

## FIELDS IN TRUST: PRE-DECISION SCRUTINY

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### Purpose of the Report

1. To give Members background information to aid the scrutiny of the draft report to Cabinet titled '*Fields in Trust*, which is due to be considered by Cabinet at their meeting on 23 May 2024.

### Structure of papers

2. Attached to this cover report are the following appendices:
  - i) **Appendix 1** – report to Cabinet titled '*Fields in Trust*.'
    - a. **Appendix A** – *Sites Matrix*
    - b. **Appendix B** - *Site Plans*
    - c. **Appendix C** - *Site Distribution Map*
    - d. **Appendix D** – *Single Impact Assessment*.

### Scope of Scrutiny

3. At their meeting on 23 May 2024, the Cabinet will consider a report that:
  - i) Seeks approval in principle of eleven sites for Fields in Trust protection, subject to the outcomes of the consultation exercise.
  - ii) Seeks approval for the commencement of a consultation exercise, with the outcome reported back to a future Cabinet meeting.
4. During this scrutiny, Members can explore:
  - i) The eleven sites put forward for protection with Fields in Trust
  - ii) The mechanism used to afford protection – the Deed of Dedication
  - iii) The proposed consultation exercise
  - iv) The financial, legal, property and risk implications for the Council
  - v) The next steps and timelines involved, and
  - vi) The recommendations to Cabinet.

## Background

5. Fields in Trust (FIT) is a registered charity that protects, supports and champions parks and green spaces via in perpetuity legal agreements with landowners. Currently, in Cardiff, there are 10 Council-owned parks and green spaces and 2 community council-owned recreation grounds protected via FIT.
6. The Corporate Plan 2023-2026 contains a commitment to continue to protect its parks and green spaces via FIT.

## Issues

7. **Point 7** of the report to Cabinet, attached at **Appendix 1**, sets out the qualifying criteria that sites must meet to be eligible for FIT protection. **Point 8** sets out the additional criteria used to identify the proposed 11 sites, including the Green Space index, the Welsh Index of Multiple Deprivation, whether the ward already has sites with FIT protection, and whether the sites include Functional Open Space.
8. **Point 9** lists the proposed eleven sites, with **Appendix A** detailing how each site meets the criteria, **Appendix B** showing the extent of the land proposed for inclusion, and **Appendix C** showing the distribution of the current and proposed FIT sites. **Point 20** states the proposals increase the percentage of population within a ten-minute walk of a protected site from an estimated 43% (159,000) to an estimated 69% ( 254,000 ).
9. **Points 10-13** set out the legal basis of FIT protection, namely a Deed of Dedication that:
  - i) requires the Council to preserve and maintain the land as a public park/ playing field/ open space
  - ii) requires the consent of FIT prior to any disposals and changes of use falling outside the agreed use
  - iii) ensures no restrictions or controls are imposed in respect of public access and/or use of sites and facilities for the full range of current purposes
  - iv) ensures the use of sites will be continuous and consistent with FIT objectives.

10. **Point 12** clarifies that the Council will continue to make decisions regarding maintenance regimes and standards without requiring consultation or approval from FIT.

11. **Points 15-16** set out why certain areas within the sites are excluded from FIT protection, namely:

- i) Hailey Park – the area hatched blue on the site plan in Appendix B – is already afforded protection via charity law and The Charity Commission
- ii) Hailey Park and Westfield Park – Dŵr Cymru pumping stations
- iii) Trelai Park – Children’s Nursery.

12. **Point 17** sets out that Fairwater Park includes the dry ski slope, which is subject to a lease with a third party and therefore the Council will seek inclusion within the dedication, subject to agreement with the leaseholder.

13. **Point 18** states that current budgets can meet the costs of the proposals.

14. **Point 19** states it is proposed a 6-week consultation exercise will commence in June, with explanatory notices installed at the eleven sites and stakeholder groups consulted directly.

15. **Financial Implications** are at **Points 23-25** and set out that protection via FIT does not constrain the Council’s ability to make efficiencies or identify potential future savings but does require FIT consent prior to any decision regarding change of use, which could restrict the potential for alternative use, sale and/ or disposal of land and the capital receipts which may be available as a result.

16. **Legal Implications** are at **Points 26-33** and include:

- i) the legal basis for the Council entering into a Deed of Dedication with Fields in Trust, namely s24 Local Government and Elections (Wales) Act 2021
- ii) a restriction on the title will be added to the title of the property at Land Registry, preventing dispositions
- iii) the need for the Council to consider its duties with regard to the Equality Act 2010, Socio-Economic Duty, Welsh Language Measure (Wales) 2011 and

Welsh Language Standards, the Well- Being of Future Generations (Wales) Act 2015.

17. **HR Implications** are at **Point 34** and state there are no HR implications.

18. **Property Implications** are at **Points 35-38** and include:

- i) It is recommended that a review of existing and future proposed activities and uses and occupation on the land is undertaken and/or documented so that any implications are fully considered.

### **Proposed Recommendations to Cabinet**

19. The report to Cabinet contains the following recommendations:

- 1) *Approve in principle (and subject to the outcome of the consultation exercise set out within this report) the list of sites for protection attached at Appendix A.*
- 2) *Approve the commencement of a consultation exercise set out within this report the outcome of which to be reported back at a future Cabinet meeting.*

### **Way Forward**

20. Councillor Huw Thomas (Leader) will be invited to make a statement. Jon Maidment (Head of Parks and Harbour Authority) and Rhodri Edwards (Parks Planning Manager) will attend to give a presentation and all witnesses will be available to answer Members' questions on the proposals.

### **Legal Implications**

21. The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person

exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

22. The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

### **RECOMMENDATION**

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter in time for its meeting on 23 May 2024, and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

**LEANNE WESTON**

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**08 May 2024**