


London Borough of Hammersmith & Fulham CABINET 4 DECEMBER 2017		
PROTECTING THE BOROUGH'S PARKS AND OPEN SPACES		
Report of the Cabinet Member for Environment, Transport and Residents Services: Councillor Wesley Harcourt		
Open Report		
Classification - For Decision		
Key Decision - Yes		
Wards Affected: All		
Accountable Director: Mahmood Siddiqi, Director for Transport and Highways		
Report Author: Ullash Karia, Head of Leisure & Parks		Contact Details: Tel: 020 7938 8170 E-mail: Ullash.karia@rbkc.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 This report seeks Cabinet approval for the Council to enter into individual site Deeds of Dedication (where appropriate) with Fields in Trust (FiT) to provide additional protection for the borough's parks and open spaces in perpetuity.
- 1.2 This proposal and the way forward was supported by the recent Parks Commission, chaired by Councillor Guy Vincent, and endorsed by the Community Safety, Environment and Residents Service Policy and Accountability Committee on 28 June 2017.
- 1.3 Cabinet fully understands that under the Deed of Dedication the ownership and management of the park firmly remains under the authority of the Council. To confirm FiT would have no jurisdiction or influence on how the Council operates or wish to run their parks. FiT would have no active management role or decision making powers in the operational running of the parks.
- 1.4 The protection of the borough's green spaces reflects the Council's determination to be the best in the country. It has strong links to our community sport and physical activity strategy (2017-21), and the health and

wellbeing strategy aiming to be a Healthy, Caring Place. Specifically, this will support a life course approach - "start well, stay well and age well" and will seek to reinforce 'health prevention is better than cure'. This will enable the Council: -

- to build social, economic and physical environments that create the necessary conditions to protect, promote and support health and well-being.
- to ensure that all public policies contribute to protecting and improving people's health and well-being.

2. RECOMMENDATIONS

- 2.1 To endorse the recommendation of the Parks Commission and the Community Safety, Environment and Residents Service Policy and Accountability Committee that the Council protect the borough's parks and open spaces via entering into individual site Deeds of Dedication with Fields in Trust as appropriate.
- 2.2 To delegate authority to the Director for Transport and Highways, in consultation with the Cabinet Member for Environment, Transport and Residents Services, the Cabinet Member for Finance and the Strategic Director of Finance to work with the Parks Commission and individual park groups to progress their specific deed of dedication with Fields in Trust.
- 2.3 To acknowledge the positive input from all those involved in the Parks Commission in reaching a common consensus.

3. BACKGROUND

- 3.1 In 2014 the administration made a commitment in their 'The change we need' manifesto that if elected they would seek to afford the borough's parks and open spaces with better protection:

Protecting our parks

The council should be a trusted custodian of our parks, put our parks in a residents trust to prevent them being sold off

- *Maintain fair access that keeps our parks open to all and restricts their use for private events and by out-of-borough schools.*

- 3.2 Since Autumn 2014 officers have been looking at the various options available to deliver this commitment; namely .to identify a solution that will not impinge on the Council's ability to carry out day-to-day management, but also provide protection in perpetuity for the future benefit of residents.
- 3.3 FiT maintains relationships with a network of trusts and foundations across the country and are continuously raising money to offer grants to other protected sites. FiT have also launched a new pilot programme with London Marathon Charitable Trust (LMCT) called 'Active Spaces'. This programme combines increasing activity on green spaces with protection. Should Cabinet approve this proposal, one of the direct benefits would be that a nominated

park of Council's choice would be included in this programme and receive a guaranteed £5,000 revenue grant aimed at creating a project to get inactive community members more active.

- 3.4 FiT also sustain positive associations with a number of national organisations across the country. These formal partnerships include; The Lawn Tennis Association (LTA), Rugby Football Union (RFU), Football Association (FA), Sport England and the Heritage Lottery fund.

4. OPTIONS CONSIDERED, DELIBERATED AND THEN DISCOUNTED

4.1 Do nothing

- 4.2 This option maintains the current status quo.

- 4.3 With this option the governance and strategic vision of parks and open spaces is limited and remains the same. Therefore, it is not in line with the administration's aims and aspirations to further protect parks and open spaces.

