

Decision Maker: **Executive**
For pre-decision scrutiny by the RRH PDS Committee

Date: **RRH PDS: 16th December 2020**
Executive: 13th January 2021

Decision Type: Non-Urgent Executive Key

Title: **Update on the Transfer of Crystal Palace Park**

Contact Officer: Lizzi Hewitt-Brown, Programme Manager - Regeneration
Tel: 020 8313 4097 E-mail: Lizzi.hewitt-brown@bromley.gov.uk

Chief Officer: Sara Bowrey, Director of Housing, Planning and Regeneration

Ward: Crystal Palace

1. REASON FOR REPORT

- 1.1 In order to meet the requirements of the Council's Regeneration Plan for Crystal Palace Park, the Crystal Palace Park Trust (the Trust) has made strides to establish itself since its incorporation in May 2018.
- 1.2 Officers are preparing for a phased handover of responsibility for the park. It is anticipated that this will begin with a transfer of management, maintenance and events from April 2022 (for which a separate report will be brought forward in Summer 2021). In order to develop the detail of this transfer and present the recommended option(s) to the Executive, specialist legal resources are required.

2. RECOMMENDATION(S)

- 2.1 The Renewal, Recreation and Housing PDS Committee are asked to note and comment on the contents of this report, prior to the Executive being asked to approve:

2.1.1 The draw down of £40,000 from the Central Contingency for specialist legal resources to establish the trust governance model for Crystal Palace Park

Impact on Vulnerable Adults and Children

1. Summary of Impact: The Regeneration Plan will have a positive impact on vulnerable adults and children. The park is an unrestricted public space and leisure facility which is easily accessible by public transport and car.

Corporate Policy

1. Policy Status: N/A.
 2. BBB Priority: Quality Environment, Children and Young People
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Financial

1. Cost of proposal: Estimated cost £40,000
 2. Ongoing costs: Non-recurring cost.
 3. Budget head/performance centre: Culture
 4. Total current budget for this head: £890k
 5. Source of funding: Central Contingency
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Non-statutory - Government guidance.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): It is estimated that Crystal Palace Park receives 1.4m visits each year.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Councillors would like to follow through with more detailed questions however they wish to support the recommendations in principle. Councillor Wilkins has commented that 'we now have a clear and deliverable road map which will result in multi-layered regeneration of CP Park for future generations.'

3. COMMENTARY

- 3.1 On 24th March 2015, the Executive agreed to develop and deliver the Regeneration Plan for Crystal Palace Park, including an alternative management option (Report No. DRR15/020). The Regeneration Plan's Outline Planning Application was submitted to the Local Planning Authority in January 2020 and is awaiting determination (Report No. DRR20/018).
- 3.2 Crystal Palace Park is internationally significant and has numerous, valuable heritage assets including the Grade I listed dinosaurs, which were put on Historic England's Heritage at Risk Register earlier in 2020. However, specialist conservation and maintenance is costly and due to compounded underinvestment since the palace burnt down in 1936, the Council has not been able to provide the level of routine and one-off funding required by a park of this scale and historic significance.
- 3.3 The benefit of the independent governance model, the Crystal Palace Park Trust, is that the park becomes self-contained, and the income generated in the park can be ring-fenced for the park. This in turn means the park's valued features, which are close to being lost, will benefit from the level of funding needed to secure them for future generations.
- 3.4 To support this model, the Crystal Palace Park Trust has made commendable strides recently. When it was incorporated as a Private Company Limited by Guarantee (Company No. 11360503) in 2018, the Board of Trustees comprised nine, independently appointed, local people, with appropriate professional skills and experience. Since this time, the Trust has developed significantly. There are now 10 Trustees (with some changeover) with relevant experience including licensing, governance, planning, fundraising, landscape architecture and finance. In addition, the Trust has established a number of sub-committees in key areas including fundraising, heritage and landscape, events and communications. Finally, the Trust has also constituted a wholly owned trading subsidiary – Crystal Palace Park Events Limited (Company No. 12855520) – whose directors are drawn for the Crystal Palace Park Trust Board.
- 3.5 To date, the Trust has been a key stakeholder in shaping the park's Regeneration Plan and has worked with consultants Fourth Street, and the Council, to develop a sustainable business model for the park. The business model is events-led and was signed off by the Executive in 2017 (Report No. DRR17/029). It was also submitted as part of the Financial Viability Assessment with the Outline Planning Application in January 2020.

