



CHARITY COMMISSION
FOR ENGLAND AND WALES

Sent by email to:

David.Sellars@sheffield.gov.uk

Charity Commission
PO Box 211
Bootle
L20 7YX

Our ref: LW/C-036009/RC

Date: 27 June 2024

Dear Mr Sellars

Graves Park – registered charity number 510841

Further to your letter of 5 March 2024 and my email of 8 March 2024, I have considered the trustees response to my letter of 24 November 2024.

The Proposed Disposal of the Tennis Courts

As we understand it, the new lease/disposal of the tennis courts is an extension from a 7-year lease to a 25-year lease.

You have advised in your letter that the trustee is satisfied that the disposal complies with the requirements of s117 to 121 of the Charities Act 2011.

For further clarification on the charity's compliance with s117 to 121 of the Charities Act 2011, please provide the following information.

1. As required by section 119 (1) (a) of the Charities Act 2011, please provide a copy of the written report obtained and considered by the trustee for the disposal of the tennis courts.
2. Please provide the reasons for why the trustee has satisfied themselves, having considered the report, that the terms of the disposal are the best that can be reasonably obtained for the charity.
3. We are aware that there has been [opposition for this disposal](#) with concerns being that the designated land is being privatised. s.121 (2) (b) of the Charities Act 2011, requires that public notice of at least a month is given to any intended disposal of

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designated land and that trustees take into consideration any representations made during that period. Please provide details of how the trustee has managed the public notice requirement and taken into consideration any representations made to them about the disposal.

4. Given the tennis courts are being leased to a private company for 25 years, please provide full details of how accessible the tennis courts will be following the disposal to the public.

Please include details of any fees that will be charged by the private company to the public for use of the tennis courts.

5. Please provide a copy of the minutes of the meeting when the trustee decision was made to lease the tennis courts for 25 years, including how the trustees considered this to be in the best interests of the charity.
6. Please provide details of the independent legal advice obtained referred to in your letter of 5 March 2024 regarding this matter.

We assume that the trustee has considered that the Commission's consent is not required for this disposal. For further assurance on this please provide the following:

7. What power the trustee is relying on to enter into the lease arrangements.
8. Details of how the trustee considers that the disposal will not impact on the purpose for which the land is required.
9. You have advised in your letter that income generated by the Council under its arrangements with the operator will be applied to the Charity and the delivery of tennis at Graves Park.

We understand that the agreement with the private company involves a number of different sites which are being managed. However, in the case of Graves Park, the land in question belongs to the charity. Therefore, the agreement should be between the company and the Council as trustee of Graves Park and any proceeds generated from this lease arrangement should be received by the charity and used to further its charitable purpose.

Please provide full details of how the proceeds of the lease will be used for the same charitable purpose, including details of how the charity will continue to deliver tennis.

Norton Nurseries

Whilst we note it was not a deliberate avoidance to regularise the disposal of Norton Nurseries to the Council as a connected party in its role as the local authority, and that matters such as the lockdown caused by the Covid 19 Pandemic delayed matters, the trustee should be aware that the continuation of the disposal of the designated land to a connected party without the required consent may be considered by the Commission as a serious breach of the trustee legal duties.

We also consider that despite the reasons provided and given the time that has passed since 2017 when advice was given by the Commission for this disposal, that the trustee should have as a priority in its management of the charity and its assets, taken steps prior to this engagement on the matter, to regularise the disposal and obtain the necessary consents.

The trustee has in effect, been acting in breach of the 2009 scheme and the Charities Act 2011.

We require the following information.

10. As the trustee will obviously be aware, the Friends of Graves Park would like the section of the Norton Nurseries land in question to be restored back to parkland (which would be in furtherance of the charity's objects) and would be happy to assist Graves Park with this.

Please advise if the trustee has considered this as an option for the use of the land and if not the reasons why.

11. Please confirm when the Council, in its role as the local authority, first began to use the charity's land for the benefit of the city of Sheffield.
12. Please provide full details of how this disposal was and continues to be in the best interests of the charity.
13. You have advised that the proportion of the Norton Nurseries land being used as 60% to Graves Park and 40% other uses. Given this land is designated, this is a significant amount of designated land being used for other than by the charity.

Please provide full details of how the charity is still able to carry out its charitable purposes and what consideration has been given to how the disposal may impact on the objects of the charity.

14. You have also advised that the charity receives from the Council, in its role as the local authority for use of the land, an annual subsidy by way of a grant which

"exceeds" an element for use and occupation of the depot land that is used for Council purposes.

Please provide details of how the charity determined how much the Council, in its role as the local authority, should be charged for its non-charitable use of the land?

15. In your letter you have advised that there is a joint use by both the charity and the Council of the depot and that this matter is not as straightforward as seeking an order for a disposal, as you still need to understand what the best legal structure is, and if that is different to the existing arrangement of the Council use by licence.

Please provide further details on this and a copy of the licence referred to.

16. What other uses of the Norton Nurseries land have been considered by the trustee?

We note that the charity will keep the Commission informed of developments and work with the Commission to ensure any decisions are made in accordance with the relevant laws and regulations.

In our view, it would appear the land is not being used for charitable purposes, and its use by the Council for its own purpose could be considered a breach of trust. As such, the Council, in its role as trustee, needs to prioritise regularising the situation.

You have advised that the Trustee is not aware of any conflicts of interest that have arisen since 2009 as no decision has been made since that date, and they are also not aware of minutes of decisions by the Trustee regarding the operational use of the depot land.

17. Does the trustee make regular decisions for the day-to-day management of the charity? Or have no trustee decisions been made since 2009? Please provide further clarification/details on this.

Trustees should keep accurate minutes of meetings and decisions made. Minutes should record exactly what was agreed, particularly for important or controversial decisions.

Trustees should also ensure that a record of minutes of meetings are held within their charity's internal records.

We would advise the trustees to read and consider the following guidance.

[Charity meetings: making decisions and voting - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[It's your decision: charity trustees and decision making - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Further information required

We have been advised that the Council published an invitation to tender for a concession agreement for a food growing operator at the Norton Nurseries Glasshouses. It is unclear how this arrangement would be in furtherance of the charity's purposes.

Please provide the following information.

18. Please provide full details of how this arrangement is in the best interests of the charity.
19. Please provide full details of how this arrangement is in furtherance of the charity's objects.
20. Please also provide any further information relevant to this matter including the minutes of the trustee meeting when the decision was made.

Next steps

The Commission appreciates that trustees have commitments other than fulfilling their roles as trustees. However, it has been noted from previous letters sent to the Trustee that there have been significant delays in providing the Commission with the information we have requested.

Given the above, we would expect the trustee to respond to this letter within the deadline given so that these matters can be considered in a timely manner.

I look forward to hearing from the trustee on or before **Friday 12 July 2024**.

Yours sincerely

Laura Wainwright
Case Manager – Regulatory Compliance

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