

Notice of meeting and agenda

Culture and Communities Committee

10.00 am Thursday, 13th October, 2022

This is a public meeting and members of the public are welcome to attend in the Dean of Guild Courtroom or watch the webcast live on the Council's website.

The law allows the Council to consider some issues in private. Any items under "Private Business" will not be published, although the decisions will be recorded in the minute.

Contacts

Email: natalie.le.couteur@edinburgh.gov.uk / blair.ritchie@edinburgh.gov.uk

1. Order of Business

- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

2. Declaration of Interests

- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

3. Deputations

- 3.1 If any

4. Executive Decisions

- | | | |
|-----|--|---------|
| 4.1 | Dowies Mill Weir | 5 - 16 |
| 4.2 | Terms and Conditions for Operating Events in Parks: West Princes Street Gardens and the Ross Bandstand | 17 - 28 |
| 4.3 | Fields in Trust Dedications, Ravelston Park and Orchard Brae Park | 29 - 44 |

5. Motions

- 5.1 None

Nick Smith

Service Director: Legal and Assurance

Committee Members

Councillors Councillor Val Walker(Convener), Councillor Fiona Glasgow, Councillor Dan Heap, Councillor Finlay McFarlane, Councillor Amy McNeese-Mechan, Councillor Jane Meagher, Councillor Max Mitchell, Councillor Marie-Clair Munro, Councillor Hal Osler, Councillor Alex Staniforth and Councillor Edward Thornley

Information about the Culture and Communities Committee

The Culture and Communities Committee consists of 11 Councillors and is appointed by the City of Edinburgh Council. The meeting is a Hybrid Meeting and will be held in the Dean of Guild Court Room / Microsoft Teams and will be webcast live for viewing by members of the public.

Further information

If you have any questions about the agenda or meeting arrangements, please contact Natalie Le Couteur or Blair Ritchie, Committee Services, City of Edinburgh Council, Business Centre 2:1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to the Council's online [Committee Library](#). Live and archived webcasts for this meeting and all main Council committees can be viewed online by going to the Council's [Webcast Portal](#).

Webcasting of Council meetings

Please note this meeting may be filmed for live and subsequent broadcast via the Council's internet site – at the start of the meeting the Convener will confirm if all or part of the meeting is being filmed.

The Council is a Data Controller under the General Data Protection Regulation and Data Protection Act 2018.

We broadcast Council meetings to fulfil our public task obligation to enable members of the public to observe the democratic process. Data collected during this webcast will be retained in accordance with the Council's published policy including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Any information presented by individuals to the Council at a meeting, in a deputation or otherwise, in addition to forming part of a webcast that will be held as a historical record, will also be held and used by the Council in connection with the relevant matter until that matter is decided or otherwise resolved (including any potential appeals and other connected processes). Thereafter, that information will continue to be held as part of the historical record in accordance with the paragraphs above. If you have any queries regarding this, and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact Committee Services (committee.services@edinburgh.gov.uk).

This page is intentionally left blank

Culture and Communities Committee

10.00am, Thursday, 13 October 2022

Dowie's Mill Weir Fish Pass, River Almond

Executive/routine Wards Council Commitments	Routine 1 – Almond
---	-----------------------

1. Recommendations

- 1.1 It is recommended that Culture and Communities Committee:
 - 1.1.1 Notes the content of this report;
 - 1.1.2 Agrees the construction of a rock ramp at Dowie's Mill Weir;
 - 1.1.3 Supports the development of the rock ramp proposal to detailed design stage and subject to further stakeholder engagement in the design process; and
 - 1.1.4 Allows the Executive Director of Place to progress the necessary arrangements for the construction of a fish pass at Dowie's Mill Weir, subject to Planning consent being approved and adequate funding being in place.

Paul Lawrence

Executive Director of Place

Contact: Steven Cuthill, SE Locality Transport and Environment Manager

E-mail: steven.cuthill@edinburgh.gov.uk | Tel: 0131 529 5043

Dowie's Mill Weir Fish Pass, River Almond

2. Executive Summary

- 2.1 This report provides an update on the Dowie's Mill Weir Fish Pass on the River Almond and seeks approval to progress with development of a rock ramp at this location to improve fish migration.

3. Background

- 3.1 Dowie's Mill Weir is situated on the lower reaches of the River Almond, approximately 1.7km upstream of the river mouth in the Forth estuary and approximately 180m downstream of the Cramond Brig. The weir is Council-owned and has a history that dates back to the 1600s. The weir fed Dowie's Mill, long since demolished.
- 3.2 While there are eight weirs on the River Almond, Dowie's Mill Weir is one of seven local authority weirs identified for improvement. Work has now been completed at six of the other local authority weirs, leaving Dowie's Mill Weir as the final one.
- 3.3 Large parts of Dowie's Mill Weir are in very poor condition. The weir was last breached and subsequently repaired in 1962. If Dowie's Mill Weir were to fail, this could potentially put the upstream riverbanks, gas main, sewer, and Cramond Brig at serious risk of erosion and damage.
- 3.4 The provision of fish migration at any existing impoundment (e.g., weirs and dams) is the responsibility of the structure owner(s) under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 ('CAR').
- 3.5 The Almond Barriers Project is an ongoing initiative along the River Almond to improve fish passage that allows migratory fish to extend their distribution in the catchment. The project is a partnership between the Scottish Environment Protection Agency (SEPA), the Forth Rivers Trust, West Lothian Council, and the City of Edinburgh Council. The project covers more than 200km of the river and its tributaries and aims to improve fish passage at seven weir locations including Dowie's Mill Weir.
- 3.6 SEPA has identified that the weir presents an obstacle to fish migration and impacts on both the habitat connectivity and natural movement of materials, such as

gravels, in the river. In turn, these pressures contribute to the poor Water Framework Directive (WFD) status assigned to the River Almond. Improving fish passage at Dowie's Mill Weir will therefore have environmental benefits and help improve the status of the river and its catchment.

- 3.7 The River Almond Walkway runs along the right bank of the river and allows direct views of Dowie's Mill weir, which is a key landmark along the route. The walkway is well-used and highly regarded, allowing easy access to picturesque riverside views. This landscape and amenity value is recognised through local planning policy designations as an Area of Outstanding Landscape Quality and a Special Landscape Area. The site is also within the Green Belt and the Cramond Conservation Area.
- 3.8 The City of Edinburgh Council is legally obliged to remove or ease physical barriers to the passage of fish along the River Almond that are in its ownership and Scotland's River Basin Management Plan prioritises the Almond barriers for fish migration works.
- 3.9 Dowie's Mill Weir is a 70m wide predominantly concrete weir, with sections of concrete capping boulders and a variety of downstream face gradients. There are several points along the crest of the weir where concrete sections are missing or fragmented, showing the boulders below. The weir is in a noticeably poor state of repair and would appear likely to further degrade in the future. This is likely to alter passability for fish in unpredictable ways and be a risk to the long-term success of future improvement works unless action is taken.
- 3.10 The existing fish pass, consisting of a 1.3m wide bypass channel built into the weir structure and sited immediately adjacent to the right-hand bank, is sub-optimal for fish passage owing to the turbulent and confused flow and large head drops.

Importance of fish passage

- 3.11 The River Almond is a known salmonid fishing river with sea trout and Atlantic salmon present at different times of the year. These are important migratory fish that are in general decline and the seven redundant local authority weirs are individually, and cumulatively, an obstruction to their migration.
- 3.12 Dowie's Mill Weir is the second weir upstream of the tidal limit on the River Almond and fish passage at the weir is critical for populations of migratory fish species.

Defining a fish pass

- 3.13 The purpose of a fish pass is to allow the free passage along the water course of endemic fish species of the appropriate developmental stage(s) at the appropriate time(s) of year. This would support the passage of juvenile salmonids (smolts), adult migratory salmonids, and the needs of different life stages of freshwater fish species.
- 3.14 The Environment Agency defines a fish pass as "any form of conduit, channel, lift, other device or structure which facilitates the free passage of migrating fish over, through or around any dam or other obstruction, whether natural or man-made, in either an upstream or a downstream direction."

