

Report of the Director of Environment and Sport to the meeting of the Regulatory and Appeals Committee to be held on 9th March 2017.

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Subject: Request for the Sale of Land at Parkwood Street, Keighley

Summary statement:

This report covers a request for the sale of land at Parkwood Street, Keighley to an adjoining business for extension of its existing service yard. This plot forms part of the land known as Parkwood Recreation Ground, Keighley which is a registered charity (1079083) 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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Overview & Scrutiny Area:

Regulatory and Appeals



1. SUMMARY

- 1.1 This report presents a request for the sale of land at Parkwood Street, Keighley to an adjoining business for extension of its existing service yard. This plot forms part of the land known as Parkwood Recreation Ground, Keighley which is a registered charity (1079083) of which the Council is the 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 In May 2010 the Sport & Leisure Service received an enquiry, via the Councils Estates Management department, on behalf of an adjoining business, Copperwaite Fleet Management, requesting the purchase of a parcel of land at Parkwood Street, Keighley to extend its service yard.
- 2.2 This plot is part of the Parkwood Recreation Ground, Keighley. This is a registered charity (1079083) of which CBMDC is the sole corporate trustee. (Attached as Appendix A is a conveyance plan showing the extent of the Charity land.)
- 2.3 The land was conveyed to the Borough of Keighley by virtue of a conveyance by the Duke of Devonshire and the Chatsworth Estates, dated the 27th September 1928 and provided for the land to be held on trust ***“FOR THE PROVISION OF A PUBLIC PARK OR PLEASURE GROUND, PLAYING FIELDS AND RECREATION GROUNDS FOR THE INHABITANTS OF THE BOROUGH OF KEIGHLEY”*** and to be used for such purpose.
- 2.4 As Corporate Trustee, the Council does not have the legal right, under the Conveyance dated the 27th September 1928, to dispose of the land. However, the Corporate Trustees can use the powers given to them under section 6 of the Trusts of Land and Appointment of Trustees Act 1996 to dispose of the land. The Charity Commission have confirmed that, in their opinion, and based on information provided by the Council, the Trustees could sell the land using section 6 of the Act 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.
- 2.5 The property detailed in the 1928 conveyance is not only subject to a trust, but also has restrictive covenants benefitting the Chatsworth Estate governing the sale of the land. In order to secure the release of the land from these covenants, payment will need to be made by the Council as Trustee from the proceeds of sale which will thus be dispersed between the Chatsworth House Trust (66%) and Parkwood Recreation Ground (33%).



3. OTHER CONSIDERATIONS

3 THE REQUEST

- 3.1 The land sought by Copperwaite amounts to approximately 967 sq m. This is a small proportion of the total area of Parkwood Recreation Ground. (0.74% of the total area). Attached as Appendix B is a plan showing the extent of the land subject to the sale.
- 3.2 The land under consideration is colonized by self-seeded trees, however until relatively recently it was the site of a scout hut. The site was not woodland when it was gifted and does not form part of any sites designated as Ancient Semi Natural Woodland.
- 3.3 A planning application (11/05545/FUL) was submitted by the applicant for the area which was passed in May 2012. The planning consent requires that as part of the development trees are planted to screen the parking area and a new woodland entrance with improved access is created for users of Parkwood.
- 3.4 The price offered amounts to £15,000 plus all costs of both the Trustee and also those of the Chatsworth estate. As indicated above the sale price would in effect be split so that the Chatsworth estate receives £10,000 for release of the restrictive covenants and the balance, £5000 would be retained by the Trust to be re-invested into the Parkwood Recreation Ground Charity "for the good of the people of the borough."
- 3.5 Following notice of the potential disposal of the land in line with the Charities act 2011 and the Local Government Act 1972 a local resident has written to the Council on several occasions complaining that as trustee the Council has not followed due process in the proposed disposal of the land. The process detailed above is in line with the requirements of both the Charities Act and the Local Government Act.
- 3.6 All correspondence received is attached for the Committee's information at Appendix C.

4. Statutory Requirements

- 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. The report recommended that it would not be appropriate in this case to advertise the property for sale given the nature of the offer from Copperwaite. Subject to the Committee, acting as Trustee,



being satisfied that the offer 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 The independent valuation of the land was assessed as £1,500. (Valuation dated 18th March 2015 – Appendix D) Copperwaite have offered an above market price of £15,000 plus VAT for the purchase of the land.
- 4.4 As required by the Charities Act 2011, notice was given of the proposed sale in The Keighley News on the 21st July 2011. Representations have been made by a local resident and Keighley Town Council, the written objections are attached at Appendix C.
- 4.5 As required by the Local Government Act 21972 notice was given of the proposed sale by in in The Keighley News on the 21st July 2011. Representations have been made by a local resident and Keighley Town Council, the written objections are attached at Appendix C.
- 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 Appendix D

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;

" for the provision of a public park or pleasure ground, playing fields and recreation grounds for the inhabitants of the borough



- 6.4 The question for the Trustees therefore is how disposing of the area of land will benefit the Recreation Ground from the perspective of the inhabitants of Keighley 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 Recreation Ground and the public.
- 6.5 The area of land available to the public will be less. 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 Sale of the land is conditional upon tree planting to screen the parking area and a new woodland entrance with improved access. In addition it is proposed that the proceeds from any sale would be reinvested in the remainder of the site for the benefit of the people of Keighley. Works could include improvements to other access points, signage and seating. 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

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

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 To agree the sale of the land and reinvestment of the net proceeds into Parkwood Recreation Ground.

9.2 To refuse the sale of the land.

10. RECOMMENDATIONS

That the Regulatory and Appeals Committee approves

10.1 The sale of the land to Copperwaite Limited and reinvestment of the net proceeds' within Parkwood Recreation Ground.

Recommended -

11. APPENDICES

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

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

Appendix C: Correspondence Received

Appendix D: Independent Valuation;

12. BACKGROUND DOCUMENTS

None

