



Mayor and Cabinet

Above type the name of the Committee / Mayor and Cabinet / Full Council

Report authors are to read and adhere to the Council's report-writing guidance which can be found [here](#) on the Intranet.

Report title: Beckenham Place Park - Swimming Concession

Date: 15 January 2020

Key decision: Yes/No.

Class: Part 1.

Ward(s) affected: Bellingham and Downham

Contributors: Executive Director Housing, Regeneration & Customer Services

Head of Law

Outline and recommendations

This report seeks agreement to commence a process to let a concession contract for an operator to manage lake activities (swimming & boating) on the newly constructed lake at Beckenham Place Park.

It is recommended that Mayor & Cabinet:

- Approve procurement of a concession contract for lake activities in Beckenham Place Park

Timeline of engagement and decision-making

The most recent decisions on the project at Beckenham Place Park have been taken by Mayor and Cabinet & Mayor & Cabinet Contracts* on the following dates:

24.04.2019 – Beckenham Place Park Regeneration

21.03.2018 – Beckenham Place Park - landscaping works restoration contract award*

28.02.2018 – Beckenham Place Park - building works contract award*

17.02.2016 – decision to close golf course and proceed with regeneration

Extensive engagement took place throughout the project with the involvement of local people, local councillors and officers within the authority to support each decision.

1. Summary

- 1.1. This report sets out the process to secure an operator for activities on the lake located in Beckenham Place Park. It is recommended that a concession contract is let for a period of up to five years to manage swimming and boating activities and to develop a community of users. The report sets out certain requirements that the Council has in terms of pay and seasons of operation, which are based on feedback from potential operators.
- 1.2. The report sets out a timeline inviting tenders and awarding the contract which will see new contract in place from May 2020 onwards.

2. Recommendations

- 2.1. It is recommended that Mayor & Cabinet approve:
 - The procurement of a concession contract for lake activities in Beckenham Place Park with the minimum criteria outlined in paragraph 5.9

3. Policy Context

- 3.1. Lewisham's Corporate Strategy set out seven corporate priorities and the letting of this contract contributes to two of these in particular:
 - **Making Lewisham Greener** – through the preservation and enhancement of the Borough's award winning green spaces and supporting increased use of environmentally friendly transport options, including the provision of electric vehicle charging points.
 - **Delivering and defending health, Social Care and support support** – creating opportunities for people to develop and sustain healthy lifestyles through the provision of activities and opportunities that support physical and mental wellbeing
- 3.2. The restoration of Beckenham Place Park has created a significant open space, venue and leisure facility that genuinely impacts the quality of life of thousands of residents. Restoration of the park will allow us to seek another Green Flag, a key signifier of the quality of parks. Lewisham is well known in London for the quality of our parks and the addition of Beckenham Place Park (our largest park) to this list will be an important

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

achievement

- 3.3. The ability to offer open water swimming and boating activities creates new leisure opportunities for local people to get active and keep fit in the open air. There is also a growing body of evidence that suggests that open water swimming can have a positive effect on mental health. The popularity of outdoor swimming has grown significantly in recent years but the number of venues in London remains small relative to the population.

