

Charity Trustee Sub-Committee

Meeting held 15 September 2023

PRESENT: Councillors Ian Auckland (Chair), Zahira Naz (Deputy Chair), Douglas Johnson (Group Spokesperson), Richard Williams and Fran Belbin

1. APOLOGIES FOR ABSENCE

1.1 No apologies for absence were received.

2. EXCLUSION OF PRESS AND PUBLIC

2.1 It was noted that the appendices to items 9 and 10 on the agenda were not available to the public or press because they contained exempt information. If Members wished to discuss the information in the appendices, the Committee would ask the members of the public and press to kindly leave for that part of the meeting and the webcast would be paused.

3. DECLARATIONS OF INTEREST

3.1 No declarations of interest were received.

4. MINUTES OF PREVIOUS MEETING

4.1 The minutes of the meeting of the Committee held on 5th June, 2023 were approved as a correct record.

5. PUBLIC QUESTIONS AND PETITIONS

5.1 The Policy Committee received no petitions from members of the public.

5.2 The Committee received three questions from members of the public. Two members of the public consented to ask their questions at the start of item 8. to which the questions directly related.

Question from: Friends of Graves Park

Regarding the Tennis Courts Proposed Project:

The Friends of Graves Park object to this 25 year disposal of the tennis courts to a private company, which is privatisation of charitable parkland, as it transforms publicly owned assets into privatised holdings, in Graves Park and the other charitable parks and would like to ask the following questions:

1. Are the members of the Charity subcommittee aware that they are acting as trustees for those parks which are charitable and the consequent implications?

2. Is the Charity Subcommittee aware that there is no such company with the name of "Courtside CIC"? This displaying the calibre of attention to detail of the report in Agenda Item 8, is the Charity Subcommittee confident that there are no other fundamental errors in this report or in the planning of this proposed disposal?
3. What is the correct name of the company concerned and why was this company chosen over the others?
4. Which companies were approached in the selection process, how many companies were in this process and how many of these companies shared the same directors?
5. When did the council go through the selection process for this company?
6. Is the Charity Subcommittee aware that the notices for the disposals of these plots of Charitable land were posted at the beginning of the summer holidays and responses expected by 21st for disposal of parks and 28th August, a bank holiday, for the notices regarding Charitable land? Are they also aware that many of the Friends groups of the parks concerned were unaware that this privatisation concerned their parks? This being the case, does the Charity subcommittee accept that as a process of notification, this process is flawed, undemocratic and should therefore be redone?
7. Is the Subcommittee aware and will the council acknowledge that the tennis hub deal is tied in with the Tramlines festival and that is why the dubious and illogical decision to continue to hold Tramlines in Hillsborough Park has been pushed through?
8. How does this proposal directly benefit the Graves Park Trust? If there is no significant benefit to the Graves Park Trust, how can the Charity Subcommittee agree to this proposal while maintaining the impartiality to act in the best interests of the Graves Park Trust, in its role as trustee?
9. Can the Charity Subcommittee confirm that the council has approached the Charity Commission to check that a scheme is not needed in the case of this disposal? If they have checked, on what date was this done? If they have not checked, why not?
10. In the face of such overwhelming opposition to the scheme why would the council continue with it, especially after the understanding that all that is legal is not right, as proved by the Lowcock report over which they have lost so much public trust?

Taking into account the answers to all the above questions and the information above that has now been shared with the Charity Subcommittee and Sheffield City Council as an organisation, as we have now drawn your attention to these matters, anyone who subsequently proceeds with this proposal does so in full knowledge of its inherent inaccuracies.

Further Questions regarding Graves Park:

1. What is the Charity Subcommittee's response regarding the charitable land in Graves Park that is currently still waiting to be restored to parkland? 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 8 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? Could it be possibly in the next 12 months? (Please note this is a revision of a question asked in 2022, also in previous years and we are still waiting for a satisfactory answer. Please also note that the Parks department are currently using this as a depot and waste collection site for 36 parks and open spaces, even though Freedom of Information responses deny that it is a depot and that on at least 2 occasions in the past this was stated to be derelict and surplus to requirements and then the council tried to sell it off, which is why the Friends of Graves Park are keen to restore it to parkland.)

2. As the councillors must be aware, once a proper scheme is put together, applying for funding and grants for a project can go ahead, so, is it possible for the Charity Subcommittee to encourage the council officers to work with the Friends of Graves Park to put together a business plan to restore the Rose Garden Café back to its former glory as a matter of urgency, so that the Friends can pursue applying for funding?

The Chair thanked the questioner for bringing these questions to the committee and explained that a full written response would be provided.

