

Agenda for a meeting of the Regulatory and Appeals Committee (sitting as Trustees) to be held on Thursday 19 July 2018 at 2.30 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
Brown Cooke	Amran Wainwright Warburton Watson	Griffiths

Alternates:

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
Ellis M Pollard	Azam Godwin S Hussain Jenkins	R Ahmed

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.

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. LITTLEMOOR PARK, QUEENSBURY, BRADFORD 1 - 22 **Queensbury**

The Strategic Director – Place will present a report (**Document “O”**) which seeks permission to approach the Charity Commission for a scheme to allow the potential construction of a crematorium and associated works on land at Littlemoor Park, Queensbury, Bradford.

Littlemoor Park (otherwise known as Foster Park) is a registered charity (519426) of which the Council is the sole Trustee.

Recommended –

- (1) That the Strategic Director – Place approach the Charity Commission in respect of a scheme for the potential construction of a crematorium and associated works at Littlemoor Park, Queensbury, Bradford.**
- (2) That the Strategic Director – Place be requested to submit a further report to the Committee, in due course, in respect of the Charity Commission’s response and the Bereavement Service’s proposals for the site.**

(Phil Barker – 01274 – 432616)

5. NORTHCLIFFE PARK, SHIPLEY, BRADFORD 23 - 30 **Shipley**

The Strategic Director – Place will present a report (**Document “P”**) which seeks permission to approach the Charity Commission for a scheme to allow the potential construction of a crematorium and associated works on land at Northcliffe Park, Shipley, Bradford.

Northcliffe Park (also known as Norman Rae Playing Fields) is a registered charity (515034) of which the Council is the sole Trustee.

Recommended –

- (1) That the Strategic Director – Place approach the Charity Commission in respect of a scheme for the potential construction of a crematorium and associated works at Northcliffe Park (Norman Rae Playing Fields), Shipley, Bradford.**

- (2) That the Strategic Director – Place be requested to submit a further report to the Committee, in due course, in respect of the Charity Commission’s response and the Bereavement Service’s proposals for the site.**

(Phil Barker – 01274 – 432616)



Report of the Director of Place to the meeting of Regulatory and Appeals Committee to be held on 19th July 2018



Subject: Request for permission to approach the Charity Commission for a scheme to construct a Crematorium at Littlemoor Park.

Summary statement:

This report covers a request for permission to approach the Charity Commission for a scheme for the possible construction of a crematorium and associated works at Littlemoor Park, Queensbury, Bradford. This plot forms part of the land known as Little Moor Park (Otherwise Foster Park) which is a registered charity (519426) 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 Place

Portfolio:

Department of Place

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

Overview & Scrutiny Area:

Regulatory and Appeals

1. SUMMARY

This report covers a request for permission to approach the Charity Commission for a scheme for the possible construction of a crematorium and associated works at Littlemoor Park, Queensbury, Bradford. The proposed site forms part of the land known as Little Moor Park (Otherwise Foster Park) which is a registered charity (519426) 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.

2. BACKGROUND

- 2.1 Bradford Council's Bereavement Service are currently undertaking a review of its crematoria provision. On the 8th November 2016 the Bereavement Service presented a report to the Council Executive outlining The Bereavement Strategy which has been produced in response to a number of major concerns facing the Service that provide a significant risk to both the continued scope and quality of service delivery. The Strategy identifies the existing and future challenges facing the Service and provides clear direction to enable the council to efficiently focus its resources, both capital and revenue, to deliver a sustainable service over the coming years
- 2.2 The Bereavement Investment Board (BIB) have gained permission, in principle, from the Council's Management Team, to move forward with locating potential sites across the district. One possible site that fits the criteria to construct a crematorium has been identified as Littlemoor Park in Queensbury.
- 2.2 The Council holds the property known as Littlemoor Park, Queensbury, which is registered under title number WYK899746, on trust to be used as a Recreation Ground for the inhabitants of Queensbury. A copy of the Title and Title plan are attached as **Appendix A**.
- 2.3 Littlemoor Park is a registered charity – charity number 519426 – with its charitable objectives being "*For the purpose of a Public Park and recreation ground for the benefit and use of the inhabitants of Queensbury and the Public and to be associated with the Silver Jubilee of his late Majesty King George the Vth and in memory of the said Herbert Anderton Foster*" A copy of the Deed and Conveyance are attached as **Appendix B**.

3. OTHER CONSIDERATIONS

None

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 There are no financial or resource issues associated with this report. All the costs associated with this request will be met by the Bereavement Service from base budgets.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no significant risks arising out of the implementation of the proposed recommendations.