- 4.4 This option also limits access to potential external funding available to the Council. With this option, any reduction in financial contribution from the Council is unlikely to be replaced by third party funding.

4.5 A borough-wide Parks Trust

- 4.6 A number of authorities have now set-up 'Arm's Length Management Organisations' (ALMOs) some of which include parks and open spaces. Some examples in London are the London Borough of Redbridge, who have created Vision Redbridge and the London Borough of Wandsworth, who have created Enable Leisure and Culture.

- 4.7 In order for such a trust to operate successfully it needs a certain amount of autonomy as well as a board of trustees. Ultimately the trustees will set the direction of any organisation and have a high degree of autonomy. It is entirely possible these trustees may come with distinct and individual views and wish to exercise their influence. Potential objectivity, including political neutrality, could be lost and the works of the trust could be subject to individual and political influence.

- 4.8 In addition while savings can be achieved through this option, it is likely such an organisation would want their own staff and therefore there would be costs and liabilities associated with this.

- 4.9 To date the only recognised independent area wide trust to exist is the Milton Keynes. The Milton Keynes Parks Trust was created in 1992 to care for most of the city's green space and was endowed with a substantial property and investment portfolio, giving the trust a net asset value of circa £85,000,000. The income from this portfolio pays for the vital work of nurturing and enhancing the landscape. It is entirely self-financing. The majority of land managed by the Parks Trust is covered by a 999-year lease; Milton Keynes Council retains the freehold.

4.10 Granting a lease like that of the Milton Keynes Parks Trust would give the Council almost no influence going forward. The Council is also not in a position to offer an endowment to that provided in Milton Keynes and therefore continued support from the Council would be required.

4.11 The advantage to such an organisation is that it is likely to be able to access external funding, which is not available to the Council.

4.12 Individual Parks Trusts

4.13 Individual park trusts are likely to put much more onus on the individual trustees because of the size of each organisation. They are unlikely to generate or guarantee enough income to cover staffing costs and therefore continued support from the Council will be required.

4.14 Having multiple parks trusts is also likely to make it difficult to find enough individuals to fill the required positions on multiple trusts.

4.15 Some sites by their very nature offer more commercial and income generation opportunities and therefore this would put some sites at an advantage against those where such opportunities are not available. These commercial and income generation opportunities may also be of the nature, which the administration is seeking to provide protection from.

4.16 The advantage to this option is that those directly involved are likely to be local residents and therefore the management and operation of sites would hopefully be more tailored to that of the local community and residents.

4.17 Conclusions

4.18 For the reasons outlined above and after detailed discussions at the public parks commission meetings noting the administration's commitment to provide additional protection to the borough's parks and open spaces, all of above options were discounted.

5. THE PARKS COMMISSION

5.1 The Parks Commission was formed by the administration with the purpose of considering how to provide additional protection to the borough's parks and open spaces.

5.2 The commission held its first meeting on the 17 January 2017 and then subsequently two further meetings on the 7 March 2017 and 23 May 2017. The commission was chaired by Cllr Vincent.

5.3 The meetings were well attended with representatives from over 15 of the borough's parks and open spaces. There were also attendees who have a general interest in the borough's parks and open spaces rather than specific sites.

- 5.4 David Sharman, Fields in Trust Development Manager, presented at the second meeting (the presentation is attached in *Appendix One*).
- 5.5 The Deed of Dedication offers protection to sites by acting as a covenant; the deed is registered with the Land Registry.
- 5.6 It is proposed each site has its own Deed of Dedication and therefore each one will be tailored to individual sites. Within the deed will be a list prohibited acts including the sale or grant of a long term lease of the green space and prohibited activities (these will be bespoke for each site but may for instance be a limit on the number or type of events held at a site each year). Any proposals in the future that fall within the prohibited acts or activities would require the consent of the independent body, FiT, to execute and would be considered by the Fields in Trust trustees.
- 5.7 The Fields in Trust committee would not unreasonably refuse permission for activity outside the Deed of Dedication but would seek to ensure the Council has adequately consulted and the proposed activity is broadly in line with their aims and objectives and beneficial to the individual site concerned.
- 5.8 A copy of Fields in Trust's Local Authority Draft Non-Charitable Deed of Dedication is attached in *Appendix Two*.

