

Item No.	Classification: Open	Date: 20 March 2013	Decision Taker: Cabinet Member for Transport, Environment & Recycling
Report title:		Queen Elizabeth II Field applications	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment & Leisure	

RECOMMENDATION

1. That the cabinet member agrees to an initial submission of the parks detailed in this report to the Fields In Trust for designation as Queen Elizabeth II Fields.

BACKGROUND INFORMATION

2. The Queen Elizabeth II Fields Challenge is a flagship UK-wide programme of the Fields in Trust (previously know as the National Playing Fields Association) to celebrate the Diamond Jubilee and London Olympic and Paralympic Games, as well as the 2014 Commonwealth Games by permanently protecting 2012 outdoor recreational spaces by 2012.
3. The council has since been approached by Queen Elizabeth II Fields Challenge and encouraged to submit further parks for designation as Fields in Trust, specifically Southwark Park. An application to designate King's Stairs Gardens as a Field in Trust was submitted in February 2012 and was approved.

KEY ISSUES FOR CONSIDERATION

4. The Queen Elizabeth II Fields Challenge aims to safeguard hundreds of outdoor recreational spaces in perpetuity for future generations in celebration of the Diamond Jubilee and as a permanent tribute to Queen Elizabeth II.
5. The Queen Elizabeth II Fields Challenge presents an opportunity to safeguard a community facility that will not only benefit people today but also generations to follow, securing for communities access to outdoor spaces for sport, recreation and play.
6. The 'Fields' status is defined by the following criteria:
 - The site must be owned by the organisation putting the field forward to become a Queen Elizabeth II Field.
 - Sites may be provided with facilities and equipment or used as general open space, and established for that purpose by way of planning requirements.
 - Each site's principal use should be outdoor sport, play or recreation.
 - Satisfactory evidence that the use or proposed use is a lawful use in planning terms.
 - Generally the minimum size is 0.2 hectare (0.5 acre).
 - Sites need to be accessible in terms of location.

- Sites need to be affordable for the local community.
 - Sites should be open to the public, established charitably, be held by a sports club under the Community Amateur Sports Club regime, or held as Public Open Space.
 - All sites will need local managers, who will be responsible for the quality of the facilities, their maintenance and development, improving participation and use and financial and operational sustainability.
 - Sites must be compliant with existing legislation relating to sport, play or open space.
7. The council proposes to submit applications for the following Green Flag parks for Fields in Trust designation:
 - Southwark Park
 - Dulwich Park
 - Peckham Rye Park
 - Russia Dock Woodland
 - Brimmington Park
 - Warwick Gardens.
 8. It is also proposed to submit an application for Burgess Park which is Southwark's other major park for which a Green Flag application is being submitted in February 2013.
 9. Other local authorities have identified sites through a public vote or another form of public involvement. The council was approached following the successful application for King's Stairs Gardens by FIT and was encouraged to submit further applications for QEII status. Given the tight timescales from FIT for the submission of applications it was not possible for Southwark Council to undertake this type of process.
 10. The above sites were chosen on the basis that they are Green Flag sites, appear to meet the QEII criteria (although evidence of this will have to be provided should the applications be successful), applications are supported by the Friends groups and the designation would show the council's further public commitment to the protection, in perpetuity, of these spaces as accessible and free open spaces for the benefit of residents of Southwark.
 11. Should this proposal be approved, the council will need to apply to FIT for designation of each of the sites. A simple application form will be complete for each site and these submissions must include detailed maps of the sites showing land ownership and the extent of the land that is proposed to be designated by FIT for QEII status.
 12. The legal process for protecting the Queen Elizabeth II sites is to protect sites in perpetuity through a Deed of Dedication (Appendix 1). Deeds will be entered into for each site; these are legally binding contracts which will ensure the protection of the site in perpetuity. The Deed will impose a number of restrictions on the park which are detailed in paragraphs 13 and 14 below. The Deed will specify that the sites are protected as non-charitable sites by FIT; protecting the land for general open space purposes, specifically for sport or games, or for outdoor and indoor recreational purposes, depending on present and foreseen circumstance.
 13. 'Fields' which are granted Queen Elizabeth II Field status will be protected in perpetuity and accordingly should the council wish to dispose of the park it will

need FIT's consent to do so. A disposal would be approved if the disposal is of clear advantage, and in the best interests of the community, from a recreational perspective. Additionally, and very importantly FIT will only give consent if replacement facilities are provided of at least equal size, better quality and serve the same community in terms of catchment area and, the entire proceeds of any disposal are re-applied to new sport, recreation and/or play facilities, with priority given to outdoor facilities.

14. As well as restrictions on disposals, the Deed of Dedication will also place restrictions on the erection of any buildings or structures in the park. Buildings that are ancillary to the park's use can be erected without consent, although FIT has to be informed of any proposals, intentions or decisions to erect any such structure without delay, but where it is proposed to erect a building or structure the use of which is not within the permitted use of the park then the consent of FIT would be required
15. The council would have an obligation to FIT to maintain the park and so far as is consistent with its duties as a local authority to have regard to advice given by FIT on the management and running of the park.
16. All QEII parks will still be owned and managed by LBS. FIT's role, outside the matters outlined in paragraphs 13 and 14, is purely custodial and advisory. They ensure that the fact of protection of these sites is in the public domain (partly by requiring the council to erect a notice at the park giving details of FIT and the fact that the park is a Queen Elizabeth II Field) and that any change of use or any buildings which fall outside the terms of protection need FIT's specific advance consent.
17. The above mentioned parks will not have to change name if the application is successful.
18. FIT would have a veto over any potential disposals, including wayleaves, leases, transfers and sales. FIT would also need to be consulted about any building works on the site that lie outside the agreed use of the park.
19. Where the land is registered at the Land Registry, a restriction is registered on the Register of Title in favour of FIT which will prevent any dispositions being registered without FIT's consent.

