



Land ownership issues July 2016
Proposed Dean Valley Renovation project

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Summary and purpose of this paper

This paper summarises issues of legal land ownership and possible outcomes relating to the possible regeneration of the Dean Valley. In particular, this seeks to indicate what, if any, may be the possible consequences for City of Edinburgh Council over maintenance and particularly what, if any, additional obligations may arise. It also seeks to summarise what legal work may be required either in advance of the anticipated work being carried out

It is taken as assumed that the Council own the solum of the Water of Leith this being the entire area, water or not, between the bank retaining walls on each side and including the walls.

Pattern of ownership

The summary of ownership, starting at Stockbridge on the left bank (facing downriver), is as follows, (reference can be made to the ownership drawing produced by the Council) :-

Dean Terrace. The riverbank and railings are privately owned by a defunct, dissolved company, Kanlar Limited, and thus falls to the Crown through the Queen's and Lord Treasurer's Remembrancer (QLTR). Since the area has no value and carries possible liability QLTR has issued a formal notice disclaiming ownership. If emergency or ongoing work was required to be carried out it seems inevitable that this would fall to the Council and our proposal is that legal steps be taken to have Registers of Scotland recognise that the land has been abandoned and for the Council to assume ownership

Upper Dean Terrace. The same position over ownership applies to this area, which formerly belonged to the Caledonian Insurance Company, as successors to the Raeburn Trustees. The company was dissolved in May 2010, while part of Royal Liver Assurance. In this case through the absorption of the Insurance Company that owned the area. QLTR has not, at this stage disclaimed ownership. As with Dean Terrace there will require to be transfer of legal title to the Council at no cost but with some legal expense

Dean Gardens, Belgrave Crescent Gardens These area are privately owned and maintained as private gardens. It is anticipated that any work within the river bed or on the walls can be carried out to maintain the walls and that the co-operation of the Gardens proprietors can be assumed, except for the area of ownership by the Dean Gardens, where a separate agreement will be necessary..

2A Dean Path/West Mill and Well Court (Dean Village). There is agreement that the walls are within the ownership and control of the Council and any work can be carried out as and when required.

Right Bank(from Dean Village)

Hawthorn Buildings to Dean Village Bridge. Privately owned gardens and buildings bounded by the retaining wall of the river over which the Council have complete control

Link Housing Limited. The Association own an area 450 square yards from the bridge to Lindsays Mill. This formed part of a title conveyed by Edinburgh Corporation to Link in 1987

and is still owned by the Association exclusively. They have agreed that the area can be upgraded although the question of meeting the cost has not been discussed

Lindsay's Mill to the furthest point at Stockbridge, including the area of St Bernard's Well and the Mackenzie Bridge. For the entire length the wall of the river is either bounded by the Water of Leith Walkway or other land entirely within the ownership of the Council

Doune Terrace Gardens. This area remains in the ownership of Lord Moray/Moray Estates. Consent has been given by the owner to permit the hedge and fence between the private gardens and Doune Terrace to be replaced by a wall and railings in order to restore the original architectural and historical design.

Peter McGowan Associates – Conservation Statement

This report is within the knowledge of the Council. There is the anticipation that the proprietors of the three private gardens, Moray Bank Gardens, Dean Gardens and Belgrave Crescent Gardens may carry out certain works within their areas and at their own cost with a view to co-operating with the regeneration project

Costs arising to the Council would be over legal work for assuming ownership of the river bank and railings of Dean Terrace and Upper Dean Terrace. The Council would then take on ownership and thus liability for maintenance of these two areas. As indicated, while these would be additional to liability at present the two areas would be entirely tidied as part of this project and it can be assumed this would pre-empt maintenance or, worse, emergency repair of areas which have no identifiable owner and where it can be assumed that such repairs would have to be carried out by the Council anyway.

In addition there would be Council involvement and some legal work in reviewing any contract entered into by appointing the supervising architect who will in turn be executing the project where the Council would be the leading client.