6. FIELDS IN TRUST (FiT)

- 6.1 FiT were founded by King George V in 1925 as the National Playing Fields Association (changing their name to Fields in Trust in 2007). Their mission is to ensure that everyone – young or old, able or disabled and wherever they live – has access to free, local outdoor space for sport, play and recreation. These spaces are vital to building happy and healthy communities and sadly continue to be threatened by all kinds of development.
- 6.2 FiT are a national charity and operate throughout the UK to safeguard recreational spaces and campaign for better statutory protection for all kinds of outdoor sites.
- 6.3 FiT are governed by an independent board of trustees who bring together a wide range of expertise and knowledge in relation to parks and open spaces.
- 6.4 Over 2,600 sites are now safeguarded by FiT. Glasgow City Council undertook a similar exercise to the one being done in Hammersmith & Fulham and are looking to provide protection/safeguard to 27 sites.
- 6.5 FiT run their own funding programmes, which are open to sites with a Deed of Dedication. Any borough sites that have a Deed of Dedication would therefore become eligible to bid for this funding.

7. DEED OF DEDICATION

- 7.1 A Deed of Dedication via FiT would permanently safeguard outdoor recreational spaces in perpetuity. FiT would act as a guarantor to ensure the sites are protected from future development. They would be independent of

the Council and as a charity, are governed by the Charities Commission. FIT will have no active management role or decision making powers in the running of the parks and open spaces.

- 7.2 Site specific covenants can be made on sites about what is acceptable and what is not acceptable e.g. who should be consulted. A degree of flexibility is offered and site specific individual user clauses can be implemented.
- 7.3 There will be positive public health implications as the sites will be guaranteed as exercise space for generations to come.
- 7.4 Deeds are separate from planning process. Any planning proposal that did not fall into the usage clause relating to recreation would need to seek FIT consent. This includes wayleaves and easements. The only exception being Compulsory Purchase Orders.

8. NEXT STEPS

- 8.1 Further work will be required to identify all the restrictions and covenants associated with individual sites.
- 8.2 Some sites already benefitting from 'enhanced' covenants may not need the Deed of Dedication but this judgement will be made on a case-by-case basis in consultation with Legal Services and both the Cabinet Members for Environment, Transport and Residents Services, plus Cabinet Member for Finance.
- 8.3 With the positive contribution of the Parks Commission in mind, it is intended that as part of the process individual meetings will be held with interested parties from specific sites to agree what should be included in the final deed.
- 8.4 Once the content of each Deed of Dedication has been agreed the legal documents will be agreed by each party and a short report presented to the Cabinet Member for Environment, Transport and Residents Services recommending adoption.

9. LEGAL IMPLICATIONS

- 9.1 The registration of the Deed of Dedication on the relevant playing fields will restrict the land to the use outlined in the Deed for each selected site.
- 9.2 All day to day decisions will continue to be the responsibility of the Council. However, FIT would need to approve any change of uses, alterations, building works, construction, leases, wayleaves, transfers and sales etc.
- 9.3 Section 1 of the Localism Act 2011 enables a local authority to do anything that an individual generally may do. Securing Fields in Trust status would ensure residents throughout the borough would be given the chance to use these facilities for physical activities and provide improvements to the local environment and link in the Councils community sport and physical activity

strategy (2017-21), and the health and wellbeing strategy aiming to be a Healthy, Caring Place.

9.4 Implications verified/completed by: *Dermot Rayner, Senior Property Solicitor, tel. 020 8753 2715*

10. FINANCIAL IMPLICATIONS

10.1 There would be legal costs involved in setting up the proposed arrangement alongside minimal land registry fees. These total costs are currently estimated to be no more than £2,000 As the Parks and Open Spaces budget is currently fully committed, additional funding would need to be identified. No ongoing future costs are anticipated following the completion of each deed of dedication.

