

Officer Delegated Decision 19 July 2019

Report title: Brockwell Park – Deed of Dedication

Wards: Herne Hill

Report Authorised by: Bayo Dosunmu, Strategic Director, Residents' Services

Portfolio: Councillor Sonia Winifred, Cabinet Member for Equalities and Culture

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Report summary

Lambeth's parks and open spaces are vital assets for the health and well-being of our residents, with far-reaching social, economic and environmental benefits. They are regularly used by two-thirds of our population.

At their meeting on 6 June 2018 the Brockwell Park Strategic Partnership Board (the formal body for strategic decision-making relating to the park) agreed that officers should initiate a decision report recommending that Lambeth apply to Fields in Trust for a Deed of Dedication covering Brockwell Park.

Finance summary

The cost of applying for a Deed of Dedication will be £80 for purchasing a set of the property deeds from the Land Registry. Otherwise there are no financial implications arising from this report.

Recommendations

- (1) To sign a Deed of Dedication between Lambeth and Fields in Trust for Brockwell Park.

1. Context

- 1.1 Brockwell Park was acquired by the London County Council and opened as a public park in 1891, following a campaign headed by local MP Thomas Lynn Bristowe to save the former estate from development.
- 1.2 The Labour administration's manifesto promises to continue to protect and champion our parks and open spaces. Although the park currently enjoys protection as Metropolitan Open Land and through the Local Plan, this protection could be watered down or removed at some point in the future.
- 1.3 Fields in Trust is a charity established over 90 years ago, which has worked with local authorities and other organisations to protect 2,735 green spaces in perpetuity. Originally championing the permanent protection of sports fields, it has since broadened its scope to include all parks and open spaces.
- 1.4 The Deed of Dedication ensures protection for parks in perpetuity – permission from Fields in Trust is required for disposal of more than 20 per cent of the park or for the erection of buildings which are not ancillary to the function of the park. Permission is not required for ancillary buildings which contribute to or enhance the core purposes of the park, for example a refreshment kiosk or changing rooms.
- 1.5 The Deed would not alter the management of the parks in any way and would not prohibit the erection of temporary structures, e.g. for events or concessions.
- 1.6 A few examples of local parks protected by Deeds of Dedication are listed below:
 - Burgess Park (Southwark)
 - Dulwich Park (Southwark)
 - Peckham Rye Park (Southwark)
 - Southwark Park (Southwark)
 - Norbury Park (Croydon)
 - Wandle Park (Croydon)
 - Charlton Park (Greenwich)
 - Well Hall Pleasance (Greenwich).

2. Proposal and Reasons

- 2.1 It is proposed that a Deed of Dedication is signed for Brockwell Park. This will provide a tangible demonstration of the Council's commitment to protect Lambeth's parks and open spaces.
- 2.2 The choice of Brockwell Park follows a recommendation made by the Strategic Partnership Board to sign a Deed of Dedication.
- 2.3 Fields in Trust run a number of different programmes and it is proposed that the applications for a Deed of Dedication is made under the Active Spaces programme.
- 2.4 Our application would exclude all buildings in the park, meaning that Fields in Trust would not need to be consulted over leasing arrangements.

- 2.5 The Deed allows for small-scale works which remove public open space, up to 20 percent of the park's area, so would not prohibit essential works, for example constructing new changing facilities for sports groups.
- 2.6 Should it prove necessary, the Deed will still allow Lambeth to dispose of Brockwell Park, provided that alternative green space provision of equivalent quality is made locally.

3. Finance

- 3.1 There is no cost associated with applying for a Deed of Dedication via Fields in Trust. It will cost £80 to purchase the property deeds from the Land Registry and this cost will be met from the Parks revenue budget. Otherwise there are no financial implications arising from this report.

4. Legal and Democracy

- 4.1 Section 10 of the Open Spaces Act 1906 places a duty on any council which has acquired open space, subject to any conditions under which the estate was acquired, to hold the open space in trust to allow, and with a view to the enjoyment thereof by the public as an open space and under proper control and regulation and for no other purpose.
- 4.2 The Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 secures uniformity in the law applicable in respect of parks and open spaces in Greater London, including amongst other matters, the powers and restrictions on local authorities providing facilities for public recreation, granting of licences to provide facilities and letting of land and buildings for public recreation, restriction of public rights, charges etc.
- 4.3 The deed of dedication will require the council to register restrictions on its title at the Land Registry that will prevent any disposition of the land without a certificate signed by the Fields in Trust consenting to the disposal. The deed will provide such consent cannot be unreasonably withheld provided the council at the request of Fields in Trust, agrees to replace the park with a piece of freehold land approved by Fields in Trust of equivalent or better quality, facilities etc.
- 4.4 In reaching decisions on this matter, the decision maker are bound by the general principles of administrative law. Lawful discretions must not be abused or fettered and all relevant considerations must be taken into account. No irrelevant considerations may be taken into account, and any decision made must not be such that no reasonable authority, properly directing itself, could have reached.
- 4.5 Before making this decision, the council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not. The Equality Duty must be complied with before and at the time a policy/decision is made.

