



St Andrews Community Centre Leasing

Background

September 2024

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INTRODUCTION

In response to requests from residents, this additional information has been collated to provide more detailed information on the background of events to explain why the council is considering whether to continue with the progression of the lease of the St Andrews Community Centre (the Community Centre).

This work is part of a complex project that has been taking place since 2022 to ensure the council and charity are legally compliant.

BACKGROUND

In April 2007, Saxilby Recreation Ground Charity (the Charity) and Saxilby with Ingleby Parish Council (the Council) agreed that the Council would take on the day-to-day running of the charity.

The charity reviewed the decision of 2007 and in November 2021 made the council aware of the issue, whereby the required legal footing for this change was not completed by either party.

As a result, the management of the Recreation Ground by the Council was not legally compliant with the indenture of the Charity. This is because the Recreation Ground has:

- A. A committee of management undertaking the management and control of the recreation ground”¹ and
- B. The Recreation Ground is “held by the council as [custodian] trustees”².

That is to say the Council could not legally manage the field, as a separate managing committee must carry out this role under charity law, based on the current legal set-up of the Charity.

In May 2022, the Council rescinded the management of the Recreation Ground.

A project plan was prepared and agreed at the July 2022 Full Council. The road map laid down steps to complete the hand back of the management of the Recreation Ground, to resolve the legal issues identified. It also sought to put in place leases for assets the

¹ Indenture of the Parish Recreation Ground Charity No. 521978

² Indenture of the Parish Recreation Ground Charity No. 521978

Council wanted to manage on the Recreation Ground, including the Wheeled (skate) Park, Multi-Use Games Area, and Play Area.

This project plan has since been a regular item at full council meetings, with project meetings being held with the Charity, to complete the numerous actions required.

These project lists are available online under the background papers section for each full council meeting.

LEASING THE COMMUNITY CENTRE

As part of this process to hand back the management of the Recreation Ground and correct legal issues, the Council (November 2022), considered whether to request to lease the Community Centre and where their preferred location would be for the parish office.

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| <p>ii. To consider and agree the preferred location of the parish office
It was noted policy nine in the Saxilby with Ingleby NDP is around protecting village facilities.</p> <p>Cllr I Willox proposed the council agrees that their preferred location of the parish office, archive storage, and meeting rooms is in the community centre and works with the charity trustees to this end. This was <u>resolved</u>.</p> <p><i>Cllr Meanwell did not take part.</i></p> <p>iii. To consider leasing the community centre
Cllr Harper queried how organisations using the community centre would work if the council and charity is involved on the field. The clerk explained the detail would need to be worked through as part of the process.</p> <p>Cllr Harper proposed the council agrees in principle to leasing the community centre and works with the charity to progress this in a timely manner. This was <u>resolved</u>.</p> <p><i>Cllr Meanwell did not take part.</i></p> |
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Full Council 251/22: November 2022

Background papers were provided to support making the decision, in which various options and their associated costs were collated including:

- Temporary office at Mill Lane (land owned by the parish council)
- Rental of a facility in the village
- Rental of a facility on the business park
- Leasing of the Community Centre
- Building an office and meeting rooms elsewhere

This paper, with costings in, can be accessed online at:
[November 2022 Full Council background papers.](#)

It was agreed that the preferred location for the parish office was the Community Centre.

4. Lease the facility at the community centre

- There are currently dedicated office and meeting spaces, as well as welfare facilities for staff
- The facility is located within the village and is accessible on foot, by bike and vehicle as well as being accessible for wheelchair users
- The council has made a commitment to retaining the SLA on the library at the centre, so part of the centre would already be in use by a council service. Staff present on-site could continue to provide support when required
- The council could work with the charity to secure improvements to the building to reduce its carbon footprint and reduce running costs
- The lease is expected to be an affordable rent and therefore it would mean more of the precept could be used on village improvements rather than office rent elsewhere

Background Paper to Agenda Item 7a(ii): Full Council November 2022

The design of the building does not lend itself to being able to partition and independently operate different sections of the building, even if re-modelling work was to take place.

Background Paper to Agenda Item 7a(iii): Full Council November 2022

Based on the information that the building is not easy to split up to part lease and that the rent was expected to be affordable, it was agreed in principle to lease the whole Community Centre from the Charity.

IMPACT OF BEING A CONNECTED PARTY

CHALLENGES FOR COUNCILS AS CUSTODIAN TRUSTEES

As a custodian trustee, the Council is a 'connected party'. This creates numerous challenges which are summarised in a National Association of Local Councils legal note:

Leasing an asset from a charity to a custodian trustee ('a connected party') is a complicated process, where both charity and council law need to be met. This creates real challenges that need to be worked through to achieve a lease. NALC aptly capture this conflict:

Council officers and employees have a duty to ensure that they act in the best interests of tax payers and trustees have a duty to act in the best interests of the charity and its beneficiaries.

