

OUTCOME OF SETTLEMENT NEGOTIATIONS IN CONNECTION WITH HIGH COURT PROCEEDINGS RELATING TO THE RIVER WYE

PORTFOLIO RESPONSIBILITY: ENVIRONMENT

CABINET

22ND MARCH, 2007

Wards Affected

Central Ward
St Martins and Hinton Ward

Purpose

To report to Cabinet on the settlement of High Court litigation concerning both fishing rights and mooring rights on a stretch of the River Wye largely corresponding to the area between Old Wye Road Bridge and the Victoria Foot Bridge within the City of Hereford.

Key Decision

This is not a Key Decision

Recommendation

THAT the report be noted

Reasons

To inform Cabinet of the outcome of settlement negotiations with the Church Commissioners for England and Wales and the Hereford and District Angling Association

Considerations

1. High Court proceedings were commenced in proceedings entitled Barton –v- The Church Commissioners of England (1) The County of Herefordshire District Council (2) and The Angling Association (3) some years ago.
2. There were competing claims for fishing rights within the area of river described within this report and detailed and careful analysis has been made by the parties of historical documents dating back many centuries. The claims of the parties to their respective rights were capable of differing interpretations and arguments.
3. Upon receiving Counsel's advice, Cabinet previously authorised the County Secretary and Solicitor to settle the proceedings on the best available terms.

Further information on the subject of this report is available from
Kevin O'Keefe, Legal Practice Manager, on (01432 260005)

4. After protracted negotiation the proceedings have been settled. The following is a summary of the key terms of the settlement:
- The Council acknowledges that the claims to fishing rights asserted by the Church Commissioners (limited to that stretch of river between the Victoria Foot Bridge and the Old Wye Road Bridge) are valid.
 - The Council acknowledges that a lease of those fishing rights granted to the Angling Association by the Church Commissioners over a decade ago was validly given
 - In return for the above, the Angling Association grant to the Council a lease of their coarse fishing rights in the area upon payment of an annual rent of one peppercorn
 - The Council has secured the rights for persons under the age of eighteen to fish in the said stretch of river free of charge
 - The Council has been granted both mooring rights and full fishing rights in respect of an area of the river known as Corporation Wharf, near the Castle Green Training Centre. The mooring rights allow the launching of vessels, canoes and similar water craft.
 - The Council has agreed to make a contribution towards the Church Commissioners' legal costs of £30,000.

Risk Management

The costs arising to date from the original litigation which was commenced by the former Hereford City Council exceeds the sum made as a contribution to the costs by between seven and eight fold. In assessing the risk, it is important that Cabinet is aware that that assessment is based on the cost of the litigation to date and the potential exposure to costs would have continued to escalate as would the Council's own costs in continuing to proceed with the action. There was a risk of losing the case in its entirety which as well as exposing the Council to the risk of costs, would have resulted in a failure to secure the fishing and other rights referred to in this report and which were secured as part of the settlement.

Alternative Options

There are none, the case has been settled.

Consultees

Director of Environment

Appendices

None

Background Papers

None identified.