

**Cabinet Member Delegated Decision 16 October 2017**

**Report title: Myatt's Field Park Depot Redevelopment and Lease**

**Wards:** Vassall

**Portfolio:** Councillor Paul McGlone, Deputy Leader of the Council (Investment and Partnerships)

**Report Authorised by:** Sue Foster: Strategic Director for Neighbourhoods and Growth

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**Report summary**

This report seeks authority for the Council to invest £500,000 to develop Myatt's Field Park Depot. The proposal facilitates income generation at Myatt's Field Park as part of the Pioneer Parks Programme, under which agreement Myatt's Field Park Project will retain the income from the premises to contribute towards managing the park.

Authority is also sought to grant a lease to Myatt's Field Park Project (MFPP) to manage the premises for 10 years. Provisions, set out in an agreed form of Community Service Agreement, safeguard the income generation at the premises for the benefit of the park should the Park Management Agreement cease.

**Finance summary**

The £500,000 Capital Investment at the premises will enable better utilisation of the premises for income generation. It will also support income generation in the park due to the ability of the tenant to run events in the park, while based at the depot. The increase of £250,000 is sought due to the loss of the match funding from Power to Change, whose grant funding terms would not permit the lease on the premises to be terminated if the Park Management Agreement came to an end or if the premises didn't generate income to support the park.

**Recommendations**

1. To approve a total of £500,000 (a £250,000 increase from previous allocation) of capital funding to be allocated for the Myatt's Field Park Depot refurbishment from capital receipts.
2. To agree a 10-year lease, from completion of the works, between Lambeth Council and Myatt's Field Park Project (MFPP) to use the refurbished depot building for the purposes set out in its business plan, with rent to be a peppercorn rent while MFPP manage the park under the Park Management Agreement or operate the premises under a Community Service Agreement, the purpose of which is to generate income to support the park.

## **1. Context**

- 1.1 This project supports the third strategic priority in Our Borough Plan 2016-2021 to build strong and sustainable neighbourhoods. The proposed development will create a place to bring people together, encourages greater use of the park with the potential to improve health and wellbeing, safety by encouraging greater footfall and natural surveillance in the area.
- 1.2 On 9 December 2013 Cabinet approved the Cooperative Parks Programme including recommendations for Myatt's Field Park to be managed by a local community-led enterprise Myatt's Field Park Project (MFPP). This report set out the principle that the income from the premises and facilities in the park be handed over to the community enterprise to contribute towards the management of the park.
- 1.3 Following this report the Council has entered into a series of agreements with MFPP, the most recent Park Management Agreement, from 1 July 2017 – 30 June 2019 which awards MFPP £88,328 in each year covering full responsibility for managing the park.
- 1.4 The MFPP proposal to manage the Park was underpinned by a business case that incorporated the need to develop the Depot to generate income to support the management of the park. Independent advice in the form of a technical audit on all available feasibility documentation was commissioned from Price Waterhouse Coopers (PwC). Steps have been taken to strengthen the business case and provide necessary assurance to the Council on the project's long term viability.
- 1.5 On 12 January 2015, Cabinet approved the first borough-wide parks and open spaces capital investment plan 2014/15 - 2018/19, to address issues of underinvestment across parks and take into account future population increases and income generation opportunities. This included a commitment to provide £9,000,000 of capital funding to support its delivery. The first tranche of phase one projects included a proposal to refurbish the depot building in Myatt's Field Park.
- 1.6 The proposal for modernising and redesigning the depot building creates a functional space that can be hired out to establish new sources of income. MFPP developed the proposal and sought match funding from Power to Change, but the grant funding conditions prevented the Council from recovering the premises if MFPP were no longer managing the park.

