

## **Report of the City Solicitor to the meeting of the Regulatory & Appeals Committee (sitting as Trustees) to be held on Thursday 5 April 2018**

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**Subject: Priesthorpe Annexe, Mornington Road, Bingley**

### **Summary**

Priesthorpe Annexe, Bingley is held by the Council as Trustees of the former Bingley Science Art & Technical School. The Committee's (the trustees) review of the current position sitting as Trustees is required and consideration of the options and recommendations set out below.

On the 10<sup>th</sup> August 2017 the trustees resolved –

- (1) That the Assistant Director, Estates and Property be requested to treat the Priesthorpe Annexe as an Asset of Community Value.
- (2) That the Assistant Director, Estates and Property be requested to place the property on the market for sale as soon as possible, seeking expressions of interest and the submission of business cases, in the context of the terms of the Trust, by no later than 26 January 2018.
- (3) That the City Solicitor be requested to submit a further report to the March 2018 meeting of this Committee that includes a review, by the Assistant Director, Estates and Property, of each of the business case that have been submitted.
- (4) That the City Solicitor be requested to make contact with Central Government to establish whether and in what circumstances a repayment of grant, including interest or otherwise, may be required.
- (5) That the City Solicitor be requested to make an application to the Council's Project Appraisal Group for a financial contribution to the Trust in compensation for the loss in value of the building between 2002 and the present time.
- (6) That the expressions of interest already received from Bingley Town Council and the Managing Director of Superfood Market be noted and that they be invited to submit a business case as proposed in (2) above.

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## **1. SUMMARY**

1.1 The building now known as the Priesthorpe Annexe, Bingley is held by the Council as Trustee of the former Bingley Science Arts and Technical School (the trust school).

1.2 The terms of the trust is set out in a conveyance dated the 23<sup>rd</sup> October 1889 between Alfred Sharp Esquire and the trustees of the will of James Sharp Esquire who conveyed the land to the " Trustees of 'the former Bingley Technical School'. The conveyance sets out various educational objectives of the trust which benefit both children and adults of Bingley.

1.3 A conveyance of a second parcel of land ( blue land ) forming part of the current premises (see plan) is dated 29 September 1896 and made between (1) Elizabeth Sharp and Others and (2) The Trustees of 'the Bingley Technical school'. This conveyance also contains terms relating to the operation of the trust.

1.4 The charitable trust is not registered with the Charity Commissioners (the Commissioners). The Commissioners however offered advice to the Council's Legal Service on the interpretation of trust documents some 6 years ago and more recently in December 2017 on the issue of the grant from HM Treasury to build the school made presumably sometime around or between 1889 and 1896.

1.5. The buildings main use ceased in 2002 but was occupied at least in part until 2006. Since 2006 the building has got into a poor state of repair and is no longer used for the educational purposes of the trust. It is however in a conservation area and is thus worthy of protection if at all possible.

1.6 The Council after considerable efforts through it Estates Service was unable to find a use for the building that would promote the educational objectives of the trust or a revenue budget to maintain it.

1.7 Following the meeting of the trustees in March 2017 two public consultation exercises were made in connection with the disposal of the building in accordance with the Trustees Act 2000 and Charities Act 2011 and no public objections were received to the proposed disposal.

1.8 No further public consultation is required at the present time given the current circumstances.

## **2. BACKGROUND HISTORY**

2.1 Following the conveyance to the trustees in 1889 and 1896 of the land upon which' the trust School' was built the land and school building many years later vested in Bingley Urban District Council as former education authority. Subsequently the property vested in the West Riding County Council under the Education Acts.

2.2 Ultimately the property became vested in the Council on 1<sup>st</sup> April 1974 by virtue of the Local Government Act 1972. The Councils ownership of the land and former school as trustees is as shown in its registered title and plan (see Appendix 1 for the plan)

2.3 Broadly speaking the 1889 conveyance implies that 'the trust school' was to be used for the educational benefit of the people (children and adults) of Bingley. Until 2002 the building was used for the provision of education and vocational training.

