

Charity Trustee Sub-Committee

Thursday 21 March 2024 at 2.00 pm

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

The Press and Public are Welcome to Attend

Membership

Councillor Ian Auckland
Councillor Zahira Naz
Councillor Douglas Johnson
Councillor Richard Williams
Councillor Fran Belbin

PUBLIC ACCESS TO THE MEETING

Meetings of the Charity Trustee Sub-Committee are chaired by Councillor Ian Auckland.

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 Charity Trustee 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.

Charity Trustee 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 Charity Trustee 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
21 MARCH 2024**

Order of Business

Welcome and Housekeeping

The Chair to welcome attendees to the meeting and outline basic housekeeping and fire safety arrangements.

1. Apologies for Absence

2. Exclusion of Press and Public

To identify items where resolutions may be moved to exclude the press and public

3. Declarations of Interest

Members to declare any interests they have in the business to be considered at the meeting

(Pages 7 - 10)

4. Public Questions and Petitions Related to Items on the Agenda

To receive any questions or petitions from members of the public.

(NOTE: There is a time limit of up to 30 minutes for the above item of business. In accordance with the arrangements published on the Council's website, questions/petitions at the meeting are required to be submitted in writing, to committee@sheffield.gov.uk, by 9.00 a.m. on Tuesday 19th March).

5. Rose Garden Cafe Lease

Report of the Executive Director Neighbourhood Services

(Pages 11 - 34)

6. Parking Fees

Report of the Executive Director Neighbourhood Services

Report to follow

NOTE: The next meeting of Charity Trustee Sub-Committee will be held on a date to be confirmed

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, General Counsel by emailing david.hollis@sheffield.gov.uk.

This page is intentionally left blank



Report to Policy Committee

Author/Lead Officer of Report:

Alison Turner-Mills, Senior Estates Surveyor

Tel: 07919 044613

Report of: *Ruth Bell, Head of Parks & Countryside*

Report to: *Charity Trustee Sub-Committee*

Date of Decision: *21 March 2024*

Subject: *Rose Garden Café lease*

Type of Equality Impact Assessment (EIA) undertaken	Initial <input checked="" type="checkbox"/>	Full <input type="checkbox"/>
Insert EIA reference number and attach EIA	2384	
Has appropriate consultation/engagement taken place?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input 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 3 are not for publication because they contain exempt information under Paragraphs 1 and 3 of Schedule 12A of the Local Government Act 1972 (as amended).		

Purpose of Report:

1. Seeks the approval of the Charity Trustee Sub Committee acting as Charity Trustee of Graves Park (Registered Charity Number 510841) (“the Charity”) to the grant of a Tenancy at Will (“TAW”) in respect of the Rose Garden Café (“the Property” as further defined at paragraph 1.3 of this report and referred to in the plan attached hereto) to Julie Collins (“the Tenant”) on the terms set out in the Appendices to this report after consideration of the contents of the Designated Adviser’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 letting (as detailed in the Legal Implications section of this report).

Recommendations:

The Charity Trustee Sub-Committee is asked to:

1. On consideration of the commercial terms and the Designated Adviser'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.
2. Approve the TAW of the Property to the proposed Tenant based on the terms set out in this report.

Lead Officer to complete:-		
	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: <i>Jonny McQuillin</i>
		Legal: <i>Leonie Wallace and Tarmina Saville</i>
		Equalities & Consultation: <i>Ed Sexton</i>
		Climate: Consultation at a future date
	<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>Ruth Bell, Head of Parks & Countryside</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: Alison Turner-Mills	Job Title: Senior Estates Surveyor
	Date: <i>21 March 2024</i>	

1. PROPOSAL

Background

1.1 Project timeline summary

An initial site visit by the design team in May 2022 identified structural and safety concerns and the café was temporarily closed on the 27 July 2022. Propping of the building through significant internal and external scaffolding was installed to mitigate any risk of structural failure and to satisfy the Council's insurers enabling the café to reopen w/c 19 December 2022 with significantly reduced seating capacity.

Following Charity Sub-Committee approval in October 2022, a feasibility study was commissioned which presented 5 design options with associated feasibility cost estimates based on the commissioned surveys. The options were further appraised to understand viability and how each of the options met the charity objectives. Many factors were considered including community value, funding sources and delivery options. The appraisal highlighted that some of the design options were either unviable (primarily due to funding limitations or delivery challenges) or did not meet the project objectives.

