

<b>Report To:</b>	<b>CABINET</b>
<b>Date:</b>	<b>21 JUNE 2022</b>
<b>Heading:</b>	<b>TEVERSAL COMMUNITY CENTRE AND RECREATION GROUND (TEVERSAL GRANGE) (CHARITY NUMBER 522310)</b>
<b>Executive Lead Member:</b>	<b>COUNCILLOR JASON ZADROZNY, LEADER OF THE COUNCIL</b>
<b>Ward/s:</b>	<b>STANTON HILL AND TEVERSAL</b>
<b>Key Decision:</b>	<b>YES</b>
<b>Subject to Call-In:</b>	<b>YES</b>

### **Purpose of Report**

To provide Members with an up-to-date position in respect of the Teversal Community Centre and Recreation Ground (Teversal Grange) (Charity Number 522310) and seek various decisions in principle regarding potential future options for the site to secure its long term sustainability.

### **Recommendation(s)**

- 1. Note the detailed update within the report.**
- 2. In respect of land, described as on the North Side of Fackley Road, Teversal being 1.97 acres, (shown as “D” on Appendix 2) to :**
  - a) authorise the Director of Legal and Governance and the Service Manager, Commercial Development in consultation with the Executive Lead Member for Finance, Revenues and Benefits to negotiate and agree terms with the Coal Authority regarding the removal of restrictions; and**

**cont.....**

## **Recommendation(s)**

- b) approve a disposal in principle to Teversal Sports and Recreation Trust in the event all outstanding issues are resolved and CISWO and Charity Commission approvals are obtained for the transfer of the Trust held land to the Teversal Sports and Recreation Trust authorising the Director of Legal and Governance and the Service Manager, Commercial Development in consultation with the Executive Lead Member for Finance, Revenues and Benefits to negotiate and agree terms and finalise the disposal.**
- 3. Grant delegated authority to the Director of Legal and Governance and the Service Manager, Commercial Development to secure public access rights to the Council's retained land as part of any potential future land transfer to the Teversal Sports and Recreation Trust.**
- 4. Consider recommending to Council that, in principle, in the event that the Teversal Sports and Recreation Trust were to take over the Teversal Grange site, the outstanding debt owed to the Council by the Trust of approximately £174k is written off to allow the new Trust to take over debt free.**
- 5. Agree to gift the portacabin to the Cricket Club in the event that the Teversal Sports and Recreation Trust were to take over the Teversal Grange site.**

## **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.

To enable the potential transfer of the Trust to proceed further in order to secure the long term, sustainable future of the site as a community facility.

## **Alternative Options Considered**

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

Cabinet may choose to not agree to transfer the land on the North Side of Fackley Road, Teversal being 1.97 acres but this would jeopardise the long term future of the site and the ability of any organisation taking the site over from the Council being able to effectively use the facilities to their full potential.

Cabinet may choose not to recommend that the Council writes off the existing Trust debt owed to the Council, in the event an organisation were to take over the site, but this would jeopardise the transfer in the event the Council were to seek to recover the debts.

There is no suitable alternative to the Cabinet authorising officers to seek to enable public access rights to be secured to its retained land.

Cabinet may choose to not gift the portacabin to the Cricket Club in the event a new organisation takes over the site, however, the portacabin is no longer required for its original purpose and its value has decreased due to the passage of time.

## **Detailed Information**

Ashfield District Council holds on Trust an area of land known officially as Teversal Community Centre and Recreation Ground (Charity Number 522310), but usually referred to locally as "Teversal Grange" (see Appendix 1 – areas of coloured edging depict approximate areas used by each group/club).

A Scheme governs the administration and management of the Charity. The current Scheme was sealed by the Charity Commission on 12 April 1989. The land to which the Scheme relates is marked as "A" on Appendix 2. The other areas of land which form part of the overall site are explained further below.

The Teversal Social Welfare Centre was originally owned by the Coal Industry Social Welfare Organisation (CISWO) and regulated by a Scheme made by the Secretary of State on 22 December 1969.

Amid rising Trust (CISWO) debts the property became vested in the Official Custodian and the 1989 Scheme vested the property in the Council as the Sole Trustee. From notation on file, it would appear the Council paid CISWO's debts. Under the Scheme CISWO retain certain rights and interests including receiving (themselves or their nominee) the proceeds of any sale to apply for the charitable purpose.

