



Author/Lead Officer of Report: Lisa Firth – *Head of Parks & Countryside*

Tel: (0114 2053964)

Report of: Laraine Manley, Executive Director Place

Report to: Cabinet

Date of Decision:

Subject: Endcliffe Park Charity – Car Parking

Is this a Key Decision? If Yes, reason Key Decision:-	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
- Expenditure and/or savings over £500,000		<input type="checkbox"/>		
- Affects 2 or more Wards		<input checked="" type="checkbox"/>		
Which Cabinet Member Portfolio does this relate to? Culture, Parks and Leisure				
Which Scrutiny and Policy Development Committee does this relate to? Economic and Environmental Wellbeing				
Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? <i>Ref number 1209.</i>				
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" 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:-				

Purpose of Report:

Introduction

This report seeks Charity Trustee approval to implement charges / restrictions for the benefit of park users needing to visit Endcliffe park by car by installing pay and display machines, signage and remarking the parking bays.

Recommendations:

Introducing the charges and the restrictions outlined within this report are viewed as being in the best overall interests of the Charity and park users. It is recommended that Cabinet in their role as the Endcliffe Park Charity Trustees:

- a) approve the introduction of the 3 hour car parking restriction, the associated Traffic Regulation Order required to enforce this, and the charging policy outlined within Endcliffe Park.
- b) approve the installation of a pay and display machine signage and the marking out of designated parking bays in the area shown on the plan attached to this report.
- c) (subject to obtaining the approval of the Charity Commission) approve the use of the Council's Parking Services section to manage monitor and enforce the parking charges and to maintain all signage and equipment and to pay the costs of these goods and services to Parking Services from the Charity account.
- d) agree that any net income generated from car parking charges will be reinvested back into the park for environmental upkeep and improvement for the benefit of its users and with the object of improving the park.
- e) Grants authority to the Director of Legal and Governance to apply to the Charity Commission for an order to authorise payment from the Charity to Parking Services as a "connected person".

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 Sellars/Leonie Wallace
Equalities: AnneMarie Johnson / Beth Storm	
<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. Mary Lea
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: Lisa Firth
	Job Title: <i>Head of Parks & Countryside</i>
Date: 1st June 2018	

1.	PROPOSAL
1.1	<p>Endcliffe Park is held by the Council under a charitable trust. There is a small public car park within the park providing 19 (2 disabled) free unrestricted parking spaces for park visitors and is accessed from Rustlings Road located in the area shown marked on the plan attached to this report (“the Parking Area”).</p> <p>Research by Sheffield Hallam University shows that 49% of visitors to the park are from outside of the immediate area (S10 & S11), of which, 42% drive to the site. Further, Parks & Countryside Service (P&C) monitoring has evidenced that the car park is increasingly being used by city centre commuters for all day parking. Both factors are placing increased pressure on the surrounding highway network and reducing the availability of disabled parking for visitors to the park.</p> <p>Implementing a charge as a demand management strategy would be a way forward. This would also have the desired effect of reducing the use of the car park by commuters. Consequently, car parking controls and charges are now needed and implementing a charge as a demand strategy is the proposed way forward.</p> <p>Approval from Cabinet, as charity trustees, is being sought to implement them and to install the necessary equipment line marking and signage. The council is not legally required to make this change; however, it is felt necessary for the purpose of relieving and preventing the congestion of traffic, as well as for the benefit of park users.</p>
1.2	<p>It is proposed that:</p> <ul style="list-style-type: none"> • parking places are designated by marking out parking bays within the Parking Area and a restriction of 3 hours maximum car parking within those parking bays is applied by way of a new Traffic Regulation Order (TRO) administered via the council’s parking services section (evidence from SHU shows the average length of stay per visit between May and August is 2 hours 19 minutes). • pay and display ticket machines are installed within the Parking Area and a tariff is set of 50p per hour. • the hours of charging will be 9.30am until 6pm, 7 days a week. • blue badge holding disabled drivers will not be charged for parking within the Parking Area and may stay for an unlimited time, in line with city wide policy and practice (subject to park normal opening / closing restrictions and special events). • subject to obtaining the approval of the Charity Commission the Charity shall use and pay for the Council’s Parking Services section to manage monitor and enforce the parking charges and to maintain all signage and equipment and this shall be carried out in accordance with charities legislation and guidance from the Charity Commission.
1.3	<p>All income raised from the payment of parking charges in the Parking Area shall be ring-fenced and paid into the Charity account for Endcliffe Park. From this income the cost of managing monitoring and enforcing car parking charges and maintenance of equipment and signage shall be paid to Parking Services who will carry out this service on behalf of the Charity and this shall be accounted for</p>

