



Report to Cabinet

Subject King George V Playing Field

Date 4th August 2005

Author Deputy Chief Executive

1. Purpose of the Report

To outline the response by the Charity Commission to the resolution taken by Cabinet on 12th May 2005 regarding Arnold Town Football club and the King George V Playing Field.

2. Information

Members will recall that there has been a longstanding issue with respect to the use of part of the King George V Playing Field by Arnold Town Football Club. The Charity Commission has increasingly put pressure on the council to remove the Club from the Playing Field. Although the club has now identified a new site and this has been agreed following a formal Planning Inquiry the new facility will not be available until next year. Consequently the Charity Commission was informed of Cabinet's decision by letter dated 15 May 2005, outlining the resolution and suggesting that a meeting may be beneficial.

Initial correspondence was limited due to a change in and illness of staff dealing with this issue at the Charity Commission. A letter, attached at appendix 1, has now been received from the Charity Commission. As can be seen the Charity Commission has referred this matter to its Investigators Division for consideration with a view to the opening of a formal Inquiry under section 8 of the Charities Act 1993. An initial response has been sent, appendix 2, expressing disappointment at this decision given the actual Cabinet resolution and failure to take up the offer of a meeting.

Section 8 of the Charities Act enables the Charity Commission to establish a formal inquiry into the actions of a trustee. Further work is being undertaken by

the Council's Monitoring Officer to assess the potential implications of this. It appears that the outcome is the publication of a report that may then be used as a basis for further action, for example involvement of the Police where irregularities in the charities accounts appear (not applicable) or further action by the Charity Commission should this be deemed necessary.

3. Resource Implications

At this stage, there are no obvious resource implications for the Council of this announcement by the Charity Commission, but this could change were the Commission to conclude at the end of any inquiry that legal action against the Council would be justified.

4. Recommendation

Members' instructions are requested.

Appendix 1

Charity Commission

for England and Wales

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Your Ref: 05-014SK
Our Ref: SMf700035/461453

Date: 29 July 2005

Dear Mr Kanuritch

KING GEORGE V PLAYING FIELD

Thank you for your letter of 13th May.

Please accept my apologies for the delay in replying but the files were required by another part of the office and I have only just had them returned to me.

I have to say that I am concerned about the request by the Council, in its capacity as trustee of the charity, for our consent to the granting of yet a further extension to the occupation by the Arnold Town Football Club of charity land. This matter has now dragged on for over 8 years and we have made it very clear on numerous occasions that we consider the occupation to be in breach of trusts.

On reviewing the papers it is clear that the issue has been the subject of intense correspondence over the years. We have tried to deal with the matter under our regulation and guidance procedures but despite assurances being received that the licence to the Football Club would be terminated at the end of the 2002/2003 season and then the 2003/2004 season, without the prior knowledge of the Commission the Council extended the licence to the end of May 2005. We expressed our concern in no uncertain terms about the fact that we had not been consulted and said that a timetable needed to be put in place for the departure of the Football Club from the Field by the end of May 2005.

It would appear from the information provided that no steps were taken to implement a timetable for departure by the end of May 2005. I have also been given to understand that the Council, once again, have consented to a further extension despite the fact that we have not commented on their request.

In the circumstances I have no alternative other than to view these actions as wilful and sustained non co-operation by the Council in its capacity as trustee. I have therefore referred the matter to our Investigations Division for consideration with a view to the opening of a formal Inquiry under section 8 of the Charities Act 1993.

Yours sincerely

Appendix 2

Deputy Chief Executive

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Our Ref: 05-19SK
Your Ref: SM/700035/461453

Date: 1st August 2005

Dear Mrs Mayers,

King George V Playing Field

Thank you for your letter dated 29 July 2005. I am of course disappointed that you have taken this decision without taking the opportunity for a meeting with the Council that was originally offered in my letter dated 13 May 2005.

That said I feel it necessary to correct an error in your letter. As noted in my letter, referred to above, the actual resolution taken by Cabinet was:

1. To agree that consent might be given for Arnold Town Football Club to play a further 80 matches and train on King George V recreation ground, Arnold during the football season 2005/06 and to use the pavilion to the extent necessary for that purpose provided that:
 - i. the club first provide a project plan with timescale and key milestones showing clearly how the development of their new ground will be resourced, implemented and progressed;
 - ii. the plan shows that the new ground will be completed and ready for occupation and use by the club before the end of the season 2005/06;
 - iii. the club provide monthly progress reports demonstrating that the plan is being complied with and that the milestones are being met;
2. That the Charity Commission be advised of this proposal and that a meeting be sought with the Commission if they raise any concerns.

The Council has not granted any consent and has been awaiting a response regarding the offer of a meeting to discuss this issue given its sensitivity and the concerns by all sides. Furthermore I would point out that your letter dated 26 May 2005 indicated that a meeting may be the best way forward and it is disappointing that this has not been acted upon. As such your decision appears premature and certainly not based on the current facts.

In the interim the Council has been working with the Club to produce a realistic project and business plan as well as ensuring that detailed planning permission is progressed now that the Planning Inquiry has found in favour of the Club's proposals for a new ground. The Council has also carried out improvements to the Playing Field and remains committed to carrying out further improvements once the Club has left, including carrying over a significant capital sum to assist in that improvement.

I believe this demonstrates that the Council is taking its duties as a trustee seriously whilst also balancing its responsibilities to the Club, local residents and the long-term benefits that the new development will offer for sport and young people within the Borough.

I would suggest that a meeting with the Council would still be beneficial before any further action is taken. This would not prevent the Charity Commission from pursuing the action you outline in your letter but it would at least allow the basic facts to be presented before that decision is implemented.

In the interim your letter will be reported to the Cabinet for consideration by Members.

Yours sincerely,

Petar Kanuritch
DEPUTY CHIEF EXECUTIVE