

Agenda for a meeting of the Regulatory and Appeals Committee (Meeting as Trustees) to be held on Thursday, 29 February 2024 at 10.45 am or on the rising of the earlier meeting of the Committee whichever is the later in Committee Room 1 - City Hall, Bradford

Members of the Committee – Councillors

LABOUR	CONSERVATIVE	GREEN
Shafiq (Chair) Alipoor Mullaney Lal	Brown Sullivan	Edwards

Alternates:

LABOUR	CONSERVATIVE	GREEN
Engel I Hussain S Hussain Jamil	Pollard Glentworth	Love

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.

From:

To:

Jason Field Interim Director of Legal and Governance Agenda Contact: Yusuf Patel Phone: 07970 411923/07970 411623 E-Mail: yusuf.patel@bradford.gov.uk/jane.lythgow@bradford.gov.uk

A. PROCEDURAL ITEMS

1. ALTERNATE MEMBERS (Standing Order 34)

The Director of Legal and Governance will report the names of alternate Members who are attending the meeting in place of appointed Members.

2. DISCLOSURES OF INTEREST

(Members Code of Conduct – Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

(1) Members must consider their interests, and act according to the following:

Type of Interest	You must:
Disclosable Pecuniary Interests	Disclose the interest; not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak but otherwise not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being
	(a) to a greater extent than it affects the financial interests of a majority of inhabitants of the affected ward, and
	(b) a reasonable member of the public knowing all the facts would believe that

it would affect your view of the wider public interest; in which case speak on the item <u>only if</u> the public are also allowed to speak but otherwise not do not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.
- (4) Officers must disclose interests in accordance with Council Standing Order 44.

3. MINUTES

Recommended –

That the minutes of the meeting of the Trustees held on 30 November 2023 be signed as a correct record.

(Yusuf Patel – 07970 411923 / Jane Lythgow 07970 411623)

4. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Yusuf Patel – 07970 411923 / Jane Lythgow 07970 411623)

B. BUSINESS ITEMS

5. MEMBERSHIP OF SUB-COMMITTEES

The Committee will be asked to consider recommendations, if any, to appoint Members to Sub-Committees of the Committee.

(Yusuf Patel – 07970 411923 / Jane Lythgow 07970 411623)

6. THE CHARLES SEMON EDUCATIONAL FOUNDATION TRUST 1 - 8 AND THE ALLOCATION OF GRANT FUNDING

The Strategic Director of Children's Services will submit a report (**Document "I"**) which provides an update on the current position and intended grant allocations from The Charles Semon Educational Foundation Trust.

Established in 2003, following sale of a convalescent home and associated land, the income generated from this sale, as stipulated in the deeds of the then owners, was split between Bradford Girls School, Bradford Grammar School and the Local Education Authority. This report focuses on the Local Education Authority element of the fund.

Recommended –

- (1) That members acknowledge and approve the proposals outlined in Appendix A to Document "I" for the allocation of grant funding from The Charles Semon Educational Foundation Trust for 2023-24 and 2024-25.
- (2) That the members receive an updated report in February 2025 that reports back to the committee the outcomes from the proposal and that further outlines the intended allocation of grant funding from The Charles Semon Educational Foundation Trust for the future.

(Heather Wilson/ Sharon Sanders - 01274 431781)

7. THE PEEL PARK CHARITY

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The Strategic Director of Place will submit a report (**Document "J**") which request Trustees of The Peel Park Charity (Charity Registration #523509) to hold a music event in Peel Park and whether, given the restriction on the sale of alcohol in the park, whether they agree to alcohol being consumed there.

Recommended –

The views of the Trustees on the options set out in Option 9 to Document "J" are requested.

(Michael Priestley – 01274 432685)



Report of the Strategic Director of Children's Services to the meeting of Regulatory and Appeals Committee to be held on 29th February 2024

Subject:

The Charles Semon Educational Foundation Trust and the allocation of grant funding.

Summary statement:

This report provides an update on the current position and intended grant allocations from The Charles Semon Educational Foundation Trust.

Established in 2003, following sale of a convalescent home and associated land, the income generated from this sale, as stipulated in the deeds of the then owners, was split between Bradford Girls School, Bradford Grammar School and the Local Education Authority. This report focuses on the Local Education Authority element of the fund.

Director Marium Haque Childrens Services

Report Contacts: Heather Wilson/ Sharon Sanders Phone: (01274) 431781 Email:<u>heather.wilson@bradfordcft.org.uk</u> <u>sharon.sanders@bradford.gov.uk</u> Portfolio:

Overview & Scrutiny Area: Regulation and Appeals Committee

1. SUMMARY

1.1 This report provides an update on the current position and intended grant allocations from The Charles Semon Educational Foundation Trust.

Established in 2003, following sale of a convalescent home and associated land, the income generated from this sale, as stipulated in the deeds of the then owners, was split between Bradford Girls School; Bradford Grammar School and the Local Education Authority. This report focusses on the Local Authority element of the fund.

2. BACKGROUND

- 2.1 City of Bradford Metropolitan District Council are Trustees of The Charles Semon Educational Foundation Trust (Charity Number 1095912). The Trustee function is devolved to the Regulatory and Appeals Committee of the Council.
- 2.2 The object of the foundation is to promote the education of persons who:
 - 1. Are under the age of 25 and
 - 2. Are in need of financial assistance and
 - 3. Are resident in the area of benefit (defined as Bradford Metropolitan District) and
 - 4. Have attended, at any time, as a pupil of any school within the area of benefit.

The proposals outlined in this report fully align and further the charitable purposes of The Charles Semon Educational Foundation Trust.

- 2.2 The Charles Semon Educational Foundation Trust has previously looked to allocate grant funding from income from investments and interest on bank balances. However, for a number of years (in part due to Covid), the Trust was not able to allocate grant funding, so the income has accumulated resulting in an increased amount of funds being available for use in this financial year (2023-24) and the next financial year (2024-25), after which the funds available each financial year will reduce.
- 2.3 The delay in the allocation of grant funding of The Charles Semon Educational Foundation Trust has been communicated to The Charity Commission, who recognised the impact of Covid and of the need for a recovery period. The Charity Commission acknowledged the pause in grant allocations and agreed to review grant allocations within the next 12 months to ensure we are bringing this back on track.
- 2.4 There has been a long-standing intention to allocate grant funding to further the opportunities for young people who had in some way been disadvantaged in education and who had missed mainstream opportunities, ensuring these young people are given priority in the delivery of activity provided under the allocation of this funding.

