

Culture and Communities Committee

2.00pm, Tuesday, 20 March 2018

West Princes Street Gardens and the Ross Bandstand Project Update

Item number	8.5
Report number	
Executive/routine	Executive
Wards	City Centre
Council Commitments	15, 43, 46

Executive Summary

The Council entered into a development agreement for improvements to West Princes Street Gardens (WPSG) and replacement of the Ross Bandstand with the Ross Development Trust (RDT) in December 2016.

Since December 2016 significant progress has been made. Refurbishment of the cottage is now complete, refurbishment of the fountain has progressed and is scheduled to be complete in Summer 2018 and a design competition for the replacement bandstand has been completed. However, RDT have advised that clarity on the detail of future governance and operation of the new Pavilion and Garden Reception Building is a pre-requisite for the substantive fundraising appeal and campaign.

This report sets out a proposal to revise the current working agreement between the City of Edinburgh Council and the RDT to allow fundraising, to provide greater clarity on future operations and to progress the redevelopment of WPSG including the replacement Ross Bandstand.

West Princes Street Gardens and the Ross Bandstand Project Update

1. Recommendations

- 1.1 The Culture and Communities Committee are asked to:
 - 1.1.1 Note the excellent progress made to date by the RDT in terms of the refurbishment of the fountain and gardener's cottage, as well as completing the design competition for the replacement bandstand;
 - 1.1.2 Note that the current development agreement requires to be supplemented with a new mechanism to protect the legacy of investment;
 - 1.1.3 Note the proposal to form a new Arm's Length External Organisation (ALEO) to take forward the activity outlined in paragraph 3.4;
 - 1.1.4 Refer this report to Council on 3 May 2018 for approval to progress the arrangements associated with the creation of an ALEO;
 - 1.1.5 Note that, assuming the approval of Council, officers will undertake appropriate due diligence on the proposed ALEO, further work with RDT on the business case, and development of a comprehensive management plan before a detailed report will be presented to Committee for final approval; and
 - 1.1.6 Note that ownership of the Gardens and the new Pavilion will remain with the Council.

2. Background

- 2.1 On [30 June 2016](#) Council approved a report on WPSG and the Ross Bandstand which set out the progress of the project to date and provided approval for the Executive Director of Place to:
 - 2.1.1 Enter into a contract with the Scottish Charitable Incorporated Organisation (SCIO) being set up to implement various elements of the project;
 - 2.1.2 Take the action necessary to allow a private bill to be brought before the Scottish Parliament to amend the City of Edinburgh District Council Order Confirmation Act 1991 to permit the construction of a Garden Reception Building as per the design competition, on the understanding that this will be subject to Parliamentary approval; and

- 2.1.3 Take any action necessary to ensure that the change in use in the Council's common good land is permitted through procedures under the Land Reform (Scotland) Act 2016, the relevant provision of which is anticipated to come into effect in late June 2018, on the understanding that this will be subject to Parliamentary and/or Court approval.
- 2.2 Council also noted that the overall project timescale is difficult to predict, but that the process relating to the private bill could itself take between 18 months and two years, and it is likely to take a minimum of three years from now to the point when one or more operators takes over the management of the new bandstand and associated Garden Reception Building.
- 2.3 The RDT was established as an SCIO and they entered into a development agreement with the Council in December 2016 for the delivery of the gardens project. RDT planned funding to be an initial contribution by the principal benefactor with the remainder collected through a fundraising strategy.
- 2.4 RDT have demonstrated outstanding commitment to the project and the city and have moved forward on three aspects of the project - the refurbishment of both the fountain and the gardener's cottage along with completing a successful architectural competition for the bandstand. The refurbishment of the gardener's cottage is complete. The fountain refurbishment is due for completion in the summer 2018 and is funded by donations from Edinburgh World Heritage, a private benefactor and RDT.
- 2.5 The architectural competition was successfully completed in August 2017 with the entry from [WHy](#) selected. RDT then began to fundraise for the construction cost (estimated £25m). However, it has become apparent that in order for the fundraising campaign to be successful, absolute clarity is required on key issues such as ongoing maintenance and future management/operation when the project is completed.
- 2.6 RDT and Council officers explored opportunities for delivery during a series of joint workshops in January 2018. The aim was to review options to create a foundation that would enable the key parties to address the maintenance and future management issues referred to in paragraph 2.5, to enable fundraising to progress, to ensure delivery of the project and to secure a long-term sustainable legacy for the gardens.

3. Main report

- 3.1 Throughout the discussions on WPSG and the Ross Bandstand it has been assumed that ownership of the Gardens and the Pavilion development will remain with the Council.

- 3.2 Council officers and RDT have been developing a model to create a self-financing re-investment in WPSG that will secure a major upgrade to facilities through private donations and funding. The focus of the work to date has been to build a robust business case and address donor issues associated with assurances on future governance and management.
- 3.3 The workshops which took place looked at potential issues, opportunities and challenges and considered the following options:
- Retaining the existing development agreement;
 - The Council taking full control;
 - Establishing a new development agreement between the RDT and the Council;
 - Setting up a new ALEO;
 - Creating a Joint Venture; and
 - The RDT taking full control.
- 3.4 The conclusion from the workshop was the preferred option for the creation of a new ALEO. Such an approach would maximise fundraising potential for the redevelopment and give potential donors clarity and reassurance on the operation of the bandstand post redevelopment. The next steps in taking this forward are:
- To supplement the existing development agreement to protect the legacy;
 - To supplement the existing agreement to allow RDT to advance funding and delivery; and
 - To develop a final Business Case to support the approval process and future due diligence check/audit. This will be undertaken by RDT working with Council officers.

