

Decision Maker: **Executive**
For pre-decision scrutiny by the RRH PDS Committee on 16th December 2020

Date: **Wednesday 13th January 2021**

Decision Type: Urgent Executive Key

Title: **Authority to create grant mechanism in event permits for Crystal Palace Park Trust**

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

Ward: Crystal Palace

1. REASON FOR REPORT

- 1.1 This report provides Members with an update on the development of the Crystal Palace Park Trust, setting out how the Trust will obtain seed funding through events in Crystal Palace Park. It also requests Members to consider waiving the hire fee for the use of the park for events by the allocation of a grant.
- 1.2 The allocation of a grant will form part of the Council's event permit to the Trust. The Trust cannot sign its contract with the two event promoters until the permit is agreed. Signing the contract has been delayed while details within the permit have been decided. Therefore it is now urgent that the permits and contracts are signed to secure the events and seed funding for the Trust.

2. RECOMMENDATION(S)

- 2.1 The Renewal, Recreation and Housing PDS Committee are asked to:
 - Note and provide comment on the content of this report to the Leader.
- 2.2 The Executive is asked to:
 - Authorise a grant mechanism within the Festival Republic event permit that allows the hire fee of £50,000 to be paid to the Trust per annum for up to six years in accordance with the grant terms set out in paras. 4.4

- Authorise a grant mechanism within the Winterstow Ltd. event permit that allows the hire fee of £20,000 to be paid to the Trust per annum for five years in accordance with the grant terms set out in paras. 4.4
- Delegate authority to the Chief Officer (Director of Housing, Planning and Regeneration) in consultation with the Director of Environment and Public Protection, and the Portfolio Holder of Renewal, Recreation and Housing, to make decisions on the inclusion of grant mechanisms in further event permits between the Council and the Crystal Palace Park Trust or associated bodies, including its trading subsidiary, Crystal Palace Park Events Limited (CPPEL)

Impact on Vulnerable Adults and Children

1. Summary of Impact: The income generated from events in Crystal Palace Park is ringfenced for improvements in the park which will enhance it as a safe destination for vulnerable adults and children.

Corporate Policy

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

1. Cost of proposal: Estimated cost - The grant within the Festival Republic event permit has a value of £50k per year for up to six years (minimum three years), totalling a potential grant value of £300k.

The grant within the Winterstow Ltd. event permit has a value of £20k per year for five years, totalling a grant value of £100k.

The cost of the proposal currently is therefore £400k which will be met from the hire fees paid by CPPEL.

2. Ongoing costs: N/A.
 3. Budget head/performance centre: N/A
 4. Total current budget for this head: N/A
 5. Source of funding: CPPEL will pay the hire fee to the Council which will be paid to the Trust as a grant
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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: No statutory requirement or Government guidance.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): An estimated 1.4 million visits are made to Crystal Palace Park 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 an alternative management option for Crystal Palace Park (Report No. DRR15/020). On 5th July 2017 (Report No. DRR17/029) the Executive approved the Regeneration Plan. The Council's Regeneration Plan for Crystal Palace Park sets out a three-pronged strategy to regenerate the park through 1) physical regeneration works, 2) a new form of governance whereby the Crystal Palace Park Trust manages the park, and 3) a sustainable events-led business model which enables the Trust to manage the park.
- 3.2 The formation of the Crystal Palace Park Trust is an integral part of the wider Regeneration Plan, and offers significant long term benefits to the Council. As current custodians of this historical park, the Council carries considerable responsibilities; overall management of such a unique site requires specific skills and expertise. The rationale behind establishing the Trust was to put in place a new organisation with the appropriate skills and experience to secure the park's future. This would be achieved by generating new income in the park and re-investing it, which would also compliment the Council's investment in the Park. This model has been adopted by other councils including Newcastle City Council which has established a very successful trust (Urban Green Newcastle) to manage the city's parks and allotments - Officers have met with this trust.
- 3.3 The mechanism for transferring governance to the Trust is in development.
- 3.4 The Council's Regeneration Plan requires that the Trust establishes itself as an organisation that is capable of taking on the governance of a regional park. The Trust has responded to this requirement proactively. The Crystal Palace Park Trust was incorporated as a Private Company Limited by Guarantee (Company No. 11360503) in May 2018. Its charitable objects are as follows:
- Preserve, protect, manage and improve the physical and natural environment of the park
 - Promote health and wellbeing, community participation, and the enjoyment of the park through sports, recreation and leisure, and arts, heritage and culture
 - Provide and promote learning about the history and heritage of the park and its physical and natural attributes
 - Support further charitable purposes that relate to the park and its surrounding area