EQUALITY & DIVERSITY:

The allocation of grant funding from The Charles Semon Educational Foundation Trust, whilst complying with the charity objectives, will ensure, demonstrate, and have due regard to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by or under the Equality Act 2010
- Reduce inequalities in educational attainment
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between people who share a relevant protected characteristic and persons who do not share it

3. OTHER CONSIDERATIONS

3.1 There are no other considerations in relation to this grant funding allocation.

4. FINANCIAL & RESOURCE APPRAISAL

4.1 The total net assets of The Charles Semon Educational Foundation Trust as at 31.03.2023 were £714,982.81, including accrued income from investments and interest on bank balances of £312,672.08.

The income from investments and interest on bank balances accrued in the period from 31.03.2004 to 31.03.2023 was £256,702.84, and further income from investments and interest on bank balances will be received in 2023-24 and 2024-25.

The proposal for the allocation of grant funding that is included in Appendix A outlines total expenditure of £85,099 for the financial year 2023-24 and £83,000 for the financial year 2024-25.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

5.1 There is no significant risk arising out of the allocation of grant funding from the Trust Fund to local organisations.

6. LEGAL APPRAISAL

6.1 The Trustees will need to be satisfied that the applications to the trust are being awarded in the best interest of the Trust and offer value for money.

In addition, the Trustees must consider the proposal in terms of what is in the best interests of the charity. The Charity Commission Guidance (The essential trustee: what you need to know, what you need to do", Updated 3 May 2018) advises that "Acting in the charity's best interest means always doing what the trustees decide will best enable the charity to carry out its purposes, both now and for the future."

The object of the charity is: to promote the education of persons who are under the age of 25; and are in need of financial assistance; and are resident in the area of

benefit (defined as "Bradford Metropolitan District"); and have at any time attended, as a pupil, any school within the area of benefit.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

7.1.1 There are no issues for sustainability from the allocation of grant funding from the Trust Fund.

7.2 TACKLING THE CLIMATE EMERGENCY IMPLICATIONS

7.2.1 There are no impacts on greenhouse gas emissions.

7.3 COMMUNITY SAFETY IMPLICATIONS

7.3.1 There are no community safety implications from the allocation of grant funding from the Trust Fund.

7.4 HUMAN RIGHTS ACT

7.4.1 There are no implications for the Human Rights Act with the allocation of grant funding from the Trust Fund.

7.5 TRADE UNION

7.5.1 There are no implications for Trade Unions.

7.6 WARD IMPLICATIONS

7.6.1 There are no ward implications.

7.7 AREA COMMITTEE LOCALITY PLAN IMPLICATIONS

7.7.1 There are no Area Committee Locality Plan implications – the proposals support the statutory guidance for local authorities in "Securing Sufficient Services to Support Young People's Well-being".

7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

7.8.1 The Proposals outlined will directly benefit young people, opening new opportunities to increase learning and provide experiences outside of the classroom. Specifically delivered in an outdoor education environment, the young people who participate in these will be identified from across the Bradford district, in line with the criteria of The Charles Semon Educational Foundation Trust.

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

7.9.1 There are no implications arising from privacy impact assessment. The method employed to manage the proposals and reporting of activity of the Trust-supported activity will pay due regard to GDPR.

8. NOT FOR PUBLICATION DOCUMENTS

- 8.1 None
- 9. OPTIONS
- 9.1 None

10. RECOMMENDATIONS

- 10.1 That members acknowledge and approve the proposals outlined in Appendix A for the allocation of grant funding from The Charles Semon Educational Foundation Trust for 2023-24 and 2024-25.
- 10.2 That the members receive an updated report in February 2025 that reports back to the committee the outcomes from the proposal and that further outlines the intended allocation of grant funding from The Charles Semon Educational Foundation Trust for the future.

11. APPENDICES

11.1 Appendix A – The outline proposal for allocation of grant funding from The Charles Semon Educational Foundation Trust for the delivery period 2023-2025

12.1 Background Documents

None

Appendix A

Outline Proposal for Allocation of Grant Funding from The Charles Semon Educational Foundation Trust for the delivery period of 2023-2025

Proposal

The proposal outlined is one that sees a delivery collaboration between the Bradford Children and Families Trust and City of Bradford Metropolitan District Council's Childrens Services Department. This collaboration ensures that the delivery is achievable; able to be monitored; evidenced for charitable purposes; and that the distribution of the offers are far reaching to ensure the widest possible access for eligible beneficiaries whilst remaining committed and aligned to the objectives of the charity.

The outline proposals are:

<u>2023-2024</u>

1. Provision of 8 residential experiences for cohorts of up to 12 young people with additional needs, learning disabilities, poor mental health or other identified vulnerabilities that means they have missed educational learning opportunities outside of the classroom in an outdoor environment.

Delivery timetable for these is between December 2023 and March 2024.

Staffing is provided at the appropriate level to enable young people to fully engage with the outdoor offer – this is envisaged to be at least 3 experienced practitioners who are well-known to the visiting group and who already have a relationship with the young people who are to take part in the experience.

Staff at the outdoor education centre of Buckden House will build a bespoke programme of activity to enable all group members to take part in a shared experience for the duration of the residential experience.

Residential experiences would run from Friday evening to Sunday late afternoon and would include activity offers across all parts of the weekend – as outlined in the table below.

Friday	Saturday	Saturday	Saturday	Sunday	Sunday
evening	morning	afternoon	evening	morning	afternoon
Activity	Activity	Activity	Activity	Activity	Activity
provided by	provided by	provided by	provided by	provided	provided
Youth Work	outdoor	outdoor	Youth Work	by	by
practitioners /	education	education	practitioners /	outdoor	outdoor
Support staff	specialists	specialist	Support staff	education	education
				specialists	specialists

Accommodation would be at the outdoor education centre Buckden House and would be a self-catering arrangement. The provision of self-catering boxes for young people will ensure ease of use – this will include Breakfast boxes, packed

meals and snacks throughout the residential experience. The Saturday evening meal will be a provided as a hot meal suitable to meet the dietary requirements of the visiting groups.

Transport will be provided to the young people to travel as one group – in the main this would be provided in the form of a minibus with a separate vehicle for the transportation of luggage and personal items.

Equipment required to take part in the outdoor experiences will be provided by the outdoor education centre, ensuring that they have adequate specialist equipment to enable the individuals participating to share the experiences as one group, and without any segregation.

Bedding will also be provided by the outdoor education centre.

Buckden House has extensive grounds that are fully accessible and has low level play equipment on site that can be utilised by the visiting groups.

There are also localised trails and walks that can be used, including a photo trail of the local village.

Description	Cost
Cost of outdoor learning / use of Buckden House and instructional staff x 2	£4,000
Additional instructional staff member to meet bespoke needs	£300
Youth and support work staffing x 3	£1,650
Additional support staff member to meet bespoke needs (signers etc)	£300
Transport – minibus and van and fuel with driver (Specialist transport as reqd)	£750
Catering package for 18 people (young people and staffing)	£1,000
Additional resources to support engagement (balls with bells / tactile maps etc)	£600
Laundry hire / cleaning service	£310
Total cost per residential	£8,910

X 8 residentials

Total £71,280

2. Alongside this we would look to provide a number of single day activities for young people for who are not yet ready to spend an overnight away from the home.

