

Birmingham City Council

Trusts and Charities Committee

11 March 2024



Subject: Cropwood Estate – Former Hunters Hill College Site
Report to: Trust and Charities Committee
Report of: Zahid Mahmood - Interim Head of Service, Education Infrastructure
David Harris – Assistant Director Corporate Landlord
Report author: Emma Bourne - Acting Property Manager Education Infrastructure

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:

1 Executive Summary

- 1.1 To note that following the closure of the Hunters Hill College on 31st August 2021 Birmingham City Council's Education Service wishes to withdraw from the management of the site as soon as possible and to consider the implications for the Cropwood Estate Trust (registered charity no.1085296) of which the Council is sole trustee.

2 Recommendation(s)

That the Committee:

- 2.1 Notes that vacant possession of the site has now been achieved and the Education Service will withdraw from managing the site on 31st March 2024 and the Trust will manage the site via Corporate Landlord thereafter.
- 2.2 Acknowledges with no direct reuse proposed by any other Council service, then disposal of the asset on behalf of the Cropwood Estate Trust will need to be considered.
- 2.3 In compliance with statutory requirements of the Charities Acts, obtain the approval of the Assistant Director of Corporate Landlord and City Solicitor on behalf of the Trust and Charities Committee, for the procurement of independent external property and governance support and advice for the marketing and disposal of the

estate. Such advisors to report their findings and recommendations to the next appropriate Committee meeting.

- 2.4 Approves the use of the budget within the deposit account as identified in 6.1 for the ongoing maintenance and security of the vacated site up to the point of disposal.
- 2.5 Approves that the fee costs for the external advice in respect of expediting a disposal will be drawn from Trust funds as available.
- 2.6 Delegates to the Chair of the Committee the responsibility to review and agree those proposed fees in advance of the advice and marketing agents being instructed.

3 Background

- 3.1 The main area of land comprising the Cropwood Estate was gifted to the City by Mr Barrow Cadbury and Mrs Geraldine S Cadbury in three main transfers dated 1st June 1921, 28th February 1933 and 20th May 1938 and together comprise approximately 36.5 hectares. The land was gifted for educational, recreation and care uses (see 5.1) and the majority of the land has been utilised by Hunters Hill College, formerly a Special Education Needs School. Other areas of the estate are variously school playing fields, woodland and grazing land (previously sublet to a third party).
- 3.2 A map of the land held in trust is attached at Appendix 1. It is located adjacent to the village of Blackwell, Worcestershire and is outside of the City Council's boundary.
- 3.3 The assets of the Cropwood Estate Trust, Registered Charity no. 1085296, have previously been occupied and managed by the Council's Education Service with assistance from other officers in Finance, Property and Legal Services, where appropriate. Previous reports have been considered by the Committee from time to time where disposal of parts of the estate have been proposed. A previous report to seek external advice for the disposal of the remainder of the site was agreed at Committee on 2nd December 2020.
- 3.4 Despite the investment in excess of £670k over the preceding five years on repairs and maintenance (in addition to c.£180k invested from the occupying school's own budget over the preceding 2 years), the condition and suitability of the buildings at the site had reached the end of their life for educational purposes with some buildings either no longer required or not fit for education purposes.
- 3.5 In accordance with statutory requirements, guidance and best practice for the closure of schools, Birmingham City Council's Cabinet approved the proposal to close Hunters Hill College. Following consideration by the Education and Children's Social Care Overview and Scrutiny Committee, on 8th February 2021, Birmingham City Council determined to implement the proposal and permanently close Hunters Hill College effective from 31st August 2021. Following the decision to close the school, the Education Service withdrew all education services, secured and cleared the site of all education furniture and equipment etc. and has continued to maintain the site pending a decision in respect of its future.

