



Author/Lead Officer of Report:
 Tammy Whittaker Head of Regeneration and Property
 Service
Tel: 27 34700

Report of: Laraine Manley
 Executive Director of Place

Report to: **Cabinet (acting as the Trustees of High Hazels Park)**

Date of Decision: **17th February 2021**

Subject: **Lease of land at High Hazels Park, Sheffield to Yorkshire Dog Training**

Is this a Key Decision? If Yes, reason 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? Finance and Resources		
Which Scrutiny and Policy Development Committee does this relate to? Economic and Environmental Wellbeing Scrutiny and Policy Development Committee		
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?		
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:-		
<p><i>“Appendix 1 & Appendix 2 to this report are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).”</i></p>		

Purpose of Report:

This report seeks the approval of Cabinet acting as the Charity Trustee of High Hazels Park (Registered Charity Number 1183830) (“the Charity”) to grant a lease of property to Yorkshire Dog Training.

Recommendations:

The following decisions are recommended to Cabinet acting as Charity Trustee:

- R1.** Approve the lease of the subject properties to Yorkshire Dog Training based on the terms set out in Appendix 1 of this report
- R2.** agree that the Trustees are satisfied that the proposed terms are the best that can be reasonably obtained in the circumstances based upon consideration of the commercial details in Appendix 1 and the Qualified Surveyor’s Report in Appendix 2
- R3.** Approve the grant of a charge over the legal title of the Trust in relation to grant funding as set out in the report.
- R3.** Authorise the Chief Property Officer in consultation with the Director of Legal and Governance to negotiate the terms of the lease with the proposed lessee and the Director of Legal and Governance to prepare and complete all the necessary legal documentation in accordance with the agreed terms and in respect of a charge over title.

Background Papers:

Appendix 1: Confidential – Commercial Details

Appendix 2: Confidential - Qualified Surveyor’s Report

Appendix 3: Plan showing Lease Demise

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 Williams
		EIA: 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:	Cllr Terry Fox, Cabinet Member for Finance and Resources Cllr Mary Lea, Cabinet Member for Culture, Parks and Leisure
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: Tammy Whitaker	Head of Regeneration and Property Services
	Date: 08/02/2021	

1. BACKGROUND

- 1.1 High Hazels Park is held as a charitable trust, (further details of which are set out later in this report) with Cabinet acting as sole corporate Charity Trustee. The Park is managed by the Parks & Countryside Service. Annual revenue expenditure for the running of the park is generally greater than revenue income and the City Council funds a significant annual deficit.
- 1.2 High Hazels Park includes a café, playground and sports facilities including a disused bowling green that has been identified as a possible site for organised dog training.

Yorkshire Dog Training (YDT) has been trading for 10 years, runs independent centres in Leeds, Doncaster and Wakefield and wishes to open two further sites in Harrogate and Sheffield. The former bowling green has been identified as the preferred location for the activity and it is intended to offer a lease to enable the company to invest in the site.

It is proposed to grant a lease to YDT based upon the terms set out under Appendix 1.

2. HOW DOES THIS DECISION CONTRIBUTE?

2.1 The charitable objects of the Charity are the provision and maintenance of a park and recreation ground for use by the public.

2.2 Dog walking is a popular everyday recreational activity known to contribute considerably to human health through motivating substantial additional physical activity

The Council's Byelaws with respect to Pleasure Grounds state that:

"A person shall not cause or suffer any dog belonging to him or in his charge:

- (i) To enter or remain in the pleasure ground, unless such dog be and continue to be under proper control and be effectually restrained from causing annoyance to any person and from worrying or disturbing any animal or waterfowl and from entering any ornamental water;
- (ii) To enter or remain in any of the pleasure grounds mentioned in the Second Schedule hereto, unless such dog be and continue to be controlled by a leash, slip, cord, string or the like

The proposed lease will contribute to objects of the Charity of the park as follows:

- (a) The professional dog training centre within High Hazels park can provide many benefits to the people of the local area and the community itself. YDT has found that providing these services to people has ongoing positive impact.