in the Charity accounts as an expense. The net income after deduction of these costs shall be used for the purposes of the Charity.

2. HOW DOES THIS DECISION CONTRIBUTE?

2.1 The charity's governance document is a conveyance dated 15th October 1885. The objects of the charity are public walks and leisure gardens.

2.2 Sheffield's Corporate plan 2015 -18 aims to ensure that "*high quality parks and open spaces.*" are provided for people to use and enjoy. Endcliffe Park is a key city visitor destination site within Sheffield's Outdoor City offer and some visitors need to access the park by car.

3. HAS THERE BEEN ANY CONSULTATION?

3.1 Subject to Trustee approval, the scheme will be publicly advertised and any feedback received will be considered, as part of the proposed scheme prior to implementation. In the event that any feedback resulting from the consultation process has the potential of impacting upon the Trustee's decision on the proposals in this report then this will be referred back to the Trustee for the Trustee's further consideration. The Park's Friends Group have been consulted and support the proposal and business franchises (café / fayre) have been made aware of the proposal.

Before making the TRO, the Council (as traffic authority) must publish a notice of its intention to make the TRO (a "notice of proposals") in a local newspaper. Where the order relates to an off-street parking place, a brief description of that place and its location must be provided. Anyone can object to the making of a TRO within 21 days beginning with the date the traffic authority has complied with the publicity requirements. Before making the TRO, the Council must consider all objections made and not withdrawn. The Council can also make an order in part by giving effect to some of the proposals, while deferring a decision on the remainder.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

4.1.1 Endcliffe Park is held by the Council on charitable trust with the object to provide public walks and pleasure grounds for the purposes of amateur sport, the environment and conservation/heritage for the benefit of the general public by providing buildings facilities and open space.. Car parking spaces are needed by park visitors including Blue Badge holders and the proposal within this report will ensure continued and improved levels of access.

4.2 Financial and Commercial Implications

4.2.1 To introduce the controls and charges outlined and required at the park, it is estimated that the cost of ticket machine installation and the associated works required will be around £7,500. Installation of a ticket machine to introduce the controls and charges will be funded through a one-off capital grant of approximately £7500 from the Parks core revenue budget..

4.2.2 The ongoing revenue costs incurred by Parking Services relating to managing, monitoring and enforcement of parking charges shall be debited to the Charity accounts pursuant to the Service Level Agreement appended to this report.

4.3 Legal Implications

4.3.1 The use of Parking Services and payment to Parking Services of the costs of managing monitoring and enforcement of parking charges is classed under charities legislation as payment for services and goods provided by a “connected person” as Parking Services is part of Sheffield City Council which is the sole trustee of the Charity. Charities legislation permits a charity to pay a trustee or connected person for the supply of services over and above normal trustee duties where the charity trustees agree that the service is required by the charity and that it is in the charity’s best interests to make the payment (subject to compliance with certain other conditions – see below).

4.3.2 It is proposed that an SLA arrangement will be entered into to administer the ongoing running costs and income received from parking charges. Any income raised from the parking area will be ring fenced and paid to the Charity. The Charity will incur costs relating to the managing, monitoring, enforcing and maintenance of the car park by parking services. Any surplus arising will be kept by the Charity for its own use, however it should also be noted that should income raised not be sufficient to meet the costs of Parking Services, the Charity would in these circumstances incur a deficit which will be met by an increased general fund revenue contribution to the Charity from Sheffield City Council.