- 3.6 The Committee is asked to note that where appropriate and sensible, buildings have been boarded up and made secure and partial decommissioning of utilities (electricity supply etc.) has been undertaken to various areas of the site for safety, security and financial reasons.
- 3.7 The total costs incurred in relation to the clearance, security and continuous maintenance of the site since the school closed is expected to be approximately £340k by 31st December 2023. This has been met in full from the Education Service's Surplus Properties Budget, how every ongoing expenditure is not considered sustainable from the Education Service's Surplus Properties Budget going forward. As such the Education Service propose to continue to manage and secure the site until 31st March 2024. At this date the site management and responsibility of the property will pass to the Council's Corporate Landlord and the future use of the site be considered by the Committee on behalf of the Trust. It is suggested that if a disposal of the estate is to be explored as the best course of action, then the future management activity be transferred from Children & Families to the Council's Corporate Landlord division acting for the Trust and Education Service will be relieved of the site.
- 3.8 Since closure of Hunters Hill College, the Education Service has progressed matters with support through Legal Services to obtain full vacant possession of the site and address the issues associated with former staff occupying parts of the living accommodation; these matters were resolved in February 2023. The ability to provide full vacant possession was a condition agreed with the previous Chair of the Committee ahead of progressing matters further.
- 3.9 At various points since the closure of the school third parties have shown an interest in acquiring the site for on-going educational use but matters did not proceed and there is no current interest in the main site. We understand there is some local interest in "The Stables," a building formerly also used by the school and which could be disposed of separately to the main site. The education service will continue to forward any further expressions of interest that may be received.

4 Options considered and Recommended Proposal

- 4.1 Do nothing. The education service have withdrawn all provision and services from the site and declared it is no longer fit for the purpose of education and as such the costs of continuing to manage and maintain the site are considered unsustainable.
- 4.2 As the Education Service and the Council more generally has limited resources to continue management of void properties and in the absence of any live interest from any other Council services, a transfer or disposal is considered the only remaining option. It is recommended that officers from, Corporate Landlord and Legal Services will jointly support the interim management of the site and commission the requisite surveys, marketing and independent external advice to enable trustees to make appropriate decisions on disposal of the estate in parts or as a whole.
- 4.3 It is recommended that consideration be given to the notional use of future receipts as a mechanism to fund the costs associated with progressing the necessary work. This will enable a disposal and address the financial pressures associated with holding the estate as a vacant site pending completion of any sale or transfer.

5 Legal Implications

- 5.1 Although the Estate has always been in education use 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.*
- 5.2 The Trust is governed by a scheme dated 12th November 1997 (Appendix 2) which permits disposals and dictates how the property and any funds generated are to be used for the benefit of the citizens of Birmingham but pursuing that action for development or disposal will always be subject to future reports to Committee. The Trusts and Charities Board has the delegated day to day decision making and responsibility for ensuring the proper governance of the Trust in accordance with the objects of the Trust and charity law the Trusts and Charities Committee can make recommendations for other actions. However, decisions on matters such as disposal of trust assets will require the consent of Full Council as Trustee.
- 5.3 Education officers wish to facilitate the discharge of functions contained within Section 22 of the School Standards and Framework Act 1998 whereby the local authority has a duty to maintain its schools. The Local Authority has a statutory duty, by virtue of section 542(2) of the Education Act 1996, in respect of schools that it maintains, to ensure that the school premises conform to the prescribed standards. These are not matters for the Trust or Committee but collective decisions to ensure appropriate action is taken to safeguard the assets of the trust.
- 5.4 The Council has a statutory duty pursuant to the Occupiers Liability Act 1984 to take such care as is reasonable in all the circumstances of the case to see that any unlawful visitors do not suffer injury on the premises from a danger of which the Council are aware or have reasonable grounds to believe exists and against the risk of which the Council can reasonably be expected to offer any unlawful visitor some protection.
- 5.5 Under Section 117 of the Charities Act 2011 ("the Act"), no land held by or in trust for a charity may be conveyed, transferred, leased or otherwise disposed of without an order of the court or the Charity Commission.
- 5.6 By Section 119 of the Act the above restriction on dispositions is disapplied in the case of any disposition which is the sale of the freehold or a lease for a term of more than 7 years provided the sale or lease is not made to a "connected person" and the charity trustees, before entering into any contract for the sale, lease or other disposition, obtain and consider a report from a "designated adviser" instructed by the trustees and acting exclusively for the charity and decide that they are satisfied, having considered the adviser's report, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity. For these purposes a "connected person" is defined in Section 118 of the Act and a "designated adviser" is a fellow or professional associate of the Royal Institution of

Chartered Surveyors (or satisfied such other requirement or requirements as may be prescribed by regulations made by the minister) and is reasonably believed by the charity trustees to have ability in, and experience of, the valuation of land of the particular type, and the particular area in question.

