

ASHFIELD DISTRICT COUNCIL



Ashfield

Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Charities Committee

Date: **Monday, 11th July, 2016**

Time: **6.30 pm**

Venue: **Committee Room, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

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01623 457317

CHARITIES COMMITTEE

Membership

Chairman: Councillor David Griffiths

Councillors:

Chris Baron
Amanda Brown

Tony Brewer
Phil Rostance

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SUMMONS

You are hereby requested to attend a meeting of the Charities Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. Declarations of Disclosable Pecuniary and Non Disclosable Pecuniary/Other Interests.
3. To receive and approve as a correct record the minutes of the meeting of the Committee held on 16th March, 2016. 5 - 12
4. Teversal Community Centre and Recreation Ground (Charity Number 522310) - Update. 13 - 18

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CHARITIES COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,
on Wednesday, 16th March, 2016 at 6.30 pm

Present: Councillor David Griffiths, in the Chair;
Councillors Jackie James and Cheryl Butler (as substitute for Chris Baron).

Apologies for Absence: Councillors Chris Baron, Tony Brewer and Philip Rostance.

Officers Present: Lynn Cain, Ruth Dennis and David Greenwood.

In Attendance: Councillor Helen Hollis and Councillor Paul Roberts.

CC.09 Declarations of Disclosable Pecuniary and Non Disclosable Pecuniary/Other Interests.

There were no declarations of interest made.

CC.10 Minutes

RESOLVED
that the minutes of the meeting of the Committee held on 19th November, 2015, as now submitted, be received and approved.

CC.11 Teversal Community Centre and Recreation Ground (Charity Number 522310) - Update

The Assistant Chief Executive (Governance) and Monitoring Officer presented the report and took the opportunity to briefly summarise the content of the recommendations that arose from the previous Charities Committee meeting held on 19th November, 2015.

Since the meeting, negotiations had continued with the Clubs and the Visitors' Centre regarding the leases and the current position was presented as follows:-

Football Club

The Football Club had confirmed that it was committed to working towards the signing of the lease but had requested a 5 year sliding scale discount with regard to rental payments to give them time to obtain the required funding. They also asked for the guarantor clause to be removed and requested that the Council undertake some repairs to their kitchen facilities prior to entering into the lease.

Bowls Club

The Bowls Club were still considering entering into the lease but had raised concerns regarding their ability to pay the agreed rent levels. They have requested that they might accept a 30 year lease if it contained a rolling 12 months break clause, if the guarantor clause was removed from the lease and if the Council continued to pay for the Legionella testing and buildings insurance. Should the Council not agree to the above changes then the Club would be unable to afford to enter into the lease.

Cricket Club

The Cricket Club advised that they preferred a shorter term than 30 years but they would accept a 30 year term if there is a rolling 12 months break clause. They requested that the guarantor clause be removed from the lease and that the Council took responsibility for the buildings insurance. Concerns were raised as to why the Legionella testing was needed and the cost of undertaking the process.

Visitors' Centre

The Visitors' Centre confirmed that they were agreeable to entering into a lease but requested that the guarantor clause be removed from the lease and the lease term be shortened to a 7 year term with a rolling 12 months break clause to negate the need to register the lease with the Land Registry. They also wanted to obtain the buildings insurance themselves and questioned why the Legionella testing was needed for the centre. Additionally clarification was sought as to the removal of the car park lighting from the Visitors' Centre supply and the extent of their liability for ongoing maintenance.

At this point in the proceedings the Chairman gave a summary of the discussions and concerns raised during the meeting of the Teversal Grange Advisory Committee held on Monday, 24th March, 2016.

- The Football Club raised concerns in relation to their ability to raise funding for development of the site in the short term, the poor state of the kitchen facilities and the future responsibility for rates charges. They also requested the names of all persons present at the Advisory Committee meeting.
- The Visitors' Centre stated they had not received some promised guidance notes but confirmation was given that a link to the document had been duly sent in early February 2016. Confirmation was given that the car park lighting supply would be split from the Centre's electricity supply and the Visitors' Centre confirmed they would be requesting reimbursement from the Council for the payment of these costs over the last five years. They queried the need for Legionella testing and stated that they wished to continue to source their own buildings insurance. They queried why they were only allowed one representative on the Advisory Committee.
- The Bowls Club stated that they would not be able to afford the rent and they have no means of making income. The Club had dwindling numbers, they have a new building on the site worth £60k and they currently maintain the green. A request was made for information regarding how much profit the Council makes on its bowling greens.

