

**Resources: Legal & Governance**

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Sent by email only to  
Laura Wainwright  
Case Manager – Regulatory Compliance  
[CC address]

Your Reference: LAW/C-036009/RC  
Our Reference:

Date: 2024

Dear Ms Wainwright

**Graves Park – 510841**

Further to your letter of 24 November 2023 and our subsequent email exchanges please see below the position regarding the matters raised therein.

As noted regarding **Bole Hill Farm** a draft order has been provided by your colleague and will be returned to them shortly thus paving the way to bring this matter to a conclusion.

**Rose Garden Café**

As you have noted the Trustee is continuing to work with the Friends Group and others on finding the best outcome for the building and is in the process of establishing a steering group with an independent chair to streamline this process. Your comments are noted regarding what considerations will be required when making the final decision regarding the future of the café.

**Friends of Graves Group**

Thank you for your clarification regarding sharing correspondence which is noted.

**Council Governance and the section 15(2) Charities Act 2011 Action Plan**

The Commission's comments are noted and the Trustee where required will consult with the Commission.

**The Proposed Disposal of the Tennis Courts**

The Trustee has fully considered the proposed disposal of the tennis courts and has decided that the disposal is in the best interests of the Charity and is conducive to the achievement of its purposes. It was therefore not considered necessary to apply for a cy pres scheme. As previously advised the Trustee is satisfied that the disposal complied with the requirements of ss 117 to 123 of the 2011 Charities Act.

## **Norton Nurseries**

It is accepted that since 2017 there has not been any progress toward formalising the situation regarding Norton Nurseries. It should be noted by the Commission that this was not a deliberate avoidance of what is required but rather due to long term absence of the persons dealing with this for the Council and other matters such as Lockdown caused by the Covid 19 Pandemic. It continues to be the case that the Trustee recognises the need to regularise the situation. It should be noted that the Council continues to provide a large subsidy by way of grant to the Graves Park Trust from its General Fund which does include an element for use and occupation of part of the area that is used as a depot. Independent legal advice has been obtained regarding regularising the situation by way of a lease and this has confirmed that in principle this is possible notwithstanding the ruling in Rye v Rye.

However, as there is a joint use by both the charity and the Council of the depot, this matter is not as straightforward as seeking an order for a disposal and we still need to understand what the best legal structure is, and if that is different to the existing arrangement of the Council use by licence. However, before the trustee makes a decision, consideration needs to be made regarding all the options that may be available and ultimately which is considered to be in the best interests of the charity. We fully recognise the issue of potential conflicts of interest and these can be managed for future decisions.

The trustee will keep the Commission and other interested parties informed of developments and where necessary work with the Commission to ensure that any decision is made in accordance with the relevant laws and regulations and necessary orders obtained.

## **Next steps**

### Norton Nurseries land

For the avoidance of doubt and in answer to the Commission's questions

1. As you will be aware the Graves Park Scheme unified two existing charitable trusts of land being Graves Park, and Norton Nurseries. In addition, the Council agreed to allocate 121,000 m<sup>2</sup> of new land, from its general holding, to the Graves Park/Norton Nurseries charities. These charities, including the new land, were amalgamated by the Scheme. The land that the Council allocated to the Scheme contained land from the Norton Nurseries trust that prior to 2009 had been used as a depot for both Graves Park and other Council functions. That arrangement did not change and continued after the transfer. That use of the land is still partly for Graves Park and partly for Council uses. The proportion used is roughly 60% to Graves Park and 40% other uses. It is not been possible to establish when the depot was established at its current location or any minutes or decision records that inform why the decision was taken.
2. The arrangement in practical terms works satisfactorily for both the charity and the Council and the Trustee are not aware of any conflicts of interest that have arisen since 2009 as no decision has been made since that date, so as far as the Trustee are aware

there are no minutes of any decisions by the Trustee regarding the operational use of the depot land.

3. As previously advised the Charity receives an annual subsidy by way of grant from the Council which exceeds an element for use and occupation of the depot land that is used for Council purposes.
4. Failing to regularise the use of the depot at the time of transfer in 2009 was an oversight and has previously been recognised. The Trustee recognises that the position needs to be regularised. The intention as a matter of priority is to resume direct consultation with the Commission on how this can be achieved.

#### Disposal of Tennis Courts

5. Income generated will be applied to the Charity and the delivery of tennis at Graves Park.
6. The Trustee has complied with all the requirements of ss 117 to 121 of the Charities Act 2011.

Yours sincerely

**SHEFFIELD CITY COUNCIL**

Enquiries to:  
Enc.

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