

## Report for Charitable Trustee Committee (Part A)

<b>Decision Maker:</b>	<b>Charitable Trustee Committee</b>
<b>Portfolio Holder:</b>	<b>Cllr Arooj Shah, Leader of the Council and Portfolio Holder for Reform and Regeneration</b>
<b>Date of Decision:</b>	<b>13 June 2023</b>
<b>Subject:</b>	<b>Clayton Playing Fields (Asset L00096) – Proposed changes to mid-week booking and pitch maintenance</b>
<b>Officer Contact:</b>	<b>Emma Barton, Executive Director of Place &amp; Economic Growth</b>
<b>Report Author:</b>	<b>Mark Draper, Senior Estates Surveyor</b>
<b>Ward(s) Affected:</b>	<b>Royton South</b>

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**Reason for the decision:** To seek approval to change the maintenance and pitch hire arrangements (for two pitches Monday to Friday 9.00am to 5.00pm) at no cost to the council / charity.

**Summary:** Asset number L00096 is held upon charitable trusts and is known as 'The Clayton Playing Fields'. The ownership originally comprised in a deed of gift dated 6 April 1962 made between (1) Ina Clayton ("Donor") and (2) The Mayor Aldermen and Burgesses of the County Borough of Oldham, the Urban District Council of Chadderton and the Urban District Council of Royton ("Donees") ("the Charity").

The objects of the Charity are set out in the deed of gift and are as follows:

*"To preserve and manage the same at all times hereafter as playing fields to be known as "the Clayton Playing Fields" for the benefit and*

*enjoyment of the inhabitants of Oldham, Chadderton and Royton...”.*

Further Background to the Charity Status is set out at appendix 1.

Concerns have been noted from community football groups that they have to play ‘home’ matches outside of Oldham as there are no suitable pitches available within the boundaries of the borough.

To help resolve this, two pitches on Clayton Playing Fields could be used for a maximum of circa 40 weeks for junior and Academy training and matches. The same seasonal pitch booking fees would apply.

To bring the pitches up to the required standard the pitches would be re-laid and a spectator barrier would be installed to stop cycles / motorcycles accessing the pitch. The existing fixed goal posts would be replaced by high quality wheeled Goal Posts.

The exact maintenance specification is yet to be agreed but it would include the current Council standards as a minimum, and it is intended that through enhanced community usage, they would be maintained to a substantially higher standard. It is intended that the improved maintenance regime would allow more intensive use of the pitches. Better maintenance would give opportunities for other teams and particularly young players to use the high quality pitches.

There other seven pitches would continue to be available for wider community / general public use – based on current usage, it is anticipated this is more than enough to satisfy public demand for pitches.

All local teams that currently play or train at Clayton Playing Fields would still have access to the pitches on evenings and weekends. Currently only 2 pitches are booked out mid-week to Oldham Sixth form College on Wednesday afternoons. This booking can be accommodated on the other pitches at Clayton Fields.

However, the pitches would still be accessible to the public when not booked

After relevant due diligence checks – there is no proposed change or risk to the Town Green Status of the playing fields through the proposed change to pitch hire and maintenance arrangements.

***What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):***

The options for consideration are set out in Part B report due to the financial / commercial nature of the proposed arrangement.

**Recommendation(s):**

The recommendations are set out in Part B report

**Implications:**

What are the **Finance** implications?

These are set out in Part B of the report.

What are the **Procurement** implications?

None applicable.

What are the **Legal** implications?

We will ensure that any new arrangement for pitch hire or maintenance does not conflict with the land's status as a registered town green.

(A Evans – Group Solicitor Environment)

All negotiations and arrangements must be in the best interests of the Charity and use of the pitches must be within the objects of the Charity.

Therefore, advice and support must be sought from Legal Services to ensure that, if approved, the hire of the pitches, the improvement of the pitches and the regular maintenance of the pitches is captured under a fit for purpose agreement which protects the Charity's interests.

The Council already hires out use of the pitches on the Charity's behalf and it is not proposed anyone is permitted to use the pitches on any more favourable terms.

Sarah Orrell – Commercial & Procurement Solicitor

What are the **Human Resources** implications?

Not Applicable.

***Equality and Diversity Impact Assessment attached or not required because (please give reason)***

An Equality and Diversity Impact Assessment is not required as the proposed facility will be an inclusive facility and one that will have a positive impact both for vulnerable groups and the wider community.

