

Name of Committee:	<b>Cabinet</b>
Date of Meeting:	<b>18/02/2019</b>
Relevant Scrutiny Committee:	<b>Healthy Living and Social Care</b>
Report Title:	<b>Cowbridge Physic Garden</b>
Purpose of Report:	To seek approval to enter into a deed of dedication with Fields in Trust to provide protected green space status to the Cowbridge Physic Garden
Report Owner:	Cabinet Member for Social Care, Health and Leisure
Responsible Officer:	Miles Punter - Director of Environment and Housing Services
Elected Member and Officer Consultation:	<p>Committee Reports - Legal</p> <p>Neighbourhood Services and Building - Accountant</p> <p>Property - Lorna Cross</p> <p>Operational Manager - Regeneration</p> <p>Councillor Cox</p> <p>Councillor Parker</p> <p>Councillor Jarvie</p>
Policy Framework:	This report is a matter for executive decision by Cabinet
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>At its meeting of 7th January 2019 Cabinet agreed to authorise a new 25 year lease for the Physic Garden but deferred a decision on whether to protect the area under the Fields in Trust Green Spaces for Good Programme and to enter into a deed of dedication with the organisation to that affect.</li> <li>This report details the further information requested by Cabinet.</li> <li>Confirmation has been received from the Trust that it would wish the Physic Garden to be dedicated as it believes this would secure the future of the open space for future generations.</li> <li>The dedication would restrict the Council's options for this land in perpetuity and the risks associated with this are also detailed.</li> <li>Taking all factors into account, the report recommends that authority is given to dedicate the Physic Garden as a Fields in Trust site.</li> </ul>	

## **1. Recommendation**

- 1.1** That delegated authority is granted to the Director of Environment and Housing in consultation with the Cabinet Member for Social Care and Leisure and the Monitoring Officer/Head of Legal and Democratic Services, to dedicate the Physic Garden under the appropriate Fields in Trust programme with the agreement of the Cowbridge Physic Garden Trust
- 1.2** That the Monitoring Officer/Head of Legal and Democratic Services be authorised to sign a deed of dedication with Fields in Trust and register the same.

## **2. Reasons for Recommendations**

- 2.1** To progress the formal dedication under the appropriate Fields in Trust programme.

## **3. Background**

- 3.1** Cabinet considered a previous report on this matter at its meeting of 7 January, 2019 Minutes No. C538 (5) refers. At the time Cabinet required more information on a proposal to dedicate the Physic Garden as a Fields in Trust site.
- 3.2** This report provides the additional informational requested to assist Cabinet to take a decision on the dedication request.
- 3.3** Contact has now been made with both the Cowbridge Physic Garden Trust and Fields in Trust regarding the possibility of dedicating the Physic Garden under the appropriate Fields in Trust programme.

## **4. Key Issues for Consideration**

- 4.1** The Cowbridge Physic Garden Trust has confirmed, in writing, that it would very much support the dedication of the Physic Garden as a protected green space as it would provide reassurance to anyone wishing to leave a legacy in their will that the garden will be a protected open space for the foreseeable future. A copy of an e-mail from the Secretary of the Trust confirming the Trust position is attached at Appendix A.
- 4.2** Furthermore, as leaseholders of the Physic Garden, the Trust would be required to be a party to any deed of dedication.
- 4.3** Fields in Trust has confirmed that they would welcome the Physic Garden becoming a protected space. Information has been provided at Appendix B from Fields in Trust detailing what a deed of dedication would involve and what protection it would offer. Fields in Trust was keen to emphasise the positive relationship it has with the Vale of Glamorgan Council regarding the number of similar dedications that are in place for various green spaces throughout the Vale of Glamorgan. A list of these areas is attached at Appendix C.

- 4.4** Should Cabinet agree to the dedication of this land it will be protected from certain development in perpetuity. Essentially The Fields in Trust would have to give permission for the land to be used for any other purposes other than a publically accessible garden. It should also be noted that as a Physic Garden is a public garden, the Council would need to provide justification if it was to ever seek to develop this important, historic site.

