

SHEFFIELD CITY COUNCIL

POLICY COMMITTEE DECISION RECORD

The following decisions were taken on Monday 25 November 2024 by the Charity Trustee Sub-Committee.

Item No

8. LICENCE FOR USE OF NORTON NURSERIES AS AN OPERATIONAL BASE FOR PARKS AND COUNTRYSIDE

8.1 This report outlines a proposal to grant a licence to Sheffield City Council for its Parks and Countryside Service to continue using part of the Norton Nurseries area of Graves Park as an operational base for the management and maintenance of green spaces outside of Graves Park. This use is in addition to, and ancillary to, the use of the same piece of land for the management and maintenance of Graves Park which is permitted by the charity's scheme. This report seeks approval from Sheffield City Council, acting as sole trustee of Graves Park Charity, to agree to a 12-month licence of the area to allow the Council's ancillary use.

8.2 **RESOLVED UNANIMOUSLY:** That the Charity Trustee Sub-Committee:-

1. notes the contents of this report and annexures;
2. approves the terms of licence proposal to regularise the ancillary arrangements in Graves Park; and
3. confirms that the necessary processes in relation to transactions with connected persons have been complied with and that subject to the Charity Commission consent confirming the Licence can be entered into with the Council.

8.3 Reasons for Decision

8.3.1 It has been confirmed by the Charity Commission that the trustee is acting in breach of trust and therefore if the arrangement is to continue it must be regulated, in order to remedy the breach. This is a matter that must therefore be rectified, and the arrangements regularised in a way that benefits the Graves Park Charity.

8.4 Alternatives Considered and Rejected

8.4.1 Alternative Option 1:
Do Nothing

This option was rejected as to do so would mean that the trustee was acting in breach of trust.

8.4.2 Alternative Option 2:
Propose a licence for longer than 12 months

This was rejected as the work that is ongoing to establish what the options are for the operational base to support the management and maintenance of green spaces including Graves Park should be concluded within 12 months.

8.4.3 Alternative Option 3:

Remove the operational base from Norton Nurseries immediately

This was rejected as it is not logistically possible for the charity. An operational base to support the management and maintenance of green spaces including Graves Park is a key requirement for delivery and there are no suitable alternatives available to allow an immediate decanting from Norton Nurseries.

9. NORTON NURSERIES - ALTERNATIVE OPTIONS FOR STORING OPERATIONAL PLANT AND EQUIPMENT

9.1 This report updates the Charity Trustee Sub-Committee on the progress made in identifying suitable alternatives to replace Norton Nurseries as an operational base to support the management and maintenance of local green spaces, including the Graves Park charity.

9.2 **RESOLVED UNANIMOUSLY:** That the Charity Trustee Sub-Committee:-

1. notes the contents of this report; and
2. supports the continued work to identify further options which will be brought back to this Sub-Committee for consideration.

9.3 **Reasons for Decision**

9.3.1 The recommendations in this report acknowledge the work to date to explore any feasible sites that might be used as an operational base to replace Norton Nurseries in order that the charitable land can be restored to park land.

9.4 **Alternatives Considered and Rejected**

9.4.1 Alternative Option 1:

Do Nothing

This option was rejected because it would ignore the requests of the Friends of Graves Park to restore the Norton Nurseries to park land and would prevent the Trustee from fully discharging its duty to act in the best interests of the Graves Park charity.

9.4.2 Alternative Option 2:

Offer options to the Trustee for consideration and allow Trustee to fully discharge its duty to act in the best interests of the Graves Park charity.

This option has been recommended and work is ongoing to establish what the options are for the operational base to support the management and maintenance of green spaces including Graves Park and this will then be put to the trustee.

10. UPDATE ON CHARITABLE SITE OPERATIONS IN PARKS AND COUNTRYSIDE

10.1 This report updates the Charity Trustee Sub-Committee on the charitable green spaces in Sheffield and how the operational functions are carried out for each site.

10.2 **RESOLVED UNANIMOUSLY:** That the Charity Trustee Sub-Committee:-

1. notes the contents of this report; and
2. supports the continued work to further review operations in support of the maintenance of charitable green spaces in Sheffield.

10.3 **Reasons for Decision**

10.3.1 Alternative Option 1:

Do Nothing

This option was rejected as there was the potential that the trustee has in effect, been acting in breach of trust. It is essential that before any decision is made in respect of any of the sites referred to above the necessary due diligence is undertaken in order to fully inform the trustee so that they can make a decision that is in the best interest of the charity.