The object of the Charity is the:

***“provision and maintenance of a community centre and recreation ground for the use of the inhabitants of Teversal, Stanton Hill, Skegby and the neighbourhood thereof (the area of benefit) without distinction of political, religious or other opinions including use for meetings, lectures and classes, and for other forms of recreation and leisure time occupation, with the object of improving the conditions of life for the said inhabitants.”***

## **Governance**

The Council exercises its Trusteeship through Council, a Charities Committee and delegations to officers.

## Advisory Committee

The Scheme states that *“in the administration and management of the Charity the Trustee [the Council] shall consult the Advisory Committee.”* The Advisory Committee has no decision making powers in relation to the administration and management of the charity; decision-making falls to the Council through the mechanisms set out above.

The Advisory Committee last formally met on 27 June 2018; a meeting has been arranged for 14 June 2022.

## **The Clubs/Groups on Site**

The site has four organisations using the land and facilities and the Council has been attempting to regularise their occupation by way of a 30 years lease for a number of years (further detail below).

These occupants are:

- Teversal Football Club
- Teversal Cricket Club
- Teversal Bowls Club
- Teversal Visitor Centre

The football, cricket and bowls clubs were established and on site at the point the Council took over as Trustee. The Visitor Centre came later. The organisations each have various buildings/facilities. The Visitor Centre was built by the Council and paid for by the Council corporately, but some years ago it was acknowledged by the Council to be a Trust asset. The Cricket Club currently uses a temporary unit paid for by the Council (corporately not as Trustee).

The clubs currently pay no rent to the Council as Trustee (and never have done) and have no formal tenure of the land they occupy. They provide voluntary labour for the maintenance of the grounds. When the Trust had sufficient income, each user was granted £2k per annum by the Trust and over the years the Trust has paid for other items used by the groups, such as flood lights for the Football Club.

## **Position between 2012 and 2015**

From the time the Council took over the Trust until 2012/2013, a restaurant and public house, generally referred to as Teversal Grange (which would previously have been the Working Men's Club Building), was leased to individuals who ran the pub retaining profits for themselves. The Council charged a market rent which was around £26,000 per annum in 2012. CIWSO gave permissions for the lease in accordance with the Scheme. The rental income was all accounted for in a separate Trust account and ploughed back into the Trust. The Council (corporately) received an amount each year to nominally cover the costs of its officers (eg, asset management, finance, legal) carrying out work for the Trust (again in line with the Scheme).

When it became necessary for the Trust to bring an end to leasing arrangements around June 2013 (the lessees went out of business due to financial difficulties) the building was returned in a very

poor state of repair and, without significant investment, did not lend itself to uses other than a restaurant/pub. Due to the pub/restaurant trade at that time the Trust was unable to lease the pub to another suitable tenant and there was no realistic prospects of this changing. The Trust had insufficient funds to consider redevelopment of the building or a rebuild. At this point, the Council as Trustee had to consider options which would ensure the sustainability of the Trust but with significantly reduced Trust funds.

The Council held discussions with CISWO and the Charity Commission. The Council was in contact on and off with CISWO between 2012 and 2014. CISWO at that time were supportive of / did not object to the approach taken by the Council as Trustee. CISWO was very clear with the Council that it did not wish to take the site over from the Council at that time.

In April 2021, the Director of Legal and Governance wrote to CISWO to restart discussions regarding the site and to see confirmation that CISWO remained supportive of the Council's approach to securing the site's future. Despite reminders, CISWO has not provided a substantive response. A meeting is being sought to discuss the site further.

A series of reports were then taken to the Charities Committee, Cabinet and Council to agree a way forward.

The Council as Trustee considered ways to secure the future of the site and the clubs and believed that if the clubs could enter into leases with it, this would pave the way for the clubs to make funding applications to invest in the site, investment which the Council as Trustee on its own could not apply for and the clubs cannot apply for without security of tenure over 25 years.

As Trustee, the Council was supported in this opinion by the Lottery, the Football Association and Sport Nottinghamshire. Council officers on behalf of the Trust and these external bodies invested a significant amount of time supporting the clubs to make them ready to make funding bids. Officers also supported the clubs to update their governance structures so that they could be constituted in such a way as to be able to sign the leases.