## **5. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 5.1** The provision of a deed of dedication for the Physic Garden in Cowbridge would demonstrate the Council's long term planning and assist in creating a quality open space for future generations.
- 5.2** The Physic Garden also demonstrates the Council's commitment to collaboration by working in partnership with both the Physic Garden Trust and Fields in Trust.
- 5.3** In addition, the way in which the Physic Garden is presently managed and maintained demonstrates the commitment of local people achieving well-being goals.
- 5.4** On a wider community basis the Physic Garden is an excellent example of the Council enabling a former derelict site to be bought back into use for the benefit and well-being of the wider community.

## **6. Resources and Legal Considerations**

### **Financial**

- 6.1** There are no direct resource implications associated with this report.

### **Employment**

- 6.2** There are no employment implications associated with this report.

### **Legal (Including Equalities)**

- 6.3** In order to dedicate the Physic Garden under the appropriate Fields in Trust programme, the Council and the trustees of Cowbridge Physic Garden Trust will be required to enter into a deed of dedication with the National Playing Fields Association, who operate as Fields in Trust. As previously advised this is a legally binding document containing undertakings on behalf of all parties to it that will mean that the Physic Garden will be dedicated as a protected green space in perpetuity.

Agenda Item: 20

## **7. Background Papers**

Report to Cabinet 7 January 2019 - Physic Garden, Cowbridge.

From:

Sent: 09 January 2019 18:56

To: David Knevett

Subject: Cowbridge Physic Garden

Dear Dave

I write once again on the subject of a new lease and dedication of the Cowbridge Physic Garden as part of the Fields in Trust Scheme.

As you are no doubt aware, the Physic Garden was included on the agenda of the Cabinet Meeting on 7 January 2019. The agenda item was to consider a grant of a 25 year lease and a grant of Fields in Trust status. Councillor Gordon Kemp recommended both that the lease be renewed and that the Physic Garden be granted dedicated status as part of the Fields in Trust scheme. The Cabinet approved the grant of a 25 year lease. As you are aware, the Trustees were keen to be granted a much longer lease, originally a request for 99 years, in order to ensure the future existence of the Physic Garden. It is for this reason too that the Trustees wished to enter into a Deed of Dedication with Fields in Trust in order to protect the garden in perpetuity. However, the second matter was deferred to a later date, the reason being given that there seemed to be some confusion as to whether or not the Trustees were in agreement with this request. On behalf of the Trust I wish to state that this latter statement is entirely untrue. The report that you prepared for Cabinet in May 2018 with its recommendations was sent to all the Trustees and approved by them for submission to Cabinet.

The reasons for the request to be granted Fields in Trust status are similar to those previously advised and included in the above report to Cabinet. The wish of the Trustees is to secure the future of the Physic Garden.

The success of the Physic Garden is undeniable and is due to the hard work and dedication of the volunteers since its inception in the creation of a unique Physic Garden. Gradually the next generation of volunteers are being recruited to carry on the work and it is essential that they have the assurance that the garden has a long term future.

Visitors to the garden constantly praise the high standard of presentation which has resulted in the receipt of a Green Flag Award every year for the last ten years and the award of the

RHS Wales in Bloom Neighbourhood Award with a level 5 "outstanding". The Trustees and Volunteers were "congratulated on their vision and ongoing commitment to what must be one of Wales's hidden horticultural gems".

As the Physic Garden has gained recognition at home and abroad, the number of visitors has increased. The Physic Garden has featured in magazine articles, is listed in garden guides and is a member of Botanic Gardens Conservation International. The Physic Garden now regularly hosts foreign visitors and group visits from local organisations and gardening groups from all over the UK as it is included on the suggested itinerary of gardens to visit in South Wales. The Physic Garden also provides an attractive venue for use by charities for a charitable event.

The Trustees have been working closely with Creative Rural Communities in the past year or so and is participating in the Vale School Trips Scheme as part of Visit the Vale. In fact the Physic Garden was selected as a case study for the design of resource materials for school groups. It is understood that Visit Wales is hoping to extend the promotion of filming in the Vale and the Cowbridge Physic Garden would be one of the recommended sites.

The Physic Garden is now firmly established as a community asset, as a tourist attraction, as a venue of academic interest to research students and as a model for the establishment of physic gardens elsewhere.

In order for the high standards of the garden to be maintained, constant improvement and renewal has to take place. The Trustees are about to spend approximately £64,000 on the renewal of all the paths to ensure their durability and that they are in keeping with the surroundings. This type of expenditure and long term planning can only be undertaken in the knowledge that the Physic Garden will be retained as a garden for future generations and why Fields in Trust status is necessary.