Phased handover: interim arrangement

- 3.4 It was originally anticipated that full responsibility for the park would be transferred to the Trust in one go, when enough of the capital regeneration works have been completed. However, as noted above, several challenges have meant that outline planning permission has not yet been achieved and the capital works are delayed.
- 3.5 While interlinked, the new governance model does not have to be dependent on achieving outline planning permission. Given the commendable progress that the Trust has made since incorporation, there is an opportunity for the Trust to take on responsibility for the park in a phased approach, beginning with management, maintenance and events. This phasing would allow the Trust to have a more meaningful interim role in the park where it can build momentum by generating income from events, as well as taking on responsibility for the park in a stepped approach, reducing the risk to the Council.
- 3.6 The Trust has expanded its professional events network since incorporation and is close to securing two significant contracts for events over the next 3-6 years (Report No. HPR2020/047). The income generated from these events will go a considerable way to build the Trust's operational capacity, providing financial resources to employ a body of staff.

- 3.7 The park is currently managed and maintained by the Council's Parks Management and General Maintenance (PM and GM) contract with Idverde. It is important to note that the PM and GM contractor was aware at the point of tender of the Council's desire to transfer the park to the Trust during this contract, and there is a break mechanism in the contract to do this. As such, Idverde has openly engaged with Officers and the Trust to support this process, and has reserved a number of event days in 2021 for Trust events. However, given that Idverde also needs to optimise income from events, the Trust's ability to further build its portfolio and generate income to invest back into the park is clearly limited at this stage.
- 3.8 In order for the Trust to continue building momentum in the park and establish a strong foundation for when overall governance is transferred at a later stage, it is proposed that the Trust adopts responsibility for management, maintenance and events from April 2022.

Requirements for interim arrangement

- 3.9 The Council's internal Legal Officers have advised that the proposed interim arrangement is likely to be complex and have therefore recommended appointing an external legal firm with a specialism in charities, local government and public assets. Officers have therefore undertaken market research into firms with expertise and experience in this area to understand the scope and associated fees required.
- 3.10 The most suitable firm would be appointed to develop options for how the transfer of management, maintenance and events to the Trust can be facilitated, and to develop the necessary documentation.
- 3.11 Noting the importance of understanding the final scenario i.e. full governance transfer to the Trust, the appointed firm would also be required to map out the options to achieve this, considering issues such as state aid. However, documentation for the final scenario is not required at this stage.

4. SUMMARY OF THE BUSINESS CASE

- i) The full implications of the interim arrangement with the Trust will not be known until the details have been developed, and the Trust's interim business plan can be finalised.
- ii) However, it is anticipated that the Trust will start generating enough income to enhance the scope of management and maintenance in the park, as well as investing funds in specific projects.
- iii) For example, during the first Covid-19 lockdown, one of the Grade II listed Sphinxes (which was conserved in recent years) was vandalised. Officers have not yet been able to identify a budget to repair the damage, and the sculpture stands vulnerable to the elements.
- iv) If the interim arrangement is progressed, the Trust will reinvest any income into the park. It is therefore highly likely that the park's historic assets will benefit from more routine investment.
- ii) The interim arrangement is not expected to result in a cost saving to the Council – this is anticipated when the final scenario is achieved. However, there is strong potential for the park and its users to significantly benefit from this approach through greater, ringfenced investment in the park.

4.1 SERVICE PROFILE/DATA ANALYSIS

- 4.1.1 N/A

4.2 OPTIONS APPRAISAL

- 4.2.1 If the interim arrangement is not pursued, the Trust's capacity for growth and impact in the park will be limited until enough of the regeneration works are delivered and the full governance transfer is made. Relying on this alone increases the risk of success in executing the final scenario and securing the park's future because the Trust is not given the opportunity to build experience over time.
- 4.2.2 Developing the interim and final arrangements internally are not considered options due to the specialist area and level of dedicated resources required.
- 4.2.3 Recharging the cost of developing the transfer arrangements to the Trust is not considered an option as the Council needs to act independently in developing the contractual agreements to ensure the Council's interests are not compromised.

4.3 PREFERRED OPTION

- 4.3.1 The preferred option is to secure £40,000 to appoint a specialist external legal firm to undertake this work for the reasons set out in the commentary.

4.4 MARKET CONSIDERATIONS

- 4.4.1 The required legal advice is a specialist area and therefore it is anticipated that a direct award will be made under a suitable legal framework.

