

Charity Trustee Sub-Committee

Thursday 26 January 2023 at 4.00 pm

**To be held in the Town Hall,
Pinstone Street, Sheffield, S1 2HH**

The Press and Public are Welcome to Attend

Membership

Councillor Bryan Lodge
Councillor Richard Williams
Councillor Douglas Johnson
Councillor Julie Grocutt
Councillor Mick Rooney

PUBLIC ACCESS TO THE MEETING

Meetings of the Charitable Trusts Sub-Committee are chaired by Councillor Bryan Lodge.

A copy of the agenda and reports is available on the Council's website at www.sheffield.gov.uk. You may not be allowed to see some reports because they contain confidential information. These items are usually marked * on the agenda. Members of the public have the right to ask questions or submit petitions to Charitable Trusts Sub-Committee meetings and recording is allowed under the direction of the Chair. Please see the [webpage](#) or contact Democratic Services for further information regarding public questions and petitions and details of the Council's protocol on audio/visual recording and photography at council meetings.

Charitable Trusts Sub-Committee meetings are normally open to the public but sometimes the Committee may have to discuss an item in private. If this happens, you will be asked to leave. Any private items are normally left until last on the agenda.

Meetings of the Charitable Trusts Sub-Committee have to be held as physical meetings. If you would like to attend the meeting, please report to an Attendant in the Foyer at the Town Hall where you will be directed to the meeting room. However, it would be appreciated if you could register to attend, in advance of the meeting, by emailing committee@sheffield.gov.uk, as this will assist with the management of attendance at the meeting. The meeting rooms in the Town Hall have a limited capacity. We are unable to guarantee entrance to the meeting room for observers, as priority will be given to registered speakers and those that have registered to attend.

Alternatively, you can observe the meeting remotely by clicking on the 'view the webcast' link provided on the meeting page of the [website](#).

If you wish to attend a meeting and ask a question or present a petition, you must submit the question/petition in writing by 9.00 a.m. at least 2 clear working days in advance of the date of the meeting, by email to the following address: committee@sheffield.gov.uk.

In order to ensure safe access and to protect all attendees, you will be recommended to wear a face covering (unless you have an exemption) at all times within the venue. Please do not attend the meeting if you have COVID-19 symptoms. It is also recommended that you undertake a Covid-19 Rapid Lateral Flow Test within two days of the meeting. If you require any further information please email committee@sheffield.gov.uk.

FACILITIES

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms. Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

**CHARITY TRUSTEE SUB-COMMITTEE AGENDA
26 JANUARY 2023**

Order of Business

- 1. Welcome and Housekeeping**
The Chair to welcome attendees to the meeting and outline basic housekeeping and fire safety arrangements.
- 2. Apologies for Absence**
- 3. Exclusion of Press and Public**
To identify items where resolutions may be moved to exclude the press and public
- 4. Declarations of Interest** (Pages 5 - 8)
Members to declare any interests they have in the business to be considered at the meeting
- 5. Minutes of Previous Meeting** (Pages 9 - 14)
To approve the minutes of the last meeting of the Sub-Committee held on 25 October 2022.
- 6. Public Questions and Petitions**
To receive any questions or petitions from members of the public
- 7. The Centre in the Park Cafe, Norfolk Park Heritage Park** (Pages 15 - 32)
Report of the Executive Director, Operational Services
- 8. Rose Garden Café Building, Graves Park Verbal Update**
Verbal update to be provided in advance of full report to future meeting.

*(NOTE: Appendix 1 and 2 to the report at item 7 in the above agenda are not available to the public and press because they contain exempt information described in paragraph 3 of Schedule 12A to the Local Government Act 1972 (as amended))

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ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

If you are present at a meeting of the Council, of its Policy Committees, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and you have a **Disclosable Pecuniary Interest** (DPI) relating to any business that will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

You **must**:

- leave the room (in accordance with the Members' Code of Conduct)
- make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- declare it to the meeting and notify the Council's Monitoring Officer within 28 days, if the DPI is not already registered.

