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Report of: Laraine Manley: Executive Director PLACE

Report to: Cabinet (acting as the Trustee of Hillsborough Park Charity (523913))

Date of Decision: 14th February 2018

Subject: Lease of Hillsborough Arena, Hillsborough Park, Sheffield

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 & Resources and Culture, Parks and Leisure		
Which Scrutiny and Policy Development Committee does this relate to? Economic & Environmental Well-being		
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 type="checkbox"/>	No <input checked="" type="checkbox"/>

Purpose of Report:

To seek approval of Cabinet, acting as the Trustee of the Hillsborough Park charity, to the surrender and regrant of a lease of part of Hillsborough Park which is currently granted to Hillsborough Arena Sports Association.

Recommendations:

That Cabinet acting as Charity Trustee of the Hillsborough Park charity (registered charity number 523913) in accordance with the powers given to the Council as Trustee under the provisions of the Charity Commission Scheme dated 22nd March 1996 as revised by the additional Scheme dated 15th October 1998 (“the Scheme”) and the provisions contained in the Charities Act 2011 (“the Act”) approve the surrender and regrant of the existing lease to Hillsborough Arena Sports Association (registered charity No. 1126206) (“HASA”), with authority granted to the Chief Property Officer in conjunction with the Director of Legal and Democratic Services to agree the final terms of the new lease

Background Papers:

None

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: Leonie Wallace
		Equalities: None
<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:	<i>Laraine Manley</i>
3	Cabinet Member consulted:	<i>Cllr Olivia Blake, Cllr Mary Lea</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 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: Steve Smith	Interim Surveyor, Commercial Estate Team
	Date: 31st January 2018	

1. PROPOSAL

- 1.1 Hillsborough Park charity (registered charity number 523913) (“Charity”) is administered by the City Council, with Cabinet acting as sole corporate Charity Trustee and management provided by Parks & Countryside Services. There are a number of existing formal arrangements in place for various organisations to occupy parts of the park, including a lease to HASA.
- 1.2 Hillsborough Park is registered at HM Land Registry under title number SYK614112 as shown edged red on the attached plan. The extent of the current lease demise is shown edged blue on this plan.

- 1.3 HASA is a registered charity, operating the sports ground and arena from the pavilion building which was erected by HASA using Sport England and other funding. HASA occupies via an existing lease at a peppercorn rent for a term of 25 years from 4th December 1997. The current lease was approved by the Charity Commission by way of the Scheme.
- 1.4 HASA have requested the surrender of the existing lease and the grant of a new lease for a term of 25 years to enable them to secure further grant funding for the improvement of the sports and associated facilities. HASA is unable to secure further grant funding using the existing lease as security as grant funding providers such as Sports England etc specify a requirement of a minimum term of 25 years within the grant conditions. The existing lease only has 5 years remaining on the contractual term. HASA is unable to serve statutory notice for a lease renewal until 2021 and therefore is unable to use the statutory right for renewal under the security of tenure provisions of the Landlord and Tenant Act 1954 to satisfy any grant funding conditions relating to grant security on the property.
- 1.5 It is proposed that the existing lease is surrendered and a new lease is granted to HASA for a term of 25 years on similar terms as the existing lease, with the inclusion of an option to extend the lease for a further term of years at the end of the lease term (such contractual term to be agreed between the parties and authorised by the Charity Commission). It is also proposed to omit the small area fronting Hawksley Avenue, shown coloured red on the attached plan, from the extent of the new lease to HASA.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The charitable objects of the Charity are *“the provision and maintenance of a public park and recreation ground in Sheffield for the use of members of the public resorting thereto with the object of improving their conditions of life”*.
- 2.2 The proposals contribute to the provision and maintenance of the park via:
- ensuring that the current recreational facilities can continue to be provided and can be maintained and improved via the renewal of the HASA lease and enabling access to grant funding initial funding will be used to lay tarmac and create hardstanding to provide an area to use for sports such as basketball, volley ball, mini cricket etc., the hard standing area would also be suitable for people to try out adaptive bikes. The new area would provide an outdoor area suitable for the wheel chair users unable to use grass
 - enhancing the attractiveness of the park to improve use
 - adding to existing park facilities

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 The proposal to grant the new lease is a disposal which is authorised by the provisions of the Scheme. Section 117 of the Act exempts any disposal made pursuant to a Charity Commission scheme from any restrictions imposed by that section and sections 119-121 of the Act and therefore the requirement in section 121 of the Act to give public notice of the disposal does not apply

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 There are no equality implications as both the Charity's objects and HASA's charitable objects cover all members of the public without distinction of age, health status, religious or political affiliation, race, sex, or sexual orientation.