This would see smaller groups of 5-6 young people coming together to share an outdoor learning experience. We would be looking to have more localised delivery to reduce the impact the journey time would take on the activity delivery and to make this more accessible for young people who are less able to manage longer journeys.

Each day would require 3 staff members to support the young people, who we would target due to their complexity of support need, to work alongside outdoor instructional staff.

Description	Cost
Instructional staff member to meet bespoke needs	£300
Youth and support work staffing x 3	£650
Additional support staff member to meet bespoke needs (signers etc)	£150

Transport – minibus and van and fuel with Driver (Specialist transport as reqd)	£120
Catering package	£150
Additional resources to support engagement (balls with bells / tactile maps etc.)	£100
Total Cost per specialist day	£1,470

X 6 delivery days

Total £8,820

3. We are proposing to purchase a "para trekker", which is an off-road, all-terrain wheelchair that will ensure long-term and increased accessibility for a wider cohort of children and young people who visit the centre in the future. Cost of such equipment and lack of availability of this sort of equipment in the centre is one of the reasons some children have previously not been able to fully engage alongside their peers.

Total £4,999

Delivery of outdoor learning packages for 2023-24 would total £85,099.

2024-2025

During 2024-25 we would look to replicate the offer of outdoor learning packages, as outlined above, identifying new cohorts of young people to participate in the 2024-25 offers. We woud intend to offer both single day and full residential / overnight experiences as outlined above.

We would not envisage the need for additional equipment as any items used in delivery in the 2023-24 period would be able to be reallocated to support 2024-25 delivery.

Our planned delivery for 2024-25 would total £83,000 across the programme delivery which replicates costs for 2023-24, plus a 4% increase.

Heather Wilson Youth Services Development Manager Bradford Children and Families Trust Sharon Sanders Programme Manager City of Bradford Metropolitan District Council

December 2023



Report of the Strategic Director of Place to the meeting of Regulatory and Appeals sitting as Corporate Trustees to be held on 29th February 2024

Subject:

Request to the Trustees of **The Peel Park** Charity (Charity Registration # 523509) to hold a music event in Peel Park and whether, given the restriction on the sale of alcohol in the park, whether they agree to alcohol being consumed there.

Summary statement:

Peel Park is held in charitable trust. The name of the registered charity at the Charity Commission is 'The Peel Park' (charity number: 523509). The charity's governing document is the 1863 Conveyance, referred to below, which contains the charitable objects/purposes. The main purposes are:-

"1.PUBLIC WALK, PARK AND PLAYGROUND. 2. UNTIL (AND INSOFAR AS THE SAME SHALL NOT BE) REQUIRED TO PURCHASE FURTHER LAND TO BE HELD FOR THE CHARITY, THE CLEAR INCOME THEREOF SHALL BE APPLIED IN OR TOWARDS THE MAINTENANCE REPAIR AND IMPROVEMENT OF THE LAND AND THE BUILDINGS THEREON BELONGING TO THE CHARITY"

City of Bradford Metropolitan District Council ("the Council") is the corporate charity trustee who is responsible for the general control and maintenance of the administration of the charity 'The Peel Park'. All discussions/decisions are made through the Regulatory and Appeals Committee (R&A Committee) who discharge the functions of the Council in its capacity as charitable trustee and make decisions under the Charities Act 2011. The R&A Committee (as Trustees) need to be satisfied that any decision which affects the charity is in the best interests of the charity and not the Council.

EQUALITY & DIVERSITY:

The report supports the Bradford District Equality Objectives and Equality Plan 2021 – 2025

- Improving the way we work to help everyone
- Working better with our communities

David Shepherd Strategic Director of Place

Report Contact: Michael Priestley Administrator to the Trust Phone: (01274) 432685 E-mail: <u>mick.priestley@bradford.gov.uk</u> Portfolio: Healthy People and Place

Overview & Scrutiny Area: Regeneration and Environment

1. SUMMARY

Request to the Trustees of **The Peel Park** Charity (Charity Registration # 523509) to hold a music event in Peel Park and whether, given the restriction on the sale of alcohol in the park, whether they agree to alcohol being consumed there.

2. BACKGROUND

Officers from Bradford 2025 City of Culture have approached the Trustees with regard to holding a concert in Peel Park. The event will be held over three days, and it is hoped to attract up to 90,000 visitors over that time. The organisers of the event will require the site for up to a month spread either side of the weekend to allow for the build up and take down of the event infrastructure. The event will be a free event, however income will be made from food concessions and alcohol sales to ensure the event is viable.

The Council is the registered proprietor of Peel Park Bradford, which is registered under title number WYK 914293, as charity trustee.

Referred to in the register of title number WYK914293 is a Conveyance dated 7th November 1863 made between (1) William Brook Addison and Henry Brown and (2) The Mayor Aldermen and Burgesses of the Borough of Bradford. Peel Park was conveyed to the Council on trust as therein provided in the 1863 Conveyance which contains various restrictions/provisos on the use of Peel Park in some way for the benefit of another's land.

The 1986 Conveyance, inter alia, contains a proviso as follows:

PROVIDED ALWAYS that on **no occasion and on no day** in the year shall it be lawful for the said corporation or their successors to **sell or permit any person or persons to sell intoxicating liquors** of any kind whatever at in or upon the said Peel Park or any part thereof or in or at any refreshment room or other building therein or thereon or in any part thereof.

Moreover, the 1926 City of Bradford Illustrated Handbook of the Bradford City of Parks, Recreation Grounds and Open Spaces records the following:

....was conveyed to the corporation by a deed dated 7th November 1863, In addition to the usual recitals and operative conveyancing clauses, the deed embodied the following Trusts: " That on no occasion, and on no day in the year, shall it be lawful for the corporation to sell, or permit any person or persons to sell, intoxicating liquors of any kind whatever at, in, or upon the park or any part thereof, or in or at any Refreshment Room or other building therein or thereon, or any part thereof."

However, as part of the City of Culture 2025 the Council wishes to hold a concert in Peel Park which needs to have alcohol sales to make it viable. The concert would be over the May bank holiday weekend 2025.

Accordingly, the Council, as charitable trustee, requires specialist advice in this matter to enable the Trustees to make an informed decision regarding the concert. To that end, Counsel has been engaged, at no cost to the charity, and are in attendance today to advise Trustees and answer any questions.

3. OTHER CONSIDERATIONS

- The Trustees must also consider whether holding such an event is in the best interest of the trust and its outcomes.
- If financial recompense should be requested, and to what level that should be, to be used to deliver the outcomes of the charity.
- The Trustees must consider if the closing of part of park is acceptable to the trust document.