4.3.3 The Charity Commission advises that all of the following conditions must be met before the Charity can validly pay Parking Services for providing the services and goods to the Charity:

- there must be a written agreement between the Charity and Parking Services;
- the agreement must set out the exact or maximum amount to be paid;
- the trustee concerned may not take part in decisions made by the trustee board about the making of the agreement, or about the acceptability of the service provided;
- the payment is reasonable in relation to the service to be provided;
- the trustees are satisfied that the payment is in the best interests of the Charity;
- the trustee board follows the ‘duty of care’ set out in the 2000 Act;
- the total number of trustees who are either receiving payment or who are connected to someone receiving payment are in a minority;
- there is no prohibition against payment of a trustee.

It is also a condition that, before entering into this type of agreement, trustees must ‘have regard to’ the commission’s guidance on the subject (see CC11 Trustee Expenses and Payments Charity Commission guidance published 1 March 2012 appended to this report. The trustees must be able to show that:

- they are aware of this guidance;
- in making a decision where the guidance is relevant, they have taken it into account;
- if they have decided to depart from the guidance, they have a good reason for doing so.

Because the Council is sole trustee of the Charity it is unable to satisfy all of the above conditions and therefore an order must be obtained from the Charity Commission before implementing this proposal.

4.3.4 A Traffic Regulation Order will be required to secure and control spaces needed by park visitors.

Section 122 of the Road Traffic Regulation Act 1984 (“the Act”) imposes a general duty on the Council to exercise its functions under the act to “secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway”. Collectively, these criteria may be referred to as “traffic management purposes”.

The Council may provide off street parking places under section 32 of the Act where it appears necessary for the purpose of relieving or preventing congestion of traffic. The Council shall, by order, prescribe any charges to be paid for vehicles left in a parking place designated by the order.

Section 55 of the Act requires that the Local Authority keep an account of their income and expenditure in respect of designated parking places. This includes ‘pay and display’ income. The ring-fenced account is referred to as the Specialist Parking Account. Section 55(4) of the Act sets out the purposes for which any surplus income in respect of designated parking places can be used. These purposes include the provision and maintenance of off street parking, and the improvement and maintenance of public open space, in this instance, Endcliffe Park.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 Not implementing this proposal would mean that the car park will continue to be used by commuters. Monitoring shows that commuter car parking can be as high as 70% of weekday use. It would not be practical to close the car park area off without affecting park users.

5.2 Using another provider other than parking services to carry out installation and monitoring of the parking service has been considered but discounted. Parking Services as part of Sheffield City Council has a best value process in place for the supply, installation and monitoring of equipment in addition to ensuring that council services obtain best value and no additional fees are added by Parking Services. Therefore the charity receives the full benefit of this best value exercise. The charity does not have its own employees who could carry out this function. Parking Services has access to contracts that supply pricing for local authorities that is much more competitive than smaller private sector operators due to its size and purchasing power. For example the pay and display machines and cash collection contracts. These are passed on at cost. Also public sector parking enforcement is better regulated than private

enforcement. Private operators can choose whether to sign up to a code of practice from an industry body, where local authority enforcement is regulated by legislation, and LA's have to be regulated by an independent body, PATROL. This ensures the charity provide a fair, consistent enforcement process.

6. REASONS FOR RECOMMENDATIONS

6.1 Introducing the charges and the restrictions outlined within this report are viewed as being in the best overall interests of the Charity and park users. The proposal will ensure that more parking is reserved for those wishing to enjoy Endcliffe park and the porter valley for outdoor recreation. It is recommended that Cabinet in their role as the Endcliffe Park Charity Trustee:

- a) approve the introduction of the 3 hour car parking restriction, the associated Traffic Regulation Order required to enforce this, and the charging policy outlined within Endcliffe Park.
- b) agree that any income generated from car parking charges will be reinvested back into the park for environmental upkeep and improvement for the benefit of its users and with the object of improving the park.