These duties can, and frequently do, conflict. A conflict can arise in a number of situations and a classic example is the sale or lease of land by one body to the other.

For example, trustees leasing or selling land to a council are under a duty to obtain the best price or rent. At the same time, council officers or employees are under a duty to ensure that tax payers' money is spent prudently. Another example is where contracts are agreed by one body to the other. Clearly, it is extremely difficult to comply with both duties at the same time.

NALC (2022) LTN28 Basic Charity Law

The Council is the custodian trustee of the Recreation Ground, which means it is a 'connected party.' As a custodian trustee, the Council is responsible for the safekeeping of trust documents and investments, but legally does not have administration or management powers in relation to the land. Therefore, if it wants to manage any part of the land (or buildings on it) it would need to take out a lease.

As a 'connected party' in order to lease from a charity, there are additional legal steps that have to be followed under charity law. These include obtaining a report from a professional advisor and having the building valued.

Once these steps have been completed, the charity must then apply to the Charity Commission for permission to enter into a lease. They must demonstrate that “the terms agreed are the best that can reasonably be obtained and provide a summary of the designated advisor’s report.”³

Although the lease amount can be negotiated (for example to charge less than the valuation), any proposed change in the valuation would need to be agreed to by the valuer.

The council received the professional valuation in March 2024 of £18,850 rental per annum to enter into a full repairing and insuring lease.

The first negotiation meeting is scheduled with the Charity in October.

³ The Charity Commission (2024) Guidance: Sales, leases, transfers or mortgages: what trustees need to know about disposing of charity land (CC28)

FEASIBILITY OF LEASING

Upon receipt of the new financial information from the valuation, Council held a meeting on Wednesday 13 March 2024 to pause and reflect, and consider whether leasing the Community Centre remained the preferred course of action. Therefore, the meeting was held to:

Agree a process including community consultation to consider whether to continue with the progression of the lease of St Andrews Community Centre following receipt of the valuation.

*Background Report to Agenda Item 5:
Full Council Extraordinary Meeting March 2024*

The process agreed included a:

- Community Centre Condition Survey
- Feasibility Study
- Community Consultation
- Charity Discussions and Negotiations

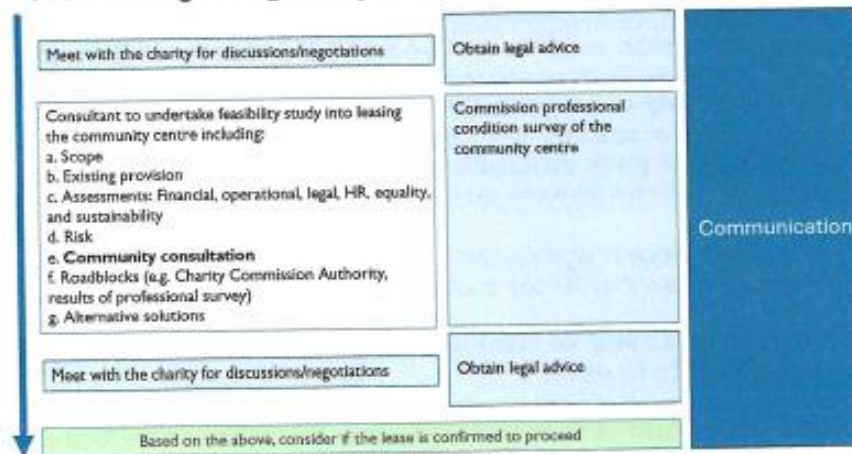
FC24/062 5. Agree a process, including community consultation, to consider whether to continue the progression of a lease for the St Andrews Community Centre, following receipt of the rental valuation.

The item was discussed including the background paper. Cllr Waller made an amendment to the ordering of the actions in the proposal whereby it was proposed to instruct the property condition survey and independent feasibility study to be undertaken **concurrently**, rather than the feasibility study then a condition survey.

The proposal of the process was:

- 1) Obtain legal advice and meet with the charity for discussions/negotiations.
- 2) Commission a professional condition survey of the community centre
and
Instruct a consultant to undertake feasibility study into leasing the community centre including:
 - a. Scope
 - b. Existing provision
 - c. Assessments: Financial, operational, legal, HR, equality, and sustainability
 - d. Risk
 - e. Community consultation
 - f. Roadblocks (e.g. Charity Commission Authority, results of professional survey)
 - g. Alternative solutions
- 3) Obtain legal advice and meet with the charity for discussions/negotiations.
- 4) Based on the above, consider if the lease is confirmed to proceed.