- The Cricket Club made a suggestion that the Visitors' Centre and the Bowls Club could join together but did not confirm if this was a possibility. They raised concerns in relation to their ability to pay the rent (and requested a discount), asked for clarity in relation to buildings insurance and gave an update on their CASC/Charitable status application. A water bill received by them for £127 was also queried as they had not used any during that period.

The Committee Members then duly considered the outstanding issues as raised by the Clubs and Visitors' Centre:-

Rent Levels

In relation to rent levels, the Committee were advised that the levels had been externally validated by an independent surveyor in accordance with Section 117 of the Charities Act 2011. Members agreed that following this validation, they were comfortable with the rental levels that had been set.

Rental Discount – Football Club

Having considered the request from the Football Club for a five year sliding scale discount, it was agreed that in the current climate of local authority cuts and the potential impact upon the Trust income and any future deficit reductions, the previous offer of a one year discount was deemed to be appropriate.

Kitchen Upgrade – Football Club

After consideration of the request for the Council to undertake repairs and an upgrade to the kitchen area, the Committee were of the opinion that in the current climate of austerity and government cuts it would not be prudent to waste scarce resources at this present time. However, a suggestion was made that the Club could investigate the possibility of sourcing funding for the repairs through their local Ward and County Councillors and their individual grant allocations. The Club representative was asked if he could ascertain an estimate for the costs of the works as a starting point for discussion.

30 year term with a 12 months break clause – Bowls Club and Cricket Club

After considering the request, the Committee acknowledged that the introduction of a 12 months break clause could mean that external grant funders would not give funding for capital improvements (resulting in a long term negative impact). This course of action would not negatively impact the Council although a note of caution was raised in relation to the Cricket Club as they currently held a licence with the Council for the provision of temporary changing facilities and if funding was not available there would be no prospect of more permanent facilities being built.

7 year term with a 12 months break clause – Visitors Centre

After considering the request, the Committee again acknowledged the position that notwithstanding the fact that the introduction of a 12 months break clause could mean that external grant funders would not give funding for capital improvements (resulting in a long term negative impact), it was ultimately the responsibility of the Visitors' Centre to choose which terms best suited the objectives and long term aims of the Centre. However, the suggested lease term of 7 years was not deemed to be acceptable; the Committee considered there should be a consistent approach across all leases.

Guarantor Issue

Following advice from the Assistant Chief Executive (Governance) and Monitoring Officer that removal of the guarantor clause would be of limited risk to the Council, the Committee agreed to this request.

Legionella Testing

Committee were advised that the heads of terms required the Clubs and Visitors' Centre to carry out (and be responsible for the costs of) their own legionella testing. It is a legal requirement to carry out such testing and so Members agreed that the heads of terms would not be changed and that the Clubs and Visitors' Centre would remain responsible for the day to day operation and management of the buildings. It was noted that the Visitors' Centre could arrange for a risk assessment to be carried out to ascertain if legionella testing was necessary for their facility.

Buildings Insurance

Members were advised that the Council was currently undertaking a retendering exercise for the provision of building insurances across the Authority and once the cost of the recharge amounts to the Clubs and Visitors' Centre had been established the Estates Manager would advise them accordingly.

It was a requirement that the Council insured the buildings, to provide certainty that the buildings were fully insured and, should a building be damaged or destroyed, that there would be adequate cover to rebuild the facility. With the Cricket Club and Visitors' Centre asking to insure their own buildings, it would be imperative that documentary evidence was provided to ensure that the buildings were adequately insured, whilst being liable for any shortfall in a subsequent claim, if this request was to be agreed.

Car Park Lighting – Visitors' Centre

Members were advised that the Council would carry out the works to remove the car park lighting from the Visitors Centre supply. A Visitors' Centre representative, present at the meeting, asked if the Council would reimburse the Centre for the car park lighting element of previously paid electricity bills. It was agreed that the Council would consider this request once a comparison of past and future bills could be undertaken to establish the true cost of the car park lighting element of the electricity supply. The Visitors' Centre is to supply past bills to the Council.

Liability for Maintenance – Visitors' Centre

Committee acknowledged that the Visitors' Centre currently undertook their own maintenance and would continue to do so under the new lease.

Forthcoming Events

Members considered the request to hold the Notts. AAA's Summer League Race and the Booth Decorators Summer League Race in April 2016 and August 2016 respectively.

