

## CABINET

16 October 2018

<b>Title:</b> Central Park Masterplan Implementation	
<b>Report of the Cabinet Member for Community Leadership and Engagement</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> Eastbrook, Heath, Whalebone	<b>Key Decision:</b> Yes
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<b>Accountable Director:</b> Paul Hogan, Commissioning Director for Culture and Recreation	
<b>Accountable Strategic Leadership Director:</b> Tom Hook, Director of Policy and Participation	
<b>Summary:</b> <p>Following the adoption by Cabinet of the Central Park masterplan as part of the new Parks and Open Spaces Strategy (Minute 28, 11 July 2017 refers), a feasibility study has now been undertaken to evaluate how it can be implemented.</p> <p>The proposal successfully balances the requirement to maximise the income generation potential from the importation of inert material to create a new landscape and facilities in the park whilst managing, mitigating or transferring the risks that could jeopardise the successful delivery of the project.</p> <p>It is estimated that this scheme will generate up to £1.1 million in income for the Council and that a corresponding sum will be allocated in the capital programme for park improvements.</p> <p>It is anticipated that the planning application for the scheme will be submitted in early 2019, which will enable a licence from the Environment Agency to be awarded by summer 2019, and for works to start on site in autumn 2019 and be completed during 2021.</p> <p>As required by the Council's constitution, this report is presented to Cabinet in the format of a Procurement Strategy Report and seeks delegated authority to implement an improvement scheme at Central Park if the necessary funding, licences and planning approvals can be secured.</p>	
<b>Recommendation(s)</b> <p>The Cabinet is recommended to:</p> <p>(i) Approve the procurement of a design and build contract for landscaping and sports facilities at Central Park using the OJEU compliant UK Leisure Framework, which enables the direct appointment of a development partner for scoping, design,</p>	

refurbishment, construction and the development of recreation and sports facilities for the public sector;

- (ii) Approve the commitment of up to £1.1 million in the Council's capital programme in the period 2018 – 2020 to support the implementation of key elements of the Central Park masterplan;
- (iii) Note that the proposed scope of works would realise a payment to the Council of c£1.1 million from the importation of soil and inert material that would be used to create the new park landscape; and
- (iv) Delegate authority to the Commissioning Director for Culture and Recreation, in consultation with the Cabinet Member for Community Leadership and Engagement, the Chief Operating Officer and the Director of Law and Governance, to conduct the procurement and enter into the contract and all other necessary or ancillary agreements with the successful bidder(s) in accordance with the strategy set out in the report.

### **Reason(s)**

To assist the Council in achieving its corporate priorities in relation to:

#### **Encouraging civic pride**

- Promoting a welcoming, safe, and resilient community
- Promote and protect our green and public open spaces

#### **Growing together**

- Support investment in housing, leisure, infrastructure, the creative industries and public spaces to enhance our environment.

## **1. Introduction and Background**

- 1.1 The Council adopted a new parks and open spaces strategy in 2017 and along with it several improvement masterplans for the Borough's parks of strategic importance, including Central Park.
- 1.2 A feasibility study has been undertaken to investigate how it might be possible to implement some of the Central Park masterplan proposals and to generate income from doing so.
- 1.3 It outlines an innovative proposal to receive payments from the importation of inert material from building sites across London and the South East and which will be utilised to create a new landscape in the park.
- 1.4 It is estimated that the income generated will be £1.1 million, which is based on a 'gate price' (the price that the transport company will pay for dumping the soil). However, income and cost certainty will only be confirmed when the design scheme for the new landscape has been finalised (RIBA stage 4), planning approval has been given and the necessary licence from the Environment Agency has been granted.

- 1.5 The total cost of implementing the master plan would be c£2.3 million. It is proposed that a sum of £1.1 million (corresponding to the income that will be raised from the scheme) be allocated in the Council's capital programme to partially implement the improvements identified in the park masterplan.
- 1.6 Additional capacity will be provided in the Culture and Recreation team to provide project management support for the development and delivery stages of the scheme as well as for the implementation of a fundraising programme that is expected will raise up to £500,000 to support other improvements in the park; however, these additional works are outside the scope of this report.