When applications are made for grant assistance to carry out projects in the garden, it is always necessary to indicate to the funding body that the garden has a long term future and is protected for future generations.

As stated in previous correspondence, the Physic Garden continues to be the fortunate beneficiary of legacies from local people who have taken great pleasure from visiting the garden during their lifetime.

The media today is constantly stressing the positive impact that gardens and plants have on mental health and well-being and on the environment. The Physic Garden is used daily by people of all ages and from all walks of life. Bearing in mind the Welsh Government's Well Being of Future Generations (Wales) Act 2015 which requires public bodies to demonstrate how they are contributing to the country's long term sustainability, it is hoped that the Cabinet will authorise that the Cowbridge Physic Garden be granted Fields in Trust dedication to protect the garden for future generations and to ensure that the garden cannot be used for any other purpose . Cowbridge Physic Garden Limited has at its charitable purpose "to promote for the benefit and education of the public the conservation protection and improvement of the physical and natural environment by the creation development and maintenance of a physic garden within Cowbridge in the Vale of Glamorgan." The Trustees have a duty to fulfil the charitable object for which the garden was established and this means protecting it for the future.

I would be grateful if all these points could be included in a fresh report to Cabinet. It was indicated that the item could be included on the agenda on January 21.

Kind regards

Pamela

## **Fields in Trust Protection**

### **How do Fields in Trust protect parks and green spaces?**

We protect land through a binding legal agreement called a Deed of Dedication or, in Scotland, a Minute of Agreement. It's a robust yet flexible way of safeguarding the future of a space, designed just for us. Both Deeds and Minutes of Agreement legally ensure that space is protected for future generations to enjoy. This means that before certain developments can take place the owner needs to seek permission from Fields in Trust (see Question 4). There are two types of Deed - charitable and non-charitable. If the Deed creates a charity both charity law and Fields in Trust will ensure the protection if the Deed is non-charitable Fields in Trust will ensure the protection.

### **What kinds of spaces do Fields in Trust protect?**

Fields in Trust can protect any type of outdoor recreational space providing it has public access, including playing fields, recreation grounds, playgrounds and play areas, parks, country parks and nature reserves.

### **What does 'permanent protection' really mean?**

'Permanent protection' or 'protection in perpetuity' does indeed mean forever in the case of freehold land or at least 99 years in the case of leased land. Each space's protection is specified in its own Deed of Dedication or Minute of Agreement.

### **What buildings are allowed on protected land?**

As mentioned in Question 1, the protection of each space is individually detailed in the Deed of Dedication and this would include any changes to the space. Generally, only ancillary buildings are allowed but other buildings could be allowed subject to Fields in Trust's permission.

### **Once a space is protected do we need to change the name?**

Not at all, our protection is a status, not a name change.

### **Once a field is protected by Fields in Trust who owns and manages the land?**

Ownership and management remain in local hands after Fields in Trust protect any space as they are best placed to reflect the needs of the community. Any non-recreational changes in use of the space or any buildings do need our specific consent but otherwise, we are very much 'light touch'.

## **Our land is already protected, why should we protect it through you?**

There are many forms of protection, including covenants, town and village green registration and planning protection. In the vast majority of cases, our Deed of Dedication will enhance a site's protection, as well as bringing additional benefits such as funding, positive PR for the landowner and renewed goodwill from the local community.

**List of current Fields in Trust registered land in the Vale of Glamorgan**

**Knap Gardens, Lakeside, Barry, CF62 6SW**

**Barry Sports Centre, Barry CF62 8UP**

**Romilly Park, Barry, CF62 6RN**

**Buttrills Playing Fields, Barry, CF62 8BX**

**Jenner Park, Barry, CF62 9BG**

**Peterston Super Ely Memorial Playing Fields, CF5 6LH**

**Llanmaes Playing Fields, Llantwit Major, CF61 2XR**

**Populars Park, Cowbridge, CF71 7BJ**

**Parc Bryn y Don, Dinas Powys, CF64 4TR**

**Llantwit Major Recreation Field, CF61 1XZ**

**Seaview Park, Llantwit Major, CF61 1RF**

**Lorna Hughes Park, Llantwit Major, CF61 1SS**

**Penarth Athletic Field, CF64 3QH**

**Alexandra Park, Penarth, CF64 3AY**

**King George V Playing Field, St. Donats, CF61 1WF**