

DEED, TRUST AND OBLIGATIONS COMMITTEE

1 June 2016

HESKETH PARK AND DARTFORD CRICKET CLUB – ADVERTISING HOARDINGS

1. Summary

1.1 Members are asked to consider proposals by Dartford Cricket Club Limited to erect advertising hoardings on the land at Hesketh Park owned by the Council as Charitable Trustee.

2. RECOMMENDATIONS

That, the Committee on behalf of the Council acting as Charitable Trustee:

- 2.1 considers the application for consent by Dartford Cricket Club Limited to erect advertising hoardings as detailed in Appendix A on the land at Hesketh Park proposed to be leased to it by the Council, in the Council's capacity as Charitable Trustee; and
- 2.2 reviews the existing arrangements for such advertising hoardings and determines whether permission for such hoardings should be granted to the Dartford Cricket Club Limited on the terms recommended by Watson Day LLP as set out in para.3.7 of the report.

3. Background and Discussion

- 3.1. Members should note that this report deals solely with the land held by the Council in its capacity as Charitable Trustee. The land held by the Council in its corporate capacity, upon which the new pavilion building and car park is situated, is not within the remit of this Committee.
- 3.2. Previous reports to this Committee have detailed the proposals by the Council as Charitable Trustee to grant a lease of land at Hesketh Park to Dartford Cricket Club Limited, most recently at the meeting of this Committee on 27 July 2015 [Min. No. 5].
- 3.3. At the time of writing this report the lease has been agreed with the solicitor acting for the Dartford Cricket Club Limited and is in the process of being completed.
- 3.4. Under the terms of the proposed lease Dartford Cricket Club Limited, as tenant, needs to seek consent from the Council as landlord (acting as Charitable Trustee), for the erection of any advertising hoardings on the leased land. Depending on the type of hoarding, planning consent may be required from the Council acting as local planning authority. The Club would be responsible for obtaining the relevant consent.

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3.5. The advertising hoardings on the site were first considered by this Committee at its meeting on 16 October 2012, and it was resolved as follows [Minute No.9]:

“(1) That the Committee, acting as Charitable Trustee, approves the proposal by Hesketh Park Sport Club Limited, commonly known as Dartford Cricket Club (the Club); to install sponsored advertising boards at identified locations around the Club’s cricket pitch as identified in [the drawing] to the submitted report;

(2) That any gross income generated by the Club in excess of twenty thousand pounds sterling (£20,000) through the installation of the sponsored advertising boards be advised by the Club to the responsible Council Officer; with a view to the Trust giving further consideration to receiving a percentage of such gross annual income, as proposed [in] the submitted report.”

3.6 At the meeting of the Committee on 27 July 2015 Members were asked to consider whether the same arrangement for advertising hoardings should remain in place for the proposed new tenant, Dartford Cricket Club Limited, and in the context of the proposed new lease arrangements.

3.7 Watson Day LLP, instructed to provide valuation advice to the Council as Charitable Trustee, had commented that the existing arrangements were extremely generous to the Club. They advised that a 50:50 apportionment of all gross income over £2,500 in any 12 month period would be much fairer to the Council as Charitable Trustee.

3.8 The Committee resolved as follows [Minute 5(2)]:

“That the Council Solicitor obtains details of the Dartford Cricket Club Limited’s proposals for advertising hoardings on the site and that detailed recommendations be brought back to this Committee regarding the future arrangements proposed for the advertising hoardings and that such future arrangements include provision for regular reviews of any consent.”

3.9 The Council have now received details from the Dartford Cricket Club Limited of the proposed advertising hoardings, and the expected level of income should all of this advertising space be sold. These details are set out in Appendices A and B. The Club have also explained how the income from such advertising hoardings will be used by the Club.

3.10 In considering the Council’s position as landowner, Officers have no concerns regarding the location or size of the proposed hoardings or the way that they will be affixed to the site. However it will be for the Dartford Cricket Club Limited to apply to the Council as local planning authority for any advertisement consent that may be required for the proposals.

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- 3.11 The Club has estimated that the revenue over the 22 advertising hoardings will total between £2,200 to £4,400 per year. Those figures are on a net basis. Based on the cost of £150 for each hoarding, this would equate to an estimated gross income to the Club of between £5,500 and £7,700 per year. This would therefore exceed the gross income level of £2,500 above which Watson Day LLP has advised that the Council as Charitable Trustee should take an equal share in the income.
- 3.12 In the light of the professional advice from Watson Day LLP, Members are asked to consider whether consent for such advertising hoardings should be granted by the Council as Charitable Trustee and, if so, whether and on what basis any of the resulting income should be shared with the Council as Charitable Trustee.
- 3.13 It would seem sensible for any arrangements for the advertising hoardings to be initially reviewed on an annual basis, with consent therefore being granted to the tenant for a period of one year or throughout the forthcoming cricket season (as appropriate). The position can then be reconsidered by this Committee at a future meeting if and when the tenant applies for further consent.
- 3.14 Members should be mindful that in considering this matter that they should at all times act in the best interests of the charity and in furtherance of its objects, as detailed in paragraph 4 below.

4. Relationship to the Object(s) of the Trust

- 4.1 The object of the charity is as set out in the original trusts, and confirmed in the governing Scheme of Management, namely the use of the land as a recreation ground for the use of the inhabitants of Dartford.
- 4.2 All charities have charitable purposes or 'aims' that are for the public benefit. The Charities Act 2011 highlights this by explicitly including public benefit in the definition of a charitable purpose. The Council in its capacity as Charitable Trustee must be satisfied that its activities fall within the charitable aims and are for the public benefit.

5. Financial, legal, staffing and other administrative implications and risk assessments

Financial Implications for the Trust	Any share in the revenue from the advertising hoardings received by the charity would be used in the furtherance of its aims. Currently, the charity has few resources of its own and is dependent on the Council's support to be able to maintain its grounds
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Legal Implications for the Trust	Under the proposed lease the tenant will require the landlord's consent for the proposed advertising hoardings.
Risk Implications for the Trust	None at this stage

6. Appendices

Appendix A – Details of the proposed advertising hoardings.

Appendix B – Note from Dartford Cricket Club Limited entitled “Dartford Cricket Club Operating Model” received by the Council on 19 April 2016

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
		Sarah Cotton (01322) 34118	Legal Services Strategic Directorate (Internal Services)	N/A