The possibility of future investment on the site would allow the clubs to develop and expand, providing recreational activities for more of the local population. It should also allow the clubs in the future to pay a realistic rent to the Trustee, and in time allow the Trust to reduce the Trust deficit owed to the Council and to reinvest in the site.

Accordingly, the Council authorised officers to negotiate leases with the clubs. The Council also authorised officers, as an alternative, to hold discussions with other charitable organisations which might wish to take over the site.

### **Proposal for the Trust from 2016 to the Present**

Progress in relation to the proposed leases with the clubs reached an impasse. The Football Club informed the Council that it would like to enter into a dialogue about the possibility of a new charity taking over the Trust in its entirety from the Council. The Council agreed at its meeting in October 2016 to hold discussions about the proposals.

The Football Club asked the Council to meet with Mr Richard Goad who had no existing links with any of the clubs but has experience running charities to see if he could be of assistance as an independent representative. The first meeting took place in November 2016 with the Director of Legal and Governance. Since that time the Director of Legal and Governance has met (except during the pandemic) regularly with Mr Goad, Mr Scott Marsh and Mr Brian Smith MBE who have acted to bring all the Clubs together in their desire to take over the Trust site from the Council and who have been instrumental in reforming the Visitor Centre structures and governance such that this could act as the umbrella charitable organisation to potentially take over the site from the Council. The Visitor Centre has now become Teversal Sports and Recreation Trust with a trading arm (Charity Number 1155154 and Company Number 08684287).

The Trust has a current deficit of £174k, which it “owes” to the Council. The Council has effectively been, and continues to, subsidise the Trust, but clearly the Council is unable to continue with this position indefinitely and is unable to invest large sums of money to develop/improve the site. The Council’s ongoing costs for the site are around £5.2k per annum for ongoing maintenance of the site (such as the car park).

If a new trust takes over the site, the Council would expect there to be a clean break and the entity must be sustainable, self-sufficient and inclusive of all site users.

Now that the Teversal Sports and Recreation Trust is in place and in a position to potentially take over the site, the Council must consider its proposals more formally. Due to the complexities of the governance of the site and the potential future disposal to a newly formed Trust, decisions are required from Cabinet (for Executive functions), from Charities Committee (for Trust functions) and Council (for Trust and financial decisions) . These will be explained further below.

## **Land**

Whilst the area marked as “A” on Appendix 2 is subject to the Scheme, a wider area of land within the Council’s ownership either corporately or as Trustee is also used to provide recreational activities and is considered at least by the public and the Clubs to be part of the Trust. Again, the land appears to have been used as such for many years and possibly from the time of purchase.

Area “A” on Appendix 2, described as Teversal Social Welfare Centre, Carnarvon Street, Sutton-in-Ashfield is the “original” site to which the Scheme relates. There is a restriction on disposal without the Charity Commission’s consent. Any lettings or sale can only proceed under the Scheme with the permission of CISWO. Proceeds of any sale are to be paid to CISWO. **The Charities Committee will be asked to recommend to Council that it grants delegated authority to the Director of Legal and Governance and the Service Manager, Commercial Development in consultation with the Chairman of the Charities Committee to negotiate, agree terms and finalise the disposal of land marked “A”, in principle, to Teversal Sports and Recreation Trust.** It should be noted that a small area to the north of the site (exact area to be finalised in agreement with the Director of Legal and Governance and the Service Manager, Commercial Development and Teversal Sports and Recreation Trust) will be retained by the Council (corporately) where it is

directly adjacent to the land, owned by the Council, which forms part of the Teversal Trail, to enable the Council to continue to manage and maintain this area effectively for the benefit of the Trail.

The other areas of land which form part of the overall site are explained further below.

