



Report to Policy Committee

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Report of: *Executive Director City Futures*
Report to: *Charity Sub Committee*
Date of Decision: *26 January 2023*
Subject: *Lease of café at Norfolk Park, Sheffield*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? <i>(Insert reference number)</i> awaiting				
Has appropriate consultation taken place?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input 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:- <i>“Appendices 1 and 2 are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).”</i>				

Purpose of Report:

This report seeks the approval of the Charity Sub Committee acting as Charity Trustee of Norfolk Park (*Registered Charity Number 1040354*) (“the Charity”) to the following proposals:

1. to declare Norfolk Park Cafe (“the Property”) surplus to the requirements of the Charity;
2. to grant a new lease of the Property to Julie Collins and Kelsey Booth on the terms set out in the Appendices to this report after consideration of the contents of the Qualified Surveyor’s Report and satisfying itself that the proposed terms are the best that can be reasonably obtained in the circumstances.

Recommendations:

- R1.** Approve the lease of the subject property to the new tenant based on the terms set out in this report
- R2.** On consideration of the commercial terms and the Qualified Surveyor's Report (set out in attached Appendices), agree that the Trustees are satisfied that the proposed terms are the best that can be reasonably obtained in the circumstances.

Background Papers:

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: <i>Kerry Darlow</i>
		Legal: <i>David Sellars</i>
		Equalities & Consultation: <i>Jo Pearce</i>
		Climate: <i>n/a</i>
	<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	SLB member who approved submission:	<i>Executive Director City Futures</i>
3	Committee Chair consulted:	<i>Councillor Bryan Lodge</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 Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Ian Wrightson</i>	Job Title:
	Date: <i>17 January 2023</i>	

1. PROPOSAL

- 1.1 Norfolk Park is held on charitable trust by the Charity and administered by the City Council, with this committee acting as sole corporate Charity Trustee and management provided by Parks & Countryside Services. The charitable trust is registered with the Charity Commission as Norfolk Park (Charity Registration Number 1040354 (and governed by a Charity Commission Scheme dated 29 August 1994 (the Scheme)

Norfolk Park is registered at HM Land Registry and the part incorporating Property shown edged red on the plan attached to this report. The Property forms part of Norfolk Park and is shown shaded pink with the CITP building edged red on the plan.

The property was previously occupied by Norfolk Park Catering. That operator terminated it's use due to retirement of staff and Property Services/Parks and Countryside then put the unit to the market as a café/catering opportunity. Following appraisal of business plans from interested parties and interviews a potential operator was selected and it is proposed to grant new lease to that operator based upon the terms set out in Appendix 1.

If the proposal for the lease is approved it is proposed, as an interim position pending legal documentation of the lease, to offer use by way of a tenancy at will on similar terms to that proposed in the final lease in order to facilitate earlier provision of a café facility within Norfolk Park.

2. HOW DOES THIS DECISION CONTRIBUTE ?

2.1 The charitable objects of the Charity are set out as follows:

(1) in the interests of social welfare, to improve the conditions of life for the inhabitants of the area of benefit without distinction of political, religious or other opinions by the provision and maintenance of a recreation ground.

(2) the provision and maintenance of a community centre for use by the inhabitants of the area of benefit without distinction of political, religious or other opinions, including use for: (a) meetings, lectures and classes, and (b) other forms of recreation and leisure-time occupation, with the object of improving the conditions of life for the inhabitants.

Dependent on where the subject land is situated governs which of objects (1) or (2) apply. In this case the café is situated on land governed under point (1).

The provision of a café in the Park is seen as fulfilling the requirement to improve public's conditions of life by providing a place where the public can socialise and take refreshments as part of the overall Park experience.

The proposed disposal contributes to the provision and maintenance of the park as follows:

(a) it will remove the liability from the Charity to maintain/decorate the interior of the Property which will be obligations placed on the tenant and as such will reduce the Charity's expenses on these overheads and will offset CITP running costs through the service charge arrangement.

(b) it will generate rental income which will be retained by the Charity and used for the purposes of the objects of the Charity;

- (c) it will maintain the provision of the café facility within the park for use by the public

The provision of a café, community space, facilities and public toilets in the Park, aligns with the objectives of the Council’s 5-year Better Parks Initiative and the agreed partnership principles.

