

<b>Subject:</b>	<b>Open Spaces Strategy – update on Action Plan</b>		
<b>Date of Meeting:</b>	<b>28<sup>th</sup> November 2017</b>		
<b>Report of:</b>	<b>Executive Director of Environment, Economy &amp; Culture</b>		
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Open Spaces Strategy was approved by the Committee at the meeting held on the 17<sup>th</sup> January 2017. The purpose of this report is to provide members with a further update on the progress made on the Action Plan to the one received by the Committee on 27<sup>th</sup> June 2017. As a consequence the information is provided principally within the appendices, with individual updates provided for those topic areas that were not covered in the June report. In addition, Members are asked to give approval for specific actions as indicated in the recommendations.
- 1.2 Parks and open spaces are highly valued by residents and visitors to the city and very important to the economy, quality of life and environment of the city. However, within the context of significantly reduced financial resources available to the council, the need to achieve specific savings from the Cityparks budgets, and the huge number of consultation responses to “The Big Conversation”, the future provision and maintenance of parks and open spaces was set out in the Strategy.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee accepts in principle the proposal from Queen’s Park Tennis Club to operate the tennis courts in Queen’s Park as set out at Appendix 10 of the report.
- 2.2 That the Committee delegates the agreement of the final lease/licence with Queen’s Park Tennis Club to the Executive Director Economy, Environment and Culture.
- 2.3 That the Committee approves the undertaking of soft market testing by officers to identify if some or all of the remaining council tennis courts in the city could be operated by a not for profit organisation. A further report would be brought back to Committee with the outcome of the soft market testing.

- 2.4 That the Committee approves the structure for the Brighton & Hove Parks Foundation to be a Charitable Trust, registered with the Charities Commission and notes the proposal to recruit between three to nine independent Trustees to the Foundation.
- 2.5 That the Committee notes that an elected member from each Group will be invited to attend the Brighton & Hove Parks Foundation Board meetings.
- 2.6 That the Committee grants delegated authority to the Executive Director of Economy, Environment & Culture and Executive Lead Officer Strategy, Governance & Law to prepare all documents relating to the Brighton & Hove Parks Foundation.
- 2.7 That the Committee notes the updates provided in the appendices in relation to:
- Anti-social behaviour, Safety & Crime
  - Development Funding
  - Finance and Asset Management
  - Health & Well-being
  - Litter and Dog Fouling
  - Natural and Semi Natural Green Space
  - Playgrounds
  - Public Realm
  - Trees

### **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The Committee approved the Open Spaces Strategy on the condition that the actions from the Strategy return to the Committee for final approval and will have been consulted on with stakeholders. There are two initiatives that have been developed that now require Member approval to progress further:

#### Management of Tennis Courts in the City Council's Parks

- 3.2 At the June ETS Committee Members were asked to agree a direction of travel for further consideration with the Lawn Tennis Association (LTA) of the management of tennis courts in the city council's parks, with a further report to be brought to a future Environment, Transport & Sustainability Committee for a decision on the management arrangements.
- 3.3 Queens Park Tennis Club have put forward a proposal to manage the tennis courts within the park which officers believe is viable and will both protect the facilities for public use and help further develop tennis on the site. This is set out at Appendix 10 of the report. Committee are being asked to delegate the agreement of the final detail of the lease/licence with Queens Park Tennis Club to the Executive Director Economy, Environment and Culture. Officers in Legal Services/Estates will be asked to prioritise the completion of such an agreement to sustain the enthusiasm of the Club for the new arrangement. Feedback from the Lawn Tennis Association also indicates that the proposal is financially viable. Following consultation with coaches and tennis club representatives, feedback indicated that the two proposals for a citywide organisation are too large an

undertaking for volunteers within the tennis community. The time and effort undertaken by volunteers to develop these proposals was much appreciated.

3.4 The consultation process involved meetings with a range of stakeholders from the tennis community including:

- Clubs and coaches
- Brighton & Hove Tennis Development Group
- Hove Park Stakeholders
- Queen's Park Tennis Club
- LTA

3.5 During consultation it was identified that there were already established not for profit organisations in the country successfully running public tennis courts elsewhere. There have been discussions between some of these organisations via tennis representatives and the Lawn Tennis Association. Officers believe that this could be a suitable route to develop a proposal for the future management of tennis facilities.

3.6 Officers have contacted clubs to gauge the number of other sites where there may be proposals for independent self-management and St Ann's Well Garden and Dyke Road Park have indicated further interest. In addition, Rottingdean Parish Council representatives have asked to be kept advised on developments and may put in a proposal for the Rottingdean Courts in the future.

#### Brighton & Hove Parks Foundation

3.7 The establishment of a parks foundation offers an independent fundraising vehicle with the benefits of charitable status. The model offers flexibility, innovation and the ability to stand side by side with Cityparks, as a mechanism to generate additional financial income and support the Council's commitment to improve the city's parks and open spaces. Ownership and management of parks and open spaces will remain with Brighton & Hove City Council.

3.8 At the June ETS Committee members approved the establishment of a Brighton & Hove Parks Foundation and agreed that a recommendation be made to Policy, Resources & Growth Committee that it approve the appointment of a member of each political group of the council alongside the three independent Trustees and that the Brighton & Hove Parks Foundation be delegated the decision on the appointment of its Chair.

3.9 In addition, at June ETS Committee further research was requested on the potential legal structure of the Foundation. This research has indicated the following:

#### Proposed structure of the Parks Foundation

3.10 The structure proposed for the Foundation Trust is that of a Charitable Trust, registered with the Charities Commission.