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. You have a pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period* in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

*The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests.

- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.

- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either -
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

If you attend a meeting at which any item of business is to be considered and you are aware that you have a **personal interest** in the matter which does not amount to a DPI, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. You should leave the room if your continued presence is incompatible with the 7 Principles of Public Life (selflessness; integrity; objectivity; accountability; openness; honesty; and leadership).

You have a personal interest where –

- a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or
- it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously.

You should identify any potential interest you may have relating to business to be considered at the meeting. This will help you and anyone that you ask for advice to fully consider all the circumstances before deciding what action you should take.

In certain circumstances the Council may grant a **dispensation** to permit a Member to take part in the business of the Authority even if the member has a Disclosable Pecuniary Interest relating to that business.

To obtain a dispensation, you must write to the Monitoring Officer at least 48 hours before the meeting in question, explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council's Standards Committee in relation to a request for dispensation.

Further advice can be obtained from David Hollis, Interim Director of Legal and Governance by emailing david.hollis@sheffield.gov.uk.

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SHEFFIELD CITY COUNCIL

Charity Trustee Sub-Committee

Meeting held 25 October 2022

PRESENT: Councillors Bryan Lodge (Chair), Richard Williams (Deputy Chair),
Douglas Johnson (Group Spokesperson), Julie Grocutt and
Mick Rooney

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1. APOLOGIES FOR ABSENCE

1.1 There were no apologies for absence.

2. EXCLUSION OF PRESS AND PUBLIC

2.1 It was noted that appendix 1 to item 6 on the agenda is not available to the public or press because it contains exempt information. If Members wish to discuss the information in the appendix, the Committee will ask the members of the public and press to kindly leave for that part of the meeting and the webcast will be paused.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest made.

4. PUBLIC QUESTIONS AND PETITIONS

4.1 Andy Kershaw attended the meeting and asked the following questions:

Please explain how the council discharges its statutory duty as sole corporate trustee of Graves Park? Answer: The Council is a Corporate Trustee. It has chosen to delegate its responsibilities as Trustee to the Charity Trustee Sub-Committee. The Members of that Committee exercise those responsibilities jointly, with decisions being carried by a majority. Each Member is not a trustee in their own right.

Please explain how the funding revenue generated in Graves park has been applied and why The Rose Garden Cafe has not benefitted from any repairs or maintenance for the last 10-20 years and who is responsible for this neglect? Answer: Revenue generated within Graves Park has been spent within the park. This has been on maintenance and management of the green space. The Council is responsible for maintaining the structure and external elements of the Rose Garden Café. Repairs and maintenance have taken place at Rose Garden Café when issues have been reported by the occupants and Council staff. Whilst the previous condition report in 2018 highlighted that the roof was in a poor state of repair, the recommendation was considered, but no action was taken. A further survey did not then take place until the most recent ones in 2022. Further information to supplement this response (including financial information) will be provided in writing.

Will the committee support the full repair and reinstatement of the Rose Garden

café in accordance with the wishes of the 10,500 people who have signed the petition calling for it to be re-opened ? Answer: We do appreciate the strength of feeling regarding the future of the Rose Garden café. However, as Trustee the Council must act in the charity's best interests and manage its resources responsibly and, as a Committee of the Council, the Charity Trustee Sub-Committee must make decisions on the basis of all of the relevant information. It is currently too early in the process for the Committee to be able to do those things and so it is not possible, at this time, for the Committee to give its support to one particular option.

Will the council reveal the precise details of the funding model for Graves Park and exactly which staff are accounted for in the account of expenditure submitted to the charity commission? Answer: Sheffield City Council is the sole trustee of the Charity. Funding relating to the charity is either restricted or unrestricted. Unrestricted funds are available for use at the discretion of Trustees, in furtherance of the general objectives of the charity. This largely relates to income from activities at the park. Restricted funds are those to be issued in accordance with specific restrictions by donors or which have been raised by the charity for a specific purpose. Any deficit arising between expenditure and funding each year is met by Sheffield City Council. Further information to supplement this response (including financial information) will be provided in writing.