- 3.15 A fish pass provides support for priority species including Atlantic salmon (*Salmo salar*); Brown trout (*Salmo trutta*); European eel (*Anguilla anguilla*); Sea lamprey (*Petromyzon marinus*); River lamprey (*Lampetra fluviatilis*); and Brook lamprey (*Lampetra planeri*).

Removal of the Weir

- 3.16 A report commissioned by the River and Fisheries Trusts undertaken by Jeremy Benn Associates (JBA) Consulting in 2017 developed a detailed design for removal of the weir. Although considered to be the best option for fish passage (because it removes the weir that is an obstruction in the river, restores fish passage over a range of flows for all species, restores natural sediment transport, reduces poaching opportunities, and requires minimal maintenance), this option proved unpopular and received objections following public consultations. The JBA report suggested weir removal with a riffle-pool-boulder rapid as the preferred option. This would include removing the weir and reinstating the riverbed with a boulder rapid in the reprofiled high energy section, incorporating a pool-riffle sequence in low flow areas.

4. Main report

- 4.1 Several studies relating to the barriers and fish passage on the River Almond have been undertaken since 2010. Due to the age of the existing weir structure, its condition and integrity, and issues with fish passage, it is now necessary to undertake improvements to Dowie's Mill Weir.
- 4.2 Due to the degree of community anxiety about weir removal, the options for easement of the weir were considered by AECOM, including:
- 4.2.1 Weir removal;
 - 4.2.2 Reducing barrier height plus rock ramp;
 - 4.2.3 Full width rock ramp 2%;
 - 4.2.4 Full width rock ramp 5%;
 - 4.2.5 Combination pass;
 - 4.2.6 Bypass channel;
 - 4.2.7 Baffle-brush pass; and
 - 4.2.8 New downstream weir with baffle-brush pass.

Review of options for a fish pass

- 4.3 AECOM reviewed potential alternative options to consider local preferences, manage stakeholder expectations and objections, enhance the local environment, and hopefully gain planning approval. A hierarchy of options from the fish passage appraisal is given in Appendix 1.
- 4.4 This work supported the development of a rock ramp proposal as the next best option to weir removal. Key benefits of the rock ramp are that it maintains the historical weir structure and the character of the slow-flowing water upstream, as

well as being capable of providing a suitable degree of fish passage by adhering to available fish pass guidance.

Rejection of weir removal

- 4.5 Removing the weir was opposed by the local community over the impounded water, sometimes called the “mill pond”, upstream of the weir being valued.
- 4.6 Other risks were identified in the JBA report including slope instability at Dowie’s Mill Lane, undermining of pipeline crossings, and undermining of the historic Cramond Brig. Measures would then be required to protect the pipeline with a boulder bar below to stabilise the river level but allow fish migration. The removal of Dowie’s Mill Weir will affect Category A listed Cramond Brig. Dowie’s Mill Weir formed part of a historic mill complex now represented by Category B and C Listed mill cottages, and so forms part of the historic setting of these Listed Buildings. Listed building consent will therefore be required for any scour protection at Cramond Brig. Furthermore, Dowie’s Mill Weir is situated within the Cramond Conservation Area. As a result, the works should conserve or enhance the historic fabric and avoid adverse impacts on setting. A heritage assessment will be undertaken as part of the detailed design process to set out the heritage significance of the weir and its setting, and to establish the likely impact of the proposed work on that significance. This will include consideration of both designated and non-designated heritage assets.

Rock ramp option

- 4.7 It is acknowledged that any option that does not involve complete removal of the weir would be sub-optimal for fish migration. However, evaluating and finding the next best option was critical because the proposal should support migration for multiple fish species with a wide range of swimming ability moving upstream and downstream, meet public approval, and not drastically change the character of the area environmentally nor significantly impact the important heritage associated with Dowie’s Mill Weir.
- 4.8 Rock ramps involve the construction of a roughened slope on the downstream side of the weir to create a semi-natural riverbed. General rock ramp requirements are outlined in the design guidance (see background information item 8.1), and include:
 - 4.8.1 Ramp gradients of less than or equal to 5%;
 - 4.8.2 Ramp typically covers the whole width of the river;
 - 4.8.3 Inclusion of a low flow channel(s) recommended if required to achieve adequate passage conditions;
 - 4.8.4 Resting pools included within ramps of higher head (>1m);
 - 4.8.5 Notches in the weir crest would help ensure fish can negotiate the crest;
 - 4.8.6 Minimum resting pool depth 1.2m for large salmon; not less than 0.6m for trout and coarse fish;
 - 4.8.7 Heterogeneity in the rock ramp design can enable poorer swimmers to use the pass e.g., by adding a cross slope to the ramp; and

4.8.8 Small fish and invertebrates have been shown to be able to use rock ramps for migration, making use of the interstitial system between the boulders and cobbles.

4.9 The outline design involves the construction of a rock ramp at a 3% gradient with a series of three ramps and three resting pools, with the upstream end at Dowie's Mill Weir. A review of fish passage performance indicates that the rock ramp proposal allowing passage for all species can be achieved for a full range of flow conditions, subject to confirmation at detailed design stage through hydraulic modelling. The existing weir would be retained and not impact on water levels upstream of the weir. The ramp would extend across the full width of the river and include a low flow channel of adequate depth to ensure water was available at low river flows for fish passage. A 3% gradient aligns with national, regional and local policies, although a steeper gradient is within design criteria, again subject to confirmation at detailed design stage and evidence provided for consideration at planning application stage as well as obtained from feedback from further stakeholder engagement. Visualisations of the fish pass proposal have been prepared (see background information item 8.7).

Analysis of rock ramp option

4.10 Any design has to consider that the river is a dynamic environment, and a rock ramp is likely to change as natural river processes act upon it, which will require ongoing monitoring (e.g., blockages in the low flow channel; sediment in resting pools and self-sealing of ramp; integrity of weir structure and islands; and inspection following flood events). However, the consultant suggests that the proposed rock pass is considered relatively low maintenance compared to more technical fish passes.

4.11 The Forth Rivers Trust has been critical of the rock ramp proposal because it is not the best solution for fish passage compared to removal of the weir. Concerns centre on the rock ramp as compromising several areas including fish passage. SEPA and Forth Rivers Trust consider there to be unknown cumulative impacts each time a decision is reached not to remove a barrier to fish passage. As the River Almond already has several barriers, there is already a cumulative effect on fish passage. The six other local authority weirs have had technical solutions installed, including a rock ramp at Howden Bridge.

4.12 Until a solution has been constructed at Dowie's Mill Weir, the great majority of the River Almond catchment will remain largely inaccessible to migratory fish, risking the viability of the River Almond Barriers Project and leaving Scottish Government invested upstream assets "stranded".

5. Next Steps

5.1 Subject to approval by the Committee in support of the rock ramp option outlined above, the project will progress to the detailed design stage, which will then be submitted for planning permission.

- 5.2 Further assessments will be required prior to developing the detailed design by the consultants including, for example, detailed engineering design (involving civil, hydraulic, structural and geotechnical engineering disciplines) to take the current outline design to a point where a design package suitable for construction procurement can be developed. To inform the requirements of detailed design and to enable a planning application to be submitted, the following areas require further assessment to be carried out including areas of landscape and visual impacts, arboriculture, heritage, ecology, EIA screening, and flood risk.
- 5.3 Planning permission will be required before any subsequent procurement for the construction and delivery of the rock ramp option.
- 5.4 A Controlled Activities Regulations (CAR) licence would be required from SEPA for fish passage works prior to any construction.
- 5.5 Agreement will also need to be reached with Rosebery Estates, as adjacent landowners, to secure relevant access and egress locations and facilitate construction work.

