



Appledore Road, Tenterden: Application 10/01788/AS

Land Trust comments with regards to Ashford BC's Culture and Environment response.

1. Introduction

The following provides comments from the Land Trust in response to issues raised by Ashford BC in their document to Wates in Notes from 17.06.2020. This starts with an introduction to the Land Trust which hopefully provides context to the specific comments that follow.

About the Land Trust

The Land Trust was launched as a pilot in 2004 by English Partnerships [now Homes England] in response to market failure identified in providing for the sustainable long-term management of public open space, whether created from restored brownfield land or newly created POS surrounding new developments.

Following a successful pilot, the Trust was launched on a permanent basis and with Charity status in 2010. In doing so our model was fully appraised and approved by (the then) Homes and Communities Agency, Department for Communities and Local Government and HM Treasury for robustness, value for money and appropriate governance. Homes England remains one of our eight member organisations.

Since becoming an independent charity, we have continued to expand, increasingly working with the private sector, as well as the public sector, and over the past decade, we have taken on responsibility for over 2,500 hectares of open space and associated assets across the country. We can take on all forms of open space and associated assets, ranging from incidental open ground within new residential developments, through children's play areas, playing fields and allotments, to far more challenging sites that include former landfills, SAMs, Nature Reserves, SSSIs, SuDS, SANGs, etc.

In contrast to traditional management companies and open space management contractors we can also take on full obligations and liabilities, in perpetuity, for any agreed open spaces, affording local authorities the assurance that they will be safeguarded for the benefit of the local community for the long-term and providing developers and landowners the opportunity for a 'clean secure break', equivalent to adoption.

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The Land Restoration Trust trading as the Land Trust
A Company Limited by Guarantee
Company Registration No: 5077263, registered in England & Wales
Registered Charity No: 1138337
Office of Scottish Charity Regulator No: SC043833

www.thelandtrust.org.uk



What makes us unique?

As a UK charity with years of experience of managing parks and open spaces, our key role is to deliver benefits to local communities and their environments through our charitable objectives. As such, we provide great value for money and green space management that ensures communities have safe, clean, green and attractive environments to enjoy, which in turn, can have a hugely positive impact on physical and mental well-being etc.

We are committed to securing a sustainable future for every open space we manage. As a charity, unlike commercial landscape contractors, we seek a long-term interest in our sites and aim to manage our spaces in a way that improves people's lives and communities.

Our Vision

Our vision is to improve the quality of people's lives by creating and managing sustainable, high quality green spaces that deliver environmental, social and economic benefits.

Our Charitable Objectives

We are steered by our charitable objectives. These are based on:

- **Economic vitality** – where we can help create opportunities for local jobs and enterprise as well as ensuring property values are enhanced by creating an attractive and desirable neighbourhood
- **Health and well-being** – where we can aim to provide safe environs for access, exercise and volunteering and promote the use of green-space for healthy activities
- **Environment and biodiversity** – where we seek to protect and enrich the local flora and fauna
- **Education and Learning** – where we seek to create opportunities for the land to be of value to local schools and colleges as well as for “lifelong learning”
- **Cohesion of communities and individuals** – where we aim to work with you, and the new community to ensure all can play a part in how your local green space is managed.

As an independent charitable trust, we have a range of safeguards to protect all the assets we manage. The following outlines some of the key ways these safeguards are put in place and handled:

How we operate

- We are a not for profit body. This ensures that all the available resources are deployed for the benefit of each individual site we own.
- We aim to deliver high standards of management on all our sites, this is recognised as an essential element of our risk management strategy
- We are governed by an independently appointed Board of Trustees who provide



expert guidance, drive the long-term vision and protect our reputation and values. Our members hold our Senior Management Team to account in terms of ensuring consistent and long-term delivery of our long-term objectives.

