

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

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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

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Portfolio: Healthy People and Place

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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. The 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