6. Financial impact

- 6.1 The costs to implement the proposed rock ramp based on similar construction at the Howden rock ramp fish pass (also on the River Almond) ranges between £900,000 and £1.6m. These costs are likely to exceed the costs associated with weir removal (although earlier cost estimates for weir removal are now outdated).
- 6.2 Scottish Government funding is available for works to remove obstacles to fish passage at weirs owned by local authorities but not for ongoing maintenance of redundant structures. Scottish Government and SEPA have confirmed that a suitably designed rock ramp at Dowies is eligible for Scottish Government funding.
- 6.3 £635,867 was awarded to the Council in 2018 from the Scottish Government (in connection with the programme of securing improvements to the physical condition of Scotland's water environment) allowing the Council to carry out works to improve or restore the physical characteristics of the River Almond towards a classification of good ecological status or potential by removing or easing barriers to fish passage at certain weirs. A further £600,000 was awarded in 2022 to allow the Council to progress to groundworks based on the most recent costs estimates.
- 6.4 There will be ongoing maintenance costs associated with the rock pass after the construction phase around monitoring, inspection, and carrying out any necessary repair works. Costs would be borne by the Council and will most likely depend on the frequency and intensity of flood events thus making it difficult to quantify future financial liabilities. Reducing maintenance costs will be a consideration during the detailed design stage.

7. Stakeholder/Community Impact

- 7.1 Three online and two in-person public engagement sessions were held in June 2022 providing an update to stakeholders and the public on the proposals for the rock ramp. Stakeholders included external representatives from Cramond Community Council, Cramond Angling Club, Friends of the River Almond Walkway, Cramond Heritage Trust, COLAB, Forth Rivers Trust, and SEPA; and internal representatives from Heritage, Bereavement Services, Structures and Flooding, Parks and Greenspace, and Planning. Summary of feedback is provided in Appendix 2.
- 7.2 In-person events were advertised with posters and letter drops to residents living nearby. Of the 37 public comments received (as of 28 July 2022) during the in-person engagement sessions that who completed a comments card or emailed a response, 32 were in favour (86%) of the rock ramp option, one (3%) was against, and four were undecided (11%).
- 7.3 Direct feedback has been received from local residents and community interest groups affected by the proposals, and their views will be considered as part of the detail design process.
- 7.4 Further stakeholder engagement will be required as the detailed design stage reaches completion, assuming approval by Committee to continue. This will also consider any outstanding elements from earlier stakeholder engagement. Any further public responses received prior to Committee will also be considered as part of the detailed design stage.
- 7.5 Any fundamental changes to the overall proposal subsequent to more detailed design will also be shared with stakeholders and the public through the resulting planning application process.
- 7.6 Any ancillary work to be included to minimise further disruption. Some repairs have been identified that should be carried out to the collapsed riverbank upstream of the weir as part of the construction of the fish pass. This element of additional repair and maintenance work would not be eligible for SG funds.
- 7.7 The design minimises the use of concrete and maximises the reuse of materials already on site which will help to maintain natural systems and provide a lower carbon footprint than traditional construction work. The large material would be removed from the channel during construction and stockpiled until it can be utilised to form the rock ramp structure. Some material will need to be imported to raise the riverbed above current levels, and it is intended that this material will be obtained from local sources.
- 7.8 An important consideration is given to site access for the construction phase. Dowie's Mill Lane is the location of the River Almond Walkway, as well as serving as the only access to the local properties, and it would therefore be preferable to keep this open during construction. Initial inspection has indicated that Dowie's Mill Lane is less suitable for primary site access due to spatial constraints and concerns

regarding bank stability. It is considered that the works could be carried out without requiring access along Dowie's Mill Lane.

- 7.9 Some localised tree removal would be required and potentially removal of invasive plant species that have been identified on the riverbank.

8. Background reading/external references

- 8.1 Environment Agency - Fish Pass Manual 2010 ([pdf](#)).
- 8.2 JBA Consulting - Design Report for Dowie's Mill Weir 2017 ([pdf](#)).
- 8.3 Removing Barriers to Fish Passage on the River Almond - Finances and Resources Committee Report - [23 March 2017](#).
- 8.4 [Structural Inspection](#) (2018) – Report by AECOM.
- 8.5 [Easement Exhibition and Online Comment Report](#) (2019).
- 8.6 Public engagement presentation slides (2022) ([pdf](#)).
- 8.7 Visualisations of the fish pass proposal (2022) ([pdf](#)).

9. Appendices

- 9.1 Appendix 1 - Hierarchy of options from the fish passage appraisal.
- 9.2 Appendix 2 - Summary of stakeholder engagement feedback.

Appendix 1 - Hierarchy of options from the fish passage appraisal

Rank	ID	Option	Justification	Appraisal Notes
1	A	Weir removal	Removal is generally the best option for fish passage.	
2	B	Reducing barrier height with rock ramp	Lowering the height of the barrier should be considered first. This option has been ranked based on implementation with a rock ramp. Not as good as removal as fish are still required to ascend the barrier.	Could be other options that are not rock ramp, but these are secondary in terms of performance
3	C	Full width rock ramp 2% gradient	If the barrier cannot be reduced in height, a low-gradient full width rock ramp offers the next best solution since it most closely resembles a natural channel.	
4	D	Full width rock ramp 5%	Similar benefits to the above rock ramp option but 5% is the limit for this type of option.	
5	E	Combination pass	This could be considered as an enhancement of a rock ramp solution if the rock ramp is unable to fully achieve design criteria in its own right.	This is a variation on 5% gradient rock ramp and would only be considered if there were some issues with that option.
6=	F	Bypass channel	A bypass channel appears to require a high proportion of flow to achieve significant fish passage benefits. It could be designed with a smaller flow, but this would make it more like a technical fish pass, thereby compromising its performance and potentially increasing maintenance. A bypass channel could also be prone to falling trees / debris.	Bypass channel, baffle brush pass and new downstream weir are quite similar in ranking. If occasional drying out of the weir can be accepted, then a bypass channel could be designed to perform similar to the above "Combination Pass"
6=	G	Baffle-brush pass	A baffle-brush pass could be of interest but is unlikely to outperform a rock ramp.	
6=	H	New downstream weir with baffle brush pass	A new, higher, downstream weir is unlikely to be supported by SEPA or funded if there are other potential options available. It would, however, offer some advantages over the current weir location.	

Appendix 2 - Summary of stakeholder engagement feedback

Discussion Point	Response
Concerns raised about reinstatement of existing ground.	Access will be taken where the rock ramp will be built, so do not expect much riverbed will need to be reinstated. Changes between existing riverbed and changed river level can be established clearly through use of geotextile. The issue will be explored during the detailed design stage.
Heritage was raised as a point of interest.	A heritage impact assessment would be undertaken during detailed design stage.
Outline design flood risk review modelled a 2% gradient.	A flood risk assessment would be undertaken during detailed design stage (for the proposed 3% gradient).
The outline design indicated methods to ensure that during periods of dry weather, water is retained in the low flow channel.	It was confirmed that during detailed design a specified method would be presented and confidence in approach would be outlined.
The inclusion of vegetation islands was welcomed but the stability of islands during flood events was queried.	This would be established during detailed design stage.
Would the rock material shape, particularly the armourstone, would be rounded or straight edged with a preference given for rounded material?	This would be established during detailed design stage. It is acknowledged however that rounded material would be more aesthetically pleasing but it is harder to obtain.
Would fishing be allowed on the rock ramp, as fishing is not allowed on a fish pass. If fishing is not allowed along the rock ramp stretch, then this would be a significant loss to the angling club.	In discussion with Forth Rivers Trust about fishing rights, it was stated that Howden Rock Ramp upstream on the River Almond does not fall under the technical fish pass classification, and instead is considered an extension to the weir. Thus, a similar approach would be taken at Dowie's Mill Weir and anglers would there lose the ability to fish along the stretch of the river where the rock ramp will be situated plus a short distance (25m) up and down stream.
Whether the inclusion of timber in the rock ramp would give sufficient longevity or cause issues for future maintenance.	This would be established during detailed design stage.

Concerns about interstitial flow.	This would be established during detailed design stage.
Concerns relating to downstream migration particularly on the eastern side.	This would be established during detailed design stage.
Concerns whether the rock ramp is the best solution compared to weir removal.	
Protection of the multi-faith ash scattering site. The site should remain available and open. Due to the presence and discovery of uncremulated remains being scattered at the site, there are concerns that human remains may not be washed downstream.	Careful and sensitive consideration would be given during the design and construction stages to ensure that the ash scattering site can continue to be used and also ensure the sensitive handling of any presence of human remains during excavations.
Initial findings of a high-level flood risk assessment appear to be acceptable.	To verify the initial findings, a full flood risk assessment would be developed at the detailed design stage and submitted as part of the application for Planning permission.