3.11 A Trust is established where assets (e.g. donations) are given by one person (the Donor) to another (the Trustees) with the intention that it should be applied for

the benefit of a third party or the public (the Beneficiary). As the intention of the Parks Foundation is to raise donations which can then be applied to the facilities and programme of activities for the City's parks, a Charitable Trust would be an appropriate structure. Once the donations are made to the Trust, the Trustees own the assets, but can only apply them in accordance with the Trust for the benefit of the beneficiaries.

- 3.12 There are other legal structures available, for example a Company Limited by Guarantee, with charitable status. This would require registration with both Companies House and the Charities Commission and would have increased set up and maintenance costs. A company would be a separate legal entity which could employ staff and enter into contracts in its own right, however these flexibilities are not required to meet the objectives of the Brighton & Hove Parks Foundation.

#### Membership of Parks Foundation

- 3.13 The June 2017 meeting of the Environment, Transport & Sustainability Committee agreed to recommend to Policy, Resources & Growth Committee that it approve the appointment of a member of each political group of the council alongside the three independent Trustees. Also, that the Brighton & Hove Parks Foundation be delegated the decision on the appointment of its Chair. However, with the proposed structure for a Charitable Trust, without incorporated status, and in order to encourage a level of independence and spread of expertise, it is proposed to appoint a small group of independent trustees who use their skills and enthusiasm to raise funds for parks. It is proposed that elected members (one elected member from each Group) are invited to attend the Trustees' Board meetings in order to contribute ideas and maintain an oversight of the activities and progress of the Foundation.
- 3.14 A Charitable Trust requires between three to nine Trustees. Trustees' liability is not limited and therefore Trustees could be liable for debts of the Trust if it was unable to meet its liabilities. However, this is considered a low risk in view of the nature of the planned activities of the Trust. Officer support would be maintained for the Trust and the Trustees. Any decision around spend or projects will need to be approved by the Council (under the usual rules) as they will relate to Council land and the objects of the Charitable Trust will make this clear. The Trust documentation will also need to specify clearly the parks and open spaces that the Foundation relates to in the City but this will not include HRA land.

## **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The analysis and consideration of alternative options was fundamental to the development of the Open Spaces Strategy.
- 4.2 A number of options have been identified in the Strategy in relation to potential delivery models and resources.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The Big Conversation consultation exercise underpinned the development of the Open Spaces Strategy. Further consultation is being undertaken on an on-going basis in relation to specific actions.

## **6. CONCLUSION**

- 6.1 The proposal from Queen's Park Tennis Club provides the opportunity to sustain and enhance the usage of the tennis courts in the Park, while further work will be undertaken to see if there is interest from other not for profit organisations to manage the city's tennis facilities.
- 6.2 The proposed structure for the Brighton & Hove Parks Foundation as a Charitable Trust is considered to be the most appropriate for a fundraising body without the requirement to employ staff or enter into contracts in its own right.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The proposal from the Queens Park Tennis Club to manage the tennis courts within the park is expected to be financially and operationally viable and will protect the facilities for public use. All direct running costs and liabilities including upkeep and maintenance will be the responsibility of the Queens Park Tennis Club and any income generation resulting from the operation of the courts will remain with the Queens Park Tennis Club. The long term ownership of the assets will remain with the Council and a lease / licence will be granted to the tennis club for the operation of the site. There will be no financial receipt to the Council in respect of the transfer of the lease / licence.
- 7.2 Soft market testing will be undertaken to identify if some or all of the remaining council tennis courts in the city could be operated by a not for profit organisation. A further report would be brought back to Committee with the outcome of the soft market testing which will need to demonstrate that the future operation of any identified tennis courts is financially viable in the long term. The cost of the soft market testing will be met from within existing revenue budgets.
- 7.3 The proposal to structure the Brighton and Hove Parks Foundation as a Charitable Trust will involve application to the Charities Commission for it to be granted charitable status. This will not incur any direct cost to the Council other than support from officer time which will be absorbed within current budgets. There is no current proposal to transfer council staff or assets. The Council will still retain the ability to approve spend associated with the land or assets within the trust and this will be covered within the terms of the Charitable Trust.
- 7.4 Membership to the Parks Foundation is yet to be finalised although it should be noted that Trustees' liability is not limited and therefore Trustees may be held responsible in the event the Trust was unable to meet its liabilities. This is considered to be a low risk in view of the nature Trust's activities.

*Finance Officer Consulted: Rob Allen*

*Date: 31/10/17*

### Legal Implications:

Legal and finance support will be required to establish the Trust, which will include registration with the Charities Commission and completion of governing documents for the Trust, which will include defining its charitable objectives and details of the Trustees.

The proposed lease/licence with Queens Park Tennis Club will need to be completed following advice from the Council's Property Services Team and Legal Services.

*Lawyer Consulted: Elizabeth Culbert*

*Date: 31.10.17*

### Equalities Implications:

- 7.5 The importance of a wide range of parks and open spaces across the city to provide for the diverse local community and visitors to the city has underpinned the development of the new strategy.

### Sustainability Implications:

- 7.6 The city's parks and open spaces are of significant importance to the city's environmental and economic sustainability, and form a key element of the region's Biosphere. The strategy seeks to enhance the sustainability of these resources.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Anti-social behaviour, Safety & Crime
2. Development Funding
3. Finance and Asset Management
4. Health & Well-being
5. Litter and Dog Fouling
6. Natural and Semi Natural Green Space
7. Playgrounds
8. Public Realm
9. Trees

10 Queen's Park Tennis Proposal

**Documents in Members' Rooms**

1. None

**Background Documents**

1. Reports to the Environment, Transport & Sustainability Committee in October 2014, March 2015, January 2017 and June 2017.