Consultation

20. The Friends of the above listed parks are in favour of applications being submitted to QEII Fields in Trust. This report seeks agreement to an initial submissions to the Fields in Trust. If the applications are accepted the council will undertake further consultation on the scope of any necessary works. Applications can be withdrawn at any time prior to the final signing of the Deed of Dedication.

Resource implications

21. FIT will pay its own legal costs of completing the deeds of dedication but the council will have to fund its own legal costs amounting to £700 which can be met from the existing parks revenue budget. The status of Queen Elizabeth II Fields provides greater opportunities to access external funding.

22. Maintenance of the sites is already part of the ground maintenance contract and is maintained by Quadron.
23. Each successful application to FIT qualifies the site for a £10,000 grant which should be spent on the park in accordance with FIT guidance. This guidance states that this funding should be spent on improvement projects that further increase access and enjoyment of the spaces. Such projects will be developed in partnership with the Friends groups.

Staffing implications

24. There are no staffing issues to be considered.

Community impact statement

25. The dedication of the above mentioned parks as Queen Elizabeth II Fields will protect these spaces from being used for an alternative use in perpetuity and will ensure that the local community benefit from freely available green spaces for use as local parks.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

26. The parks are currently held by the council for the following purposes:
 - Southwark Park MOL – Recreation and Sports
 - Dulwich Park MOL – Recreation and Sports
 - Peckham Rye Park MOL – Recreation and Sports
 - Russia Dock Woodland MOL – Recreation
 - Brimington Park BOL – Recreation and Sports
 - Warwick Gardens BOL – Recreation
 - Burgess Park MOL – Recreation and Sports
27. They are held by the council in the General Fund. Some of the parks are designated as Metropolitan Open Land and some are designated Borough Open Land. As such the planning controls are strict but it is permissible for the council to dispose of Metropolitan Open Land and Borough Open Land if the correct procedures are followed. If the properties listed above are dedicated to FIT then the council will not be permitted to dispose of them or use them for any other purpose than that specified by FIT (namely recreation and sports) without the consent of a third party, namely FIT, as outlined in paragraphs 13 and 14 of this report. It must be appreciated that if in the future the council wished to develop any or some of the parks (or part of them), or grant easements across any of them, it will be necessary to obtain consent from FIT in order to do so. The dedication of the parks as Queen Elizabeth II Fields will protect the parks from development not related to the current activities carried on in the park in perpetuity and the council will not have the same flexibility over the use of the parks as might be available at present (save where FIT permits a change).
28. Any change to the current planning laws affecting the parks will not change the restrictions imposed on their use by the dedication to FIT. Any consent by FIT to a disposal would require the council to provide a replacement park of at least as high a standard as outlined in paragraphs 13 and 14 of this report. A local

authority is empowered by s.2 Local Government Act 2000 to do anything which they consider is likely to achieve, among other things, the promotion or improvement of the environmental well-being of their area and/or the social well-being of their area. If the cabinet member for transport, environment and recycling considers that the dedication of the parks for use or the uses set out in paragraph 24 of this report will promote or improve the environmental well-being or social well-being of the area then he may approve the dedication of each of the parks listed in paragraph 9 of this report to FIT as Queen Elizabeth II Fields. It may be that the current holding or constitution of the parks will require Secretary of State consent to the proposed dedications in addition to the approval of the cabinet member, and such approval is not guaranteed. If that is the case it will be necessary to apply for that approval in the event that FIT accepts the nomination of the park or parks concerned as Queen Elizabeth II Fields.

Strategic Director of Finance and Corporate Services (E&L/13/003)

29. The report seeks the approval of the cabinet member for transport, environment and recycling for the submission of parks detailed in this report to the Fields In Trust (FIT) as Queen Elizabeth II Fields.
30. The strategic director notes the resource implications and that costs will be contained within existing revenue resources.

Head of Property

31. Where applications are successful a further tier of protection in perpetuity will be afforded to the parks referred to in this report.
32. The quid pro quo will be a corresponding layer of administrative process to negotiate with the third party Fields in Trust organisation, should the council consider it prudent to effect changes within any of the parks in the future.
33. The parks are, of course, already protected by Planning designation, and may be subject to further strict controls including Act of Parliament and restrictive covenants (with which any additional dedication of the land will need to be consistent).
34. The report notes that FIT would have a right of veto over any potential disposals, including the grant of wayleaves, leases and freehold sales. A disposal would only be approved in the event of equivalent or better facilities replacing them in the immediate locality.
35. Therefore it should be noted that the proposal removes from the council's direct control such limited flexibility as it currently has for the wider asset management planning of its parks and neighbouring assets. This could restrict options both within the parks and on adjacent sites, where a disposal or mutual exchange of land might otherwise achieve both recreational/community objectives and fulfil development needs, for example.
36. The mapped extents of all the land considered to form the respective parks should be agreed by Head of Property prior to the applications being made.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
1	Deed of Dedication

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Des Waters, Head of Public Realm	
Version	Final	
Dated	20 March 2013	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Strategy	Yes	Yes
Head of Property	Yes	Yes
Cabinet Member		
Date final report sent to Constitutional Team	20 March 2013	