Culture and Communities Committee

10.00am, Thursday, 13 October 2022

Terms and Conditions for Operating Events in Parks: West Princes Street Gardens and the Ross Bandstand

Executive/routine Wards Council Commitments	Executive City Centre
---	--------------------------

1. Recommendations

- 1.1 It is recommended that Culture and Communities Committee:
 - 1.1.1 Approve the Conditions and Parameters for events in West Princes Street Gardens;
 - 1.1.2 Approve the proposed number of major events which maintain the ambition of the 2014 Edinburgh Parks Events Manifesto; and
 - 1.1.3 Note that officers will continue to pursue a solution to the rockfall from Edinburgh Castle with Historic Environment Scotland.

Paul Lawrence

Executive Director of Place

Contact: Karl Chapman, Head of Heritage, Cultural Venues, Museums and Galleries

E-mail: karl.chapman@edinburgh.gov.uk | Tel: 07795 121243

Terms and Conditions for Operating Events in Parks: West Princes Street Gardens and the Ross Bandstand

2. Executive Summary

- 2.1 An evolving events sector, increasing our environmental protection measures and the closure of the entrance to West Princes Street Gardens at King's Stables Road due to rockfall has required a revision to how event organisers can access and use the Gardens and the Ross Bandstand for events and concerts.
- 2.2 Officers have drafted a set of operating guidelines that aim to maintain viable access and egress conditions, enable events to take place safely, seek to minimise disruption to the general public and support environmental protection the Gardens and access routes. This is attached as Appendix 1.
- 2.3 Recognising that the events programme in West Princes Street Gardens is an evolving process (and that an additional report is being considered on the Use of Public Spaces for Events and Filming), Committee is asked to recognise that until a solution is found to the rockfall from the Castle there is a need to control and limit access on grounds of health and safety, as well as reducing the environmental risks to the St Cuthbert's Churchyard entrance to the Gardens. The recommendations in this report still support the 2014 Edinburgh Parks Events Manifesto and will feed into any subsequent refresh of that document.

3. Background

- 3.1 The Ross Bandstand and West Princes Street Gardens have hosted events of all shapes and sizes for many years. In addition to its primary function as a world class public park and greenspace it is also a key city centre event space. Having the Ross Bandstand, an historic event amphitheatre used for decades, situated at the heart of the Gardens adds the sense that the Gardens has a unique role in the city's cultural life.
- 3.2 As acknowledged in the Edinburgh Events Parks Manifesto, the city's festivals and events offering is key to its image at home and abroad, and to its capital city status. Hogmanay and Edinburgh's Festivals, as well a range of other event organisers provide year-round activities for the public.

- 3.3 The impact of rockfall from the Castle has resulted in St Cuthbert's Churchyard being the only option for access and egress of major event infrastructure, resulting in additional environmental and access pressures on use of the Gardens and historic Churchyard.
- 3.4 Events in West Princes Street Gardens provide revenues to the Council which have been previously agreed in the Council budget.

4. Main report

- 4.1 With the resumption of public events following the Covid-19 pandemic, event organisers have been returning to West Princes Street Gardens and the Ross Bandstand to offer a wide range of activities, ranging from Bubble Parks and charity events to live music events and new Winter festivals contracts.
- 4.2 The Edinburgh Parks Events Manifesto highlighted a principle of defining the number of events within each Park: *Principle 5: To set appropriate limits for private events. A limited number of private/commercial event opportunities will be advertised for each park (within the agreed maximum limits). The most suitable events for the forthcoming year(s) will be selected from the range of submissions and at the time of year that meets both the Council's and the event organiser's requirements.*
- 4.3 The events and festival sector is constantly evolving in order to remain dynamic, economically viable, environmentally responsible, responsive and safe. The industry has seen greater health and safety requirements needing greater infrastructure and services, creating better events but needing more resource. The celebration of festivals, music, arts and culture has also seen profile changes with more demand for outdoor festivals and events and desire to celebrate the city.
- 4.4 There have been additional pressures on access to West Princes Street Gardens for events. The King's Stables Road entrance to West Princes Street Gardens has been closed since 2019 due to the known risk of rockfall from the Castle rockface. Discussions and correspondence have taken place with Historic Environment Scotland, who is the responsible body for the rockface, but remedial safety measures are not yet in place.
- 4.5 Prior to 2019 the King's Stables Road entrance provided an access and egress route for event organisers, as well as Parks staff, that reached as far as the bridge at the back of the Ross Bandstand. St Cuthbert's Churchyard is now the interim and sole access route for delivery of event infrastructure.
- 4.6 In response to this, officers from Culture and Wellbeing and Operational Services worked to prepare revised operating conditions for events to provide a temporary solution that could enable events to progress while addressing enhanced environmental and health and safety measures required to support protection of the Gardens and St Cuthbert's Churchyard (Appendix 1).

- 4.7 The 2014 Edinburgh Parks Events Manifesto provides guidance on a limit of four 'large events' that extend outside the events space (the Ross Bandstand). This provides clarity for the public and event organisers, as well as striking a balance between celebrating its primary function as public green space and an event programme befitting a cultural capital.
- 4.8 Given the pressures described above, and until the rockfall issue is resolved, the Committee is asked to approve the following approach which will maintain scope for four major events as follows:
- 4.8.1 Edinburgh's Hogmanay celebration;
 - 4.8.2 The Edinburgh International Festival opening or closing concert;
 - 4.8.3 Two other event days to be decided by the Executive Director of Place in consultation with group spokespersons; and
 - 4.8.4 That by adopting Principle 5 from the manifesto (outlined in paragraph 4.2) officers from the Council's Events Team will programme the major events, working collaboratively with colleagues in Parks and Greenspaces, and update the Committee on the 2023 programme through a future Business Bulletin in February 2023.
- 4.9 For the majority of the events described above, public access to the Gardens is maintained during the daytime as the ticketed period takes place in the evening. Such events do require access and egress for production equipment and staging so there are periods where access to some areas is restricted for health and safety reasons, although much of the Gardens do remain open. This is managed through the EPOG process and communicated to the public through Council and event organiser social media channels.
- 4.10 Before going ahead all events would be required to complete the existing and standard processes to confirm the booking to the Council's satisfaction and these include a Parks and Greenspace Event Permission Form, fulfilling all licensing and contractual obligations, as well as engaging with conditions set out by the Council's EPOG process. Capacities for major events will be decided through this process and at the sole discretion of the Council.
- 4.11 It is worth noting that events taking place within the curtilage of the Ross Bandstand and immediate existing hardstanding infrastructure are not subject to any restriction on numbers. The capacity of the Bandstand is 2,700 subject to production and floor plans. Such events will be programmed by the Cultural Venues in association with Events, Parks and Greenspace officers.

5. Next Steps

- 5.1 Officers will continue to engage with Historic Environment Scotland to resolve the issue of rockfall from the Castle rock and seek remedial solutions to enable the use of the King's Stables Road entrance.

- 5.2 If approved, the additional conditions and working parameters will be adopted as part of the Parks Application process. Contracting and event planning for Winter Festivals and 2023 events will then begin.
- 5.3 Officers will develop a single operating plan for the use of West Princes Street Gardens for events and prepare contracts and conditions in accordance within this framework.

6. Financial impact

- 6.1 The cost for developing revised contracts can be met by the service budget.
- 6.2 Income loss from having fewer events will be managed as a Place pressure as part of next year's budget development.
- 6.3 There is potential to recover income through increased use of the Ross Bandstand for additional, smaller scale events.

7. Stakeholder/Community Impact

- 7.1 There is public interest in the use of public spaces for events. There has been consultation with the public over these issues and the outcome of that can be found in the Use of Public Spaces for Events and Filming report which also forms part of this Committee agenda.
- 7.2 High profile events in West Princes Street Gardens are well attended by residents and visitors and they offer cultural opportunities befitting a capital city.