- Land marked “B” on Appendix 2 and described as land lying to the North East of Fackley Road, Teversal, being 3.62 acres was purchased on 11 June 1996 for £4,000 from British Coal Corporation (BCC). It is expressed to be **held by the Council as Trustees** of the Teversal Social Welfare Centre. There are restrictions on disposal and it is expressed to be subject to the Trusts governing the Charity. The use of the land is restricted to agricultural or recreational purposes including the construction of buildings ancillary thereto. There are restrictions on development and payment of further monies to BCC if development takes place. For a transfer to another Trust, in order to comply with the restrictions, the Council will therefore need to seek approvals from BCC (now the Coal Authority). As this land is held on Trust, **the Charities Committee will be asked to recommend to Council that it grants delegated authority to the Director of Legal and Governance and the Service Manager, Commercial Development in consultation with the Chairman of the Charities Committee to negotiate, agree terms for the removal of the restriction with the Coal Authority and to finalise the disposal of land marked “B”, in principle, to Teversal Sports and Recreation Trust.**
- Land marked “C” on Appendix 2 and described as land to the South East of Teversal Grange Complex, Carnarvon Street, Fackley Road, Teversal, being 0.95 acres was purchased on 27 February 2000 for £2,500 from Francis Henry Porter and Others by **the Council as Trustees** of the Teversal Social Welfare Centre. There are restrictions on disposal and the land is subject to a right of way and shooting, hunting and associated rights. The Council will therefore need to seek approvals for a transfer to another Trust in order to comply with the restrictions. The Council (as Trustee) will need to negotiate with the beneficiary of the restriction. As this land is held on Trust, **the Charities Committee will be asked to recommend to Council that it grants delegated authority to the Director of Legal and Governance and the Service Manager, Commercial Development in consultation with the Chairman of the Charities Committee to negotiate, agree terms for the removal of the restriction with the beneficiaries of the restriction and to finalise the disposal of land marked “C”, in principle, to Teversal Sports and Recreation Trust.**
- Land marked “D” and described as land on the North Side of Fackley Road, Teversal being 1.97 acres was purchased for £3,000 on 11 June 1996 from British Coal Corporation (BCC) by the Council with **no mention of the land being subject to a Trust**. The land is to be used for agricultural purposes only. On 12 March 2003 part of the land was sold to The Birches Building Company Limited. This land was subject to restrictions and in accordance with the terms, the Council entered into a deed of release with BCC Ltd. to allow the sale and development of the land. The Council will need to negotiate with the beneficiary of the restriction regarding the remainder of the land if the land is to be transferred to a new Trustee. This land is held by the Council corporately outside of the Trust and so the decision to dispose to another Trust requires Cabinet authority. **Cabinet is asked to authorise the Director of Legal and Governance and the Service Manager, Commercial Development**

**in consultation with the Executive Lead Member for Finance, Revenues and Benefits to negotiate and agree terms with the Coal Authority regarding the restrictions and to approve a disposal, in principle to Teversal Sports and Recreation Trust in the event all outstanding issues are resolved and CISWO and Charity Commission approvals are obtained and for the Director of Legal and Governance and the Service Manager, Commercial Development in consultation with the Executive Lead Member for Finance, Revenues and Benefits to negotiate and agree terms and finalise the disposal.**

- Land marked “E” on Appendix 2 and described as land lying to the North East of Fackley Road, Teversal and being part of Teversal Trail (a larger expanse of land forming the Teversal Trail is owned by Nottinghamshire County Council). The land was purchased on 23 July 1985 by the Council from British Railways Board for £100 and is **not subject to the Trust and is treated as separate to Teversal Grange**. As part of any future disposal of the Trust land, the Council would require public access and rights of ways to continue through the Teversal Grange site to the trail. The access rights would be explicitly secured as part of any transfer and it is **recommended the Director of Legal and Governance and the Service Manager, Commercial Development are authorised to secure access**. It is **not** intended that this land would form part of any future transfer to a new Trust.

#### **Pre-Requisites as part of a Handover of the Site**

The Teversal Sports and Recreation Trust has prepared a draft business case for this “new” Trust to take over the site from the Council. Whilst this still requires some finalising there are some assumptions within their business plan upon which the Council will need to take formal decisions:

- The business case assumes that they will take over debt free. As such, the outstanding debt the existing Trust owes to the Council would need to be written off so that no debts are transferred to the “new” Trust.

The current debt of £174k is a General Fund debt. Annual Trust expenditure from the General Fund is around £5.2k per annum (General Repairs / Asset Maintenance/ NNDR etc.). **Cabinet is asked to consider recommending that Council, in principle, agrees to write off the Trust debt.**

- The business case assumes that the Cricket Club is gifted the portacabin the Council provided a few years ago for its changing facilities, with no cost to the Club.

