



## OFFICER DECISION RECORD

This form should be used to record Executive decisions taken by Officers

<b>Decision Ref. No:</b>			
<b>Service Area:</b>	Environment	<b>Date:</b>	09 July 2021
<b>Contact Name:</b>	Michael Rowland / Jacqui van Bommel	<b>Tel No:</b>	07771647219
<b>E-mail:</b>	<a href="mailto:michael.rowland@bcpcouncil.gov.uk">michael.rowland@bcpcouncil.gov.uk</a> ,		
<b>Subject:</b>	Lower Gardens Masterplan - Construction of a new domed aviary within the Grade II Listed Lower Gardens, Bournemouth.		
<b>Decision taken:</b> As a key component of the Lower Gardens Masterplan and improvement of Westover gardens: <ul style="list-style-type: none"> <li>(i) to approve the construction of a new aviary with a budget cost of £400,000 (including contingency) and</li> <li>(ii) to award a contract to Avon Construction Ltd. Including the allocation of £100,000 of strategic CIL funding towards the project, with the other £300,000 being a grant from the Parks Foundation.</li> </ul>			
<b>Reasons for the decision:</b> <p>To restore Westover Gardens in line with the Lower Gardens Masterplan 2010 and to deliver against the Environment Service Plan Key Project of an improved aviary and art exhibition within the Gardens.</p> <p>To contribute to the regeneration of Westover Road and contribute to both the Grand Garden Walk and Bournemouth Town Centre Vision. The new aviary will increase both visual permeability and visitor numbers to the Westover Gardens area of Lower Gardens, contributing to a reduction in anti-social behaviour and a stimulus for the regeneration of Westover Road.</p> <p>The bespoke domed aviary will deliver against Big Plan objectives of an iconic building, managed by volunteers and contributing to a stronger community. It also complements ambitions to create better links between the seafront and the pavilion, improving the surrounds of our beautiful 1929 building.</p> <p>The design of the aviary formed part of a detailed planning application to ensure that the historic layout of Westover Gardens would not be eroded or compromised.</p>			
<b>Background:</b> Westover Gardens is Bournemouth's first public park and was designed by Decimus Burton (famous for design of the Palm House at Kew Gardens and Regents Park). There			

has been an aviary in this location since around 1920, prior to which the area was home to free roaming peacocks.

The aviary remains a popular and free attraction within the Gardens. It has been operated entirely by volunteers since 2003. All birds within the aviary are 'rescue' birds, donated by members of the public who are not able to care for them.

The current popular rescue aviary is now over 40 years old and in poor condition. Both bird and volunteer welfare could be greatly improved.

Architects were commissioned by the former Bournemouth Borough Council to design a landmark structure with 360 degree viewing and spacious flight cages using low maintenance, durable materials. The project has involved close working with aviary volunteers to ensure the new design improves bird welfare and makes day to day care and cleaning by volunteers efficient and effective. The structure includes a low impact sustainable filtration system for the outdoor space and an insulated building for winter/night protection for our exotic birds. The design is bespoke to fit with this important location, as a non standard structure this is reflected in the prices received from contractors.

The original approved design was priced by a Quantity Surveyor and subsequently reduced in both footprint and specification to be within the proposed project budget of £300,000. The reduced design was tendered and all 5 returns were over budget. Brexit, Covid delays and steel costs have influenced the prices, meaning that the initial budget has been exceeded.

Both time and design fees have been invested in reaching this point, whilst public expectation is that a landmark design will be achieved. Due to the Grade II listed status of the Gardens it would not be easy to further reduce the specification.

The aviary is supported by a Parks Foundation donation point which attracts around £8,000 per annum in cash donations. To date this has supported the ambition to replace the aviary, but will continue to raise funds to support the volunteers and maintain it into the future. The aviary is also supported by individual donors.

**Options considered include:**

Demolishing the existing aviary and removing the aviary. This would reduce the Westover Garden offer and would be likely to cause reputational issues for having to dispose of rescued and donated birds. The proposed closure of the aviary in the early 2000's resulted in a public campaign and the formation of the aviary volunteers, who have cared for the birds since. The Parks Foundation have had a successful fundraising campaign specifically for this design. It would be difficult to return part of the funds as they have been cash donations on site.

Replacing the aviary with a simple shed and cage structure. This was dismissed as the aviary building needed to be designed to increase the visual permeability of the gardens in this location to reduce anti-social behaviour and encourage visitors into the space. The design also had to complement surrounding infrastructure within this listed garden.

**Consultations undertaken:**

The project is supported by Cllr Mark Anderson – Portfolio for Environment Cleansing & Waste, Cllr Philip Broadhead – Portfolio for Regeneration, Economy & Strategic Planning, and Cllr Drew Mellor – Leader of the Council

The design has involved consultation with BCP Planning, Central Ward Councillors who have supported the project with £50,000 of Neighbourhood CIL funding via the Parks Foundation and Aviary Volunteers (this is separate to Strategic CIL allocation and relates

to the community element of the aviary being a place for local people to volunteer and get involved in the park), The Lower Central Gardens Trust Board of Trustees, Historic England and Aviary volunteers. Additionally the project is supported by both the Town Centre BID and The Parks Foundation.