The October 2023 committee report recommended that the options with a limited works or replacement building approach be paused and a restoration approach pursued.

Please also refer to the Charity Trustee Sub-Committee reports dated [25 October 2022](#) and [18 October 2023](#) for further project context.

1.2 Charitable Status

As per the previous report, pursuant to the powers in the Charities Act 1993, the Charity Commission authorised a Scheme dated 12th March 2009 to govern the charity known as Graves Park (Charity Number 510841) which replaced the former trusts of the charity.

The main object of the charity as set out in the Scheme is as follows:-

“The provision and maintenance of a park and recreation ground for use by the public with the object of improving their conditions of life.”

The Council, as the charity's Trustee, must act in accordance with the Scheme.

1.3 Graves Park is registered at HM Land Registry with the part comprising the Property registered under title number SYK610763. This is the northern edge of the park and is shown edged red on the copy title plan attached to this report. The Property lies within a section of Graves Park that was acquired to be held in trust by the Council under a Conveyance dated 12th December 1925.

1.3.1 The Property is located within the northern part of Graves Park and is shown on the attached copy title plan edged blue. The Park itself lies approximately 3 miles southwest of Sheffield City Centre in the Norton / Woodseats area of the city and can be reached from the outer ring road via Norton Lane and Hemsworth Road. Vehicular access to the area of Graves Park within which the Property is located is gained from the Hemsworth Road / Bunting Nook junction through the Park gates.

Overlooking the formal rose garden, the Property comprises a large café and a side extension incorporating public toilet facilities. Due to structural issues identified in 2022, the Property is heavily propped internally and externally, therefore currently the service available is restricted to that of a takeaway.

1.3.2 At present the Property is occupied by BrewKitchen (“the Operator”) under a Tenancy at Will agreement dated 15th December 2022. In recent months discussions have taken place with the Operator who intends to vacate the Property as soon as possible, stating it no longer fits with their overall business aims. As the Operator occupies by way of a Tenancy at Will, they may leave immediately without notice, however, in the interests of the staff and users of the Property and the wider Park, they are prepared to work towards achieving a seamless transfer to a new operator if this can be done within a reasonable timeframe.

With the need for a quick turnaround to ensure the Property’s services remain open to the public and to avoid the potential of having a vacant building with its associated costs, negotiations have commenced with Julie Collins, a current member of the cafe staff, who also runs Norfolk Park Café and is a member of the Save the Rose Garden Café Campaign and active representative of the Rose Garden Café Partnership attending meetings.

1.3.3 Terms have been provisionally agreed with Julie Collins, for a Tenancy at Will on the same terms as the existing tenancy, to commence immediately upon termination of the existing agreement to BrewKitchen. The proposed terms of this agreement are set out under Appendix 3.

1.3.4 It is believed this arrangement will have the following benefits;

- a. Ensures continuity of service to the users of Graves Park.
- b. A direct transfer of staff between the current and proposed tenant will avoid job losses.
- c. Ensures security of the building, instead of having a vacant property whilst undertaking marketing to re-let.
- d. Brings in a modest income to the charity.
- e. Operation of the adjoining public WC’s would not require additional resource from the Council (the tenant of the café currently opens and closes these facilities).
- f. The proposed tenant is fully aware of the issues surrounding the property and is a member of the Rose Garden Café Partnership.
- g. The proposed tenant is a member of the existing staff and therefore understands the limitations of the current business operation and is aware

that there is no guarantee they will be given a more substantial agreement once plans for the building are developed.

- h. The proposed tenant has a proven track record of running another Council park café, where rental payment is up to date and positive feedback from users has been received.
- i. There is a cost saving to the charity as the need to advertise for a new operator would not be required.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The provision of a café in the park is seen as fulfilling the objects, since it provides facilities for recreational and leisure time in a place where the public can socialise and take refreshments as part of the overall park experience.

The proposed disposal more particularly contributes to the provision and maintenance of the park as follows:

- (a) it will generate rental income which will be retained by the Charity and used for the purposes of the objects of the Charity;
- (b) it will maintain the provision of the take-away café facility within the park for use by the public.

- 2.2 The provision of a café, community space, facilities and public toilets in the park aligns with the objectives of the Better Parks Initiative.

