

CABINET

Williamson Park 19th January 2010

Report of Corporate Director (Regeneration)

PURPOSE OF REPORT				
To present the latest position with regard to the current and future operation of Williamson Park.				
Key Decision	X	Non-Key Decision		Referral from Cabinet Member
Date Included in Forward Plan	January 2010			
This report is public				

RECOMMENDATIONS OF COUNCILLOR JUNE ASHWORTH

- (1) That the operation of Williamson Park transfers back to the complete control of the City Council and the company is dissolved.
- (2) The City Council should continue to review the operation and explore the potential of providing an improved visitor attraction/destination and seek to maximise this through external funding and partnership working. It is anticipated that this will be within approved set budgets. However there may be some slippage to this due to the potential additional £40,000 per annum required for pension costs as a result of the TUPE regulations.

1.0 Introduction

- 1.1 Cultural Services continue to lead on the management of Williamson Park and there is a constructive, progressive relationship developing between the two organisations at all levels. Financial Services, Legal and Human Resources continue to assist where necessary.

At the Cabinet meeting of 20th January 2009 the following minutes were approved:

- (1) That Cabinet notes progress to-date on the interim management arrangements for Williamson Park, including:
 - additional grant support of £50,000 being required for 2008/09, noting that this is a provisional figure, subject to clarification for the remainder of the year;

- the need for the Council to make provision to cover previous years' estimated losses, estimated at £100,000; and
 - the need to provide additional cash flow support to the company during 2008/09, but that this be on a short term basis only, thereby avoiding any further charge on the City Council's budget.
- (2) That Cabinet's preferred option for the management and operation of Williamson Park with effect from 2009/2010 is Option 2 as set out in the report (continue current interim management arrangements, with a view to bringing operation back "in-house", on the basis that no growth bid will be required) with a view to receiving a further detailed report on the future management arrangements for Williamson Park before final implementation.
- (3) That arrangements be made for member involvement in the future of the Park for the first year of implementation.

2.0 Background/Finances

- 2.1 Further to previous minutes as detailed above, Financial Services have worked closely with Cultural Services in determining the overall position in order for Williamson Park Limited to operate within a balanced budget during 2009/10. As previously reported to Members projections for the Park were that it would have an ongoing annual shortfall of £82K from 2009/10 onwards, if its operations stayed broadly the same.
- 2.2 One key issue for officers has been to work with financial information as produced by the former management in a style that lumped costs together and correlate this to a more specific analysis of cost centres within the park (café, shop, horticulture, butterfly house etc). Officers within Cultural Services have been working primarily to ensure the company operates to reduce the decline in performance that had gathered momentum over recent years and commence the process of implementing measures to change direction and concentrate on maximising effective performance – a task that takes time to implement with ownership and understanding.
- 2.3 A great deal of work has been undertaken to rectify this situation and a much more robust system has now been implemented for monitoring financial and operational performance. As a result it is anticipated that the projected deficit both for 2009/10 and for future years will now be zero.
- 2.4 In relation to the previous year (2008/09) Members are reminded however, that in addition to providing one-off grant support of £50K to the company to breakeven it also required further cash flow support as a result of its accumulated losses from previous years. In order to accommodate this, a further £58.7K of the 2009/10 grant was paid in advance (PIA) to cover cash flow difficulties. The company's financial position for the period ending 31st March 2009 reported a net liability of £99.9K, which includes this PIA. It is anticipated therefore that the £100k provision budgeted for by the Council during the 2009/10 budget process will be sufficient to cover all previous years' losses, thereby avoiding any further charge on the City Council's budget.
- 2.5 Performance of the Park continues to be monitored closely and the way in which budgets are now set out will assist in the process to bring the Park back to full control of the City Council.

3.0 Operational Improvements/Issues

3.1 The Park receives considerable support and guidance from officers within Cultural Services and the majority of decision making for the Park is now provided by the Service. A very brief summary of key progress points are listed below;-

- Financial monitoring by key cost centres
- Weekly involvement by Park Supervisors in spend / income against budget
- Increase in recycling particularly by Gardening Team
- Introduction of new menu in café
- Introduction of new staff rotas relating to busy / quiet periods
- Changes to agreements with third parties for productions in the Park (not Dukes) – from guarantees to split on income
- Considerable improvement with relationship with Dukes for summer production
- Opening of café during Dukes season – huge success for income generation
- Commencement of improvements to staff structure including more efficient work programmes for grounds maintenance.