The event usually takes place on the final bank holiday in May. The site will be required for around 1 month in total for set up and take down. They concert will look to accommodate 30K people per day on Friday (TBC), Saturday and Sunday.

4. FINANCIAL & RESOURCE APPRAISAL

The only financial issues arising from this request is the level of recompense that may be levelled at the applicant for the use of the park.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

The Committee must consider the request in terms of what is in the best interests of the charity. Charity Commission Guidance advises that this means. "Acting in the charity's best interest's means always doing what the trustees decide will best enable the charity to carry out its purposes, both now and for the future."

6. LEGAL APPRAISAL

The Trustees, at no expense to the Charity, have engaged Counsel who is conversant with Charity Law and have sought the following advice:

1. Advise the charitable trustees generally in the matter in the light of the above

2. Whether the 1863 Conveyance in any way restricts/prohibits/fetters the Council's intention to hold a concert in Peel Park and the need to have alcohol sales to make it viable.

3. If there are restrictions which fetter the Council's proposed intentions, whether (i) such restrictions are still enforceable and by whom and (ii) whether it would be possible to remove the same

4. Whether there are any other charitable/open space implications which would affect the Council's intended use of the property.

5. If Alcohol could be sold within the areas of the park that aren't covered by the Charitable covenant and then consumed within the charitable demise.

The full advice from Counsel is attached as **Appendix 1** appended to this report however in summary the advice received.

The Council is required to make a decision in accordance with duties under the Charities Act 2011. This includes an obligation to perform and observe all conditions and directions in the governing document.

The governing document is **crystal** clear. There is an absolute prohibition regarding the sale of alcohol whether by the owner of the land or permitting another person to sell alcohol. The choice of the language used is emphatic, precise and repetitive. The Council as Trustee cannot use the Park to sell or allow any other person to sell alcohol. This applies to the whole of the demised land.

These obligations are binding upon the Council as Trustee and could be enforced by the Charity Commission. Acting in breach of the governing document is not permissible and the Council would be in breach of duty as Trustee if it did so.

In the event that the Council wishes to change the governing document of the charity it can make an application to the Charity Commission. However, that application would appear to be challenging in circumstances where the governing document is both clear and emphatic.

"Following receipt of my advice as set out above the client has asked whether it can sell alcohol outside the demise and allow it to be consumed in the venue."

In my view the covenant is clear that the prohibition is directed towards the sale of alcohol and not the consumption of it. It would have been entirely possible to prohibit the sale or consumption of alcohol on Peel Park but this is not what the governing instrument provides. Given how emphatic and detailed the prohibition was regarding the sale of alcohol it would be expected that the additions of words "or consumption" would have been included had that been the intention.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

There are no Sustainability Issues

7.2.1 TACKLING THE CLIMATE EMERGENCY IMPLICATIONS

There are no implications for tackling the climate emergency.

7.3 COMMUNITY SAFETY IMPLICATIONS

Full event plans would be required and submitted to the Councils Safety Advisory Group (SAG)

7.4 HUMAN RIGHTS ACT

Not applicable

7.5 TRADE UNION

There are no trade union implications.

7.6 WARD IMPLICATIONS

Ward Cllrs, Officers and the wider community will be consulted should the event take place.

7.7 AREA COMMITTEE LOCALITY PLAN IMPLICATIONS

Not applicable at this stage

7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

Not applicable at this stage

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

- 1. Disregard the wording within the Peel Park charity conveyance and agree to the event taking place and sell alcohol in the demise of the Peel Park charity land.
- 2. Apply to the Charity Commission to change the wording and intent of the conveyance to allow the sale / consumption of alcohol in Peel Park,
- 3. To agree to the sale of alcohol on the non-demised land as indicated on the attached plan, Appendix 2 and consumed within Peel Park.

In addition, consider

4. To agree to the concert being staged in Peel Park subject to a reasonable level of recompense being agreed with the event organisers.

10. **RECOMMENDATIONS**

The views of the Trustees on the options set out in Option 9 of this report are requested.

11. APPENDICES

- 1. Full advice from Counsel
- 2. Map of Peel Park showing demised area.

12. BACKGROUND DOCUMENTS

- 1. Copy of the original conveyance dated 7th November 1863 made between (1) William Brook Addison and Henry Brown and (2) The Mayor Aldermen and Burgesses of the Borough of Bradford.
- 2. Title number WYK 914293 Peel Park Land Registry registration Document
- 3. R&A Report on Trustee Responsibilities Oct 2014

IN THE MATTER OF THE PEEL PARK

UPDATED ADVICE

Introduction

- I am instructed to advise City of Bradford Metropolitan District Council ("the Council") in its capacity as charitable trustee of the charity 'The Peel Park' (charity number: 523509). A concert is proposed in in Peel Park which will require alcohol sales and I am asked to advise whether this is permissible. Further to the provision of my advice I have been asked to consider a further matter namely whether the Council can sell alcohol elsewhere and people can then bring it onto the Park.
- I am grateful to those instructing me for the helpful summary background which I have incorporated into this advice. The Council as charitable trustee requires specialist advice in this matter to enable the trustees to make an informed decision regarding the concert. In particular I am asked:

(1) to advise the charitable trustees generally in the matter in the light of the circumstances in my instructions;

(2) whether the 1863 Conveyance in any way restricts/prohibits/fetters the Council's intention to hold a concert in Peel Park and the need to have alcohol sales to make it successful;

(3) if there are restrictions which fetter the Council's proposed intentions, whether (i) such restrictions are still enforceable and by whom and (ii) whether it would be possible to remove the same;

(4) whether there are any other charitable/open space implications which would affect the Council's intended use of the property.

Background

3. The Council is the registered proprietor of Peel Park Bradford ("**the Charity**"), which is registered under title number WYK 914293, as charity trustee. Referred to in the register of title number WYK914293 is a Conveyance dated 7 November 1863 made

between (1) William Brook Addison and Henry Brown and (2) The Mayor Aldermen and Burgesses of the Borough of Bradford Peel Park was conveyed to the Council on trust as therein provided in the 1863 Conveyance which contains various restrictions/provisos on the use of Peel Park in some way for the benefit of another's land.