## **Proposal and Reasons**

- 2.1 The Council previously confirmed support for £250,000 to part fund the development of the park depot with match funding from an external grant funder. Unfortunately the grant conditions were not compatible with the purpose of the grant of the lease, to provide income to support the park. Now that the match funding is no longer available the proposal is to continue with the project by funding the full development cost. Due to the size of the development it will not be possible to achieve this within the £250,000 previously committed.
- 2.2 The depot refurbishment proposal supports the Borough Plan and the principles set out in the Pioneer Parks Programme. But more than that, the development of the depot enhances the income generation potential, not only of the building but also of the park. This is because the enhanced building can be used to support events in the park as well as events and activities in the building itself.
- 2.3 MFPP was originally commissioned to manage Myatt's Field Park in November 2015 under the Pioneer Park Programme. A number of Park Management Agreements have been entered into and MFPP have experience of running events, facilitating building hire and rental opportunities through

using the park facilities and buildings. The new agreement with the Council to manage the Park will run until 30<sup>th</sup> June 2019. The development of the depot will increase the group's chance of successfully creating a sustainable business model and a sustainable park.

- 2.4 Under the Pioneer Parks Programme, the community based enterprise retains the income from subletting and hiring the premises and facilities in the park. MFPP's Business plan, in as far as it relates to the building and assessed on a cautious basis, indicates that the surplus income from the building, by the third year, is likely to be in the region of £12,000 per annum. This is based on income from the building increasing from £18,000 in the first year to an estimated £38,000 by year three. This is a cautious assessment and does not take into account that the enhanced building enables, as a resource combined with the park, increased income generation in the park. The income generation is dependent on 'add-ons' to the room hire rates. This includes catering and facilities such as projectors and screens.
- 2.5 The existing depot building is occupied every weekday by community organisations. It is also used during weddings for storage and catering. It is not possible to compare this with the projected occupancy as the existing space is too small for commercial hiring.
- 2.6 The tenant's business plan, which uses the building to support events including weddings and corporate events, in the park, indicates that by year 3, events in the park and corporate sponsorship should raise an additional £40,000 per annum. By acknowledging that the developed building enables additional income in the park as well as the building and using more optimistic assumptions about the numbers of bookings, the business plan indicates that it could be possible to generate a surplus of £39,000 per annum from the building in the event that the Park Management Agreement comes to an end but MFPP still use the building.
- 2.7 The Pioneer Park Agreements for management of the Park run for two years, but MFPP have argued that in order to develop the depot into an income generating venue, the group need to have at least five years certainty on the lease and preferably a 10 year lease to develop the business proposals as set out in the Business Plan.
- 2.8 The principle of the pioneer parks programme is that if the Park Management Agreement comes to an end the premises should be handed back to the Council so that the Council can re-let the premises. However, the longer lease of the premises to MFPP can be justified as long as the income from the premises continues to be reinvested in the park. The terms of Community Service Agreement have therefore been agreed between Lambeth Council and Myatt's Field Park Project that set out an expectation that MFPP will use the premises to generate income and that the income will be used to benefit the park.

### **Lease**

- 2.9 The terms of a 10 year lease have been agreed with MFPP subject to Council approval. The business plan is predicated on subletting and hiring the premises. MFPP therefore retain the income, and after covering building management costs, use the surplus to support the Park through the Park Management Agreement or the Community Service Agreement. If neither agreement is in place, a market rent will be instigated.
- 2.10 The proposed terms have been set up so that the Council agrees not to terminate the lease in the first five years to give the group an opportunity to build up the enterprise. By the fifth year the group will be expected to generate an income level at least equivalent to market rent, bearing in mind the dual use of the premises for a combination of community and private uses in line with the MFPP business plan.

## 2.11 The Lease terms proposed are as follows;

Term:	10 years.
Rent:	A peppercorn provided Myatt's Field Park Project manage the park under a Park Management Agreement or enter into the Community Service Agreement
Outgoings:	The Tenant is responsible for all outgoings.
Subletting:	Permitted provided they are at market rent, no security of tenure is given and further subletting is not allowed
Security of Tenure:	None. Landlord and Tenant Act 1954 provisions to be excluded.
Lease Breaks:	After five years the Council may break the lease if the Tenant is not generating sufficient income. The definition of sufficient will have reference to the market rent and the income reasonably to be expected to be achieved by actively managing the premises.

