



Lead Officer of Report: Lisa Firth,
Head of Parks & Countryside and
Bereavement Services.

Tel: 07867 158407

Report of: Laraine Manley
Report to: Cabinet
Date of Decision: 21st November 2018
Subject: Ripon Street Recreation Ground – transfer of charitable status to Darnall Community Park

Is this a Key Decision? If Yes, reason for Key Decision:-	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? Culture, Parks & Leisure – Cabinet Member Mary Lea		
Which Scrutiny and Policy Development Committee does this relate to? Economic and Environmental Wellbeing		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, what EIA reference number has it been given? <i>(Insert reference number)</i>		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" 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:-		

Purpose of Report:

To approve the transfer of charitable status (Charity No.1105522) of land in the ownership of the Council from land at Ripon Street Recreation Ground to land at Darnall Community Park .

Recommendations:

1 That as Trustees of the Ripon Street Recreation Ground (Charity no.1105522) and in accordance with the powers contained in the provisions of the Trust of Land and Appointment of Trustees Act 1996 give approval for the transfer of charitable status from Ripon Street Recreation Ground, Attercliffe to Darnall Community Park in accordance with the terms of this report and a surveyors report prepared in accordance with section 119(1) of the Charities Act 2011.

2 That authority is given to the Chief Property officer to instruct the Director of Legal and Governance to prepare and complete all necessary legal documentation in accordance with the agreed terms and Charity Commission requirements to implement this transfer

3 Authorise the Director of Legal and Governance to take such steps and enter into such documents as are required in order to effect the transfer of land.

4 Authorise the Chief Property Officer or the Director of Legal and Governance to give public notice of the proposal in accordance with section 121 of the Charities Act 2011.

**Background Papers:
Scheme 30th March 2004**

Location plan attached.

Report to Cabinet 25th October 2006

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.	Finance: Paul Schofield
		Legal: David Sellars
		Equalities: Annemarie Johnston
<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	EMT member who approved submission:	Laraine Manley
3	Cabinet Member consulted:	Councillors Mary Lea
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 Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Lisa Firth	Job Title: Head of Parks & Countryside and Bereavement Services.
	Date: 13 th November 2018	

1. BACKGROUND

- 1.1 The City Council owns the freehold of a recreation ground at Ripon Street in Attercliffe but in doing so acts as Charitable Trustee and therefore in making any decisions the Council must act with impartiality and in the best interests of the trust.
- 1.2 The charitable status of Ripon Street Recreation Ground was placed on the land when it was acquired from the Duke of Norfolk in 1897.
- 1.3 The recreation ground has not made a positive contribution to the supply of neighbourhood parks and open spaces in the Attercliffe and Darnall area for many years. It is little more than a field surrounded by dense landscaping, there are no play facilities or sports pitches on the land. It is situated in a locality that is now made up of industrial works and premises and the nearby Woodbourn Athletics Centre. The surrounding area has completely changed from when the recreation ground was originally established. There is no longer a residential population in the immediate surrounding area and the Director of Parks and Countryside resolved many years ago that it no longer serves any recreational purpose.
- 1.4 Following a meeting with Charity Commission (“the CC”) officers who were in Sheffield on a separate matter and their attending and viewing the Ripon Street site it was agreed that the Council could approach the CC with a view to the CC approving a scheme that would allow for amongst other things the Council disposing of the Ripon Site. A final scheme was allowed by the CC and was formally entered into on 30 March 2004.
- 1.5 **The Scheme**

The Scheme changed the original object of the charity and it is now as follows:

[1] The object of the charity is, in the interests of social welfare, to improve the conditions of life for the inhabitants of the area of benefit without distinction of politics, religious or other opinions by the provisions and maintenance of a recreation ground.

[2] the land identified in the schedule to this scheme must be retained by the existing trustee for the use of the object of the charity;

[3] If the property of the charity is no longer required for the provision of a recreation ground for the area of benefit, the object of the charity will be the promotion of general charitable purposes for the benefit of the inhabitants of the area of benefit;

The area of benefit is Attercliffe-cum-Darnall and the surrounding neighbourhood

- 1.6 The land was formally declared surplus to the City Council’s requirements on 25th October 2006. The resolution formed part of a Cabinet decision to support the proposed canalside regeneration proposals for the wider Attercliffe Waterside development of which the land could form part.