- 5.7 The restriction on dispositions referred to in paragraph 5.5 above is also disapplied, under Section 120 of the Act, in the case of leases for a term of 7 years or less, provided that the charity trustees, before entering into any agreement for the lease, obtain and consider the advice on the proposed disposition of a person who is reasonably believed by the trustees to have the requisite ability and practical experience to provide them with competent advice on the proposed disposition, and decide that they are satisfied, having considered that person's advice, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity.

6 Financial Implications

- 6.1 The Cropwood Estate Trust accounts for 2022/23 show a balance of £201k in a deposit account which are unrestricted funds that can be used towards the maintenance. It is estimated that ongoing annual costs to maintain the present level of security and site maintenance will be in the region of £150k.
- 6.2 Any capital receipt or income realised from the site is, by statute and by the Scheme in place, ringfenced to the Trust's accounts and it is for the Committee to determine the use of any such receipt or income generated by Trust assets.
- 6.3 Quotes for fees incurred in procuring the appropriate advice and support will be obtained from appropriate external advisors and appropriate approvals sought before proceeding in line with current Spend Control processes that are in place. At present all spend is approved via Directorate SCB and the S151 Officer.
- 6.4 The terms of the Scheme in place allows for the disposal of property assets and if it chooses to do so the Cropwood Estate Trust would then continue as a monetary trust only and remain under Committee purview and management. However, if the sale of the estate proceeds in tranches this would require continued management of elements, with disposal of some areas being subject to planning consent and/or other restrictions preventing early release. This will necessitate the Trustees to carefully consider its position on the management and costs of the site and how this might be funded.
- 6.5 The current costs relating to the Hunters Hill site are putting additional pressures on the Education Service budget and this is not sustainable. To meet the statutory duties on the Council's maintained schools, Education needs to fully utilise its budgets for the maintenance of beneficial school properties.
8. Next Steps
- 8.1 Assistant Director of Corporate Landlord and City Solicitor on behalf of the Trust and Charities Committee, procures independent external property and governance support and advice for the marketing and disposal of the estate. Such advisors to

report their findings and recommendations to the next appropriate Committee meeting.

- 8.2 Any future report on disposal of the site to be presented to Full Council for decision.

