

## REPORT TO CABINET

16 May 2018

<b>Subject:</b>	<b>West Smethwick Park – Heritage Lottery Funded Restoration Project</b>
<b>Presenting Cabinet Member:</b>	<b>Councillor Paul Moore - Cabinet Member for Regeneration and Investment</b>
<b>Director:</b>	<b>Executive Director – Neighbourhoods – Dr Alison Knight</b>
<b>Contribution towards Vision 2030:</b>	
<b>Key Decision:</b>	Yes
<b>Forward Plan (28-day notice) Reference:</b>	SMBC07/03/2018
<b>Cabinet Member Approval and Date:</b>	Cllr Paul Moore – 21/2/2018.
<b>Director Approval:</b>	Dr Alison Knight
<b>Reason for Urgency:</b>	Urgency provisions do not apply
<b>Exempt Information Ref:</b>	Exemption provisions do not apply
<b>Ward Councillor (s) Consulted (if applicable):</b>	Councillor Zahoor Ahmed Councillor Babu Bawa OBE
<b>Scrutiny Consultation Considered?</b>	Scrutiny have not been consulted
<b>Contact Officer(s):</b>	Darren Jones – Parks Manager <a href="mailto:darren_jones@sandwell.gov.uk">darren_jones@sandwell.gov.uk</a>

### DECISION RECOMMENDATIONS

**That Cabinet:**

1. Authorise the Director- Monitoring Officer to enter into a 10 year concession agreement and lease with an option to break in year five (and to enter into any other necessary ancillary documentation), with a third sector organisation appointed following a competitive procurement process on terms and conditions to be agreed by the Executive Director – Neighbourhoods, to operate and manage the proposed new pavilion and existing Sons of Rest building (William Lees Memorial) in West Smethwick Park.

2. Approval the disposal of the old unused grounds maintenance depot attached to West Smethwick Park with a view to it being developed for housing
3. Subject to Resolution (2) above, authorise the Director – Monitoring Officer to dispose of the freehold interest in the former plant nursery/depot West Smethwick Park Road, Smethwick, on terms and conditions to be agreed by the Executive Director – Neighbourhoods and the Executive Director – Resources.
4. Approve the subsequent capital receipt from the sale of the depot land to fund the councils contribution towards the scheme with any surplus available utilised for ongoing investment into the park subject to a business case being submitted and an appraisal being undertaken
5. Approve the charitable status of the depot land to a comparable area of land located in Victoria Park Smethwick
6. Subject to Resolution (5) above, authorise the Director – Monitoring Officer to approach the charity commission to agree a land swap and then enter into or execute under seal, if necessary, any other related documentation in connection with the disposal of the land referred to in recommendation above, on terms and conditions to be agreed by the Director – Regeneration and Growth.

## 1 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to seek approval to carry out the following actions to meet conditions placed on the council by Heritage Lottery before the council can receive a grant award of £4.5 million towards the re-development of West Smethwick Park:
  - To procure a provider organisation to manage the proposed new pavilion in West Smethwick Park on the council's behalf.
  - Approve the disposal of West Smethwick Park depot and utilise the subsequent capital receipt from the sale to fund the councils contribution towards the scheme with any surplus available utilised for ongoing investment into the park subject to a business case being submitted and an appraisal being undertaken
  - The park and the depot has charitable status. To enable the council to sell the depot land the council will require the Charity Commission's consent. The Charity Commission may, as part of the approval process, request that the council move the charitable status of the depot to another park within Sandwell.

## 2 **IMPLICATION FOR THE COUNCIL'S AMBITION**

2.1 The council is due to receive £4.5m from Heritage Lottery Fund (HLF) as part of a total project value of £5.2m for the restoration of West Smethwick Park. This funding would see the restoration of all historic features in the park, the construction of a new community pavilion, the repair and replacement of all parks infrastructure and improved security, along with the provision of a wide range of activities for all age groups both in the new pavilion and the parkland. The grant will have a positive impact on a number of the council's 2030 Vision ambitions.

- Ambition 2 (Healthier for longer and safer) provided by activity within the pavilion and the park.
- Ambition 5 (Lowering crime and ASB) provided by CCTV, new lighting and an increased presence in the park.
- Ambition 7 (New homes) provided by the re-development of the old unused depot into a new housing development.
- Ambition 8 (Create environments in the six towns where people chose to live) provided by the park re-development, through a future application for Green Flag Park status and the construction of a new community pavilion.

