

BIRMINGHAM CITY COUNCIL – COUNCIL AS TRUSTEE**PUBLIC REPORT**

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| Report to: | TRUSTS AND CHARITIES COMMITTEE |
| Report of: Date of Decision: | Assistant Director of Property (Interim) 19th July 2017 |
| SUBJECT: | CROPWOOD ESTATE – HUNTERS HILL TECHNICAL COLLEGE USE OF LAND |
| Wards affected: | Outside of the City Boundaries |

1. Purpose of report:

- 1.1 To seek instruction on the future uses of various parcels of land forming parts of the Cropwood Estate not currently used by the Hunters Hill Technical College

2. Decisions recommended:

That the Committee

- notes that parcels A, B, C and D in Appendix 1 are vacant and available to be let
- notes the College seek additional land to enhance the curriculum in terms of farm studies preferring use of parcels C and D
- and also the College request this land be let to them at a peppercorn rent (at less than best value)

and the Committee recommends that

- 2.1 the land identified as parcels C and D in Appendix 1 be let to the College on terms to be agreed
- 2.2 the remaining land is advertised as available to let marketed generally for agricultural use
- 2.3 the recommendation of the Trusts and Charities Committee to be advanced to the next available meeting of the Council as Trustee for approval
- 2.4 approval be given to negotiation and settlement of the terms of any disposal being delegated to the Director of Property who will work with external agents to secure appropriate valuation advice to comply with requirements of the Charities Act 2011
- 2.5 authorises the City Solicitor to negotiate, seal, execute and complete all legal documentation to give effect to the above recommendations.

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3. Compliance:

3.1 Consultations:

Internal

Officers in Education are willing to support the Colleges request. The land is outside of the City boundaries and no Member involvement beyond the Committee is required.

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External

Public consultation is not required but may be undertaken.

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 a number of charitable and non-charitable Trusts 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 document as amended by any Scheme approved by the Charity Commission.

The Cropwood Estate Trust holds the freehold interest of the land held in trust as Sole Trustee and is responsible for ensuring the Trust is managed in accordance with the governing document and in accordance with charity law and relevant Charity Commission guidance.

The Trustees of the Charity could rely on the provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power of disposal. However, the Charity Commission Scheme dated 12th November 1997, establishing the regulation of the Charity also provides appropriate 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. Lettings at less than best value are not permitted although other arrangements can vbe agreed with other charitable organisations subject to suitable authorisation.

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

The Committee has responsibility for ensuring the proper governance of the Trust 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. All future running costs for the premises will be covered by any tenant or while the property remains vacant the Education Service. Any disposals will be conducted in line with statutory processes set out in the Charities Act 2011 and revenue ring-fenced and invested for the specific Charity. Any disposal, if approved, will be processed by the retained agricultural agents Bruton Knowles overseen by officers in Legal Services and Birmingham Property Services.

The Cropwood trust is empowered to undertake disposals of land and property on the Estate either freehold or leasehold subject to the appropriate investment of the capital receipt. Disposals of parts of the estate have already been made in 1994 1998 and 2017.

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 1st June 1921, 28th February 1933 and 20th May 1938 and is approximately 36.5 hectares. The trust is governed by a scheme dated 12th November 1997 and is registered Charity no. 1085296.
- 4.2 The Cropwood Estate has been used since the original gift for schools purposes. The Hunters Hill School now known as Hunters Hill Technology College have use of most of the land for schools purposes. The remainder of the land is either woodland or meadows with the meadows usually let on formal agricultural tenancies as originally intended in the Trust documents to provide an income to the Trust. Officers have brought to an end some temporary arrangements and the land is currently unlet.
- 4.3 The College which has 120 students aged between 11 and 16 who have been identified as having moderate learning, emotional and behavioural difficulties provides a curriculum which includes in addition to the core school subjects a range of practical skills classes such as bricklaying, motor vehicle maintenance and farm studies. Since the report to Committee dated 20th April 2016 allocating the premises known as 'The Stables' to the College it has been the base for the farm and has a range of animals from sheep, pigs, horses and a wide range of other caged smaller animals. The farm wishes to expand the number of animals and is seeking additional land to do so and this would be onto land formerly let on agricultural tenancies.
- 4.4 The objects of the charity are very wide ranging and therefore could be met by almost any means. While the school operation clearly demonstrates continuing adherence with the Objects of the Trust the letting on the land to create an income for the trust is also a traditional key component for the land ownership there.
- 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. 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.
- 4.7 **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. All decisions will be mindful of the original intention of the documents however routes exist for their amendment through Part 7 Charities Act 2011 or an Order or Scheme from the Charity Commission.
- 4.8 **Trust Finances**
The Cropwood Estate Trust has a valid revenue source and also has options to convert assets from property to capital investments. The original deeds set aside the meadows areas for independent agricultural tenancies to create a revenue source for the better management of the Trust. Lettings at less than best value will deplete income to the trust but use by the College is still a valid use in line with the Trust Objects. The College is Local Authority managed and generally Education will cover any extraordinary costs created by the College land.

5. Evaluation of alternative option:

To do nothing is not an appropriate option. The land should not sit idle and the only options should either be:

- let in the open market
- let to the College at market rent
- let to the College for nil or reduced rent

6. Reasons for Decision(s):

- 6.1 To better safeguard the Trust's assets while remaining in compliance with the trust Objects.

Signatures:

Chief Officer(s):

Dated:

List of Background Documents used to compile this Report:

1. Scheme dated 12th November 1997

List of Appendices accompanying this Report (if any):

1. Plan of the Estate available to let.