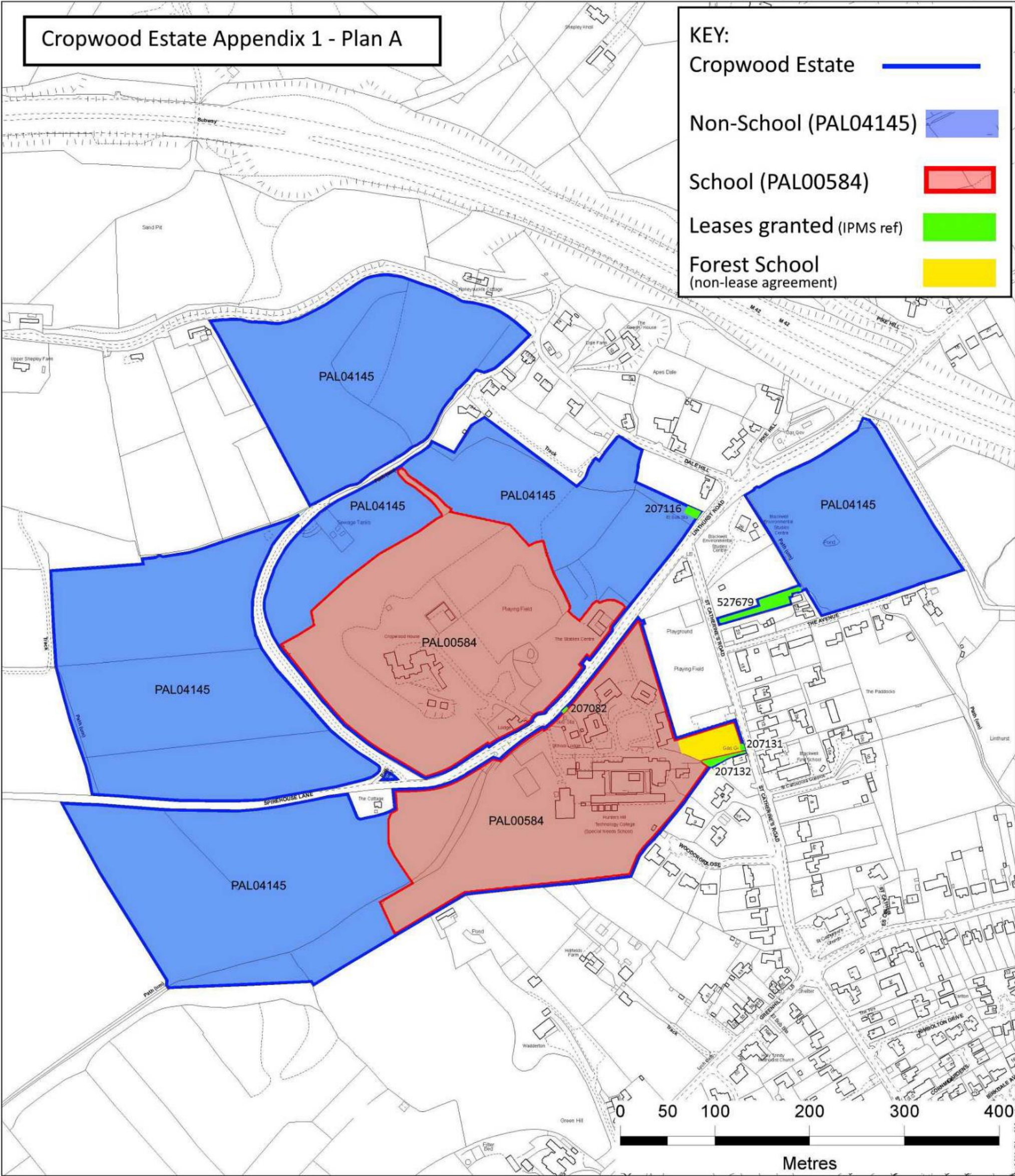
7 Public Sector Equality Duty

- 7.1 Education officers have complied with their public sector equality duty in the closure of the school but consider that the recommendations in this report do not present a change in services currently provided, and an equality analysis to progress the disposal of the property is not required.
- 7.2 The entirety of the Cropwood estate sits outside the City boundaries and has no direct City Council Member implications beyond their requirement as trustees.

8 Background Papers

9 Appendices

- 9.1 Appendix 1 - Cropwood Estate Plan – use and holdings.
- 9.2 Appendix 2 – Scheme dated 12th November 1997



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35.18

HECTARES APPROX.

86.93

ACRES APPROX.

 Birmingham City Council		Kathryn James Assistant Director Property Inclusive Growth Directorate 10 Woodcock Street Birmingham, B7 4BG		
Cropwood Trust Hunters Hill School Bromsgrove		SCALE	DRAWN	DATE
		1:4,000 @A3	James Stanley	04/03/2020
		O.S.Ref SO9872NE		

Sealed 12th November 1997

N 197(S)
97

County - West Midlands
Place - Birmingham
Charity - Cropwood Estate

CS(Liv1)
3,088,651

Scheme

CHARITY COMMISSION

In the matter of the Charity known as the Cropwood Estate at Birmingham in the County of West Midlands comprised in conveyance and trust deed dated the 1st June 1921; and

In the matter of the Charities Act 1993.