2.2 If the project does not proceed, the lack of investment will have a negative impact on West Smethwick Park and result in further community dissatisfaction. The 2030 Vision Ambition 8 will also be adversely affected and there will be missed opportunities associated with both the community and commercial aspects of the project.

## 3 **BACKGROUND AND MAIN CONSIDERATIONS**

3.1 The council has received notification that the West Smethwick Park Round 2 application with HLF under the 'Parks for People Programme' has been approved, with an award of £4.5m towards the total project value of £5.2m.

3.2 The focal point of the project will include a new two-storey pavilion located in the centre of the park which will replace the original refreshment rooms lost in the 1980s. This building will provide a centre for community use and provide healthy activities for all age groups.

- 3.3 The facility will accommodate a café, meeting area, toilets and large flexible community use spaces on both floors; creating the opportunity for a wide range of structured activities from dance, exercise, and martial arts classes, along with environmental training exhibitions and community art projects with strong references to the history of the Chance Family Glassworks.
- 3.4 The pavilion will link to a large outdoor level event space with seating, lighting and horticultural displays which will be used for new outdoor activities including family fun days, mobile zoos, dog shows plus small music and theatre events.
- 3.5 In addition to the activities in and around the new pavilion, the grant from HLF will provide funding for structured activities for the whole park including football coaching, biking, rugby, family fishing, boot camp and other sports activities.
- 3.6 To access the grant awarded by HLF, the council needs to meet three conditions placed on it by HLF no later than 1 June 2018. The conditions are as follows:

1. Third party operation of the pavilion (provider)

The council must to HLF's satisfaction:

- (a) *provide evidence of the satisfactory open procurement of the third-party Provider for the new pavilion and the William Lees Memorial Building.*
- (b) *provide evidence of the long-term staffing and financial commitment from the Council to ensure the pavilion is maintained and operated for the duration of the terms of grant.*

2. Sale of depot land

*The council must to HLF's satisfaction provide an update regarding the process and timescales for the sale of the depot land with commitment to all proceeds being ring-fenced for the maintenance of the park.*

3. HLF Funded Parks Officer

*A new parks officer will need to be recruited.*

## 4 THE CURRENT POSITION

### 4.1 Condition 1 – Third Party Operation of the Pavilion (Provider)

- 4.1.1 The opportunity to operate the new community pavilion, existing Sons of Rest building and associated activities has been advertised. A suitable provider will subsequently be appointed following the tender exercise and subject to the preferred provider meeting all the required selection criteria.
- 4.1.2 The appointed provider will be contracted to deliver a number of indoor and outdoor activities. They will operate the café and provide support to voluntary groups within West Smethwick Park.
- 4.1.3 By appointing a provider at the design stage of the building, the council and the selected provider will be able to develop the interior layout and contents to ensure the building is fit for purpose and meets the needs of the council, provider and the community upon opening.
- 4.1.4 The contract for the operation of the pavilion will be for 10 years with an option to break in year five. The provider will be expected to report on a quarterly basis on all HLF funded activities to ensure grant compliance.
- 4.1.5 The council will be responsible for insuring and maintaining the structure of the building. The provider will be responsible for maintaining the buildings internals and the contents within it.
- 4.1.6 The council will not be charging a market value rent for the occupation of the pavilion in order to comply with state aid regulations.

### 4.2 Condition 2 - Sale of the depot land

- 4.2.1 The depot is accessed via a driveway on St Paul's Road in Smethwick and is located adjacent to the Park Lodge on West Park Road.
- 4.2.2 The depot was utilised by Grounds Maintenance for a number of years, but is no longer used as an operational depot and is currently used to store surplus highways paving materials. The site also has a number of shipping containers containing materials used by Parks and Open Spaces.
- 4.2.3 The depot has been severely vandalised since Grounds Maintenance vacated the site, all the remaining buildings are in a state of disrepair and require demolition.