6. LEGAL APPRAISAL

6.1 Independent Legal advice has been sought 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 C:**

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

- As the Council is both the Trustee of the Charity and also the potential beneficiary of the sale of part of the Property, this is a conflict of interest and needs to be managed appropriately. For example, it would be good practice if the individuals who make up a committee which in effect takes the decisions for the corporate trusteeship of the Council in respect of the Charity are not the same individuals who would deal with the transfer of land from the Charity to the Council on behalf of the Council, for example Bereavement Services
- In addition as the Council is the Trustee of the Charity, and also is the proposed purchaser of the Property, it will fall within the definition of "Connected Person" under section 118 of the Charities Act 2011. As a result an Order of the Charity Commission will be required to dispose of the Property (or the relevant part of the Property) to the Council unless the disposal is sanctioned by a Charity Commission Scheme.
- The independent legal advisors have concluded that in order to dispose of the Property, the Charity will need to apply to the Charity Commission for a scheme in order to:
 1. Expressly authorise the proposed disposal on the basis that it comprises designated property in respect of which section 121 of the Charities Act will not be complied with.
 2. Expressly authorise the proposed disposal to the Council as a "Connected Person".
 3. To address whether the Trustees intend to spend the funds held on the implied trust.
 4. The Trustees of the Charity are obliged to consider both current and future beneficiaries and are also obliged to not prejudice either.
 5. When deciding whether or not to dispose of permanent endowment property, the Trustees must act in the best interests of the Charity and not those of any third party.

6. When negotiating any sale price in relation to the Property, the Trustees must look to obtain best value and should be guided by the surveyor's report which they will obtain to this effect, and which will be required in order for the charity to apply to the Charity Commission for consent to the disposal to a Connected Person.
7. If the Trustees decide they wish to dispose of part of the endowment of the Property and obtain the Charity Commission's consent to do so they must also decide what to do with the proceeds of sale. They have two choices:
 - a: Reinvest the proceeds in the remaining Property.
 - B: Purchase replacement property.

It is likely that any potential purchaser of the Property would wish to investigate further the covenants on the Property, their enforceability, the impact these may have on the scheme currently proposed to build and operate a crematorium on the site.

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

**7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS
(for reports to Area Committees only)**

Not applicable

7.9 IMPLICATIONS FOR CORPORATE PARENTING

Not applicable

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

Not applicable

8. NOT FOR PUBLICATION DOCUMENTS

Appendix C: Independent Legal Advice

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

There are no options with this paper other than if the Committee agree to the request to approach the Charity Commission in regard to the request.

10. RECOMMENDATIONS

- (1) That the Charity Commission are approached for a scheme for the possible construction of a crematorium and associated works at Littlemoor Park, Queensbury, Bradford.
- (2) On receipt of the Charity Commission's response that the Strategic Director for Place bring back a report to the Committee outlining the decision of the Charity Commission and the proposals of Bereavement Services for the site for consideration.

11. APPENDICES

Appendix A: Land Registry Information
Appendix B: Title Deed of Gift and Conveyance
Appendix C: **Not for publication:** Independent Legal Advice

12. BACKGROUND DOCUMENTS

There are no background documents

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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 WYK899746

Edition date 04.03.2009

- This official copy shows the entries on the register of title on 16 AUG 2017 at 12:35:46.
- 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 16 Aug 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 (04.03.2009) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Foster Park, Scarlet Heights, Queensbury, Bradford.
- 2 (04.03.2009) The land in this title has the benefit of the rights granted by but is subject to the rights reserved by the Deed of Gift dated 17 September 1936 referred to in the Charges Register.

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 (04.03.2009) PROPRIETOR: CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL of City Hall, Bradford, West Yorkshire BD1 1HY.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (04.03.2009) The land is subject to the following rights reserved by a Indenture of the land tinted pink on the title plan and other land dated 31 May 1890 made between (1) Frederick Walker And Others (Vendor) and (2) John Thomas Sutcliffe And Others (Purchaser):-

SUBJECT to all rights of way water and other easements if any and to any cheif and other rents moduses and manorial rights or services subsisting or charged thereon.

- 2 (04.03.2009) The land is subject to the rights granted by a Deed dated 3 April 1936 made between (1) Frances Edith Agnes Foster Edward Hornby and others (Grantors) and John Foster & Son Limited (the Company).

Title number WYK899746

C: Charges Register continued

NOTE: Copy filed under WYK512051.

- 3 (04.03.2009) A Deed of Gift of the land in this title dated 17 September 1936 made between (1) Frances Edith Agnes Foster And Others and (2) The Urban District Council Of Queensbury contains restrictive covenants.

NOTE: Copy filed.