Will the committee support a recommendation for a scheme change to the Graves Park charity to enable local ward councillors and local stakeholder representatives to become trustees of Graves Park? Answer: We are committed to engaging with the public and we want to ensure that the public voice is taken into account in how our parks are managed. However, a change of the kind proposed would not be straight-forward. It would involve individuals being willing to be trustees in their own right, with the personal responsibility/liability that arises from that. There would also be implications for the Council's corporate trusteeship, which would in all likelihood need to be delegated to an officer to facilitate decision making alongside the other trustees, and there would be practical implications in terms of the support/advice that could be made available to the new trustees by Council officers. I have however asked officers to investigate what options are available to us within the committee structure to support local councillors and stakeholders to be more formally involved.

How does the Council square its duty to care for and maintain the charitable assets of Graves park in the light of the finding of fact in question 2. Answer: The Council has a duty to care for Graves Park in its entirety, including the Rose Garden Café building and all of the green space. All of the revenue budget generated from within Graves Park has been spent within the park. Whilst some minor repairs and maintenance have taken place on the Rose Garden Café building, the large majority of expenditure has been on maintenance and management of the green space. The Council makes a considerable grant contribution each year to support the charity. It is clear from the accounts that there was not sufficient funding within the charity (even taking Sheffield City Council's contribution in to account) to undertake the level of capital works required on the building. Any decisions in terms of large-scale investment in the building would have required additional funding either from the Council, or another

source.

Which parks across the city are run by trustees with the sole trustee as the council? Given the huge value of our parks to communities across the city, extremely committed 'friends' groups and other stakeholders, the stated commitment to communities in Sheffield, and the importance of accountability and local involvement, how is it ever possible, justifiable or desirable that those 'making decisions about our parks consist of only you and exclude all others? Will you rapidly review and rectify this situation in light of this council's stated policy positions and commitments? Answer: The following sites are charity sites (with Sheffield City Council as the sole trustee):

Blackamoor
Charnock Green
Chelsea Park
Earl Marshall Recreation Ground
Endcliffe Park Firth Park
Glen Howe Park
Graves Park
High Hazels
Hillsborough Park
Norfolk Park
Phillimore Park
Richmond
Ripon St
Sutherland Rd
Weston Park
Wincobank

The local community and relevant groups (including Friends Groups) are involved in planning within our parks sites and are consulted on activities within the parks. Decisions are then taken in Council meetings (formally Cabinet and Co-Operative Executive meetings, now Charity Subcommittee meetings) as required. The response to the earlier question on trustees explains the complexity and legal complications of amending this charity model.

4.2 Caroline Dewar attended the meeting and asked the following questions:

The report refers to the 2009 Scheme regarding Graves Park. Are the trustees aware that this scheme is in addition to the original conveyances of 1925, 1931 and 1936 and does not replace or over-ride them? Answer: The 2009 Scheme specifically states that it does replace the former trusts of the charity. There may be requirements in the original conveyances that do still apply but not those that are the former trusts of the charity

Have the trustees replied to the Charity Commission's letter on pages 25 and 26 of the report and if so, what was their response regarding the charitable land that is currently still waiting to be restored to parkland? The Friends assume that this land is the old Norton Nurseries site, two parts of which are already restored (by Friends of Graves Park) and open to the public. The Friends have been waiting for permission to start the next section for the past 7 years. The Friends already have a scheme for this work and have already agreed to fund the restoration. Can you

give us a time scale of when that permission will be forthcoming? Answer: The letter from the Charity Commission forms part of the report being discussed at the Charity Subcommittee. The response to the Charity Commission will be discussed as part of this meeting therefore no response has yet been sent. As per previous correspondence with Parks and Countryside regarding the 'Norton Nursery' area of Graves Park, at the present time, we cannot allow the extension of the arboretum into the Norton Nursery of the park area as SCC needs this area to run operations for Graves Park and the local area. The council is continuing to look for alternative solutions to all its operational depot facilities and Norton Nurseries is being considered in this review. The council has given a commitment that when we can progress this issue, we will, but for now, we need this area to service Graves Park. We have not said that this area is no longer part of the park and we have not designated it as something else.