- 4.6 The Council's Constitution requires that issues of an important or sensitive nature will be published on the Council's website for five clear days prior to the decision being taken (Constitution, Part 2, Section 3), where this is required by the Cabinet Member or Director concerned. It is suggested that this proposed decision is published on Officer Decisions in the interests of transparency. Any representations received during this period must be considered by the decision-maker before the decision is taken.

5. Consultation and co-production

- 5.1 Ward councillors have been consulted over this proposal and all responses received have been positive. The Strategic Partnership Board for Brockwell Park were the driving force behind signing the Deed and the Board members include two local ward councillors and two committee members from the Brockwell Park Community Partners – the stakeholder group representing all community groups with an interest in the park. Support for the Deed is well-rooted in the local community.
- 5.2 Consultation with the Valuation and strategic Assets team revealed concerns over the inclusion of park buildings and the potential for added delay to decisions relating to leasing buildings. As such, the option to exclude buildings from the Deed will be utilised.

6. Risk management

- 6.1 There is negligible risk associated with the process of applying for the Deeds of Dedication. It is virtually nil cost and only requires a low level of staff input. The Deeds do not affect ownership or operational management of the parks in any way; and still allow development which is ancillary to the core purposes of our open spaces.
- 6.2 There are risks associated with any decisions made in perpetuity. However, the Deed would still permit development on 20% of the park and in fact permits any level of development provided that compensatory provision is made locally.
- 6.3 It is proposed to reduce risk by taking advantage of the option to exclude all buildings from the Deed.

7. Equalities impact assessment

The online equalities impact assessment form was completed on 29 January 2019 and approved on 13 February 2019. This report recommends a method of legal protection for the park only, does not affect service delivery in any way and has no potential for discrimination against the protected characteristics.

8. Community safety

- 8.1 None.

9. Organisational implications

9.1 Environmental

None.

9.2 **Staffing and accommodation**

None.

9.3 **Procurement**

None.

9.4 **Health**

None.

9.5 **Timetable for implementation:**

July 2019: report published on Officer Decisions prior to approval.

August 2019: application form submitted to Fields in Trust.

October 2019: Deed completed.

Audit trail				
Consultation				
Name/Position	Lambeth department	Date Sent	Date Received	Comments in para:
Cllr. Sonia Winifred Cabinet Member for Equalities and Culture	Cabinet Member	02/07/2019	08/07/2019	Cleared
Bayo Dosunmu Strategic Director	Residents' Services	02/07/2019	02/07/2019	Cleared
Raj Mistry Director of Environment and Streetscene	Residents' Services	06/06/2019	02/07/2019	Cleared
Andrew Ramsden Assistant Director Finance	Finance and Investment	03/06/2019	04/06/2019	3
Cllr Marcia Cameron, Chair	Brockwell Park Strategic Board	08/05/2019	08/05/2019	2
Cllr Fred Cowell, Vice-Chair	Brockwell Park Strategic Board	08/05/2019	08/05/2019	2
Greg Carson Principal Lawyer	Legal and Governance	29/01/2019	31/05/2019	4
Maria Burton Senior Democratic Services Officer	Legal and Governance	29/01/2019	05/02/2019	4
Yvonne Hardy Assistant Head – Directorates, Valuation and Strategic Assets	Finance and Investment	26/06/2018	26/06/2018	2
All ward councillors	Herne Hill, Tulse Hill and Thurlow Park	26/06/2018	various	2
Procurement Board	N/A	-	-	-
External Consultees				
Ann Kingsbury, Chair	Brockwell Park Community Partners (BPCP)	08/05/2019	08/05/2019	2
Derek Hoare	BPCP	08/05/2019	08/05/2019	2
Susy Hogarth	BPCP	08/05/2019	08/05/2019	2
John Gahan, Secretary	BPCP	08/05/2019	08/05/2019	2

Report history	
Original discussion with Cabinet Member	19/06/2018
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Date first appeared on forward plan	n/a
Key decision reasons	n/a
Background information	None
Appendices	Appendix 1 - Sample Deed of Dedication

APPROVAL BY OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:

Signature _____ **Date** _____

Kevin Crook, Assistant Director Neighbourhoods

I approve the above recommendations:

Signature: _____ Date: _____

Bayo Dosunmu, Strategic Director, Residents' Services

Any declarations of interest (or exemptions granted): None

Any conflicts of interest: None

Any dispensations: None