8. Background reading/external references

- 8.1 None.

9. Appendices

- 9.1 Appendix 1 - Events in West Princes Street Gardens – Conditions and Parameters.

Events in West Princes Street Gardens – Conditions and Working Parameters

Key principles:

West Princes Street Gardens and the Ross Bandstand are historic and iconic sites within Edinburgh's City Centre and World Heritage Site with the gardens forming part of Edinburgh's designated Garden and Designed Landscape of the New Town Gardens. The Gardens contain a series of listed monuments and structures such as the Ross Fountain and is of archaeological significance overlying the remains of the Nor' Loch and bounded by the A-listed St Cuthbert's Church and Graveyard. The southern part of the park is formed by Edinburgh Castlehill containing the Castle's Well House (a Scheduled Ancient Monument) and which is also a Site of Special Scientific Interest (SSSI). It is primarily used as a park for the public to enjoy and this should be taken into consideration when preparing event proposals. Access to the park for the public should be maximised and the potential for damage to the gardens should be mitigated.

As stated in the 2014 Edinburgh Parks Events Manifesto, the Council (CEC) also recognises that the city's festivals and events offering is key to its image at home and abroad, to its capital city status, to the development of the City Region Brand. Edinburgh's Events Strategy states that "Edinburgh will continue to grow as one of the world's finest events cities". It aims to deliver a balanced portfolio of events over the next ten years to include established successful events, newly created or commissioned events and national or international events won for the city through bidding processes.

The manifesto can be found here: [Edinburgh Parks Event Manifesto](#). Our aim is to enable events to be delivered in a way that respects public access, heritage sites and the natural environment.

General conditions of use

- Organisers are required to apply to use the Gardens (Parks and Greenspace Event Permission Form). This is a precursor to entering a contract of let with CEC. You will be required to provide details of the proposed event, produce a risk assessment and provide proof of public liability insurance all of which will be included in the contract of let.
- A Vehicle Access Plan, Tree and Root Protection Plan and Heritage/Monument Protection Plan will be required as part of your application for approval of Council officers. See details below*

- A rental fee will be set by CEC determined by the scale and impact of the event. A list of charges is available for organisers wishing to make sole use of the Ross Bandstand.
- A reinstatement bond (determined by CEC) will be payable four weeks before the commencement of an on-site build. Access onto the site will not be granted until the bond payment is received.
- Depending on the scale and/or complexity of the event, it may be determined that an on-site presence is required by CEC to ensure compliance with the conditions of use. This will be confirmed by a Council officer once your application has been reviewed and any associated costs will be the responsibility of the applicant/operator.
- A multi-agency Event Planning and Operations Group (EPOG) meeting may be required to ensure the safe delivery of your event. If so, you will be expected to produce an Event Safety Management Plan (ESMP) and present your proposals to the group for their comment and approval. We would recommend that you review best practice guidance, e.g. [The Purple Guide](#), on what to include within your ESMP.
- As part of the process you will be asked to liaise with other departments of CEC as required, such as Licensing, Environmental Health, Roads Events (for temporary traffic regulation orders), Bereavement Services, Archaeology, Planning and Public Safety. All departments of the council must confirm that they are content with the plans for the event before it can take place and event organisers are liable for the risks associated with the failure to do so.

Working parameters

Does the event require emergency services on site?

YES

NO

During the event, can you safely designate St Cuthbert's churchyard to only be used as an emergency vehicle and accessible access/egress point?

NO

YES

Access via the road between Kings Stables Road and the railway bridge is not accessible.
Can you manage the build and break using St Cuthbert's route as the access point?
*see below conditions

NO

YES

Can the attendees be managed in/out of the gardens, incl. emergency egress just using the gates leading onto Princes Street?
**see below gate widths

YES

Please make an application to use the park
[Parks, Greenspace and Cemeteries | Culture Edinburgh](#)

We would recommend that you look at other venues in the City that better fit the requirements of your event. Please contact events@edinburgh.gov.uk for more information. Other venues can be found on the culture Edinburgh website [Plan my event | Culture Edinburgh](#)

Page 24

NO

***Access through St Cuthbert's Church and graveyard – conditions of use:**

- Access for public must be maintained during normal Garden opening times subject to agreed short-term periods of load-in and load-out of specific equipment.
- Access for St Cuthbert's Church parishioner's and CEC Bereavement Services must be maintained – coordination with the church and Bereavement Services is essential to clarify timings of services or other requirements. There should be no parking in the graveyard under any circumstances.
- Vehicle size will be limited to 7.5t vehicles for access through St Cuthbert's churchyard. A vehicle access plan must be submitted as part of the event plan and vehicle size may be limited based on environmental impacts to the areas.
- A 'Banksman' must always be used while vehicles move through the churchyard.
- A method statement is required for the protection of tombs, gravestones, monuments and heritage items along the completed length of the pathway through St Cuthbert's Church and graveyard.
- The repair of any damage caused to the graveyard, it's monuments or landscape as a result of the event with costs must be met in full by the applicant/event organiser
- Limitation on heights will be required for the protection of tree canopies along the route of the path. This should be detailed in the required Vehicle Access Plan and Tree and Root Protection Plans.

****Gate widths for West Princes Street Gardens**

- A. West End – 3760mm
- B. Castle Street – 2200mm
- C. Frederick/Castle Street – 2280mm
- D. Frederick Street – 2250mm
- E. Floral Clock – 3280mm
- F. St Cuthbert's Churchyard – 3340mm

Please refer to Section 4 of open air event guidance to determine a safe capacity for your event taking into account the risks particular to your event; [Layout 1 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk). If you have any questions, please contact publicsafety@edinburgh.gov.uk

See below map for details of access route and gates noted above.



Access route via St Cuthbert's Church & graveyard

*****Tree and root protection plan guidance**

- All root protection measure must meet British Standards 5837.
- A Root Protection (RP) zone map (see below) – the RP areas identified in these maps must be treated as exclusion zones with no infrastructure placed in these areas.
- A detailed Tree Protection Plan must be provided clearly indicating the precise location of protective barriers to be erected to form an exclusion zone around all park trees that are to be affected by the built infrastructure of the proposed event, this plan being superimposed onto an up-to-date tree location plan. This plan needs to include the type of ground protection to be used to form the necessary exclusion zones. CEC would stipulate the use of “heras” fencing that is bolted together and installed using concrete footing blocks so no ground excavation is required. The full specification for any barriers must be included within the Tree Protection Plan. All tree protection measures must be in place before any other build commences.
- Penalty for any tree damage occurring as a result of the Event set-up, derig or occupation or due to failure to comply with the agreed tree protection plan, will be based on a percentage of the overall CAVAT figure for said tree, based on the severity of damage. The decision on any penalty payment will be at the sole discretion of the CEC Tree and Woodland Service.
- There should be no vehicle movement across any grass / soft landscaped areas which are going to be used as an event area or for temporary access required for any build, without the use of protective matting. The specification for this protection needs to also be included in the Tree Protection Plan and Vehicle Access Plan.
- Ground excavation to facilitate construction of any infrastructure for the event will not be permitted within any Park and Greenspace area.



EDINBURGH
 THE CITY OF EDINBURGH COUNCIL
 PLACES, GREENSPACE AND CEMETERIES
 Waverley Court
 4 East Market Street
 Edinburgh
 EH8 8BH

West Princes Street
 Gardens
 Restrictions

Scale	1:1250
Date	15/12/2020
Drawn by	A.Crevers
Project	South East
Plan No	EPG2019/T01

Culture and Communities Committee

10.00am, Thursday, 13 October 2022

Fields in Trust Dedications, Ravelston Park and Orchard Brae Park

Executive/routine Ward: Council Commitments	Executive Inverleith
---	-------------------------

1. Recommendations

- 1.1 It is recommended that the Culture and Communities Committee:
 - 1.1.1 Supports the proposal to offer Orchard Brae Park to Fields in Trust as replacement for lost ground in Ravelston Park;
 - 1.1.2 Approves the launch of a public consultation to seek feedback on this proposal; and
 - 1.1.3 Notes the updated Minute of Agreement.