4. SUMMARY OF THE BUSINESS CASE

- i) As part of the Regeneration Plan for Crystal Palace Park, the Council expects the Crystal Palace Park Trust to deliver an events-led business model for the park that will secure the future of the park through ring-fenced income.
- ii) Officers and the Trust have engaged with the Council's current Park Management and General Maintenance Contractor, Idverde, in developing these events. Idverde was awarded the contract in 2019 in the knowledge that events, and management and maintenance of the park, would novate across to the Trust, and have worked positively with officers to support this.
- iii) In working to meet this expectation, the Trust is close to securing two significant events contracts in the park.
- iv) However, the Council has a fiduciary duty to receive a fair market fee for the hire of the park for events.

- v) To enable the Trust to maximise the income ringfenced for the benefit of the park, a grant mechanism in the event permit would allow the Council to transparently grant the hire fee back to the Trust.
- vi) In so doing, a potential total of £400k will be invested in the park by the Trust over the next six years for heritage and / or environmental activities and / or outputs.
- vii) Other income generated by the Trust from these events will either be spent in the park in line with the Trust's charitable objects, or in ensuring the Trust has sufficient organisational capacity to increase its responsibilities in the park and meet the requirements of the Regeneration Plan.
- viii) Administration of the grant will be managed by Officers in the Regeneration team, ensuring the relevant Officers in Environmental Services are consulted before any activities or outputs are undertaken in the park with the grant money.
- ix) It is not recommended that the Council retains the market fee as the Trust needs to maximise income to meet the requirements of the Council's Regeneration Plan. Reducing the Trust's income would weaken the Trust's financial and operational position, which in turn increases the risk of transferring the governance of the park in the coming years.

4.1 SERVICE PROFILE/DATA ANALYSIS

4.1.1 N/A

4.2 OPTIONS APPRAISAL

4.2.1 Option One

The first option is to create a grant mechanism in the the event permit so that the hire fee paid from Crystal Palace Park Events Limited (CPPEL) to the Council, is granted back to the Trust to be spent on environmental and / or heritage activities.

This option means that the Trust can maximise the income it generates, committing it both to park improvements as well as building organisational capacity.

Para. 4.3 which sets out Option One as the preferred option in more detail.

4.2.2 Option Two

The second option is to not authorise the grant mechanism in the permit. If the grant mechanism is not permitted, the income from the hire fee would be retained by the Council and spent at the Council's discretion.

However, since the palace burnt down in 1936, the park has not received the level of routine funding needed to maintain all its historic features. As a result, the park is on Historic England's Heritage at Risk Register. By establishing the three-pronged Regeneration Plan, the Council has committed to solving this issue. It has set the Crystal Palace Park Trust the task of ensuring it has the organisational and financial capacity to successfully govern the park.

The Trust is working to fulfil this requirement and in so doing, will safeguard the Council-funded regeneration works and maintain the park's historic features to an enhanced standard. If the park is tackled holistically in this way, the decades of decline will be reversed for future generations.

If the hire fee is not granted to the Trust, the remaining events income will need to be spread across park investment and building organisational capacity. This option is therefore discounted as it would diminish the strength of the Trust's position, which is required to ensure the holistic Regeneration Plan is successful.

4.2.3 Option Three

The final option is to waive the hire fee entirely so that CPPEL would retain the income, and gift monies back to the Trust at its discretion. However, as the Council has a fiduciary duty to get a fair market fee for the hire of the park for events, this is not a true option and has been discounted.

4.2.4 Therefore Option One is recommended.

4.3 **PREFERRED OPTION**

4.3.1 In the last four months, the Trust has made further significant progress with the establishment of a trading subsidiary, Crystal Palace Park Events Limited (Company No. 12855520), and is currently applying for charitable status. In addition, the Trust has developed sub-committees, governing documents, organisational policies and procedures, and expanded its professional network to bring high-profile event promoters to the park.

4.3.2 As such, the Trust is close to securing two significant events contracts, one with Festival Republic (for events on the terraces on three consecutive years, with potential to extend a further three years), and the second with Winterstow Ltd. (for a summer events season on the Concert Platform, over five consecutive years). Festival Republic is a high profile event promoter with an impressive portfolio of festivals including Download, Latitude and Wireless. Winterstow Ltd. was founded specifically for Crystal Palace Park by promoter Marcus Weedon who has also launched Field Day in Victoria Park (2007) and Winterville (2014), now hosted on Clapham Common.