Within BCP Council the following have been consulted:

Jill Johnson/Amy Hapgood - Procurement

Rhea Pinfield/Sian Ballingall - Law and Governance

Sam Munnings – Property & Estates

Beccy Brookwell, Simon Percival – Building Maintenance

Shirely Haider – Finance

Nick Perrins – Planning

Kate Langdown – Service Director Environment

Kate Ryan – Chief Operations Officer

**Note:** It is the responsibility of the ‘Responsible Officer’ – that is the Officer making the decision – to obtain the comments and signature of the Chief Finance Officer and Monitoring Officer **before** taking the decision and then send the completed record of the decision to Democratic Services for publication.

### **Finance and Resourcing Implications:**

The design has been tendered and is affordable within a £400,000 budget including contingency.

The build project will be funded by a £300,000 grant from The Parks Foundation. Due diligence has been undertaken to ensure that this funding is held by the charity and a grant agreement letter is in place. The remaining £100,000 is to be funded from Community Infrastructure Levy.

The build project would be overseen by Greenspace & Conservation’s Landscape Team, but will require some assistance from Housing (clerk of works function).

Procurement, legal and planning input is already in place. Some support would be required from Finance within the capital programme.

### **Financial risks**

Estimated costs are based on tendered prices (£370,500), whilst the build has a client contingency of £29,500 (8.0%).

Planning permission has been obtained.

The project assumes £300k third party funding. Whilst a formal grant agreement is in place, funding will be received in arrears as works are completed and milestones are achieved. The Service Unit is satisfied the third party has access to these funds and is a going concern. Cabinet approval to accept the grant will be requested via the quarterly council budget monitoring report.

The aviary will become a donated asset from BCP Council to the Lower Central Gardens Trust upon completion. The building will continue to be maintained by BCP Council as a donated service to the trust. Day to day operation will continue to be undertaken by volunteers with the support of BCP Council and The Parks Foundation.

**Value for Money assessment**

The proposed investment will provide a new landmark structure with 360 degree viewing and spacious flight cages using low maintenance, durable materials, with minimal use of BCP funds.

A contract for construction has been openly tendered to ensure best value is achieved.

**VAT implications**

The proposed project has been reviewed from VAT perspective and all VAT incurred on capital works will be fully recoverable. The scheme will not affect the Council's partial exemption position.

**Name:** Adam Richens

**Date:** 13/7/21

Redacted

**Signature (of Chief Finance Officer):**

**Legal Implications:**

The Council entered into a grant funding agreement, dated [20th November 2020] with the Parks Foundation on terms approved by Legal Services. The grant funding agreement provides that the Parks Foundation will grant the Council the sum of £300k towards the aviary design and installation works and does not contain any clawback provisions. In accordance with Part H, para 8(c) and the Financial Delegations at appendix 1 (namely EA4) of the Financial Regulations, acceptance of grant funding between £100k - £1mil is subject to approval of Cabinet with the advice of the s151 Officer; such approval should be obtained before acceptance of the funding.

When awarding contracts for goods, services and works, the Council must ensure that it complies with the Public Contract Regulations 2015 ("PCR") and the Council's Financial Regulations in circumstances where the value of the contract does not meet the threshold within the PCR. Legal Services has advised upon the form of works contract (JCT Intermediate Contract with Contractors Design) which is an industry standard contract as required by the Council's Financial Regulations. A draft copy of the contract was produced for the Service Unit to release with the tender pack.

Legal Services has not seen a copy of the terms and conditions relating to the use of CIL funding and the Service Unit is advised to ensure compliance with the terms and conditions and in particular any provisions which allow for the funding to be clawed back by the local planning authority.

**Name:** Richard Jones (Deputy MO)

**Date:** 13/07/2021

Redacted

**Signature (of Deputy Monitoring Officer):**

**Risk Assessment:**

**If the change is not made the following risks are possible:**

Reputational – loss of volunteers, loss of facility, loss of grant and closure of aviary, alongside demolition costs.

**Name:** Jacqui van Bommel **Date:** 19th May 2021

**Signature (of Officer Completing Assessment):**

**Impact Assessments:**

Note:

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**Information for publication / not for publication**

Note:

- This information can be public.

**Background Papers**

Planning application, architects images

Any declaration of interest by the  
Officer responsible for the decision

Yes/No\*

Nature of Interest

**Note:** No Officer having an personal financial interest in any matter should take a decision on that matter. Other interests of a non-disqualifying matter should be recorded here.

Any conflict of  
interest declared  
by a Cabinet  
Member who is  
consulted by the  
Officer taking the  
decision

Yes/No\*

Name of  
Cabinet  
Member

Nature of  
interest

Details of any  
dispensation  
granted by the  
Monitoring Officer

**Decision taken by: Kate Ryan, Chief Operations Officer**

Redacted

**Signature:**

**Date of Decision: 13/07/21**

**Date Decision Effective: 13/07/21**

**Date of Publication of record of decision: (to be inserted by Democratic Services)**

**Note: A record of this decision should be kept by the Service Area within which the decision falls.**