- We are specialists in the risk and liabilities associated with green space management and operate strict protocols to help ensure that all risks and liabilities are fully understood and accounted for from the outset.
- All our sites benefit from being part of a national network with all the benefits of economies of scale, capacity and access to skills and expertise this brings. However, each individual site is owned by a Limited Company as a full subsidiary of the Land Trust with its own individual articles and memorandum of understanding which helps ensure that each individual site is managed in accordance with local needs.
- For each scheme we take on, we develop a comprehensive site Management Plan. This document represents a contractual agreement between us and those that carry out work on our behalf (“operators/managing partners”) and outlines specific aims and objectives for site maintenance, environmental improvements and community involvement. We set this plan for a 10-year period to ensure longevity but analyse it regularly to provide comfort that it’s delivering our commitments and that the expected outputs are being delivered. Operators/Managing partners are required to provide detailed quarterly performance reports and we review the Management Plan and contract annually.
- We identify and appoint appropriate local operators/managing partners to manage the site on behalf of ourselves and the local community, this helps ensure that we maintain strong local connections and keep abreast of locally evolving issues.
- Where we operate service charges, these are not fixed. This allows us to account for additional un-expected costs. In this context, we always include a sinking fund which is modeled in perpetuity.
- We also adopt hybrid funding models that enable us to hold both an endowment as well as a service charge. Amongst other things this helps reduce the potential impacts of debt management.

Our investment Strategy

- We are built on solid financial foundations and hold an investment portfolio of over £160m which continues to build as we take on new land. Our portfolio allows us to achieve very competitive rates of return on invested capital. Exposure to market volatility is limited through a low risk strategy managed by CCLA Investment Management, a company specialising in the management of charity investment.
- All investments are bundled together to get maximum value from the financial markets. However, within that, the endowment of funding of each site, including interest gains and expenditure are separately reported.



Our governance and accountability

- Our Memorandum & Articles of Association set out our governance structure, charitable objects and operating principles. Copies are available on request.
- Income from individual endowments and service charges are ring-fenced and apply only to the land it pays for and is audited yearly against site expenditure.
- We are governed by legislation in the Trustee Act 2000 and the Charities Act 2006. As a Registered Charity (No. 1138337), we are accountable to the Charity Commission, who have approved our charitable objects and monitor our performance against them.
- It is a requirement by the Charity Commission that any charity maintains operational capability of a minimum of six months costs. We manage our funds to take this into account, however in the unlikely event that we cease to operate, the remaining assets would be given or transferred to another charity or charities having charitable objects similar to ours, including all land, money and associated agreements.

Further details and examples of our work can be found at <https://thelandtrust.org.uk/>

2. Specific comments relating to Ashford BC's comments:

"1.1. We understand the approach for the management of the sports provision, however we need to see assurance from an actual club or organisation who will be committed to take on the role of managing the sport provision, and what the delivery model will be."

Our response:

Sport is a fundamental element of our charitable objectives in terms of health and well-being, social cohesion and education and learning. As such we are committed to managing the sports provision in the long-term and will work to ensure that an appropriate organisation or club can be appointed (in consultation with yourselves, Kent FA and other appropriate local stakeholders) if at all possible. This organisation/club would then take on day to day responsibility of the facilities in line with our model outlined above.

We believe that such a model, where we take on overall ownership and responsibility, provides a significantly greater level of long-term protection for not only the sports facility itself, but also to the appointed organisation/club - by enabling them to enter into an agreement that provides them with security of tenure whilst also relieving them of the burden of responsibilities for risk, liability and replacement costs - thereby giving them greater capacity to deliver their own core objectives more effectively.



“1.2. Currently the application appears to provide only assurance from the Land Trust, who are not a suitable organisation to directly manage the sports provision. Given the substantial nature of the proposed works with regards sports provision, the risk is too great to progress without any commitment to the management of sports provision from a suitably experienced organisation.”

Our Response:

Within the context of our comments above, we would welcome the opportunity to see the criteria on which suitable organisations are selected. The information provided on the Land Trust earlier in this response and demonstrates our capability, track record and that we are a local authority approved charitable organisation managing a range of spaces in many locations. We already have a number of sports facilities under our management and our model is flexible and tailored to suit individual needs in terms of how they are undertaken. One example is our site at Rabbit Ings Country Park near Barnsley. Here we have a pavilion which is managed by our Managing Partner (Groundwork NE and W Yorkshire) under a license - this includes all the necessary costs and terms and conditions, rates for rental etc. It also includes a building inspection regime which we undertake along with the Managing Partner on a prescribed regular basis. The Managing Partner was selected by the Land Trust after it took ownership of the sports facilities once planning permission had been granted. Further details of the site can be found here:

<https://thelandtrust.org.uk/space/rabbit-ings-country-park/>. By contrast, at our sports facilities at Frickley, near Pontefract (<https://thelandtrust.org.uk/space/frickley-country-park/>), we lease the pitches to the local town council (South Elmsall), who use an associated pavilion run by Frickley Athletics Club.