Paul Lawrence

Executive Director of Place

Contact: Sarah Murphy, Senior Programme Officer, Parks, Greenspace and Cemeteries

E-mail: sarah.murphy@edinburgh.gov.uk | Tel: 07874 635155

Fields in Trust Dedications, Ravelston Park and Orchard Brae Park

2. Executive Summary

- 2.1 Ravelston Park is dedicated under a Fields in Trust protection agreement. A community asset transfer has been agreed for an area of the park and the pavilion and therefore written consent is required from Fields in Trust to allow the transfer to be finalised. This report details the process involved.

3. Background

- 3.1 As Ravelston Park is protected by a Fields in Trust Minute of Agreement, written consent is required to release the land from protection before the planning application can be approved.

4. Main report

- 4.1 To mark the Queens Diamond Jubilee in 2012, the City of Edinburgh Council entered into a legal agreement (known as a Minute of Agreement) with the charity Fields in Trust to protect in perpetuity twenty-two of the city's parks from non-ancillary development. Ravelston Park was one of the sites.
- 4.2 Fields in Trust recognise that circumstances can change and for this reason the Minute of Agreement has a degree of flexibility. If a landowner wishes to dispose of the land or an area of the land, written consent may be granted through a "Field Change Request". An alternative area of land must be offered as a replacement, it must be no less than is being released, should serve the same community and should be of higher quality. Full details of the Fields in Trust disposal policy can be found [here](#).
- 4.3 In 2018, the Blackhall Community Trust submitted an asset transfer request to the City of Edinburgh Council under Part 5 of the Community Empowerment (Scotland) Act 2015. The request was for the purchase of an area of Ravelston Park including the pavilion to develop a nursery and community hub.

- 4.4 Council officers have identified Orchard Brae Park as a suitable site to offer in exchange for the area within Ravelston Park.
- 4.5 Fields in Trust have recently updated the Minute of Agreement document and the new version will be used for Orchard Brae and for future dedications. The changes have been made to clarify the document and reduce the number of occasions where a landowner is required to seek consent.

5. Next Steps

- 5.1 Should Committee agree with this recommendation, a 12-week public consultation exercise will be carried out to seek feedback on the proposals. If the results show support, the Fields Change Request will commence.

6. Financial impact

- 6.1 This proposal will have no financial impact.

7. Stakeholder/Community Impact

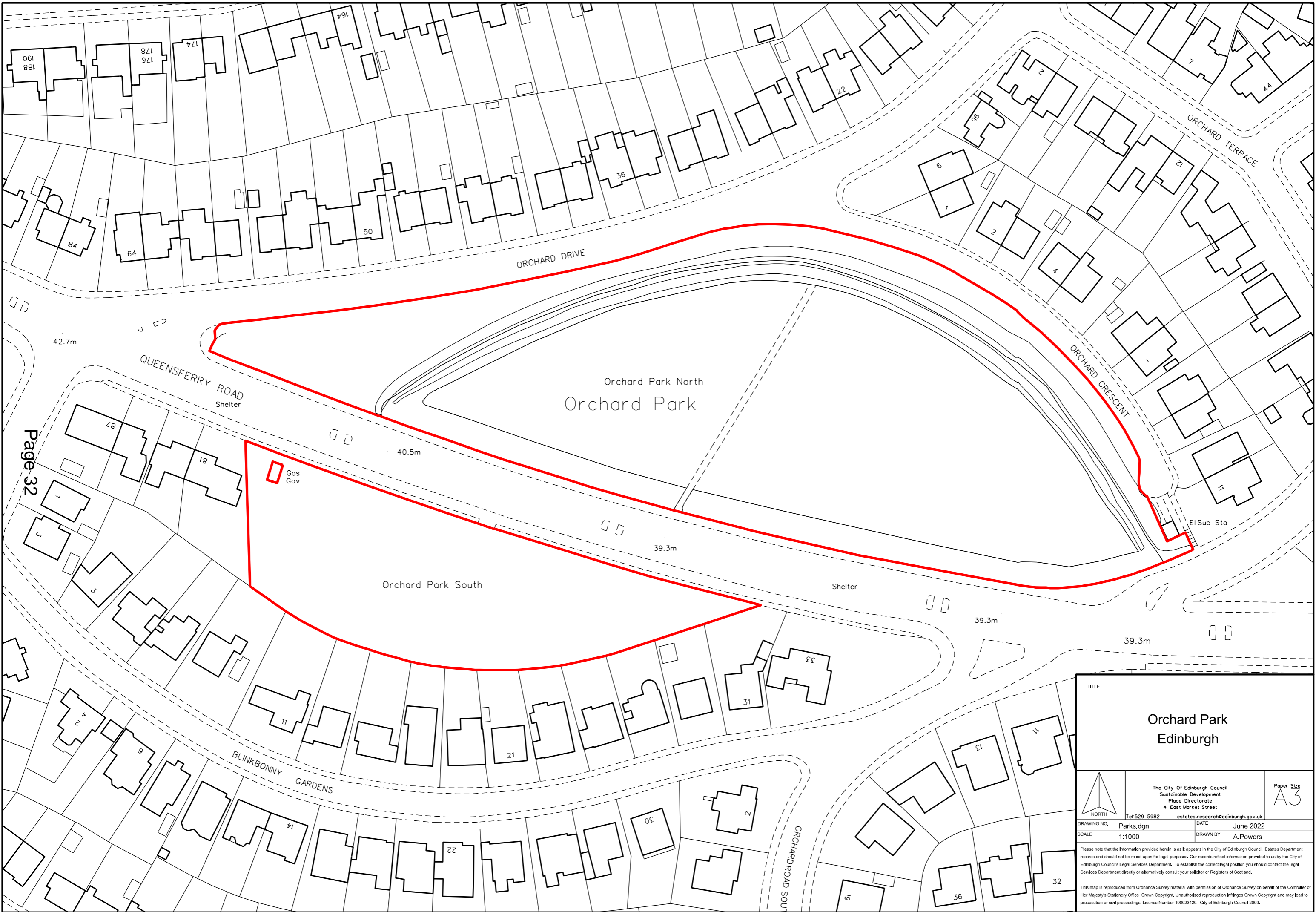
- 7.1 If the report recommendations are approved, a 12-week public consultation will be launched to assess public appetite for the proposal.

8. Background reading/external references


- 8.1 Proposed Sale – Ravelston Park Pavilion, Craigcrook Road, Edinburgh EH4 3RU, report to Finance and Resource Committee, [7 March 2019](#).
- 8.2 [Public Consultation on the sale of common good land to Blackhall Community Trust](#).
- 8.3 Fields in Trust Protected Public Parks and Greenspaces, report to Culture and Communities Committee, [1 February 2022](#).

