

MAIDSTONE BOROUGH COUNCIL

**RECORD OF DECISION OF THE COBTREE MANOR ESTATE CHARITY
COMMITTEE**

Decision Made: 09 March 2011

PARK RANGER PROGRESS REPORT

Issue for Decision

To consider a progress report on the work of the Park Ranger; to endorse the proposed programme of events for the coming year; and to make provision in association with the proposed events programme.

Decision Made

1. That the work undertaken by the Park Ranger, as set out in Appendix A to the report of the Cobtree Officer, be noted.
2. That the proposed programme of events for the coming year be endorsed and that the sum of £1,500 be included in the estimates for 2011/12 to cover the cost of engaging external event leaders.

Reasons for Decision

The Committee has agreed that the Park Ranger should provide a progress report to each meeting.

The progress report for the period October 2010 – January 2011 is attached as Appendix A to the report of the Cobtree Officer.

Attached as an Appendix to the progress report is a draft events programme for 2011. Funding is required to cover the cost of engaging external event leaders.

Alternatives considered and why rejected

No alternative actions are considered appropriate as the activities of the Park Ranger directly support the achievement of the Charity's objectives.

Background Papers

None

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by any two Non-Executive Members to the Head of Change and Scrutiny by: 18 March 2011
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MAIDSTONE BOROUGH COUNCIL

**RECORD OF DECISION OF THE COBTREE MANOR ESTATE CHARITY
COMMITTEE**

Decision Made: 09 March 2011

CLEARANCE OF DRAINAGE DITCH

Issue for Decision

To endorse the actions taken by Officers in instructing the clearance of the drainage ditch alongside the access road to Stream Cottages.

Decision Made

That the action taken by Officers in instructing the clearance of the drainage ditch alongside the access road to Stream Cottages be endorsed.

Reasons for Decision

A number of complaints have been received about flooding which occurred on the access road leading to Stream Cottages during heavy rainfall.

Following investigations in consultation with adjoining land owners a number of actions have been taken to alleviate the problem.

Drainage channels on the adjoining land and highway, which are in the ownership of the Kent County Council, have been cleared at that Council's expense. The drainage ditch running alongside the access road is clearly shown to be in the Charity's ownership and was seen to have been contributing to the problem as it had become partially blocked. Instructions were given for the Council's contractor to undertake clearance at a cost of £1,232.70.

Had the work not been completed the severe ponding may have resulted in damage to an adjoining property.

Alternatives considered and why rejected

The alternative course of action is to not endorse the actions taken by Officers. This is not considered appropriate as the works were emergency works, necessary to prevent potential damage to an adjoining property.

Background Papers

None

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MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE COBTREE MANOR ESTATE CHARITY COMMITTEE

Decision Made: 09 March 2011

MASTER PLAN - COBTREE MANOR PARK

Issue for Decision

To consider the revised master plan, outline project plan, budget assessment and related design elements for the implementation of the proposed enhancements to the Cobtree Manor Park, together with the options for funding the scheme.

Decision Made

That the Cobtree Manor Estate Charity Committee agree:-

- i) the revised master plan as shown in Appendix A of the joint report of the Assistant Director of Environment and Regulatory Services and the Cobtree Officer
- ii) the budget assessment
- iii) the indicative project plan for the scheme
- iv) the design elements for the various works
- v) the preferred scheme for the play area be accepted and delegated authority be given to the Head of Legal Services to enter into the appropriate contract with the preferred contractor, Eibe, once the release of permanent endowment funding has been agreed with the Charity Commission
- vi) that the play area be funded from a loan from the permanent endowment and that this be repaid over a minimum ten year period, subject to the views of the charity's auditors and the Charity Commission
- vii) that the remainder of the improvement scheme be the subject to further discussion regarding funding with the heritage lottery officers and the Charity Commission and that a further report be made to the Committee at the earliest opportunity.