3.2 Some specific known issues for consideration which will impact on the Council's future involvement with the Park including the General Fund Capital Programme are;-

- Major repair work required to café roof – currently the roof is leaking and causing some operational concerns for staff with sections of the building having to be segregated for safety reasons. A structural survey has shown the superstructure is sound; however further work is required to the external fabric.
- The structural survey of the Butterfly House has determined that the superstructure is reasonable given its age yet there is a need for further inspection of specific areas – officers are pursuing the option to undertake such work utilising funding remaining from the previous Heritage Lottery Fund preliminary grant. This may highlight the need for future capital and/or revenue investment.

4.0 Transfer to City Council/Legal Issues

4.1 When considering the transfer of the Park back to City Council management and responsibility, there are a number of issues which require consideration. To provide Members with an indication of the level of work required, some points are outlined below, which would need to be addressed;-

A company can apply to be dissolved if, amongst other things, in the previous three months it has not traded or otherwise carried on business.

Any loose ends, such as closing the company's bank accounts, should be dealt with before application.

Any leases for the buildings and land within the Park would have to be surrendered back to the City Council before the company is dissolved.

Although, there will be a requirement for considerable staff resources (Cultural Services, Legal & Human Resources and Financial Services) in transferring the park back to the Council, it is expected that any financial cost associated with winding up

the Company will be relatively minor and can be contained within existing budget provision.

5.0 Progress to Date

- 5.1 Officers from Cultural Services and Legal Services are ready to commence the process of informing suppliers and all organisations with whom the Park has an agreement/contract of the impending takeover of the company by the City Council. The transfer will need to be managed carefully both in terms of a public relations perspective and also the continued need to work with the Council's financial year – it may be appropriate to cease trading prior to April 2010 (in effect the proposed date by when the Park reverts in full to City Council responsibility).
- 5.2 In the lead up to March 2010 officers would deal with the necessary transfer of assets and any liabilities in order to help with a smooth return to City Council responsibility.
- 5.3 As mentioned earlier in this report (Background) officers have been working to both understand the operation of the Park and present financial information in a clear manner that will help with the transfer process. Management of a zoo and butterfly house has been a steep learning curve for officers, similarly dealing with private sector accountants and ensuring issues such as cash flow are planned for thus enabling most effective use of the Council's annual grant (only making payment when necessary as opposed to payment in full in advance at the beginning of each financial year).
- 5.4 Following presentation of this report to Cabinet it is hoped that by April 2010 the Park will effectively have been transferred back to City Council management in full and the financial management and future of the Park will fall fully within current Council policies, decision making processes and financial systems.
- 5.5 Members are reminded however, that the Company cannot be dissolved in this case until after it has ceased trading for a 3 month period.

6.0 HR Implications

- 6.1 Cultural Services have been rationalising and improving staffing issues at Williamson Park for some months advised, where appropriate, by the Council's Human Resources team. This work is ongoing and has already led to improved income generation, as noted elsewhere in this report.
- 6.2 Williamson Park will transfer in its entirety, as an economic entity, to Lancaster City Council. The transfer will therefore be governed by, what are commonly known as, the TUPE Regulations. The TUPE Regulations or the Transfer of Undertakings (Protection of Employment) Regulations 2006, place specific duties upon the old employer (transferor) and the new employer (transferee). Under the TUPE Regulations all rights, duties and liabilities of the transferor pass to the transferee, including staff terms and conditions of employment. The TUPE Regulations protect staff from any changes to their terms and conditions, even when the transferee's employment terms are better.
- 6.3 As the TUPE Regulations prevent any variation to terms and conditions of employment, the Williamson Park staff will transfer over on their pre-existing terms of conditions, i.e., they will continue to receive payment at their existing rate of pay, and all other benefits will remain exactly as they were prior to the transfer. The only

change is that, from the date of transfer, Lancaster City Council will be the employer. Future salary payments will be made through the Council payroll.

6.4 The advantage of this for Lancaster City Council is that the staffing costs are clearly defined. Williamson Park staff will not be subject to revised salaries as a result of job evaluation. However, all jobs at Williamson Park have been job evaluated in order to give an indication of future potential staff costs.

6.5 Whilst TUPE prevents harmonisation of terms and conditions, from a practical point of view it is likely that in the future this situation will need to be further reviewed. An appropriate timescale to commence a review of the situation is likely to be three years from the point of transfer. By that stage there may be economic, technical and/or organisational reasons, which may mean that a review of existing terms and conditions could be deemed appropriate.