9. Appendices

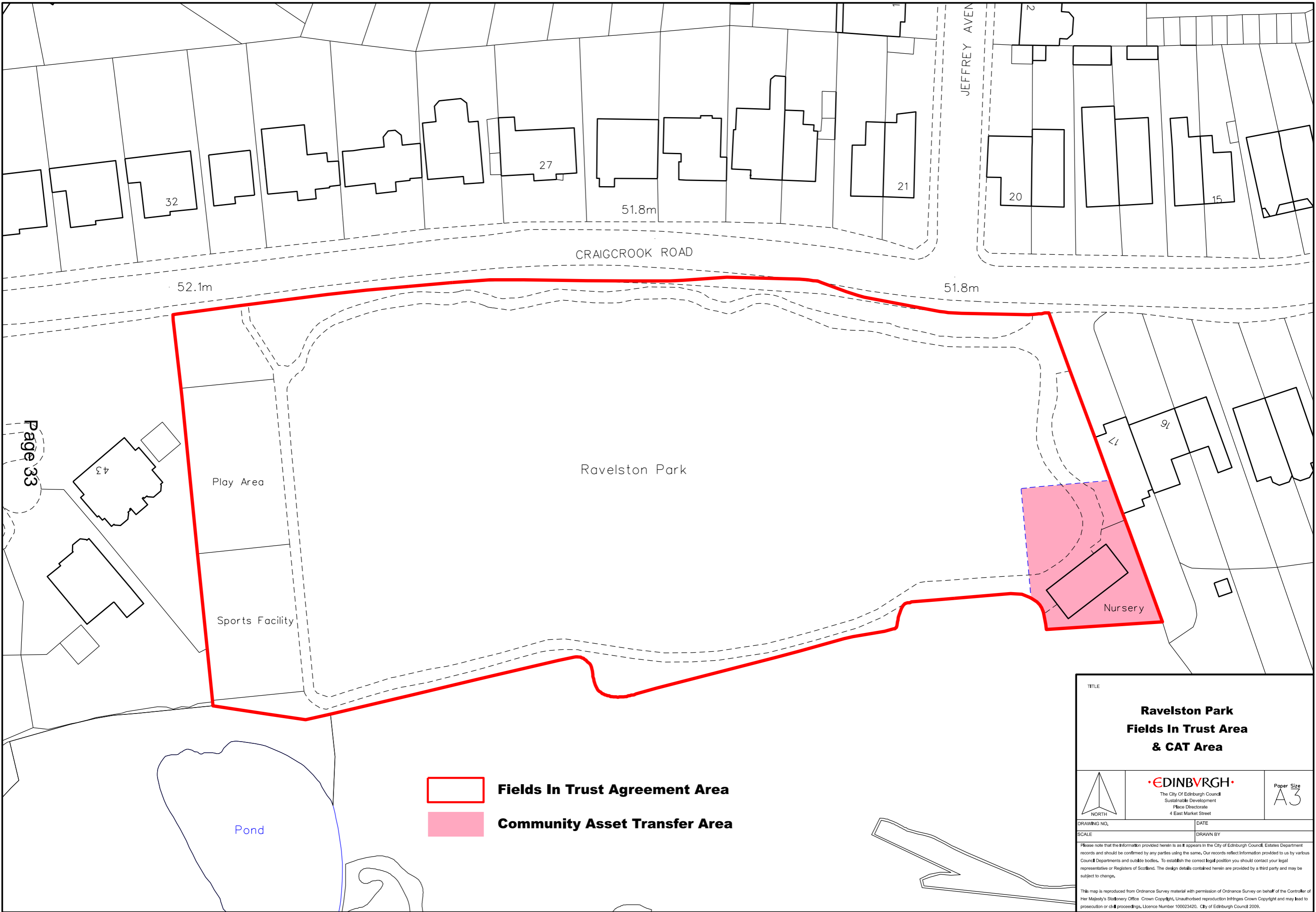
- 9.1 Orchard Brae Park plan.
- 9.2 Ravelston plan.
- 9.3 Revised Minute of Agreement.
- 9.4 Changes made to the Minute of Agreement since January 2022.



Page 32

TITLE		Orchard Park Edinburgh	
		The City Of Edinburgh Council Sustainable Development Place Directorate 4 East Market Street Tel: 529 5982 estates.research@edinburgh.gov.uk	
DRAWING NO.	Parks.dgn	DATE	June 2022
SCALE	1:1000	DRAWN BY	A.Powers
<small>Please note that the information provided herein is as it appears in the City of Edinburgh Council, Estates Department records and should not be relied upon for legal purposes. Our records reflect information provided to us by the City of Edinburgh Council's Legal Services Department. To establish the correct legal position you should contact the legal Services Department directly or alternatively consult your solicitor or Registers of Scotland.</small>			
<small>This map is reproduced from Ordnance Survey material with permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence Number 100023420. City of Edinburgh Council 2009.</small>			

Paper Size
A3



Page 33

- Fields In Trust Agreement Area**
- Community Asset Transfer Area**

<p>TITLE</p> <p>Ravelston Park Fields In Trust Area & CAT Area</p>		
 <p>NORTH</p>	<p>•EDINBURGH• The City Of Edinburgh Council Sustainable Development Place Directorate 4 East Market Street</p>	<p>Paper Size A3</p>
DRAWING NO.	DATE	
SCALE	DRAWN BY	
<p>Please note that the information provided herein is as it appears in the City of Edinburgh Council, Estates Department records and should be confirmed by any parties using the same. Our records reflect information provided to us by various Council Departments and outside bodies. To establish the correct legal position you should contact your legal representative or Registers of Scotland. The design details contained herein are provided by a third party and may be subject to change.</p>		
<p>This map is reproduced from Ordnance Survey material with permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence Number 100023420. City of Edinburgh Council 2009.</p>		



Green Spaces for Good

Minute of Agreement

[insert Landowner's name] (1)

and

Fields in Trust (2)

[insert site name]

[Type here]

MINUTE OF AGREEMENT

BETWEEN:

(1) [] constituted under the provisions of the Local Government etc. (Scotland) Act 1994 and having its main office at [] (who and whose successors are hereinafter referred to as **the Council**);

and

(2) **FIELDS IN TRUST** incorporated by Royal Charter, registered with the Office of the Scottish Charities Regulator as charity number SC040357, and having their Head Office at 2d Woodstock Studios, 36 Woodstock Grove, London, W12 8LEQ (who and whose successors are hereinafter referred to as **FIT**).

WHEREAS:

- A. the Council is the heritable proprietor of [that area/those areas of] listed in Part 1 of the schedule annexed and executed as relative hereto (**the Schedule**), and delineated in red on the plan(s) contained within Part 2 of the **Schedule** which plan(s) is/are indicative only of the generally recognised extent of said [playing fields] [open spaces] (**the Property**); and
- B. the Council has agreed to nominate the Property to FIT to enable FIT to dedicate it for the purposes detailed in Clause 1 of this Agreement;

NOW IT IS AGREED as follows:

1. The Council grants to FIT a right to designate the Property as a public [playing field, recreation ground, park, play space and open space, with [detail developments on site which enhance outdoors use e.g. changing rooms and pavilions are deemed acceptable] [other] in perpetuity from [the last date of execution of this Minute of Agreement] (**the Dedication Date**), only insofar as the Property is available for such designation but the Council declaring that to the best of the Council's knowledge and belief the Property is fully available and suitable for such dedication [,subject to and without prejudice to the terms of the existing leases between the Council and its tenants listed in Part 3 of the Schedule (**the Leases**).)] and in recognition of such dedication, the Council warrants to the best of the Council's knowledge and belief that (i) the entirety of the freehold of the Property is owned outright by the Council (ii) there are no subsisting title conditions likely to be incompatible with such designation and (iii) [other than the existing leases DRAFTING NOTE: INCLUDE THIS WORDING IN ITALICS ONLY WHERE THERE ARE EXISTING LEASES] no third party rights (including but not limited to servitudes,

Culture and Communities Committee 16 August 2022

[Type here]

wayleaves and similar agreements) exist which are likely to be inconsistent with such dedication and/or in respect of which any third party consent is required relative to such dedication, and the Council will fully and effectively indemnify FIT on demand in respect of all claims, costs and liabilities relating to the dedication with effect from the Dedication Date in respect of any actions, losses, damages, liabilities, charges, claims, costs and expenses which may be paid, incurred, suffered or sustained by FIT arising out of or in connection with any inaccuracy in such warranties given by the Council in respect of the Property

2. The Council undertakes from the Dedication Date:
 - 2.1 not to use the Property or permit the Property to be used other than as a public [playing field, recreation ground, park, play space and open space with [detail developments on site which enhance outdoors use e.g. changing rooms and pavilions are deemed acceptable] [other] **(the Designated Use)** except with the prior written consent of FIT;

Clause 2.1 is the user clause and refers to the property being used as "a public playing field recreation ground, park, play space and open space". Depending on the property's current or future use, the user clause can be amended by mutual agreement. For example, it could also reference buildings or facilities if the use is ancillary to the outdoor space.

- 2.2 not to grant, allow, suffer or permit the Property to be used for any purpose outside the Designated Use including for any occasional or specific period of time without the consent of FIT save that temporary events shall not require consent with the exception of events and festivals which require closure of more than 25% of the Property for more than 21 consecutive days per event;

Clause 2.3 establishes additional protection through Fields in Trust by requiring Fields in Trust's prior consent to any proposed disposal.