## 2. Proposed Procurement Strategy

### Outline specification of the works, goods or services being procured.

- 2.1 To allow soil and inert material to be imported at Central Park to create a new park landscape will require the approval of a licence from the Environment Agency. Following advice received from them, it is proposed to import 237,504m<sup>3</sup> of soil and inert material into the park over a phased period of two years.
- 2.2 In addition, if additional fundraising from the charitable sector is successful it is proposed that there will also be additional investment in the Dagenham Rugby Club pavilion and the provision of public toilet facilities and a café in the park.
- 2.3 It is expected that the planning application for the scheme will be submitted in early 2019, which would enable a licence from the Environment Agency to be awarded by summer 2019, and for works to start on site in autumn 2019 and to be completed in 2021.
- 2.4 The indicative budget and proposed improvements to be delivered are set out in table one below. A plan of the indicative design proposal for the park and which shows the proposed location and layout of facilities will be provided to Members at the Cabinet meeting.

*Table one – Central Park master plan budget allocation*

<b>Element</b>	<b>Budget Estimate</b>
Adventure Play Area	120,000
Pump Track	50,000
Toddler BMX track	20,000
Mountain Bike Loop	50,000
Timber Boardwalk	10,000
Rugby Club House	200,000
Circular Seat	5,000
Client Contingency	50,000
Architect Coordination Fees	30,000
New Pathways	134,000
Wildflower	29,000
Open Parkland Grass Seed	197,897

Removal of play facility	20,000
New trees	15,000
Planted along Paths	9,000
New Trees Planted in groups	40,250
Delivery Fee	105,000
Framework Fee	13,430
<b>TOTAL</b>	<b>1,098,577</b>

**Estimated Contract Value, including the value of any uplift or extension period.**

- 2.5 As set out in table one, the estimated value of the contract will be up to £1.1 million; however, this will only be confirmed on completion of the scheme design process to RIBA stage 4, planning approval, and the award of the required licence from the Environment Agency.
- 2.6 Also, it may be the case that fundraising from the charitable sector will allow further funding to be allocated to the scheme to enable additional park improvements to be undertaken, with a corresponding increase to the estimated contract value.

**Duration of the contract, including any options for extension.**

- 2.7 Four years to September 2022.

**Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?**

- 2.8 This procurement will likely be subject to the Public Contract Regulations 2015. It is currently not clear how activity will be split between Works, Services and Supplies. However, most of the scheme will certainly be categorised as works and will therefore fall below the threshold for an OJEU procurement. Although there may be elements that exceed the Supplies threshold of £181,302.
- 2.9 The proposed strategy is to utilise a suitable framework, and therefore this will negate the need to conduct a full OJEU exercise.

**Recommended procurement procedure and reasons for the recommendation.**

- 2.10 It is proposed to utilise the OJEU compliant UK Leisure Framework, which enables the direct appointment of a development partner for scoping, design, refurbishment, construction and the development of recreation and sports facilities for the public sector.
- 2.11 Importantly this framework does not commit the client to a development, service or provision of equipment but allows potential projects to be explored and only delivered by way of a Call Off contract if the authority wishes to proceed.

- 2.12 The framework was procured in accordance with EU procurement regulations by Denbighshire County Council. Permission has been granted for the Council to use the framework.

**The contract delivery methodology and documentation to be adopted.**

- 2.13 As set out at 2.9 above.

**Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract.**

Outcomes

- 2.14 The importance of the Borough's parks and open spaces is recognised in the Borough Manifesto:
- Theme – Environment ...we have many parks and spaces such as Barking and Parsloes Park, and Abbey Green, and our river fronts contain some of the most stunning environment in London. Maintaining and enhancing these community assets, as well as making full use of them for activities and events, is a key priority essential to improving our health and wellbeing.
  - Theme – health and social care...we will enable residents to lead healthy lifestyles, with ample access to exercise facilities and healthy food options.
- 2.15 The improvement works will provide greatly enhanced informal and formal sport and recreational opportunities to improve the physical and mental health and well-being of residents. The scheme will also improve biodiversity, the quality of the natural landscape and provide community food growing initiatives, as well as better facilities for commercial and community events' programmes.

Revenue implications

- 2.16 A fundamental requirement for this scheme is that it will not add any revenue burden to the Council. This will be confirmed to Members once the design plan for the scheme has been finalised, planning approval has been secured and before implementation of the scheme starts.
- 2.17 Measures that are being pursued to help ensure that current grounds maintenance expenditure at Central Park does not increase includes: the proposed scope of works assumes the removal of two existing play facilities, which will no longer have to be maintained; the new earthworks (mounds) have been designed with the intention that they will not require a specialist maintenance regime; it is expected that there will be new income streams from leases and licences in the park from the rugby pavilion and golf facility that could be utilised to meet any additional revenue burden; and the Council would no longer be meeting the utilities and other costs associated with the operation of the rugby pavilion.