We have vast experience in working with local communities and key stakeholders to appoint appropriate organisations and have numerous examples of schemes where we have achieved this successfully, as listed above. It is not uncommon for the Land Trust to take on the freehold ownership of facilities such as a community pavilion post planning without operators in place and to go through an appointing process, but the endowment funding model ensures procedures and finance is in place for the Land Trust to continue to open these facilities in the absence of a suitable operators coming forward. We would be pleased to work with the council to ensure that the most appropriate organisation is appointed once outline consent has been achieved.



“1.3. Regarding the management of the sport provision we would be looking for a club that is registered with the Football Association (Kent FA), and has the required FA Charter Standard status to be able to offer youth provision.”

Our Response:

We would make every reasonable effort to work with you, Kent FA and local clubs to ensure that this was the case as part of our overall responsibility for the site.

“1.6. As noted above, all calculations are based on the current open space SPD and require indexation. The contributions are the minimum expectation for what should be delivered on site, and not the maximum.”

Our Response: “Added value” is critical to our role. It should be noted therefore that whilst our agreed costs of management are based on the most cost-effective means for us to meet the required standard, this is just the beginning, and in line with our charitable objectives, we then seek to utilise our wider skills and resources to add much greater value to the sites we own. Examples of the how we do this and the measures we use can be seen here:

<https://thelandtrust.org.uk/wp-content/uploads/2016/01/The-Value-of-our-Green-Spaces-January-2016.pdf>

and

<https://thelandtrust.org.uk/wp-content/uploads/2019/10/LT-ANNUAL-REPORT-2019-DIGITAL.pdf>

“1.13. As discussed, the Land Trust have been approached to manage the public open space and sports provision in perpetuity. As previously requested, we need to see more detail on who the Land Trust intend to partner with, both for sports provision but also for the management of open space and community involvement and investment.”

Our Response:

It is too early to be precise about who we might specifically engage to manage the public open spaces but the process we use is an open one based on best value and the ability to deliver our charitable objectives. This process is not just based on cost but takes into account social value and ability to delivery Economic vitality, Health and well-being, Environment and biodiversity, Education and Learning and Cohesion of communities and individuals. We would seek to work with you as a key stakeholder in taking this forward and would be willing to consider any organisations that you may choose to recommend.



However, it must be acknowledged that we must procure in line with our Procurement Policy to ensure best value.

Our aim is always to develop a cost effective solution that can be self-sustaining in the long-term and we do this by bringing wherever possible, the whole green space resource under a single unified management regime at the earliest opportunity, thereby enabling a co-ordinated approach best able to deliver flexibility, local benefits and cost efficiencies.

Typically, we seek to deliver through contractors or local partnership arrangements with public agencies (such as the Forestry Commission), local authorities, charities (such as Wildlife Trusts, Woodlands Trust, RSPB), local community organisations and social enterprises – the “Operator/Managing Partner”. For sports operators again we seek to deliver through local operators and would look to appoint a local organisation such as a local club or the town council. A priority for delivery would be to establish who the key local bodies would be.

We would then agree roles and responsibilities of any operator/managing partner prior to appointment. Once agreed, an appointment would be secured through a legal agreement, with the operator/managing partner working to an agreed Management Plan and budget. This legal agreement includes the right to terminate due to default/unsatisfactory performance.

Specific management prescriptions would be incorporated within the Management Plan; the purpose of this Plan is three-fold:

- to give all concerned assurance that the site, and the investment in it, will be well managed;
- to act as a flexible framework within which the Operator/managing partner can manage the site based on their expertise, knowledge and experience; and
- to give information to interested members of the public, local and other organisations, as to how the site will be managed and opportunities for their involvement; and

Our management plans would also provide all stakeholders with information regarding the history, current condition and future aspirations for the site and outline the long-term aims and objectives for the management of the site, together with detailed management recommendations for the first 5 years of management.

