

Summary Sheet

Council Report

Cabinet and Commissioner Decision Making Meeting: 11th July 2016

Title

Transfer of Trusteeship of Swinton Recreation Ground

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report:

Damien Wilson, Strategic Director, Regeneration and Environment

Report author(s): Phil Gill, Leisure and Green Spaces Manager

Ward(s) Affected: Swinton

Summary: To seek approval to transfer the trusteeship of the Swinton Recreation Ground from the Council to Swinton Sports & Health Group.

Recommendations

That the report is considered by Commissioner Kenny who is asked to agree:-

- 1) That the trusteeship of the Swinton Recreation Ground is transferred to Swinton Sports & Health Group including the transfer of all fixed assets within the site.
- 2) That the Assistant Director of Planning, Regeneration and Transport is authorised to negotiate the terms of the transfer.
- 3) That the Assistant Director of Legal Services completes the necessary transfer documentation.

List of Appendices Included

Appendix 1 – Location Plan

Appendix 2 – Site Plan

Appendix 3 – Charitable Scheme

Background Papers

Rationalisation of Property Assets – Report on the Adoption of an Asset Transfer Policy - Cabinet 20th July 2011

Governing document of the Swinton Recreation Ground Scheme (Charitable Trust)

Swinton Sport and Health Group Constitution and Business Plan

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Title

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Transfer of Trusteeship of Swinton Recreation Ground

1. Recommendations

1.1 That the report is considered by Commissioner Kenny who is asked to agree:-

- (a) That the trusteeship of the Swinton Recreation Ground is transferred to Swinton Sports & Health Group including the transfer of all fixed assets within the site.
- (b) That the Assistant Director of Planning, Regeneration and Transport is authorised to negotiate the terms of the transfer.
- (c) That the Assistant Director of Legal Services completes the necessary transfer documentation.

2. Background

- 2.1 Rotherham MBC is currently trustee of Swinton Recreation Ground. Swinton Sports & Health Group (SS&H) has had an interest in the recreation ground for a number of years using it for community events as well as it being the home ground for a local football club (Swinton Athletic FC) which is affiliated to SS&H Group. SS&H Group is a constituted not-for-profit organisation which includes individuals with a wide range of suitable skills within its governance. The group's constitution and business plan have been submitted and are considered by Leisure and Green Spaces to be satisfactory because they show the group to be representative of the local community and to have the necessary skills, organisation and resources to manage the recreation ground effectively.
- 2.2 SS&H Group requested an asset transfer of Swinton Recreation Ground to allow them to apply for funding to improve the site for recreation for local people. This could not be achieved under the Community Asset Transfer arrangements due to the site being held in trust by the Council on behalf of the Swinton Miners' Welfare Scheme charity rather than the Council owning the freehold.
- 2.3 A further request was then received for the trusteeship of the site to be transferred from the Council to SS&H Group which would permit the group to apply for the funding in its capacity as trustee.
- 2.4 The Colliery Industry Social Welfare Organisation (CISWO) has certain legal responsibilities relating to recreational charities across the UK, including Swinton Recreation Ground. On advice from the Council Legal Services the transfer does not formally require the consent of CISWO but it would be recommended that CISWO are kept informed and be given the opportunity to make representations. CISWO has indicated that it would support an application to transfer trusteeship to a local body such as SS&H Group.
- 2.5 The transfer of the asset would remove any future the Council liability for the site whilst the site would still remain available for local people to use for formal

and informal recreation in line with the governing principles for the site. These are enshrined in the document of governance, the Swinton Recreation Ground Charitable Scheme dated 5 February 2002 (the “Charitable Scheme”), and overseen by the Charity Commission. It would also allow the site to be improved for the playing of sport as the recreation ground is susceptible to waterlogging and requires investment to bring the playing surfaces to standard.

- 2.6 The matter has been considered by Strategic Capital and Investment Group who have confirmed their support for the request.

3. Key Issues

- 3.1 The status of the land is protected through the Charitable Scheme which clearly sets out the following charitable objective:

“The object of the charity is, in the interest of social welfare, to improve the conditions of life for the inhabitants of the area of benefit [Swinton], without distinction of political, religious or other opinions, by the provision or maintenance of a recreation ground.”

A copy of the Charitable Scheme is annexed to this report for information at Appendix 3.

- 3.2 Amongst SS&H Group’s plans for the improvement of the site is the exclusion of the general public from the part of the site containing formal football pitches. This is to prevent dog-fouling, vandalism and other issues that could render the pitches unusable for organised sport. Access to the remainder of the site, including the Multi-Use Games Area would remain as open access, which is the current situation.
- 3.3 Legal Services have examined the title deeds and confirm that such access restrictions would not constitute a breach of either the objects of the charity pursuant to the Charitable Scheme or title covenants as the land will remain for sport and recreation use only.

4. Options considered and recommended proposal

- 4.1 Following discussions with Swinton Ward Members, and considering the site as a whole, the following options have been considered.

4.1.1 Option 1 – Do not proceed with the proposed transfer and continue to maintain the site at the Council’s expense.

4.1.2 Option 2 – Proceed with the proposed transfer.

- 4.2 It is recommended that Option 2 is approved, as this will assist in the long term viability of the recreation ground and potentially allow for future grant opportunities, whilst protecting the Council against any future maintenance liabilities for this area of land. The objectives of the Swinton Miners Welfare Scheme do not allow the site to be used for any purpose other than sport and recreation.

5. Consultation

- 5.1 Full consultation with local Ward Members has been carried out and all three members are in favour of a transfer of the asset through transfer of trusteeship.