End of register

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These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

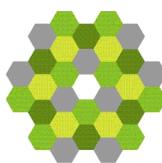
Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

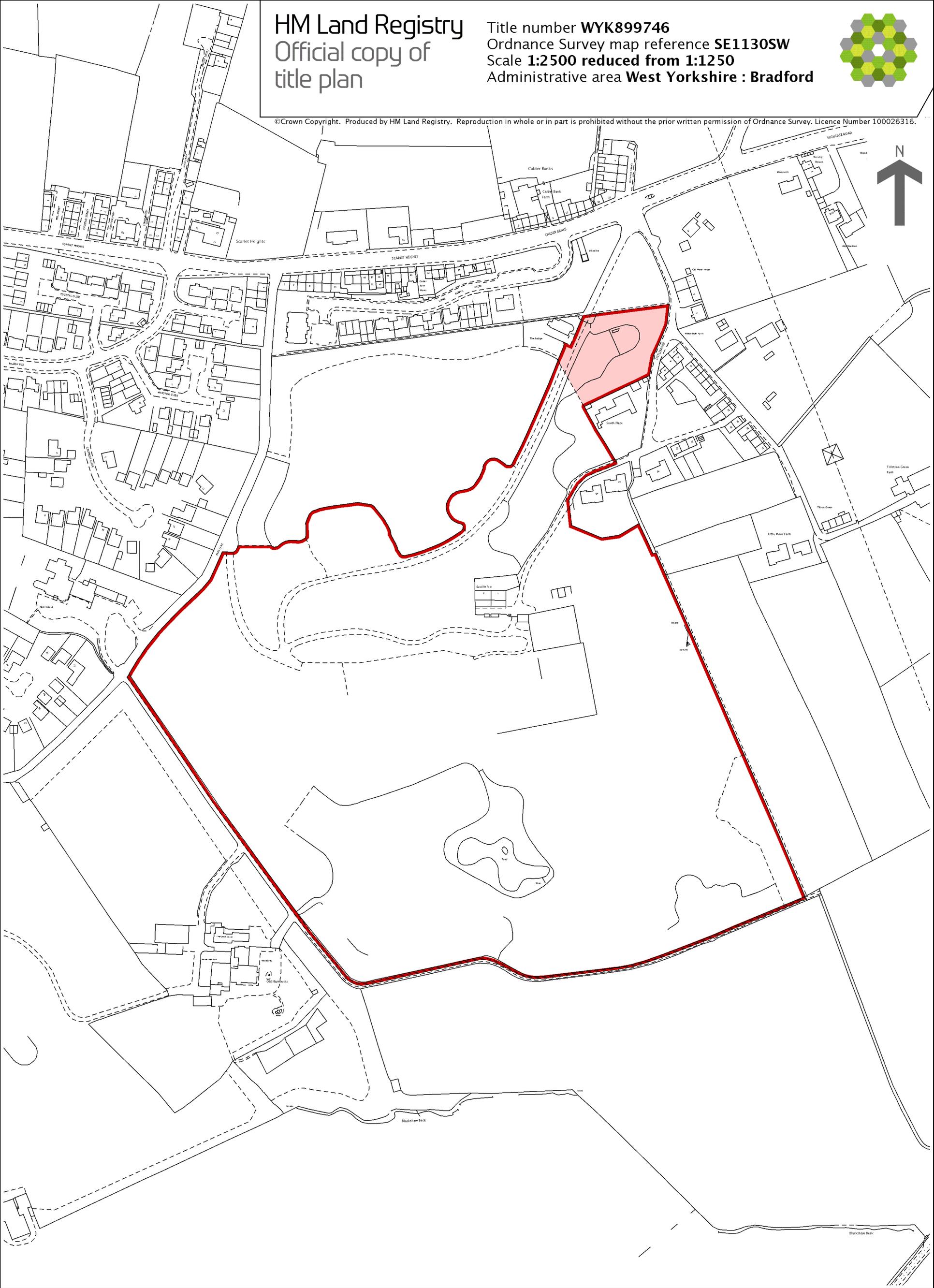
This official copy is issued on 16 August 2017 shows the state of this title plan on 16 August 2017 at 12:35:46. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. This title is dealt with by the HM Land Registry, Nottingham Office .

HM Land Registry
Official copy of
title plan

Title number **WYK899746**
Ordnance Survey map reference **SE1130SW**
Scale **1:2500 reduced from 1:1250**
Administrative area **West Yorkshire : Bradford**



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These are the notes referred to on the following official copy

Title Number WYK899746

The electronic official copy of the document follows this message.

This copy may not be the same size as the original.