As management requirements are likely to change over time as the site and facilities mature, even within the initial 5-year plan period, the plan would be reviewed annually in



order to take account of changing circumstances and ensure that the objectives and management proposals remain appropriate. Annual draft budgets would also be submitted by operators/managing partners three months prior to commencement of new financial years. These budgets are reviewed by the Trust's Operations Directorate to ensure that the proposed outputs and outcomes are consistent with the Management Plan and that the level of funding required is within the amount available from the project allocation and from the endowment provided through the S106.

Given the diversity of typologies of land for this scheme, we would expect to contract more than one organisation; the more informal areas, such as the country park and environmentally sensitive habitats within the development, we would expect to be maintained by dedicated personnel from conservation minded bodies, whereas the more formal residential areas would be better suited to landscaping organisations, and the Sports pitches likely maintained by dedicated groundsmen of the 'occupying' club(s) or grounds maintenance contractor. Regardless of the operator/managing partner route taken, we would approach a range of established organisations and contractors in the local area to tender for the various site maintenance contracts in order to provide best value.

In line with our charitable objectives we obviously take our responsibilities for conservation very seriously and ensure that our parks and green spaces are as rich in biodiversity as possible. As such, we are approved by Natural England and Local Authorities as "Appropriate Body" to acquire and manage SANGS (Suitable Alternative Natural Green Spaces) and we have recently appointed Surrey Wildlife Trust to manage our three new SANGS in Guildford Borough. In this context it should also be noted that there are close parallels between our management of SANGS and the requirements of biodiversity net gain and we are confident we can support this aim.

"1.14. This is part of our requirement of the developer to demonstrate a reasonable level of certainty that the facility will be managed, with agreed maintenance sum committed for ten years."

Our Response:

As we state above, the Land Trust's usual commitment to a site goes way beyond the 10-year period and provides an "in-perpetuity" solution. Our model is such that we only enter into endowment agreements where we are confident that the sum is sufficient to provide a sustainable annual yield without drawing on the capital sum. Our returns are based on an agreed HM Treasury rate of 3.5% per year and we assume that capital growth matches inflation year on year.



“1.15. We note the example S106 models; please clarify that it will be the Land Trust (or similar suitable organisation) that will be the owner of the site; currently we are not clear on which organisation will have ultimate responsibility for the public open space and sport provision.”

Our Response:

Our expectation is that the Land Trust will take freehold possession of all the agreed assets on completion of the development phase. During development the Land Trust would expect to manage them under a management agreement with the developer.

As the Land Trust has the freehold it means that the future of the open space and sports facilities is secure with day-to-day operation/management the responsibility of a local organisation. The endowment model to an Estate Management Body, who are responsible for appointing an operator/managing agent, allows for a one-off capital payment and freehold transfer of the land. The Land Trust has the ability through the endowment to fund annual management budgets for management in perpetuity and to cover off replacement and revamp costs and a sinking fund for any work which is needed in the future. The annual budgets account for periods where a suitable operator/managing agent can't be found, and the facilities need to remain open.

“1.16. We note the use of the pavilion for cadet use, but what does this translate into in practice? There are several conflicting parties who will potentially use the proposed pavilion building and associated open space; we would like to see draft clauses for a Community Use Agreement now, which ensure adequate provision for the local community, Cadet use, and use by a sports club or clubs.”

Our Response:

Management of the use of facilities such as the pavilion will be included as a specific role within the agreed Management Plan and will be the responsibility of the operator/managing partner, who will need to operate an appropriate booking system. Managing multifunctional facilities with a diverse range of users is standard practise for us and we do not envisage any specific difficulties with this requirement.

Subject to confirmation the Land Trust are open to entering into a Community Use Agreement and understand that a draft CUA has been submitted with this response. Conditions for access to the building and associated costs for the cadets could be included with the license agreement or in the Community Use Agreement. In line with all our schemes we would also look to establish a local governance structure to help ensure local stakeholders are fully engaged. This would help to establish longer term strategic direction and future revisions to management plans.