2.4 As has been said above the building was partly occupied between 2002 and 2006 when it finally closed for use. This was due to the Council being unable to identify a use for the property which complies with educational aims and objectives. The Council has insufficient funds to repair and maintain the building and the trust has no income or other assets. Consequently, the property has fallen into significant disrepair and is now believed to be perhaps beyond economic and physical repair. However at least one of the expressions of interest states a structural survey is required to determine the viability of the buildings future use.

2.5 A number of complaints have been received since 2002 about the condition and deterioration of the former school and officers are concerned that given the lack of resources the building will continue to deteriorate. The deterioration of the building is due to a number of factors amongst others that the building has stood unoccupied since 2006. Also in April 2009, it is believed in anticipation of the proposed demolition of the building the roof tiles/slates were removed by the Councils Estates service. Notwithstanding that a temporary roof covering was arranged this has proved insufficient to avoid further deterioration by the ingress of water since 2009.

2.6 It is believed that the property was to appear in an Edison's auction in April 2014. The guide price was £350,000. However on the advice of the City Solicitor the property was removed from the auction amid concerns that the Council had not complied with process presumably under the Charities Act 2011.

2.7 In September 2014 in anticipation of the proposed sale of the land and buildings the Councils Estates Service instructed Mark Brearley and Co Chartered Surveyors to prepare a valuation report on behalf of the trustees. That report is dated 10<sup>th</sup> November 2014 and is attached at Appendix 2. It is worthy of note that the report valued the building as it stood at nil. The reports comments in the event that planning permission was granted and the building demolished to permit residential development, the value of the land for development purposes would be in the region of £175,000/£225,000.

2.8 A further report of Mark Brearley and Co as the trusts Chartered Surveyors dated 6<sup>th</sup> March 2018 is presented for consideration at Appendix 4. (See options and recommendations).

2.9 It is proposed that the Council as trustees authorise disposal of the property as soon as possible having sought expressions of interest (closing date 26<sup>th</sup> January 2018) for development of the site and apply the net sale proceeds to meet and support the aims of the educational trust created for the benefit of the Bingley populous.

### **3. EXPRESSIONS OF INTEREST**

3.1 The Councils Estates Service made arrangements following the August 2017 meeting of the trustees to seek expressions of interest (EOI's) and submissions of a business case relating to the proposed sale of the property with a closing date of 26<sup>th</sup> January 2018. Those expressions of interest are attached at Appendix 3. In addition the same applicants were asked to provide a sealed bid for the building by Monday 26<sup>th</sup> February 2018. These expressions of interest, business cases and sealed bids are analysed in a further report of the Independent Chartered Surveyors Mark Brearley and Co dated 6<sup>th</sup> March 2018. The report is attached at Appendix 4.

3.2 As can be seen the invitation to make an EOI provides a brief description (with photograph) of the land and building, its location and the services to the property. In addition the invitation gives the normal caveat that descriptions cannot be relied upon and that intending purchasers must satisfy themselves by inspection or otherwise and the Council gives no warranty or accepts reliance on the particulars. The detail of the existing trust is also provided as set out in the report to the Committee dated 10<sup>th</sup> August 2017. Finally the document states EOI's and the submission of a business case from suitably qualified experienced developers was required to be submitted by 4.00pm on Friday 26<sup>th</sup> January 2018

3.3 Six EOI's were received setting out amongst other things previous development experience, a proposed use, a time scale from purchase, whether finance was in place and by way of addendum a proposed purchase price.

3.4 It is worthy of note that no expression of interest was received from Superfoods Markets Limited nor from the Bingley Town Council notwithstanding the Committee had resolved that the property should be treated by the Council as an asset of community value.

### **4. FINANCIAL & RESOURCE APPRAISAL**

4.1 Following the August 2017 meeting the City solicitor as requested made an outline application on behalf of the Trustees to the Councils Project Appraisal Group (PAG) requesting a grant to the trust. Complications relating to funding requires PAG to make further consideration of this request and thus an additional report will be presented to PAG and then the trustees following the final disposal of the land and buildings.

### **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

5.1 The Committee resolved in August 2017 that the Councils City Solicitor should seek advice from central government as to repayment of a grant made in the late 1800's from HM treasury to build the school as mentioned in the trust deed.

