

Agenda Item 9

Agenda Item 9 - Addendum

ADDENDUM TO REPORT

Report of: Executive Director City Futures

Report to: Charity Trustee Sub Committee

Date of Decision: 5 June 2023

Subject: Sale of Land off Twentywell Lane, Sheffield S17, at the North-Side of Poynton Woods

The main (original published) report on this subject incorrectly describes the ownership of the Trust Land in the Purpose of Report section and at paragraph 1.7, and the means by which it was acquired in paragraphs 2.2 and 4.3.1. The purpose of this Addendum Report is to correct those errors. It also clarifies the public notice requirements referred to at paragraphs 3.1 and 4.3.4(a) and accordingly sets out revised wording for Recommendation R1, and clarifies an apparent contradiction in the Legal Implications at paragraphs 4.3.4(b) and 4.3.5.

The main report incorrectly states that the Trust Land is owned by the J G Graves Charitable Trust and that the Sub-Committee are acting as sole trustee of that charity. The land is not owned by that Trust and the Council is not the sole trustee, or a trustee at all, of the Trust.

The main report should be read subject to the following amendments.

Recommendation R1 is amended by the insertion of the words underlined as follows

Approve the freehold sale of the Trust Land based on the terms of this report subject to there being no representations or objections in response to the public notices described in the report.

Paragraph 1.7 is replaced as follows

The Trust Land is owned by Sheffield City Council and is part of a wider plot of land which the Council acquired under a conveyance described in more detail at paragraph 4.3.1 of this report. The purchase of the land was funded by the J G Graves Charitable Trust (Charity Registration Number 207481) and the Council covenanted with the Trustees to preserve the land as an open space or park. The land is registered at the Land Registry under Title Number SYK633419 and the covenant is recorded as a charitable restriction. The Council thus holds the land as the sole trustee of an unregistered Charitable Trust. The total area of the land measures approximately 38,800 square metres and is shown coloured green in the plan attached at Fig 1 (Addendum to Appendix 1), of which the Trust Land, measuring 1,499 square metres (3.86%), forms part.

Paragraph 2.2 is replaced as follows

It is considered that the PSP will not harm the function of the Trust Land, the wider area of open space held under the Charitable Trust, or the existing PRow. The proposed sale will not therefore conflict with the objects of the Charity or the purposes for which the Trust Land was acquired by the City nor will its disposal affect the delivery of the Trust objects.

Paragraph 3.1 is replaced as follows

There are two statutory consultation requirements by way of public notice. Pursuant to section 121 of the Charities Act 2011 (described in more detail at paragraph 4.3.4(a) of the report) the Council must give public notice of the proposed disposal, inviting representations within a specified time frame of at least one month from the date of the notice, and must consider any representations. As the land is an open space, under section 123(2A) of the Local Government Act 1972 the Council must advertise the proposed disposal and consider any objections made to them. Both requirements will be met through half page public notices being placed in a local newspaper for two consecutive weeks. Notices and associated plans are also shared on the Council's webpage. Any representations or objections will be referred to the Charity Trustee Sub Committee for consideration.

Paragraph 4.3.1 is replaced as follows

The freehold interest of the Trust Land was conveyed to the Council by a conveyance dated 20 October 1950 made between (1) The British Transport Commission, (2) The Trustees of the J G Graves Charitable Trust and (3) The Lord Mayor Aldermen and Citizens of the City of Sheffield ("the Conveyance"). By virtue of a covenant within the Conveyance the land is held on charitable trust. The objects of the Charity are "the recreation of the public as public