Process Diagram Agreed by Council for Community Centre Lease



Cllr Waller made the above proposal, this was seconded by Cllr J Willox and resolved.
Cllr Hewes did not vote.

Full Council 24/062: March 2024

Independent Feasibility Study

Council sought quotes from specialist consultants. These were compared and discussed by council in June 2024.

FC24/146 30. Agree a quote for a consultant to undertake a feasibility study regarding leasing the community centre (Ref FC24/062 5.(2))
Having been proposed (Cllr Saunders) and seconded (Cllr Bridge), it was RESOLVED to:
Agree a quote from Local Government Research Centre to undertake a feasibility study regarding leasing the community centre.

Full Council 24/146: June 2024

LGRC Associates Ltd were duly appointed to complete the feasibility study, with consultant Howard Midworth undertaking the study.

His experience includes having extensive consultancy project experience with town and parish councils, holding senior roles at principal authority level, and being a chief executive of the leading the professional body for town and parish council officers (SLCC).

The scope of the study can be seen in the extract from Full Council 24/062: March 2024 (previous page), and includes consideration of:

- Existing provision
- Financial, operational, legal, HR, equality, and sustainability assessments
- Risk
- Roadblocks (e.g. Charity Commission authority, results of professional condition survey)
- Alternative solutions

As part of the study, councillors and charity trustees were invited to meet with the appointed consultant. Some councillors and charity trustees then met them.

The independent feasibility study is expected to be received by Council at October's Full Council Meeting.

Community Consultation

As per the agreed process, a community consultation is being carried out. Due to deliberations over the content of the survey, the community consultation will not form part of the independent feasibility study, but will sit alongside the report, as part of the body of information being collated for council to assist making this decision.

The community consultation is intended to gauge residents' opinions on whether they want the council to continue running the community centre and enter into a long-term formal lease, or not.

All households in the parish will receive a paper survey during September. The survey is also available online via the councils [website](#).

It is not a poll to make the decision on the matter, but to gather residents' views to inform the decision being made by the council.

Condition Survey

A condition survey was carried out in April 2024. The recommendations were as below:

Recommendations

- Electrical installation should be tested and certified.
- All gas installations should be serviced.
- A full independent inspection of the roof should be carried out. A brief inspection has been carried out by an independent contractor who indicates that the roof covering is of a form of tile that is discontinued due to significant failings and short life expectancy. The roofing contractor found some cracked and loose tiles that are not immediately obvious and has said a full inspection is required as the roof may require imminent replacement and is likely to be leaking in its current condition.

Schedule of condition: April 2024

1. Electrical installation checks are routinely undertaken.
2. Gas installation checks are routinely undertaken.
3. Two contractors have reviewed the community centre roof and indicated that some work may be required (see below). A full independent inspection of the roof has been recommended by the surveyor and this would then independently confirm the extent of any works required.

Contractor A advised that 15-20% of the roof tiles were missing or broken, allowing water ingress and access for wildlife that could cause further damage or disruption to the building.

They advised that 25% of the guttering and guttering brackets were broken, causing existing guttering to sag and obstructing water flow away from the building. They also identified that there was no parting wall fireproofing. Contractor A quoted £68,000 (exc. VAT) for the repairs required, advising that this could be reduced by £5,000 if the fascias and soffits were not completed.

Contractor B advised that the roof was leaking in parts, causing damage, and that there was a risk of birds getting in and causing immediate damage. They gave a verbal quotation £3,000 - £5,000 for a short term 'patch-up', which would involve removing tiles from the entrance porch and using these to extend the life of the roof. They advised that a re-roof would need to be completed in the shorter rather than the longer term, and that this would cost £80,000 - £100,000.

Discussions and Negotiations

Now that other aspects of the process are underway or completed, the Council will progress to negotiations with the Charity regarding the lease of the Community Centre in-line with the agreed process. A meeting is scheduled with the Charity in October.

The outcome of negotiations will then feed into the final decision to be made by Full Council.

TRANSPARENCY AND ACCOUNTABILITY

- Meeting agendas, minutes, and background papers are published on the [parish council website](#).
- Members of the public are welcome to attend parish council meetings.
- A fifteen-minute public participation session takes place at the beginning of each full council meeting, where members of the public can make representations, answer questions, and give evidence at a meeting in respect of the business on the agenda. More information is available [online](#).
- Parish councillors are elected to office and are represent the local communities' varied views and interests

WHAT HAPPENS NEXT

Following the completion of the process agreed in March 2024 (including the feasibility study, community consultation, and negotiations with the charity), all information will be taken to full council for councillors to discuss and agree on whether the council should proceed with a lease for the Community Centre.

This will be by means of a vote, where all councillors who are present are able to vote.