



Report to Policy Committee

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Report of: Executive Director Operational Services
Report to: *Charity Trustee Sub-Committee*
Date of Decision: 15th September 2023
Subject: *Lease of café at Endcliffe Park, Sheffield*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given?				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-				
Appendices 1 and 2 are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).				

Purpose of Report:

This report

1. seeks the approval of the Charity Trustee Sub Committee acting as Charity Trustee of Endcliffe Park (*Registered Charity Number 1112149*) (“the Charity”) to the grant of a lease of the Property (as defined at paragraph 1.2 of this report and referred to in the plan attached hereto) to Ashley Charlesworth on the terms set out in the Appendices to this report after consideration of the contents of the Qualified Surveyor’s Report and satisfying itself that the proposed terms are the best that can be reasonably obtained by the Charity in the circumstances.
2. sets out the requirements that need to be met prior to this disposal (as detailed in the Legal Implications section of this report)

Recommendations:

- R1.** On consideration of the commercial terms and the Qualified Surveyor's Report (set out in attached Appendices), confirm that the Trustees are satisfied that the proposed terms are the best that can be reasonably obtained by the Charity in the circumstances.
- R2.** Approve the lease of the Property to the tenant based on the terms set out in this report.

Background Papers:

n/a

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>Kerry Darlow</i>
		Legal: <i>David Sellars and Leonie Wallace</i>
		Equalities & Consultation: <i>Jo Pearce</i>
		Climate: <i>(N/A)</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	SLB member who approved submission:	<i>Executive Director City Futures</i>
3	Committee Chair consulted:	<i>Councillor Ian Auckland</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Ian Wrightson</i>	Job Title: <i>Surveyor</i>
	Date: <i>06 09 23</i>	

1. PROPOSAL

- 1.1 Endcliffe Park is held on charitable trust by the Charity and administered by the City Council as sole trustee, with this committee acting as sole corporate Charity Trustee and management provided by Parks & Countryside Services. The charitable trust is registered with the Charity Commission as Endcliffe Park (Charity Registration Number 1112149).
- 1.2 Endcliffe Park is registered at HM Land Registry and is shown edged red on the plan attached to this report. "The Property" lies within the park and comprises of the café building shown shaded pink, external seating area shaded green and the adjoining Public Wc's shaded blue. Rights are granted to the tenant over the driveway shown in brown with hatching indicating the operator parking and servicing area.
- 1.3 The Property lies within a section of the park that was acquired by the Council under a Conveyance dated 15 October 1885 and held on trust by the Council for the purpose of providing and maintaining Public Walks and Pleasure Grounds.
- 1.4 The Property is currently occupied by Ashley Charlesworth under a Tenancy at Will dated 9th Jan 2019. This tenancy was set up whilst we reviewed all contractual arrangements within the park. It is now considered appropriate at this stage that we regularise the arrangement with the current tenant by granting a lease. The proposed terms of this are set out under Appendix 1.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The charitable objects of the Charity are to maintain the site for 'Public walks and pleasure grounds'.
- 2.2 The provision of a café in the park is seen as fulfilling the objects as a café will the public's conditions of life by providing a place where the public can socialise and take refreshments as part of the overall park experience.
- 2.3 The proposed disposal more particularly contributes to the provision and maintenance of the park as follows:
 - (a) it will remove the liability from the Charity to maintain/decorate the interior of the Property which will be obligations placed on the tenant and as such will offset running costs.
 - (b) it will generate rental income which will be retained by the Charity and used for the purposes of the objects of the Charity;
 - (c) it will maintain the provision of the café facility within the park for use by the public.