- 4. The charity's governing document is the 1863 Conveyance which contains the charitable objects/purposes. The 1986 Conveyance, inter alia, contains a proviso as follows: "*PROVIDED ALWAYS that on no occasion and on no day in the year shall it be lawful for the said corporation or their successors to sell or permit any person or persons to sell intoxicating liquors of any kind whatever at in or upon the said Peel Park or any part thereof or in or at any refreshment room or other building therein or thereon or in any part thereof.*"
- 5. Moreover the 1926 City of Bradford Illustrated Handbook of the Bradford City of Parks, Recreation Grounds and Open Spaces records the following: "…was conveyed to the corporation by a deed dated 7th November 1863, In addition to the usual recitals and operative conveyancing clauses, the deed embodied the following Trusts: " That on no occasion, and on no day in the year, shall it be lawful for the corporation to sell, or permit any person or persons to sell, intoxicating liquors of any kind whatever at, in, or upon the park or any part thereof, or in or at any Refreshment Room or other building therein or thereon, or any part thereof."
- 6. The Council is the corporate charity trustee who is responsible for the general control and maintenance of the administration of the charity 'The Peel Park'. All discussions/decisions have to go through the Regulatory and Appeals Committee (R&A Committee) who discharge the functions of the Council. The R&A Committee need to be satisfied that any decision which affects the charity is in the best interests of the charity and not the Council.
- As part of the City of Culture 2025 the Council wishes to hold a concert in Peel Park which needs to have alcohol sales to make it successful. The concert would be over the May bank holiday weekend 2025.

Advice

- 8. The Council is required to make a decision in accordance with duties under the Charities Act 2011. This includes an obligation to perform and observe all conditions and directions in the governing document.
- 9. The governing document is <u>crystal</u> clear. There is an absolute prohibition regarding the sale of alcohol whether by the owner of the land or permitting another person to sell alcohol. The choice of the language used is emphatic, precise and repetitive. The Council as Trustee cannot use the Park to sell or allow any other person to sell alcohol. This applies to the whole of the demised land.
- 10. These obligations are binding upon the Council as Trustee and could be enforced by the Charity Commission. Acting in breach of the governing document is not permissible and the Council would be in breach of duty as Trustee if it did so.
- 11. In the event that the Council wishes to change the governing document of the charity it can make an application to the Charity Commission. However, that application would appear to be challenging in circumstances where the governing document is both clear and emphatic.

Further Advice

- 12. Following receipt of my advice as set out above the client has asked whether it can sell outside the demise and allow it to be consumed in the venue.
- 13. In my view the covenant is clear that the prohibition is directed towards the sale of alcohol and not the consumption of it. It would have been entirely possible to prohibit the sale or consumption of alcohol on Peel Park but this is not what the governing instrument provides. Given how emphatic and detailed the prohibition was regarding the sale of alcohol it would be expected that the additions of words "or consumption" would have been included had that been the intention.
- 14. I have considered the analogy of covenants in leases and note that Woodfall considers the distinction between the sale of alcohol on premises and elsewhere in the context of landlord and tenant obligations at 11.215. The paragraph includes the following: *There*

is a conflict of authority whether a covenant not to use a house as a beer-shop or publichouse is broken by the sale of beer not to be drunk on the premises under an off-licence.⁷ A covenant not to use property as a beer-shop is broken by the sale of beer for consumption off the premises." The case cited is Sood v Barker [1991] 1 E.G.L.R. 87.

15. In *Bishop of St. Albans and Others v Battersby* (1878) 3 Q.B.D. 359 the case concerned a lease in which there was a covenant not to permit any house erected on the land as a beershop. The assignee of the lease carried out the trade as a grocer and sold beer. The issue was whether there was a breach of covenant. It was held that the covenant was broad enough to cover sale of alcohol as well as consumption on the premises. However, as noted by Woodfall:

"Carrying on the business of a "retail brewer" has been held to be no breach of a covenant not to carry on the business of a common brewer or retailer of beer. A covenant made in 1854 not to use the trade or calling of a seller by retail of "wine, beer, spirits or spirituous liquors "was held not to be broken—or at any rate broken so far as to justify an injunction—by the sale of wine and spirits in bottle by a grocer, under the Revenue (No. 1) Act 1861, on the ground that, at the time the covenant was made, this would not have been a selling by retail. A covenant not to use or follow the trade of a publican has been held not to be broken by trading on the premises as a licensed spirit grocer. But in another case the tenant of a theatre bought land adjoining the theatre which was subject to a covenant that the trade of an innkeeper, victualler, or retailer of wine, spirits or beer should not be carried on there. On this land he erected a building which afforded convenient egress from the theatre, but on each floor of which he set up a counter for selling wine, spirits and beer. The counter could not be approached from the outside, but any person who paid for admission to a play at the theatre could buy refreshments there. The tenant of the theatre was restrained at the suit of purchasers of other lots bought from the same vendors. The expression "vintner" in such a covenant has been held to apply to a person selling wine not to be drunk on the premises."

16. Notwithstanding the range of authorities regarding breach of covenant it is my view that it would have been perfectly simple for the governing instrument to have provided for a prohibition against the consumption of alcohol or permitting the consumption of alcohol in the park. The governing document cannot control what the Council do elsewhere. It can only prohibit the consumption of alcohol on the demised land. In my view a proper construction of this document is that it does not prohibit the consumption of alcohol on the land and cannot control what the Council does elsewhere. 17. Accordingly, I am of the view that the client can sell alcohol outside the demise and allow it to be consumed in the venue (subject to addressing matters of licencing). However, I must emphasise that this is my opinion. I consider that there would be a very good prospect of the Council arguing that it was not in breach of the governing document but that is not a certainty.

Conclusion

18. In these circumstances I consider that the Council is bound to act in accordance with the governing document unless or until it is varied. However, I do not consider that the governing instrument prohibits the consumption of alcohol on the demised land. If I can assist further those instructing should not hesitate to contact me.

