

Local Members' Interest	
Mark Sutton	South Staffordshire – Brewood

Charities and Trusts Committee

**Trust land forming part of Brewood C of E (C) Middle School, School Road,
Brewood, ST19 9DS
(formerly known as Brewood Grammar School)**

Proposal

1. Brewood C of E (C) Middle School ("the School") is a voluntary controlled school which has been directed by the Secretary of State to convert to an Academy. The School is due to join the St Chad's Academies Trust ("Academy Trust").
2. The School currently occupies land owned by the Staffordshire County Council ('the County Council'), Brewood Middle School Charity and the Brewood Educational Charity.
3. Brewood Educational Charity (Charity Number 518038) ("the Charity") own the land shown coloured blue on the plan at Appendix 1 ("Charity Land"). The Charity Land has now been registered at H M Land Registry under Title Number SF644138.
4. The part of the Charity Land that is occupied by the School is shown coloured blue on the plan at Appendix 2 ("School Land").
5. The remainder of the Charity Land is let in part on a grazing licence with the balance of the Charity Land being unoccupied.
6. At the Charities and Trusts Committee ('the Committee') meeting on the 26th October 2018 it was resolved that:

(a) That the Committee note that the County Council is not the freeholder of the whole site of the School but is the Charity Trustee of the School Land

(b) That the Committee agrees that the Charity Trustee grant to the Academy Trust the Academy Lease of the School Land, to facilitate and complete the Academy conversion process.

(c) That the Committee agrees to the Charity Trustee, applying to the Charity Commission for the variation of the objects of the Scheme necessary to enable the Academy Lease of the School Land to be granted and to obtain retrospective consent for the Grazing Licence.

(d) That the Committee delegate authority to agree the terms of the Academy Lease to the Director of Strategy, Governance and Change.

(e) That consideration be given at a future meeting of the Committee to the options for the future use of the Trust land in Brewood which is currently vacant.

7. The Charity Commission have now issued the draft Scheme for approval as set out at Appendix 3 ('the Scheme Amendment').
8. Under the terms of the current Charity Scheme dated the 7th July 1986, the Charity Land can be used as a farm for providing facilities for agricultural education and rural studies for primary and secondary school pupils in the County of Staffordshire with a preference for such pupils who are resident in the area of the Parishes of Brewood, Stretton, Featherstone and Shareshill ('the Scheme').
9. The Scheme Amendment proposes that the Charity Land can be used for:
 - (1) *as a farm for providing facilities for agricultural education and rural studies for primary and secondary school pupils in the County of Staffordshire, with a preference for such pupils who are resident in the area of the Parishes of Brewood, Stretton, Featherstone and Shareshill.*
 - (2) *provided that for such period as any of the lands shall be used and leased as a school within the meaning of the Education Act 1996 (including an Academy under the Academies Act 2010) that part of the lands shall be appropriated and used as a school.*
 - (3) *if any such lands are no longer required for any of these purposes, they may be disposed of subject to the requirements of part 7 of the Charities Act 2011, the clear proceeds of any sale or lease shall be invested and the income applied to advance agricultural education and rural studies by primary and secondary school pupils in the County of Staffordshire.*
10. The Charity Commission were unable to grant retrospective consent for the grazing licence but the Scheme Amendment confirms under (3) above the Charity Land can from implementation of the Scheme be sold or leased if it is not required for the purposes set out in (1) or (2) provided any income is applied to advance agricultural education and rural studies by primary and secondary school pupils in the County of Staffordshire.
11. It is understood that the income received from the grazing licence is minimal and is used to cover management costs. Any income received over and above the management costs should therefore be applied to advance agricultural education and rural studies by primary and second school pupils in the County of Staffordshire.

12. In order to grant the academy lease over the School Land, it will be necessary to amend the Scheme. Approval is therefore sought for the Scheme Amendment so that the academy lease can be completed.

Report of the Director for Strategy, Governance and Change

The Staffordshire County Council's role as a Charity Trustee

1. Trustees have and must accept ultimate responsibility for directing the affairs of a charity, ensuring that it is solvent, well-run and delivers the charitable outcomes for the public benefit for which it has been set up.
2. Local Authorities are well suited to being a charity trustee as they are:-
 - rooted in the local community;
 - open and transparent in their dealings;
 - highly accountable for their actions, and
 - have the high standards of public conduct embedded in the way they work.
3. Charity trustees have a duty to act solely in the best interests of the charity and its beneficiaries with a view to furthering its charitable purposes and for no other purpose whatsoever. They must also ensure that any charitable assets are managed independently and prudently in accordance with their charitable purpose and any restrictions in the charity's governing document.