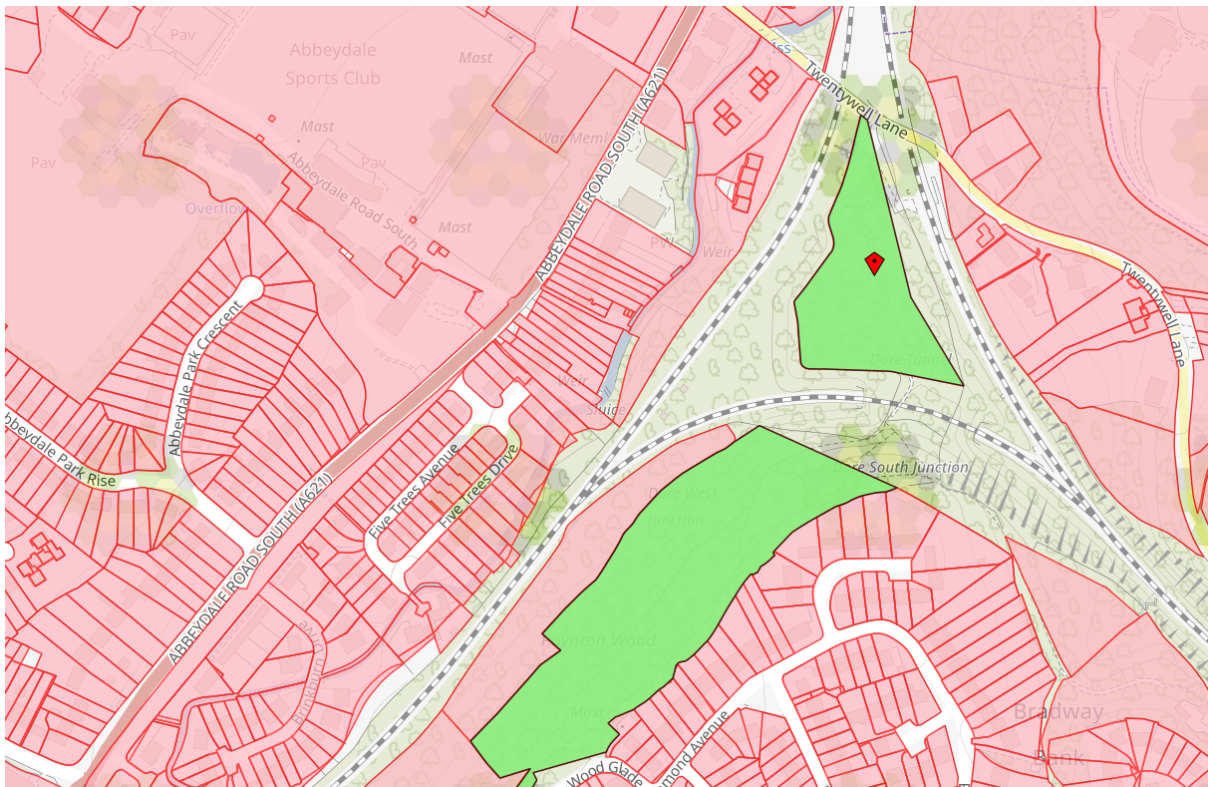
walks or pleasure grounds within the meaning of the Public Health Acts or as an open space within the meaning of the Open Spaces Act 1906”.

Paragraphs 4.3.4(b) and 4.3.5 are amended by the insertion of the words underlined as follows

4.3.4 (b) where there is no express power within the governing document of the Charity the charity trustee does not normally have the necessary powers to dispose of the Trust Land without obtaining an order or scheme from the Charity Commission authorising the disposal.

4.3.5 The Conveyance does not contain an express power allowing the charity trustee to dispose of the whole or any part of the land held on trust for the objects of the Charity. In previous disposals of land held on charitable trust by the Council it has in the appropriate circumstances (as set out in Charity Commission Guidance) relied on the power of sale contained in section 6 of the Trusts of Land and Appointment of Trustees Act 1996 which can be applied where the extent of the disposal is in proportion to the overall size of Trust so small that it will have no impact on the charity’s ability to further its objects. Legal Services’ advice is that this power can be relied on in the proposed disposal of the Trust Land.

Fig. 1 (Addendum to Appendix 1)



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