



<b>Report of:</b>	<b>Meeting</b>	<b>Date</b>
Councillor A Vincent, Resources Portfolio Holder and Mark Billington, Service Director People and Places	Council	6 December 2018

### **Joseph Kenyon Foundation: Decision Making and Reporting structure**

When considering this report, Councillors will be acting on behalf of the Council as Trustees of the Joseph Kenyon Foundation.

#### **1. Purpose of report**

- 1.1 To clarify responsibilities for decision making on issues affecting the management, maintenance and future use of Kenyon Gardens and other land held in trust as part of the Joseph Kenyon Foundation, Thornton-Cleveleys (Title Number LAN37305) hereafter referred to as 'Kenyon Gardens'.

#### **2. Outcomes**

- 2.1 More certainty about decision-making.
- 2.2 Approval regarding ongoing revenue budget for the maintenance of Kenyon Gardens.

#### **3. Recommendations**

- 3.1 That it be noted that when decisions are being made about Kenyon Gardens, whether collectively by the whole Council or individually by the Resources Portfolio Holder, Councillors will be acting in their capacity as Trustees of the Joseph Kenyon Foundation.
- 3.2 That (notwithstanding the position stated in paragraph 3.1) when issues relating to Kenyon Gardens are being considered by Councillors in their capacity as Trustees, any meetings will be conducted and any reports will be published in accordance with the Procedure Rules set out Part 4 of the Council's Constitution.

- 3.3 That any major decisions, including any proposal to seek to dispose of all or part of the freehold of the Kenyon Gardens site or to seek approval from the Charity Commission for a 'scheme' to change the use of the site will be made at a meeting of the full Council.
- 3.4 That the Resources Portfolio Holder be authorised to make any other decisions relating to the management, maintenance and upkeep of Kenyon Gardens on behalf of the Trustees (i.e. excluding disposal or change of use but including approval of grazing licenses). Updates will be provided via the Portfolio Holder's Executive Reports.
- 3.5 That the Service Director People and Places be authorised to manage and maintain Kenyon Gardens on a day to day basis on behalf of the Trustees.
- 3.6 That the parks and open spaces budget reflect the additional cost following the full utilisation of the original cash bequest from the Joseph Kenyon Foundation.
- 3.7 That the Constitution be amended to include the above provisions.

#### 4. Background

##### Location

- 4.1 The land held in trust is an a 9 acre area of open space in Thornton Cleveleys at the corner of Stanah Road and Lambs Road that wraps around Stanah Primary School (see site plan attached as Appendix 1) The northern part of the site, predominantly facing Stanah Road, is an unfenced undulating grassed area, crossed by a number of surfaced footpaths which is freely accessible to the public. The remainder of the site, to the south and east of the school, is currently let for agricultural grazing.

##### History

- 4.2 When he died in 1930 Joseph Kenyon established a foundation to enable a formal garden to be laid out in his memory and to provide land for 'leisure purposes'. His will provided that 21 years from his death his appointed Trustee would use the residue of his estate and accumulated income to enable Thornton Urban District Council or its successors to purchase a suitable piece of land not exceeding 20 acres as a site for a public park or recreation ground to be called 'Kenyon Gardens' and to apply the income from the remaining balance of his estate towards the maintenance and upkeep of the park. The arrangement also included a provision that *"the whole of the land shall forever be used as a permanent open space and shall not be used for any purpose other than meadow or pasture land or for a public park or recreation ground."*

**4.3** In 1966, following the discharge at his own request of the then single Trustee, Thornton Urban District Councillors were appointed as Trustees of the Foundation by the Secretary of State for Education and Science (under Section 18 of the Charities Act 1960). In 1967 part of the land was sold, with the agreement of the Secretary of State, to Lancashire County Council to enable Stanah County Primary School to be built. This left the remaining 9 acres under the trusteeship of Thornton UDC. Following the abolition of the UDC, that responsibility transferred to Wyre Borough Council. All Wyre Councillors are therefore Trustees of the charitable foundation.

**4.4** Current management arrangements

The management of Kenyon Gardens is undertaken by Wyre Council staff under the direction of councillors, acting in their capacity as trustees. Tasks undertaken by the Parks and Open Spaces Team include:

- *Upkeep of footpaths, drainage, park furniture, fencing and raised paths;*
- *Grass cutting and maintenance of planting and trees;*
- *Removal of litter/debris.*

Costs incurred are accounted for separately and a contribution is made from the remaining funds in the foundation's account. Income obtained from grazing licences is paid to the foundation.

**4.5** The bequest relating to Kenyon Gardens has been drawn down annually since 2009/10 based on a £3,000 contribution towards the upkeep of the park area. This was the value assessed as being reasonable to reflect modest maintenance requirements at the site and allow the bequest to be utilised over a sustained period of time. A small income from the grazing land (currently £650 p.a.) has supplemented this fund. It has never been reflective of the full cost of managing and maintaining the site and the council's own parks and open spaces budgets have been used to meet any shortfall on expenditure as needed.

**4.6** The current position on the trust's account reflects a balance of £1,070 remaining for 2018/19 meaning that it falls below the established £3,000 contribution rate.

**5. Key issues and proposals**

**5.1** The recommendations in this report are intended to clarify and formalise responsibilities and the decision making arrangements within as simple a structure as possible whilst providing clear accountability.

<b>Financial and legal implications</b>	
Finance	<p>The remaining balance on the Trust's account totals £1,070 and the intention is that this will be applied as normal to the 2018/19 maintenance of the park. This means that by the end of the financial year, the account balance will be nil. The income from the grazing land is allocated to Kenyon Park and this amounts to £650 p.a. although this is not guaranteed to be ongoing as an agreement has yet to be reached with the current tenant.</p> <p>The proposal to absorb the ongoing costs within the parks and open spaces budgets with no compensating reduction for the loss of the bequest monies will mean an increase in the overall running costs of £3,000 in 2019/20 (part year impact in 2018/19 of £1,930).</p>
Legal	<p>Agreeing a more structured a decision making process for the management of Kenyon Gardens will ensure that Wyre Councillors are meeting their responsibilities as Trustees. and reduce the risk of any potential legal challenge.</p>

### **Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

<b>risks/implications</b>	<b>✓ / x</b>
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

<b>risks/implications</b>	<b>✓ / x</b>
asset management	✓
climate change	x
ICT	x

### **Processing Personal Data**

If the decision(s) recommended in this report will result in personal data being processed, a privacy impact assessment (PIA) will have been completed and signed off by the council's Data Protection Officer before the decision is taken (as required by the General Data Protection Regulations 2018).

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<b>List of background papers:</b>		
name of document	date	where available for inspection
None	-	-

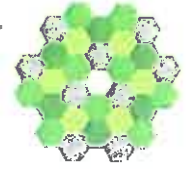
### **List of appendices**

Appendix 1: Site plan

dems/cou/cr/18/0612rs2

# Land Registry Official copy of title plan

Title number **LAN37305**  
Ordnance Survey map reference **SD3442SE**  
Scale **1:2500 reduced from 1:1250**  
Administrative area **Lancashire : Wyre**



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