Customers are able to safely venture into public spaces with their dogs, knowing that they are under control and no risk to other members of the public. Walking whilst surrounded by nature is a well-known aid in the reduction of stress. In the hectic lives that many of us lead now, this is something that can help us on a daily basis.

- (b) Community safety is another benefit that is directly linked to dog training. A further benefit is the social aspect of dog training. The company have regular meet ups with post training clients, in a group situation, both at the Centre and in public areas. This helps clients to meet likeminded people in a setting they are familiar with and they immediately have something in common, their dogs. YDT has found that this has been hugely helpful to some elderly and lonely people and given them a huge boost in self-esteem.

- (c) Subject to Planning and relevant approvals, the training area will house a professional portable building enhancing the professional image of the Centre and adding to the general aesthetic appearance to fit in with the desired look of the park.
- (d) YDT is able to offer a responsible service to local people and be an asset to the surrounding community as we have in other places. The Centre would offer a professional dog training service to all dog owners within Sheffield and the surrounding areas. The main objective is always to educate the owner both in their ability to control their dog and also to be aware of their responsibilities with regard to the environment and the safety and wellbeing of others who share the public spaces where they walk and exercise their dogs. This leads to more responsible owners and hence cleaner and safer parks and greenspaces for all to enjoy.
- (e) Reuse of a disused bowling green.
- (f) Increasing site presence and making the site feel used. The proposal will bring a disused part of the park into positive use, removing the feeling of neglect in this part of the park.
- (g) It will generate rental income which will be retained by the Charity and used for the purposes of the objects of the Charity, as set out at paragraph 2.1 above.
- (h) The proposal aligns with the objectives of the Council's 5-year Better Parks Initiative and the agreed partnership principles.
- (i) Better Parks is Sheffield's five year initiative, which was approved by Cabinet in 2018, that 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 of the Yorkshire Dog Training's proposal meets this 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.
- (j) High Hazels Park is also included within a further project called “Active Parks”. Active Parks are high quality, well designed and managed green spaces which have refreshments and toilets, provide a range of sport, leisure and recreational facilities that attract users of all ages and abilities, and have the active involvement of a variety of community and sport groups. Yorkshire Dog Training’s proposals will add key facilities that will make a significant contribution to High Hazels Park’s role as an active city park.
- (k) Further to High Hazels Park having activities that attract people of all ages and abilities there, are a number of developments in progress, which will help contribute, including:

Public Health funding has been identified for High Hazels park to support investment in youth-focused recreational facilities. This is likely to be either a wheels park or ball court – conditional on the outcome of local consultation. To support site safety and accessibility there is a programme of environmental improvements to open up sight lines across the park, and it is also hoped to improve the accessibility of the High Hazels park café so that it can be more integrated into the park – subject to funding.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 The proposed transaction supports The Better Parks Initiative. Local members, Friends of Group, Legal Services, Property Services and Parks & Countryside Officers have had representation throughout the process.

Existing partners and stakeholders of the park, such as, the Bowling Club and Friends of Group have been consulted and no adverse comments received.

Yorkshire Dog Training attended The Better Parks’ Promotional and advertising event in 2019 at the Crucible Theatre to showcase their proposals.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 This proposal will have a positive impact that will benefit YDT’s target

group and users of High Hazels Park.

A lease arrangement with this partner would offer a responsible service to local people and be an asset to the surrounding community as they have demonstrated in other cities. The Centre would offer a professional service to all dog owners within Sheffield and the surrounding areas. YDT's main objective is always to educate the owner both in their ability to control their dog and to be aware of their responsibilities with regard to the environment and the safety and wellbeing of others, who share the public spaces, where they walk and exercise their dogs. This leads to more responsible owners and hence cleaner and safer parks and greenspaces for all to enjoy.

4.2 Financial Implications

4.2.1 The proposed lease will generate new rental income for the Trust over time. All rental income will continue to be retained by the Charity and used for the purpose of the Charity in accordance with its charitable objects.