6. MEMBERS' QUESTIONS

- 6.1 A schedule of questions to the Chair, submitted in accordance with Council Procedure Rule 16, and which contained written answers, was circulated. Supplementary questions, under the provisions of Council Procedure Rule 16.4, were asked and were answered by the Chair.

7. WORK PROGRAMME

- 7.1 The Principal Democratic Services Officer presented the Work Programme. Discussion took place around a task and finish group to include members of the Governance Committee and the Charitable Trustee Sub-Committee to discuss governance arrangements.

A request was made to convene an extraordinary meeting of the committee for the purposes of discussing the Rose Garden Café in Graves Park and the Chair agreed to facilitate this.

A request was made to add an update on Norton Nurseries to the work programme for future consideration.

- 7.2 **RESOLVED UNANIMOUSLY** that, having considered if they wanted any further additions or adjustments to the work programme:-

1. the Committee's work programme, as set out in Appendix 1 be agreed, including any additions and amendments identified in Part 1, with the addition of items relating to the Rose Garden Café (to be heard in October), Norton Nurseries and the governance of charities of which the Council is

the charitable trustee (including charitable accounts);

8. CONSIDERATION OF OBJECTIONS TO LEASES REGARDING PARKS TENNIS

8.1 The Policy Committee received two questions from members of the public.

Questions from Friends of Hillsborough Park

- Over 2117 people oppose the Activity Hub scheme. In the face of such overwhelming opposition to the scheme why would the council continue with it?
- Given the overwhelming public opposition does the council support it because it will create more physical activity? If so, how many hours of physical activity do people spend on the MUGA and tennis courts now and how does this compare to the projected hours of activity on the facilities post-development?
- Given the overwhelming public opposition does the council support it because it will create financial sustainability for parks tennis? If so, why is it not currently sustainable, is parks tennis currently a source of income or a cost to the council and what is written into the project proposal in terms of sustainability? Classing all financial information as commercially confidential will not convince the public that there is any potential benefit to offset the clear disadvantages of the scheme.
- Given that the overwhelming public opposition focussed particularly on the effect the proposal would have on those people and families affected by the cost of living crisis (and noting that an EIA has been completed), does the council support it because it will create better facilities for people who live in social deprivation? If so, what evidence does the council have to demonstrate that reducing free-to-use space and adding pay-to-use activities will be beneficial to those people and families affected by the cost of living crisis?
- Given that the overwhelming public opposition also highlighted the effect the proposal would have on the disabled communities (and noting that an EIA has been completed) does the council support it because it will create more opportunities for physical activity for people with disabilities? If so, does the council have the support of those organisations which currently use the space – which include Cycling4All, Burton Street Foundation, Friends2Gether, Inspirations – and for these organisations is an Activity Hub preferable to the existing facilities?
- Given the overwhelming public opposition which builds on the results of the Activity Hub survey where only 38% of respondents support a fully indoor space, does the council support it because it believes there is a need for more community space? If so, has the council determined that all other venues – HASA, the pavilion, the makers shed and Hillsborough sports

centre are at capacity?

There is overwhelming opposition to the proposal for an Activity Hub. It was never based on local demand for new facilities, it is a waste of council resources, it is likely to produce worse outcomes than the current facilities, it will reduce public access space in the park, create unnecessary additional buildings and there is no evidence shared with the public to suggest that it will make parks tennis any more sustainable.

Given that the council needs to make £48m of budget cuts this year, in the absence of any public support for the project we believe it will be a poor use of £363k of council funds and we therefore believe that the scheme should not go ahead.

Background To These Questions

1. There is overwhelming opposition to the scheme
 - a. 2117 people oppose the scheme on Change.Org
 - b. only 412 people voted for a hub in the 2022 Hub questionnaire, 101 people voted against it and 94 were undecided
 - c. only 19 people from 412 voted for opportunities to try new activities such as petanque, padel tennis or adventure golf in the 2021 Hillsborough Park Forward Plan consultation
2. We have seen no evidence to support the claim that there will be increased physical activity
 - a. In a three month daily spot survey from March 2023 over six times as many people used the MUGA as used the tennis courts. Those people will not fit on a MUGA 1/3rd of its current size
 - b. From the 2022 Hub questionnaire it looks like twice as many hours of physical activity are spent on the MUGA compared to the tennis courts. Furthermore in that questionnaire 346 had used the MUGA and only 260 had booked tennis. The current proposal, with a MUGA 1/4 the size of the tennis/padel provision is likely to reduce physical activity
 - c. The four tennis courts are currently (2022 Courtside data) used for 11% of their available time
 - d. At least 15% of the space currently used for physical activity will be converted to café, kitchen, toilets and external seating
3. We have seen no evidence that park tennis is currently unsustainable or that this proposal will make it sustainable. The following questions need to be addressed.
 - a. Is parks tennis a current expense to the council or does it generate income?
 - b. What is the current contribution to the sinking fund over the last 7