- 2.3 not to sell, transfer, further lease, otherwise dispose of or grant any security interest of the whole or any part of the Property which could detrimentally affect the use of the Property for the Designated Use except with the prior written consent of FIT; provided that granting a licence for any purpose within the Designated Use shall not require consent;
- 2.4 not to erect on the Property, or any part of it, any buildings which could detrimentally affect the Designated Use except with the prior written consent of FIT provided that temporary structures for events shall not require consent;
- 2.5 not to grant, allow, suffer or permit the erection of any buildings, structures or alterations on the Property that would result in the total structural and building footprint of such buildings or structures to exceed 20% of the total square footage of the Property;

[Type here]

Decisions relating to new buildings and structures, or alterations of the same, which fall within the agreed use stated in clause 2.1 are solely in the control of the landowner or its tenant(s).

- 2.6 not to grant, accept or enter into any real burden, servitude or other condition which could affect the Designated Use without the prior written consent of FIT;
- 2.7 to inform FIT without delay of any proposals, intentions or decisions to grant, allow, suffer or permit:
- a) disposal of the whole or part of the Property
 - b) the erection of any buildings, structures or alterations on the whole or part of the Property whether inside or outside the Designated Use;
 - c) the temporary closures or uses of the whole or part of the Property;
- 2.8 to provide FIT with information in response to any reasonable request by FIT relating to the Designated Use.

Clauses 2.6, 2.7 and 2.8 support the objective of protecting the site's recreational use. Please refer to Fields in Trust's Field Change Request Guidance which is published on our website <http://www.fieldsintrust.org/field-change-request>

- 2.9 and, so far as consistent with its duties as a local authority, to have regard to any advice given by FIT on the management and running of the Property;

This clause establishes an advisory role for Fields in Trust without interfering with the management rights and responsibilities of the landowner.

- 2.10 to attach or erect, as appropriate, a plaque or plaques within the Property, to be provided by FIT, reflecting FIT's interest in the Property, and giving recognition of financial support where required by FIT. and to allow such plaque or plaques to remain in place.

- 2.11 without prejudice to Clause 2.3, in the event of the Council disposing of its interest in all or part of the Property, before title to the Property has been transferred, the Council will procure that its intended successors in title to the Property (or any part thereof) (intended successors) have entered into a Minute of Agreement with FIT or its successors in the same terms mutatis mutandis, and containing this undertaking, which Minute of Agreement shall take effect immediately upon the intended successors registering their title to the Council's interest in the Property.

3. FIT undertakes that:

- 3.1 where its consent is required in terms of Clause1, such consent will not be unreasonably withheld;

[Type here]

3.2 pursuant to clause 2.3, FIT shall not unreasonably withhold consent to any disposal of the whole or any part of the of the Property provided that the Council at the request of FIT:

- a) replaces or agrees to replace the Property with a piece of freehold land approved by FIT which is of equivalent or better quality than the Property, with equivalent or better facilities than the Property, of the same or greater dimensions than the Property, in the same catchment area as the Property, and as accessible to the public as the Property (the **Replacement Site**) and applies such of the proceeds of any sale of the Property as are necessary to do so; and
- b) Enters into another minute of agreement on the same terms as this Minute of Agreement in respect of the Replacement Site.

Clause 3.2 takes account of potential future changes and guarantee flexibility in terms of specific location of a replacement site provided the specified criteria are met.

3.3 not unreasonably withhold consent to any disposals or the erection of any structures or alterations on the Property where the primary purposes is to: (a) avoid, adapt or mitigate the actual or anticipated effects of climate change; and/or (b) reduce greenhouse gas emissions, including toward a target of net zero, in each case, provided that:

- (i) the use of the Property for the Designated Use is not adversely affected;
- (ii) the structures or alterations would not result in a breach of clause 2.5; and
- (iii) the Council at the request of FIT complies with the provisions of clause 3.2;

3.4 it will notify the Council, without unreasonable delay, of any concerns or matters of advice to which it requires the Council to have regard;

3.5 any powers, duties and functions given to FIT under the terms of this Minute of Agreement shall be exercisable by the Scottish Committee of FIT on FIT's behalf;

Declarations:

It is hereby declared that:

1. the rights granted by the Council to allow FIT to dedicate the Property in terms of this Minute of Agreement shall be exercised by FIT in the manner least burdensome to the Council and its tenants and their successors and without prejudice to the foregoing generality, FIT shall take all reasonable steps to avoid obstruction or nuisance to or interference with the Property in a manner which may affect detrimentally a tenant's occupation or rights under the Leases;
2. for the avoidance of any doubt, the ownership of the Property shall remain with the Council and FIT does not obtain a real right of property in and to the Property or any part thereof;

Culture and Communities Committee 16 August 2022

[Type here]

3. any consent given by FIT under this Minute of Agreement may be granted subject to conditions.
4. at the request of FIT the Council will pay or require their solicitor to give an undertaking to pay FIT for all costs fees charges disbursements and expenses properly and reasonably incurred by FIT in relation to every application made by the Council for consent required by the provisions of this Minute of Agreement whether such consent is granted or refused or offered subject to any reasonable qualifications or conditions or whether the application is withdrawn.

When dealing with requests for changes to protected sites, Fields in Trust incurs costs both financially and in terms of resource. As a charity, Fields in Trust relies on donations to carry out its objects of protecting green spaces which makes it reasonable to seek cost reimbursement.

5. the parties shall each bear their own legal expenses in bringing this Minute of Agreement to completion, but the Council shall bear the expense of the dues of registration, the administration of registration and the costs of obtaining two extracts thereof from the Books of Council and Session, the parties hereby consenting to the registration of this Minute of Agreement for preservation and execution: **IN WITNESS WHEREOF** this Agreement consisting of this and the preceding [2] pages, together with the Schedule annexed, is executed as follows:

For and on behalf of the said []

.....
signature of authorised signatory

.....
signature of authorised signatory/witness

.....
Full name of above (print)

.....
Full name of above (print)

.....
date of signing

.....
address of witness

.....
place of signing

For and on behalf of the said **Fields in Trust**

[Type here]

.....
signature of authorised signatory

.....
signature of authorised signatory/witness

.....
Full name of above (print)

.....
Full name of above (print)

.....
date of signing

.....
address of witness

.....
place of signing

[Type here]

**This is the Schedule referred to in the foregoing Minute of Agreement between [] and
Fields in Trust**

**PART 1
THE PROPERTY**

[Type here]

PART 2
THE PLANS

[Type here]

PART 3
THE LEASES

Changes made to the Minute of Agreement since January 2022

Fields in Trust has made a number of changes and amendments to their Minute of Agreement, the legal document they use with landowners to protect green spaces. These changes have been done to make the Minute of Agreement clearer and to reduce the number of occasions where a landowner is required to seek consent for activity.

It has also aligned the Minute of Agreement with other Fields in Trust legal instruments and policy.

1. A clause has been added that is supportive to changes that seek to avoid, adapt or mitigate the effects of climate change; and to reduce greenhouse gas emissions.
2. Provisions have been added for events and festivals that need Fields in Trust consent, i.e. only those that require closure of more than 25% of the Property for more than 21 consecutive days per event – historic case data shows that with this provision very few events would need to come through the consent process.
3. Temporary structures for events shall no longer require Fields in Trust consent, thereby reducing the number of requests a landowner needs to make.
4. Clarification that licences granted for purposes within the designated use do not require Fields in Trust consent.
5. Provisions have been added to make it clear that Fields in Trust may give conditional consents, for example for obtaining planning permission, signing a new Minute of Agreement, reinvesting rents, etc. – this has always been the case but is now stipulated.
6. It has been added that Fields in Trust will have to be reimbursed for their costs in connection with Fields Change Requests – this has always been the case but is now stipulated.

Changes that brought the MoA in line with legal instruments used across England and Wales:

7. A request for Fields in Trust to be informed about proposed disposals, buildings, uses of the green space in order to keep records up to date.
8. A new provision was added that where a disposal is for a purpose incompatible with the designated use, Fields in Trust may accept replacement land and partially or wholly discharge the Minute of Agreement – this addition confirms the flexibility of our protection and incorporates something that has always been Fields in Trust policy.