*What are the **property** implications*

It is not anticipated that there will be any formal land transfer or any new formal property rights as part of the new pitch hire or maintenance arrangements.

(Katy Webster – AD Property & Projects)

**Co-operative agenda**

The reduction and / or efficiency/ improvement of the Council's property portfolio is fully aligned with the Council's Cooperative agenda.

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## **Appendix 1: CHARITY BACKGROUND NOTE – CLAYTON PLAYING FIELDS. (Legal Services)**

Clayton Playing Fields will be referred to as “the Property” in this note. The Property shown on the title plan annexed at Annex A is held upon charitable trusts known as “the Clayton Playing Fields” and were (with other land) originally comprised in a deed of gift dated 6 April 1962 which was made between (1) Ina Clayton (“Donor”) and (2) The Mayor Aldermen and Burgesses of the County Borough of Oldham, the Urban District Council of Chadderton and the Urban District Council of Royton (“Donees”) (“the Charity”). It was recited in the deed of gift that the Donor wished to convey the Property to the Donees for the purposes of playing fields solely and offered to convey the Property to the Donees by way of gift. It was also recited that the Donees had the authority under Section 4 (1) of the Physical Training and Recreation Act 1937 to acquire land for the purpose of playing fields and that the Property was required by the Donees solely for that purpose.

There was a land swap (exchange) to enable the construction of a public highway effected by a deed of exchange dated 18 July 2005. The extent of the Property currently held on this charitable trust is shown edged red on the title plan of HM Land Registry title number GM970770 (which is the whole of the registered title). See Annex A for a copy of the said title plan.

The objects of the Charity are set out in the deed of gift and are as follows: “To preserve and manage the same at all times hereafter as playing fields to be known as “the Clayton Playing Fields” for the benefit and enjoyment of the inhabitants of Oldham, Chadderton and Royton...”.

The deed of gift contained an agreement by the Donor that the Donees may erect such buildings upon the Property as they shall consider reasonably necessary in connection with the use of the Property for the purpose of playing fields.

On 20 July 1995 the Charity Commission issued a scheme for part of the Property (comprising 2,468.58 square metres approximately (no plan was attached to the Scheme) being land adjacent to both Chadderton Way and Burnley Lane being land numbered SD9006 and SD9106 on the Ordnance Survey Map (1992 Edition). The Scheme permitted a sale of this land subject to all consents that may be required by law. The Scheme required that unless the Commissioners otherwise direct (and no such direction has been seen) the clear proceeds of sale shall be invested in trust for the Charity. Investigations are being carried out to establish what transaction this Scheme related to and whether or not this was put into effect. The land swap above took effect on 18 July 2005 (2 days before this Scheme) therefore it is possible that the two are related but this has not been finally established.

Also noted against the registered title to the Property are the following:

- An estate contract dated 26 June 1992 affecting the part of the Property shown edged yellow on the title plan at Annex A. However, no copy of this was produced to the Land Registry. Investigations are ongoing to see if a copy of this estate contract can be located although by now there would no longer be any right to enforce such a contract owing to passage of time and the statutes relating to limitation of action.
- (ii) What appears to be a section 106 agreement dated 2 October 1999 made between (1) Oldham Borough Council and (2) Hiretarget Limited – this contained

provisions relating to the development of the part of the Property shown hatched blue on the title plan annexed at Annex A.

It is for Estates or Regeneration to confirm that no such development ever took place.

### **Town and Village Green Status**

It is understood from other colleagues that the Property has Town and Village Green Status. A proposal to allow a third party to undertake maintenance on the Clayton Playing Fields on behalf of the Charity Trustee (the Council represented by way of delegation to the Charitable Trust Committee) would not in principle be in breach of the charitable objects.

However, the terms of any such arrangement require careful consideration to ensure that this does not in any way contravene the charitable trusts. For example, any agreement provision which would or could interfere with the use of the Property as playing fields by the inhabitants of Oldham, Chadderton and Royton has the potential to breach the charitable trust objects.

Legal and Democratic Services, Oldham Borough Council (2 March 2023)

**Appendix 2: Plan illustrating ownership of Clayton Playing Fields**

ANNEX A – Title Plan to GM970770

