



Report to Policy Committee

Author/Lead Officer of Report: Ruth Bell, Head of Parks and Countryside Service
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Report of: Director of Parks, Leisure and Libraries

Report to: *Charity Trustee Sub-Committee*

Date of Decision: 22nd February 2024

Subject: *Lease of café at Firth Park, Sheffield*

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? To be completed				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input 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Appendices 1 and 2 are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).				

Purpose of Report:

This report

1. seeks the approval of the Charity Trustee Sub Committee acting as Charity Trustee of Firth Park (*Registered Charity Number 1104444*) ("the Charity") to the grant of a Tenancy at Will (TAW) in respect of the Property (as defined at paragraph 1.2 of this report and referred to in the plan attached hereto) to Hilary Dawtry on the terms set out in the Appendices to this report.

Recommendations:

- R1.** On consideration of this report and the commercial terms and advice set out in attached Appendices, confirm that the Trustees are satisfied that the proposed terms promote the objects of the Charity and the Tenancy at Will is in the best interest of the Charity .
- R2.** Approve the Tenancy at Will based on the terms set out in this report.

Background Papers:

n/a

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: <i>Adrian Hart</i>
		Legal: <i>David Sellars and Leonie Wallace</i>
		Equalities & Consultation: <i>Jo Pearce</i>
		Climate: <i>(N/A)</i>
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	SLB member who approved submission:	<i>Executive Director Operational Services</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: <i>Jo Pearce</i>	Job Title: <i>Service Manager – Business and Partnerships</i>
	Date: <i>January 2024</i>	

1. PROPOSAL

1.1 Firth Park is held on charitable trust by the Charity and administered by the City Council as sole trustee, with this committee acting as sole corporate Charity Trustee and management provided by Parks & Countryside Services. The charitable trust is registered with the Charity Commission as Firth Park (Charity Registration Number 1104444).

1.2 The following Charity objects apply :

A PUBLIC PARK OR PLEASURE GROUNDS (1) THE LAND SPECIFIED IN PART 1 OF THE SCHEDULE TO THIS SCHEME MAY BE HELD BY THE TRUSTEE FOR THE PURPOSE OF PROMOTING THE BENEFIT OF THE INHABITANTS OF SHEFFIELD WITHOUT DISTINCTION OF SEX OR OF POLITICAL, RELIGIOUS OR OTHER OPINION BY ASSOCIATING THE LOCAL AUTHORITIES, VOLUNTARY ORGANISATIONS AND INHABITANTS IN A COMMON EFFORT TO ADVANCE EDUCATION AND TO PROVIDE FACILITIES IN THE INTERESTS OF SOCIAL WELFARE FOR RECREATIONAL AND LEISURE-TIME OCCUPATION WITH THE OBJECT OF IMPROVING THE CONDITIONS OF LIFE FOR THE SAID INHABITANTS.

1.3 Firth Park is registered at HM Land Registry and the northern side of the park is shown edged red on the copy title plan attached to this report. The Property lies within a section of the park that was acquired by the Council under a Conveyance dated 14th August 1875.

1.4 The café ("The Property") occupies part of the ground floor of the building known as the First Start Centre which lies within the park. The First Start Centre is shown shaded brown on the attached copy title plan. The café is shown on the attached building plan shaded pink and external seating area edged pink.

The Property is occupied by Hilary Dawtry under an agreement dated 28th Feb 2011. In recent months discussions have taken place with the operator over a new tenancy arrangement. Terms have been provisionally negotiated for a TAW. The proposed terms of this are set out under Appendix 1.

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 and contribute to running costs of the First Start Building 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 café facility within the park for use by the public.

The provision of the café meets the objects of the charity specifically;

- 2.2
- to provide facilities in the interests of social welfare for recreational and leisure-time occupation with the object of improving the conditions of life for the said inhabitants.

Officers are aware through feedback from local Councillors of the additional value over and above the rental income generated that Henry's Café brings to Firth Park and the surrounding community. The café is seen as 'more than just a place to have a cup of tea. It is a community café in the truest sense and brings much added value acting as an anchor for the various groups working in that area to come together to meet and socialise.

In addition to the catering provision which is provided by Henry's Café, the café and staff lead, facilitate and support a range of community activities including;

- the parks volunteer group
- the business forum
- ERF funding activities
- the Friends of Firth Park
- local litter pick groups
- Social Clubs including, Gardening and Arts and Crafts

Many of these activities take place outside of the cafes operating hours and core business.

The culture and café approach at Henry's allows for elderly residents/visitors to take their time over an affordable hot drink, seeing the venue as a warm place for people to sit and meet others for as long as they need. In addition the staffing model ensures table service can be provided to more vulnerable visitors.

2.3

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

Better Parks is the Council's 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 Firth 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 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 Officers 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.
- 3.3 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.
- 3.4 As part of the Building Better Parks programme, we are aiming for investment on more sites in the future to provide toilet and café facilities where appropriate, and to improve existing facilities where possible.

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 Firth 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 There are no negative impacts identified.

4.2 Financial and Commercial Implications

- 4.2.1 The proposed TAW will generate a higher rental income for the Charity than the current arrangement. All rental income generated by the lease of the Property will be retained by the Charity and used for the purpose of the Charity in accordance with its charitable objects.
- 4.2.2 Rent will include a contribution to the running costs of the building.
- 4.2.4 Further financial information is contained in the Surveyor's Report at Appendix 2 herein.

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 14th August 1885 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 which 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.

The Council, as trustee, is under a general obligation to act in the best interests of the charity. The running of the cafe in the First Start Centre is within the objects of the charity. In addition to the stated benefits to the local community of the continued operation of a café, it also supports the running of the First Start Centre as a whole. Consequently, this proposal, which secures the future running of the cafe, has to be considered to be in the best interests of the charity.

4.4 Other Implications

- 4.4.1 None beyond those identified in this report.

5. ALTERNATIVE OPTIONS CONSIDERED

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

6. REASONS FOR RECOMMENDATIONS

6.1 The proposal to grant a Tenancy at Will of this café facility:

- safeguards the café facility at Firth 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.

APPENDICES

1 Proposed terms

2 Surveyor's Report

3 Plans

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