4.2.4 The site does however offer an attractive redevelopment opportunity subject to planning permission and sits close to a main arterial route into Smethwick town centre. Access and egress for any proposed development to the site will be via the existing driveway to the depot off St Paul's Road. The access road is on average 7.2 metres wide with privately owned properties to one side and St Pauls cemetery to the other. The planning and highways departments have provisionally approved the existing access road as suitable for a housing development

The freehold disposal would generate a capital receipt, provide a solution for an under-utilised asset and bring forward redevelopment within the locality. It is the intention that the site is disposed of in its current condition, which should ensure the maximum capital receipt within the shortest timescale.

The land has charitable status, therefore the Charity Commission's consent will be required to dispose of the depot. As the council is trustee of the land the council must have permission from the charity commission before entering into a sale. The disposal of the land will adhere to the council's sale of land and building protocol.

- (a) obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by the trustee and acting exclusively for the charity,
- (b) advertise the proposed sale for such period and in such manner as is advised in the surveyor's report (unless it advises that it would not be in the best interests of the charity to advertise the proposed sale), and,
- (c) decide that they are satisfied, having considered the surveyor's report, that the terms on which the sale is proposed to be made are the best that can reasonably be obtained for the charity.

The proceeds of the sale will be used to improve West Smethwick Park. The Charity Commission may require the council to transfer the charitable status (relating to the depot) to an area in Victoria Park, Smethwick. The Charity Commission will need to be contacted to discuss obtaining consent and whether the charitable status will need to be transferred.

### 4.3 Condition 3 - HLF Funded Parks Officer

4.3.1 In agreement with HLF, a community engagement officer post will be advertised for a fixed term contract of three years from the 1 June 2018 if/when all HLF conditions have been met. The project management of the scheme will be carried out by existing officers working within the Parks and Open Spaces management team.

## 5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 Internal consultations with key officers from Planning, Highways, Legal Services and Finance have been undertaken.
- 5.2 To inform proposals for the submission to HLF, a survey was conducted regarding the park. The survey was hosted online and face-to-face surveys were completed at drop in events, as well as by the Friends of West Smethwick Park and St Albans Community Association. The surveys were promoted online via the Sandwell Council website as well as through social media.
- 5.3 The following have been consulted on the proposals for the Restoration Project:
- Local ward councillors;
  - Sandwell Community Providers Project Officer;
  - Sandwell Neighbourhood Officer;
  - Resident and Friends and Neighbours Community Support; and
  - Manager, Soho/Victoria Friends and Neighbours CIC.
- 5.4 The following groups have also been consulted:
- Friends of West Smethwick Park;
  - St Albans;
  - Black Country in Motion;
  - Motiv8;
  - Sandwell Neighbourhoods Team;
  - IRIS;
  - Community Champions;
  - Holly Lodge School;
  - Public Health Sandwell;
  - SCVO;
  - Smethwick Neighbourhood Providership;
  - Youth Services;
  - North Smethwick Development Trust;
  - Love Your Neighbour;
  - My Time Active;
  - West Smethwick Enterprise;
  - Trident Reach the People;
  - Bangladeshi Women's Association;
  - Creative Academies;
  - CEAL;
  - Community Connect Foundation;
  - Orchard Centre; and
  - Health Watch Sandwell

## 6 ALTERNATIVE OPTIONS

- 6.1 If the council is unable to secure a suitable provider to operate the pavilion then the Neighbourhoods directorate would take ownership of the facility. However, this option would place a substantial revenue budget pressure on the Neighbourhoods directorate as a result of the operational running costs of the new pavilion.
- 6.2 An indicative evaluation of the operating costs for the new pavilion has been calculated by consultants and council officers(see appendix) the document includes all service charges, staffing and all expenditure relating to the upkeep of a building of this type. Income generation from the café area and rental from room hire has been benchmarked against similar buildings of this type in other parks across the country. However, true / future income levels for this building are unknown and will depend on a number of factors including.
- Community engagement / involvement
  - Marketing
  - Competition
- 6.3 The council could alternatively take no action to meet the grant conditions and lose £4.5m of lottery funding towards the re-development of West Smethwick Park.

