

Report of the City Solicitor to the meeting of the Regulatory & Appeals Committee (sitting as Trustees) to be held on 13 September 2018

X

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 Trustee's) review of the current position sitting as Trustees is required and consideration of the options and recommendations set out below.

On the 21st June the Trustees resolved –

- (1) That, having sought expressions of interest, the Interim City Solicitor, in consultation with the Assistant Director – Estates and Property, be authorised to dispose of the Priesthorpe Annexe, Mornington Road, Bingley to Party “D”, this party having made the highest unconditional offer.**
- (2) That the Interim City Solicitor (acting on behalf of the Trustees) be authorised to give a valid receipt for the proceeds of sale when the sale completes.**
- (3) That the Interim City Solicitor notifies the Trustees once the sale has completed.**
- (4) That the Interim City Solicitor be requested to seek views from relevant parties, including the Ward Councillors and the Town Council, in respect of the use of the funds arising from the sale, in accordance with the terms of the Trust, and to submit a further report to the Trustees in due course.**

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1. SUMMARY

- 1.1 The building now known as the Priestthorpe Annexe, Bingley is held by the Council as Trustee of the former Bingley Science Arts and Technical School (the Trust School).
- 1.2 The Trustees resolved to dispose of the Trust School to 'Party D' in June 2018.
- 1.3 However in the course of the proposed sale it has been brought to the notice of the City Solicitor acting for the Trustees that Party D has instructed its solicitors that the sale should be to its connected company (later referred to as Party "I").
- 1.4 The Trustees need to consider an additional report from their independent chartered surveyor in respect of the status of this proposed purchaser Party I and whether or not the sale should proceed to Party I.

2. BACKGROUND HISTORY

- 2.1 The terms of the Trust are set out in a conveyance dated the 23rd 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.
- 2.2 A conveyance of a second parcel of land (blue land) forming part of the current premises (see plan at Appendix 1) 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.
- 2.3 The Charitable Trust is not registered with the Charity Commissioners (the Commissioners). The Commissioners however offered advice to the Council's City Solicitor acting for the Trust on the interpretation of the Trust documents some 6 years ago and more recently in December 2017 on the matter of the grant from HM Treasury to build the school made, presumably, sometime around or between 1889 and 1896.
- 2.4 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 the former education authority. Subsequently the property vested in the West Riding County Council under the Education Acts.
- 2.5. Ultimately the property became vested in the Council as Trustees on 1st April 1974 by virtue of the Local Government Act 1972. The Council's ownership of the land and former school as Trustees is as shown in its registered title and plan (see Appendix 1 for the plan)
- 2.6 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.
- 2.7 The building's main use ceased in 2002 but was occupied at least in part until 2006. Since 2006 the building has gotten into a poor state of repair and has no longer been 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.

- 2.8 The Council after considerable efforts through its Estates and Property 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.
- 2.9 Following the meeting of the Trustees in March 2017 two public consultation exercises were made in connection with the disposal of the Trust School in accordance with the Trustees Act 2000 and Charities Act 2011 and no public objections were received to the proposed disposal.
- 2.10 No further consultation is required at the present time given the current circumstances.
- 2.11 As has been stated 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 complied 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.
- 2.12 A number of complaints were 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 Council's 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.
- 2.13 It is believed that the property was to appear in an Eddison'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.
- 2.14 In September 2014 in anticipation of the proposed sale of the building the Council's Estates Service instructed Mark Brearley and Co Chartered Surveyors to prepare a valuation report on behalf of the trustees. The report (see Appendix 2) is dated 10th November 2014 and valued the building as it stood at nil. The report 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.

