

**BIRMINGHAM CITY COUNCIL – COUNCIL AS TRUSTEE**

**PUBLIC REPORT**

<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Assistant Director of Property</b> <b>2<sup>nd</sup> December 2020</b>
<b>SUBJECT:</b>	<b>CROPWOOD ESTATE – HUNTERS HILL COLLEGE POSSIBLE CLOSURE</b>
<b>Wards affected:</b>	<b>Outside of the City Boundaries</b>

**1. Purpose of report:**

- 1.1 To note the on-going consultation being undertaken by the Education Service on the future of Hunters Hill College (SEND School) from this site and the implications for the Cropwood Estate Trust (registered charity no.1085296) of which the Council is sole trustee.

**2. Decisions recommended:**

That the Committee notes that the Educational Service's formal consultation on the future of Hunters Hill College and continued education provision from this site is underway with an end date of 10<sup>th</sup> December 2020, and that while no decision has yet been reached it is appropriate for the Trust to consider the potential impact on the trust and its assets and to ensure the Trustees can be properly advised on all possible future options,

- 2.1 in compliance with statutory requirements of the Charities Act 2011 instructs the Assistant Director of Property and the City Solicitor to procure appropriate independent external expert property and governance advice and report its findings to the next Committee meeting
- 2.2 requires the People Directorate to properly safeguard all assets on the site and fully support the processes set out in 2.1

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### **3. Compliance:**

#### **3.1 Consultations:**

##### Internal

The land is outside of the City boundaries and no Member involvement beyond the Committee is required at this stage.

##### External

Public consultation is not currently required to be undertaken. The consultation being undertaken by officers in BCC deals only with the continuation of the education provision not the potential future of charity assets.

#### **3.2 Are there any relevant legal powers, personnel, equalities, procurement, regeneration and other relevant implications?**

The City Council acts as Sole Corporate Trustee for the Cropwood Estate and has delegated day to day decision making to the Trusts and Charities Committee. Charitable trust activity is regulated by the Charity Commission and any proposals relating to the estate will be governed by the Trust's governing documents.

The Charity Commission Scheme for the Cropwood Estate dated 12<sup>th</sup> November 1997, provides powers for the disposal of assets by sale or for lease. It requires that all such disposals be conducted in line with statutory processes set out in the Charities Acts and that the proceeds of any sale be invested in trust for the Charity.

#### **3.3 How will decisions be carried out within existing finances and resources?**

The Trust and Charities Committee has responsibility for the day to day administration the Trust estate in accordance with the objects of the trust and charity law. The Trustees must act with prudence and must ensure that the charity is and will remain solvent and that appropriate cost controls are in place. Principal revenue costs for the Estate are covered by the Education Service. Any release of any part of the Cropwood Estate is treated as a disposal and will be conducted in line with statutory processes set out in the Charities Act 2011 and any receipt ring-fenced and invested for the specific Charity.

The Cropwood Estate trust is empowered to undertake disposals of land and property on the Estate subject to obtaining and acting on appropriate expert advice on valuation and marketing etc. and any capital receipts or income being ringfenced to the Cropwood Estate trust and invested on behalf of the trust in line with the Scheme. Disposals of parts of the estate have already been made in 1994, 1998, 2017 and 2018.

#### **3.4 Main Risk Management and Equality Impact Assessment Issues (if any):**

Not applicable. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011, Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions.

#### **4. Relevant background/chronology of key events:**

- 4.1 The main area of land comprising the Cropwood Estate was gifted to the City either jointly or separately by Barrow Cadbury and Mrs Geraldine S Cadbury in three main transfers dated 1<sup>st</sup> June 1921, 28<sup>th</sup> February 1933 and 20<sup>th</sup> May 1938 and together comprises approximately 36.5 hectares. It was gifted principally for School's use and the majority of the land is designated to Hunters Hill Technology College (formerly Hunters Hill School). A map of the Trust is attached at Appendix 1.
- 4.2 The Trust, registered Charity no. 1085296, is governed by a scheme dated 12<sup>th</sup> November 1997 (Appendix B) which permits disposals. The specific objects of the Cropwood Estate trust are wide ranging and are: the furtherance of any charitable purpose for the benefit of the inhabitants of the City of Birmingham including all or any of the following purposes (a) the provision and support of educational facilities (b) the provision and support of facilities for recreational and other leisure time occupation with the object of improving the conditions of life for the said inhabitants (c) the relief of the aged, impotent and poor (d) the relief of sickness.
- 4.3 Much of the Cropwood Estate is grazing land and woodland. A report dated 17<sup>th</sup> January 2018 allocated these areas, then vacant, to the College to support its curriculum provision. Those areas have been returned to the trust and do not form part of the College 'grounds. They will likely be relet on short term grazing licences shortly but will be included in consideration under the report recommended to be obtained in section 2.1.
- 4.4 The current consultation has only been commenced as an Academy Award has been made but no alternative Academy has expressed any interest in operating the site.
- 4.5 No decision on the future of the Hunters Hill College or the future provision of education from this site has been made but is scheduled to be considered at Cabinet in January/February 2021, once the consultation period has ended. If the recommendation is for a closure of the site, that is likely to take place at the end of the current school year, effectively August 2021. Therefore, it is necessary for the trustees to commence to gather necessary advice to be able to best safeguard the trust assets should closure be the final decision of Cabinet. Any further action, development or disposal will always be subject to future reports to committee before any action would be taken. Any disposal of trust assets will require the consent of Full Council as Trustee.

#### **4.6 Aims and Objectives of the Trust**

Each property in trust is held as a separate trust and decisions need to be in the best interests of that trust. The assets of the Trust should at all times assist the Trust to comply with the Objects of the trust or where this is no longer possible consider options available under the Scheme.

#### **4.7 Trustee Powers**

A trust's constitution is set out within the executed Trust Deed for each property principally the acquisition deeds as amended by a Scheme agreed with the Charity Commission.

#### **4.8 Trust Finances**

The Cropwood Estate Trust has a valid revenue source and options to convert assets from property to capital investments. The College is Local Authority managed and Education cover all expenses for their use and maintenance of the assets.

#### **5. Evaluation of alternative option:**

To do nothing is not an appropriate option. The results of the consultation processes may result in the Education Service vacating the site the and the vacant property would be at risk.

**6. Reasons for Decision(s):**

6.1 To better safeguard the assets and future of the Cropwood Estate trust.

**Signatures:**

Chief Officer(s): .....

Dated: .....

**List of Background Documents used to compile this Report:**

1. Acquisition documents.
2. Charity Commission Scheme for the Cropwood Estate dated 12<sup>th</sup> November 1997

**List of Appendices accompanying this Report (if any):**

1. Plan A Cropwood Estate holdings
2. Plan B School buildings
3. Briefing Note.