## 7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 It is assumed that the operational costs of the new pavilion building will be managed by the appointed external provider from the income within HLF grant resources and income that they may generate from the new facilities
- 7.2 Sandwell Council will have to meet additional insurance and building maintenance costs associated with the new pavilion and the Sons of Rest building. These costs are estimated at £27,500 per annum and this cost is expected to be managed within the existing parks and grounds maintenance budget
- 7.3 In the unlikely event that the provider goes into liquidation or defaults on the contract resulting in the contractual agreement being dissolved then, the council is obliged to keep the facility open as a community hub until 2028 and deliver the activity plan until 2022 to meet the HLF grant requirements.

- 7.4 The terms of the HLF grant also state that the building must not be closed / mothballed for at least 25 years after completion..
- 7.5 The sale of the old depot land for housing will provide the council with additional council tax and dispose of an underutilised asset
- 7.6 The new parks officer post will be funded by HLF for three years from June 2018 to June 2021. The end date will take into account retentions and any slippage in time scale.

## **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 Any grant funding awarded by HLF will have terms and conditions attached, and there will be a requirement to adhere to these to avoid claw back of the grant from HLF.
- 8.2 Contracts for the work will have to be awarded in accordance with the Council's Procurement & Contract Procedure Rules and the Public Contracts Regulations 2015. The appointment of the eventual provider of pavilion related services shall be required to enter into a concession agreement and lease as referenced in the recommendations section of this report and the award of contract will also be done in accordance with the Council's Procurement & Contract Procedure Rules taking into account the Concession Contracts Regulations 2016. Not charging a market value rent for the occupation of the Pavilion has been considered for state aid compliance purposes. Considering current state aid regulations, the rent assistance, in this instance, is unlikely to cause state aid concerns as it is below the de minimis threshold of 200,000 Euros over three rolling years. Assistance at this level is generally not considered to distort competition.
- 8.3 A legal agreement may be required between any providing bodies for the delivery of the building works to the council.
- 8.4 In the case of any disposals the council must comply with the power to dispose of land contained in Section 123 of the Local Government Act, 1972 which requires the disposal to be for the best consideration reasonably obtainable, which needs to be satisfied by a valuation agreed by the Executive Director for Neighbourhoods. The sale of the land will also be in compliance with the council's own sale of land and building protocol introduced in 2016
- 8.5 That subject to the above, the Director- Monitoring Officer be authorised to dispose of the freehold interest in the former plant nursery/depot West Smethwick Park Road, Smethwick on terms and conditions to be agreed by the Executive Director – Neighbourhoods and the Executive Director – Resources.

- 8.6 That the Director- Monitoring Officer be authorised to approach the charity commission to obtain consent to the disposal and, if required by the Charity Commission, to agree a land swap and then enter into or execute under seal, if necessary, any other related documentation in connection with the disposal of the land referred to in recommendation above, on terms and conditions to be agreed by the Area Director- Regeneration and Economy.
- 8.7 The corporate risk management strategy has been complied with to identify and assess the risks associated with this project. A project risk register has been developed which is monitored by the project board. This has identified the following key risk that requires reporting and that suitable measures are in place and being implemented to mitigate the risk.

If the council are unable to meet the conditions requested by HLF by the 1st of June, then the HLF funding will be withdraw

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 An initial Equality Impact Assessment (EIA) has been carried out by the service area for the proposals. No issues have been identified which impact on a particular group and therefore a full EIA is not required.

## **10 DATA PROTECTION IMPACT ASSESSMENT**

- 10.1 There are no data protection issues arising from the proposals.

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

- 11.1 The design brief indicates professional services should consider crime and disorder and where possible design out any potential risks. The Police have been consulted as part of the project.
- 11.2 The capital improvements to the park infrastructure include complementary youth facilities that will contribute to an overall reduction in youth crime and disorder within the area.
- 11.3 The pavilion and key historic features within the park will be monitored by CCTV cameras and the main drive will be illuminated by low energy consuming LED lighting columns.
- 11.4 The project includes a designated area near to the pool for overnight fishing, resulting in an increased presence within the park over the evening period.

11.5 The planned work to the perimeter of the park has been designed to utilise horticultural planting to restrict unauthorised access and encampments.

## **12 SUSTAINABILITY OF PROPOSALS**

12.1 The provider appointed to run the new pavilion will go through a rigorous competitive selection process to ensure that they can deliver on both the council's and HLF requirements for the building.

