

Report To:	CHARITIES COMMITTEE
Date:	17 MARCH 2023
Heading:	SUTTON-IN-ASHFIELD RECREATION GROUNDS 2006 CHARITABLE TRUST UPDATE
Executive Lead Member:	N/A
Ward/s:	N/A
Key Decision:	NO
Subject to Call-In:	NO

Purpose of Report

To update the Committee on the current position relating to the Sutton-in-Ashfield Recreation Grounds 2006 Charitable Trust in respect of the exchange of land, appointment of a second trustee, land valuation issues and land issues.

Recommendation(s)

- 1.To instruct a Valuer to prepare an up-to-date land valuation report in respect of the exchange of land;**
- 2. To note that a second Trustee (Roger Pratt) has been appointed to the Sutton-in-Ashfield Recreation Grounds 2006 Charitable Trust**
- 3. To register the title to the shale area at the north of the Sutton Lawn site in the names of the two Trustees, Ashfield District Council and Roger Pratt.**

Reasons for Recommendation(s)

The land exchange is the final step necessary in order to release part of The Lammas Recreation Ground from the Trust to which it is subject and to impose Trust restrictions upon part of The Sutton Lawn Pleasure Grounds.

Alternative Options Considered

(with reasons why not adopted)

Not to proceed with the land exchange – this would have serious legal consequences for the Council and the Trust and is not recommended.

Detailed Information

Sutton-In-Ashfield Recreation Grounds 2006 Charitable Trust

Members will recall from previous reports to Council and this Committee that three parcels of land were conveyed to the then Sutton-in-Ashfield Urban District Council in 1914 by the 6th Duke of Portland and the Marquess of Titchfield as a gift. The three parcels of land consisted of the Lammas Recreation Ground, Priestsic Road Recreation Ground and part of the Sutton Lawn Pleasure Ground (off the former Penn Street) all in Sutton-in-Ashfield.

In conveying the land a Charitable Trust was established requiring the parcels of land to be kept as open space and “used for recreation and pleasure ground” purposes. A clause was also entered into whereby if the land ceases to be used for recreation and pleasure ground purposes for 12 months or more then the Duke’s and Marquess’s successors could take the land back or “re-enter”. The successors are The Welbeck Estates Company Limited and The Welbeck Estates Company (Title) Limited (hereafter “Welbeck Estates”).

Trust Issues – Land Exchange

Decisions regarding the Trust land must be made by the Council as Sole Trustee of the land as separate from the Council acting on its own behalf. As part of the Charitable Trust work undertaken by the Council the Trust was formally registered as the **Sutton-in-Ashfield Recreation Grounds 2006 Charitable Trust**. Council agreed in 2008 to introduce new governance arrangements for its land held on Trust, creating the Charities Committee and setting out the terms of reference for both the Committee and Council in respect of Trusts for which the Council is the trustee. In accordance with those terms of reference (which have been updated in the interim), the Council is responsible for dealing with the approval of land transactions, with the Charities Committee making recommendations to Council and being responsible for day-to-day management and administration of the Charity.

It has previously been established that freeing the Lammas Recreation Ground from the Trust restrictions can be achieved by the Council as Trustee “swapping” restricted land with other land within its corporate ownership which is not so restricted. Part of the Sutton Lawns was identified for this purpose and various authorities were given by Council some time ago in order for this to proceed. Before the transfer could take place the “re-entry” restriction had to also be removed. Over a period of more than three years, the Council entered into negotiations with Welbeck Estates to release the “re-entry” clause. The negotiations were finally successful and the necessary legal work has been undertaken which allows the Council to proceed to deal with remaining Trust issues.

Trust Issues – Sutton Lawn

ADC as Trustee also owns the shale area at the north of the Sutton Lawn site, this site is held in a different legal capacity with different decision-making arrangements. ADC is looking to apply for funding from the Football Foundation for two of the Towns Fund projects, Kingsway Sports Hub and Sutton Lawn Sports Hub. The Football Foundation requires their lawyers to undertake a review of legal deeds and security of tenure, and if funding is approved, the Football Foundation will require a

legal charge on the legal title to the sites to be entered to protect their interest. The legal title of the shale part of the Sutton Lawn site is currently subject to a joint proprietor restriction, the effect of which would prevent any disposition (such as the proposed granting of a Charge in favour of the Football Foundation) from being registered at the Land Registry. As the land is held as an asset of the Sutton-in-Ashfield Recreation Ground 2006 Charity the title should be registered in the names of the two Trustees, ADC and Mr Pratt.

Legal Advice

In accordance with previous approvals, external legal support has been obtained in respect of the land transactions. The Council in its capacity of Trustee must have separate external legal provision as the Executive Director - Governance cannot act for both sides of the transaction. In obtaining this external advice, further stumbling blocks which make the progress of the transactions more complex have emerged. The Council as Trustee has no express legal powers to transfer the land as the Trust was established pursuant to a Conveyance. As such, the Council will need to apply to the Charity Commission for permission to transfer the land and this will also require public consultation prior to the transaction taking place.

In addition, because of its dual role in the transaction, the Council was advised that it needed to appoint a second unconflicted trustee to pass the necessary resolutions to confirm the land swap. On 25 May 2021 Mr Pratt signed a Deed of Appointment of Trustee and was appointed as an additional Trustee of the Charity.

In order to proceed with the legal processes for the proposed land exchange, external lawyers have advised that an up-to-date land valuation report should be obtained from a valuer in order to comply with the Charities Act 1993 (which has since been replaced with the Charities Act 2011). A new report needs to be obtained to reflect current land values and will be submitted to the Charity Commission by the external lawyers when applying for permission to transfer to land. Mr Pratt will also be asked to approve the instruction of a new up-to-date land valuation report. Further reports will be brought back to this Committee and to Council to report progress on the land transfer.

In order to proceed, it is suggested that Committee approves the following:

1. To instruct a Valuer to prepare an up-to-date land valuation report in respect of the exchange of land;
2. To note that a second Trustee (Roger Pratt) has been appointed to the Sutton-in-Ashfield Recreation Grounds 2006 Charitable Trust.
3. To register the title to the shale area at the north of the Sutton Lawn site in the names of the two Trustees, Ashfield District Council and Roger Pratt.

Implications

Corporate Plan:

Ensure the best use of our assets

Legal:

Legal issues are set out in the report. [RLD 06/03/2023]

Finance: Costs of the revaluation will be met from the Legal reserve. [PH 08/03/2023].

Budget Area	Implication
General Fund – Revenue Budget	See above
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation

Human Resources:

No HR implications contained in the report [KB 06.03.23]

Environmental/Sustainability

There are no environmental/sustainability issues associated with the recommendations in the report

Equalities:

There are no equalities issues associated with the recommendations in the report

Other Implications:

none

Reason(s) for Urgency

n/a

Reason(s) for Exemption

n/a

Background Papers

none

Report Author and Contact Officer

Louise Ellis, Assistant Director - Legal
louise.ellis@ashfield.gov.uk
01623 457310

Sponsoring Director

Ruth Dennis
EXECUTIVE DIRECTOR - GOVERNANCE
ruth.dennis@ashfield.gov.uk
01623 457009