

Charity Trustee Sub-Committee Decision Report

Title of Report: Graves Park: Proposal to grant a lease of the Cricket Pavilion and a licence of the cricket playing area to Allama Iqbal Cricket Club

Date of Decision: 25th November 2024

Report To: Charity Trustee Sub-Committee

Report Of: Ajman Ali – Executive Director of Neighbourhood Services

Report Author: Ruth Bell, Head of Parks and Countryside /
Ian Wrightson, Survey – Property Services.

Executive Summary: 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.

Name of charity and (if registered) charity number:

Graves Park (Registered Charity number 510841)

Charitable Objects: The provision and maintenance of a park and recreation ground for use by the public with the object of improving their conditions of life.



Committee remit: This report is to be considered by the Charity Trustee Sub-Committee as its remit includes:

The Charity Trustee Sub-Committee shall take all decisions of the Council as charitable trustee, including but not limited to:

- Disposals of and other dealings with charitable land
- Matters about which the Charity Commission must be contacted
- Matters of which charitable trustees should be aware in accordance with Charity Commission Guidance
- Use of charitable assets by the Council for purposes that do not directly meet the charitable aims
- Any other matter that has a significant impact on the use of a charitable asset for the charitable purposes for reasons of duration, area of the asset impacted, or other restriction, including that permission may be granted or withdrawn for the regular or exclusive use of an area of charitable land for recreational, business or other purposes by a single person or organisation
- Matters relating to land that is not itself charitable and other incidental matters which depend on or are directly related to a decision that must be made by the Charity Trustee Sub-Committee

Does the report contain confidential or exempt information? Yes

Appendices 2 and 3 are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972.

Recommendations:

The Charity Trustee Sub-Committee is recommended to:

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

Financial Implications: [Yes] Approved by Adrian Hart

Legal Implications: [Yes] Approved by David Sellars

Equality and Inclusion Implications: Yes. Approved by: Ed Sexton

Initial Equalities Impact Assessment completed with EIA number 2746

Climate Change Implications: Yes – Approved by Ruth Bell

Background Papers: None

Appendices:

- 1 Graves Park Plan – Property 1 shaded yellow and Property 2 outlined in red.
- 2 Commercial terms (closed).
- 3 Designated Advisors Report (DAR)

1. Background to the issue

- 1.1 Graves 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 Sheffield City Council Parks & Countryside Service. The charitable trust is registered with the Charity Commission as Graves Park (Charity Registration Number 510841).

The object of the charity is the provision and maintenance of a park and recreation ground for use by the public with the object of improving their conditions of life.

Graves Park is registered at HM Land Registry and the southern side of the park is shown edged red on the copy title plan attached to this report (Appendix 1). The Property lies within a section of the park that was donated by alderman J.G Graves in 1925.

The park incorporates a cricket ground that was used for many years by Norton Woodseats Cricket Club. That club undertook the maintenance of the cricket square and installed the pavilion to provide changing facilities and refreshments for players. When the club relocated in 2023, Allama Iqbal Cricket Club (AICC) came forward and has used the cricket facilities during the 2023 and 2024 seasons. The cricket facilities comprise of the following:

- Property 1 – Shown shaded yellow on the plan in Appendix 1 comprising, Cricket pavilion being a single storey cabin type building of approximately 10m x 5m dimensions containing changing rooms, showers, toilets and kitchenette and adjacent 3.5m shipping container used for storage of grounds maintenance equipment.
- Property 2 – Cricket playing area shown edged red on the plan.

2. Proposal

- 2.1 AICC wishes to obtain funding to improve the facilities, and the English Cricket Board (ECB) has confirmed that a prerequisite for any funding application is for the club to secure a 5-year lease on the cricket pavilion (Property 1) and a 5-year licence over the cricket outfield playing area (Property 2).

This proposal is for the Council, acting as sole trustee of Graves Park Charity, to grant a 5-year lease of the Property 1 and a 5-year licence

to occupy for Property 2 to AICC to enable their pursuit of funding from the ECB.

The proposal is for the proposed lease and licence to run simultaneously and that the licence to be set up so that the cricket outfield (Property 2) will remain accessible to the public when it is not in use for games or general maintenance.

The proposed lease and licence terms are set out in the closed Appendix 2

3. How does this decision contribute to the objectives of the charity?

- 3.1 The provision and use of the cricket facilities meets the objectives of the charity specifically:

To provide a park and recreation ground for use by the public with the object of improving their conditions of life.

- 3.2 The provision of cricket facilities in the park is seen as fulfilling the objectives as it provides facilities for recreational and leisure time in a place where the public can socialise, play sport and enjoy the space.

The proposed lease more particularly contributes to the charitable objects of the park as follows:

- (a) It will provide a cricket facility for a club that promotes opportunities in the sport for under-represented communities.
 - (b) It will encourage investment and community pride in the facility by the cricket club who would like to play in a welcoming and positive environment and are keen to secure funding to improve the facilities.
 - (c) It will generate investment into the Graves Park charity and save maintenance costs which will be retained by the Charity and used for the purposes of the objects of the Charity.
- 3.3 The selection of AICC to benefit from a lease and license on the pavilion and playing field was made as the club was in desperate need of support due to their current lack of a home ground meaning that they were having to travel for every match and were unable to have a permanent store for equipment or refreshment. Therefore, providing a recreational facility for this group to use aligns with the park's charitable objective.
- 3.4 Overall, this proposal will have a positive impact that will continue to benefit users of Graves Park and the wider community by encouraging more people to get active and play cricket in the park.

