

**INFORMATION NOTE: RESTRICTIVE COVENANTS ON THE SITE KNOWN AS THE DELL , WALSWORTH ROAD, HITCHIN**

THE HEAD OF FINANCE PERFORMANCE AND ASSET MANAGEMENT

**1. SUMMARY**

- 1.1 The purpose of this Information Note is to advise on the restrictive covenants affecting the site known as the Dell, Walsworth Road, Hitchin.

**2. STEPS TO DATE**

- 2.1 Members will recall that some two years ago a group approached the District Council for permission to run a rope walk facility at the Dell. The District Council considered the request and worked with the interested party, but ultimately the project did not proceed.
- 2.2 Members have requested information on the restrictive covenant affecting the Dell to inform debate on possible future events to be held at the Dell.

**3. INFORMATION TO NOTE**

- 3.1 The Dell is part of a site owned by North Hertfordshire District Council at Walsworth Road, Hitchin registered under title DD493698 shown on the attached plan at Appendix A.
- 3.2 The Dell was gifted to Hitchin Urban District Council (HUDC) on 15 August 1939. North Hertfordshire District Council acquired the land as successor to HUDC when North Hertfordshire District Council was formed under the Local Government Act 1972.
- 3.3 HUDC covenanted with the executor of the late Mrs Gainsford that it would:
- “preserve the Dell as a sanctuary for birds in memory of Mr Gainsford to which all members of the Gainsford family living at the date of Mrs Gainsford’s death ( 10 June 1938) shall have access and shall not use or permit the property to be used for any other purpose unless the consent of the Minister of Health shall first have been obtained.”*
- 3.4 The above covenant seeks to use the Dell as a sanctuary for birds.

The options open to the Council are therefore:

1. Continue to observe the covenant;
2. Ignore the covenant and use the land for other purposes;
3. Approach the relevant government minister for approval to any other required use.

4. Make an application for removal of the covenant to the Lands Tribunal using the 1925 Law of Property Act.

#### **4. NEXT STEPS**

- 4.1 If a group wishes to use the Dell for an activity it needs to apply for permission from the District Council, as is the case with any of the Council's open space, using the appropriate form. Such a request would then be considered by the District Council and the options at 3.4 above would be looked at in the context of the application being made.

#### **5. APPENDICES**

- 5.1 Appendix A - Copy conveyance dated 15 August 1939 between W.M.W Marshall (1) the Urban District Council of Hitchin (2) and copy of the Land Registry Plan for title HD493698.

#### **6. CONTACT OFFICERS**

- 6.1 Legal Services, John Fairhall, Property Solicitor, 01462 474218  
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#### **7. BACKGROUND PAPERS**

- 7.1 None

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