



Report to Policy Committee

Author/Lead Officer of Report: Ruth Bell, Head of Parks and Countryside

Tel: 07867 150747

Report of: *Executive Director of Neighbourhood Services*

Report to: *Charity Trustee Sub Committee*

Date of Decision: *4th March 2024*

Subject: *Charity Trustees response to Charity Commission correspondence*

Type of Equality Impact Assessment (EIA) undertaken	N/A	Initial	<input type="checkbox"/>	Full	<input type="checkbox"/>
Insert EIA reference number and attach EIA					
Has appropriate consultation/engagement 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 type="checkbox"/>	No	<input checked="" type="checkbox"/>

Purpose of Report:

The Charity Trustee Sub Committee is asked to consider the contents of this report and approve the draft response to the Charity Commission regarding Graves Park which is set out in the appendix.

Recommendations:

The Charity Trustee Sub Committee is recommended to approve:

- The contents of the proposed response letter to the Charity Commission
- That officers will forward this correspondence to the Charity Commission by way of an emailed letter, within 3 working days of the decision.

Lead Officer to complete:-							
1	<table border="1"> <tr> <td rowspan="4">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.</td> <td>Finance: Adrian Hart</td> </tr> <tr> <td>Legal: David Sellars</td> </tr> <tr> <td>Equalities & Consultation: Ed Sexton</td> </tr> <tr> <td>Climate: None</td> </tr> </table>	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.	Finance: Adrian Hart	Legal: David Sellars	Equalities & Consultation: Ed Sexton	Climate: None	
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	<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>						
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Date: <i>23rd February 2024</i>							

1. PROPOSAL

1.1 Graves Park is a charity, and the sole Trustee is Sheffield City Council.

The Charity Trustee Sub-Committee is a standing sub-committee of the Strategy and Resources Policy Committee. It is established to take all decisions of the Council as charitable trustee, including but not limited to:

- 1) Disposals of and other dealings with charitable land
- 2) Matters about which the Charity Commission must be contacted.
- 3) Matters of which charitable trustees should be aware in accordance with Charity Commission Guidance
- 4) Use of charitable assets by the Council for purposes that do not directly meet the charitable aims.
- 5) Any other matter that has a significant impact on the use of a charitable asset for the charitable purposes for reasons of duration, area of the asset impacted, or other restriction.
- 6) Matters relating to land that is not itself charitable and other incidental matters which depend on or are directly related to a decision that must be made by the Charity Trustee Sub-Committee.

In making this decision, the Charity Trustee Sub-Committee is discharging its duty in respect of these requirements.

1.2 The Council has for several years been actively engaged in correspondence with the Charity Commission (“CC”) regarding a number of matters concerning the Graves Park Charity. This correspondence has been both in writing and by telephone conversation.

1.3 In 2022 the Council changed to a new system of governance which saw the Cooperative Executive replaced by committees, including the Charity Trustee Sub Committee which discharges the Council’s obligations as sole trustee of the Graves Park Charity. It is now considered prudent that substantive correspondence to the CC be considered and approved by the Charity Trustee Sub Committee.

1.4 Appendix A and B to this report set out the latest correspondence from the CC (November 2023) and the Council’s proposed response regarding several long-standing matters concerning Graves Park. These matters are summarised below.

1.5 Rose Garden Café

1.5.1 The view is that the CC are content with the progress that is being made to resolve the issues arising out of the condition of the café building. A separate report setting out in detail the current position is coming to this sub-committee.

1.6 Friends of Graves Park

1.6.1 There had been an issue regarding what correspondence the CC was releasing to the Friends Group as part of its dialogue with the Trustee. This has now been resolved and the CC has assured officers that no correspondence is released without due consideration of its duties under FOI and EIR.

1.7 Council Governance and the section 15(2) Action Plan

1.7.1 As can be seen from the draft letter the intention is to appoint an external legal advisor to provide options on what governance models are available to local authorities such as Sheffield to see how an independent voice can be added to Council role as Trustee. The intention is to have an exploratory meeting with external legal advisors and officers early in March 2024.

1.8 Proposed Disposal of the Tennis Courts

1.8.1 The CC asked if the Trustee was satisfied that it had made a proper decision and followed all the Charity Act 2011 requirements as part of the wider Tennis Hub provision contract award. This matter was considered by the Trustee on 21 March 2023 which approved the disposal.

1.9 Norton Nurseries

1.9.1 The response to the CC is based on a number of concerns raised by the CC. There is a detailed response set out in the draft letter. As well as the broad terms set out at paragraph 1.7.1 the engagement of external legal advisors will be on the basis that it specifically addresses what options are available to the Trustee going forward.

2. HOW DOES THIS DECISION CONTRIBUTE?

2.1 An ongoing relationship and regular dialogue with the Charity Commission is essential to ensure good governance and to enable any plans or decisions for the various matters in Graves Park and the wider charitable interests to be implemented lawfully.

3. HAS THERE BEEN ANY CONSULTATION?

3.1 There has been no consultation regarding this response to the Charity Commission.

3.2 Any changes proposed within charitable parks would be subject to specific consultation undertaken.

3.3 There is regular on-going dialogue with the Friends of Graves Park and Save the Rose Garden Cafe group.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

4.1.1 There are no equality implications arising from this report.

4.2 Financial and Commercial Implications

4.2.1 There are no financial or commercial implications arising from this report.

4.3 Legal Implications

4.3.1 As a charity trustee the Council has a number of duties in accordance with charities law. In the event that the Trustee ceases to engage with the CC this may be construed as a breach of the Trustee's duties that could ultimately lead to the CC instigating a Statutory Inquiry.

4.4 Climate Implications

4.4.1 There are no climate implications arising from this report.

4.4 Other Implications

4.4.1 There are no other implications

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 Do nothing. This could lead to the outcome set out at paragraph 4.3.1 above and also cause reputational damage to the Council

6. REASONS FOR RECOMMENDATIONS

6.1 Responding to the Charity Commission maintains the ongoing relationship with the Charity Commission which is essential to ensure that whatever plans the Trustee settles on for the various matters in Graves Park and the wider charitable interests are implemented lawfully.

6.2 To maintain good governance, it is important for the Graves Park Charity Trustees approve any significant correspondence with the CC.

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