Reasons for Decision

At the last meeting of the Committee, Members supported the ideas contained in the revised master plan for the future enhancement of the Cobtree Manor Park. It was resolved:-

"That having seen possible alternatives for the master plan, the Officers be requested to review the guiding principles of the plan and report back to the next meeting of the Committee with:-

- A revised master plan to reflect such options.
- A detailed costing analysis.
- Design specifications.
- A project plan.
- Funding proposals.”

Since the last meeting officers have prepared a detailed Master Plan, reviewed the costs necessary to complete the scheme, produced an indicative project plan and considered the main design elements. Details are shown on the appendices to the joint report of the Assistant Director of Environment and Regulatory Services and the Cobtree Officer.

Committee Members were asked to review the proposals and if appropriate give their support.

In addition officers have also completed the tendering for the play area and the preferred bids were available for Members to view prior to the meeting. An analysis of the bids is shown in the exempt appendix o the joint report of the Assistant Director of Environment and Regulatory Services and the Cobtree Officer. Members were asked to confirm their support for the preferred scheme.

With regard to funding, discussions have been held with the Cobtree Charity Trust Limited and officers from the national lottery. Correspondence has also taken place regarding the possible use of the Charity’s permanent endowment with the Charity Commission.

The outcome of these discussions is still not completed but it is hoped that the Committee could proceed with the play area and use the cost as match funding for a lottery bid to assist with the funding for the remainder of the works to improve the park.

The Cobtree Charity Trust limited is of the strong belief that the permanent endowment can be used to undertake the works, although borough council officers are more cautious. The Committee are in a very positive position having both capital funds and regular revenue from the golf course. Given the Committee’s wish to proceed with the play area as soon as possible a mix and match approach could be considered. To seek agreement from the Charity Commission to borrow the money for the play area and refund it over a minimum 10 year period and consider the use of part of the permanent endowment to fund the remainder of the scheme supported by a lottery grant would seem a sensible way forward. At the meeting, officers pointed out that the views of the auditors were still being pursued as part of the approach to the Charity Commission.

Alternatives considered and why rejected

The Committee could have decided to ignore the possible changes to the master plan and confirm the original proposals. However this was not through appropriate is it did not allow possible improvements to the scheme to come forward.

The Committee could have decided not to approve the play area design but this was not thought appropriate as it would delay the implementation.

It would be possible to consider funding the scheme in different ways but a mix and match approach was thought to be the best way forward.

Background Papers

None

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MAIDSTONE BOROUGH COUNCIL

**RECORD OF DECISION OF THE COBTREE MANOR ESTATE CHARITY
COMMITTEE**

Decision Made: 09 March 2011

**FUNDING PROPOSALS FOR THE MASTER PLAN - COBTREE MANOR
PARK**

Issue for Decision

To consider the options for the funding of the proposed enhancements and improvements to the Cobtree Manor Estate as detailed in the revised master plan, outline project plan, budget assessment and the related design elements ("the scheme").

Decision Made

That the Cobtree Manor Estate Charity Committee agrees approves and resolves to pass the following:-

- (i) To approach the Charity Commission using either the Charity's statutory powers under Section 75A of the Charities Act 1993, as amended by the Charities Act 2006, or other appropriate powers, seeking the release of up to £275,000 of the permanent endowment in the following terms:

That the Committee acting as the Trustee to the registered charity known as "Cobtree Manor Estate" resolves to release from its permanent endowment funds to install a children's play area within Cobtree Manor Park; such facility being in full compliance with the objects of the charity and seen in its best interests to encourage greater use of the Park by the general public.

- (ii) Should the Charity Commission give its approval for the releasing of part of the permanent endowment as outlined in (i) above, to spend that released sum on completing one part of the scheme; namely the supply and construction of a play area.
- (iii) To allocate not less than £ 25,000 per annum of the future yearly revenue stream over a minimum period of ten years to a separate account, which account shall then be used towards the costs of the proposals outlined in the scheme.
- (iv) To agree and authorise Officers to discuss further with heritage Lottery Officers, other grant making organisations and the Charity Commission proposals for the future funding of the remainder of the

scheme, and to bring a further report or reports to the Committee at the earliest available opportunity.