> Kerry Bretherton KC 11 December 2023

IN THE MATTER OF THE PEEL PARK

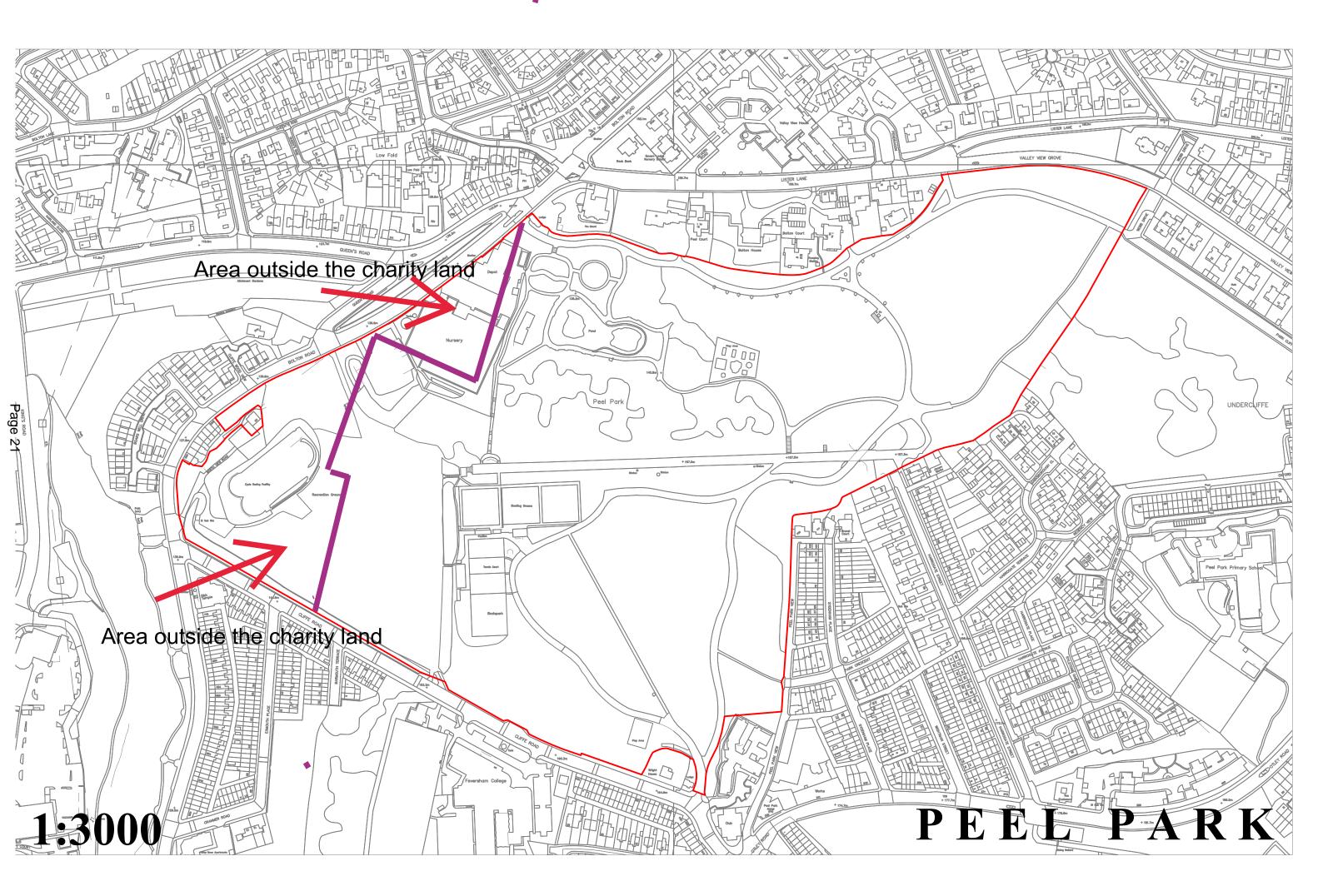
ADVICE

City of Bradford Metropolitan District Council Department of Corporate Resources

Room 301, 3rd Floor, City Hall, Bradford, BD1 1HY

Denise Mawbey Legal Officer Property Commercial and Development Mobile: 07582 102274

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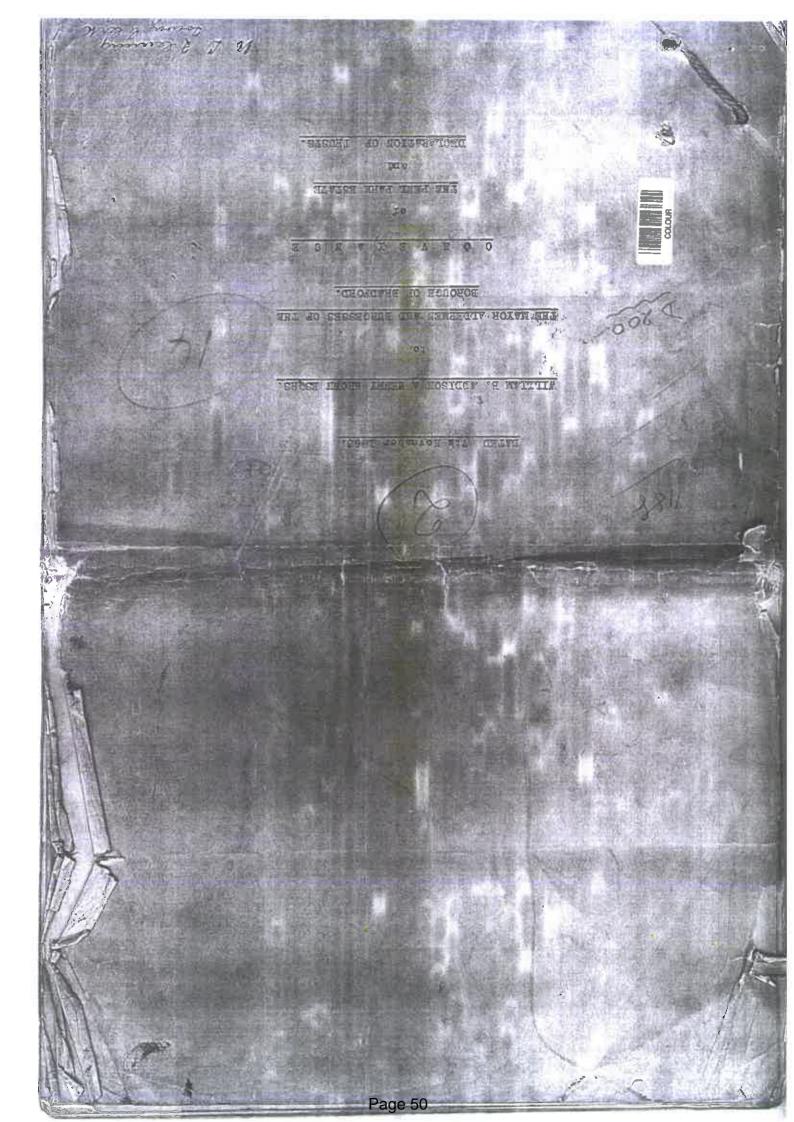
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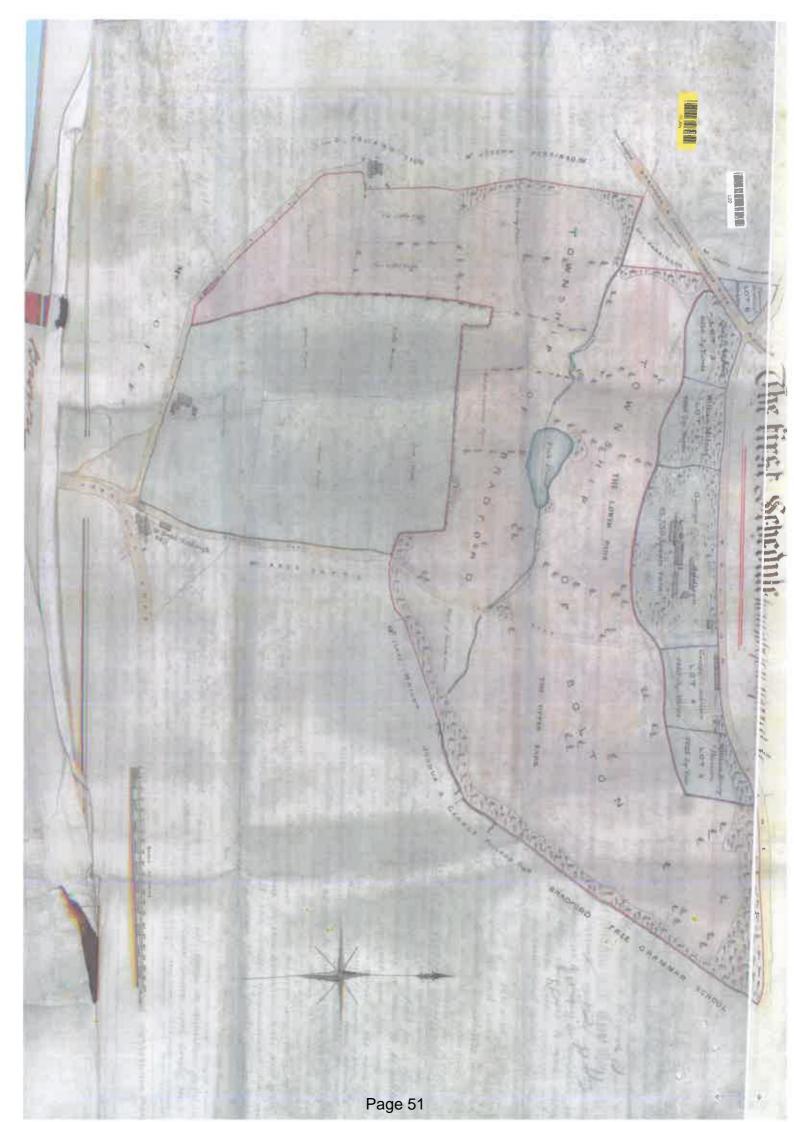
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The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

