

## HEIGHTS FREE SCHOOL SUB-COMMITTEE MINUTES - 11 OCTOBER 2016

**Present:** Councillor D Edwards (Chair); Councillors Ayub, Hoskin, Steele, R Williams and Woodward

**Apologies:** Councillor Grashoff

### 4. MINUTES

The Minutes of the meeting of the Sub-Committee held on 12 July 2016 were agreed as a correct record and signed by the Chair.

### 5. PROPOSAL FROM THE EDUCATION FUNDING AGENCY

At the invitation of the Chair, the Sub-Committee received spoken representations from:

Rebecca Leach and Clare Reese-Jones in support of the EFA's proposal

Elisa Miles and Mark Corbett, in opposition to the EFA's proposal

Councillor Ballsdon, Chairman of Mapledurham Playing Fields Management Committee and local Ward Councillor

Gordon Watt on behalf of an alternative community-led proposal from Mapledurham Playing Fields Foundation, entitled 'Fit4All' (Item 4 below refers)

Ben McCarthy and Alex Metcalfe on behalf of the Education Funding Agency

Members of the Sub-Committee questioned Mr Watt and Mr McCarthy on their presentations.

Further to the discussion at the previous meeting (Minute 3 refers), the Head of Legal and Democratic Services submitted a report advising the Sub-Committee of a revised proposal which had been received from the Education Funding Agency (EFA) in respect of the acquisition of part of Mapledurham Recreation Ground/Playing Fields (the Ground) for the purpose of building a new school for the Heights Free School. The report advised the Sub-Committee that it had delegated authority, with the support of Officers, to discharge the functions as sole charity trustee for the Recreation Ground Charity at Mapledurham (the Charity), and had a duty to make all decisions in what it considered to be the best interests of the Charity in order to advance its charitable objects. Therefore, any decision made in respect of the EFA proposal was required to be in line with all relevant charity law and other legal restrictions.

The report explained that the EFA proposal required the transfer of 1,231 acres of land at the Ground, within a total specified area of 2.7 acres. The Plan attached to the report at Appendix 1, showed the total specified area in question.

The revised proposal from the EFA was attached to the report at Appendix 2. The report explained that within its revised proposal the EFA had identified a draft initial layout showing the indicative area of where the 1.231 acres would be located. The proposal confirmed that the EFA had no intention of building in a way that inhibited access to the

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pavilion or playing fields. However, it was possible that during the planning process and further detailed work the layout of the school may need to change, albeit that it would remain within the 2.7 acres.

The report stated that despite being asked to do so, the EFA had not been prepared to confirm where the 1.231 acres of land they required for the school would be located within the wider area. This was because they considered that the greater area of 2.7 acres would provide them with some flexibility should some changes be needed to the initial design lay-out. The report explained that the revisions made by the EFA to the proposal considered at the July 2016 meeting were as follows:

- The 2.7 acre area requested had been re-drawn to provide for at least a 3 metre gap between the site and the existing Pavilion and tennis courts;
- The school hall and MUGA would be available for community use, subject to charges to users at affordable rates;
- The Charity would provide the school with access to one sports pitch, for which it would pay a nominal usage charge, which met the Grass Pitch Quality Standard. There was an obligation on the Charity to bring one pitch up to this standard;
- Recognition that the future management arrangements for the Ground would be for the Council as trustee of the Charity to determine, and reiteration that the school would be willing to cooperate with any such arrangements out in place.

The report explained that the proposal included a total payment from the EFA to the Charity of £1,360,000. In this regard, the EFA considered the purchase price for the unspecified 1.231 acre site to be £30,775 (at £25,000 per acre based on their Red Book Valuation).

The report stated that the EFA's proposal had been made on the basis that it was open for acceptance for a period of 16 weeks until 14 October 2016 and therefore the EFA was looking to the Council, as trustee of the Charity, to make a decision on the proposal by this date. The EFA recognised that it was not possible for a final decision to be reached by this date because much information remained outstanding and a process of consultation, with the public and Charity Commission, was required. However, the report stated that the EFA had a timetable for applying for planning permission in order to get the school ready for occupation in September 2018 which required an 'in principle' decision by 14 October 2016 so they could proceed with design work and the planning application. The report made clear that if the Sub-Committee decided to progress the EFA offer, then the Charity would not be contractually committed to proceed with the sale until contracts had been exchanged.

The following papers were attached to the report

Appendix 1 - revised Plan showing boundary change to 2.7 acre site

Appendix 2 - Revised EFA proposal

Appendix 3 - A new home for the Heights - consultation proposal by the Heights Free School for a site at the Mapledurham Playing Fields

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Appendix 4 - Mapledurham Playing Fields Foundation - letter dated 29 September 2016 and enclosed leaflet on 'Fit4All'.