Appendix 1 – Service Level Agreement

Sheffield Parks Service Level Agreement Enforcement, Maintenance and Cash Collection Services

This agreement is made the 1st day of April 2018
Between

Sheffield City Council (Parks and Countryside Service)
Level 3, West Wing, Zone 3 Moorfoot Building, Sheffield, S14PL

And

Sheffield City Council (Parking Services) of
Level 3, West Wing, Zone 1 Moorfoot Building, Sheffield, S14PL

WHEREAS

A The Parks and Countryside Service (the 'Client') has commissioned the installation of

A pay and display payment meter for car parking at Endcliffe Park

B The Client requires a range of services from Parking Services (the 'Contractor') in order to support the delivery of this service.

Sheffield Parks * consists of the following parks

- Graves Park
- Millhouses Park
- Hillsborough Park
- Endcliffe Park

IT IS HEREBY AGREED AS FOLLOWS:

1 Duration

This agreement shall commence on 01/04/18 and shall be renewed annually

2 The service

- I. The Contractor agrees to deliver the following services which form the subject matter of this service level agreement:
- II. Collect the fee income from eight pay and display parking ticket machines when they hold an income of approximately £200 per machine or a maximum frequency of two collections per week.
- III. The income will be banked by Sheffield City Council treasury cashiers. The contractor agrees to arrange for journals to be made

to pay the income from the banking into business units identified by the Client within 2 working days of receiving the details from. These journals will identify that off street parking income is subject to VAT and will transfer the net amount only into the business unit.

- IV. Recharge the associated mobile phone charges arising from the sim card charges for internal modems required to operate the pay and display machines to the client
- V. Manage the Pay By Phone contract to ensure relevant payment information is displayed in the car parks to allow customers to pay using phone, text, app or online.
- VI. Arrange to pay associated costs for Pay by Phone contract and only journal the net income to the identified business units in section II. Costs for reference are
 - i. Merchant fee from council merchant acquirer of 1.59 pence per transaction
 - ii. Transaction fee of 5p per transaction to Pay by Phone
 - iii. Optional text reminder of additional 10p charge if selected by customer
 - iv. Optional text receipt of additional 10p charge if selected by customer (note free of charge email receipt is automatically sent to customer at no cost).

2 The service (continued)

- VII. Replace the ticket rolls in the parking ticket machines when they are anticipated to run out within the next 24 hours.
- VIII. Provide a completed Quarterly reconciliation spreadsheet
- IX. Maintenance and repair of pay & display machines as and when required. Repairs to be effected within 4 hours on maintenance working days unless there is a lead time for parts from the manufacturer .
- X. Vandalism or theft of pay and display machines will not be covered by the contractor and will be covered by the client for any costs incurred and will be invoiced separately.

3 Contract Management

To Include:

- Quarterly Meetings to discuss improvement to processes
- Review reports including breakdown of financial summary

4 Payment

- In consideration of the delivery of the Services, the Client will pay the Contractor in

Accordance with the following terms:

In relation to clause 2.II above, the Client shall pay the Contractor the sum of £3.75 per collection.

- The fee will be calculated each quarter and an internal re-charge Shall be made by Parking Services to Parks & Countryside in accordance with paragraph 2.IX above.

- The Contractor shall supply the Client with a completed spreadsheet, showing the income generated and the proposed charges for the service;
- In relation to clause 2.IX above, labour charges will be free of charge and parts / materials charges will be made at cost.
- In relation to clause 2.III, administrative charges will be made free of charge.

5 Disputes resolution

Any disputes relating to this Service Level Agreement shall be dealt with by Ian Turner for the Client and Ben Brailsford for the Contractor.

6 Contract managers

The Contract manager for the client shall be Ian Turner.
The Contract manager for the contractor shall be Ben Brailsford.

In witness whereof the parties signed this agreement

The day and year first above written:

Signed on behalf of
Parks and Countryside Service Acting by:

Date
Signature

Signed on behalf of
Parks and Sheffield City Council Parking Services
Acting by:

Date
Signature