THE CHARITY COMMISSIONERS FOR ENGLAND AND WALES HEREBY ORDER that the following Scheme be approved and established as the Scheme for the regulation of the above-mentioned Charity.

Scheme

1. Administration of Charity. (1) The above-mentioned Charity and the property thereof shall be administered and managed subject to and in accordance with the provisions of this Scheme by Birmingham City Council, the Trustee thereof.

(2) The name of the Charity shall be The Cropwood Estate or such other name as the Trustee from time to time by resolution may decide with the prior approval of the Charity Commissioners.

2. Investment of cash. All sums of cash now or at any time belonging to the Charity, other than sums of cash needed for immediate working purposes, shall be invested in trust for the Charity.

OBJECT

3. Object. The object of the Charity shall be 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 recreation 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.

(2) The land and buildings belonging to the Charity shall be held upon trust for the object of the Charity.

MINUTES AND ACCOUNTS

4. Minutes. The Trustee shall keep, in books maintained for the purpose, minutes of the proceedings of their meetings.

5. Accounts and annual report. The Trustee shall comply with its obligations under Part VI of the Charities Act 1993 with regard to:

- (1) the keeping of accounting records for the Charity;
- (2) the preparation of annual accounts for the Charity;
- (3) the preparation of an annual report;
- (4) where applicable, the auditing or independent examination of the statements of account of the Charity; and
- (5) where applicable, the transmission of the statements of account and the annual report to the Commissioners.

6. Annual return. The Trustee shall, where applicable, comply with its obligation under the Charities Act 1993 with regard to the preparation of an annual return and its transmission to the Commissioners.

MANAGEMENT OF PROPERTY

7. Management and letting of lands. (1) The Trustee shall let and otherwise manage all the land belonging to the Charity.

(2) The Trustee must comply with the restrictions on disposal imposed by section 36 of the Charities Act 1993, unless the disposal is excepted from these restrictions by section 36(9)(b) or (c) or section 36(10) of that Act.

8. Leases. The Trustee shall provide that on the grant by them of any lease the lessee shall execute a counterpart thereof. Every lease shall contain covenants on the part of the lessee for the payment of rent, and all other usual and proper covenants applicable to the property comprised therein and a proviso for re-entry on non-payment of the rent or non-performance of the covenants.

9. Repair and insurance. The Trustee shall keep in repair and insure to the full value thereof against fire and other usual risks all the buildings of the Charity not required to be kept in repair and insured by the lessees or tenants thereof and shall suitably insure in respect of public liability and employer's liability.

10. Sale. The Trustee may sell the whole or any part of the land belonging to Charity and may do and execute all proper acts and assurances for carrying any such sale into effect subject nevertheless to complying with the restrictions on disposition imposed by section 36 of the Charities Act 1993, unless the sale is excepted from such restrictions under section 36(9)(b) or (c) or section 36(10) of that Act.

11. Proceeds of sale. Unless the Commissioners otherwise direct the clear proceeds of any such sale as aforesaid shall be invested in trust for the Charity.

APPLICATION OF INCOME

12. Expenses of management. The Trustee shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of any buildings thereon) and all other charges and outgoings payable in respect thereof and all the proper costs, charges and expenses of and incidental to the administration and management of the Charity.

13. Application of income. Subject to payment of the expenses aforesaid the Trustee shall apply the income of the Charity if furtherance of the object of the Charity.

GENERAL PROVISIONS

14. Charity not to relieve public funds. The Trustee shall not apply income of the Charity directly in relief of rates, taxes or other public funds but may apply income in supplementing relief or assistance provided out of public funds.

15. Power of amendment. (1) Subject to the provisions of this clause, the Trustee may amend the provisions of this Scheme.

(2) Any amendment must be made under the authority of a resolution of the Trustee.

(3) The Trustee must not make any amendment which would:

- (a) vary this clause;
- (b) vary clause 3 of this Scheme (the objects clause);
- (c) confer a power to dissolve the Charity;
- (d) enable the Trustee to spend permanent endowment of the Charity.

(4) The Trustee must obtain the prior written approval of the Commissioners to any amendment which would vary the Trustee's power of investment.