Additional Information

Members were informed that all further negotiations with the Clubs and Visitors' Centre in relation to finalising the leases would be undertaken by the

Council's Estates Manager prior to submission to Council on the 14th April, 2016. Following approval by Council, the Clubs and Visitors' Centre would then be requested to submit any final comments/responses by the 13th May, 2016 prior to confirming their acceptance of the final heads of terms.

To complete the process, the Council would then be required to receive approval for each lease from CISWO and then obtain final approval for the new arrangements from the Charities Commission.

RESOLVED

that Council be recommended to approve the following:-

- a) the rental levels be deemed as reasonable having been externally validated;
- b) the request by the Football Club for the Council to offer a rental discount over 5 years, as outlined in the report, be declined;
- c) the request by the Football Club for the Council to upgrade the kitchen facilities be declined but in an effort to enable the kitchen repair works to be undertaken, the Club be signposted to the local Ward and County Councillors to ascertain if any funding can be obtained through their individual grant allocations;
- d) the requests from the Bowls Club and Cricket Club for a 30 year term with a 12 months break clause, be approved in principle subject to the Deputy Chief Executive being requested to firstly consider the cost implications for the Council regarding the provision of the temporary changing facilities to the Cricket Club should the option for a break clause be accepted and grant funding for a permanent facility being unavailable as a result;
- e) the request from the Visitors' Centre for a 7 year term with a 12 months break clause be declined in relation to the length of the lease term with the break clause remaining a viable option should the 30 year term be agreed;
- f) the guarantor clauses in all the leases be removed;
- g) it be confirmed that all the Clubs be responsible for legionella testing;
- h) it be confirmed that the preferred option is for the Council to be responsible for sourcing the Buildings Insurance and recharging the costs to the Clubs and the Visitors' Centre but the Estates Manager explore further the risks associated with the Clubs and Visitors' Centre providing their own insurance in which case it would be mandatory that documentary evidence is provided by the Clubs and Visitors' Centre to ensure that the buildings are adequately insured, with the Clubs and Visitors' Centre being liable for any shortfall in a subsequent claim.
- i) the works to remove the car park lighting from the supply to the Visitors' Centre be approved with the cost being met by the Council;
- j) it be confirmed that the Clubs and the Visitors' Centre are responsible for all the maintenance of the area and buildings leased to them;

- k) approval be given for the following two events to take place on the site:-
- i. Nottinghamshire AAA's Summer League Race on Tuesday, 12th April, 2016;
 - ii. Booth Decorators Summer League Race on Wednesday, 3rd August, 2016;
- l) all further negotiations with the Clubs and Visitors' Centre in relation to finalising the leases be undertaken by the Council's Estates Manager with delegated authority being granted to the Assistant Chief Executive (Governance) and Monitoring Officer, in conjunction with the Chairman of this Committee, to approve any final amendments to the heads of terms prior to submission to Council on 14th April, 2016;
- m) following approval at the Council meeting on 14th April, 2016, the Clubs and Visitors' Centre be required to confirm their acceptance of the agreed heads of terms by 13th May, 2016.

Reasons:

To comply with the Scheme (Constitution) of the Teversal Community Centre and Recreation Ground, the Council's Constitution and charities legislation overall. The Trustee must also act in the best interests of the long term future of the Trust and seek to generate income to sustain the charity.

CC.12 Trust Funds

The Chairman presented the report and gave an update on the transfer of the four trust funds which had remained unused for several years due to various reasons. The funds were in the process of being transferred to charitable organisations with a similar purpose that would ensure that they continued to be of benefit to the residents of Ashfield.

RESOLVED that

- a) the update regarding the transferral of funds from the Wansley Hall Trust Fund, Charles Beastall Beecroft Trust Fund and William and Mary Barratt Swimming Prize Fund Charity to suitable charitable organisations with a similar purpose, be received and noted;
- b) Council be recommended to approve that the funds from the William Booth Charity for the Poor continue to be held by the Authority until they can be transferred to the Community Food Bank once their application for charitable status has been finalised.

Reason:

The decision made previously was to transfer the funds from the William Booth Charity for the Poor once they were awarded charitable status however the Food Bank does not yet have charitable status. The Food Bank has a similar purpose to the William Booth Charity for the Poor which is why it is recommended that the Authority continues to hold these funds until the Food Bank receive charitable status.

The meeting closed at 7.56 pm

Chairman.