Since our last correspondence with the Charity Commission, the Council has now published a notice that they intend to sell the freehold on Bole Hill Farm, which was sold in 1982, contrary to the original conveyance of 1925. When did the Trustees discuss this sale and when was the decision made to sell this land? Please note that land in the Graves Park Trust has no power of sale and is designated charitable land. Was the decision incorrectly delegated to council officers and if so when did this happen? Has the council contacted the Charity Commission about this yet to seek advice? Answer: With regard to why the Council believes that the disposal of the freehold does not require a decision from the relevant committee the answer to that question is that there is no decision to be made, this being a disposal that the Council must by law complete. The current freehold disposal is a consequence of the decisions made in 1982 and 1994, not a new decision. Regarding the original decision to sell Bole Hill Farm, a report was submitted to the Recreation Committee on 13/09/1979 and the minutes of that meeting give the authority to dispose. The Charity Commission was consulted and confirmed authority to dispose in correspondence dated 4th December 1980.

4.3 Ruth Hubbard submitted the following question which was read out by the Chair:

Please can I ask you to confirm which parks across the city are run by trustees with the council as sole trustee. (It includes most or all of our big parks doesn't it?) Given the huge importance of parks to citizen and community wellbeing , extremely committed 'friends' groups and other stakeholders (who all have expertise and experience), the stated commitment to 'people first' and communities having meaningful influence, council claims that it is significantly changing the ways it works, and the errors that this council appears to be making and the serious constraints the council continues to work withhow is it ever possible, justifiable or desirable that those making decisions about our parks include only you, and exclude all others? You also claim as a council to have 'learnt the lessons' from the street tree debacle and I am pretty sure that the Independent Street Tree Inquiry will, amongst other things, highlight the serious risks of seeking to exclude, and the considerable benefits from, joint oversight and management of vital community assets. So, will you rapidly review and rectify this situation in light of this council's stated policy positions and commitments to ensure that the management and oversight of our parks benefits from much better governance arrangements that fully include the significant contributions that a

range of appropriate others can bring - as trustees (or equivalent, depending on structures adopted)? Answer: The following sites are charity sites (with Sheffield City Council as the sole trustee):

Blackamoor
Charnock Green
Chelsea Park
Earl Marshall Recreation Ground
Endcliffe Park Firth Park
Glen Howe Park
Graves Park
High Hazels
Hillsborough Park
Norfolk Park
Phillimore Park
Richmond
Ripon St
Sutherland Rd
Weston Park
Wincobank

The local community and relevant groups (including Friends Groups) are involved in planning within our parks sites and are consulted on activities within the parks. Decisions are then taken in Council meetings (formally Cabinet and Co-Operative Executive meetings, now Charity Subcommittee meetings) as required. The response to the earlier question on trustees explains the complexity and legal complications of amending this charity model and sets out our commitment to look at options.

5. ROSE GARDEN CAFÉ BUILDING, GRAVES PARK UPDATE AND NEXT STEPS

- 5.1 The Executive Director, Operational Services submitted a report setting out to brief the Charity Trustee Sub-Committee on the current position regarding the Rose Garden Café Building (“the Café Building”) at Graves Park, following its closure on 27th July 2022. The report contains an update as to decisions and actions taken to date. It also sets out the proposed next steps and seeks approval for those steps to be taken alongside a request to approach the Charity Commission regarding the potential options for the Café Building.