4.2.2 The proposals will also transfer an unused bowling green to an area of activity and social meeting

4.2.3 The tenant will bear the Council's reasonable costs in connection with this transaction.

4.3 Legal Implications

The Park is held as a charitable trust registered with the Charity Commission (Charity Registration Number 1183830). The charity is governed by a trust deed dated 07 June 2019, which states the objects of the charity to be "the provision and maintenance of a park and recreation ground for use by the public".

The Council is the sole corporate trustee ("Trustee") and all decisions concerning matters related to property or assets held by the Council on trust are made by the Cabinet.

The disused bowling green ("the Property"), forms part of the Park and the law sets out clear requirements to ensure that the lease of the Property is properly managed in the charity's interests and that the Trustees obtain the best price reasonable in the circumstances.

By virtue of the Trusts of Land and Appointment of Trustees Act 1996, the Trustees have the power to dispose of the Property without approaching the Charity Commission for approval.

Use of this power is dependent on the Trustees:

- exercising the power in a way which is compatible with the objects of the charity
- complying with the requirements of s117-121 of the Charities Act 2011
- complying with the standard of care set out in the Trustee Act 2000

In this case the lease of designated land will contribute to the purposes of the charity and the terms of the lease will ensure ongoing compatibility with the objects of the charity.

The restrictions of s117-121 of the Charities Act 2011 are complied with as follows:

- by the consideration of the written report on the proposed lease from a qualified surveyor instructed by the Trustees and acting exclusively for the charity. A qualified surveyor's report ('QSR'), for the lease, compliant with the requirements of section 119 has been obtained and is attached to this report;
- the QSR advises that it would not be in the best interests of the charity to advertise the proposed disposition. This complies with the requirement to advertise for such period and in such manner as is advised in the surveyor's report; and
- by the Trustees deciding that they are satisfied, having considered the surveyor's report, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity.

As the land is held on trust for a specific purpose (i.e., designated land), the Trustees must follow the additional procedural steps of s.121. The Trustees must:

- give public notice of the proposed disposal, inviting representations to be made to them within a time specified in the notice, being not less than one month from the date of the notice; and
- take into consideration any representations about the proposed disposal made to them within that time.

This notice is additional to the requirements of s.119 referred to above and has been published in the Sheffield Telegraph.

Other relevant powers governing the disposal of open space land include:

- section 123 of the Local Government Act 1972, which provides that the council may dispose of land held by it in any manner it wishes

subject to certain conditions, and

- section 10 of the Open Spaces Act 1906, which provides that the Council holds and administers the open space in trust to allow the enjoyment of it by the public as an open space and for no other purpose.

The Property forms a very small part of the total area of the Park so, a lease disposal in these circumstances would fall within the “de minimis” provisions of the Trusts of Land and Trustees Act.

The lease will be excluded from the provisions of part 2 of the Landlord and Tenant Act 1954. As a result, once the lease comes to an end the tenant will have no rights to request a renewal or compensation should they come out of possession.

The conditions for disposal will be met and the terms of the leases will ensure the ongoing enjoyment of the Property by the public.

4.4 Other Implications

- 4.4.1 The grant of the proposed new leases to Yorkshire Dog Training will align with the Council’s strategic aims under The Better Parks Initiative.

5. **ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 There is no better option to deliver these services.

6. **REASONS FOR RECOMMENDATIONS**

- 6.1 The proposal to grant a lease to Yorkshire Dog Training will achieve:
- continued provision of dog training sessions in the safe

surroundings of the city's High Hazels Park

- Bring a currently disused area of the park back into use
- inclusive for the benefit of new and existing users of the park
- Increased community use of the park
- Increased presence in the park which may reduce anti social behaviour
- increased income stream for the Trust which can be reinvested in the Park
- enhancement of the quality and attractiveness of the park as a valuable asset for visitors
- occupation for the purposes of the charitable objects of the Trust
- compliance with the provisos contained within the power granted to the Trustee by the Scheme and with the statutory provisions contained within the Act and further with the requirements of the Charity Commission.

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