(5) The Trustee must:

- (a) promptly send to the Commissioners a copy of any amendment made under this clause; and
- (b) keep a copy of any such amendment with this Scheme.

16. Questions under Scheme. Any question as to the construction of this Scheme or as to the regularity or the validity of any acts done or about to be done under this Scheme shall be determined by the Commissioners upon such application made to them for the purpose as they think sufficient.

Sealed by Order of the Commissioners this 12th day of November 1997.

L.S.

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Title of Report:	Cropwood Estate – Former Hunters Hill College Site
Version ref:	
Report Author:	Zahid Mahmood

To be completed in respect of all Cabinet and Cabinet Member Reports. Committee Services have been instructed to return any Report which does not have a fully completed Checklist attached. The purpose is for the author to indicate who has been consulted in the preparation and clearance of the report and when.

COVER SHEET REQUIREMENTS	
Was the report on the forward plan?	No
If a confidential or exempt appendix is used, was this notified 28 days in advance?	N/A
Will the report be on CMIS in time for send out?	No

PRE-APPROVALS	DATE CLEARED
Capital Board	N/A
CLT (either via Teams or by presentation at a meeting)	N/A
Corporate Clearance	N/A

FINAL APPROVALS

Names and dates to be inserted

Has the final report been approved by the Relevant Cabinet Member(s):

Approved by: Cllr Karen McCarthy
Date: 19 Feb 2024

Other Cabinet Member consultation:

Has the report been cleared with relevant Director?

Cleared by: Sue Harrison
Date: 9 Feb 2024

Has the report been cleared with relevant Finance Officer? (see below)

Cleared by: Clare Sandland
Date: 15 Dec 2023

Has the report been cleared with relevant Head of Law or delegate (Senior Solicitor)? (see below)

Cleared by: Anne Tyson
Date: 11 Jan 2024

Has the report been cleared with relevant Corporate Procurement Officer? (see below)

Cleared by: N/A
Date:

Has the report been cleared with relevant Property Services? (see below)

Cleared by: N/A
Date:

Has the report been cleared with Commissioner?

Cleared by: Commissioners via
Date: TBC

Relevant Finance Officers

Interim Business Partner – City Operations	Carl Tomlinson
Interim Business Partner – Place, Prosperity & Sustainability	Azhar Rafiq
Interim Business Partner – City Housing	Carl Tomlinson
Interim Business Partner – PBCS	Ravinder Dhaliwal
Interim Business Partner – Adults Social Care	Yusuf Shaibu
Business Partner – Finance, Council Management, Strategy, Equalities & Partnerships	Lee Bickerton
Business Partner - Treasury & Financial Accounting (Interim Head of Capital and Treasury)	Mohammed Sajid
Business Partner – Children, Young People, Families & Schools	Clare Sandland
Interim Finance Transformation Programme Manager	Paul Chinn

Relevant Directorate Legal Officers

Legal Business Partner - Adults	Charmaine Murray
Legal Business Partner - Commercial & Procurement	Connie Price
Legal Business Partner - Property, Planning & Regeneration	Sushil Thobhani
Legal Business Partner - City Housing	Sunita Gill
Legal Business Partner - Education (Education Law Team)	Helen Jones/ Janie Berry
Legal Business Partner - Employment (Employment Law Team)	Surina Aujla
Legal Business Partner - Civil Litigation and Personal Injury (Civil Litigation Team, Personal Injury Team)	Michael Day
Legal Business Partner - City Operations	Lisa Morgan
Legal Business Partner - Partnerships, Insight and Prevention (Assistant Chief Exec)	Janie Berry
Legal Business Partner - Public Health	Janie Berry

Relevant Procurement Officers – any can clear reports

Head of Procurement Team	Mike Smith
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Head of Category Place	Haydn Brown
Head of Category Corporate	Richard Tibbatts
Head of Commissioning Team	Mike Smith

Relevant Property Services Officers – any can clear reports

Assistant Director of Property	Kathryn James
Head of Operational Property Management	Philip Andrews