Members debated the current position in detail and reiterated the apologies for the sudden closure of the café and the impact this has had, particularly for employees of the cafe. Members discussed details of the nature of the lease for the café and how the current position had been arrived at and officers agreed to provide Members with details in writing.

5.2 RESOLVED UNANIMOUSLY: That the Charity Trustee Sub-Committee:-

(1) Subject to recommendation 2 below that the sub-committee acting as trustees agree that at this time the options proposed in this report in

relation to the future of the Café Building at Graves Park are the only reasonable options available to the trustees acting in the charity's best interests;

(2) That in all the circumstances, before any final decision is made by the trustees regarding the future of the Café Building, pursuant to clause 10 of the Scheme and section 110 of the Charities Act 2011, the Charity Commission is approached for guidance on the options set out in this report;

(3) That following receipt of the opinion of the Charity Commission and any clarification required, a further report is brought back to the Sub-Committee for consideration of the future of the Café Building; and

(4) That the Executive Director, Operational Services, in consultation with the Chair, Deputy Chair and Group Spokesperson, be authorised to respond to the recent letter received from the Charity Commission regarding the Trust land and the closure of the Rose Garden Café Building.

5.3 Reasons for Decision

- 5.3.1 It is imperative that any decisions taken by the Council as trustees of the charity are made in accordance with the Scheme. As stated in the report there is both provision within the Scheme itself under clause 10 and pursuant to section 110 of the Charities Act 2011 for trustees to put questions to the Charity Commission and more particularly decide the question of what proposals are within or without the terms of the Scheme. It is therefore prudent to make those enquiries before the trustees make any definite decisions regarding the Café Building

5.4 Alternatives Considered and Rejected

- 5.4.1 No alternative options have been considered at this stage as the closure of the building was in response to significant potential Health and safety issues. Information continues to be gathered in order that informed decisions can be made at future stages of the process.



Report to Policy Committee

Author/Lead Officer of Report: Tammy Whittaker Head of Regeneration and Property Service
Tel: 2734700

Report of: *Executive Director City Futures*
Report to: *Charity Sub Committee*
Date of Decision: *26 January 2023*
Subject: *Lease of café at Norfolk Park, Sheffield*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? <i>(Insert reference number)</i> awaiting				
Has appropriate consultation taken place?	Yes	<input 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 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:- <i>"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)."</i>				

Purpose of Report:

This report seeks the approval of the Charity Sub Committee acting as Charity Trustee of Norfolk Park (*Registered Charity Number 1040354*) ("the Charity") to the following proposals:

1. to declare Norfolk Park Cafe ("the Property") surplus to the requirements of the Charity;
2. to grant a new lease of the Property to Julie Collins and Kelsey Booth 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 in the circumstances.

Recommendations:

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

Background Papers:

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.	<div>Finance: <i>Kerry Darlow</i></div> <div>Legal: <i>David Sellars</i></div> <div>Equalities & Consultation: <i>Jo Pearce</i></div> <div>Climate: <i>n/a</i></div>
	<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 Bryan Lodge</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:
	Date: <i>17 January 2023</i>	

1. PROPOSAL

- 1.1 Norfolk Park is held on charitable trust by the Charity and administered by the City Council, 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 Norfolk Park (Charity Registration Number 1040354 (and governed by a Charity Commission Scheme dated 29 August 1994 (the Scheme)

Norfolk Park is registered at HM Land Registry and the part incorporating Property shown edged red on the plan attached to this report. The Property forms part of Norfolk Park and is shown shaded pink with the CITP building edged red on the plan.

The property was previously occupied by Norfolk Park Catering. That operator terminated its use due to retirement of staff and Property Services/Parks and Countryside then put the unit to the market as a café/catering opportunity. Following appraisal of business plans from interested parties and interviews a potential operator was selected and it is proposed to grant new lease to that operator based upon the terms set out in Appendix 1.

