

Summary Sheet

Council Report

Cabinet and Commissioner Decision Making Meeting – 12 December 2016

Title

Boston Park Reservoir

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report:

Damien Wilson, Strategic Director, Regeneration and Environment

Report author(s):

Phil Gill, Leisure and Green Spaces Manager

Ward(s) Affected:

Boston Castle

Summary:

To seek approval to transfer land at Boston Park to Yorkshire Water to allow the building of a new service reservoir.

Recommendations

- 1) That 8,880 m² land at Boston Park be transferred to Yorkshire Water by way of a land exchange to allow a new service reservoir to be built, subject to granting of planning permission.
- 2) That the Assistant Director of Planning, Regeneration and Transport be authorised to negotiate the terms of the transfer.
- 3) That the Assistant Director of Legal Services be authorised to complete the necessary transfer documentation.
- 4) **That Council be recommended to approve the inclusion of the project to undertake improvement works at Boston Park in the Capital Programme, to the value of the capital receipt, as identified in Section 7.1 of the report.**

List of Appendices Included

Appendix 1 – Site Location and Layout Plans

Appendix 2 - Boston Park Service Reservoirs Rebuild (Yorkshire Water Report)

Appendix 3 - Land Valuation and Related Matters

Background Papers

Boston Park Masterplan

Masterplan (The Dell)

Park Improvements, Budget Cost Estimate

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Yorkshire Water's proposal to build a new reservoir will be considered by Planning Board upon submission by Yorkshire Water of a planning application.

Council Approval Required

Yes. Council approval required to include the project to undertake improvement works at Boston Park in the Capital Programme, to the value of the capital receipt, as identified in section 7.1 of the report.

Exempt from the Press and Public

Appendices 2 and 3 exempt under paragraphs 3 and 10 of Schedule 12A ("Access to Information: Exempt Information") to the Local Government Act 1972:

Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Paragraph 10: ...in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Boston Park Reservoir

1. Recommendations

- 1.1 That 8,880 m² land at Boston Park be transferred to Yorkshire Water by way of a land exchange to allow a new service reservoir to be built, subject to granting of planning permission.
- 1.2 That the Assistant Director of Planning, Regeneration and Transport be authorised to negotiate the terms of the transfer.
- 1.3 That the Assistant Director of Legal Services be authorised to complete the necessary transfer documentation.
- 1.4 That Council be recommended to approve the inclusion of the project to undertake improvement works at Boston Park in the Capital Programme, to the value of the capital receipt, as identified in Section 7.1 of the report.**

2. Background

- 2.1 Yorkshire Water (YW) needs to acquire Council-owned land at Boston Park to allow a new service reservoir to be built. This would replace two existing reservoirs which are coming to the end of their asset life. Over 20,000 properties and Rotherham Hospital are directly supplied from the site. YW has considered various options, and concluded that building a new reservoir on an area of Boston Park next to the current reservoirs would be the most appropriate location that meets all their criteria. The existing reservoirs would then become redundant, and YW would no longer require the land where they stand.
- 2.2 YW can exercise statutory powers under the Water Industry Act 1991 to acquire the land needed for their new reservoir, but would prefer to reach an agreement to exchange the land occupied by their existing reservoirs for the land they require. They have indicated a willingness to make a financial contribution towards the cost of improvements to the park as part of such an agreement. A third option would be to negotiate the sale of the land they require.
- 2.3 YW has advised that any land transfer would be subject to a design and construction agreement with their contractor, and planning permission.
- 2.4 Boston Park is Rotherham's oldest public park, opening on the centenary of the Declaration of American Independence on 4th July 1876. At its centre is Boston Castle, a shooting lodge built in 1775 by the Earl of Effingham. The castle was restored with Heritage Lottery funding and opened as a visitor heritage attraction in 2012.

- 2.5 The park is registered under the Historic Buildings and Ancient Monuments Act 1953 within the Register of Historic Parks and Gardens by English Heritage for its special historic interest. Registration is a 'material consideration' in the planning process, meaning that the Council must consider the impact of development on the landscape's special character. The park was also assessed as a 'high value' site of borough-wide importance in the Rotherham Green Space Audit (2010).
- 2.6 There is strong community interest in the park. The Friends of Boston Castle and Parklands exists to promote and improve the site, and has worked in partnership with the Council for more than ten years to further its aims.

3. Key Issues

- 3.1 Yorkshire Water regards this as an urgent matter requiring prompt resolution to ensure continuity of water supply, and has statutory power to acquire land compulsorily if necessary.
- 3.2 The project, and therefore any transfer of land, is subject to granting of planning permission. The Planning Service advised YW in 2015 that they would have major concerns about loss of green space here, and that YW would need to demonstrate that there is no suitable alternative location and that there is a legal obligation to provide the additional capacity. In addition, the relevant planning policy would require an equivalent piece of open space or some form of financial contribution to offset the loss.
- 3.3 The main consideration in any land deal is whether the proposed terms offer the best possible return for the Council and the local community, taking into account the value of the land involved, the loss of a significant area of existing parkland, and the associated disturbance to the local community and environment.

4. Options considered and recommended proposal

4.1 Negotiated land exchange

Should a land-exchange be agreed then YW has indicated a desire to work with the Council to mitigate some of the likely negative impacts of the scheme by funding improvements in the surrounding parkland. There would also be an overall increase in the area of green space; YW advises that the area they need to acquire is 8,880 m² and the area that would be released is approximately 10,500 m². However, the released land would be less useful as recreational green space due to its relative remoteness from the Castle, car park and other main features of the park (see Appendix 1). YW has indicated that they would remove all existing structures, level, topsoil and establish grass across the area to be transferred to RMBC, so that the land exchange would be on a like-for-like basis.