10.4 **Alternatives Considered and Rejected**

10.4.1 It has been confirmed by the Charity Commission that the trustee has been acting in breach of trust by not having a formal arrangement in place to regulate the use of Norton Nurseries as an operational base for non-charitable sites. This has prompted us to begin investigating whether similar arrangements exist elsewhere in other charitable sites. This update sets out the work that has been completed to date and sets out what the next stages will be.

11. **LEASE OF CRICKET PAVILION, GRAVES PARK (CHARLES ASHMORE)**

11.1 This report outlines a proposal from Allama Iqbal Cricket Club to secure cricket facilities in Graves Park. The report seeks approval from Sheffield City Council, acting as sole trustee of Graves Park Charity, to grant a 5-year lease of the Cricket Pavilion and a 5-year licence of the cricket playing area to Allama Iqbal Cricket Club to enable their pursuit of funding from the English Cricket Board.

11.2 **RESOLVED UNANIMOUSLY:** That the Charity Trustee Sub-Committee:-

1. notes the contents of this report;
2. approves the lease and licence proposals based on the terms set out in closed Appendix 2.

11.3 **Reasons for Decision**

11.3.1 The proposal to grant a 5-year lease of the pavilion and 5-year license of pitch:

- Provides a home ground cricket facility for a local club that encourages development of grass roots sports in the community.
- Secures an increased income stream by way of rent and reduction of running costs of the charity.

- Enhances the provision of recreational facilities in the park as a valuable asset for use by the community, thereby contributing to the charity objectives.
- By granting a lease of the pavilion only, it minimises the reduction in public access to areas of the park and thus is not detrimental to the charity continuing to deliver its objectives. Because the license on the pitch and square does not grant exclusive use, it still allows public access to all of the park areas that are currently accessible.
- Complies with the statutory provisions contained within the Act and further with the requirements of the Charity Commission

11.4 **Alternatives Considered and Rejected**

11.4.1 **Alternative option 1: Do Nothing**

If the facility is not leased or licensed out to a club, it will remain in its current condition which is of a low standard and with a 'scruffy' appearance in the park. A temporary license could be granted to the cricket club. This would allow them to play in the park, but due to the limited resources of the charity, there would be limited scope to bring these facilities up to the standard that the club would like to use. It is likely that the club would look to find an alternative playing area, and unless a club could be found that would accept the facilities in their current poor condition, the pitch and pavilion would fall into disuse. This would be the opposite of the charity's objectives to provide recreational facilities for the people of Sheffield.

11.4.2 **Alternative option 2: Shorter lease terms**

The cricket club have been playing in Graves Park since 2023 under a temporary license arrangement. A short-term lease or license would grant permission from the Graves Park charity to allow the club to play in the park, but it does not allow them to obtain external grant funding to invest in the site and it also does not give them the security of playing location to encourage them to invest their own resources into the site and encourage increased participation of cricket in the park. Therefore, whilst this option was acceptable for the charity, it was not an option that was suitable for AICC and was therefore rejected.

11.4.3 **Alternative option 3: Lease on the pavilion (Property 1) and not the land underneath it (Property 2).**

In considering the concerns of FOGP regarding the potential that the Graves Park charity could lose long term control or ownership of the charitable land if it were to be leased to the cricket club, an alternative not to lease the land but to lease the building without the land underneath was investigated. Officers established that there would be no increase in legal protection to the charity by such an arrangement as the land beneath the pavilion would be effectively unusable for the duration of the lease term. This option was therefore rejected.

12. **PHILLIMORE COMMUNITY PRIMARY SCHOOL PROPOSAL FOR PHILLIMORE PARK**

- 12.1 This report sets out the request from Phillimore Community Primary School to take a lease of a football pitch in Phillimore Park to provide outdoor activity space for

the school. Phillimore Park is held on trust and the report therefore requests confirmation from the Charity Trustee Sub-Committee that in principle, the Sub-Committee agrees to give consideration to this proposal and to authorise Officers to take all necessary steps to establish if the proposal is possible and in the Charity's best interests to proceed with disposing of the land required by the School to Sheffield City Council and the legal requirement to acquire other land from Sheffield City Council in exchange. Once Officers have carried out a full investigation into the land exchange and obtained a Designated Advisor's report, a further report will be brought to this Committee which will provide information to allow the Committee to make a fully informed decision as to whether to proceed.