12.2 The contract for the new pavilion will be for 10 years with an option to break in year 5, this will allow the selected Provider a suitable length of time to financially establish. For the first 5 years of the contract the provider will be supported by HLF income specifically relating to delivering activities. After the 5- year period the pavilion will be expected to be self- funding. The only monetary contribution from the council for the duration of the agreement with any provider of the two buildings being insurance and property maintenance.

12.3 The development of this site will be guided by the Local Planning Authority in accordance with approved planning and development guidance. This will seek to achieve a development of a quality that sets the highest architectural standards. In addition, the new building will be up to current Building Regulations and will provide high quality accommodation that will be energy efficient and sustainable contributing to reduced energy costs. This contributes to the aims of the Environmental Policy for Sandwell.

12.4 The construction of the scheme will be managed by Urban Design Providerships Team and delivered by the selected provider. The construction and development costs associated with the project will be partly met from within the General Fund, by means of prudential borrowing and grant from HLF.

12.5 The site once completed will be managed and maintained by the council and all the associated external building costs will be met from within PMA. The provider will be required to maintain the internal spaces of both the new pavilion and existing Sons of Rest (William Lees Building)

## **13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

13.1 The new pavilion provider will host a number of healthy activities focusing on the park as a venue for promoting health and physical activity and making the local area a better place to live.

13.2 The provider will deliver a range of activities both within the new pavilion and the park itself to meet the conditions of the HLF grant, and will include the following examples.

#### Outdoor activities

- Walking activities – nature walks, couch to 5k;
- Physical activities including running, cycling, boot camp, gym sessions;
- Children’s activities – toddler tumble, after school club; and
- Sports activities - football, rugby and netball.

#### Indoor activities

- Healthy eating and healthy living;
- Physical activities including martial arts, dance; and
- Children’s activities – mobile soft play.

### **14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

14.1 Upon its construction, the new community pavilion will be added to the Council Asset Management Register.

14.2 Existing historical features will be refurbished as part of the restoration project, including the airmen memorial, James Chance Memorial, drinking fountain and all the remaining gateway features.

14.3 The sale of the depot land will dispose of an unused site

### **15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

15.1 To access the Heritage Lottery Fund ‘Parks for People’ grant of £4.5 million toward the £5.2 million re-development of West Smethwick Park, the Council must meet 3 conditions placed upon it by Heritage Lottery Fund.

- Condition 1 - Procure a provider to run the proposed new pavilion and existing Sons of Rest building and provide HLF with evidence of the procurement process, staffing and financial commitment from the Council.
- Condition 2 - Provide HLF with an update and timescales for the sale of the old depot, with commitment from the council to ringfence all the proceeds from the sale for the continued maintenance of West Smethwick Park.

- Condition 3 - Recruit an HLF funded project officer for West Smethwick Park.

15.2 Approval is sought to meet all of these conditions in order to access the HLF grant funding, rejuvenate a town park and provide a new pavilion where the community can meet and access a large number of activities for all age groups.

15.3 The successful grant award will have a positive impact on a number of the council's 2030 Ambitions:

- Ambition 2 (Healthier for longer and safer)
- Ambition 5 (Lowering crime and ASB)
- Ambition 7 (New homes)
- Ambition 8 (Create environments in the six towns where people chose to live)

15.4 Without approval, the council will not be able to access the grant from HLF and the lack of investment would have a negative impact on West Smethwick Park, resulting in community dissatisfaction. The 2030 Vision Ambition 8 will also be adversely affected and there will be missed opportunities associated with both the community and commercial aspects of the project.

15.5 That subject to the above, the Director – Monitoring Officer be authorised to dispose of the freehold interest in the former plant nursery/depot West Smethwick Park Road, Smethwick on terms and conditions to be agreed by the Executive Director – Neighbourhoods

15.6 That the Director – Monitoring Officer be authorised to approach the charity commission to agree a land swap. Then enter into or execute under seal, if necessary any other related documentation in connection with the disposal of the land referred to in recommendation above, on terms and conditions to be agreed by the Area Director – Regeneration and Economy.

## 16 **BACKGROUND PAPERS**

## 17 **APPENDICES:**

Equality Impact Assessment screening  
Plan of West Smethwick Park  
Plan of West Smethwick Park depot  
Cost evaluation of Council run pavilion

**Dr Alison Knight**  
**Executive Director – Neighbourhoods**