- 2.4 The provision of a café, community space, facilities and public toilets in the park aligns with the objectives of the Council's 5-year Better Parks Initiative and the agreed partnership principles.
- 2.5 Better Parks is Sheffield's five-year initiative, which was approved by Cabinet in 2018, that seeks to sustain and improve our parks and green spaces by increasing commercial interest and income. It's vision is to deliver better services for Sheffield's parks and green spaces by growing economically viable ventures. For example, more and better catering opportunities, increased social value initiatives through complementary sponsorship and new franchises. The overall approach at Endcliffe Park meets these criteria allowing investment and regeneration:
- Affordable public access
 - Addressing inequalities and promoting activity and participation in our most deprived communities
 - The Council maintaining policy and asset control
 - Improving quality across all our facilities in all areas of the city
 - Seeking and supporting partnerships that are aligned with the Council's priorities and values
 - Ensuring potential partners are viable and sustainable.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 As there will be no material change to the provision of facilities within the park there is no requirement for or benefit to holding a public consultation.
- 3.2 However, we know from previous consultation how important catering and toilet facilities can be for people wanting to enjoy parks, green spaces and woodlands. In a 2018 survey focused on facility improvements in parks and woodlands, 64% of those asked said that they would use café facilities within their local park.
- 3.3 In 2021/22 Parks and Countryside carried out a Customer Satisfaction Survey 2021/22 which was designed around customer use and experience across our sites. The survey gave people the opportunity to feedback on the park, woodland or green space they visited most often. Of those asked, 63% said they thought the café facilities at our sites were good or very good. 16% thought the café facilities were not very good or poor, the remaining 21% didn't express an opinion about café provision.
- 3.4 As part of the Building Better Parks programme, we are aiming for investment on more sites in the future to provide toilet and café facilities where appropriate, and to improve existing facilities where possible.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 The objects of the Charity are to provide the park and its facilities to all members of the public without restriction to or distinction between any

person's characteristics including, but not limited to the protected characteristics identified and therefore there are no equality implications to be considered in the decision requested by this report on the proposed disposal.

4.1.2 Overall, this proposal will have a positive impact that will continue to benefit users of Endcliffe Park.

4.1.3 The provision of a café is important to making green spaces more widely accessible, and consequently should encourage social interaction, visitors to stay longer in the outdoors, bring new users to the park and increase opportunities for the community connections needed to get people more active hence promoting Health & Wellbeing.

4.1.4 There are no negative impacts identified.

4.2 Financial and Commercial Implications

4.2.1 The proposed lease will generate a higher rental income for the Charity. All rental income generated by the lease of the Property will be retained by the Charity and used for the purpose of the Charity in accordance with its charitable objects.

4.2.2 In addition to rent the proposed lessee will retain responsibilities for internal repairs and limited responsibilities for external repairs to the café building and will continue to undertake duties to manage the public WCs on site.

4.2.3 If the lease did not proceed, then the Charity would lose out in rental income and contributions to running costs and upkeep of the Property.

4.2.4 Further financial information is contained in the Qualified Surveyor's Report at Appendix 2 to this report.

4.3 Legal Implications

4.3.1 The Property lies within a section of the park that was acquired by the Council under a Conveyance dated 15 October 1885 and held on trust by the Council for Public Walks and Pleasure Grounds.

4.3.2 The proposal is to lease the Property for two years and the Council as charity trustee must comply with the restrictions on any disposition contained in the relevant provisions of the Charities Act 2011. These contain a general obligation to achieve the best price that can be reasonably obtained on any disposal but also contains several specific obligations as detailed below.

4.3.3 Section 120 of the Charities Act 2011 contains an obligation to obtain and consider a written report on the proposed disposal from a qualified surveyor instructed by the charity trustee and acting exclusively for the Charity. A report compliant with the requirements of section 119 has been obtained and is attached to this report at Appendix 2.

4.3.4 Where land is held by a Charity for a specified purpose (known as designated land), there are sometimes additional requirements that must be complied with in relation to a proposed disposal:

(a) Pursuant to section 121 of the Charities Act 2011 to give public notice of the disposal before disposing of designated land, or agreeing to dispose, unless:

(i) the land is being replaced

(ii) we are granting a lease for a term of 2 years or less with no premium or fine; and

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

4.3.5 On this occasion, as the proposed disposal is for a lease with a term of 2 years, there is no legal requirement to give public notice of the disposal.

4.3.6 We are also satisfied that an order or scheme from the Charity Commission is not required. 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. However, the Charity Trustee can rely 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 the Trust so small that it will have no impact on the charity's ability to further its objects.

4.4 Other Implications

4.4.1 None beyond those identified in this report.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 It is considered that there are no realistic alternative options here at this time.

6. REASONS FOR RECOMMENDATIONS

6.1 The proposal to grant a lease of this café facility:

- safeguards the café facility at Endcliffe Park for the short term
- secures an increased income stream by way of rent and contribution to running costs of the Park.
- enhances the attractiveness of the park as a valuable asset for use by the community
- enables the demised property to be occupied for the purposes of the charitable objects of the Charity

- Complies with the statutory provisions contained within the Act and further with the requirements of the Charity Commission.

APPENDICES

1 Principal lease terms

2 Qualified Surveyor's report

3 Plans

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