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



This Deed of Gift

is made the Seventeenth
day of September



One thousand nine hundred and thirty six B E T W E E N FRANCES EDITH AGNES FOSTER of Faskally Pitlochry in the County of Perth Widow of the first part the said FRANCES EDITH AGNES FOSTER HERBERT FREDERICK BRUDENELL FOSTER of Faskally Pitlochry aforesaid Esquire and WILLIAM ROBERT BRUDENELL FOSTER of Faskally Pitlochry aforesaid Esquire of the second part the said FRANCES EDITH AGNES FOSTER EDWARD HORNBY FOSTER of Woodleigh Shibden Head Halifax in the County of York Esquire ROBERT HALL of Queensbury in the said County of York Secretary and the said HERBERT FREDERICK BRUDENELL FOSTER (hereinafter called "the Trustees") of the third part and THE URBAN DISTRICT COUNCIL OF QUEENSBURY in the said County of York (hereinafter called "the Council") of the fourth part

W H E R E A S at the date of his death hereinafter recited Herbert Anderton Foster (hereinafter sometimes called "the Testator") late of Queensbury in the said County of York and of Faskally Pitlochry in the said County of Perth Esquire was seised of (inter alia) the property hereinafter described and intended to be hereby conveyed for an estate in fee simple in possession subject as hereinafter mentioned but otherwise free from incumbrances AND WHEREAS the Testator duly made his Will dated the Twenty first day of October One thousand nine hundred and twenty seven whereby he appointed the Trustees (but so far as regarded his son the said Herbert Frederick Brudenell Foster if and when he attained the age of Twenty five years) executors and trustees thereof and the Testator declared that if the said Herbert Frederick Brudenell Foster should not attain the age of Twenty five years till after the death of the Testator the trust property should on his attaining that age be transferred so as to be vested in him jointly with the other trustees or trustee for the time being And the Testator devised all his real estate to the Trustees upon trust to sell the same and to stand possessed of the net proceeds of sale upon trust (after payment thereof of his funeral and testamentary expenses and debts and legacies and after providing thereout for certain pecuniary legacies and for certain annuities bequeathed by that his Will and of all death duties payable on his death) for such son or sons of his as should attain the age of Twenty five years in equal shares as therein provided AND WHEREAS the Testator died on the Seventeenth day of January One

thousand nine hundred and thirty without having revoked or altered his said Will and the same was on the Third day of December One thousand nine hundred and thirty duly proved in the Principal Probate Registry by the Trustees other than the said Herbert Frederick Brudenell Foster power being reserved to him AND WHEREAS Double Grant of Probate of the said Will of the Testator was on the Twenty seventh day of December One thousand nine hundred and thirty four made to the said Herbert Frederick Brudenell Foster who had attained the age of Twenty five years on the Eighth day of May One thousand nine hundred and thirty three AND WHEREAS the Trustees have paid the funeral and testamentary expenses of the Testator and all his debts which have come to their knowledge and the legacies bequeathed by his said Will and all death duties arising on his death and payable out of his estate and have also provided for the said annuities bequeathed by his said Will AND WHEREAS by an Assent dated the Fourth day of January One thousand nine hundred and thirty five the Trustees as Personal Representatives of the Testator assented to the vesting in themselves in fee simple of the property described in the Schedule thereto (of which the property hereinafter described and intended to be hereby conveyed formed part) upon trust to sell the same and upon the further trusts in relation thereto in the said Will of the Testator contained AND WHEREAS the Testator had two sons only namely the said Herbert Frederick Brudenell Foster and the said William Robert Brudenell Foster who attained the age of Twenty five years on the Fourteenth day of April One thousand nine hundred and thirty six AND WHEREAS the said Frances Edith Agnes Foster the widow of the Testator is desirous that the property hereinafter described shall be presented to the Council to be used for all time as an open space dedicated to the use of the inhabitants of Queensbury aforesaid and the public and to be associated with the Silver Jubilee of His Late Majesty King George the Fifth and in memory of the said Herbert Anderton Foster and the said Herbert Frederick Brudenell Foster and William Robert Brudenell Foster in order to give effect to the said desire of the said Frances Edith Agnes Foster in which they concur have agreed that the said property shall be conveyed to the Council in manner hereinafter appearing NOW THIS DEED WITNESSETH as follows:-

1. FOR effectuating the said desire and in pursuance of the said agreement and in consideration of the premises and at the request of the said Frances Edith Agnes Foster the Trustees as trustees hereby