3. OTHER CONSIDERATIONS - REPORTS FOR THE TRUSTEES FROM INDEPENDENT CHARTERED SURVEYORS

- 3.1 A 'Not for Publication' report dated 6th March 2018 from Mark Brearley and Co as the Trust's Chartered Surveyors was presented to the Trustees at a meeting on the 5th April and the resolution was to seek additional information relating to funding and time scales of interested parties "A" and "D"

- 3.2 In April and May 2018 Mark Brearley and Co on behalf of the Trustees obtained further information from those parties and attached are additional reports dated 24th April and 18th May as Appendix 3 and 4 (not for publication) respectively.
- 3.3 On 21st June the Trustees accepted the recommendations of the independent chartered surveyor reports i.e. that the Trustees authorise disposal of the property to interested party “D” which is the highest unconditional offer.
- 3.4 The proceeds of sale can then be applied by way of a future decision of the Trustees to further the aims of the educational trust created for the benefit of the Bingley populous.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 Following the August 2017 meeting of the Trustees the City Solicitor, as requested, made an outline application on behalf of the Trustees to the Council’s Project Appraisal Group (PAG) requesting a grant to the Trust. Complications relating to funding require PAG to make further considerations of this request and thus an additional report will be presented to 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 Council’s City Solicitor acting for the Trustees 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 In December 2017 lawyers of Charity Commissioners advised as follows “we have considered the matter. This is a matter for the Trustees of the Charity to decide uponthe 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 of the Trust for the benefit of Bingley folk.
- 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 Trustees can dispose of trust 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. The public consultation has been concluded.

6.4 The two most recent reports of the Independent Chartered Surveyor dated the 24th April and 18th May 2018 are attached as Not for Publication Appendices 3 and 4 and a further report (also Not for Publication) is attached as Appendix 5.

7. OTHER IMPLICATIONS

None

7.1 EQUALITY & DIVERSITY

In applying the proceeds of sale to the objectives of the Trust consideration will be given to equality and diversity.

7.2 SUSTAINABILITY IMPLICATIONS

There are no such issues on the sale of the building. However when the building is sold the planning process relating to any proposed development of the site will address sustainability issues alongside planning issues.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no such issues on the sale of the building however when the building is sold then the planning process relating to any proposed development of the site will address greenhouse gas emission impacts alongside planning issues.

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

There are no human rights act implications on the sale of the building which affect the proposed sale. However when the proceeds of sales are allocated by the Trustees in accordance with the objectives of the Trust then human rights is of relevance

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.

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

Not relevant.

7.9 IMPLICATIONS FOR CORPORATE PARENTING

There are no implications for corporate parenting.

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

A Privacy Impact Assessment has not been undertaken. In any event data protection and information security matters arising from the proposal/decision have been taken into account given the two not for publication documents.

8. NOT FOR PUBLICATION DOCUMENTS

The following documents are not for publication (NFP) as they contain information relating to the financial or business affairs of any particular person (Paragraph 3 of the Local Government Act 1972)

Appendix 3 The Trustees Independent Chartered Surveyors report dated 24th April 2018

Appendix 4. The Trusts Independent Chartered Surveyors report dated 18th May 2018.

Appendix 5 The Trusts Independent Chartered Surveyors report dated September 2018.

9. OPTIONS (SEE APPENDIX 5 to be tabled at the meeting)

9.1 Given the content of the Not for Publication reports dated 24th April and 18th May (Appendices 3 and 4) the Trustees have options to continue to offer the property for sale to Party D or the connected company 'Party I'.

10. RECOMMENDATIONS

10.1 It is recommended that the Trustees authorise disposal of the property to either Party "I" or Party D who is referred to in the resolutions dated 21st June 2018.

11. APPENDICES

Appendix 1 HMLR plan of the premises.

Appendix 2 The Trusts Chartered Surveyors report dated 10th November 2014

Appendix 3 NFP the Trusts Independent Chartered Surveyors report 24th April 2018

Appendix 4. NFP the Trusts Independent Chartered Surveyors report 18th May 2018.

Appendix 5 NFP the Trusts Independent Chartered Surveyors report September 2018

12. BACKGROUND DOCUMENTS

12.1 Report dated 9th March 2017.

12.2 Report dated 10th August 2017.

12.3 Report dated 5th April 2018.

12.4 Report dated 21st June 2018