

Cheltenham Borough Council

Cabinet – 18 February 2025

Land at Pittville Park – Dedication Agreement

Accountable member:

Alisha Lewis, Cabinet Member for Assets and Finance

Accountable officer:

Gemma Bell – Director of Assets & Finance, Deputy S151 Officer

Ward(s) affected:

Pittville

Key Decision: No

Executive summary:

To enter into a Deed of Dedication with Gloucestershire County Council, covering an area of public open space at Pittville Park for the purposes of facilitating the A435 Cheltenham to Bishops Cleeve cycleway

Recommendation: That Cabinet:

- **agrees to enter into the Deed of Dedication which contributes to the Council's fundamental priorities of the Corporate Plan and Net Zero ambitions.**
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1. Implications

1.1 Financial, Property and Asset implications

The deed of dedication involves allowing GCC to build the cycleway on a strip of land (as detailed) in an area that forms part of the council's open space. CBC will retain ownership, but maintenance obligations will be met by GCC.

All capital costs and maintenance costs will be covered by GCC under the agreement and therefore has no impact on CBC capital or revenue budgets.

Signed off by: Andy Taylor, Principal Commercial Accountant,
andy.taylor@cheltenham.gov.uk

1.2 Legal implications

The proposed dedication area forms part of the Council's Open Space. Any decision to grant an appropriation thereof must first be advertised for 2 weeks as such, pursuant to s123(2)(a) of the Local Government Act 1972 in the Public Notices section of a local newspaper. All comments and representations received are to be considered and addressed before a final decision is made.

Further to the, the proposed dedication is for a period of longer than 7 years, and for nil rent which is therefore less than 'best consideration'. Under s123, the Council has an obligation to secure best consideration reasonably obtainable when disposing of public open space for a period of 7 years or more. This obligation can be waived with the consent of the Secretary of State, who has given a General Consent to such transactions where, in the reasonable opinion of the Council, the disposal is for:

- The promotion of improvement of economic well-being
- The promotion or improvement of social well-being
- The promotion or improvement of environmental wellbeing.

The Council will be relying on such Consent for the Dedication Agreement.

Signed off by: One Legal legalservices@onelegal.co.uk

1.3 Environmental and climate change implications

The development of this section of cycleway will lead to positive associated environmental implications when in use, such as reduced greenhouse gas emissions and increased sustainable transport options. This enables residents to transition to net zero options for travel, therefore supporting the Net Zero by 2030 goal within the borough. As this report relates directly to the Deed of Dedication, instead of the installation of the cycleway and overall project proposal, it is requested that the GCC project lead completes that attached climate impact assessment tool. This will demonstrate the construction phase implications, and provide an accessible format for members to review the potential trade-offs and planned areas of mitigation.

Signed off by: Maizy McCann, Climate Officer, Maizy.mccann@cheltenham.gov.uk

1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

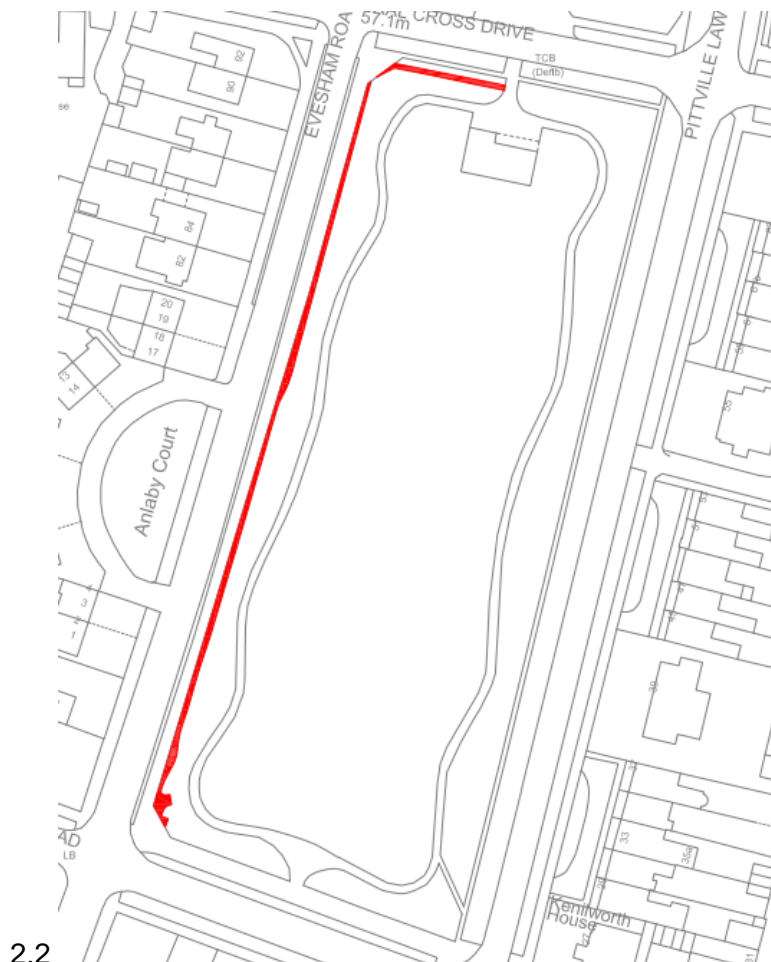
- Working with residents, communities and businesses to help make Cheltenham #netzero by 2030
- Ensuring residents, communities and businesses benefit from Cheltenham's future growth and prosperity
- Being a more modern, efficient and financially sustainable council

1.5 Equality, Diversity and Inclusion Implications

See Appendix 2.