Summary

4. The School is due to convert to an Academy. The County Council is required to grant to the Academy Trust a 125 year lease (of the land owned by the County Council in its corporate capacity) based on the template lease that the DfE has developed for this purpose.
5. Part of the School, shown coloured blue on the plan at Appendix 2 has been administered by the County Council as Charity Trustee under the Scheme. This part of the School does not therefore form part of the County Council's corporate estate but is held on trust.
6. An amendment to the Scheme is required to enable the academy lease to be granted.

Recommendations

7. The Committee is invited to recommend that the Committee:
 - (a) approves the Scheme Amendment.

Background

8. The School Land has been used for general educational purposes rather than specifically as a farm for providing facilities for agricultural education and rural studies since approximately 1977.
9. The School is in the process of converting into an Academy and it is therefore requested that the Charity grant a standard 125 year academy lease to St Chad's Academies Trust of the School Land.
10. The remaining Charity Land is surplus to the schools requirements. Part is currently vacant and part is being let under a grazing licence.
11. The objectives in the Charity can therefore no longer be carried out in the way laid down in the Scheme.
12. Local Authorities are not involved in the decision as to whether a School becomes an Academy this is a matter for the Secretary of State for Education.

Equalities Implications

13. The statutory functions discharged by the Charity 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. However, no decision is made until the Charity Trustee has determined it is expedient in the interests of the charity to grant a lease to the Academy Trust.

Legal Implications

14. Management and governance arrangements for charitable trusts are set out in the constitution under which they were established. Charity trustees in making decisions must also comply with Charities Act 2011, Trustee Act 2000, other relevant legislation and guidance issued by the Charity Commission. The assets of a charity must be used in accordance with charitable law, and the scheme failing which this will give rise to a breach of trust. Trustees have a duty to preserve the assets of trust. Decisions made by the charity must be expedient in the interests of the charity at all times. The disposal of trust assets is an exceptional event and must be in line with appropriate professional advice. All valuation advice conforms to the requirements in Part 7 Charities Act 2011 for the disposition of trust land.

Resource and value for Money Implications

15. As previously reported, there are few financial implications for the Charity Trustee other than exposure to the legal fees associated with the grant of the academy lease to the Academy Trust. These legal costs will be paid by the

County Council as part of the overall academy conversion process for the School. The Charity are only covering the costs of the first registration of the Charity Land and the application to the Charity Commission to amend the Scheme which is required not only for the academy lease but also for the grazing licence.

Risk Implications

16. There is little risk to the Charity Trustee associated with the Scheme Amendment as it will approve the current and future intended use of the Charity Land.