### Capital implications

- 2.18 The condition survey for the pavilion used by the Dagenham Rugby Club requires capital investment of c£300,000 in the short term to keep the facility operational and safe to use.
- 2.19 It is proposed to allocate up to £200,000 of the project budget for investment in the rugby pavilion. Alongside additional fundraising that will be undertaken, it is anticipated that all the capital liability for the facility will be addressed.
- 2.20 In the longer term it is intended that a lease for the facility will be assigned to the Dagenham Rugby Club, and with it all repairs and maintenance obligations.

### **Criteria against which the tenderers are to be selected and contract is to be awarded**

- 2.21 As set out at 2.9 above.

### **How the procurement will address and implement the Council's Social Value policies.**

- 2.22 The improvement works will provide greatly enhanced informal and formal sport and recreational opportunities to improve the physical and mental health and well-being of residents. The scheme will also improve biodiversity through the new natural landscape and community food growing initiatives, as well as provide better facilities for commercial and community events' programmes.

## **3. Options Appraisal**

- 3.1 The options available to the Cabinet are to approve the proposed procurement arrangements for the scheme in Central Park or to reject them.
- 3.2 The proposed procurement process has been carefully developed to best manage the high level of risk and complexity associated with the scheme, and most importantly the preferred framework does not commit the Council to a development, service or provision of equipment but allows potential projects to be explored and only delivered by way of a Call Off contract if the authority wishes to proceed.
- 3.3 Not to approve the proposal would mean that there is no realistic means of delivering the leadership's aspirations for Central Park as set out in the adopted Parks and Open Spaces Strategy and the Borough Playing Pitch Strategy.
- 3.4 Therefore, the Cabinet is recommended to approve the recommendations as set out in this report.

## **4. Waiver**

- 4.1 Clause 33.1 of the Council's Contract Rules permits officers to call off from framework agreements, provided that the Council is specifically named, described or referred to in acceptable geographical terms and the scope of the Council's requirements is specified.

4.2 Clause VI.2 of the Prior Information Notice dated 11 January 2016 states that the framework agreement is available for use by all UK public sector organisations therefore clause 33.1 of the Council's Contract Rules is satisfied.

## **5 Equalities and other Customer Impact**

5.1 Numerous studies have identified the capacity of parks to reinforce a sense of place and residents' affinity with a neighbourhood. People will identify strongly with their local park as part of the fabric of their neighbourhood. Where a park is of high quality, this will foster a sense of pride in the places where people live and work. These feelings are particularly strongly expressed when parks have direct heritage value or contain cultural assets or activities of significance. Conversely a poor quality or neglected park can have a negative impact on perceptions of neighbourhood quality.

5.2 The development of the parks and open spaces strategy including the masterplan for Central Park was subject to extensive and robust consultation with Members, stakeholders and the wider community.

5.3 As part of the strategy development process, a quality audit was undertaken of the Borough's main parks. A range of criteria were used to assess quality including: accessibility for people with disabilities, quality of play opportunities; does the park cater for people with disabilities or special needs, and does the park cater for older people

5.4 Central Park received a borderline rating of poor, a reduction from the 'good' rating achieved in the previous audit undertaken in 2003.

5.5 The consultation told us that:

- Cleanliness, safety and the quality of the facilities for parents and children in parks were identified as the most important issues affecting enjoyment and use of parks and open spaces.
- The quality of facilities for families (including toilets and play spaces) and the cleanliness and maintenance of parks were identified as the most in need of improvement.
- Local people want welcoming, accessible and inclusive spaces
- Opportunities should be developed for older children to enjoy parks
- Opportunities for volunteering should be developed
- Dog fouling and control are seen as major issues
- Anti-social behaviour -whether real or perceived - affects the use and enjoyment of parks.
- The re-introduction of park keepers is seen as desirable
- A wide range of events in parks is seen as important
- People would also like to see more and better communication about events and volunteering opportunities in parks.

5.6 If the proposal to improve Central Park is approved there will be a further consultation programme as part of the planning application process. This will inform the development of the final facility mix and design proposals, which will provide a

much-enhanced universal offer for all residents but in particular for families and children and young people.