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Agenda Item 4

REPORT TO: CHARITIES COMMITTEE **DATE:** 11 JULY 2016
HEADING: TEVERSAL COMMUNITY CENTRE AND RECREATION GROUND
(CHARITY NUMBER 522310) - UPDATE
**PORTFOLIO
HOLDER:** N/A
KEY DECISION: NO **SUBJECT TO CALL-IN:** NO

1. PURPOSE OF REPORT

To provide members with an up to date position in respect of the Teversal Community Centre and Recreation Ground (Charity Number 522310).

For the Committee to make recommendations to the Council.

2. RECOMMENDATION(S)

The Committee is asked to recommend to the Council as follows:

- a) Approval to enter into a further Licence with the Cricket Club for the current season pending lease negotiations, on the same terms as the previous Licence, to terminate on 1 December 2016;
- b) To note the current financial position as set out in the report;
- c) To note the acceptance of the heads of terms by the Visitors Centre;
- d) To amend the heads of terms with the Cricket Club to enable the temporary facility to remain on site on a rolling one year extension negotiated on an annual basis such extension to be subject to the Cricket Club progressing with its plans to build a new changing facility in a timely manner to the Council's satisfaction;
- e) To serve notice to quit on any Club, giving 6 months' notice, which has not confirmed its acceptance of the proposed heads of terms by **5 August 2016**;
- f) To seek interest from other similar sporting/recreational clubs/organisations with a view to offering leases (as previously approved at Council on 10 December 2015, Min. Ref. C.62 refers);
- g) In the event that the Football Club confirms its acceptance of the proposed lease terms by 5 August 2016, to authorise the Chairman of the Charities Committee, supported by relevant officers, to enter into a dialogue with the users of the site and in particular the Football Club to explore the Football Club's proposal to take over the operation of the Trust.

3. REASONS FOR RECOMMENDATION(S)

To comply with the Scheme (Constitution) of the Teversal Community Centre and Recreation Ground, the Council's Constitution and charities legislation overall.

The Trustee must act in the best interests of the long term future of the Trust and seek to generate income to sustain the charity.

4. ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

The Constitution of the Teversal Community Centre and Recreation Ground, the Council's Constitution and charities legislation must be complied with.

5. BACKGROUND

Previous Decisions of Committee and Council

Members will recall that the Council at its meeting on 14 April 2016 considered the recommendations of the Charities Committee held on 16 March 2016. The Council (Min. C.96 refers) made the following decisions (in summary):

- a) to note that the rental levels are reasonable following the external surveyor's validation;
- b) the Clubs and the Visitors' Centre to be offered an incremental rental discount over 3 years;
- c) the Council agreed to upgrade the Football Club's kitchen facilities subject to a maximum cost of £1,500 (to be provided with three suitable quotes);
- d) the Bowls Club and Visitors' Centre to be offered a lease with a 30 year term with a 12 months break clause;
- e) the Cricket Club to be offered a 30 year term with no break clause due to the financial risk to the Authority should the Cricket Club not be successful in accessing funding for a permanent changing facility thus preventing the Council from relocating the temporary changing facility currently located at the Cricket Club site, to its earmarked location of Titchfield Park during 2016/2017;
- f) the guarantor clauses in all the leases to be removed;
- g) all the Clubs to be responsible for legionella testing;
- h) the preferred option is for the Council to be responsible for sourcing the Buildings Insurance and recharging the costs to the Clubs and the Visitors' Centre but should the Clubs and Visitors' Centre insist on providing their own insurance, it be mandatory that documentary evidence is provided by the Clubs and Visitors' Centre to ensure that the buildings are adequately insured, with the Clubs and Visitors' Centre being liable for any shortfall in a subsequent claim;
- i) the works to remove the car park lighting from the supply to the Visitors' Centre be approved (the cost being met by the Council) with the Visitors' Centre being reimbursed for the electricity previously used by the Council to provide lighting on the car parking site once a satisfactory comparison of past and present electricity supply bills has been undertaken;
- j) confirmation that the Clubs and the Visitors' Centre are responsible for all the maintenance of the area and buildings leased to them;
- k) approval was given for two events to take place on the site in April and August 2016;
- l) the Clubs and Visitors' Centre be required to confirm their acceptance of the agreed heads of terms by 13th May, 2016.

Updated Position

Temporary Facilities for the Cricket Club

Temporary changing facilities continue to be provided to the Cricket Club for the current cricket season. It is recommended that a new Licence is entered into for the new season, on the same terms as the previous Licence, to terminate on 1 December 2016.