10.2 Implications verified/completed by: *Lucy Varenne, Finance Manager, tel. 020 7341 5777.*

BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1	Minutes from the Community Safety, Environment and Residents Service Policy and Accountability Committee on 28 June 2017 - <i>published</i>	Ainsley Gilbert	Committee Services/ Hammersmith Town Hall

LIST OF APPENDICES:

APPENDIX ONE

Fields in Trust presentation:

APPENDIX TWO

An Example of Fields in Trust – Local Authority Draft Non-Charitable Deed of Dedication



Hammersmith & Fulham Parks Commission Meeting

Tuesday, 7th March 2017



Fields in Trust

- Founded in 1925 by King George V
- Operating name of the National Playing Fields Association
- Patron: HM The Queen
- President: HRH The Duke of Cambridge



Our mission



To safeguard and improve outdoor
recreational spaces for sport and play
for future generations

The Fields in Trust Effect

1946



2010



King George V Field, Drayton, Norfolk – protected 1938

Total sites protected

2,817
sites



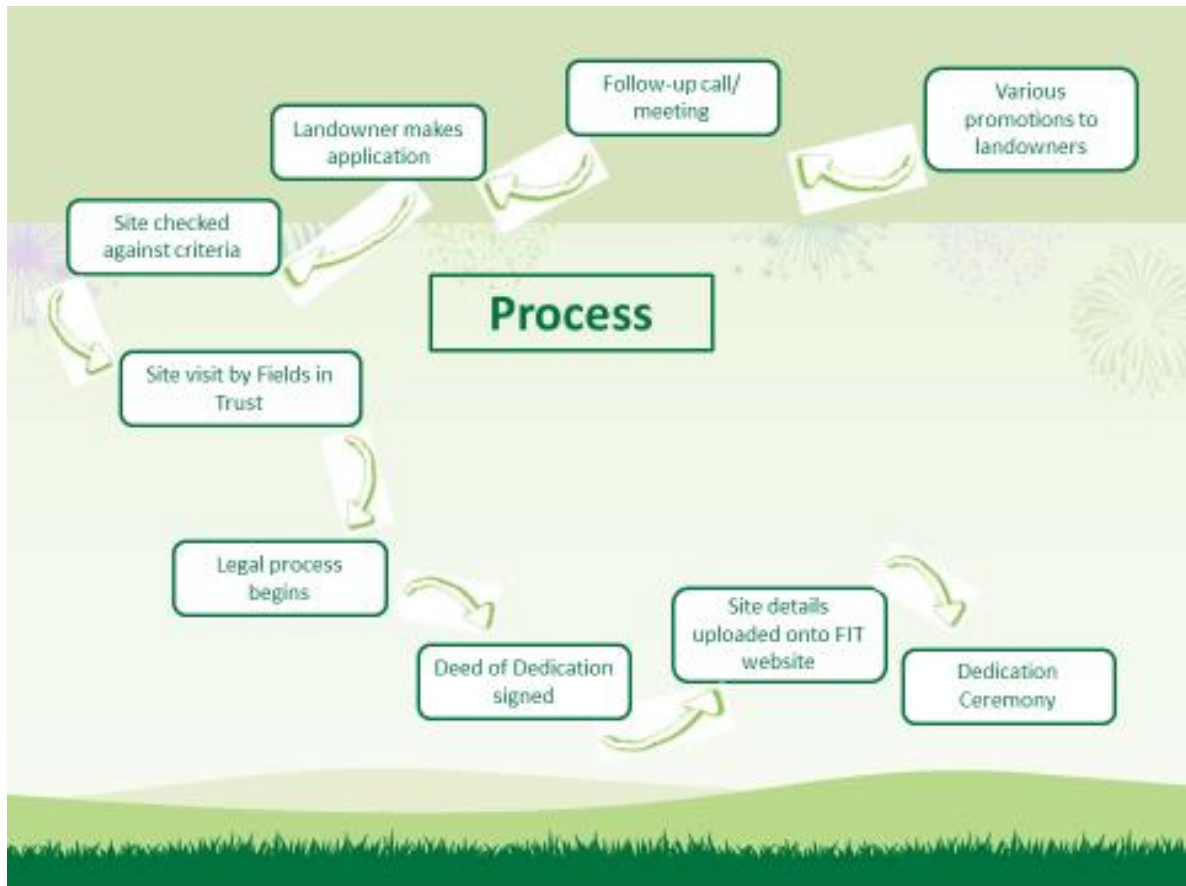
31,000
acres

Criteria for Applications

A site to be protected by Fields in Trust should be:

- Used principally for outdoor recreation, sport or play.
- Accessible to the public.
- Affordable for the local community.