Better Parks is the Councils Parks & Countryside approach, which was approved by Cabinet in 2018. It seeks to sustain and improve our parks and green spaces by increasing commercial interest and income. Its 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 Graves 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 existing provision of facilities within the park there is no requirement for or benefit to holding a public consultation, officers have however gathered informal feedback from local Councillors.

- 3.2 The Rose Garden Café Partnership is currently designing and undertaking a consultation as detailed in the March 4th Committee Report and approved by the Charity Trustee Sub-Committee on October 18th 2023.
- 3.3 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.
- 3.4 In 2021/22 the Parks & Countryside service carried out a Customer Satisfaction Survey 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.

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 Graves Park and wider community.
- 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 and wellbeing.
- 4.1.4 In terms of the Council's obligations under the Equality Act 2010 and organisational policy commitments, the café's continued availability would be seen as encouraging use of the park for people sharing a range of different protected characteristics and equality interests. These include Age (younger and older people), Disability, Health, Carers, Cohesion and the Voluntary, Community & Faith Sector.
- 4.1.5 There are no negative impacts identified.

4.2 Financial and Commercial Implications

- 4.2.1 The proposed TAW will maintain the current rental income for the Charity provided by the current arrangement. All rental income generated by the TAW

will be retained by the Charity and used for the purpose of the Charity in accordance with its charitable objects.

- 4.2.2 If the TAW did not proceed, then the Charity would lose out on rental income and there would be additional costs of securing a vacant building and arranging for opening and closing of the public toilets.
- 4.2.3 Further financial information is contained in the Designated Adviser's Report at Appendix 1 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 12th December 1925 and held on trust by the Council for the charitable objects set out above.
- 4.3.2 The proposal is to grant a tenancy at will of the Property while further proposals are developed for its future. This gives the parties flexibility as this can be terminated without notice by either party although in reality it is usual practice to end the tenancy and then allow a period for the tenant to make arrangements to leave the premises in the condition as agreed. This allows both parties an element of flexibility that a lease would not normally do and is an accepted mode of tenure where the future use and occupation by the current tenant is definitely clear.
- 4.3.3 The Charities Act 2011 contains certain restrictions on disposition, but as the proposed grant of a tenancy at will is not classed as a disposition under the terms of the legislation, there is no requirement to obtain any specific authorisation from the Charity Commission or to comply with the restrictions on any disposition contained in the relevant provisions of the Charities Act 2011.
- 4.3.4 The Council, as trustee, is under a general obligation to act in the best interests of the charity and to achieve the best price that can be reasonably obtained on any disposal. The running of the cafe in Graves Park is within the objects of the charity. This proposal, which secures the future running of the cafe, has to be considered to be in the best interests of the charity.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 Two alternative options were considered and discounted. The first option was to close the café, which at this time would be inconsistent with previous decisions of this committee and is clearly not what the users of the park want based on the ongoing work with the Rose Garden Café Partnership. The second option considered was a competitive tender for a new operator. This option would lead to a pause in service and the property vacant for a period of time, leading to income loss, additional costs and public disappointment. In addition, the limitations of the existing building only able to provide a takeaway service may not be attractive to operators. We also do not know what the impacts of the restoration and refurbishment will be so it is not appropriate to enter in to a long term arrangement at this point.

6. REASONS FOR RECOMMENDATIONS

The proposal to grant a Tenancy at Will on the same terms as the existing tenancy for the café:

- Safeguards the café facility at Graves Park for the short term and avoids vacant building costs and unwanted antisocial behaviour.
- Secures the income stream by way of a modest rent.
- Allows continuity of service and staff, providing the take-away café facility within the park for use by the public.
- Enables the property to continue 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.