If the proposal for the lease is approved it is proposed, as an interim position pending legal documentation of the lease, to offer use by way of a tenancy at will on similar terms to that proposed in the final lease in order to facilitate earlier provision of a café facility within Norfolk Park.

2. HOW DOES THIS DECISION CONTRIBUTE ?

2.1 The charitable objects of the Charity are set out as follows:

(1) in the interests of social welfare, to improve the conditions of life for the inhabitants of the area of benefit without distinction of political, religious or other opinions by the provision and maintenance of a recreation ground.

(2) the provision and maintenance of a community centre for use by the inhabitants of the area of benefit without distinction of political, religious or other opinions, including use for: (a) meetings, lectures and classes, and (b) other forms of recreation and leisure-time occupation, with the object of improving the conditions of life for the inhabitants.

Dependent on where the subject land is situated governs which of objects (1) or (2) apply. In this case the café is situated on land governed under point (1).

The provision of a café in the Park is seen as fulfilling the requirement to improve public's conditions of life by providing a place where the public can socialise and take refreshments as part of the overall Park experience.

The proposed disposal 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 reduce the Charity's expenses on these overheads and will offset CITP running costs through the service charge arrangement.

(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

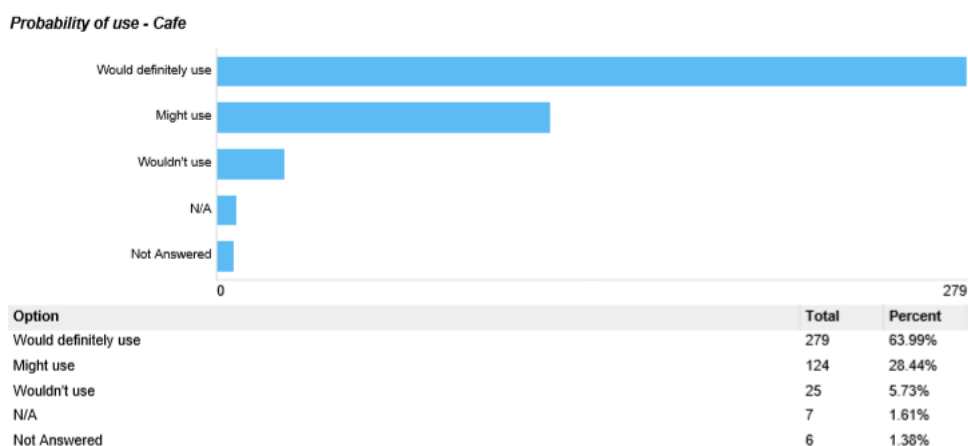
The provision of a café, community space, facilities and public toilets in the Park, aligns with the objectives of the Council's 5-year Better Parks Initiative and the agreed partnership principles.

- 2.2 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 the Centre in the Park, meets this 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 by replacing the previous operator there is no requirement for or benefit to holding a public consultation. That said, past consultation has been considered which continues to indicate a definite need for catering facilities within Norfolk Heritage Park.
- 3.2 As part of the Better Park strategy development, in 2018, city wide consultation was carried out to better understand the needs and requirements of the public in using parks, green spaces and woodlands. This consultation asked respondents directly whether they would want to see a café facility within their local park and there was an overwhelming response within Sheffield:



- 3.3 After the existing tenant vacated earlier in 2022, the Parks and Countryside service carried out informal consultation with existing building tenants and local Councillors to understand what were the most important considerations.

These points were factored into the tender process and broadly covered;

- Affordable and appropriate menu
- Environmentally friendly offer
- Varied menu accommodating different dietary requirements
- An offer which supported further community activity within the building
- Extended opening over weekends and bank holidays
- Access to toilets and outdoor area
- Improvement to facilities and customer experience

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.

Overall this proposal will have a positive impact that will benefit users of Norfolk Heritage Park.

- 4.1.2 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.