6.6 It should be noted that, if the staff transfer to the City Council under TUPE, the pension regulations provide that they will be able to join the Local Government Pension Scheme (LGPS). This would have a financial implication to the City Council. This financial cost will be rolled into the proposals to review the Business Plan for Williamson Park and further savings would be needed to cover the extra costs.

7.0 Proposal Details

7.1 This report now sets out the options to the Council following the resolutions at the meeting of Cabinet on 20th January 2009 (stated in the introduction to this report) The Park is now set up to formally transfer to the City Council and the intention would be commence operation of the Park from April 2010 onwards under the complete control of the Council.

8.0 Details of Consultation

8.1 Some discussions have taken place with officers from various Services within the Council. Staff continue to receive regular updates on issues which affect them. Formal consultation with staff representatives over the details of the proposed transfer and how it will affect staff will take place following the decision by Cabinet. .

9.0 Options and Options Analysis (including risk assessment)

Option	Advantages	Disadvantages	Risks
1. Transfer the operation of the Park to complete control of the City Council including dissolution of the company. Continue to review the operation and explore potential of providing an improved visitor attraction destination by seeking funding from other agencies / providers in	Officers will be able to utilise the Council systems with regards to financial management (use of general ledger / authority financials) and 'fit' with budget monitoring as currently undertaken by the Council. Clear guidance from the Council's decision making	Council may need to consider need for capital support funding to address building condition issues.	The decision to transfer the company back to City Council management reduces considerably the possibility of continued under performance and enables improved performance management to be implemented. Due to the potential extra costs of

<p>3. Transfer the operation of the park to complete control of the City Council, consider reduction of operation and include option to invite companies to tender for various aspects of the current offer.</p>	<p>Council could reduce annual grant by receiving income from a third party for operation of part of the Park.</p> <p>Opportunity to meet with other 'providers' and change the current offer of visitor attractions.</p> <p>Potential for third party to cover building maintenance costs – long term, particularly for café area.</p>	<p>In order for current visitor attractions to continue to operate effectively there needs to remain an understanding and cooperative approach from third party 'concessionaires' – flexibility may come at a price if not covered within documentation at the outset.</p> <p>Tendering exercise was undertaken by previous management with few responses and at no financial benefit for the company.</p>	<p>Use of park may reduce and vandalism increase</p> <p>Poor publicity for the Council in what is considered by many locally as a park with positive recreational purpose.</p> <p>Relevant Council policies and procedures (tendering, financial evaluation or companies etc) should help minimise risk to Council.</p> <p>Third party income (rent/management fee) would need to cover costs of current profit on operation and include all costs associated with engaging a third party.</p>
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9.0 Officer Preferred Option (and comments)

9.1 The preferred option for officers is option 1, 'Transfer the operation of the Park to complete control of the City Council including dissolution of the company. Continue to review the operation and explore potential of providing an improved visitor attraction destination by seeking funding from other agencies / providers in partnership'. The Council would strive to continue to improve the operation of the Park whilst remaining open minded on the potential for partnership opportunities which could be explored at no additional cost. There is some doubt by Cultural Services as to the mix of the visitor attraction offer and following the recent period of consolidation and improvement, officers would continue to push forward with the current change ethos.

10.0 Conclusion

10.1 This report sets out clear improvements which have been made to the operation of the park and demonstrates the improved financial performance including a

considerable reduction on the circa £90k loss which was incurred in 2007/08. Officers seek members views on the proposals tabled within the report.

RELATIONSHIP TO POLICY FRAMEWORK

This report contributes towards 'working in partnership to ensure a strategic approach to economic development and regeneration'

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

This report deals with the sustainability of the operation of Williamson Park.

FINANCIAL IMPLICATIONS

Previous, Current and Future Years' Revenue Budget Implications

The Council has included a grant of £174,300 (including 1.5% inflation) for the Park in its 2010/11 draft General Fund (GF) Revenue Budget. Officers from Financial Services and Cultural Services have worked together to produce a balanced budget for Williamson Park Limited both in the current and future years, the main reasons for which are detailed in the body of the report. It is important to note however, that this has only been achieved through the continued direction and support provided to the Park by Council Officers, in particular Cultural Services and in some areas reduced operation, e.g. the butterfly house is currently closed for 3 months during the winter season, only urgent repairs and maintenance being carried out, etc.

