

East Herts Council Report

Executive

Date of meeting: 6th September 2022

Report by: Councillor Geoffrey Williamson – Executive Member for Financial Sustainability

Report title: Castle Park Improvement Project –match funding contribution via proposed sale of community centre/s

Ward(s) affected: Bishop's Stortford Wards

Summary

The Castle Park project within the Council's capital programme seeks to make improvements to the areas known as Sworder's Field and Waytemore Castle Gardens. The partnership work with stakeholders including Bishop's Stortford Council and the National Lottery Heritage Fund (NLHF) means that the project has been funded through a variety of organisations including East Herts District Council. Following the Pandemic and Brexit there has been a significant increase in materials and construction costs resulting in tenders for the implementation phase of this project requiring additional funding should it proceed. A proposed solution to securing the funding gap has been to sell some assets (Community centres) to one of the partner organisations, Bishop's Stortford Town Council. The purchase of these centres does however come with conditions which are highlighted within this report.

RECOMMENDATIONS FOR EXECUTIVE:

- a) Approval of the sale of Bishop's Park community centre to Bishop's Stortford Town Council
- b) That the capital receipt from the sale of Bishop's Park community centre (£160,000) contributes to the funding gap for the Castle Park project
- c) Approval for an option agreement on St Michael's Mead community centre and Havers community centre
- d) Approval that a £30,000 reduction for liabilities of over years is deducted from the final sale price of all three centres.
- e) That an options sum of £15,000 is required from BSTC to secure the option agreement which will be used to secure the project funding gap and to compensate EHC should the sale of the remaining two centres not proceed.

Proposal(s)

- 1.1 That Bishop's Park community centre is sold to Bishop's Stortford Town Council for £160,000
- 1.2 An options agreement is put in place for St Michael's Mead community centre and Havers community centre for the value of £240,000 (£30,000 deduction in liabilities included)
- 1.3 The option sum of £15,000 is deducted from the sale of the remaining two centres at time of purchase.

- 1.4 That a deposit is required once BSTC trigger the purchase of the remaining two centres via the options agreement, to secure the sale.
- 1.5 Commit £160,000 from the capital receipts (sale of Bishop's Park community centre) including £15,000 of the option agreement sum to cover the immediate funding gap of the Castle Park Project within the Council's capital programme.
- 1.6 Grant a new longer lease on the Markwell Pavilion
- 1.7 Grant a new lease on terms to be negotiated to the Town Council of the former toilet block due for conversion to a café.

2.0 Background

- 2.1 A bid to National Lottery Heritage Fund (NLHF) successfully secured a grant in 2016 of £1.94m (73% of the total estimated project cost of £2,667,800.00) to transform Castle Park in Bishop's Stortford. A wide range of improvements developed in partnership with Bishop's Stortford Town Council (BSTC) are set to combine two existing open spaces into one destination park to serve the town.
- 2.2 This included a contribution of £23,918 in 2017/18 to match fund the first NLHF grant payment of £214,700. That stage 1 development phase allowed the Council to develop plans for the project, engaging designers, consulting with the public and preparing detailed costs for the works.

- 2.3 Work proceeded to tender and choose appropriate designs for the various works involving stakeholder consultations. Planning permission was sought and approved in 2019/20.
- 2.4 The first round of tenders assessed in September 2021 for the main works resulted in much higher prices than estimated and insufficient bids to move forward with some of the lots.
- Lot 1 (Building Refurbishment) received only 2 tenders, the lowest of which was 50% over budget
 - Lot 2 (Bridge Construction, Demolition and Riverbank Profiling) received only 1 tender which was 140% over budget
 - Lot 3 (Hard Landscaping Works) received only one tender which was 80% over budget
 - Lot 4 (Soft Landscaping Works) received no tenders
- 2.5 These results were due to inflationary pressures brought about during the covid pandemic and changes in European trade. There had been problems with the supply of goods and labour. From other Council tenders it is evident that steel costs had doubled since estimates in October 2020 and timber elements increased substantially.
- 2.6 The second round of tendering in December 2021 attracted a lot more bidders providing a reasonable spread on all lots putting the project team in a better position to be able to deliver all works. The best value price however after discarding low quality bids, remains over budget.
- 2.7 The initial price gap after the second tenders was £1.53mil. A series of value engineering exercises informed by the leading bidders and scrutinised closely by both partners has found

savings by changing some of the design and compromising on some materials which reduced this figure to £1,126,453.