The portacabin was approximately £50k to purchase and had originally been purchased for another recreation ground. It is understood that the portacabin is now some years old and is no longer needed for the alternative site. **Cabinet is asked to consider gifting the portacabin to the Cricket Club.**



- The business case assumes that all land used by the Trust is included in the transfer to the new Trust including land marked “D” on Appendix 2 and described as land on the North Side of Fackley Road, Teversal being 1.97 acres. As set out above a **Cabinet decision would be needed to transfer this land.**
- The business case assumes the site is transferred fit for purpose and fully operational with all remedial works complete at no cost to the “new” Trust. These are yet to be finalised and agreed. There would be unbudgeted costs for such works if these were to be agreed which the **Council would have to approve.** It has already been made clear that remedial works will **not** include a resurfaced car park. **It will be recommended that the Director of Legal and Governance and the Service Manager, Commercial Development are authorised to finalise negotiations and to bring a report back to Charities Committee and Council to approve any such expenditure.**

### **Other Ongoing Issues - Gate to the Car Park**

- A locking gate and “shark teeth” were installed by the Council at the entrance to the site car park at the request of the clubs due to anti-social behaviour on the site. This was paid for by the Council.
- The Council opens and closes the gate in line with other recreational facilities run by the Council with seasonal variations for the time the gate is closed.
- Arrangements are in train for the clubs to hold their own keys to enable them to close the gates themselves where this is desired at a later time than the Council’s schedule allows.
- It has been made clear, that in the event the Trust is transferred the responsibility for gate opening and closing will pass from the Council in its entirety.

## **Implications**

### **Corporate Plan:**

**The Council exists to serve the communities and residents of Ashfield.**

Our priority is to understand the needs and desires of Ashfield residents, communities and businesses. The Council has a unique role, leading and enabling delivery of improvements for Ashfield as a place. We are committed to engaging more effectively with our communities and working more closely together to deliver the changes we all want to see in Ashfield.

**We will act strategically and plan for the future, working with others to bring about sustainable improvements in people’s lives.**

Whether it’s making our communities safe, our town centres more vibrant or our environment cleaner we need strong and effective partnership working to achieve our goals. We recognise that, with fewer resources, the Council, along with other public sector organisations, cannot work in isolation to effectively deliver what matters for Ashfield.

The District and our communities are changing and we recognise the need to build stronger, more resilient communities that can come together to provide help and support to each other. It also means focusing on some of our most deprived neighbourhoods to make sure that everyone has the same opportunities to achieve their goals and lead happy and healthy lives.

### **Legal:**

Specialist external legal advice has been obtained previously on behalf of the Trust in order to clarify technical issues and thereby ensure the Council as Trustee complies with legislation and can make the best decisions for the Trust's future. The recommendations contained in the report are consistent with the legal advice, the Trust and Council Constitutions. [RLD 30/05/2022]

### **Finance:** [PH 01/06/22].

<b>Budget Area</b>	<b>Implication</b>
General Fund – Revenue Budget	Subject to Council approval – write off of debt of circa £174k. Subject to the outcome of subsequent negotiations and Council approval, additional costs for remedial works may also be required.
General Fund – Capital Programme	Subject to Cabinet approval, gifting of the portacabin would cost the Council £15.2k, (the current residual value of this asset).
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

### **Risk:**

<b>Risk</b>	<b>Mitigation</b>
<p>Risks are outlined in the report; namely,</p> <ul style="list-style-type: none"> <li>a) increasing Council debt if the current situation is allowed to continue</li> <li>b) permissions not forthcoming from CISWO and the Charity Commission</li> <li>c) third parties with beneficial restrictions do not agree to vary the covenants</li> <li>d) time delays as a result of dealing with the complex set of actions</li> </ul>	<p>Cabinet, Charities and Council decisions will enable matters to progress. Further reports may be required in particular where unbudgeted for expenditure is necessary.</p> <p>Council officers will continue to meet with the new Trust representatives regularly to provide updates.</p>

### **Human Resources:**

There are no HR implications directly relating to the recommendations in the report.

## **Environmental/Sustainability**

There are no environmental/sustainability issues directly relating to the recommendations in the report.

## **Equalities:**

There are no equalities issues directly relating to the recommendations in the report.

## **Other Implications:**

None.

## **Reason(s) for Urgency**

Not applicable

## **Reason(s) for Exemption**

Not applicable

## **Background Papers**

None.

## **Report Author and Contact Officer**

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