convey and the said Herbert Frederick Brudenell Foster and William Robert Brudenell Foster as Beneficial Owners and to the intent that each shall become liable under his covenant for title implied by law to the extent of a half share in the said property corresponding with his half share in the proceeds of sale thereof but not further or otherwise hereby respectively convey and confirm unto the Council ALL THAT Mansion House known as 'Littlemoor' with the gardens land entrance lodge coachman's house cottages and outbuildings occupied therewith and with the appurtenances thereto belonging together with the park and grounds surrounding the same All which said premises are situate at Queensbury in the County of York and are for the purposes of identification only more particularly delineated in the plan annexed hereto and therein surrounded by a red boundary line and contain in the whole an area of Twenty nine acres and point One hundred and seventy one decimal parts of an acre or thereabouts TOGETHER WITH (so far as the Trustees and the said Herbert Frederick Brudenell Foster and William Robert Brudenell Foster can respectively lawfully grant the same if at all) rights of way at all times hereafter for the Council their successors in title and assigns and their tenants workmen servants visitors and licensees (in common with the Trustees and the said Herbert Frederick Brudenell Foster and William Robert Brudenell Foster and their respective Successors in title and assigns and all other persons entitled or to become entitled to similar rights) to and from the said property hereby conveyed and all buildings erected thereon over and along such parts of the roads and footpaths coloured brown as lie outside the red boundary line on the said plan and the roads communicating therewith AND ALSO the use (in common as aforesaid) of the sewers drains water pipes and electric cables made or laid under the said roads and footpaths and the outlet sewers or sewer in connection therewith AND TOGETHER ALSO with the benefit (so far as relates to the property hereby conveyed) of the covenants on the part of John Foster & Son Limited contained in a Deed of Grant dated the Third day of April One thousand nine hundred and thirty six and made between the Trustees of the one part and the said John Foster & son Limited of the other part EXCEPTING AND RESERVING unto the Trustees the said Herbert Frederick Brudenell Foster William Robert Brudenell Foster and all other persons to whom they may have granted or may hereafter grant similar rights (in common with the Council and all other persons entitled or to become entitled to the like

privilege) rights of way over and along such portions of the said roads and footpaths coloured brown as are hereby conveyed and lie within the said red boundary line on the said plan except in so far as the exercise of such rights of way shall conflict or be inconsistent with any bylaws or regulations which the Council might from time to time make affecting the property hereby conveyed and the right to construct and use the sewers drains gas and water pipes and mains and electric cables thereunder and the right to enter upon the property hereby conveyed for the purpose of making sewers and drains laying water pipes gas mains and pipes and electric mains and cables thereunder and repairing renewing and maintaining the same and any existing sewers mains pipes and cables and making communications therewith making good all damage to the surface occasioned thereby TO HOLD the same Excepting and Reserving as aforesaid UNTO the Council in fee simple SUBJECT NEVERTHELESS as to such part of the property hereby conveyed as was comprised in and conveyed by an Indenture dated the Thirty first day of May One thousand eight hundred and ninety and made between Frederick Walkor and John Thomas Sutcliffe of the first part Alfred Fawthrop of the second part Harriet Fawthrop of the third part the said John Thomas Sutcliffe of the fourth part the said Frederick Walker of the fifth part and the Testator of the sixth part to all rights of way water and other easements chief and other rents moduses and manorial rights or services as are now subsisting therein or thereover and also all liabilities to maintain roads fences and drains and other liabilities of that nature as the same are in anywise subject to AND SUBJECT ALSO as to all the said property hereby conveyed to the said Deed of Grant dated the third day of April One thousand nine hundred and thirty six and to the liberties privileges rights and easements granted thereby AND SUBJECT ALSO to all such rights and privileges in the nature of easements or quasi-easements as have hitherto been enjoyed over or in respect of the said property hereby conveyed in respect of the adjoining property of the Trustees

2. THE Council for themselves and their Successors in title hereby covenant with the Trustees and as separate covenants with the said Frances Edith Agnes Foster Herbert Frederick Brudenell Foster and William Robert Brudenell Foster as follows :-

- (a) That they will at all times hereafter keep in repair and maintain the portions of the said roads and footpaths coloured

brown on the said plan as are hereby conveyed fit for the traffic usually passing over the same and the sewers and drains thereunder

(b) That they will not use any part of the property hereby conveyed for manufacturing purposes or for any trade or business whatsoever and that no building or other erection or structure whether permanent or temporary (except such as are usually erected on similar land for public purposes) shall at any time be erected or built or placed or suffered to be upon any portion of the said Park or other lands forming part of the said premises but that they will forever hereafter set apart and use and maintain the same for the purposes of a Public Park and Recreation ground for the benefit and use of the inhabitants of Queensbury aforesaid and the Public and to be associated with the Silver Jubilee of His Late Majesty King George the Fifth and in memory of the said Herbert Anderton Foster

3. THE Trustees hereby acknowledge the right of the Council to production and delivery of copies of the documents specified in the schedule hereto

IN WITNESS whereof the persons parties hereto have hereunto set their hands and seals and the Council has hereunto caused its Common Seal to be affixed the day and year first before written

THE SCHEDULE hereinbefore referred to

1st July 1885

INDENTURE of this date made between William Henry Foster and Robert John Foster of the first part the said William Henry Foster of the second part the said Robert John Foster of the third part Frederick Charles Foster of the fourth part Herbert Anderton Foster of the fifth part and Henry Fison Killick of the sixth part