YW has asked the Council to propose park improvements that could be funded by them as part of a land exchange agreement. The resulting costed improvement proposals fall into three categories:-

- (i) Dealing with existing liabilities in the park, including repairs and vegetation management that the Council has been unable to undertake due to financial constraints. Estimated cost - £90,000
- (ii) Improvements necessary to mitigate the impact of the new reservoir development on the park. Estimated cost - £60,000
- (iii) Aspirational park improvement proposals developed in association with the Friends of Boston Castle and Parklands. Previous efforts to secure external funding for these have been unsuccessful. Estimated cost - £78,800.

YW has subsequently advised that they would be willing to make a capital contribution towards the cost of selected improvements as part of a land exchange identified above. YW's report detailing their proposed offer is included as Appendix 2. Note that this includes an expectation that the Council will allow YW to use additional land in the park as a temporary working area which they will reinstate to its current condition at the end of the project.

4.2 Negotiated sale of land

The Council may wish to consider the opportunity presented to achieve a capital receipt through the sale of the land. This would result in a net loss of green space which could lead to negative public reaction. However, it would provide a capital receipt with no ongoing liabilities. Estates team have supplied a provisional valuation of the land which is shown in Appendix 3.

4.3 Compulsory purchase

Whilst YW has the option of acquiring the land they need through compulsory purchase, they have stated that this would not be their favoured approach given the likely costs and timescales involved.

4.4 Recommended option

A negotiated land exchange would have the following advantages:-

- Greater capital benefits than the other options, both in terms of land area and the monetary contribution towards additional capital works.
- Investment to improve public access within the park and build on previous successful partnership working with the local community
- No reduction in the overall area of accessible green space
- Helps to address planning concerns.

This is therefore the recommended option.

5. **Consultation**

- 5.1 Boston Castle Ward Members have been made aware of Yorkshire Water's proposal to build a reservoir at Boston Park.
- 5.2 The Friends of Boston Castle and Parklands has previously been consulted on improvement plans for the park, resulting in the scheme to restore the Dell Garden which are amongst works that could be supported as part of land exchange agreement.

- 5.3 It is proposed that further consultation with the Friends of Boston Castle and Parklands will take place regarding proposed park improvements when a decision has been made whether to agree to YW's land exchange proposals.
- 5.4 Further statutory consultation with adjoining landowners and other interested parties will take place as part of the planning process after submission by YW of a planning application.

6. Timetable and Accountability for Implementing this Decision

- 6.1 Following a decision to agree to YW's proposed terms for a land exchange, the Estates Manager would be instructed to negotiate and agree detailed terms with YW as quickly as possible.
- 6.2 YW has advised that execution of a land deal would be subject to them obtaining planning permission for the new reservoir. They have not yet confirmed their timescale for submitting a planning application, but have agreed to discuss this with Leisure and Green Spaces when the Council has confirmed its agreement to a land exchange. The Planning Service has recommended that YW then enters into their pre-application service to seek to address any planning concerns and to prepare for the start of the formal application process.
- 6.3 When YW has signalled that it is ready to proceed with the land exchange, Legal & Democratic Services will be instructed to complete the necessary transfer documentation.

7. Financial and Procurement Implications

- 7.1 The recommended option of a land exchange would deliver a capital receipt for the Council. This will contribute towards the Council's £2m Capital Receipts assumption for 2016/17, within the Revenue Budget, to fund expenditure relating to transforming Council services to generate future revenue efficiency savings. It is proposed that an equivalent contribution from existing, uncommitted capital receipts generated pre 1st April 2016 will be used to fund the improvement works at Boston Park, for which there is otherwise no identified budgetary provision.
- 7.2 YW has confirmed that it would meet all legal costs associated with a transfer.
- 7.3 There are no procurement implications arising from this report.

8. Legal Implications

- 8.1 Under Part 6 of the Water Industry Act 1991 Yorkshire Water may be authorised by the Secretary of State to purchase compulsorily land which is required by them for the carrying out of its functions.

- 8.2 The Council still owns the land currently occupied by reservoirs. In 2014 YW sought to have the title transferred to them, and this was agreed to in principle as the land had been occupied by reservoirs since the 19th century. However, the transfer was never concluded. Legal Services advise that as YW has effectively been occupying the property for reservoirs for a long time, it would be able to establish adverse possession without difficulty and might also have an estoppel argument based on the Council's previous agreement to enter into the transfer of land. Accordingly, the Council would be receiving a real benefit from the deal.

9. Human Resources Implications

- 9.1 Not applicable with regards to this report.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 Not applicable with regards to this report

11. Equalities and Human Rights Implications

- 11.1 Not Applicable with regards to this report.

12. Implications for Partners and Other Directorates

- 12.1 None Identified

13. Risks and Mitigation

- 13.1 A land exchange could not happen if YW failed to secure planning permission for the new reservoir. The proposed land exchange and associated park improvements are expected to minimise this risk.
- 13.2 The local community may oppose the development of a new reservoir on existing parkland. It is hoped that the proposed park improvements will help to address such opposition.

14. Accountable Officer(s)

- 14.1 Damien Wilson, Strategic Director, Regeneration and Environment

Approvals Obtained from:-

Strategic Director of Finance and Customer Services:- Pete Bratley, Principal Finance Officer

Assistant Director of Legal Services:- Stuart Fletcher, Service Manager (Commercial and Governance), Sumera Shabir, Planning Solicitor

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