FIT Fields can include facilities such as pavilions, village halls, indoor leisure or heritage facilities that are used for community recreation



London sites



Gillespie Park, Islington



Burgess Park, Southwark



King Edward VII Park, Brent

Mile End Park, Tower Hamlets



Fun and Activities – Have a Field Day



“The Park comes alive with laughter and fun,” Cllr Reid, East Ayrshire



Please play on the grass

Policy and Guidance



Fields in Trust Awards



#LoveYourLocalPark



Summary of the benefits of FIT protection



- Flexible yet strong protection of green spaces, in perpetuity
- Straightforward and transparent process that won't put excessive strain on the council, or other stakeholders
- Access to FIT funding, and recognition with other funders
- Opportunity to utilise the FIT participation programme, our support and advice service and our Awards
- Protection seeks to receive buy-in and feedback from Friends groups and community members

Thank You

Any Questions?

www.fieldsintrust.org



@fieldsintrust



FieldsInTrust

#LoveYourLocalPark



APPENDIX TWO

An Example of Fields in Trust – Local Authority Draft Non-Charitable Deed of Dedication

**FIELDS IN TRUST – PROTECTED FIELDS
Draft Non-Charitable Deed of Dedication
Local Authority Protected**

[NAME OF LOCAL AUTHORITY] (1)

and

NATIONAL PLAYING FIELDS ASSOCIATION (2)

**[NAME OF THE SITE]
Annotations in red**

THIS DEED OF DEDICATION is made on the day of 20

BETWEEN

- (1) [] and its successors in title of [address] (the **Council**); and
- (2) **NATIONAL PLAYING FIELDS ASSOCIATION**, operating as Fields in Trust, of Unit 2D Woodstock Studios, 36 Woodstock Grove, London , W12 8LE a Royal Charter Organisation established for charitable purposes (registered charity number 306070) and its successors in title (**FIT**)

(the Council and FIT being together called the **Parties**)

WHEREAS:

The property more particularly specified in the Schedule (the Property) forms part of the corporate property of the Council.

The Parties hereby agree that the Property will be dedicated in perpetuity in the manner and for the purposes set out below (but without any intention to create any charitable trust), and in accordance with the mutual undertakings given by the Parties.

Clause 2 establishes the contract.

3. The Council gives the following undertakings:
- 3.1 Not to use the Property or permit the Property to be used for any purpose other than as a [public playing field and recreation ground];
- 3.2 Not to grant, allow, suffer or permit the Property to be used or is permitted to be used for any purpose outside clause 3.1 including for any occasional or specific period of time without the consent of FIT;

The user clause refers to the property being for “a public playing field and recreation ground”. 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.

- 3.3 Subject to clause 4 or clause 5, not (in so far as it has the power to do so) to dispose of the Property without the consent of FIT;

This clause establishes additional protection through FIT by requiring FIT’s prior consent to any proposed disposal.

- 3.4 Not to erect, allow, permit or suffer any buildings, structures or alterations on the Property, the use of which is outside the permitted uses as stated in Clause 3.1 without the consent of FIT;
- 3.5 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 twenty per cent of the total square footage of the Property;

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

- 3.6 To inform FIT without delay of any proposals, intentions or decisions to grant, allow, suffer or permit:
 - 3.6.1 Disposals of the whole or part of the Property;
 - 3.6.2 The erection of any buildings, structures or alterations on the whole or part of the Property whether inside or outside the user clause at clause 3.1;
 - 3.6.3 The temporary closures or uses of the whole or part of the Property;
- 3.7 To provide FIT with information in response to any reasonable request by FIT relating to the use at clause 3.1;

This clause supports the objective of protecting the site's recreational use. Please refer to our Field Change Request Procedure which is published on our website <http://www.fieldsintrust.org/>

- 3.8 To maintain the Property and so far as is consistent with its duties as a local authority to have regard to any advice given from time to time by FIT on the management and running of the Property;

This clause establishes an advisory role for FIT without interfering with the management rights and responsibilities of the authority.