Reasons for Decision

The trusts governing the Charity's functions are set out in the lease dated 13 July 1971. Some of those trusts are no longer capable of being implemented: for example, the use of Cobtree Manor House as a residence for Her Majesty's Judges on circuit or any other distinguished visitors to Maidstone, or the County of Kent.

The trusts which are still relevant to the Charity's functions are outlined below:

[the Charity] will not use or permit to be used Cobtree Manor Estate or any parts thereof otherwise than for the benefit of the inhabitants of Maidstone and other members of the general public in one or all of the following ways:-

by maintaining the Cobtree Manor Estate as an open space as defined by the Open Spaces Act 1906 and if [the Charity] think fit providing [at Cobtree Manor Park] facilities for organised games and other sports.

Over time the Charity has received monies from the compulsory sale of land in relation to the building of the M20 motorway and the sale of various properties no longer relevant to the functioning of the charitable trusts.

Those monetary sums have been invested in Charifund holdings and treated as permanent endowment, the combined value currently being £1.39M.

Over the past several years the Charity has had an aspiration to enhance and improve Cobtree Manor Estate for the greater enjoyment, and increased numbers, of visitors to that Park. Those enhancements and improvements are the subject of a further report to the Committee.

The Committee wished to go ahead with the enhancements and improvements proposed under the scheme and in particular of the cost of the supply and installation of the play area, the total cost of that play area to not exceed £250,000.

The legal advice of the Charity's solicitor is that the enhancements and improvements to Cobtree Manor Park, including the play area, fall within the scope of the trusts set out in the 1971 lease.

However, notwithstanding the advice set out above, the Committee still had to consider whether or not the proposal for the releasing of part of the permanent endowment (not exceeding £250,000) was in the best interests of the Charity. The view of Officers is that such proposals will be in the best interests of the Charity as the scheme will improve the park and most probably lead to increased visitor numbers and enjoyment of

Cobtree Manor Park, thus better meeting the principal object of the Charity.

In addition, the financial risks that could result from the partial expenditure of the permanent endowment will, in the opinion of Officers, be minimised by the following proposal:

That is, the loan to the Council will be fully repaid as of 1 April 2011, and the regular yearly revenue then available to the Committee from all sources will be approximately £350,000. Of this amount, the projected expenditure per annum over the next five (5) years is estimated at £230,000.

The Committee will therefore have available each year an additional yearly estimated revenue stream of £120,000. Clearly a percentage of that revenue stream should be kept available for unexpected maintenance and repair payments to the Park, but it is anticipated the sum of £25,000 per year can be put into a separate account over a minimum period of ten (10) years (designated, for example, as an unrestricted accumulated income account) and treated in a similar fashion, but not as, permanent endowment.

The monies held in the unrestricted accumulated income account could then be used as match funding with any lottery bid and bids to other grant making organisations, and in order to fund other elements of the scheme over the next several year. Further use of part of the permanent endowment fund might also be considered with the consent of the Charity Commission. As outlined in the report relating to the Master Plan, those proposals will have to be the subject of future reports to the Committee, and costed out.

The Officers consider that by using part of the permanent endowment now, but also setting aside part of the future revenue stream to another account, the finances of the Charity can be kept fully secure, and future expenditure needs can be met (including any expenditure of an unexpected nature).

Although the provision of the children's play area will inevitably increase the revenue maintenance costs, the level of revenue income will be sufficient to meet such increase and generate a surplus for implementing future enhancements.

Discussions have been held with the Cobtree Charity Trust Limited and officers from the National Lottery to explore possible contributions from these sources. The outcome of these discussions is still not complete, but it is hoped that the Committee could proceed with the play area and use the cost as matched funding to assist with the implementation of the remainder of the proposed works.

Alternatives considered and why rejected

No alternative course of action is considered appropriate as the Committee cannot proceed to release permanent endowment funds without the consent of the Charity Commission.

Background Papers

None

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