4.2 Financial Implications

- 4.2.1 The proposal offers financial benefits to the Park Trust by enabling access to grant funding by HASA for the improvement of facilities.
- 4.2.2 The proposal is a disposal of charity land for less than best price as it is proposed to set the annual rent at a peppercorn which thereby generates no revenue income to the Charity account. The proposal for a peppercorn rent is made in consideration of HASA's intended programme of capital investment and refurbishment to the property to be demised in the new lease and HASA's obligations to comply with the conditions of any grant funding it secures for the purposes of this programme.

4.3 Legal Implications

- 4.3.1 Legal Services have provided the following advice.
- 4.3.2 The Charity is administered according to the provisions of the Scheme. The Scheme states that the land specified in the schedule to the Scheme shall be held upon trust for the object of the Charity. This is referred to as Designated Land by the Charity Commission and disposal of such land is subject to satisfaction of the Charity Commission's requirements and it is usually likely that the Charity Commission's consent by way of a scheme is required prior to any disposal of Designated Land taking place. The land and buildings referred to in this report all fall within the definition of Designated Land in the schedule to the Scheme.
- 4.3.3 The Scheme gives power to the Trustee to grant a lease to HASA for a term of 25 years subject to certain provisos as set out in paragraph 6 to the Scheme. The proposed terms of the new lease to HASA accord with the restrictions and stipulations of the power contained in the Scheme and therefore there is no requirement for Charity Commission consent by

way of a scheme for this proposed disposal. As the power in the Scheme has been expressly given for this transaction as proposed then the grant of the new lease falls into the category of disposals prescribed in the Act as exempt from complying with the requirements of section 117 of the Act and the Trustee is not required to fulfil the usual obligations of advertising the disposal.

4.3.4 The power in the Scheme referred to in paragraph 4.3.3 above contains a proviso at paragraph 6(3) that the provisions for payment of the annual rent shall be the best that can be reasonably obtained according to the advice of a qualified surveyor acting exclusively on behalf of the Charity. A report dated 6th February 2018 which complies with these requirements has been obtained and is contained at Appendix [2] to this report. The report advises that although the proposal to set the annual rent at a peppercorn which generates no revenue income to the Charity account, this is made in consideration of and conditional upon HASA's intended programme of capital investment and refurbishment to the property to be demised in the new lease and HASA's obligations to comply with the conditions of any grant funding it secures for the purposes of this programme. On this basis the report advises that the proposed terms of the lease will enable the Trustee to comply with the obligation in paragraph 6(3) of the Scheme.

4.3.5 The charitable objects of HASA are slightly wider than those of the Charity, including *"promoting community participation in healthy recreation by providing facilities for amateur sports capable of improving physical health; and providing and assisting in providing facilities for sport, recreation or other leisure time occupation of such persons who have need for such facilities by reason of their youth, age, infirmity or disablement, poverty or social and economic circumstances or for the public at large in the interests of social welfare and with the object of improving their conditions of life"*. The HASA charitable objects also include *"providing education to young people and providing guidance, advice and support to relieve financial hardship"*. The terms of the new lease will, therefore, need to limit the permitted use of the demised property such use included in the HASA charitable objects which are compatible those of the Charity in order to comply with the provisions of the Act and Charity Commission requirements.

4.4 Other Implications

4.4.1 The proposed grant of the new lease ensures continued support for a number of activities beneficial to the health and well-being of the people of Sheffield.

5. **ALTERNATIVE OPTIONS CONSIDERED**

5.1 The only alternative option is to do nothing as the Charity (and the City Council) has very limited funding, none of which is currently allocated for the works required to maintain and improve the existing HASA facilities.

6. REASONS FOR RECOMMENDATIONS

6.1 The proposal to surrender the existing lease to HASA and to grant a new lease for a term of 25 years at a peppercorn rent:

- enables HASA to secure further funding from suitable grant funders for capital investment in order to sustain and improve properties and recreational facilities
- 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 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.