The legal implications of the proposals were detailed in section 9 of the report.

The report explained that on 29 September 2016, the Chair had received a letter from Mr Gordon Watt, Chairman of the Mapledurham Playing Fields Foundation, setting out and attaching what was described as an alternative proposal to that submitted by the EFA, under the heading 'Fit4All'. This proposal was to undertake the enhancement, management and operation of the Mapledurham Playing Fields with a 25 year lease. The Sub-Committee noted that a report on the alternative 'Fit4All' proposal appeared on the agenda as a separate item and asked officers to introduce this and all the reports before decisions were made so that the Sub-Committee could have regard to all relevant information in reaching its decisions.

Resolved -

- (1) That the EFA's revised offer, at Appendix 2 to the report, be received;
- (2) That the EFA be informed that there is a lack of clarity within its proposals which results in the members of the Sub-Committee being asked to make a decision without full facts of the effect of the proposal on the Ground, in particular concerning the location of the 1.231 acres that it is proposed to be transferred for the school site, and its impact on the playing areas and sports pitches at the Ground;
- (3) That notwithstanding this unsatisfactory circumstance, the Sub-Committee is satisfied that, in principle and without creating any binding legal commitment, the EFA's revised offer is capable of being in the best interests of the Charity (i.e. because it is considered to be capable of enhancing the amenity value of the Ground) and accordingly advises the EFA that they are prepared to continue to discuss the revised proposal, subject to the EFA:
  - (i) Clarifying the location of its 1.231 acre site at the earliest opportunity.
  - (ii) Seeking planning consent for its proposed development on the Ground in consultation with the Sub-Committee on the likely effect of the various design options upon the amenity value of the Ground, so that the planning application that is submitted is acceptable to the Sub-Committee.
- (4) That, subject to the EFA carrying out the actions identified in resolution (3) above, the Sub-Committee shall:
  - (i) Obtain and consider a report from Bruton Knowles pursuant to section 117 Charities Act 2011, which should also address the amenity value of the Ground in respect of (and as a consequence of) the EFA proposal (including in particular any enhancement of the amenity value attributable to the EFA proposal).

- (ii) Consult with the public and the Charity's Management Committee on the basis set out in section 9 of the report.
- (iii) Consult with the Charity Commission on the basis set out in section 9 of this report.

## 6. MAPLEDURHAM PLAYING FIELDS AND PAVILION

The Director of Environment & Neighbourhood Services submitted a report on the current position and possible next steps for the pavilion at Mapledurham and how the proposals made by the EFA may affect the pavilion.

The Sub-Committee was advised that the location of the proposed school could have an impact on the suitability of the pavilion in its current location and implications for the number of sports pitches available for community use and the related facilities required within the pavilion. The report stated that should refurbishment work be undertaken on the pavilion and a proposal from the EFA be implemented that necessitated replacement of the pavilion, the funds expended would be lost. Therefore before any work was undertaken to the pavilion, confirmation was required that any developments would not compromise use of the pavilion to the extent that it would need to be relocated. The Sub-Committee were advised that WADRA had recently confirmed that the monies raised towards the replacement or refurbishment of the pavilion would only be made available if the EFA proposal did not go ahead.

Resolved -

**That a decision on refurbishing or replacing Mapledurham pavilion is made only after the Sub-Committee is confident in the implications of a proposal from the EFA or other potential interested parties.**

## 7. FIT 4 ALL- PROPOSAL FOR MAPLEDURHAM PLAYING FIELDS FOUNDATION

The Chief Valuer submitted a report on a detailed proposal received from the Mapledurham Playing Fields Foundation to enhance the facilities and operations at Mapledurham Playing Fields without the need to sell land to fund these enhancements. The proposal, under the heading 'Fit4All' was attached as Appendix 1 to the report.

The Sub-Committee noted that the proposal had been received on 3 October 2016 - the day the agenda for the meeting had been published - and accordingly officers had not been able to evaluate the proposal in time for this meeting. However, it was noted that the letter from Mr Watt indicated that the proposal was intended to be considered *instead of* rather than *in addition to* the EFA proposal. Officers suggested that officers be authorised to discuss this matter in greater detail with Mr Watt and the representatives of the 'Fit4All' proposal and report back to the next meeting of the Sub-Committee.

In discussion, the Sub-Committee noted the concerns of local community representatives regarding the potential precedent for development that could be implied if the Charity permitted the sale of part of the Playing Fields for a school site. Officers committed to investigate and report back to the Sub-Committee on the implications should a Deed of Dedication be entered into.

Resolved -

That the "Fit4All" presentation be noted and officers be authorised to discuss the detail of the proposals with Mr Watt and representatives of the 'Fit4All' proposal and report back to the next meeting of the Sub-Committee.

(The meeting started at 6.30 pm and finished at 7.45 pm).