- 2.8 Further income has been identified during the tender value engineering process: £50,000 from Brazier Trust and £127,400 from Section 106 Sworder's Field. In addition, NLHF have offered a top up grant of £600,000 but require a further match funding grant to secure this. The remainder to find is now £350,000 of which BSTC will provide £175,000 leaving EHDC to find the last £175,000.
- 2.9 The project is at risk unless the Council are able to make up a match funding contribution.
- 2.10 Given the Council's large capital expenditure on projects it is not possible to seek further borrowing to fund the gap.
- 2.11 Following a number of discussions and negotiations BSTC put forward a proposal to achieve the funding gap.
- 2.12 The offer is to purchase Bishop's Park community centre at £160,000 with an option to buy a further two; St Michael's Mead community centre and Havers Lane community centre within 12 months of practical completion of the Castle Park project. The project is estimated to complete in 18 months from commencement (May 2022). The Lottery Grant expiry date has been extended to 31 December 2023.
- 2.13 The mechanism to process this would be to agree an Options Agreement. Upon agreeing the Option Agreement, Bishop's Stortford Town Council would need to pay a non-refundable

option sum, this is not a deposit, the option sum is to, in effect, compensate Council for not being able to otherwise sell the assets during that period. The options sum would be £15,000 which would make up the initial capital receipt to the £175,000 target.

- 2.14 A non-refundable deposit will also be required from BSTC prior to sale of the remaining two centres once (and if) they trigger that process. The deposit would be deducted from the overall price of the remaining two community centres.
- 2.15 Cash received for any such sale is a capital receipt which can only be used to fund capital expenditure or repay debt.
- 2.16 An Option Agreement would oblige EHDC to sell the property to BSTC, which may be exercisable by BSTC at any time during the option period or on the occurrence of certain events. The decision whether to exercise the option would rest with BSTC.
- 2.17 Both parties would need to enter into an Option Agreement and on payment of the option sum; BSTC would have the right to exercise the option to buy the property. BSTC would have to serve an Option Notice and pay the deposit, which would result in a binding contract for the sale and purchase on the terms as set out in the option agreement. If BSTC fail to do this within the requisite time (12months following practical completion of the Castle Park project), then EHDC could dispose of the property free from the option.
- 2.18 Once completed the decision to exercise the option will rest with BSTC and not EHDC.

2.19 EHDC would draft the agreement and seek to recover 50% of legal costs from the Town Council.

2.20 The Asset Management Manager has been in discussion with the Town Council in recent years regarding the sale of these 3 community centres. They were valued by external valuers in 2020 ("red book" valuation). The total valuation for the 3 – Bishop's Park (£160,000), St Michaels Mead (£170,000) and Havers (£100,000) came to £430,000. These 3 community centres are all currently leased to the Town Council who directly manage the hiring. This Council receives no income from them and still retains some liability for repair and maintenance. The liabilities of all 3 centres have been valued at £10,000 per annum and this would be applied to cover 3yrs worth of liabilities reducing the purchase price to £400,000 for all 3 centres. The valuation report was carried out in accordance with the terms and definitions set out in the Royal Institution of Chartered Surveyors (RICS) guidance for another Council project (Old River Lane) in April 2020. The valuer was a RICS Registered Valuer with suitable qualifications and experience for the purposes of the valuation and the basis of valuation was Existing Use Value as defined within UK VPGA 6 of the RICS Professional Standards Valuation Standards (Incorporating the International Valuation Standards) 2017.

2.21 Subsequently it was decided that the centres would not form part of negotiations of the ORL project, so the sales did not proceed although both the District and Town Councils expressed a desire to still proceed with the sales when possible. When a shortfall in the capital needed for the Castle

Park project was identified earlier this year it was suggested that part of the receipt from the sales of the 3 centres could be used to fund this shortfall.

2.22 Given the time that had elapsed since the 2020 valuation was undertaken officers discussed the need for a new external valuation. The Council's Valuer reviewed the valuation internally and concluded that the values of the centres had not materially changed in the subsequent 2 years.

2.23 All 3 centres are let on protected tenancies at peppercorn rents so the Council receives no income but still incurs some financial costs for repairs and management. The scope for securing a future letting at a rent is limited given that the use is restricted to community activities only and there is no active market in the private sector for community centres.

2.24 It has been agreed with the Town Council that the sale of all 3 centres will contain a restricted covenant restricting the use of the buildings to community activities only in line with the current user clause in the leases. If, at a future date, the owner of the buildings wants to change the use of the building they will need to apply to the Council to release the covenant and if approved this would be subject to a consideration payment reflecting any resulting uplift in value. In addition to this any change in use would also require planning consent which is unlikely to be forthcoming particularly given that 2 of these centres were transferred to the Council as part of a Section 106 agreement. Advice from planning officers has stated that in line with Policy CFLR8 of the District Plan - Loss of Community

Facilities any application for change of use would be refused unless it could be demonstrated the existing facility was no longer required; the need for an alternative community use in this location outweighs the need for the current use or that adequate alternative provision was to be provided elsewhere.

2.25 As the final sale of the second and third centres might proceed after some considerable time (up to 2.5 years), the Council may need to revalue these properties to determine whether there has been any significant increase or decrease. This would be carried internally by a suitably qualified officer. BSTC may also wish to carry out their own independent valuation at this point.

