

Report to Charitable Trust Committee

Clayton Playing Fields

Portfolio Holder: Councillor Elaine Taylor, Deputy Leader and Cabinet Member for Neighbourhoods

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Reason for Decision

The paper provides assurance related to a number of matters raised at previous meetings of the Charitable Trust Committee.

Recommendations

That the Committee is satisfied that:

1. Clayton Playing Fields are being managed in accordance with the Deed of Gift and charitable purposes.
2. There has been no breach of Town and Village Green protections.
3. No restrictive covenants have been breached.
4. The Council and the Charitable Trust Committee have acted lawfully and appropriately.

1 Background

- 1.1 This paper provides an update on a number of matters, in response to previous matters raised at the Charitable Trust Committee.

2. Status of the land and the charitable trust

- 2.1 Clayton Playing Fields are held by the Council pursuant to a Deed of Gift dated 6 April 1962. The charitable purpose of the trust is “to preserve and manage the property at all times hereafter as playing fields for the benefit and enjoyment of the inhabitants of Oldham, Chadderton and Royton.” The Council continues to manage the land strictly in accordance with these objects.
- 2.2 The charitable trust status of the land is legally distinct from its registration as a Town and Village Green. Both designations have been fully considered in the Council’s decision-making.
- 2.3 The Council confirms that the land is not being sold, disposed of, or repurposed. It continues to be preserved, maintained, and used as playing fields for public benefit.

3. Planning matters and alleged conflicts of interest

- 3.1 The Council has not granted any planning permission for development or change of use on Clayton Playing Fields.
- 3.2 In law, when determining planning applications, the Council acts as Local Planning Authority. Planning decisions must be taken on planning grounds only and cannot take into account land ownership issues or the existence of restrictive covenants, as these are not material planning considerations. Accordingly, the planning authority’s role is legally separate from the Council’s role as charitable trustee.
- 3.3 In response to a query from a resident, title number GM171562 has been closed by HM Land Registry and does not relate to any current disposal or development of Clayton Playing Fields.

4. Restrictive covenants

- 4.1 Restrictive covenants are private law matters. They are not enforced by the Council or by HM Land Registry, but by parties who can demonstrate the benefit of the covenant and its enforceability.
- 4.2 The Council’s legal advice is that none of the covenants referred to in historic conveyances appear to have been breached. In addition, the extent of land benefiting from any such covenants is unclear and not readily ascertainable.

5. Use of pitches by Oldham Athletic

- 5.1 The Charitable Trust has, for many years, permitted the hiring out of pitches as part of the proper management of the playing fields. This practice pre-dates the current arrangements and applies to a range of users.
- 5.2 The current agreement is with Oldham Athletic and relates to the weekday daytime use of two pitches only. Outside those hours, including evenings and weekends, the pitches remain available for use by others. In total, the site comprises five 11-a-side pitches and one 9-a-side pitch, ensuring continued availability for community use.
- 5.3 The Council has carefully considered Town and Village Green law. The legal requirement is that any arrangements must not unduly interfere with or significantly reduce the public's use and enjoyment of the land for lawful recreation. The Council is satisfied that the current arrangements do not do so.
- 5.4 The pitches remain available to the public, and the arrangements do not grant exclusive possession or prevent customary recreational use of the land as a whole.

6. Financial and management considerations

- 6.1 The charitable trust has no independent income. The cost of maintaining Clayton Playing Fields exceeds the income generated from pitch hire, and the shortfall is met by the Council from its general funds. Income from pitch hire reduces the burden on the public purse and supports the ongoing preservation of the playing fields, which is consistent with the trust's charitable purpose.
- 6.2 In June 2025, the Charitable Trustee Committee confirmed arrangements for Oldham Athletic, as pitch hirer, to undertake day-to-day maintenance responsibilities associated with its use of the pitches, in accordance with the specification set by the Council's Parks Service. Strategic oversight and decision-making responsibility remain with the Council as sole charitable trustee.

7. Conclusion

- 7.1 Having carefully reviewed all relevant matters, the Council is satisfied that:
 - 5. Clayton Playing Fields are being managed in accordance with the Deed of Gift and charitable purposes;
 - 6. There has been no breach of Town and Village Green protections;
 - 7. No restrictive covenants have been breached; and
 - 8. The Council and the Charitable Trustee Committee have acted lawfully and appropriately.

8 Financial Implications

- 8.1 Please refer to section 5 of the report.

9	Legal Implications
9.1	Please refer to sections 1 to 5 of the report.
10.	Procurement Implications
10.1	None.
11	Equality Impact, including implications for Children and Young People
11.1	No.
12	Key Decision
12.1	No.
13	Key Decision Reference
13.1	N/A
14	Background Papers
14.1	None.
15	Appendices
15.1	None.