

READING BOROUGH COUNCIL

REPORT BY ASSISTANT DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

TO:	MAPLEDURHAM PLAYING FIELDS TRUSTEES SUB-COMMITTEE		
DATE:	7 MAY 2019		
TITLE:	MAPLEDURHAM PLAYING FIELDS - DEED OF DEDICATION		
LEAD COUNCILLORS:	COUNCILLOR EDWARDS	PORTFOLIO:	MAPLEDURHAM PLAYING FIELDS CHAIR OF TRUSTEES
SERVICE:	TRUSTEE OF CHARITY	WARDS:	MAPLEDURHAM
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 A report was submitted by The Chief Valuer to the Mapledurham Playing Fields Trustees Sub Committee on 11th October 2016 in respect of the FIT 4 ALL-PROPOSAL FOR MAPLEDURHAM PLAYING FIELDS FOUNDATION
- 1.2 When considering the above report in discussion, the Sub-Committee noted the concerns of local community representatives regarding the potential precedent for further 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.
- 1.3 The Agreement for Lease and the Lease made between the Reading Borough Council acting in its capacity as sole managing trustee of the Mapledurham Recreation Ground Charity and The Secretary of State for Housing Communities and Local Government of the part of Mapledurham Playing Fields were entered into on the 18th February 2019.
- 1.4 The revised planning application was granted on 25th February 2019.

2. RECOMMENDATION

That the Sub Committee note the report and authorise Officers to formally investigate the implications of the charity entering into a deed of dedication and to liaise with Fields in Trust and (if necessary) the Charity Commission regarding entering into a deed of dedication in respect of the Mapledurham Recreation Ground Charity

3. POLICY CONTEXT

- 3.1 Reading Borough Council holds the Ground in its capacity as charity trustee ("Trustee") of the Charity. The Charity is registered with (and therefore regulated by) the Charity Commission. The charitable object of the Charity is:

"the provision and maintenance of a recreation ground for the benefit of the inhabitants of the Parish of Mapledurham and the Borough of Reading without distinction of political, religious or other opinions. "

The beneficiaries of the Charity, therefore, are the inhabitants of the Parish of Mapledurham and the Borough of Reading. The Ground is an asset of the Charity and is held "in specie" i.e. specifically in order to advance the Charity's object.

- 3.2 The Sub-Committee has delegated authority, with the support of the Officers, to discharge Reading Borough Council's functions as charity trustee of the Charity. The Sub-Committee has a duty to make all decisions in what it considers to be the best interests of the Charity and in order to advance the object referred to above and any such decision must be in line with all relevant charity law and other legal restrictions.

4. CURRENT POSITION

- 4.1 A previous report prepared for this Sub-Committee in 2017 identified the possibility of making the Mapledurham Playing Fields subject to a "deed of dedication" in favour of Field in Trust.
- 4.2 Fields in Trust is the working name of the National Playing Fields Association, which is a registered charity. It is understood that Fields in Trust has entered into deeds of dedication in relation to other pieces of charitable and local authority land.
- 4.3 The main purpose of a deed of dedication is to make land subject to a binding covenant which prevents the sale or disposal of property without the consent of Fields in Trust, so that there is a third party capable of vetoing a sale or other disposal of the land in certain circumstances. Entering into a deed of dedication is likely to require the consent of the Charity Commission.
- 4.4 This was a proposal that formed part of the consultation with the beneficiaries of the Mapledurham Recreation Ground Charity carried out in 2017. Around 84% of those beneficiaries who responded indicated that it was a proposal that the Sub-Committee should explore in more detail, with a view to determining whether it would be in the best interests of the Charity to implement.
- 4.5 Officers recommend that they should now be instructed by the Sub-Committee to formally investigate the position with Fields in Trust in more detail and (if necessary) with the Charity Commission and (if they consider it relevant) to take legal advice on the implications, with a view to making a recommendation to the Sub-Committee at a future meeting as to whether a deed of dedication should be put in place in relation to all or part of the Mapledurham Recreation Ground.

5. EQUALITY IMPACT ASSESSMENT

- 5.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to-
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.2 In this regard you must consider whether the decision will or could have a differential impact on: racial groups; gender; people with disabilities; people of a particular sexual orientation; people due to their age; people due to their religious belief.
- 5.3 An updated equality impact assessment (EIA) was undertaken and reported to the June 2018 Trustee Sub-Committee. There has been no material change to the proposals being made and the EIA remains valid.

6. FINANCIAL IMPLICATIONS

- 6.1 Following the grant of the revised planning permission the planning contribution payable under the S106 Agreement of £380,000 has been received by the Council.
- 6.2 The 20th June 2018 Sub Committee approved the proposal from the Council to spend the £375k of S106 mitigation funding for works to the playing field to mitigate the presence of the proposed school on the site.
- 6.3 The premium of £1.36m was paid on the grant of the above Lease.

7. LEGAL IMPLICATIONS

- 7.1 Entering into a deed of dedication is likely to involve the surrender of the Council's discretion as charity trustee in relation to the Recreation Ground Charity in some respects.
- 7.2 In order to ensure that the Council (as charity trustee) is acting properly and in accordance with its duties in relation to the Charity in considering the position in relation to the deed of dedication, legal advice on the position is likely to be required and will be taken into account by Officers in formulating the recommendations it is proposed should be made to the Sub-Committee.
- 7.3 As indicated earlier in this report, engagement with the Charity Commission is also likely to be necessary, again in order to ensure that the Council as charity trustee is acting in accordance with its duties to the Charity. Again, the Charity Commission's views as regulator of the Charity (and any advice they may wish to

issue) will be taken into account by Officers in formulating the recommendations it is proposed should be made to the Sub-Committee.

7.4 In reaching any decision in relation to the Charity, the members of the Sub-Committee are reminded that when performing the Council's function as Trustee they have a number of obligations:

- (1) You must act in good faith and exclusively in the interests of the Charity i.e. in a way which you honestly believe to be in the Charity's best interests.
- (2) You must act within your powers.
- (3) You must ensure that you have any legal, property or other advice you consider is required in order to inform and support your decision-making.
- (4) You must ensure that you are adequately and properly informed and have all relevant information.
- (5) You must ensure that you take into account all relevant factors. Such factors will only relate to the Charity and its ability to advance its charitable, recreational object.
- (6) You must not take into account any irrelevant factors.
- (7) You must manage conflicts of interest.
- (8) You must make a decision that falls within the range of decisions a reasonable trustee body could make. This is in line with the Charity Commission's guidance on decision-making.

7.5 Each of these considerations is set out in more detail in the Charity Commission's guidance on decision-making by charity trustees (CC27). The Commission's guidance is available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/583855/CC27_new.pdf

8 BACKGROUND PAPERS

- 8.1 Mapledurham Playing Fields Trustees Sub-Committee - 20th June 2018.
- 8.2 Mapledurham Playing Fields Trustees Sub-Committee - 9th January 2018.
- 8.3 Mapledurham Playing Fields Trustees Sub-Committee - 22nd October 2018.
- 8.4 Oxford Archaeology report - August 2018
- 8.5 Landscape master plan 2018