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

1. notes the contents of this report;
2. agrees to consider this proposal and request from Phillimore Community Primary School (the school) to take a lease of a football pitch in Phillimore Park Charity;
3. authorises officers to take all necessary steps to establish if it is possible and in the Charity's best interest to proceed with disposing of the land required by the school to Sheffield City Council;
4. authorises officers to explore the legal requirement to acquire other land from Sheffield City Council in exchange for the disposal and to identify such land; and
5. notes that if consideration of the proposal is approved by the Committee, a further report, incorporating a Designated Advisor's report, will be brought to Charity Trustee Sub-Committee for a decision as to whether to proceed with an exchange of land with Sheffield City Council.

12.3 Reasons for Decision

12.3.1 The Committee is requested to give its approval to Officers to further investigate the proposal to dispose of part of Phillimore Park in exchange for other land held by Sheffield City Council. This will enable Officers to further explore whether the proposal is in the best interests of the Charity and will inform a further report to be brought back to the Committee to enable it in making a fully informed decision as to whether to proceed with the proposal for the exchange of land.

12.4 Alternatives Considered and Rejected

12.4.1 Option 1 - do nothing

This would mean that the school would not have their proposal considered. This option would retain public access to the green space and would not require the land to be exchanged with other land held by Sheffield City Council.

12.4.2 Option 2 – The Charity could allow the school to use Phillimore Park under a licence.

This option would not require the land to be exchanged with other land held by Sheffield City Council. The grant of a licence would not require a scheme of consent from the Charity Commission. This option has been discussed with and trialled by the school, however, the School has concerns around health and safety and safeguarding which it finds difficult to mitigate. For instance, loose dogs, dog fouling and unrestricted access for members of the public during school use. It has therefore not been possible to progress this option.

13. ENDCLIFFE PARK - ICE CREAM OPERATOR LICENCE 2025

13.1 This report sets out the tendering process for an ice cream operator for Endcliffe Park, including a summary of the response to the tender and recommendations for entering into a licence with a new operator.

13.2 **RESOLVED UNANIMOUSLY:** That the Charity Trustee Sub-Committee:-

1. notes the contents of this report;
2. approves the grant of a 7-year licence to the selected operator for ice cream provision in Endcliffe Park with a condition that an E-Power Zero Emission Vehicle is used by the end of Year 2 of the licence period; and
3. delegates authority to Property Services and Parks and Countryside to issue a licence on the terms proposed.

13.3 Reasons for Decision

13.3.1 The selling of ice cream contributes to the objects of the Endcliffe Park charity, providing amenities within recreation and pleasure grounds for use by the public. It has also become an expected part of visitors' park experience.

13.3.2 Generating an income allows the council as sole trustee to support the management and maintenance of the park and in turn contribute to the charity objects.

13.3.3 The offer from the selected operator is financially better than the other bids. Based on our knowledge of this operator and payment history we have no concerns over its ability to meet the level of fees proposed or the terms of the licence.

13.4 Alternatives Considered and Rejected

13.4.1 Alternative Option 1 – Do nothing

There is the option to not offer a license to any of the operators who have bid. This would mean there would be no provision for this type of offer within the park and would impact on the rental income for the charity which contributes directly to the management and maintenance of the park. This would have a detrimental impact on the quality of the visitor experience. This option has therefore been rejected.

13.4.2 Alternative Option 2 – Select the operator who offered less than the highest bidding operator.

There's a possibility that zero emissions from the Ice Cream vans could be achieved sooner should the recommended operator not be awarded the licences, however the recommended operator does indicate a strong conviction to moving towards zero emissions and this would be achieved within a managed time period, and in line with the 2030 City goals. This would mean accepting an offer which would not be the best financial deal for the charity. This option has therefore been rejected.

14. GRAVES PARK - ICE CREAM OPERATOR LICENCE 2025

14.1 The Charity Trustee Sub-Committee is asked to consider the contents of this report and approve the grant of a licence to the selected operator.

14.2 **RESOLVED UNANIMOUSLY:** That the Charity Trustee Sub-Committee:-

1. notes the contents of this report;
2. approves the grant of a 7-year licence to the selected operator for ice cream provision in Graves Park with a condition that an E-Power Zero Emission Vehicle is used by the end of Year 2 of the licence period; and
3. delegates authority to Property Services and Parks and Countryside to issue a licence on the terms proposed.

14.3 Reasons for Decision

14.3.1 The selling of ice cream contributes to the objects of the charity, providing amenities within recreation/pleasure grounds for use by the public. It has also become an expected part of visitor's park experience.

14.3.2 Generating an income allows the council as sole trustee to support the management and maintenance of the park and in turn contribute to the charity objects.

14.3.3 The offer from selected operator is financially better than the other bids. Based on our knowledge of this operator and payment history we have no concerns over its ability to meet the level of fees proposed or the terms of the licence.