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 pay a service charge which include fair contributions to maintenance and utility costs for the CIP. The service charge will be capped for the first two years of the agreement.
- 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 CIP.

Further financial information is contained in the Qualified Surveyor's Report at Appendix 1 to this report.

4.3 Legal Implications

The Property forms part of the land comprised in the Scheme 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 a number of specific obligations as detailed below.

Section 120 of the Charities Act 2011 contains an obligation on the trustee to obtain and consider advice from a person having the requisite ability and practical experience to provide them with competent advice on the proposed disposition who is instructed by the charity trustee and acting exclusively for the Charity. A report compliant with the requirements of section 120 has been obtained and is attached to this report at Appendix 1.

As the land is held for specific charitable purposes (designated land) and the proposed lease would be for a term in excess of two years under s121 of the Charities Act 2011 the lease cannot be entered into until public notice has been given of the proposed letting inviting representations to the trustees within one month of notice being given and those representations have been considered.

The Scheme 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 relied on the power of sale contained in section 6 of the Trusts of Land and Appointment of Trustees Act 1996 which applies where the extent of the disposal is so small that it will have no impact on the charity's ability to further its objects. As this disposal is in relative terms only for a short period of time, will not provide any security of tenure for the tenant and is consistent with previous uses of the premises it is considered that the trustees can rely on the statutory powers referred to above and will not need to seek any consents from the Charity Commission to authorise it.

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 options here given that the café will reside within the existing CIP building.

6. REASONS FOR RECOMMENDATIONS

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

- safeguards the café facility at Norfolk Park for the short term

- secures a significantly increased income stream by way of rent and contribution to running costs of the CIP
- 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 provisos contained within the power granted to the Trustee by the Scheme and with the statutory provisions contained within the Act and further with the requirements of the Charity Commission.