- 3.9 To erect notices on the Property in the form of signage provided by FIT relating to the background of FIT and its protection of this field, giving recognition of financial support where required;
- 3.10 To apply within three months of the date of this Deed on form RX1 annexed hereto for the registration in the proprietorship register of the registered title of the Property at the Land Registry of a restriction to the following effect:

/ Whole

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by National Playing Fields Association of Unit 2D, Woodstock Studios, 36 Woodstock Grove, London, W12 8LE or by its conveyancer that the provisions of clause 4 of The Deed of Dedication dated [] between [] (1) and National Playing Fields Association (2) have been complied with"; and

/ Part

"No disposition of part of the registered estate identified on the plan outlined in red annexed to a Deed of Dedication dated [] between [] (1) and National Playing Fields Association (2) by the proprietor of the registered estate is to be registered without a certificate signed by National Playing Fields Association of Unit 2D, Woodstock Studios, 36 Woodstock Grove, London, W12 8LE or by its conveyancer that the provisions of paragraph 4 of The Deed of Dedication dated [] between [] (1) and National Playing Fields Association (2) have been complied with"; and

This is an essential part of the land registration and protection process.

- 3.11 To apply within three months of the date of this Deed on form AN1 annexed hereto for the registration in the charges register of the registered title of the Property at the Land Registry of a notice to the following effect:

“By a Deed of Dedication dated [] between [] (1) and National Playing Fields Association (2) /**Whole** [the land in this title] /**Part** [the part of registered estate identified on the plan outlined in red annexed to a Deed of Dedication dated [] was dedicated for use as a [].”

This is an essential part of the land registration and protection process.

- 3.12 To supply FIT with evidence that the registrations referred to in clauses 3.7 and 3.8 have been completed within a reasonable period of time after completion.
4. Pursuant to clause 3.2, FIT shall not unreasonably withhold consent to any disposal of the Property provided that the Council at the request of FIT:
- 4.1 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
- 4.2 Enters into another deed of dedication on the same terms as this Deed in respect of the Replacement Site.

Clauses 4.1 and 4.2 take account of potential future change by guaranteeing flexibility in terms of specific location provided the specified criteria are met.

- 5 FIT undertakes that it will not unreasonably withhold consent to any disposal of the Property at nil cost to any local authority or non-profit making organisation which will hold the Property and ensure that its use is compatible with clause 3.1, provided that the new landowner enters into another Deed of Dedication with Fields in Trust on the same terms as this Deed in respect of the Property.

This allows for asset transfer.

6. FIT undertakes that it will:
- 6.1 Not unreasonably withhold consent to disposal of the Property or the erection of any structures upon it, subject to its duty to perform its charitable objects and provided that the provisions of clause 4 or clause 5 of this Deed have been complied with;
- 6.2 Respond without delay to any notifications of intended disposal or erection of structures, or to any requests for advice; and
- 6.3 Notify the Council without delay of any concerns or matters of advice to which it requires the Council to have regard.

7. The Council DEDICATES the Property as a public playing field and recreation ground for the benefit of the inhabitants of [] and thereabouts and the site will be titled Field in Trust Protected site, [].

This is the essential clause referring to the dedication of the site and confirming its name. The user definition (given as 'playing field and recreation ground here) can be varied according to the site.

IN WITNESS whereof this Deed of Dedication is executed the day and year first before written

SCHEDULE

/Registered

[All of] / [Part of] that freehold property known as land at [] which is identified on the plan outlined in red and annexed to this Deed being [all] / [part] of H M Land Registry Title Number [].

/Unregistered

[All of] / [Part of] that freehold property known as land at [description of the land in the document] described in the [enter type of document i.e. conveyance] dated [insert date] and made between [enter party] of the one part and [enter party] of the other part which is identified on the plan outlined in red and annexed to this Deed.

EXECUTED as a **DEED** by affixing the
The **COMMON SEAL** of
[]
in the presence of:

Councillor

Councillor

EXECUTED as a **DEED** by affixing

The **COMMON SEAL** of **NATIONAL PLAYING FIELDS ASSOCIATION**

under an authority conferred by s.260(2) Charities Act 2011 in the presence of:

Trustee

Trustee