5. STAKEHOLDER ENGAGEMENT

- 5.1 Officers have been working closely with the Crystal Palace Park Trust to develop a road map of next steps in the governance and business aspects of the Regeneration Plan.
- 5.2 The Council's legal officers have also been heavily involved in developing the detail needed to achieve the roadmap.
- 5.3 If the Executive commits the requested funds, a report will be brought forward in Summer 2021 detailing the full direction of travel for the Trust and the detail of how to achieve it.

6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 6.1 **Estimated Contract Value** – £40,000
- 6.2 **Other Associated Costs** – N/A
- 6.3 **Proposed Contract Period** – Six months

7. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 7.1 To maximise the sustainability of the Regeneration Plan, a phased approach to handing over the responsibility of the park to the Crystal Palace Park Trust is recommended. In so doing, the Trust will build the financial and operational capacity required to be custodian of a park of this size and historical significance.

8. POLICY CONSIDERATIONS

- 8.1 Crystal Palace Park is shown within various designations and policies in the Local Plan and the London Plan. There is outline planning permission in place for the 2007 Masterplan, which established the planning principles of the Regeneration Plan.
- 8.2 The Regeneration Plan requires a separate planning consent which was submitted in January 2020 and is being determined. The creation of a the Trust and transfer of the park forms an integral part of the Regeneration Plan.

9. IT AND GDPR CONSIDERATIONS

- 9.1 A DPIA will be undertaken before appointing a specialist firm.

10. PROCUREMENT RULES

- 10.1 The procurement of a legal resource via a compliant framework at a value of £40k can be authorised at the officer level by the relevant Budget Holder in accordance with Section 13 of the Contract Procedure Rules.

11. FINANCIAL CONSIDERATIONS

- 11.1 The cost of the specialist legal advice is estimated at up to £40,000 for which there is no budget, and therefore a drawdown from Central Contingency is requested.
- 11.2 The Council receives an annual income of £30,000 from rental of the park café which is ring-fenced for use within the park. Although this year's rental has already been committed, income from April 2021 could be earmarked and used to repay Central Contingency in future years.
- 11.3 Once the Trust is fully operational, responsibility for park maintenance will transfer from the Council. Idverde is currently contracted to provide this service although they tendered on the basis of novating this element of the contract to the Trust. Further work will be needed to determine the actual budget impact of ending this arrangement including income currently generated from events.
- 11.4 The Trust currently operates at no cost to the Council as the Trust members work on a voluntary basis. As reported above, the Trust have actively been seeking to secure future events to generate income to support their set up costs, although the future governance and operating model and business plan will need to be agreed by the Council prior to transfer of responsibilities.

12. PERSONNEL CONSIDERATIONS

- 12.1 There are no personnel considerations at present. It is expected that any impacts on personnel through the transfer of the park will be developed and understood through this commission.

13. LEGAL CONSIDERATIONS

- 13.1 The Council has the legal power to hold, maintain and develop its landholdings and buildings in connection with its functions including powers available under various Parks and Open Spaces legislation relating to Crystal Palace Park. In furtherance of these powers the Council may provide and commission through a contract from a Framework Panel of solicitors the legal services outlined in this report.

- 13.2 Due to the specialist legal status of the park and its importance to the Council and residents, it is necessary to ensure that the best options available to achieve the Council's aims are explored and understood in relation to management, governance, structures, transfer, grant and loan options including the impact on the current management contract and engagement with the Trust in the immediate, interim and longer term. This will require a dedicated legal resource and is likely to involve flexible and novel legal solutions including the accommodation of best value and state aid.
- 13.3 The commissioning of the services contract to provide legal support is a public services contract within the meaning of the Public Contracts Regulations 2015. Due to value of the contract falling below the relevant threshold a full EU procurement is not required. However, the award must still comply with the EU Treaty Principles of transparency, fairness and non-discrimination applied in a proportionate way.
- 13.4 The report has described the reasons and justification for the use of Frameworks where Bromley have been specifically joined as a member user and in all the circumstances described when the delegated officer makes an award decision this would be in compliance with the Treaty Principles.
- 13.5 The procurement comments to this report deals with compliance with the CPRs setting out procurement strategy and through using a compliant Framework available to the Council in accordance with its user rules.

Non-Applicable Sections:	4.1
Background Documents: (Access via Contact Officer)	DRR15/020 'Crystal Palace Park' DRR17/029 'Crystal Palace Park: Regeneration Plan' DRR20/018 'Crystal Palace Park' HPR2020/047 'Authority to create grant mechanism in event permits for Crystal Palace Park Trust'