- years?
- c. What is the projected annual contribution in £000s per annum built into the project proposal? This should be a fundamental part of the project proposal.
 - d. How does the £000s in improved sustainability compare to spending £363,000 of council funds on the project?
 - e. Has any court renovation in the last 7 years been funded by anyone other than the LTA?
 - f. Have other solutions for improving sustainability been considered – e.g. increasing fees, reducing block booking discounts, reducing the number of courts to maintain usage/increase occupancy/reduce costs?
 - g. 32 courts with 4 floodlit will need a sinking fund of £41,000 p.a. (LTA). Will it be possible to cover the sinking fund as well as making repayments to Prudential Borrowing, Key Fund (50% loan) and rent for Hillsborough Park?
 - h. Are payments for rent of the park and contribution to the sinking fund fixed amounts to be paid each year or a contribution from the Hub surplus?
4. Are councillors satisfied that this proposal will increase rather than decrease physical activity and improve health outcomes, particular amongst those people and families affected by the cost of living crisis?
- a. The comments on the change.org petition specifically mention the availability of free space for children to enjoy and believe that those who cannot afford to pay will be disadvantaged. Is there any evidence that the proposal will improve outcomes for those people and families affected by the cost of living crisis?
 - b. Doesn't the greater use of the Playground, MUGA and All Wheel Track compared to the use of the tennis courts demonstrate that free-to-use space produces better physical outcomes than pay-to-use?
 - c. Given the wealth of opportunities for paid-for sporting activity currently available in the park and the surrounding area, where is the evidence that adding more paid-for activities and reducing space for free play, will achieve the desired outcomes?
5. Are councillors satisfied that this proposal will increase rather than decrease physical activity and improve health outcomes, particularly for people with disabilities?
- a. The survey respondents specifically mention the availability of space for the integration of Cycling4All with other MUGA users. What evidence is there that the proposal will not disadvantage the

disabled?

- b. What evidence is there that the new facilities will offer a better opportunity for disabled people to be integrated with other park users than the existing MUGA?
 - c. Will mini-golf and a smaller MUGA be more advantageous to the disabled or give less opportunity for inclusive physical activity?
6. How does the council justify the construction of more new buildings in a public green space?
- a. How does the council justify the increased carbon footprint of constructing new buildings
 - b. What is the carbon footprint of running a second café in the park
 - c. Does the projected increase in car parking revenue indicate that new facilities will encourage people to drive from other parts of the city and what is the carbon footprint of those additional journeys?

Questions from Andy Chaplin

- Will the total income for the 8 spokes remain nominal with the hub & spoke model?
- Is there a concession fee with the existing lease with Courtside CIC?
- Is the proposed “concession fee and contribution to a sinking fund” mainly due to the increased earnings of the hub?
- Will the “concession fee and contribution to a sinking fund” be shown in the Hillsborough Park charitable accounts?
- If all of the earnings from the hub are not being shown in the Hillsborough Park charitable accounts do the councillors, as Trustees, agree with that arrangement?

In view of the potential for misrepresentation of the Hillsborough Park Charitable accounts I would ask the committee to defer a decision to dispose of charitable land in order to take legal advice.

The Chair thanked both questioners for attending the meeting and asking their questions and explained that; the officers would present their report to the committee, addressing points contained in their questions and a full written response would also be provided.

- 8.2 The Committee considered a report of the Executive Director of Neighbourhood Services and was asked to consider the contents of this and previous reports and make a decision as to whether the proposed disposal was on balance in the best interests of the charitable trusts/parks.

The decisions that the Charity Trustee Sub-Committee were asked to make on the basis of this report related to charitable and non-charitable land. These decisions

fall to the Charity Trustee Sub-Committee because the decisions in relation to the charitable and non-charitable sites are indivisible. A decision could not, for example, be taken by another Committee not to proceed and by this Sub-Committee to proceed as the contractual arrangement was proposed to apply to all of the sites. For the avoidance of doubt an amendment to the Constitution was agreed by Full Council on Wednesday 6th September 2023 to specifically reserve such decisions to this Sub-Committee.

8.3 Discussion took place around some of the satellite parks involved in the scheme, their individual governance arrangements and whether these would have any impact on the operator's proposals or the potential funding from Sports England. Officers reassured members that the operator was already running the tennis provision in the parks and would continue to do so and that Sports England were consulted after the committee meeting in June and were satisfied with the scheme as part of SCC's wider sport and leisure strategy.