2.12 While MFPP manage the park, income generated at the premises will be reinvested in the park management. Under the terms of the Community Service Agreement an annual plan will be agreed between the tenant and the parks department to agree how the surplus is used to support the park. Where the use of volunteers can demonstrably reduce Council expenditure, the resulting benefit will be included in the calculation of the savings that the income from the premises has generated in support of the park.

## 3. **Finance**

- 3.1 In January 2015 Cabinet approved £9,000,000 of capital funding to deliver the priorities listed in this plan, including the Myatt's Field Park depot refurbishment. The amount of Council funding initially requested was £250,000, which was due to be matched by £250,000 grant funding. In this case the grant funding could not be supported because the grant funder's requirement was for a 20 year lease without breaks and the Tenant was not happy to pay rent if they ceased to manage the park. The estimated funding requirement is therefore £500,000 with Lambeth's project management fees being taken out of this total.
- 3.2 This sum requires an additional allocation of £250,000 over the previously supported £250,000 from the Parks Capital Investment Plan. The funding will be drawn from the £9,000,000 allocation, with the funding and project management responsibilities sitting with the council's capital building projects team. As such, the project cost will include project management fees and follow council procurement policies.
- 3.3 Ongoing management of the refurbished building, including associated maintenance and compliance costs, will be provided by MFPP under lease terms as set out in this report and in line with the Cooperative Parks Programme. The lease proposal includes terms for a Community Service Agreement to enable the income from the building to continue to fund the Park, if, in the future, the Park Management Agreement come to an end.
- 3.4 The independent audit of feasibility documentation by PwC was funded from the £100,000 of capital reserves, set aside to test the feasibility of a range of parks capital building projects in phase one.
- 3.5 While Myatt's Field Park Project is managing the park under the Pioneer Parks Programme, the rent for this building will be set at a peppercorn rent to allow for all ongoing revenue costs

associated with this building and the wider park to be covered by the income generated by MFPP as set out in the cash flow forecast.

- 3.6 If MFPP do not continue to manage the park as envisaged by the Pioneer Parks Programme, provided they enter into the proposed Community Service Agreement, the lease rent will remain at a peppercorn level. The terms of the Community Service Agreement are such that the group will use the premise to generate an income in support of the park. In this way, Myatt's Field Park Project can continue to use the premises to generate income for the park.
- 3.7 The charitable objects of Myatt's Field Park Project are to support Myatt's Field Park. The benefit of the Community Service Agreement is to reinforce the requirement to achieve a level of income generation for the park equivalent to rental income from the building, but to do so in a way that enables the local community to engage in the direct benefit of their effort into supporting the park.

#### **4. Legal and Democracy**

- 4.1 Section 123 of the Local Government Act 1972 empowers the council to dispose of land it owns in any manner it determines save that it is not permitted to dispose of land at less than the best consideration reasonably achievable, unless the disposal is by way of a short lease, i.e. less than 7 years.
- 4.2 Where land is disposed of at less than best consideration and the lease is not a short lease, the Secretary of State has issued a general consent 'Disposal of land for less than the best consideration that can reasonably be obtained: circular 06/2003'. This general consent means that specific consent is not required where the Council considers the disposal will further the social, economic or environmental wellbeing of the borough, subject to a limitation that the undervalue should not exceed £2,000,000.
- 4.3 The maximum potential under value in this case is no greater than £160,000 over the course of the lease. However, although the income is being retained by MFPP, it is to be used at Myatt's Field Park, in accordance with either the Park Management Agreement or the Community Service Agreement. Thus creating social, economic and environmental wellbeing of an equivalent value, at least.
- 4.4 Paragraph 7(1)(a)(vi) of the schedule to the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 enables a local authority to provide and maintain centres and other facilities (whether indoor or in the open air) for the use of clubs, societies or organisations whose objects or activities are wholly or mainly recreational, social or educational in character.
- 4.5 Paragraph 8 of the Schedule provides that the council may, subject to such terms and conditions as to payment or otherwise as it considers desirable, grant to any person the right of exercising any of the powers conferred upon the Council by article 7 and let to any person, for any of the purposes mentioned in that article, any building or structure erected or maintained, and any part of an open space set apart or enclosed.
- 4.6 The authority to grant leases for terms of up to 20 years subject to a rental limit of £200,000 per annum is delegated to the Head of Valuation and Strategic Assets.
- 4.7 This proposed key decision was entered in the Forward Plan on 16 June 2017 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet

Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days - the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

**5. Consultation and co-production**

- 5.1 An extensive desk based exercise was undertaken to inform the development of the parks capital investment plan, which included a review of wide range of information, including individual park master plans, management plans, as well as a borough-wide consultation on the capital plan itself. The Myatt’s Field Park depot refurbishment project was identified as a priority project in the Brixton neighbourhood and has received wide-spread support. Planning permission has been granted.
- 5.2 The first tranche of parks capital projects were pulled from the priorities in the capital plan and circulated to all lead area councillors for endorsement by the Cabinet Member for Business, Regeneration, and Culture.
- 5.3 Individual responses were provided by local ward councillors in the area. This project has been driven and shaped by MFPP, local community groups, local residents, and park users with a host of local community consultation events held for the purpose of discussing this project. These events have helped determine the future usage of the refurbished building and the proposed design.

**6. Risk management**

- 6.1 There is a risk that this level of investment, in a park that has been in receipt of significant levels of Heritage Lottery Fund (HLF) investment in recent years, might be considered over investment in comparison to the underinvestment in other larger sites such as Clapham Common, Norwood Park and Ruskin Park.
- 6.2 The following risks have been identified in terms of delivering this project

#	Risk	Mitigation
1	There is insufficient funding to fully realise this project	The costs are estimated to be less than £500,000.
2	There is insufficient staffing resource in the council to manage the development project	The development will be managed by Lambeth’s major capital projects team with the cost of project management (part-time) included within the budget.
3	The delay in delivery delays MFPP ability to maximise income under the Park Management Agreement	The time taken trying to negotiate with the grant funding body and the proposed Community Service Agreement with MFPP has already delayed the project. Further delay will be minimised by Project and Programme management reporting to the parks capital programme board
4	The MFPP cannot cover the running costs of the building impacting on the financial sustainability of the operation	The cautious cash flow forecast indicates the sustainability of the proposal and the generation of a surplus. MFPP are funding a dedicated park manager who will be responsible for sourcing new business and income opportunities as part of the management of the park. MFPP have demonstrated to date that they are capable of innovating and generating new sources of income.
5	The contract with MFPP to manage Myatt’s Field Park is not renewed	While MFPP is managing the park, the rent for the depot building will be at a peppercorn; if this arrangement is discontinued/not renewed, MFPP will

		complete the Community Service Agreement for the continued operation of the building. Under that agreement the income generated from the building will continue to support the operation of the park.
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## 7. **Equalities impact assessment**

- 7.1 An Equalities Impact Assessment for the parks capital investment plan in its entirety has already been provided as part of the original January 2015 Cabinet report. It is expected that a refurbished depot building that can offer more local services to community groups and residents (e.g. local supper clubs, extended cooking and growing sessions) alongside the business of hiring for private events will increase usage of the park as a whole and benefit all equalities groups.

## 8. **Community safety**

- 8.1 Section 17 of the Crime and Disorder Act 1998 imposes a general duty on local authorities as follows: "Without prejudice to any other obligations imposed upon it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of the exercise of those functions, on and the need to do all it reasonably can to prevent crime, disorder and substance misuse in its area". Compliance with the requirements of s17 may therefore include a twofold consideration i.e. having due regard to the likely effect of a decision on crime and disorder and doing all it "reasonably" can to prevent crime and disorder. Successive surveys have shown that the level of crime in the Borough is the number one concern of residents. It is essential therefore that opportunity for crime and anti-social behaviour is prevented.
- 8.2 A busy park has the potential to enhance community safety outcomes and act as safe and welcoming places for positive activities to take place. Investing funding in improving the depot building will increase the use of the depot and footfall in the areas. Also the improved the user experience, with better, fit-for-purpose facilities, with an anticipated knock on effect of increased visitor numbers and enhanced natural surveillance. It will also allow for daily usage as the building will become the base for organisations such as Street Scape.