## 6. Other Considerations and Implications

### 6.1 Risk and Risk Management

The actions taken to minimise the risks associated with the delivery of this project are set out at table 2 below

**Table 2 risk management**

<b>Type of risk</b>	<b>Risk</b>	<b>Risk Reduction Strategy</b>	<b>Risk Owner</b>
Failure to deliver the construction of the new facilities within budget and to the agreed timescale and specification	Medium,	<ul style="list-style-type: none"> <li>• Design and build contractual approach.</li> <li>• Scope of works will only be expanded as and when additional external funding is secured.</li> </ul>	Contractor
Failure to achieve income target for the scheme		<ul style="list-style-type: none"> <li>• Guaranteed income figure to be agreed which means that the contractor accepts the risk of fluctuations in market rates</li> </ul>	Contractor
Planning permission refused	Medium	<ul style="list-style-type: none"> <li>• Early dialogue with LBBB planning team.</li> <li>• Advice sought from Sport England and Environment Agency to inform development of scheme design plan.</li> </ul>	LBBB
Failure to appoint an operator	Medium	<ul style="list-style-type: none"> <li>• Tried and tested procurement framework should ensure that a contractor with the appropriate skills, knowledge and experience is appointed.</li> </ul>	LBBB
Importation of contaminated material to the park	Medium	<ul style="list-style-type: none"> <li>• Strict protocols adopted to ensure that there is no risk of contaminated or illegally sourced soil being imported to the park.</li> <li>• Environment agency will set criteria for the type of soil that can be imported with sample testing to ensure this is complied with.</li> <li>• Insurance policy to protect LBBB against this eventuality.</li> </ul>	LBBB
Failure to secure licence from Environment Agency for the importation of	Medium	<ul style="list-style-type: none"> <li>• Engagement of specialist advisors who have a strong track record in securing EA licences.</li> </ul>	LBBB



inert material into the park.		<ul style="list-style-type: none"> <li>• Design plan for the new landscape informed by previous EA decisions.</li> </ul>	
Significant opposition from residents in the planning stage and complaints during the delivery phase.	Medium	<ul style="list-style-type: none"> <li>• Consultation with residents and stakeholders already undertaken as part of the Parks and Open Spaces Strategy development process.</li> <li>• Further consultation will be undertaken as part of the planning application process.</li> <li>• Implementation of the scheme will be phased to minimise disruption to park users and adverse impact on residents.</li> </ul>	LBBB

6.2 **Safeguarding Vulnerable Adults and Children** – Parks and open spaces have long been used by schools to extend their play and educational offer. Parks offer opportunities for children to explore their perceptions of risk in a dynamic, free outdoor classroom.

A clear focus for this scheme is to improve access to parks by children and families and to support the delivery of health and well-being activities and cultural events.

All events or activities delivered directly or commissioned by the Culture and Recreation service will be covered by its safeguarding policy framework for children and vulnerable adults.

6.3 **Health Issues** – This project will help to harness the untapped potential of the borough's parks to improve the health and well-being of local people, including new facilities to provide positive and diversionary activities for children and young people.

DEFRA has calculated that the NHS could save £2.1 billion per year if parks and open spaces infrastructure encouraged people into more active lifestyles. Good quality parks and open spaces can have a significant impact on some of the most prevalent disease groups – coronary heart disease, stroke, type two diabetes, and mental health.

This scheme will demonstrate how parks can develop as places where physical activity can be promoted through the principles of 'active design' and proposes the development of more opportunities for people to come together to socialise and to take an active part in the community through volunteering.

Targeted programmes will also be developed to support local people to lead healthy lives by improving self-confidence and reducing isolation as well as promoting fitness and good mental health.

6.4 **Crime and Disorder Issues** - The Council has a statutory duty to consider crime and disorder implications in all its decision making. This will be carefully considered in both the design and delivery elements of this scheme.

Experience at Mayesbrook Park suggests that the provision of high quality and accessible sport and informal recreation facilities will have a positive impact on levels of anti-social behaviour and wider perceptions of safety in Central park, which will encourage greater and more regular use by children and families.

- 6.5 **Property / Asset Issues** - the terms of the proposed leases for the rugby and golf facilities will require the lease holder to repair, maintain and insure the facilities. As set out earlier in the report, it is intended that there will be no additional revenue burden to the Council for the maintenance of the new facilities that will be created.

