

**APPENDIX 3 to Cabinet Report 3rd July 2018**  
**Note on Elm Grove Field and Implications for Asset Transfer**

**1. Background**

1.1 The Queen Elizabeth II Field, known as Elm Grove Field, is owned by Wiltshire Council and comprises a playing field of approximately 2.85 hectares (2.7 hectares within the ring fence) accessed from Wiltshire Drive and Campion Drive. It includes a small play area in poor condition and a basketball hoop. The field has no marked-out pitches as it is very wet and thus unsuitable for team sports. Its current use appears to mainly be for dog walking.

1.2 The field was dedicated as the Queen Elizabeth II (QE II) Field at Elm Grove Open Space by a Deed of Dedication dated 15<sup>th</sup> June 2012 (2012 Deed of Dedication). This was part of a scheme to dedicate fields to celebrate the Queen's diamond jubilee in that year.

The 2012 Deed of Dedication was made between:

- 1) Wiltshire Council; and
- 2) National Playing Fields Association (also known as Fields in Trust).

1.3 There is currently a chronic shortage of primary school places in Trowbridge and the Wiltshire Housing Site Allocations Plan seeks to bring forward a new school site as part of site allocation H2.1 Elm Grove Farm. The Elm Grove Field, which lies adjacent to site allocation H2.1 would provide a suitable site for a new school. This is subject to surface water drainage being improved and the open space provision lost to that school being replaced within the locality - this second point being a requirement of the 2012 Deed of Dedication. Current guidelines require a school of at least 1.8 hectares.

**2. Main Considerations**

2.1 The field remains part of Wiltshire Council's corporate property holding. The 2012 Deed of Dedication restricts use of the field to open space for recreational or sports facilities and requires Wiltshire Council to obtain the consent of Fields in Trust (FiT) for any disposal. This will include using the land for other purposes.

2.2 The terms on which FiT can consider giving consent are set out in the 2012 Deed of Dedication. These are that the Council: "*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 "*enters into another deed of dedication on the same terms as this Deed in respect of the Replacement Site*". These requirements are in line with what Wiltshire Council would seek to obtain from a developer in these circumstances. The 2012 Deed of

Dedication also states that, if the above requirements are met, FiT will not unreasonably withhold its consent.

- 2.3 There is the opportunity to incorporate the Elm Grove Field into the proposed site allocation H2.1, which will allow for enhanced open space and sports provision.
- 2.4 The developer would be expected to carry out a comprehensive scheme to improve surface water drainage, which should ensure that the facilities provided will be suitable for team games throughout the year. The 'Replacement Site' is therefore likely to satisfy the requirements of the 2012 Deed of Dedication.
- 2.5 Informal discussions have been held with FiT. Their officer has indicated that if the requirements of the 2012 Deed of Dedication are met, they would be likely to recommend that consent is given.
- 2.6 The current main access to the field (off Wiltshire Drive) is sufficiently large that, subject to highways considerations, it can be used for construction traffic. This means that if the existing field is used for the new school, delivery can be achieved early in the site's development rather than in a later phase where delivery is reliant on infrastructure being in place first. Being able to build the new school early on will help to alleviate the shortage of primary school places in Trowbridge.

### **3. Procedural matters**

- 3.1 Prior to the 2012 Deed of Dedication, the land was held by the Council as open space. Should FiT grant its consent, it would need to be appropriated so that it is held for educational purposes in order that it may be used for a school.
- 3.2 It is normal practice for the Council to acquire land for community purposes once planning permission has been secured. Provisions are generally made through a Section 106 Legal Agreement to secure the transfer of land for specific uses. However, given the 2012 Deed of Dedication, there are additional separate requirements that would need to be finalised following the grant of planning permission as follows:
  1. To seek consent from FiT and secure the release of Elm Grove 'QE II' Field from the 2012 Deed of Dedication; and
  2. Upon the transfer of the 'Replacement Site', Wiltshire Council enters into a new Deed of Dedication with FiT (i.e. National Playing Fields Association), dedicating the replacement field as a QEII Field.