31st May 1890

INDENTURE of this date made between Frederick Walker of the first part John Thomas Sutcliffe on behalf of Alfred Fawthrop of the second part Harriet Fawthrop of the third part John Thomas Sutcliffe of the fourth part Frederick Walker of

the fifth part and Herbert Anderton Foster of
the sixth part

3rd December 1930

THE hereinbefore recited Probate of the Will of
Herbert Anderton Foster

27th December 1934

THE hereinbefore recited Double Grant of Probate
of the Will of Herbert Anderton Foster

4th January 1935

THE hereinbefore recited Assent of this date

SIGNED SEALED and DELIVERED by the)
said Frances Edith Agnes Foster in)
the presence of)

Frances Edith Agnes Foster

*Hugh Barthwick
Estate Office, Faskally,
Pittwehry Perthshire
F actal*

SIGNED SEALED and DELIVERED by the)
said Herbert Frederick Brudenell)
Foster in the presence of . . .)

H. F. Foster

Charles F. Taje

*Barnaby Grange
Gronham*

Officer in H.M. Yarmouth

SIGNED SEALED and DELIVERED by the)
said William Robert Brudenell)
Foster in the presence of . . .)

William R. B. Foster

Ernest Harkle

*Russell Avenue. Queensbury,
Cashier*

SIGNED SEALED and DELIVERED by the)
said Edward Hornby Foster in the)
presence of)

Edward Foster

Ernest Harkle

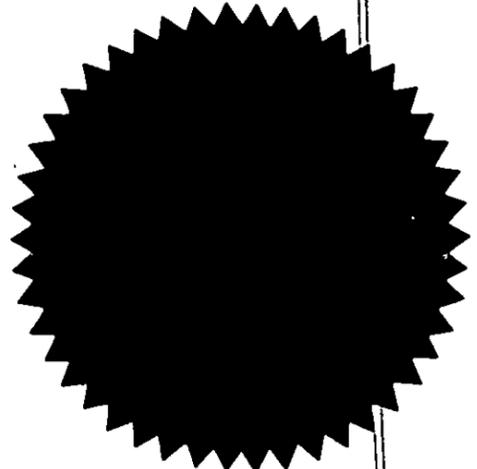
*Russell Avenue. Queensbury,
Cashier*

SIGNED SEALED and DELIVERED by the)
said Robert Hall in the presence of)

Robert Hall

*Ernest Hoyle .
Russell Avenue . Queensbury .
Cashier .*

THE COMMON SEAL of The Urban)
District Council of Queensbury)
was hereunto affixed in the)
presence of)



116

Registered at the West Riding Registry of)
Deeds at Wakefield the Ninth of December 1936)
at 10. 0 a.m. in Volume 188 Page 329)
Number 116 *W. B. Armstrong* Registrar.)

SEE DEED NO. 117115
ACKNOWLEDGEMENT FOR PROVISION OF THE WRITTEN DEED
IN FEE SIMPLE AND THE DEED CONTAINING AN
PROPERTY AS COVERED BY THE WRITTEN DEED
1936
BY A CONVEYANCE MADE THE
DAY OF
1936

Dated 17th September, 1936

M^{rs} J. E. A. Foster Mes^{rs}
H. F. B. Foster and W. R. B
Foster and the Personal Representative
of the late Herbert Anderson Foster
Esq.

24952

Deed of Gift of the Mansion

House and Park known as "Littlemoor"
situate at Queensbury in the County
of York

to

The Queensbury Urban District
Council

Munniford & Gordons
Bradford

Plan referred to -





Report of the Director of Place to the meeting of Regulatory and Appeals Committee to be held on 19th July 2018

P

Subject: Request for permission to approach the Charity Commission for a scheme to construct a Crematorium at Northcliffe Park.

Summary statement:

This report covers a request for permission to approach the Charity Commission for a scheme for the possible construction of a crematorium and associated works at Northcliffe Park, Shipley. This plot forms part of the land known as Norman Rae (or Northcliffe) Playing Fields, which is a registered charity (515034) 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.

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Strategic Director Place

Portfolio:

Department of Place

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Overview & Scrutiny Area:

Regulatory and Appeals

1. SUMMARY

This report covers a request for permission to approach the Charity Commission for a scheme for the possible construction of a crematorium and associated works at Northcliffe Park, Shipley. This plot forms part of the land known as Norman Rae (or Northcliffe) Playing Fields, which is a registered charity (515034) 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.