4. Background

- 4.1. Beckenham Place Park is Lewisham's largest park by far. It is the one of the largest parks in London, and South East London's biggest open space. At 95 hectares it is 30% bigger than Greenwich Park. It boasts ancient woodland, meadow, parkland, a river and several historic buildings. It was originally acquired by the London County Council to be the key amenity space for the new estates of Bellingham and Downham.
- 4.2. Despite these considerable attributes the park was failing to attract visitors, with an estimated 200,000-220,000 visitors per year in 2013. The Council developed an ambitious plan to attract funding to restore this historic parkland and its listed buildings in order to increase use. The plan received considerable financial support from the National Lottery Heritage Fund and from the Mayor of London allowing a major investment plan to be implemented in 2018-19.
- 4.3. The plan involved the restoration of the historic parkland including restored gardens, childrens' playground and habitat enhancements. The centrepiece of the restoration was the recreation of the lake to act as a landscape feature and public amenity.
- 4.4. During public consultation on changes to the park there was a modest level of interest in use of the lake for swimming and other leisure activities. As a result the design of the lake was enhanced to create high quality water conditions necessary for these uses.
- 4.5. The Council sought an operator to trial lake activities in the months following relaunch of the park in July 2019 and an operator called PTP Coaching has been providing lifeguarding and boating activities. Some initial problems caused by high demand resulted in the lake's closure shortly after opening. But since the lake re-opened in late August, swimming has proved particularly popular with 3,000 visitors in a little over two weeks using the facility. As the year has progressed the number of people swimming has reduced, but there over one hundred committed winter swimmers who continue to enjoy the lake. A number of winter swimmers have written to the Council seeking a commitment to allow year round swimming.

5. Future lake operation model

- 5.1. In order to support and develop the safe use of the lake some changes to the lake boundary need to be made and a long term operator should be sought.
- 5.2. **Lake Boundary** – the high level of demand for swimming means that some form of permanent boundary is necessary to control the number of people accessing the water at any one time to a safe level. As a result a new railing and native hedging will be put in place over the course of the winter, providing a boundary that is sensitive to the heritage setting.
- 5.3. **Lake Operations – consideration of insourcing** it has become clear from the initial trial period that there is significant demand for swimming and other lake activities. The provision of these activities in the outdoors is a relatively specialised area of leisure operation and is outside the current expertise of the Council to deliver.
- 5.4. The provision of these services is not a statutory obligation but accessibility does contribute towards Council objectives by supporting the adoption and maintenance of

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

healthy lifestyles.

- 5.5. Given the Council's presumption in favour of insourcing, officers carried out an options appraisal to assess the pros and cons of insourcing, procuring a service contract or procuring a service concession contract. Our lack of specialist knowledge, the level of commercial risk associated with the venture, and complications involved in recruiting, retaining and managing seasonal staff were all major concerns. The appraisal concluded that the best approach to providing the service would be through a service concession contract. In this scenario operators with appropriate skills and experience can effectively manage the highlighted risks and would benefit commercially from increasing use of the facility.
- 5.6. Officers therefore concluded that a services concession contract could be let to a suitably qualified operator to provide these services.
- 5.7. A concession contract works by transferring to the contractor the operating risk (encompassing demand or supply risk or both); plus real exposure to the vagaries of the market. In return the operator is allowed to charge for use of the facility in order to provide the services.
- 5.8. Officers tested the market for a service concession contract by advertising and seeking expressions of interest in future operations in November and December 2019.
- 5.9. From the responses received we have been able to determine that there is good interest in this type of arrangement, but that approaches to service delivery could vary in significant ways e.g. pricing, staff pay, hours and seasons of operation. These variations in operations could lead to significant differences in the services delivered and public access to them and for this reason it is proposed that the invitation to tender will request the following:
 - that all tenderers commit to paying the London Living Wage
 - that all tenderers should propose a model which delivers year round swimming
 - that all tenderers should prioritise access to swimming above other activities
 - that the charge for an adult swim must not exceed £5 for Lewisham residents (£6 for non Lewisham residents) and that the charge for a child must not exceed £3 for Lewisham residents (£3.50 for non Lewisham residents). This excludes any initial registration or other membership options that may be offered) – such charges to be reviewed annually and not altered without London Borough of Lewisham's consent
 - operators must cover the costs associated with water testing at an appropriate frequency throughout the year
- 5.10. In addition to the above conditions officers will request method statements to cover risks associated with demand management during peak times and to cover any proposed access by under 8's and weaker swimmers/non swimmers.
- 5.11. **Income to the Council** – potential operators have suggested that different models of payment to the Council might be appropriate and these are based on very different assumptions about user numbers. To simplify matters and to make it easy to compare bids it is proposed that all tenderers should be required to make their offer on the basis of a percentage of gross income. This model ensures that both the Council and the operator have a shared interest in ensuring that the lake operates successfully over the period of the contract. The estimated value of the concession contract is £165,000 per annum.
- 5.12. **Costs and responsibilities of the Council** – the Council has invested significant sums in the construction of the lake and the mechanisms which make it operate effectively, including pumps and aeration systems. In order that these systems are