Appendix 1 **Designated Advisor's Report**

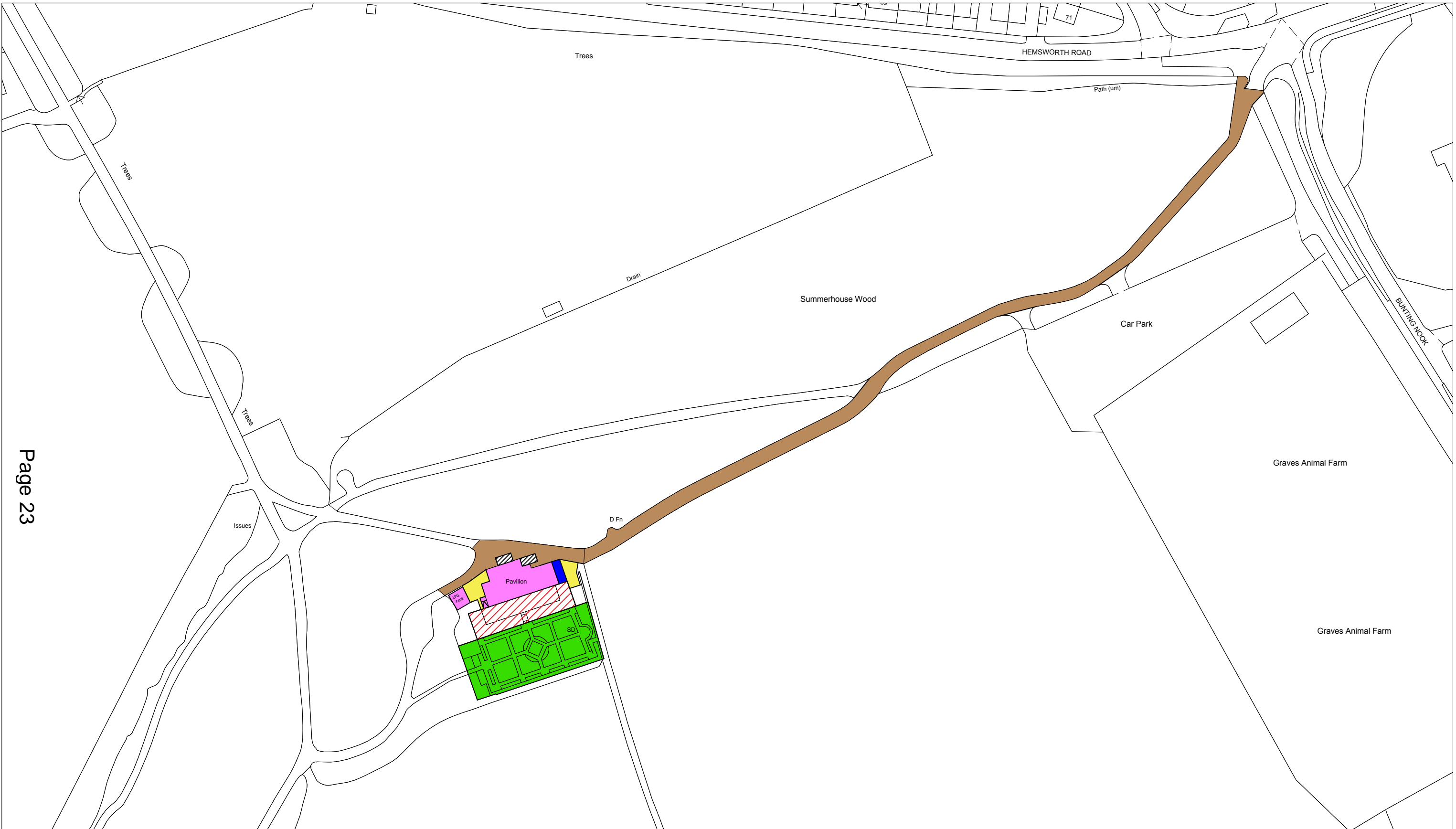
Appendix 2 **Plan**

Appendix 3 **Terms of Tenancy at Will (TAW)**

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

Document is Restricted

This page is intentionally left blank



Notes: **Location Plan**

Building	Drawing Title Rose Garden Cafe Graves Park Sheffield	Scale 1:1250
Location	Drawing No/File No RTB/21638	Date 23/12/2019
Project Ref.	Drawn AD	Rev. A3



COPYRIGHT
Maps are reproduced from Ordnance Survey with permission of HMSO. OS License No. 100018816.
This drawing is protected by copyright. The Copyright owner is Sheffield City Council.

This page is intentionally left blank

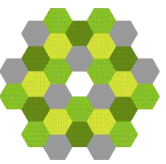
These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 12 September 2019 shows the state of this title plan on 12 September 2019 at 12:01:19. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.
This title is dealt with by the HM Land Registry, Nottingham Office .



© Crown copyright and database rights 2013 Ordnance Survey 100026316. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.



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

Document is Restricted

This page is intentionally left blank