4.3.3 These events will secure vital income for the Trust enabling it to begin employing staff and investing in the park. It is worth noting that most trusts of this nature would require 'seed' funding from a local authority. The Trust securing these events will optimise their ability to function as a legal entity without financial risk to the Council.

4.3.4 To support the Regeneration Plan's Outline Planning Application as an Enabling Development case, income generated in Crystal Palace Park is being reinvested in the park. This is the case of the sale of two sites on the periphery of the park to fund much of the Regeneration Plan (Report No. DRR20/018). It is also the case with the rental income from the new café in the park (Report No. DRR15/020).

4.3.5 However, it is the Council's fiduciary duty to get a fair market fee for the hire of the park for events. This fee cannot be waived as it would mean the Council falls short of its duty to be transparent about the way the Council spends and protects its money. Instead, the income can be returned to the Trust in the form of a grant to help secure the park into the future.

4.3.6 The hire fee for the Festival Republic event has been calculated at £50,000 per annum, and for the Winterstow Ltd. event is £20,000 per annum. These values reflect Idverde UK's hire fees for these types and sizes of events.

4.3.7 The income from these two events goes a significant way in ensuring that the Trust is the proficient organisation required by the Council to take on the governance of Crystal Palace Park, securing its future and de-risking the governance transfer. Therefore, permission is sought to create a mechanism in the event permit that means the hire fee paid from CPPEL to the Council, can be granted back to the Trust.

4.3.8 Subject to CPPEL securing the two events contracts, Officers propose that the value of the hire fees will be granted to the Trust on the condition that it is only spent to undertake heritage and / or environmental activities and / or outputs in the park in accordance with the grant

clauses. This will mean that, while the grant money is ring-fenced for the park, the Council will be able to influence the way it is being spent, ensuring it is in line with the Council's regeneration aims. The grant clauses are set out in para. 4.4.

4.3.9 It may be the case that further events are hosted in the park by CPPEL or the Trust. Permission is therefore sought to delegate authority to the Chief Officer (Director of Housing, Planning and Regeneration) in consultation with the Director of Environment and Public Protection, and the Portfolio Holder for Renewal, Recreation and Housing, to use their discretion to authorise the use of the same grant mechanism in future event permits for events hosted in the park by the Trust, or its associated bodies including the CPPEL trading subsidiary.

Grant clauses

4.4 The following grant clauses have been included in the event permit by Legal Officers and have been agreed with Officers from Regeneration and Environmental Services, as well as with Idverde UK and the Crystal Palace Park Trust. In the Festival Republic permit, the sum in 4.4.1 is £50,000. In the Winterstow Ltd. permit, the sum in 4.4.1 is £20,000.

- 4.4.1 The Council and the Trust agree that the Council shall pay the Trust a sum of £XXX (being the sum of the Hire Fee) ("the Grant") each year of the Term and any Extended Term.
- 4.4.2 The Grant shall be paid to the Trust on the condition that the Trust spends the Grant only to deliver either by undertaking or procuring heritage and/or environmental activities and/or outputs in the Crystal Palace Park in accordance with these Grant Clauses ("the Project").
- 4.4.3 The nature and specification of any activities and/or outputs under the Project shall be approved by the Council in its discretion and shall be undertaken or procured by the 5th April in the year following the Events or such other period as agreed between the Council and the Trust as further provided for below in these Grant Clauses.
- 4.4.4 The Parties acknowledge that where the delivery of any activities and/or outputs under the Project requires compliance with the Council's internal decision-making processes and proper procurement procedures under the Council Constitution then these must be complied with.
- 4.4.5 The Trust agrees to provide the Council documentary evidence upon request that such approved activities and/or outputs under the Project have been undertaken or procured in accordance with the Project as approved together to the approved value.
- 4.4.6 To the extent that the activities and/or outputs under the Project are not delivered by the said date each year or to the value, the shortfall shall be immediately be repayable to the Council as a Hire Fee or with the agreement of the Council be rolled into the next year to be spent in accordance with the Project and the terms of these Grant Clauses.
- 4.4.7 The Grant shall be payable to the Trust at the point of idverde issuing Hire Fee payment invoice. For clarity the Council will not be liable for the grant payment if the events do not happen, and the hire fee for the park is not triggered. For administrative ease CPPEL shall instead of paying the Hire Fee directly to idverde shall instead pay the Hire Fee to the Trust which shall represent the Grant payment from the Council to the Trust and thereby discharge each Parties mutual payment obligations. The Trust shall pay the Grant sum into an account of the Trust which is expressed to subject the obligations under these Grant Clauses.
- 4.4.8 Where the Council acting reasonably considers the Trust to be in material breach of these Grant Clauses or the Project is no longer achievable, the Trust and the Council shall first attempt to resolve the issue and where the issue is not resolved the Council may, on giving 21 days written notice to the Trust, terminate the Grant under these Grant Clauses whereupon the Trust must return all or part of the Grant paid as determined by the Council acting reasonably. For the avoidance of doubt notwithstanding the action taken under this