## 9. **Organisational implications**

### 9.1 **Environmental**

None

### 9.2 **Staffing and accommodation**

The assigned part-time project manager in capital delivery team will be paid for through the recovery of project management fees.

### 9.3 **Procurement**

The project will require a competitive tender. This process will be managed by the project manager, ensuring all spend is in line with the council's procurement policies, including the consideration of any social value elements such as apprenticeships and London Living Wage. There is also an expectation that the procurement of services will draw on the local supply chain, where possible.

### 9.4 **Health**

None

## 10. Timetable for implementation

Table 1: Key Milestones and Timelines

Report Agreed	16 October 2017
Design development to RIBA stage 4*	December 2017
Procurement Board - strategy approved	December 2017
Issue tender documents – main contractor	January 2018
Lease Completion	March 2018
Tender Return Date	March 2018
Tender Evaluation and Moderation	March 2018
Gateway 3 Report Clearance	April 2018
Notify successful and unsuccessful bidders	April 2018
If no challenge, notify successful bidder; request information to set up supplier, bank details etc.	
Contract award	May 2018
Contract start date	June 2018
Completion date	Jan/ Feb 2019

\*The timetable is subject to appointment of professional team with potential to add 3 months to the programme dates.

<b>Audit Trail</b>				
<b>Consultation</b>				
<b>Name/Position</b>	<b>Lambeth directorate/department or partner</b>	<b>Date Sent</b>	<b>Date Received</b>	<b>Comments in para:</b>
Councillor Paul McGlone,	Deputy Leader of the Council (Investment and Partnerships)	7.08.17	24.08.17	
Sue Foster	Strategic Director for Neighbourhoods and Growth	16.06.17	18.06.17	
Jackie Belton	Strategic Director for Corporate Resources	16.06.17	05.10.17	
Sandra Roebuck	Director, Growth Planning and Employment	12.09.17	19.09.17	
Derek Roopnarine	Group Manager, Finance Corporate Resources	23.06.17	30.06.17	Finance Summary 1.3,1.4.1.5 2.3 and 3
Amaris Wong	Group Manager, Finance	25.05.17	05.06.17	
Greg Carson Legal Services	Corporate Resources	23.06.17	26.06.17	4.1- 4.6
Maria Burton, Democratic Services	Corporate Resources	23.06.17	23.06.17	4
Alan Westlake	Major Capital Projects	25.05.17	26.05.17	
Gary Meads	Major Capital Projects	11.9.17	11.9.17	10
<b>External</b>	<b>Date of meeting</b>			

<b>Report History</b>	
<b>Original discussion with Cabinet Member</b>	25.04.16
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	No
<b>Key decision report</b>	Yes
<b>Date first appeared on forward plan</b>	16.06.17
<b>Key decision reasons</b>	Expenditure, income or savings in excess of £500,000
<b>Background information</b>	Cooperative Parks Programme also known as Pioneer Park Programme ( Cabinet Decision 9 <sup>th</sup> December 2013) <a href="http://moderngov.lambeth.gov.uk/ieDecisionDetails.aspx?ID=3250">http://moderngov.lambeth.gov.uk/ieDecisionDetails.aspx?ID=3250</a>  Parks and Open Spaces Capital Investment Plan 2014/15-2018/19 (Cabinet Decision 12 <sup>th</sup> January 2015) <a href="http://moderngov.lambeth.gov.uk/ieListDocuments.aspx?CId=225&amp;MId=8961&amp;Ver=4">http://moderngov.lambeth.gov.uk/ieListDocuments.aspx?CId=225&amp;MId=8961&amp;Ver=4</a>
<b>Appendices</b>	None

**APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION**

**I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post:** Yvonne Hardy, Assistant Head – Directorates, Valuation and Strategic Assets

**I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:**

**Signature:** \_\_\_\_\_ **Date:** 16 October 2017

**Post:** Councillor Paul McGlone, Deputy Leader of the Council (Investment and Partnerships)

**Any declarations of interest (or exemptions granted):** None

**Any conflicts of interest:** None

**Any dispensations:** None