HM Land Registry



Official copy of register of title

Title number WYK914293 Edition date 03.01.2014

- This official copy shows the entries on the register of title on 28 SEP 2017 at 14:42:54.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 28 Sep 2017.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Nottingham Office.

A: Property Register

This register describes the land and estate comprised in the title.

WEST YORKSHIRE : BRADFORD

The Freehold land shown edged with red on the plan of the above title 1 filed at the Registry and being Peel Park, Bolton Road, Bradford.

NOTE: The land tinted green on the title plan is not included in the title.

- The land tinted pink on the title plan has the benefit of the rights 2 granted by but is subject to the rights reserved by the Conveyance dated 7 November 1863 referred to in the Charges Register.
- 3 The land tinted blue on the title plan has the benefit of rights granted by but is subject to rights reserved by a Conveyance dated 2 December 1865 in identical terms to those contained in the Conveyance dated 7 November 1863 referred to in the Charges Register.
- (09.11.2011) A new title plan based on the latest revision of the 4 Ordnance Survey Map has been prepared.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- PROPRIETOR: CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL of City 1 Hall, Bradford, West Yorkshire BD1 1HY.
- A Conveyance of the land tinted purple on the title plan dated 25 April 2 1894 made between (1) The Bradford Third Equitable Benefit Building Society (2) Daniel Riddiough and (3) The Mayor Aldermen and Burgesses of the Borough of Bradford contains purchaser's personal covenants.

NOTE: Copy filed.

A Conveyance of the land hatched blue on the title plan 3 and other land dated 11 January 1889 made between (1) The Reverend

B: Proprietorship Register continued

James Barmby and others and (2) The Mayor Aldermen and Burgesses of the Borough of Bradford contains purchaser's personal covenants.

NOTE: Copy filed.

4 A Conveyance of the land tinted yellow on the title plan dated 24 August 1923 made between (1) William Pollard and (2) The Lord Mayor Aldermen and Citizens of the city of Bradford contains purchaser's personal covenants.

NOTE: Copy filed.

5 A Conveyance of the land tinted brown on the title plan dated 4 August 1894 made between (1) The Reverend James Barmby and others and (2) The Mayor Aldermen and Burgesses of the Borough of Bradford contains purchaser's personal covenants.

NOTE: Copy filed.

6 (03.01.2014) RESTRICTION: No disposition of the part of the registered estate shown edged and numbered 2, 3 & 4 in brown on the title plan by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by The English Sports Council (the operating name of Sports England)of Third Floor, Victoria House, Bloomsbury Square, London WC1B 4SE or their conveyancer.

C: Charges Register

This register contains any charges and other matters that affect the land.

1 By a Conveyance of the land tinted pink and other land dated 7 November 1863 made between (1) William Brook Addison and Henry Brown and (2) The Mayor Aldermen and Burgesses of the Borough of Bradford the land was conveyed subject to the stipulations contained therein.

NOTE: Copy filed.

- 2 By a Conveyance of the land tinted blue on the title plan and other land dated 2 December 1865 made between (1) William Henry Rawson and others and (2) The Mayor Aldermen and Burgesses of the Borough of Bradford the land was conveyed subject to stipulations identical with those contained in the Conveyance dated 7 November 1863 referred to above.
- 3 The parts of the land affected thereby are subject to the rights granted by a Lease dated 7 September 1962 referred to in the schedule of leases hereto.

NOTE: Copy lease filed under WYK889837 .

4 A Conveyance of the land hatched purple on the title plan dated 6 January 1982 made between (1) West Yorkshire Metropoliatn County Council and (2) City of Bradford Metropolitan Council contains the following covenants:-

"FOR the benefit and protection of the adjoining and neighbouring land of the Vendor the Council (to the intent and so as to bind all persons in whom the land hereby conveyed shall from time to time be vested but not so as to render such persons liable after they have parted with possession of the said land) hereby covenants with the Vendor that the Council and the persons deriving title under them will henceforth observe and perform the restriction contained in the Second Schedule hereto

THE SECOND SCHEDULE referred to

Not to use the said land in connection with Section 187 of the Local Government Act 1972.

5 The land is subject to the rights granted by a Deed of Grant dated 1 September 1982 made between (1) City of Bradford Metropolitan Council

C: Charges Register continued

and (2) General Contractors (Leeds) Limited.

NOTE: Copy filed.

6 The land is subject to the rights granted by a Deed dated 31 May 1989 made between (1) City of Bradford Metropolitan Council and (2) Geoffrey Hairsine and Joan Hairsine.

NOTE: Copy filed.

7 The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto. The leases grant and reserve easements as therein mentioned.

Schedule of notices of leases

1 05.01.2010 electricity sub-station 07.09.1962 WYK889837 edged and 60 years from numbered 1 in 1/4/1962 blue NOTE: See entry in the Charges Register relating to rights granted by this lease.

End of register



Report of the Strategic Director, Environment and Sport to the meeting of the Regulatory and Appeals Committee to be held on 15 October 2014.

