

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO COMMUNITY SERVICES COMMITTEE

Agenda Item No. 5

meeting date: TUESDAY, 3 SEPTEMBER 2019
title: CLITHEROE TOWN WELLS
submitted by: JOHN HEAP - DIRECTOR OF COMMUNITY SERVICES
principal author: MARK BEVERIDGE - HEAD OF CULTURAL & LEISURE SERVICES

1 PURPOSE

- 1.1 To provide Committee with an update on the issue of the town wells.
- 1.2 Relevance to the Council's ambitions and priorities
- Community Objectives – To sustain a strong and prosperous Ribble Valley, encompassing our objective to encourage economic development throughout the borough, with a specific emphasis on tourism.

2 BACKGROUND

- 2.1 The three town wells in Clitheroe; Stocks Well (adjacent to the Castle Grounds), the Towns Well (Heild Well), Wellgate and St Mary's Well (Well Terrace), all are capped now. They previously served as a water supply to the town residents.
- 2.2 Ownership of the Wellgate and Well Terrace sites is unknown; ownership of Stocks Well has now been registered by the Borough Council with the Land Registry, thus removing any confusion over ownership of this well.
- 2.4 The Clitheroe Civic Society (CCS) has previously provided the Council with extensive information that they have researched from archives. Unfortunately, none of this shows definitively who owns the land on which the Wellgate and Well Terrace wells are located.
- 2.5 The Council and the CCS have previously worked together on the project which led to the restoration for the Pinnacle in the Castle grounds, that could form the basis for a future bid to improve the wells.

3 THE CURRENT POSITION

- 3.1 Following the last committee, officers have been in contact again with the Heritage Lottery Fund to discuss making a small grants application, however the problem of ownership with the Heild and St Mary's Wells remains the same, i.e. ownership cannot be proven. The CCS have sought independent legal advice on the issue of ownership and their advisors and the Council's own legal advice concur that RVBC would find difficulty in seeking to take legal ownership of the wells as outlined below.
- 3.2 There are two routes to registration, where no Title Deeds exist: registration based on loss of Title Deeds or adverse possession. For Heild Well and St Mary's well; the evidence suggests that Clitheroe Corporation never owned the land that those two wells are dug in to. The St Mary's Well is shown on the 1876 Map Book but is outside the land edged red which points to the well not being owned by the Clitheroe Corporation. Heild Well is not shown on any map contained within the 1876 Map Book presumably because Clitheroe Corporation never owned any land near to it.

- 3.3 As the evidence suggests Clitheroe Corporation never owned the land at St Mary's or Heild Well. Any attempt to obtain title to the land by means of an application to the Land Registry based on missing Deeds, when the evidence points towards Clitheroe Corporation never having owned these two wells, would be a deception. On such applications, the applicant has to swear and sign a Statement of Truth that the evidence supplied and stated in the statement is the truth, thus no application of this type could be made by the Council.
- 3.4 In order to apply for registration based on adverse possession the Council would need to show evidence that the Council had taken factual possession of the land, had an intention to possess the land, has done so without the owner's consent, and these conditions have existed for at least 12 years. The Council would not be able to establish this.
- 3.5 The Council's CMT have considered the response from HLF and concluded that Committee need to advise officers on the route they wish the Council to take. It was agreed that the wells are an important cultural asset that deserve attention to maximise their value. How that outcome is achieved is the issue.

4. ISSUES

- 4.1 The Council has been in touch with the Heritage Lottery Fund to discuss the options available for funding any works on the wells. The original plan was to submit a small grant fund application to HLF and for that to pay for specialists to investigate and determine ownership if possible. In addition, an improvement plan would have been drawn up and costed, to form the basis of a further bid for funding which would have required some match funding to satisfy HLF criteria.
- 4.2 Following discussions with HLF it is clear they will not be receptive to a small grant application if there is no option provided in the event that no owner is determined.
- 4.3 Therefore the Council would (ahead of applying to HLF) have to agree to underwrite the work to the Heild and St Mary's well in addition to Stocks well and confirm this as part of the HLF application. This will involve entering into a legal agreement with HLF acknowledging this arrangement. In the event it was not complied with the, HLF would have the right to claw back the money.
- 4.4 This requirement from HLF does not of course guarantee a small grant application being granted, however without such an arrangement any application would be bound to fail.
- 4.5 Assuming a small grant application was successful and the two elements of the grant were carried out, the Council would then be required to undertake a further application process with HLF to seek funding for the larger but as yet unspecified work to improve the wells and their interpretation.
- 4.6 In this case the Council would then be assuming responsibility but without any legal ownership. The question of insurance cover has been raised with our insurers, who have asked a number of questions for clarification.

5 RISK ASSESSMENT

- 5.1 The approval of this report may have the following implications:

- Resources – There is currently no budget in the Council’s revenue budget or five-year capital programme relating to the three town wells in Clitheroe. Should committee be minded to seek such a budget outside the normal budget setting process then a costed scheme proposal would need to be brought back to this committee for consideration with onward approval then being required from Policy and Finance committee to establish an associated budget.
- Technical, Environmental and Legal – The Council cannot lodge a claim for adverse possession of the two wells where ownership is unknown, because our claim would not meet the criteria set out by the Land Registry. HLF will require the Council to be specific as to how we plan to improve the wells in the event of no owner being determined for the Heild and St Mary’s wells.
- Political – None
- Reputation – The Council only owns Stocks Well adjacent to the Castle grounds. Whilst it is quite clear what the Civic Society are seeking to achieve, at this point that is the only site owned by this Council. Although the Council has powers to carry out work on dangerous structures, these would not extend to the improvements sought by the Civic Society for the two wells with no identified ownership at present.
- Equality & Diversity – No implications identified.

6 **RECOMMENDED THAT COMMITTEE**

- 6.1 Note the report and determine which of the options below are followed;
- 6.2 Option 1; Decide if the Council makes a small grant application given the requirements which HLF have set out and as outlined in the report, on condition the Council can secure insurance cover.
- 6.2 Option 2; The Council supports and underwrites a bid by the CCS for the wells in the same way it did when they submitted a bid for the refurbishment of the Pinnacle.

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BACKGROUND PAPERS – None

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