1.7 The intention in 2006 was that the land would be disposed of and the proceeds used in accordance with the charitable objects set out in paragraph above. However the Attercliffe Waterside development stalled due to the recession that followed the 2006 decision and is a complex proposal due to the mix of land ownerships. The three parties are progressing the terms of a joint sales agreement in order to market the whole site in the very near future, subject to the charitable status of the Ripon Street Recreation Ground being transferred. In the meantime an alternative option for the charitable status has been identified as set out below.

1.8 Darnall Community Park is approximately one mile from Ripon Street and is located within an established residential community within the area of benefit of the trust. This park is well used, has a variety of play facilities and provides a positive contribution to the local community and if the charitable status is transferred to this park it will help to ensure its protection for future generations whilst continuing to serve the objects of the Trust.

2. PROPOSAL

2.1 For the reasons outlined above it is proposed to seek the necessary authorisation to transfer the charitable status from the Ripon Street land to Darnall Community Park rather than dispose of the Ripon Street site outright and reinvest any endowment generated.

2.2 The proposals for the subsequent disposal of the Ripon Street land as part of the wider Attercliffe Waterside site will be progressed in consultation with the Cabinet Member for Business and Investment in accordance with the previous Cabinet decisions on that subject. Any further approvals required for this will be the subject of separate reports.

3. HOW DOES THIS DECISION CONTRIBUTE?

3.1 The transfer of charitable status from the Ripon Street Recreation Ground to Darnall Community Park will allow the Charity to protect the open space and recreation facilities it provides in accordance with its charitable objects. It also supports the Corporate Plan priorities:

- To create and sustain thriving neighbourhoods and communities where people are proud to live, with communities that support each other and get on well together, and;
- To improve health and wellbeing by making sure that the city has facilities and amenities that help children and adults to stay healthy and well.

4. HAS THERE BEEN ANY CONSULTATION?

4.1 The background to these proposals were previously discussed by the Area Panel and there has been considerable public consultation in respect of both the Darnall Attercliffe Tinsley Neighbourhood Development Framework which

was approved by Cabinet in 2007 and the Attercliffe Action Plan in 2010 and these proposals are consistent with those plans.

- 4.2 If Members approve the transfer of the charitable status to Darnall Community Park then the proposal to dispose of Ripon Street open space will be advertised by notice for two consecutive weeks in the Sheffield Telegraph in accordance with the Local Government Act 1972 Section 123 (2A). Any objections which may arise will be considered

5. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

5.1 Equality of Opportunity Implications

- 5.1.1 Darnall Community Park is within an area with a significant B&ME community. The decision to exchange land will confer charitable status on the park, which will protect the park for the foreseeable future and as such will contribute towards creating strong neighbourhoods and communities and reduce health inequalities so that everyone can benefit from better health and wellbeing, thus making it easier for individuals to overcome obstacles and achieve their potential.

5.2 Financial and Commercial Implications

- 5.2.1 The charity has no income so the cost incurred on the maintenance of the land is paid for by Sheffield City Council. Ripon Street recreation ground currently incurs costs of less than £4,000 per year which will still be incurred by the Council until such time as the land is sold in future. Darnall Community Park is currently funded by the Council's General Fund and this position will not change because the new charity will not have any source of income (like Ripon Street today) and rely on support from the General Fund. Thus, there should be no Revenue Budget implications as a result of the transfer of the charitable status.
- 5.2.2 In due course it may be that the development proposals for the area will result in further financial implications which will be dealt with in subsequent reports to Members.
- 5.2.3 Selective Development Land Tax and other taxes may be due in some circumstances on the transfer of title on property. As this decision seeks to change the charitable status of the two pieces of land with ownership remaining with the Council at all times there should be no taxation implications.

