
Meeting of the Ernest Stevens Trust Management Committee – 10th April 2024

Report of the Director of Regeneration and Enterprise

Clayton Playing Field – Proposed Easement For Surface And Foul Water Drainage To Assist Adjoining Development

Purpose of report

1. To inform the Management Trust Committee of a request made by the developer of the adjacent former Coseley Bath Sites for an easement to drain surface and foul water across the Clayton Playing Fields, Coseley.

For the Management Trust Committee to advise officers of the Council as to the way the Trust wishes to proceed with this request

To authorise the officers of the Council to proceed with the necessary actions as detailed in the report.

Recommendations

2. It is recommended that:
 - The Ernest Stevens Trust Management Committee note and approve the content of the report at the same time considering the Deed of Gift with the objective being that the decisions taken are within the best interests of the beneficiaries.
 - That the Director of Regeneration and Enterprise be authorised to negotiate the terms and conditions for the access licence, the easement to be granted and authorise officers of the council to proceed accordingly, including making suitable application to the Charity Commission for a Scheme to be granted and undertake all necessary actions to complete the matter.

Background

3. The park is held in trust by the Council and the Conveyance dated 30th July 1934 includes the following covenant:

The Local Authority further declare and hereby covenant that they will not build or cause or suffer to be built upon the land hereby granted and conveyed any building or erection whatsoever other than such sheds or shelters as may be for the convenience of School Children playing thereon which said sheds or shelters shall be subject to the approval of the Company and they will pass all bye-laws necessary for the protection of ornamental trees flowers and the like which are now or may at any time be planted thereon”

The Company being The Cannon Iron Foundries Limited. Legal tried to trace this company a few years ago without success.

4. This land is registered at the Charity Commission – the charity number for Clayton Park is 522647.
5. The Charities Act 2011 states that:

Section 117 no land is to be conveyed, transferred or leased or otherwise disposed of without an order of the Court or Commission. Section 119 the charity trustees must before entering into any agreement to dispose must obtain a written report on the proposed disposition from a qualified surveyor acting exclusively for the charity, advertise the proposed disposition, decide that they are satisfied having considered the surveyor’s report that the terms on which the disposition proposed to be made, are the best that can be obtained for the Charity.

6. As the easement will be required in perpetuity this will be regarded as a disposal of land and therefore the consent of the Charity Commission will be required.

The Proposal Details

7. W13 Limited are the owners of the site of the former Coseley Baths, Pear Tree Lane, Coseley, WV14 8HA and are proposing the construction of new housing to the land. They have submitted a planning application for the new housing development – P21/0912 but this has not yet been decided upon.

8. During their design process they have identified that the best method of draining surface and foul water from their site is to access the public sewage network in The Paddock.
9. To make this connection requires access across a public right of way to install the drain within Clayton Playing Field, Coseley, adjacent to 29 The Paddock. Members need to be aware specifically the construction of the drain will impact the open-air gym – as it will be inaccessible for the duration of the works and the public right of way. The requirement will be for the Councils property to be reinstated once the works are complete.
10. The relevant Council Directorates have been consulted regarding the application and no objections have been received noting that any disruption to the land bordering the park will be minimal, there are no issues with them closing the gym for a period whilst the works are completed, and they must ensure that it is put back to its original condition once the works are completed. Construction of the drain will require the use of machinery.
11. If members are minded to agree the proposal the next steps are for council officers to be authorised to:
 - Agree terms for the developer to access the site which will in turn include agreeing the method of working, securing the site for the duration of the works and its reinstatement after the works.
 - Agree terms for the permanent easement to be agreed which will include access for future maintenance.
 - Consult with the charities commission to establish if a scheme permitting this easement on the terms agreed may be granted and to make such application.
 - Proceed with all necessary actions to grant the easement.

Finance

12. There are no financial implications to DMBC of granting permission to allow this work to take place. Negotiations with the developer for the grant of the easement may give rise to a capital sum.

Law

13.
 - The Council owns Clayton Park in trust and in accordance with the Constitution of the Council has delegated the administration of the charity to the Ernest Stevens Trust Committee.
 - Section 139 of the Local Government Act 1972 empowers the Council to accept, hold and administer gifts of property, where this

will enable them to discharge any of their functions and where the gifts are for the purposes of benefitting the inhabitants of their area.

- The law relating to trusts which are charitable is contained in key legislation being the Charities Act 1960, 1992, 1993, 2011, 2022 and the Trustee Investment Act 1962.

Risk Management

14. There are no material risks to the Council presented by this paper. The risks sit with the contractor who has provided their safe method of working.

Equality Impact

- 15.
- The proposals contained in this report are consistent with the Council's Equality and Diversity Policy.
 - There is no effect of the decision on children and young people.

Human Resources/Organisational Development

16. There are no Human Resources/Organisational Development implications from this report. The work required associated with this report will be achieved from existing internal resources.

Commercial/Procurement

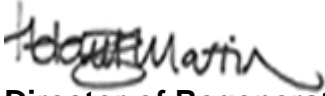
17. There are no commercial or procurement implications associated with this decision.

Environment/Climate Change

18. There is no impact on the environment identified within this report.

Council Priorities and Projects

19. This proposal has a direct link into the Borough Vision specifically: An affordable and attractive place to live with a green network of high-quality parks, waterways and nature reserves that are valued by local people and visitors.
20. The proposal supports wider Council and Borough activity and projects including Public Health and Wellbeing, Asset and Property Management and a positive impact on our customer base.



Director of Regeneration and Enterprise

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Appendices

Appendix 1: Plan route of easement .

Appendix 2: Detailed easement plan

List of Background Documents

Method statement – a comprehensive document details works and safety