APPENDICES

1 Principal lease terms (Confidential)

2 Qualified Surveyor's report (Confidential)

3 Plan

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

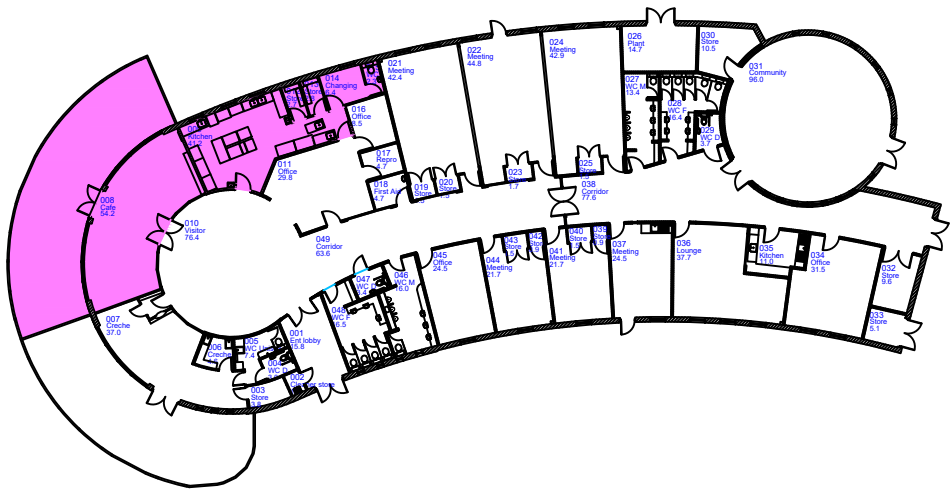
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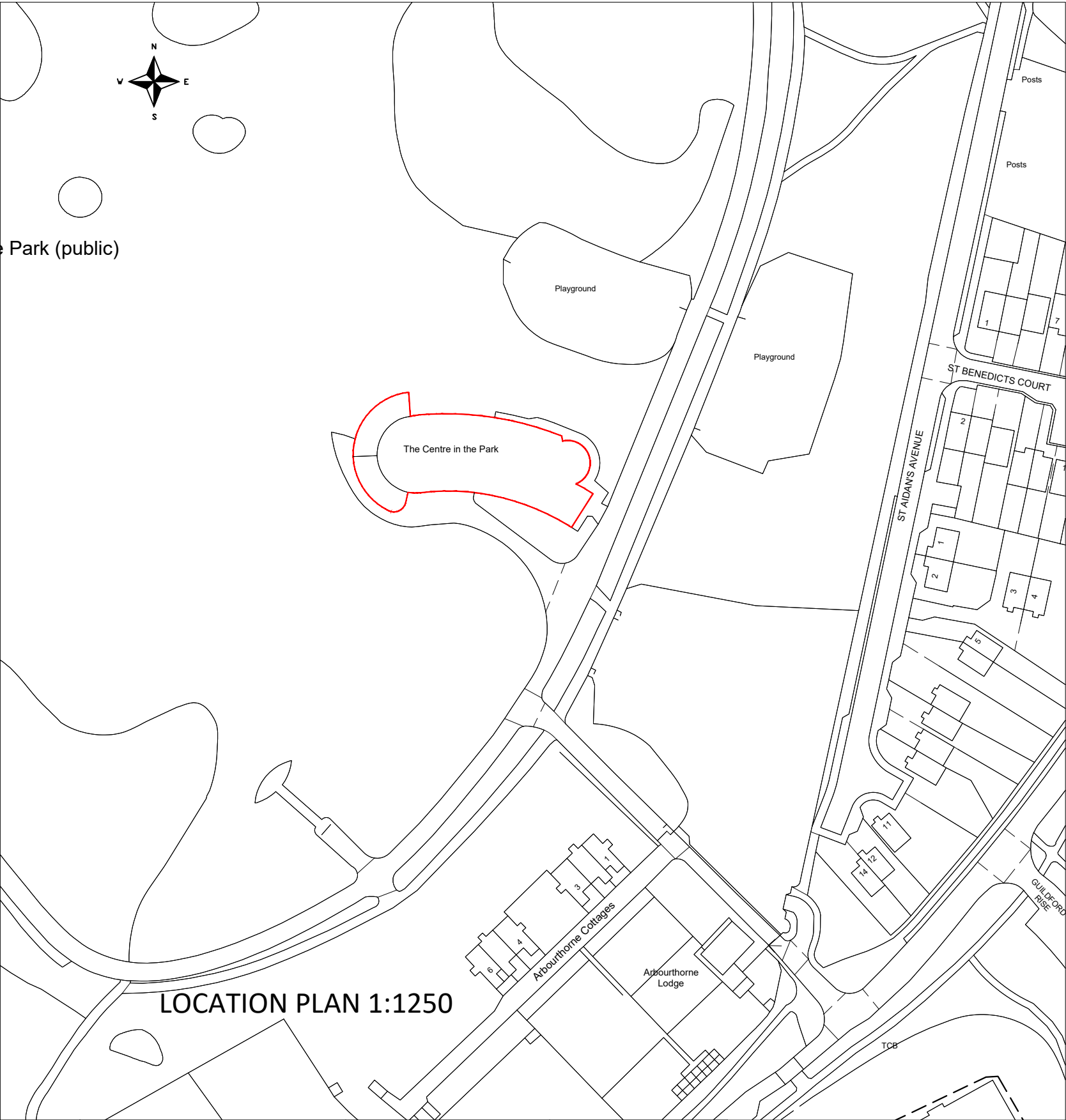
By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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FLOOR PLAN LAYOUT 1:500



LOCATION PLAN 1:1250

Notes:

Building

Drawing Title
Centre In The Park
Norfolk Heritage Park Guildford Avenue
Sheffield S2 2PL

Scale
1:500 & 1:1250
Date

Location

Drawing No/File No

Rev.

Project Ref.

Drawn
AH

A3

Sheffield
City Council



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