Members are reminded that the Park currently operates under Private Sector Accounting principles and that this will change if the park is brought back 'in-house' as it would then operate under Local Authority Finance rules. The key change being the way in which each sector accounts for depreciation. The Park's budget currently assumes that it will bear an actual charge of c£18,000, however this will become a notional charge under Council ownership. Members could consider taking this as a recurring annual saving as part of the current budget process, thereby reducing the 2010/11 cost to the Council to £156,300. Without such a proposal, however, at least in the interim a specific earmarked replacement reserve would be allocated for future replacement of the Park's assets, e.g. gardening motor vehicles, café tools & equipment, etc, and this is the more prudent approach. It has not yet been established what the likely replacement cycle of the Park's current assets are or their replacement value, therefore the use of this would need to be subject to appropriate controls. This would be provided for within the overall Reserves and Provisions Policy, for consideration by Council.

The £100,000 provision established by the Council during the 2009/10 Budget Process for accumulated losses in previous years is expected to be applied in full should Members support bringing the operation back in-house, i.e., in winding up the company's accounts. This will only be reflected in the council's budget however and will not be paid over to the Company itself.

TUPE Implications

The cost of the Local Government Pension Scheme (LGPS) to the City Council for all staff transferring will be approximately £40,000 per annum based on existing contracts and this

will be rolled into the future Business Plan for Williamson Park with appropriate savings needing to be made over the next 3 years. Whilst there can be no guarantees that full year savings can be made to cover associated pension costs during 2010/11, it is reasonable to assume that further review of the operation, in particular improving the current visitor attraction/destination, will go some way to achieving this, subject to timescales for implementation. Alternatively, the Council may find itself in a position where it will either need to cut back on Park operations generally or increase financial support to the Park during 2010/11 by cutting back on other Council areas of activity instead. It should be noted further however, that at this stage this is a maximum pension cost scenario as it is not certain whether all staff will join the pension scheme.

JE Implications

Regardless of which option is approved, at this stage it is not anticipated that there will be any increase in the Council's GF Revenue budget. This is only on the basis that staff currently employed by the Park transfer under existing terms and conditions, however and that any potential LGPS implications can be absorbed as part of any review of the future Business Plan for Williamson Park. As set out in the HR section of the report it is suggested that current terms and conditions of staff transferring will need to be reviewed approximately 3 years from the date they transfer. HR have therefore carried out a desktop comparative evaluation exercise to provide an indication of future annual staff costs should Park staff eventually move onto the Council's new pay and grading structure (albeit that a further review of this is planned in the next two years).. This ranges from £84,200 if appointed on recommended SCP within proposed grades to £155,600 at top of grade. Should all staff decide to join the LGPS then this increased cost will range from £136,200 to £230,600 instead. It is re-iterated that this is for illustration purposes only at this stage and a thorough more detailed exercise will need to be undertaken in the future when the situation is reviewed. Subject to the outcome of JE and which SCP staff are transferred, on the current pay and grading structure it could take up to 9 nine years for the maximum cost to be reached. Any such increased cost would need to be treated as a future growth item no sooner than the 2012/13 Budget Process, or further reductions / efficiencies made including a reduced staffing structure.

Capital Implications

There will also be capital implications for the Council should the Park transfer back to the Council, e.g. urgent roof works required to the Café Building and the HLF funded building condition survey recently undertaken for the Butterfly House has identified the need for more detailed inspection of specific areas, which may lead to future capital bids being submitted.

In reality this will be no different than if the Park remains in the ownership of Williamson Park Limited as they already to some extent submit bids via the Council's GF Capital Programme. There is currently £75,000 allocated in the 2010/11 Draft Programme for Williamson Park, originally intended to improve Wyresdale Road toilets and roadway lighting. Members may want to consider re-prioritising its use in order to accommodate other works identified, however.

With regard to external funding previously awarded to the Park by HLF for capital improvements carried out to the Ashton Memorial a number of years ago, it has been confirmed by HLF officers that it is highly unlikely that there will be any clawback arising if the Park operation transfers back to the Council.

Accounting Presentation

If Members resolve to bring the Park back in-house, then the Council's GF Revenue Budget

and Capital Programme will need to be updated to reflect the gross expenditure and income associated with its operation.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and her comments reflected in the report.

LEGAL IMPLICATIONS

As set out in the report, Legal Services have been involved in the consideration of the transfer of the Park to the Council, and they will continue to be consulted on all contractual and other legal matters arising from any decision.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS None

Contact Officer: Simon Kirby
Telephone: 01524 582831
E-mail: skirby@lancaster.gov.uk
Ref: W Park 07/09