## 7. Consultation

- 7.1 The development of the new parks and open spaces strategy, including the master plan for Central Park, was informed by extensive consultation with local clubs, ward councillors, stakeholders (including CU London), and park users. The strategy was adopted by the Council at the Cabinet meeting held on 11 July 2017 (minute 28 refers).
- 7.2 There has been further dialogue with Cabinet, Ward Members and stakeholders about the specific proposals set out in this report.
- 7.3 There will be extensive public consultation about the scope and scale of the proposed improvements as part of the formal planning application process.

## 8. Corporate Procurement

Implications completed by: Francis Parker – Senior Procurement Manager

- 8.1 The proposed procurement strategy is compliant with the Councils procurement rules and the PCR2015
- 8.2 The identified framework is suitable for this type of work. It has been set up for exactly this purpose and the suppliers on the framework are specialists at managing these types of project.

## 9. Financial Implications

Implications completed by: Geetha Blood, Group Accountant, HRA and Environment

- 9.1 The estimated cost of the procurement of a design and build contract for the landscaping and sports facilities at Central Park as part of the Central Park Masterplan is expected to amount to £1.1m. Funding for this will be met from capital borrowing and repayment will be made over the 4-year period as income is received. It is estimated that £1.1 million will be received from the chosen contractor for the 'gate price' i.e. the price the contractor will pay for dumping of the soil, subject to the contractor accepting the risk of fluctuations in market rates and agreeing a guaranteed income level.

## 10. Legal Implications

Implications completed by: Pamela Igbo, Contracts and Procurement Solicitor, Law and Governance.

- 10.1 This report seeks approval for the procurement of landscaping works and the construction of sports facilities at Central Park by calling off from the UK Leisure Framework Agreement. The value of the proposed works is £1.1 million
- 10.2 The parties to the Framework Agreement are Denbighshire County Council and Alliance Leisure Services Limited.
- 10.3 The Agreement has been set up in accordance with Regulations 33(2) to 33(6) of the Public Contracts Regulations 2015 for the purpose of establishing the terms of proposed call off contracts and it is OJEU compliant.
- 10.4 Clause 33.1 of the Council's Contract Rules permits officers to call off from framework agreements, provided that the Council is specifically named, described or referred to in acceptable geographical terms and the scope of the Council's requirements is specified. Clause VI.2 of the Prior Information Notice dated 11 January 2016 states that the framework agreement is available for use by all UK public sector organisations therefore clause 33.1 of the Council's Contract Rules is satisfied.
- 10.5 The framework is a single supplier agreement and the procedure for the award of contracts is set out at schedule 3 of the call off, given that this is a single supplier framework agreement, customers do not have the option of running a further competition and can only award call-offs directly.
- 10.6 Clause 11.2.4 of the Contract Award Notice sets out the scope of works which will be required from the Contractor:
  - Undertaking feasibility studies and the production of robust Business plans for the development of Leisure Related Facilities and Services
  - Leisure related Facilities design
  - Construction of Leisure related Facilities
  - Provision of private funding for Leisure Facilities and Services
  - Marketing Branding and Sales development for Leisure Facilities and Services
  - Income Share
- 10.7 The above-mentioned services will be provided in two phases:
  1. Scoping Phase: This commences upon initial enquiry by a potential client and ends either on the withdrawal of a potential project from the framework process or on the formation of an appropriate call off contract between the Contractor and the Client.

2. The Development or Service Delivery Phase: This commences on the signing of an appropriate call off contract by the Contractor with a client and ends on Financial completion of the Project. (i.e. when all material elements of the works/services are complete, valued and paid for.)
- 10.8 The contractor and the Council shall also sign a copy of the access agreement set out at schedule 3, Appendix 2 of the Framework Agreement. Officers are to ensure that all draft documentation in relation to the framework agreement are circulated to Legal Services for review before being finalised including copies of the JCT Design and Build 2016 precedent with amendments and details of the awarded contract is to be provided to Corporate Procurement who shall publish this information on the Contracts Finder website.

**Public Background Papers Used in the Preparation of the Report:**

B&D Playing Pitch Strategy (Cabinet 20 September 2016, Minute 40 - <https://modgov.lbbd.gov.uk/Internet/ieListDocuments.aspx?CId=180&MID=8805#AI64462>)

B&D Parks and Open Spaces Strategy (Cabinet 11 July 2017, Minute 28 - <https://modgov.lbbd.gov.uk/Internet/ieListDocuments.aspx?CId=180&MID=9411#AI65976>)

**List of appendices:** None