2 Background

2.1 As part of the implementation of the A435 Cycleway, GCC will be undertaking works at some locations on CBC land at Pittville Park. These locations are as shown in red on the plan below:



2.2

2.3 On completion of the works, the land utilised will form part of the in-use cycleway.

2.4 The Dedication Agreement will transfer maintenance responsibility and use of the land to Gloucestershire County Council however this will be an appropriation only, CBC will retain the Freehold.

2.5 Due to the current designation of the land as Public Open Space, the Council has advertised the appropriation pursuant to s123 of the Local Government Act 1972 and any objections to the proposal are to be considered by Cabinet

2.6 Notices were published 5th and 12th December and no representations were received in response.

2.7 An inspection of the deed has also been undertaken which confirms that there is nothing on the title that would prevent the land from being used for the purpose of a cycle track.

2.8 The proposed use is not unfitting with the uses generally associated with a public park and the works will improve facilities for pedestrians, cyclists, residents and park users.

2.9 Works to this are of the cycleway commenced under Licence on 6th January 2025.

2.10 GCC have been provided with a letter of comfort that it is the full intention of CBC to enter into a Deed of Dedication on completion of the works for the purposes outlined in this report subject to:

- The Council advertising and being able to satisfactorily deal with representations (if any) received in response to the s123 notices

And

- Cabinet Approval

3 Reasons for recommendations

3.1 The recommendation is to enter into the Deed of Dedication with Gloucestershire County Council as it contributes to the Council's fundamental priorities of the Corporate Plan and Net Zero ambitions by:

- Enhancing and protecting our environment – using a Council asset effectively for the benefit of the community.
- Strengthening our communities – the Council would be working in consultation with the community, community groups and the voluntary sector

3.2 By entering into the Dedication Agreement, the Council demonstrates recognition that cycling and an active lifestyle make a major contribution in society in policy areas such as health, education, quality of life and addressing social inclusion.

3.3 Since the Pandemic, there has been an increase in value (social) for amenity space. Regeneration, refurbishment and improvements of these facilities are in the wider interest of the community.

3.4 The cost of maintenance will be transferred to the County.

4 Alternative options considered

4.1 The Council could decline the request for the Deed of Dedication however by doing so, the investment for the improvements would be lost. There is not sufficient capacity in current budgets or resources for works of this size and scale.

4.2 The Council also considered not proceeding with the project however this was rejected due to the fact that the project contributes to the fundamental priorities of the Corporate Plan and Net Zero ambitions.

5 Consultation and feedback

5.1 GCC have undertaken consultation with local groups who frequently use the park, ward councillors, local residents, Gloucestershire Constabulary's Designing Out Crime officer and CBC officers.

5.2 The feedback has informed the design of the improvements and is overwhelmingly supportive of the proposals.

5.3 The proposals were further examined by the Council's Asset Management Working Group who were supportive of the recommendation.

6 Key risks

6.1 That GCC do not complete the works as planned to result in CBC being left with responsibility for them.

6.2 To mitigate this, the Deed of Dedication will contain sufficient covenants to prevent CBC being left with any liability.

6.3 A breach of covenant will result in the usual remedies in law; either, a permanent injunction or the seeking of damages.

Report author:

Claire Pockett, Surveyor, claire.pockett@cheltenham.gov.uk

Appendices:

- i. Risk Assessment
- ii. Equality Impact Assessment – Screening

Background information:

N/A

Appendix 2: Equality Impact Assessment

1. Identify the policy, project, function or service change

a. Person responsible for this Equality Impact Assessment

Officer responsible: Claire Pockett	Service Area: Assets & Finance
Title: Surveyor	Date of assessment: 6 th Feb 2025
Signature: Claire Pockett	

b. Is this a policy, function, strategy, service change or project?

Project

If other, please specify:

c. Name of the policy, function, strategy, service change or project

Pittville Park – Deed of Dedication

Is this new or existing?

Other

Please specify reason for change or development of policy, function, strategy, service change or project

To regularise the use of the part of the park as part of the A435 cycleway scheme

d. What are the aims, objectives and intended outcomes and who is likely to benefit from it?

Aims:	To enter into a Deed of Dedication with Gloucestershire County Council for the appropriation of the land as part of the cycleway scheme.
Objectives:	To regularise the legal use and responsibility of the land and ensure that obligations for maintenance are sufficiently provisioned for.
Outcomes:	For all parties to the Deed to be aware and bound by the terms. To ensure the investment in the project is protected. To clearly identify use as part of the A435 cycleway.

Benefits:	Contribution to the Council's corporate priorities and net zer ambitions.

e. What are the expected impacts?	
Are there any aspects, including how it is delivered or accessed, that could have an impact on the lives of people, including employees and customers.	Yes
Do you expect the impacts to be positive or negative?	Positive
Please provide an explanation for your answer:	
<p>By entering into the deed of dedication, CBC are recognising the positive contribution that cycling makes to the health and well-being of the community. It is further benefitting and enhancing a community asset.</p>	

If your answer to question e identified potential positive or negative impacts, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

f. Identify next steps as appropriate	
Stage Two required	No