Financial Position

The Trust's Accounts for the financial year 2014/15 report a retained deficit of £104k. This is a debt owed to the Council, which has had no option but to fund various works to the site in the absence of any funding from the Trust.

The cumulative deficit for Teversal Trust to the end of March 2016 was just over £120k. To date, for 2016/17, the Council has made a further £181.26 payment on behalf of the Trust.

Progress with Leases

The Clubs were required to provide written confirmation to the Council by **13 May 2016** that they accepted the Council's heads of terms to enter into a lease.

A summary of the current position for each Club and the Visitors Centre is set out below.

1. Football Club

The Football Club has informed the Council that it would like to enter into a dialogue about the possibility of it taking over the Trust in its entirety from the Council.

The Football Club has informed the Council that it has obtained legal advice in relation to the proposed lease. It is understood that the Football Club has been advised to refrain from commenting about the lease until after the Council has replied about the Club taking over the trust; they have been advised to concentrate on which is more important to the Football Club first and the Club feels taking over the trust is its priority.

No quotes have been received in relation to the works to the kitchen.

2. Bowls Club

The Bowls Club has said it is unable to enter into a lease as it cannot afford to pay the rent and cover other costs associated with taking on a lease (such as the insurance).

3. Cricket Club

The Cricket Club informed the Council that it was not able to accept the terms of a lease if the temporary facility was to be removed during 2017 as this would not provide sufficient time to obtain funding for, and build, a new permanent facility. Further dialogue was entered into and an offer was made by the Council to extend the retention of the temporary facilities for a further year until 2018. The Cricket Club has confirmed that it wishes to continue working with the Council. To this end, the Cricket Club has said that it may consider signing a lease if the temporary facility remains on site on a rolling one year extension negotiated on an annual basis.

4. **Visitors Centre**

The Visitors Centre has signed and agreed to the heads of terms and the process of drafting the lease has commenced. Once drafted, the Council will seek confirmation of acceptance of the terms from CISWO and advertise the lease as set out in earlier reports to Committee, before seeking permission from the Charities Committee.

In relation to the leases it is therefore suggested that the Committee considers making the following recommendations to the Council:

- a) To note the acceptance of the heads of terms by the Visitors Centre;
- b) To amend the heads of terms with the Cricket Club to enable the temporary facility to remain on site on a rolling one year extension negotiated on an annual basis such extension to be subject to the Cricket Club progressing with its plans to build a new changing facility in a timely manner to the Council's satisfaction; and
- c) To serve notice to quit on any Club, giving 6 months' notice, which has not confirmed its acceptance of the proposed heads of terms by **5 August 2016**; and
- d) To seek interest from other similar sporting/recreational clubs/organisations with a view to offering leases (as previously approved at Council on 10 December 2015, Min. Ref. C.62 refers).

Football Club's Proposal for the Trust

The Football Club has informed the Council that it would like to enter into a dialogue about the possibility of it taking over the Trust in its entirety from the Council.

The future operation of the Trust site as a whole has been seen by the Council as a separate matter to the ongoing lease negotiations. The Council believes that the future running of the Trust should be a matter for all the users of the site to be involved in and would be happy to hold discussions regarding the Football Club's proposals if all groups confirm that they are in favour of such a proposal. The transfer of a Trust to another entity would also require the involvement of CISWO and approval from the Charities Commission in due course and would therefore take some considerable time to bring to a conclusion. The Charities Commission may impose certain restrictions or requirements on any new Trust and the drafting of a new Trust Constitution.

It is therefore recommended to Council that it authorises the Chairman of the Charities Committee, supported by relevant officers, to enter into a dialogue with the users of the site and in particular the Football Club to explore this proposal further, in the event that the Football Club confirms its acceptance of the proposed lease terms by **5 August 2016**.

6. IMPLICATIONS

Corporate Plan:

Enable thriving, prosperous and self-sufficient communities where people shape their own futures.

Ensure the best use of our assets.

Legal:

The legal and constitutional issues are detailed in the report.

Financial:

See “Financial Position” above.

Health and Well-Being / Environmental Management and Sustainability:

The overall purpose of the trust potentially benefits the health and well-being of residents of the District.

Human Resources:

There are no human resource issues identified in the report.

Diversity/Equality:

There are no diversity or equality issues identified in the report.

Community Safety:

There are no community safety issues identified in the report.

Other Implications:

None.

BACKGROUND PAPERS

None

REPORT AUTHOR AND CONTACT OFFICER

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