5.2 The City Solicitor wrote to HM Treasury, the Home office, the Department of Education and the Charity Commissioners in August, September and October 2017.

5.3 Finally the lawyers of Charity Commissioners advised in December 2017 as follows "we have considered the matter. This is a matter for the trustees of the charity to decide

upon ...the trustees will have to undertake a risk based analysis. They will need to look at all the options which are available to them, and this may include withholding a reasonable proportion of the sale proceeds or purchasing indemnity insurance.”

5.4 Further advice will be provided to the Trustees following the disposal of the building and site.

## **6. LEGAL APPRAISAL**

6.1 Given the 1889 and 1896 conveyances sets out trust objectives any net proceeds of sale must be applied to promote those educational objectives

6.2 There is reference in the 1889 conveyance to a grant from the then “her majesties treasury’ (made around the golden jubilee of Queen Victoria celebrated on 20 June 1887) being repaid if the property is sold.( see above)

6.3 Before the trustees can dispose of the property they must obtain and consider the written reports on the proposed disposition from a qualified surveyor instructed by the trustees and acting exclusively for the Charity (see section 119 of the Charities Act 2011) .and by giving notice of at least one month seeking representations from the public.

6.4 The public consultation has been concluded and the Chartered Surveyor’s reports of 14<sup>th</sup> November 2014 and 6<sup>th</sup> March 2018 are attached at Appendices 2 and 4.

6.5 The six expressions of interest (Appendix 3) and report dated the 6<sup>th</sup> March 2018 (Appendix 4) are not for publication as they contain information relating to the financial or business affairs of any particular person and the identity of individuals and are thus exempt from publication under 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 implications of any decision without prejudicing the financial or business affairs of the applicants/interested parties.

## **7. OTHER IMPLICATIONS**

None

### **7.1 EQUALITY & DIVERSITY**

None

### **7.2 SUSTAINABILITY IMPLICATIONS**

Contact the Sustainability Co-ordinator (Policy), on Bradford 434123 or e-mail [jamie.saunders@bradford.gov.uk](mailto:jamie.saunders@bradford.gov.uk) for further guidance.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

Assessment of the impact of all recommendations on the Council's own and the wider District's carbon footprint and emissions from other greenhouse gasses. Contact the Environment & Climate Change Manager on 07582 108009 for further guidance.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

The disposal of the property would facilitate the building being brought back into use thereby resolving the on-going issues and dangers associated with a building in disrepair.

### **7.5 HUMAN RIGHTS ACT**

None

### **7.6 TRADE UNION**

None

### **7.7 WARD IMPLICATIONS**

The disposal of the property will facilitate the site being brought back into use which will benefit the amenity of the immediate area. In addition, net sale proceeds will be used for the benefit of the residents of Bingley in accordance with the educational objectives of the Trust.

## **8. NOT FOR PUBLICATION DOCUMENTS**

Appendix 3 Six expressions of interest closing date 26th January 2018  
Appendix 4. The Trust's Chartered Surveyors report dated 6th March 2018.

Not for publication (NFP) as they contain information relating to the financial or business affairs of any particular person (Paragraph 3) and are thus exempt from publication under 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 implications of any decision without prejudicing the financial or business affairs of the applicants/interested parties.

## **9. OPTIONS (SEE APPENDICES 3 & 4)**

## **10. RECOMMENDATIONS**

**That the Assistant Director, Estates and Property be requested to obtain further information, to include details in relation to funding and timescales, in respect of the Expressions of Interest Options "A" and "D" as set out in Not for Publication Appendix 3 to Document "AS", and to submit a report to the June meeting of the Committee.**

## **11. APPENDICES**

Appendix 1 HMLR plan of the premises.

Appendix 2 The Trusts Chartered Surveyors report dated 14<sup>th</sup> November 2014

NFP Appendix 3 Six expressions of interest closing date 26th January 2018

NFP Appendix 4. The Trusts Chartered Surveyors report dated 6th March 2018.

## **12. BACKGROUND DOCUMENTS**

Reports to Regulatory and Appeals Committee; 9 March 2017 and 10 August 2017.