Supplementing the Existing Agreement and Creation of an ALEO

- 3.5 The existing development agreement requires to be supplemented to protect the legacy of the investment. It is proposed that this includes setting up a new ALEO to enable the operational control/management of the developed facilities to a new body. The proposed arrangements would include:
- 3.5.1 The ALEO would operate as a SCIO with a trading arm which would have full operational management control. The constitution should be clear on these responsibilities;
- 3.5.2 It would be established to meet the requirements of the project and the requirement of the Office of the Scottish Charities Regulator (OSCR);
- 3.5.3 There would be broadly equal representation from the Council, RDT and independent representatives on the board. The exact composition is still to be determined and will be subject to legal approval;
- 3.5.4 The ALEO would be responsible for the day to day management of WPSG with contracts and service agreements managed by the ALEO;

- 3.5.5 The Council would continue to be responsible for the maintenance of the gardens in line with current provision. Following development, any increase/change in responsibilities funded by the ALEO;
- 3.5.6 Future income generated will be ringfenced to the ALEO for use within WPSG or in line with its charitable objectives; and
- 3.5.7 The ownership of the gardens and the new pavilion will remain with the Council.

Supplementing the existing agreement to progress funding and delivery

- 3.6 RDT are currently progressing the following work packages:
- Refurbishment of the gardener's cottage (complete);
 - Refurbishment of the shelters;
 - Refurbishment of the red blaes area;
 - Refurbishment of the Ross Fountain;
 - Ancillary signage, lighting and garden improvements;
 - Design competition for the bandstand and Garden Reception Building (complete);
 - Construction/redevelopment of the bandstand and Garden Reception Building; and
 - Redevelopment/reconstruction of the bridges over the railway lines to access WPSG.
- 3.7 The existing agreement allows RDT to progress the work packages outlined in paragraph 3.6.
- 3.8 To progress funding and delivery, RDT require the agreement to be updated to reflect their role in progressing the project, specifically:
- 3.8.1 To develop a scheme in consultation broadly based on the International Design Competition Award (RIBA stage 2) to RIBA Stage 4 to allow the planning application process to progress;
- 3.8.2 To secure planning and associated consents;
- 3.8.3 To secure £25m funding; and
- 3.8.4 To enable the completed elements of the scheme to be handed over to the new ALEO.

Developing the Business Case

- 3.9 RDT has prepared an Outline Business Case (OBC) and are in the process of concluding a final business case using the Green Book Appraisals methodology.

- 3.10 Council officers will continue to work with RDT on developing the final business case in advance of this being submitted to Culture and Communities Committee for approval.

Future Operations

- 3.11 Committee is asked to note that Scottish Government has confirmed that it will not implement the Barclay Review (published in August 2017) recommendation to remove Non-Domestic Rates (NDR) relief for leisure and cultural venues. However, it has confirmed that it will mitigate against this by offsetting any further charity relief benefit to Councils to deter future ALEO expansion. Accordingly, there is no certainty that any new ALEO would benefit from NDR relief in respect of the bandstand and Garden Reception building.

Next Steps

- 3.12 If this approach is approved, Council officers will continue to work with RDT to progress the works packages which are already underway.
- 3.13 A further report will be submitted to Transport and Environment Committee in May 2018.
- 3.14 RDT will work with Council officers to finalise a fundraising strategy for the developments. It is intended that this strategy will include an opportunity for individual members of the public to contribute.
- 3.15 Due diligence will be progressed, including development of a proposed structure for the ALEO together with development of the OBC, assessment of the viability of the business case and development of a plan for the future operation WPSG and the Ross Bandstand and Garden Reception Building. A report will be presented to Committee for approval when these activities are complete.

4. Measures of success

- 4.1 The completion of the refurbishment of WPSG, redevelopment of the Ross Bandstand and the construction of a Garden Reception Building which will benefit residents, visitors, event organisers and festivals.

5. Financial impact

- 5.1 The Council's contribution to this project so far has been officer time only.
- 5.2 The cost of progressing the activities outlined above will be contained within existing Council budgets.
- 5.3 The full financial impact of the changes proposed, the development and the future operations will be detailed in the future report to Committee, following conclusion of the business case assessment and the management plan development.

6. Risk, policy, compliance and governance impact

- 6.1 The activities undertaken to date have been in line with the approval of Council in June 2016.
- 6.2 The upcoming activities will be undertaken in accordance with the Council, SCIO and OSCR policies and procedures.

7. Equalities impact

- 7.1 A full equalities impact assessment will be undertaken if the plans for WPSG and the Ross Bandstand are approved.
- 7.2 It is anticipated that a positive impact will be achieved through the development of WPSG and the Ross Bandstand.

8. Sustainability impact

- 8.1 There are no sustainability impacts arising from the proposals outlined in this report.

9. Consultation and engagement

- 9.1 The Steering Group undertook consultation with key stakeholders at the onset of the project. Consultation and engagement has continued to be progressed by RDT since it was established.
- 9.2 As the activities outlined in this report are progressed, appropriate consultation and engagement will be undertaken.
- 9.3 In addition, further public notification and consultation would be required in order to progress any amendment to the 1991 Act and the Court process under the Land Reform (Scotland) Act 2016.
- 9.4 It is also expected that any planning application coming forward would include consultation with the community prior to the submission of the application. There would also be a further opportunity for public comments during the formal planning application process.

10. Background reading/external references

- 10.1 West Princes Street Gardens and the Ross Bandstand: an opportunity for renewal
– [Corporate Policy and Strategy Committee 12 April 2016](#)

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11. Appendices

None.