clause the Permit shall remain in full force and operation except that the Hire Fee shall be payable to idverde without any further regard to these Grant Clauses

4.4 MARKET CONSIDERATIONS

- 4.4.1 The Council must uphold its fiduciary duty to gain a fair market fee for the hire of the park for events. It is requested that this market hire fee is granted back to the Trust to maximise the Trust's investment in the park.

5. STAKEHOLDER ENGAGEMENT

- 5.1 The Council's Legal Officers have been engaged throughout the development of the event permit, both advising on Council's duty to gain a fair market fee and on the grant mechanism and terms to be included in the permit.
- 5.2 The Crystal Palace Park Trust has been engaged throughout the same process and is in agreement with the grant terms and the commitment to ringfence the grant monies for heritage and / or environmental activities and / or outputs by 5th April the following year.

6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 6.1 **Estimated Grant Value** – £400k
- 6.2 **Other Associated Costs** – N/A
- 6.3 **Proposed Grant Period** – Six years

7. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 7.1 The grant mechanism is considered by Officers to be most beneficial option to secure the park's sustainable future. The park will benefit from an enhanced level of investment which will positively impact existing and new visitors to the park in the coming decades.

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 Trust's business model for the park was submitted as part of the Financial Viability Assessment within the Regeneration Plan's Outline Planning Application.

9. IT AND GDPR CONSIDERATIONS

- 9.1 There are no IT or GDPR considerations at present.

10. PROCUREMENT RULES

10.1 There are no procurement considerations.

11. FINANCIAL CONSIDERATIONS

11.1 The Council has a fiduciary duty to receive a fair market fee for the hire of the park for events. A grant mechanism would allow the Council to transparently grant the hire fee back to the Trust. In so doing, a potential total of £400k will be invested in the park by the Trust over the next six years in accordance with the grant conditions.

11.2 The Trust has actively been seeking to secure future events to generate income to support their set up costs and future investment in lieu of needing financial support from the Council. The Trust's governance, operating model and business plan remain to be finalised and agreed by the Council, which is expected in 2021. However, the conditions set out in 4.4 will enable Officers to ensure that the grant is applied as the Council expects and should provide adequate governance safeguards prior to this.

11.3 Although the Regeneration Plan set out a commitment where new income generated in the park would be reinvested within it, the Council can choose not to award the grant and retain the additional fee income of up to £400k.

12. PERSONNEL CONSIDERATIONS

12.1 N/A

13. LEGAL CONSIDERATIONS

13.1 The Council has a legal power to hold, maintain and develop its landholdings and buildings in connection with functions including powers available under various Parks and Open Spaces legislation relating to Crystal Palace Park. In furtherance of these powers the Council has entered into a Management and Maintenance contract with Idverde. As part of the Contract, Idverde manages the land which includes the issuing and management of permits and fees for events in the Park.

13.2 In accordance with the Council's fiduciary duty, the Council has a legal duty to use its funds, resources and assets prudently in the best interests of its residents. This report confirms that the permit hire fee obtained represents a fair market value for the events and that the making of a grant back to the Trust is a sensible use of these funds as explained in more detail in the options section of this report. The Council's stewardship to protect these funds is achieved through grant terms which requires an agreed project use, and which introduces sufficient checks, pre-conditions and recovery of the grant. Transparency will further be achieved through the identification of the grant monies in the accounts of the Council, the Trust and its subsidiary CPPEL.

13.3 The Council's Constitution under the Executive Procedure Rules section 1.3 would permit the delegation to an officer as requested in the recommendations to this report.

Non-Applicable Sections:	4.1, 12
Background Documents: (Access via Contact Officer)	DRR15/020 'Crystal Palace Park' DRR17/029 'Crystal Palace Park: Regeneration Plan' DRR20/018 'Crystal Palace Park'