6. Timetable and Accountability for Implementing this Decision

- 6.1 If approval is given to the recommendation of Option 2 above, the negotiation of the full terms and conditions of the proposals will commence. SS&H Group have been pursuing an asset transfer of this site for a number of years and remain committed to the transfer of trusteeship.

7. Financial and Procurement Implications

- 7.1 In respect of the recommended option to proceed with the transfer to the SS & H Group, it is anticipated that the Council will incur estimated internal Legal Services costs of £1,000.
- 7.2 It is anticipated that the above costs are to be met in full by the Swinton Sports and Health Group. This has been accepted by the Group as a requirement of any Asset transfer.
- 7.3 Transfer of the site will enable grounds maintenance resources to be redirected to other sites.

8. Legal Implications

- 8.1 The freehold title to the property is presently vested in the Council in its capacity as trustee of the Charitable Scheme. There are 2 methods for effecting a transfer of trusteeship. The first would be a deed of release of the Council and appointment of SS&H Group as the new trustee and the second would be a formal transfer of the land interest. Given that the land interest will need to be registered at the Land Registry in any event, Legal Services have advised that the transfer document rather than the deed of release and appointment will be the simplest option. This will transfer the legal title in the property from the 'Charitable Scheme with the Council as trustee' to the 'Charitable Scheme with SS&H Group as trustee'.
- 8.2 On completion, the transfer of trusteeship will be registered both at the Land Registry and with the Charities Commission.

9. Human Resources Implications

- 9.1 Not applicable with regards to this report.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 Children and Young Peoples Services will be consulted regarding safeguarding arrangements prior to the final transfer of responsibility for the site. Swinton Athletic Football Club, which is closely affiliated with Swinton Sport and Health Group, is a Football Association Charter Standard club, and the club's

constitution states that it will abide by the FA's child protection policies, procedures and code of conduct.

11. Equalities and Human Rights Implications

11.1 Not Applicable with regards to the disposal.

12. Implications for Partners and Other Directorates

12.1 None Identified

13. Risks and Mitigation

13.1 As a community-based group there is some risk in Swinton Sport & Health Group's long term sustainability and therefore its ability to manage the site in line with the charitable aims. However, this is considered to be a relatively low risk in the short to medium term as the group governance is strong due to its membership which includes Swinton Ward Members.

14. Accountable Officer(s)

14.1 Damien Wilson, Strategic Director, Regeneration and Environment

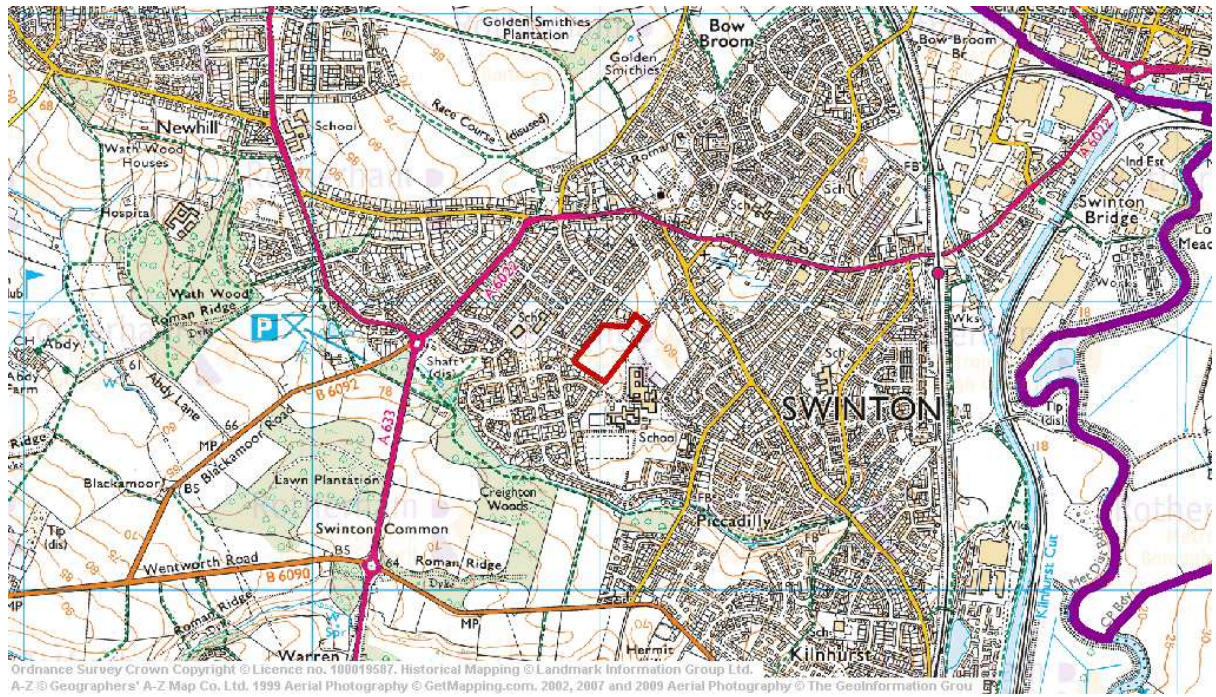
Approvals Obtained from:-

Strategic Director of Finance and Corporate Services:- Jon Baggaley, Finance Manager, Regeneration & Environment and Capital

Director of Legal Services:- Stuart Fletcher, Service Manager (Commercial and Governance)

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Appendix 1 - Site Location



Appendix 2 - Site Plan