8.4 It was moved by Cllr Auckland and seconded by Cllr Williams, as an amendment, that the recommendations submitted be amended by the addition of a recommendation to monitor performance and report back to the committee. The amendment was put to the vote and carried.

(NOTE: The result of the vote was FOR – 4 Members; AGAINST – 1 Members; ABSTENTIONS – 0 Members.

8.5 **RESOLVED:** That the Charity Trustees Sub-Committee:-

Having:

- noted and endorsed the contents of the report;
- noted that the Cooperative Executive Decision of 22nd April 2022 approved;
 - the proposed City Council funding contribution of up to £180,000 (of prudential borrowing) towards the development of the Activity Hub at Hillsborough Park; and
 - the allocation of Section 106 funds of up to £183,000 for the development of the facilities at Hillsborough Park, as described in the report; and
- reviewed and considered the objections and supportive comments received and, in particular, if the same affected the decision as to whether the proposals were in the best interests of each charity and park

confirmed their approval of:

1. the award of the contract to the preferred supplier Courtside CIC; and
2. the grant of leases of the properties referred to in the body of the report to the preferred supplier, Courtside CIC, on the terms set out in the previous reports, being satisfied that the proposed terms are the best that can be reasonably obtained in the circumstances.

The Charity Trustee Sub-Committee also requested that monitoring of the performance of the supplier take place in accordance with Appendix 1 and Appendix 2 of the report at item 8 of the meeting of the Charity Trustee Sub-

Committee, 5th June, 2023, and a report be brought back to the committee at its meeting in September 2024.

(NOTE: The result of the vote was FOR – 4 Members; AGAINST – 1 Members; ABSTENTIONS – 0 Members.

Councillor Douglas Johnson requested that his vote against the recommendations be noted)

8.6 **Reasons for Decision**

Whilst the Committee were grateful to those who had taken the time to respond to the notices and raise objections they noted that there was both support for as well as opposition to the proposals and, on balance, they did not feel that the objections raised substantial new issues, they did still feel that the proposals were in the best interests of each charity and park and they did feel that the proposed terms were the best that could be reasonably obtained in the circumstances.

8.7 **Alternatives Considered and Rejected**

The Committee considered not approving the contract and leases but felt that would not be in the best interests of the charities/parks.

9. **ENDCLIFFE PARK CAFE LEASE**

9.1.1 The committee considered a report of the Executive Director Operational Services seeking the approval of the Charity Trustee Sub Committee acting as Charity Trustee of Endcliffe Park (Registered Charity Number 1112149) (“the Charity”) to the grant of a lease of the Property (as defined at paragraph 1.2 of this report and referred to in the plan attached hereto) to Ashley Charlesworth on the terms set out in the Appendices to the 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 by the Charity in the circumstances.

9.1.2 It was clarified that the length of the lease was two years and it contained monitoring and performance requirements.

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

1. On consideration of the commercial terms and the Qualified Surveyor’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 lease of the Property to the tenant based on the terms set out in this report.

9.3 **Reasons for Decision**

The proposal to grant a lease of this café facility:

- safeguards the café facility at Endcliffe Park for the short term
- secures an increased income stream by way of rent and contribution to running costs of the Park.
- 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 statutory provisions contained within the Act and further with the requirements of the Charity Commission.

9.4 **Alternatives Considered and Rejected**

It is considered that there are no realistic alternative options here at this time

10. **LEASE OF ARBOURTHORNE LODGE, NORFOLK HERITAGE PARK**

10.1.1 The committee considered a report of the Executive Director of City Futures seeking the approval of the Charity Trustee Sub-Committee acting as Charity Trustee of Norfolk Park (Registered Charity Number 1040354) (“the Charity”) to grant a new lease of the Arbourthorne Lodge (“the Property”) to Amy’s House on the terms set out in the Appendices to the 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.

10.1.2 It was clarified that the length of the lease was 15 years.

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

1. 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.
2. Approve the lease of the subject property to the tenant based on the terms set out in this report, subject to the advertising of notices and consideration by the Sub-Committee of any representation made in response to the public notices being advertised.

10.3 **Reasons for Decision**

The proposal to grant a lease of this property:

- contributes to charity park income
- reduces the charity’s liabilities by passing on maintenance and repair

responsibilities to the tenant

- complies with the statutory provisions contained within the Act and further with the requirements of the Charity Commission

10.4 **Alternatives Considered and Rejected**

It is considered that there are no realistic options here given that property is already occupied by Amy's House who have invested significantly in upgrading the building.

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