5.3 Legal Implications

- 5.3.1 The rules concerning land held in charitable trust are governed by the Charities Act 2011, which consolidates the previous provisions on the Charities Acts of 1993 and 2006. The Ripon Street land was incorporated into a scheme of governance by an order dated 30th March 2004, in accordance with the Charities Act 1993.
- 5.3.2 However, as Charity Trustee, the Council has powers conferred on Trustees by the Trusts of Land and Appointment of Trustees Act 1996. These include a power of sale, but such a power may not be exercised so as to be breach of the objects of the charity. Here, a swap of charitable status is proposed and subject to the requirements as set out below and that a surveyor is satisfied that the land acquired by the charity is of a similar amenity value to the charity as the

land to be sold then the trustees have the power to enter into the proposed exchange.

- 5.3.3 When the Ripon Street recreation ground was declared surplus to requirements officers were authorised to notify Fields in Trust (formerly known as the National Playing Fields Association) of any intention to sell the land. The proposed transfer of the charitable status of the land would require the Council's Director of Legal & Governance to enter into another deed of dedication in respect of Darnall Community Park, on the same terms as those which exists at Ripon Street in accordance the Charities Act 2011.
- 5.3.4 Fields in Trust would therefore need to be notified as part of the process of exchanging land. Also, as statutory consultee, Sport England would be notified as part of the planning application process for the proposed Attercliffe Waterside development.
- 5.3.5 Whilst there will not be a conveyance of either pieces of land, for the purposes of valuation the proposal set out in this report would constitute a disposal of the existing charitable land and acquisition of replacement land and must comply with all the relevant legal requirements. The overriding principle governing the disposal of charitable land is that the Charity Trustees must be satisfied that the terms of the proposed disposal are the "best that can be reasonably obtained for the charity"
- 5.3.6 In accordance with section 119(1) of the Charities Act 2011 a qualified surveyor has prepared a report which confirms that, for the purposes of the charity, the value of the Darnall Community Park is equal to the value of the Ripon Street Recreation Ground and that the proposed disposal is the best that can be reasonably be obtained for the charity.
- 5.3.7 Prior to the disposal it will be necessary to give notice under section 121 of the Charities Act 2011. The notice will set out the Trustees general intention to transfer the charitable status. A failure to give notice would render the disposal invalid.

6. ALTERNATIVE OPTIONS CONSIDERED

- 6.1 Cabinet, acting as Trustees, could decide that it is not considered to be in the best interests of the charity to transfer the charitable status from Ripon St to Darnall Community Park and that Ripon St should simply be sold as proposed in the Cabinet report in 2006. Whilst proceeds from the sale of Ripon St in future would be available for use within the area of benefit the physical asset would be lost rather than replaced. In that situation Darnall Community Park would remain as park due to planning policies but would not have the stronger protection that transferring the charitable status would provide.

7. REASONS FOR RECOMMENDATIONS

- 7.1 It is the opinion of officers that the transfer of the charitable status from Ripon St is of greater benefit for the objects of the Trust than simply selling the land and reusing the proceeds
- 7.2 It ensures the future protection of Darnall Community Park to help create and sustain thriving neighbourhoods and communities, improving the health and wellbeing of children and adults.
- 7.3 It will help the delivery of the canalside regeneration proposals for the wider Attercliffe Waterside development. This supports the Local Plan, Core Strategy and Corporate Plan policies to deliver new housing and support employment around the canal in Attercliffe and Darnall. This development will also assist with the charitable object to improve the conditions of life for the inhabitants of the area of benefit

8. RECOMMENDATIONS

- 8.1 That as Trustees of the Ripon Street Recreation Ground (Charity no.1105522) and in accordance with the powers to Council contained in the provisions of the Trust of Land and Appointment of Trustees Act 1996 approval is given to the transfer of charitable status from Ripon Street Recreation Ground, Attercliffe to Darnall Community Park in accordance with the terms of this report and a surveyors report prepared in accordance with section 119(1) of the Charities Act 2011.
- 8.2 That authority is given to the Chief Property officer to instruct the Director of Legal and Governance to prepare and complete all necessary legal documentation in accordance with the agreed terms and Charity Commission requirements to implement this transfer
- 8.3 Authorise the Director of Legal and Governance to contact the Charity Commission and to take such steps and enter into such documents as are required by the Charity Commission in order to give its consent to the transfer
- 8.4 Authorise the Chief Property Officer or the Director of Legal and Governance to give public notice of the proposal in accordance with section 121 of the Charities Act 2011

Laraine Manley Executive Director Place

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