincerely

Tim Reese
cscorres1@charitycommission.gsi.gov.uk