AC

Subject: Trusts and Charities: The Decision Making Process

Summary statement:

The Council acts as the Charity Trustee for several charities across the district. This report seeks to clarify and confirm the process currently in place for the making of decisions on behalf of charities.

Steve Hartley Strategic Director Environment and Sport

E-mail: phil.barker@bradford.gov.uk

Portfolio: Environment , Sport and Sustainability/Public Service Transformation

Report Contact:Phil BarkerOvervAssistant Director Sport and LeisurePhone: (01274) 432616Corport

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The Council acts as the Charity Trustee for several charities across the district. This report seeks to clarify and confirm the process currently in place for the making of decisions on behalf of charities.

2. BACKGROUND

The Council is Charity Trustee for approximately 38 charities spread over several Council departments including Environment & Sport, Adult and Children's Services. The Sport & Leisure Service within Environment & Sport has responsibility for by far the biggest number with 28 charities within its remit.

The trusts broadly fall into two categories - those that hold funds (19 in number) and those that do not.

The Council's Constitution, article 8 subsection 8.4.9 gives the Regulatory and Appeals Committee the power to

'Discharge the functions of the Council under legislation relating to charities and make decisions in relation to charities of which the Council is trustee.'

The following guidance for Local Authority Trustees has been received from an independent legal source and is based on the Charity Commission's guidelines.

2.1 Independence from role as Local Authorities:

Although the Council and the officers/councillors making decisions on its behalf will be mindful of the concerns/requirements of its local electorate, they must act in the interests of the charity and not the Council when making decisions relating to the charity. They must recognise the Council's duty to be prudent and act solely in the best interests of the charity. For a body to be a charity it must be independent acting solely in accordance with its charitable purpose and not the policies of the Council.

2.2 Clarity of the terms of the charity:

Council trustees and councillors/officers acting on its behalf must ensure they clearly understand the terms of the charity as set out within its governing document. The governing document will set out the charitable purposes of the charity and how its assets may be used. If there is any doubt/lack of clarity regarding the terms of the charity then advice should be sought either from legal advisors or from the Charity Commission.

As an example, the King George V (Marley) Trust includes provisions that the money can only be spent on the site delivering the objectives of the Charity. Recent spend includes supporting a new all weather pitch at the site and associated ground works



2.3 Separate management of the charity including specific guidelines and processes:

The management of the charity should always be kept separate from the business of the Council where possible. It may make sense for a separate body of individuals such as a committee to undertake this management role. There must be a clear line of responsibility for the management of the charity by the Council and clear and concise guidelines for officers and councillors regarding their roles and terms of reference.

2.4 Independent management of Charity Assets:

The Council must ensure that the charitable assets for which it is a trustee are managed independently in accordance with the charitable purpose and the terms/restrictions contained with the governing document. Finances of the trust must also be managed independently and kept separate from the Councils own finances. The assets must be accounted for separately and income and expenditure channelled through separate cost centres. The council may contribute funds to the charities finances but funds must not pass from the charity to the council's accounts.

2.5 Process in place for management of conflicts of interests:

There must be a process in place for identifying and managing any conflicts of interest which may arise. Given the Council's role in the community this may arise quite frequently.

2.6 Active management of the charity:

The Council must ensure that charity records are kept up to date and the accounts, returns and reports as required are submitted to the Charity Commission. There should also be regular review of risks, investments and opportunities, recording any conflicts of interest that arise and general house keeping of the charity's documentation.

3. OTHER CONSIDERATIONS

At this point in time all decisions relating to distribution of income relating to trusts rests with the Regulatory and Appeals Committee as does the power to make application to the Charity Commission for changing the terms of individual trusts.

The Regulatory and Appeals Committee could delegate its powers outlined above to officers or a sub committee provided that the delegation was based on criteria agreed by the committee and any subsequent decisions were made in accordance with the provisions of the various trusts.

Advice received suggests that there could be issues regarding the transparency of officer based decisions leading to the possibility of challenge.



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The creation of a sub committee for this purpose would involve an amendment to the Constitution which the Regulatory and Appeals committee can only recommend to the Governance and Audit committee who in turn can make a recommendation to full Council. Bearing in mind the current frequency of Regulatory and Appeals committee meetings, members may consider that the creation of a separate sub committee may not be required.

4. FINANCIAL & RESOURCE APPRAISAL

Nineteen of the charities under the control of the Council have financial deposits ranging from, for example, Royd House Trust at Wilsden that has assets of £97,515 and available cash reserves of £40,248 to Cashmere Street Recreation Ground in Keighley that has no assets and no reserves.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

To ensure that the committee is seen to be acting in the best interests of the various trusts rather than the Council, it is suggested that a break is taken at the end of the committee's normal business before reconvening to discuss any charitable business as a separate meeting.

6. LEGAL APPRAISAL

- 6.1 Section 139 of the Local Government Act 1972
 - 6.1.1 In accordance with the section 139 of the Local Government Act 1972, Local authorities are empowered to receive and hold gifts on charitable trusts. This may include money or assets left by donors, or charitable trusts created by ancient royal charters or acts of parliament.
 - 6.1.2 Local authorities will often hold land and buildings for a particular purpose and funds and investments to award grants to the community. In either of these cases it is essential that the assets are held and applied in accordance with the charity's purpose.

6.2 When acting as a charity trustee any decision must be made in what is in the best interest of the charity, in accordance with its charitable purpose and not the policies of the Council

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

None



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7.2 SUSTAINABILITY IMPLICATIONS

No sustainability implications

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

7.4 COMMUNITY SAFETY IMPLICATIONS

No community safety implications

7.5 HUMAN RIGHTS ACT

Not applicable

7.6 TRADE UNION

No implications for the Trade Unions

7.7 WARD IMPLICATIONS

No Ward Implications

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

- **9.1** The Regulatory and Appeals Committee continues to discharge all of the functions of the Council under legislation relating to charities and to make all decisions in relation to charities of which the Council is trustee.
- **9.2** The Regulatory and Appeals Committee choose to delegate all or part of the functions of the Council under legislation relating to charities and decisions in relation to charities of which the Council is trustee to an appropriate and nominated officer.
- **9.3** The Regulatory and Appeals Committee choose to delegate all or part of the functions of the Council under legislation relating to charities and decisions in relation to charities of which the Council is trustee to a dedicated sub committee of the Regulatory and Appeals Committee



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10. RECOMMENDATIONS

That the Regulatory and Appeals Committee approves:

- **10.1** The proposal to continue its responsibility to discharge all of the functions of the Council under legislation relating to charities and to make all decisions in relation to charities of which the Council is trustee.
- **10.2** The proposal to consider all such Charity matters in meetings convened for this purpose alone.

11. APPENDICES

List of Charitable Trusts – To be supplied at meeting

12. BACKGROUND DOCUMENTS

No Background Documents.



