

# King George V Playing Field Arnold

Registered Charity No 700035

## Introduction

1. This is a statement of the results of an inquiry under section 8 of the Charities Act 1993.
2. King George V Playing Field Arnold (the Charity) was registered as a charity on 23 March 1988. The charity's objects are to provide a public recreation ground playing field and rest garden for aged people which shall form part of the national memorial to his late Majesty King George V under the provisions of King George's field foundation.
3. The charity's land is at Gedling Road, in Arnold, Nottingham. The charity's trustee is Gedling Borough Council ("the Council"), and for the financial year ending 31 March 2004 the charity received an income of £1827.28.

## Issues

4. Prior to the opening of the inquiry the Commission had been in correspondence with the Council for a number of years, trying to resolve the issue of the public at large gaining sufficient access to the charity's land.
5. The issue of access arose as a result of the Council granting a licence allowing a semi professional football club use of a large part of the charity's land. Not only did the football club have exclusive use on match days and for training but they had built stands and the pitch was fenced off and surrounded by flood lights.
6. The Commission consider this use of the charity's land unreasonable as it restricts the use of the land for recreational purposes by the public at large. The Council had been advised of our opinion from the outset and failed to take the appropriate action.
7. The Council advised the Commission that it would terminate the football club's licence at the end of the 2003/2004 season. This would have had the effect that the land could be used for charitable recreational purposes in accordance with the terms of the gift. However, this never happened and when the Council granted a further licence to the football club allowing them to stay until May 2005, the Commission considered this action to be sustained non co-operation and it was decided that the matter would be best resolved by an inquiry under section 8 of the Charities Act 1993.
8. An inquiry was opened on the 10th August 2005 to look more closely at the management of the charity.

## Findings

9. The land was given by the Home Brewery Ltd Company in 1950 and the local council was made trustee to hold the land for the objects stated above.

10. The Inquiry Officer visited the land in question and found it to be well maintained with a children's play area on one side with a grassed area next to it. The land then narrows and at that point there is a turnstile. A representative of the Council informed the Officer that the turnstile is operated on match days by the football club, but that any member of the public wanting access to the playing field is allowed to walk through.

11. After passing the turnstile the land opens up and to the left there is a fenced football pitch which has stands on two sides. The pitch is surrounded by flood lights. Though the area was fenced it is possible to gain access to the pitch. On the opposite side of the land was a large grassed area and to the rear a cricket pitch with a building which the officer was informed was the cricket club house. Though overall the charity's land is large, there is no doubt that the football club does have use of a large part of it.

12. The Officer met with representatives of the Council and expressed concern at the apparent lack of co operation. The representatives advised that they were doing everything they could to facilitate a move by the football club. They explained that land for a new ground had been found and that the club were in the process of finalising a lease. They advised that identifying suitable land had been a problem and had taken some time hence the delay in vacating the land.

13. The Council was advised that as trustee of the charity they have a duty to protect the interests of the beneficiaries of the charity, (namely, the public at large who wished to use the land for recreational purposes in accordance with the terms of the gift) and that they had been acting in breach of trust in allowing a semi professional football club use of a large part of the charity's land to the detriment of the charity's beneficiaries. The trustee acknowledged that it has been a difficult situation to manage due to their dual role as trustee and as the Council as a large part of the community support the football club and that they have a duty of care to them as well.

14. The Council asked if they could grant a final licence to the football club which would allow them to continue to occupy the charity's land until September 2006. The Officer asked about the football club's plans thereafter. The Council advised that the club had assured them that the new ground would be ready by this date. The Officer asked why the delay as the trustee and football club have been aware of the necessity to move for a number of years.

The trustee advised that the delay had occurred initially because of the difficulty in finding suitable land. Once that had been found it was subject to an application to develop green belt land which had to be authorised by central government. The overall process had proved to be drawn out, and time consuming.

15. The Council was advised that the Commission would consider their request to grant a final licence but only on the assurance that they would not grant any further licences. A copy of the proposed final licence, the charity's last accounts, and a copy of the business plan from the football club indicating key milestones towards the completion of the new football ground were also requested.

## Outcome of the Inquiry

16. The Officer was assured by the Council that under no circumstances will a further licence be granted after September 2006. Copies of the football club's business plan were received. The Officer was concerned that the club would be able to vacate and move to their new ground before September 2006. There was concern that the football club did not understand the full consequences of the new ground not being ready and therefore they were asked to provide contingency plans. The Officer was keen to ensure that all parties were clear that the football club will have to vacate the charity's land by September this year.

17. The Commission was copied into a letter to the Council from the football club which acknowledged the club's understanding that there will be no further licences granted after September 2006, and that if the new ground is not ready on time they will ask local clubs to offer assistance.

18. The Council satisfied the officer that it accepted that it could not grant any further licences to the football club after September 2006. Also it appeared that the football club understood that it would not be allowed to use the charity's land after September 2006 (this has been further documented by sight of posters that the club had produced advising fans that it is to be their last season at Gedling Road).

19. The Commission considered fully the circumstances and the information supplied and advised the trustee that the Commission would not object to the granting of a final licence for the football club to use the charity's land until September 2006 on the same terms as previous licences. However the Officer advised the trustee that this is the final licence and that they must adhere to certain requirements:

- The trustee must supply progress reports in respect of the development of the new football ground every two months.
- When the football club vacate the land they must ensure that the club remove the stands, floodlights etc and leave the land in an acceptable state. We would expect this action to be undertaken before the 30th September 2006.

- If the football club has not vacated the land by the 30th September 2006, we will expect the trustee to take appropriate action to remove the football club.
- If the football club has not moved by September 30 2006 and the trustees have not demonstrated that they are willing to take steps to remove the football club, the Commission will strongly consider using its powers under section 18 of the 1993 Charities Act to remove Gedling Council as trustee of the charity. This would also have an impact on any other charities the Council is trustee of.

20. The inquiry was closed on 15 December 2005.

## Wider Lessons

21. Those acting in the administration of a charity should be familiar with the terms of its governing document and ensure that its terms are complied with.

22. Where a recreation ground is held upon charitable trusts, it should be made available for the public at large.

23. The conflicting responsibilities experienced by local authorities have to be recognized and managed. In many cases the local authority may be the sole provider of funds, services or administrative support using local rates and resources to support the charity concerned. When acting as a trustee of a charity a local authority must always act in the charity's best interests and where they feel they cannot they must seek appropriate advice. The Commission's publication [Charities and Local Authorities \(CC29\)](#) provides further guidance and information on this subject.