2. BACKGROUND

- 2.1 Bradford Council's Bereavement Service are currently undertaking a review of its crematoria provision. On the 8th November 2016 the Bereavement Service presented a report to the Council Executive outlining the Bereavement Strategy which has been produced in response to a number of major concerns facing the Service that provide a significant risk to both the continued scope and quality of service delivery. The Strategy identifies the existing and future challenges facing the Service and provides clear direction to enable the council to efficiently focus its resources, both capital and revenue, to deliver a sustainable service over the coming years
- 2.2 The Bereavement Investment Board (BIB) have gained permission, in principle, from the Council's Management Team, to move forward with locating potential sites across the district. One possible site that fits the criteria to construct a crematorium has been identified as Norman Rae (or Northcliffe) Playing Fields in Shipley.
- 2.2 The Council holds the property known as Norman Rae (or Northcliffe) Playing Fields, Shipley, which is registered under title number WYK916483, on trust to be used as a Open Space and Recreation Ground for the general public.
- 2.3 Norman Rae (or Northcliffe) Playing Fields is a registered charity – charity number 515034 – with its charitable objectives being "THE LANDS AND WOODLANDS CONVEYED BY THE INDENTURE SHALL BE USED AT ALL TIMES HEREAFTER SOLELY AND ENTIRELY AS AN OPEN SPACE FOR THE RECREATION AND BENEFIT OF THE PUBLIC AND FOR NO OTHER PURPOSE WHATEVER AND NOT FOR THE PURPOSE OF PROFIT AND ALL INCOME DERIVED FROM THE ESTATE SHALL BE USED FOR THE MAINTENANCE DEVELOPMENT OR IMPROVEMENT OF THE ESTATE

.
A copy of the Land Registry plan is attached as **Appendix A**.

3. OTHER CONSIDERATIONS

None

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 There are no financial or resource issue associated with this report. All the costs associated with this request will be met by the Bereavement Service from base budgets.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no significant risks arising out of the implementation of the proposed recommendations.

6. LEGAL APPRAISAL

- 6.1 Legal advice has been sort to advise the Trustees of their obligations in considering the request and any restriction through the charity documentation.

The internal Council Legal Team have advised that, in the first instance, the advice provided by Ward Hadaway for the Littlemoor Park Crematorium proposal is relevant.

A copy of their report for Littlemoor Park is attached as: **Not for Publication Appendix B:**

That report states that the Council in its capacity as Trustees should be aware that:

- As the Council is both the Trustee of the Charity and also the potential beneficiary of the sale of part of the Property, this is a conflict of interest and needs to be managed appropriately. For example, it would be good practice if the individuals who make up a Committee which in effect takes the decisions for the corporate trusteeship of the Council in respect of the Charity are not the same individuals who would deal with the transfer of land from the Charity to the Council on behalf of the Council, for example Bereavement Services
- In addition as the Council is the Trustee of the Charity, and also is the proposed purchaser of the Property, it will fall within the definition of "Connected Person" under section 118 of the Charities Act 2011. As a result an Order of the Charity Commission will be required to dispose of the Property (or the relevant part of the Property) to the Council unless the disposal is sanctioned by a Charity Commission Scheme.
- The independent legal advisors have concluded that In order to dispose of the Property, the Charity will need to apply to the Charity Commission for a scheme in order to:
 1. Expressly authorise the proposed disposal on the basis that it comprises designated property in respect of which section 121 of the Charities Act will not be complied with.
 2. Expressly authorise the proposed disposal to the Council as a "Connected Person".

3. To address whether the Trustees intend to spend the funds held on the implied trust.
4. The Trustees of the Charity are obliged to consider both current and future beneficiaries and are also obliged to not to prejudice either.
5. When deciding whether or not to dispose of permanent endowment property, the Trustees must act in the best interests of the Charity and not those of any third party.
6. When negotiating any sale price in relation to the Property, the Trustees must look to obtain best value and should be guided by the surveyor's report which they will obtain to this effect, and which will be required in order for the charity to apply to the Charity Commission for consent to the disposal to a Connected Person.
7. If the Trustees decide they wish to dispose of part of the endowment of the Property and obtain the Charity Commission's consent to do so they must also decide what to do with the proceeds of sale. They have two choices:
 - a: Reinvest the proceeds in the remaining Property.
 - B: Purchase replacement property.

It is likely that any potential purchaser of the Property would wish to investigate further the covenants on the Property, their enforceability, the impact these may have on the scheme currently proposed to build and operate a crematorium on the site.

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

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

Not applicable

7.9 IMPLICATIONS FOR CORPORATE PARENTING

Not applicable

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

Not applicable

8. NOT FOR PUBLICATION DOCUMENTS

Appendix B: Independent Legal Advice

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

There are no options with this paper other than if the Committee agree to the request to approach the Charity Commission in regard to the request.

10. RECOMMENDATIONS

- (1) That the Charity Commission are approached for a scheme for the possible construction of a crematorium and associated works at Norman Rae (or Northcliffe) Playing Fields.
- (2) On receipt of the Charity Commission's response that the Strategic Director for Place bring back a report to the Committee outlining the decision of the Charity Commission and the proposals of Bereavement Services for the site for consideration.