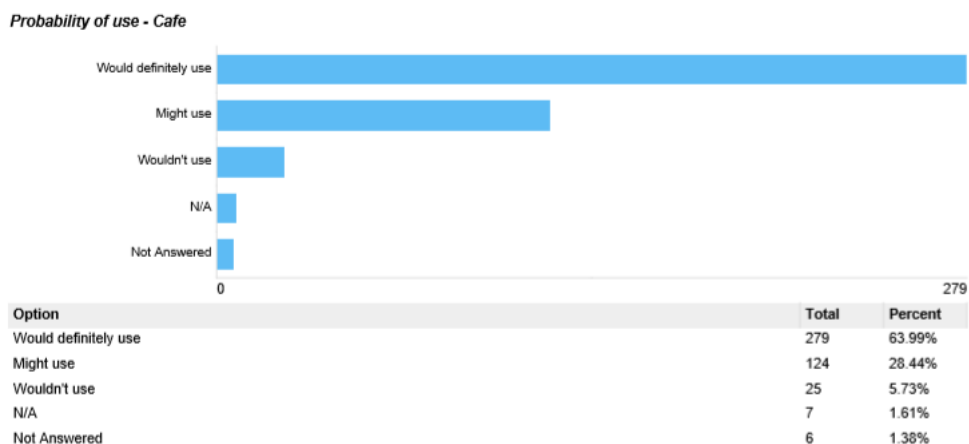
2.2 Better Parks is Sheffield’s five year initiative, which was approved by Cabinet in 2018, that seeks to sustain and improve our parks and green spaces by increasing commercial interest and income. It’s vision is to deliver better services for Sheffield’s parks and green spaces by growing economically viable ventures. For example, more and better catering opportunities, increased social value initiatives through complementary sponsorship and new franchises. The overall approach at the Centre in the Park, 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.

3. HAS THERE BEEN ANY CONSULTATION?

3.1 As there will be no material change to the provision of facilities within the park by replacing the previous operator there is no requirement for or benefit to holding a public consultation. That said, past consultation has been considered which continues to indicate a definite need for catering facilities within Norfolk Heritage Park.

3.2 As part of the Better Park strategy development, in 2018, city wide consultation was carried out to better understand the needs and requirements of the public in using parks, green spaces and woodlands. This consultation asked respondents directly whether they would want to see a café facility within their local park and there was an overwhelming response within Sheffield:



- 3.3 After the existing tenant vacated earlier in 2022, the Parks and Countryside service carried out informal consultation with existing building tenants and local Councillors to understand what were the most important considerations.

These points were factored into the tender process and broadly covered;

- Affordable and appropriate menu
- Environmentally friendly offer
- Varied menu accommodating different dietary requirements
- An offer which supported further community activity within the building
- Extended opening over weekends and bank holidays
- Access to toilets and outdoor area
- Improvement to facilities and customer experience

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 The objects of the 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 and therefore there are no equality implications to be considered in the decision requested by this report on the proposed disposal.

Overall this proposal will have a positive impact that will benefit users of Norfolk Heritage Park.

- 4.1.2 The provision of a café is important to making green spaces more widely accessible, and consequently should encourage social interaction, visitors to stay longer in the outdoors, bring new users to the park and increase opportunities for the community connections needed to get people more active hence promoting Health & Wellbeing.

There are no negative impacts identified.

4.2 Financial and Commercial Implications

- 4.2.1 The proposed lease will generate a higher rental income for the Charity. All rental income generated by the lease of the Property will be retained by the Charity and used for the purpose of the Charity in accordance with its charitable objects.
- 4.2.2 In addition to rent the proposed lessee will pay a service charge which include fair contributions to maintenance and utility costs for the CITP. The service charge will be capped for the first two years of the agreement.
- 4.2.3 If the lease did not proceed, then the Charity would lose out in rental income and contributions to running costs and upkeep of the CITP.

Further financial information is contained in the Qualified Surveyor's Report at Appendix 1 to this report.

4.3 Legal Implications

The Property forms part of the land comprised in the Scheme 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 a number of specific obligations as detailed below.

Section 120 of the Charities Act 2011 contains an obligation on the trustee to obtain and consider advice from a person having the requisite ability and practical experience to provide them with competent advice on the proposed disposition who is instructed by the charity trustee and acting exclusively for the Charity. A report compliant with the requirements of section 120 has been obtained and is attached to this report at Appendix 1.

As the land is held for specific charitable purposes (designated land) and the proposed lease would be for a term in excess of two years under s121 of the Charities Act 2011 the lease cannot be entered into until public notice has been given of the proposed letting inviting representations to the trustees within one month of notice being given and those representations have been considered.

The Scheme 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 objects of the Charity. In previous disposals of land held on charitable trust by the Council it has relied on the power of sale contained in section 6 of the Trusts of Land and Appointment of Trustees Act 1996 which applies where the extent of the disposal is so small that it will have no impact on the charity's ability to further its objects. As this disposal is in relative terms only for a short period of time, will not provide any security of tenure for the tenant and is consistent with previous uses of the premises it is considered that the trustees can rely on the statutory powers referred to above and will not need to seek any consents from the Charity Commission to authorise it.

4.4 Other Implications

4.4.1 None beyond those identified in this report.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 It is considered that there are no realistic options here given that the café will reside within the existing CITP building.

6. REASONS FOR RECOMMENDATIONS

6.1 The proposal to grant a further lease of this café facility:

- safeguards the café facility at Norfolk Park for the short term

- secures a significantly increased income stream by way of rent and contribution to running costs of the CITP
- 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.

APPENDICES

1 Principal lease terms (Confidential)

2 Qualified Surveyor's report (Confidential)

3 Plan

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