3.5 The provision of sports facilities in a park is important to improving the conditions of life of the people of Sheffield. It provides an opportunity to engage in a healthy pastime and interact with other park users. It encourages users to stay longer in the outdoors, brings new users to the park and develops community connections needed to get more people active, promoting health and wellbeing.

4. What community or partner engagement has been undertaken and how has it informed the proposal?

4.1 Prior to submission of this report, feedback was gathered from local councillors, and 'Friends of' groups in the park. The Friends of Graves Park (FOGP) raised concerns regarding the legal implications of granting a lease on charitable land. A meeting was held on 17th September 2024 with FOGP to discuss the proposal and consider what measures might be put in place to ensure that any proposal remained in the best interests of the Graves Park Charity whilst offering an opportunity for a community cricket club to engage in sport and recreation in the park. This discussion led to this proposal whereby a lease on Property 1 and a license to occupy for Property 2 might be a suitable compromise.

4.2 At this meeting, it was requested that SCC investigate the option to have a split lease on the building and not the land underneath, but this is not practically or legally feasible so all parties present at the meeting have agreed that we will proceed with a lease on the building and land directly underneath it and a license on the playing ground as an acceptable solution.

5. What alternative options did we consider?

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.

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.

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.

6. How has equality, diversity and inclusion been actively considered?

- 6.1 The objectives of the Graves Park 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.
- 6.2 AICC was selected as the club to replace Norton Woodseats Cricket Club due to the location of the players, volunteers and coaches. Of a league of over 196 players, none of the clubs have had a permanent base from which to develop and progress their clubs. The participants of AICC are from a diverse community that was in desperate need of support. That is linked with the English Cricket Board (ECB) 12 Point south Asian cricket plan and more recently with the Independent Commission for Equity in Cricket (ICEC) report. The club are compliant with all ECB safeguarding policies, are working through club mark, run all-star's cricket 5-8s, under 9s, under 11s and under 13s. As well as a senior side, they also have girls representing open teams and also support the Sheffield Super Kings and Queens teams.
- 6.3 It is considered that all these points compliment the objectives of the charity to provide a recreation ground and to improve the life conditions of members of the public by providing a facility that they can be physically active and healthy.

7. Financial and Commercial Implications

- 7.1 The proposed lease and license arrangement will generate an income that will be retained by the Charity and used in accordance with its charitable objects.

The running costs of the building and maintenance costs of the cricket square will be covered by AICC.

Further financial information is contained in closed Appendix 2

8. Legal Implications

- 8.1 When making any decision the trustee has a duty to ensure that the decision is in the best interests of the charity and should not allow any extraneous reasons, including Council policies or plans to take precedence over that duty.
- 8.2 The Property lies within a section of the park that was acquired by the Council under a Conveyance dated 2nd of December 1925 and held on trust by the Council for the charitable objectives set out above.
- 8.3 The Trust Land forms part of the land comprised in the Conveyance and the Council as charity trustee must comply with the restrictions on any disposition contained in the relevant provisions of the Charities Act 2011. These contain a general obligation to achieve the best price that can be reasonably obtained on any disposal but also contains several specific obligations as detailed below. It is arguable that disposal of the square and outfield by way of a licence does not constitute a disposal for the purposes of the Charities Act 2011. However, as the lease and licence are part and parcel of the same proposed transaction it is recommended that the requirements of the Charities Act 2011 (as amended) apply equally to the licence as they do to the lease.
- 8.4 Section 119 of the Charities Act 2011, as amended contains an obligation to obtain and consider a written report on the proposed disposal from a Designated Advisor who in this case is a qualified surveyor instructed by and acting exclusively for the Charity. A report compliant with the requirements of section 119 as amended has been obtained and is attached to this report at Appendix 2.
- 8.5 As the Trust Land is held by the Charity for a specified purpose (known as designated land), there are additional requirements that must be complied with in relation to the proposed disposal:
- a) pursuant to section 121 of the Charities Act 2011 to give public notice of the proposed disposal for at least one month and to take into consideration any representations made within this notice period. Any objections will be brought back to committee in a further report for consideration: and

- b) where there is no express power within the governing document of the Charity, the charity trustee does not have the necessary powers to dispose of the Trust Land without obtaining an order or scheme from the Charity Commission authorising the disposal.
- 8.6 The Conveyance does not contain an express power allowing the charity trustee to dispose of the whole or any part of the land held on trust for the objectives of the Charity. In previous disposals of land held on charitable trust by the Council it has in the appropriate circumstances relied on the power of sale contained in Section 6 of the Trusts of Land and Appointment of Trustees Act 1996. In this case it is considered reasonable to rely on the fact that the extent of the disposal is in proportion to the overall size of the Trust so small that it will have no impact on the charity's ability to further its objectives. Legal Services' advice is that this power can be relied on in the proposed disposal of the Trust Land.
- 8.7 The lease will be contracted out of the security of tenure provisions that are provided under Sections 24 to 28 of part two of the Landlord and Tenant Act 1954. This means that at the end of the five-year contractual term the tenant will have no rights of tenure and unless a further agreement is put in place will be obliged to leave if requested to by the charity. It is also proposed that notwithstanding that licences are not protected by the 1954 Act the same contracting out process be undertaken.

9. Climate and Environmental Implications

- 9.1 This proposal will have minimal impact on the climate and environment. There will be a slight increase in the use of electricity and water due to the occupation and use of the pavilion.

10. Other implications

- 10.1 None beyond those identified in this report.

11. Reasons for decision

- 11.1 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