11. APPENDICES

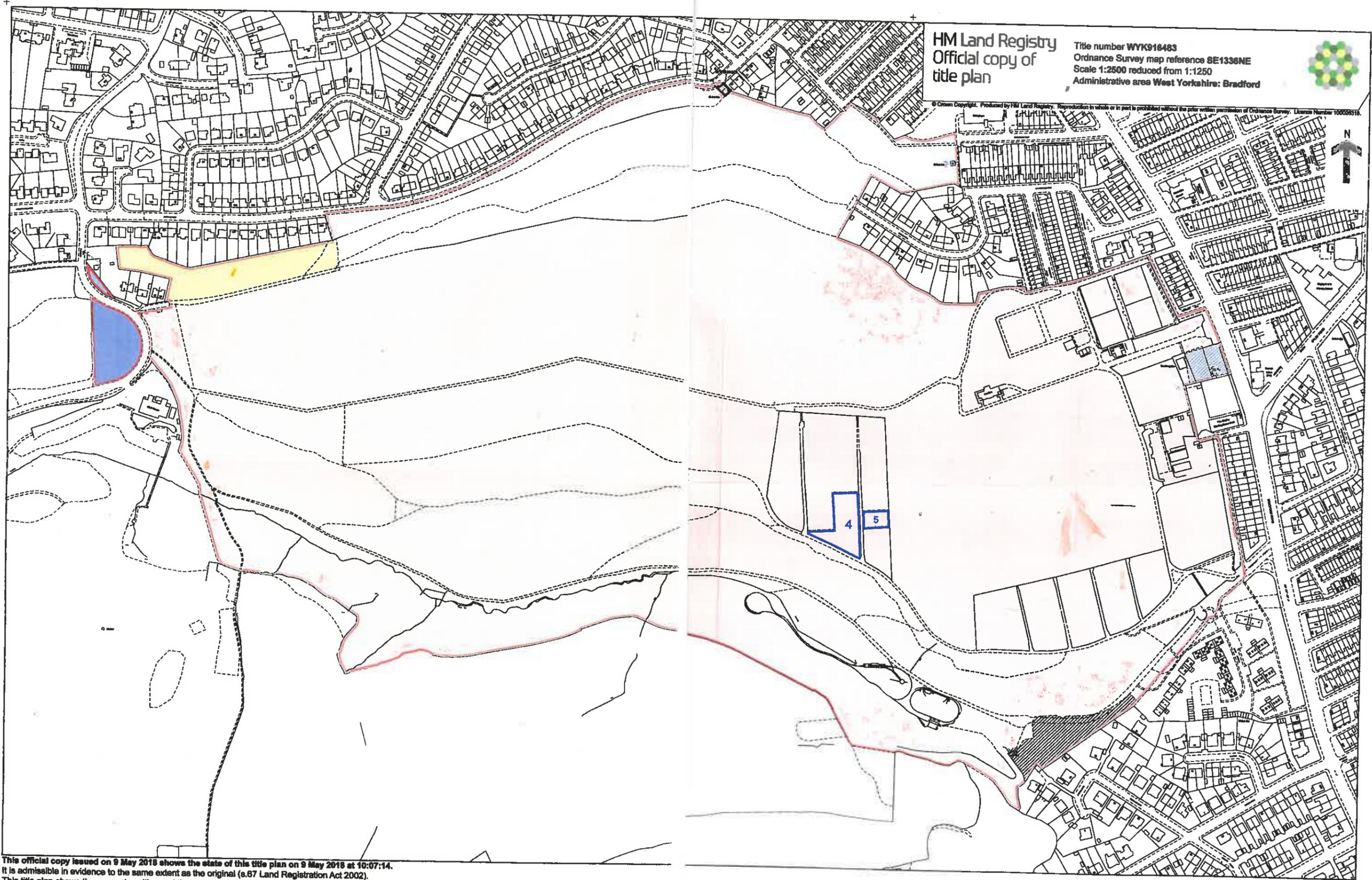
Appendix A: Land Registry plan

Appendix B: **Not for publication:** Independent Legal Advice

12. BACKGROUND DOCUMENTS

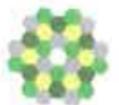
There are no background documents

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HM Land Registry
 Official copy of
 title plan

Title number WYK916483
 Ordnance Survey map reference SE1336NE
 Scale 1:2500 reduced from 1:1250
 Administrative area West Yorkshire: Bradford



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This official copy issued on 9 May 2018 shows the state of this title plan on 9 May 2018 at 10:07:14.
 It is admissible in evidence to the same extent as the original (s.87 Land Registration Act 2002).
 This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements taken between the same points on the ground.
 This title is dealt with by HM Land Registry, Durham Office.

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