Conclusions

17. The Scheme Amendment is required to authorise the current and future intended use of the Charity Land.

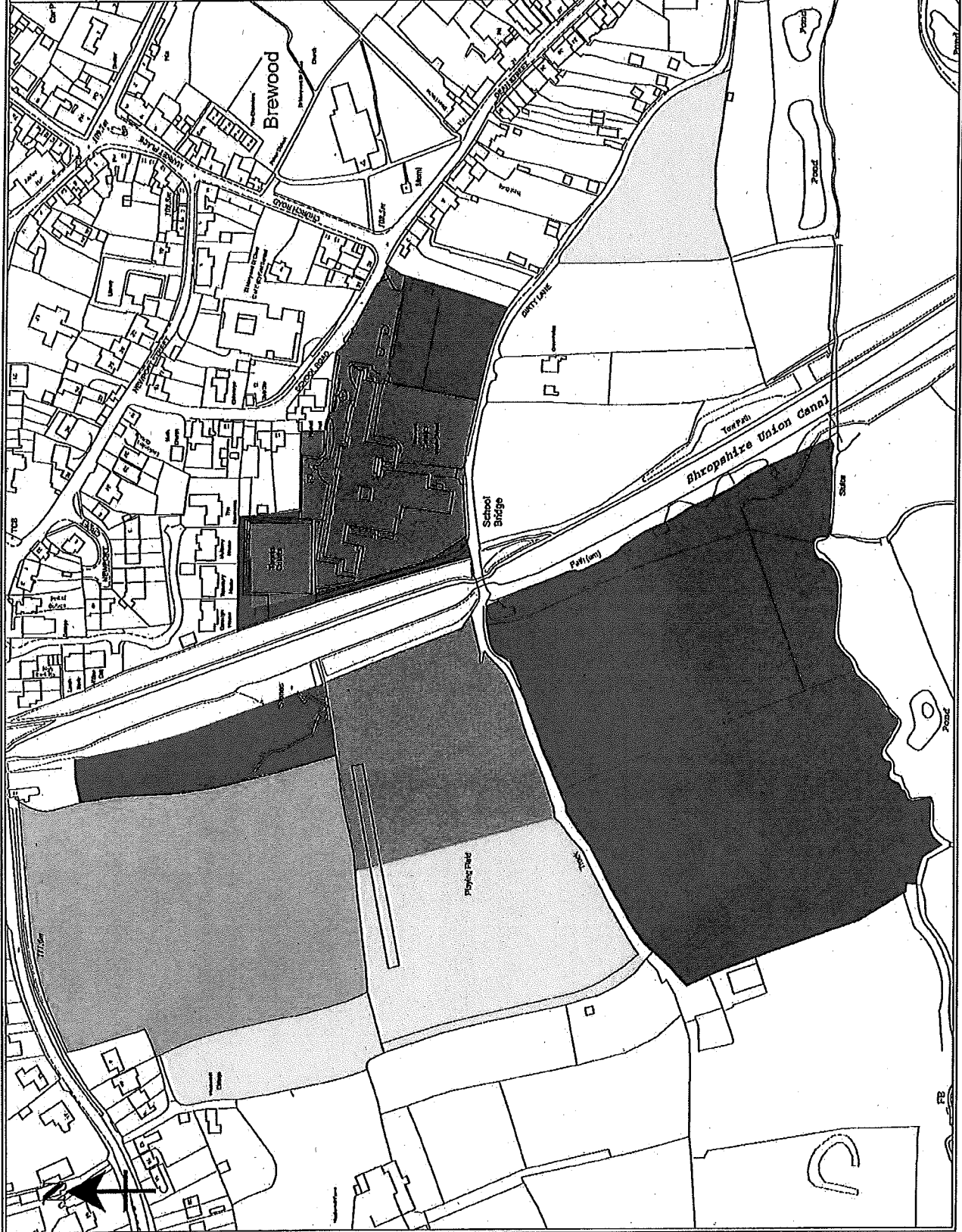
Decision of the Charities and Trust Committee

18. That the Committee approves:
 - (i) the Scheme Amendment

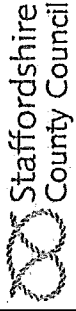
Report Author:

Legal Services Unit, Staffordshire County Council

Appendix 1 – Plan showing land owned by Charity Trustee



Appendix 2 – Plan showing the Charity Land occupied by the School



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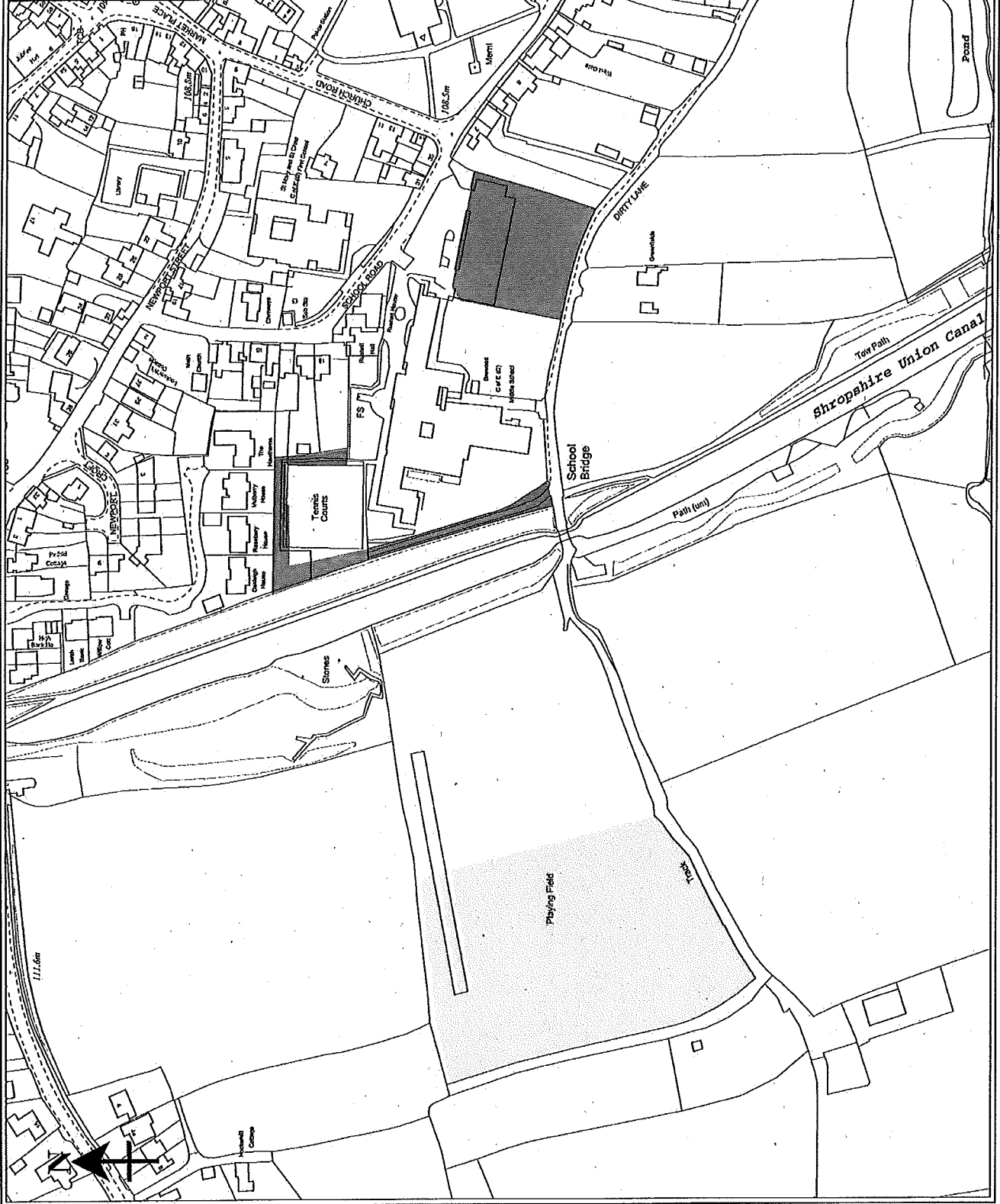
Plot Centre (BNG):
Easting: 388065
Northing: 308621

Scale 1:2500

Date: 20-AUG-2018

Plan Ref: 1:2500 @ A4

Title:
Brewwood Middle School



Appendix 3 – Draft Scheme Amendment

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Under the power given in the Charities Act 2011

Orders that from today, the

this

SCHEME

Will alter or affect the existing trusts of the charity

known as

BREWOD EDUCATIONAL CHARITY (518038)

at

Brewood, Staffordshire

**A member of staff of the Charity Commission authorised to act on behalf of the
Charity Commission**

1. Definitions

In this scheme:

“the charity” means the charity identified at the beginning of this scheme.

“the Commission” means the Charity Commission for England and Wales.

“the existing trusts” means the Scheme of 7 July 1986 and 30 September 1992.

“the 1986 Scheme” means the Scheme of 7 July 1986.

“the trustee” means the trustee of the charity.

2. Administration

The charity is to be administered in accordance with its existing trusts as altered or affected by this scheme.

3. Object of the charity

Clause 6(1) of the 1986 Scheme shall be deleted and replaced with:

The Trustee shall use the lands numbered 2 and 3 in the said schedule

- (1) as a farm for providing facilities for agricultural education and rural studies for primary and secondary school pupils in the County of Staffordshire, with a preference for such pupils who are resident in the area of the Parishes of Brewwood, Stretton, Featherstone and Sharesill.
- (2) provided that for such period as any of the lands shall be used and leased as a school within the meaning of the Education Act 1996 (including an Academy under the Academies Act 2010) that part of the lands shall be appropriated and used as a school.
- (3) if any such lands are no longer required for any of these purposes, they may be disposed of subject to the requirements of part 7 of the Charities Act 2011, the clear proceeds of any sale or lease shall be invested and the income applied to advance agricultural education and rural studies by primary and secondary school pupils in the County of Staffordshire.

4. Questions relating to the Scheme

The Commission may decide any question put to it concerning:

- (1) the interpretation of this scheme; or
- (2) the propriety or validity of anything done or intended to be done under it.

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