2.26 On the basis of the current valuation, the following payments are proposed:

| Transactions | Value |
|--|-----------------|
| BSTC Purchase of Bishop's Park community centre | £160,000 |
| Non-refundable options agreement sum | £15,000 |
| Value of St Michael's Mead community centre (£170,000) and Havers (£100,000) | £270,000 |
| Liabilities deducted | -£30,000 |
| Options Sum deducted | -£15,000 |
| | |
| Total capital receipt for EHDC | £400,000 |

2.27 The Town council have also expressed an interest in land upon which the Markwell Pavilion is situated. The centre is already owned by the Town Council but the land on which it is sited is leased from EHDC on a 50 year agreement from 1993. It is not

recommended a freehold sale of the land should take place because of the Council's wider ownership and however, EHDC can grant a new longer lease of the land which would give the building a higher asset value for the Town Council. This principle has been accepted by the Town Council.

2.28 There are plans for the former toilet block located on the edge of Castle Park to be converted into a café/community room which will be operated by the Town Council. Officers are in discussion with them to agree terms for a lease with the Council either receiving a rent or taking a share of the net revenue.

2.29 The free hold sale of St Michaels Mead community centre would include the surrounding green space land which is part of the title and Bishop's Park community centre would include the flat above.

3.0 Reason(s)

3.1 Bishop's Stortford is undergoing rapid change and the castle park project aims to provide a destination park to meet the needs of an expanding population.

3.2 The sale of the community centres will allow EHDC to meet the funding gap of the castle park project, offset borrowing costs and remove the liabilities of 3 community centres from the Council.

4.0 Options

The Council should consider alternative options:

Option 1

- 4.1 **NOT RECOMMENDED** – Transfer three of the centres for 400,000 (allowing for savings from associated maintenance costs) and grant a new longer lease on the Markwell Pavilion including the new studio space (the old toilet block).
- 4.2 Commit £175,000 from the capital receipts to cover the immediate funding gap and accept the Town Council condition requiring Council to reserve the remaining capital receipts to cover unforeseen spending on the project until its completion.

Option 2

- 4.3 **NOT RECOMMENDED** - Fund the £175,000 lottery match funding contribution from capital contingency. The Council cannot fund further capital projects that do not provide a financial return on investment.

Option 3

- 4.4 **NOT RECOMMENDED** - Decline to make any financial partnership contribution to fund the spending gap and close the Castle Park project. *This option is likely to lead to reputational damage for the Council as well as abortive cost of the project.*

5.0 Risks

There is a risk that the Town Council does not purchase the two remaining community centres. The Options sum provides compensation to the Council should this occur.

6.0 Implications/Consultations

Community Safety

N/A

Data Protection

N/A

Equalities

N/A

Environmental Sustainability

N/A

Financial

The cost increases for the Castle Park Project have also impacted elsewhere on the capital programme and remain a risk for the delivery of the Old River Lane regeneration scheme. The council needs to retain the very limited borrowing headroom left to fund potential scheme cost increases at Old River Lane plus a contingency for unforeseen, urgent capital expenditure. As the Transforming East Herts Programme investment is to be funded from earmarked reserves and Hertford theatre cost increases have been funded from those reserves there is no possibility of funding Castle Park through borrowing or through the use of earmarked reserves. As there is little possibility of generating in-year savings on the parks budget of the amount of the required increase to the capital scheme the only other alternative funding source remaining for this capital expenditure is capital receipts.

The capital programme funding in the Medium Term Financial Plan includes capital receipts from specific asset sales and also the expected but dwindling receipts from retained right to buy sales

from the transferred housing stock (tenants on the date of transfer retained the right to buy their property under the same terms as if the council had not transferred the housing stock). In order to generate capital receipts to fund the increased cost on Castle Park, new sales were required. The sale of the 3 Community Centres had been the subject of discussions over a period of time and the sales do not affect our wider land holdings in the area. The Markwell Pavilion is not recommended for sale as it would produce an area belonging to BSTC in the middle of the holding with rights of access over the remaining land holding which would fetter our ability to make best use of the asset in the future.

The proceeds of the sale of the community centres are capital receipts and as such may only be used to fund capital expenditure or to repay borrowing. The capital receipt will avoid increased borrowing costs of £13,883 per year for the next 30 years which would have been added to the £1.6 million additional savings the council needs to identify to balance the budget over the medium term.

The sale of the centres would remove the remaining repair liability on the council and should result in an on-going revenue saving of £10k per year.

As the sale option avoids costs and generates a revenue saving it is the only option available to deliver the project. There is a risk that further cost pressures may arise during the project and these will have to be met by: value engineering; changes in scope acceptable to partners and the Heritage Lottery Fund; new sources in-year of income; and/or savings from within the council's revenue budget.

Health and Safety

N/A

Human Resources

The Council employ a Community Engagement Officer on a fixed term contract funded by the Lottery grant. There is sufficient budget allowance to cover this post should the application for a further grant and project extension be awarded. The fixed term contract would be continued for 18 months to support the ongoing project.

Human Rights

N/A

Legal

Legally enforceable options agreements will be prepared and executed to ensure that the proposed way forward is properly secured and enacted.

7.0 Background papers, appendices and other relevant material

Appendix A - C footprint of Community Centres

Contact Member Cllr Geoffrey Williamson, Executive Member of Financial Sustainability

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