14.4 Alternatives Considered and Rejected

14.4.1 Alternative Option 1 – Do nothing

There is the option to not offer a license to any of the operators who have bid. This would mean there would be no provision for this type of offer within the park and would impact on the rental income for the charity which contributes directly to the management and maintenance of the park. This would have a detrimental impact on the quality of the visitor experience. This option has therefore been rejected.

14.4.2 Alternative Option 2 – Select the operator who offered less than the highest bidding operator.

There's a possibility that zero emissions from the Ice Cream vans could be

achieved sooner should the recommended operator not be awarded the licences, however the recommended operator does indicate a strong conviction to moving towards zero emissions and this would be achieved within a managed time period, and in line with the 2030 City goals. This would mean accepting an offer which would not be the best financial deal for the charity. This option has therefore been rejected.

15. WESTON PARK - ICE CREAM OPERATOR LICENCE 2025

15.1 The Charity Trustee Sub-Committee is asked to consider the contents of this report and approve the grant of a licence to the selected operator.

15.2 **RESOLVED UNANIMOUSLY:** That the Charity Trustee Sub-Committee:-

1. notes the contents of this report;
2. approves the grant of a 7-year licence to the selected operator for ice cream provision in Weston Park with a condition that an E-Power Zero Emission Vehicle is used by the end of Year 2 of the licence period; and
3. delegates authority to Property Services and Parks and Countryside to issue a licence on the terms proposed.

15.3 Reasons for Decision

15.3.1 The selling of ice cream contributes to the objects of the charity, providing amenities within recreation/pleasure grounds for use by the public. It has also become an expected part of visitors' park experience.

15.3.2 Generating an income allows the council as sole trustee to support the management and maintenance of the park and in turn contribute to the charity objects.

15.3.3 The offer from selected operator is financially better than the other bids. Based on our knowledge of this operator and payment history we have no concerns over its ability to meet the level of fees proposed or the terms of the licence.

15.4 Alternatives Considered and Rejected

15.4.1 Alternative Option 1 – Do nothing

There is the option to not offer a license to any of the operators who have bid. This would mean there would be no provision for this type of offer within the park and would impact on the rental income for the charity which contributes directly to the management and maintenance of the park. This would have a detrimental impact on the quality of the visitor experience. This option has therefore been rejected.

15.4.2 Alternative Option 2 – Select the operator who offered less than the highest bidding operator.

There's a possibility that zero emissions from the Ice Cream vans could be achieved sooner should the recommended operator not be awarded the licences,

however the recommended operator does indicate a strong conviction to moving towards zero emissions and this would be achieved within a managed time period, and in line with the 2030 City goals. This would mean accepting an offer which would not be the best financial deal for the charity. This option has therefore been rejected.

16. TENANCY AT WILL FOR THE PART OF TINSLEY GOLF COURSE, LOCATED WITHIN THE HIGH HAZEL'S PARK CHARITY

16.1 The purpose of this report is to outline Sheffield City Council's new operating arrangements for the leisure facilities, which includes Tinsley Golf Course, and to advise the Sub-Committee on a proposed associated leasehold disposal of property and seek approval to the grant of an interim Tenancy at Will.

16.2 **RESOLVED UNANIMOUSLY:** That the Charity Trustee Sub-Committee:-

1. notes the contents of this report;
2. agrees that the Charity enter into a Tenancy at Will with the provider on the terms as set out in the appendix to this report; and
3. notes that a further report will be brought back to this Sub-Committee to seek the necessary approvals for the leasehold disposal once these have been negotiated.

16.3 Reasons for Decision

16.3.1 The proposal will ensure that the Golf facility is retained for use by the public, this includes provision of public toilet facilities for users of the park. The new operator, Everyone Active (EA), is long established in the UK and will bring a wealth of expertise in managing the golf facilities. Their mission is to encourage more people to take part in physical activity which aligns with the Council's Sport and Physical Activity Strategy.

The contract with EA will include the requirement to insure and maintain the facility, this will remove this liability from the Charity.

16.4 Alternatives Considered and Rejected

16.4.1 Alternative management models considered:

- Three possible options for the future management of facilities were considered, this included in-house a Local Authority Trading Company (LATC) and appointment of an external partner. The in-house and LATC options were not selected as they were more expensive and presented a greater level of financial uncertainty and risk. They also would not allow for the level of investment needed to offer significantly improved leisure facilities.
- Doing nothing was not a viable option. SCT are in the process of winding

up, therefore, the current arrangements will contractually Page 173 end on 31st December 2024. Therefore, it was imperative that an alternative management model was identified.