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

maintained appropriately it is proposed that the Council will retain responsibility for maintaining them, but will recharge any costs arising from maintenance to the contractor. The Council will also recharge the electricity cost for lake systems to the lake operator. In addition, the Council will retain responsibility for abstraction of water from the licensed borehole in accordance with the limits set by the Environment Agency.

- 5.13. **Lakeside facilities** – The Council will work with the incoming operator to help develop aesthetically sensitive lakeside facilities to support the lake operations. During 2019 the operator (PTP) has utilised mobile changing and toilets for the first few months, but all potential operators have shown an interest in enhancing facilities over time. Enhanced facilities would likely include staff welfare space and toilets with further consideration given to changing space and essential storage. Any permanent structure is likely to require planning consent and council officers will work with the incoming operator to help develop and appropriate proposal which can secure planning consent.
- 5.14. **Timetable** – the following dates are proposed for completing the procurement of this service concession contract.
- 15th January 2020** – Mayor & Cabinet approve letting of concession contract
- 28th January 2020** – Invitation to tender goes live for 4 weeks
- 3rd March 2020** – tender submission deadline
- 25th March 2020** – Mayor & Cabinet (Contract) appointment of preferred contractor
- 18th May 2020** – Provisional date for commencement of concession contract

Financial implications

- 6.1 This report seeks approval to secure an operator for activities on the lake located in Beckenham Place Park. It is recommended that a concession contract is let for a period of up to five years to manage swimming and boating activities and to develop a community of users.
- 6.2 The successful operator will take on most of the operational and commercial risks, with the Council recharging associated maintenance and electricity costs, whilst the contractor will benefit from the fees received from users of the lake facilities.
- 6.3 It is estimated that the concession contract will generate in the region of £165,000 of income per annum based on a price of £6 per swim although this is dependent on the price ceiling approved by the Mayor. The Council will receive a percentage of these fees to be agreed in the concession contract, which should largely offset any unavoidable revenue costs for which the Council retains responsibility and could also improve the financial position.
- 6.4 The revenue budget for Beckenham Place Park currently sits within the Green Scene service within the Environment Division in the Housing, Regeneration & Environment Directorate and is currently forecast to come in slightly under budget. That said significant capital sums have been incurred in the past few years to regenerate the park, largely funded by the Heritage Lottery Fund and the Mayor of London and this revenue stream could eventually pay back the Council's investment over longer term.

6. Legal implications

- 6.1 The report seeks approval to the arrangements for procurement and future delivery of a lake operator in Beckenham Place Park. As the report sets out, the contract will be a concession contract. This means that the consideration for the services provided

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

consists of the contractor's right to exploit an asset of the Council's. In this case the contractor will have the right to use the lake and charge the public to use it, which they will then be able to retain. Concession contracts are covered by different legal requirements than those applicable to other contracts but are still subject to competition and the Contract Procedure Rules.

6.2 The relevant category for determining the procurement route under the Contract Procedure Rules is calculated by calculating the total turnover of the concessionaire generated over the duration of the contract. Given the potential value of the contract to the concessionaire, this contract would be categorised by the Contract Procedure Rules as a Category A contract.

6.3 The Contract Procedure Rules place requirements on how a procurement should be undertaken. The Rules require that when letting contracts steps must be taken to secure value for money through a combination of cost, quality and competition, and that competitive tenders or quotations must be sought depending on the size and nature of the contract (Rule 5). The requirements of Contract Procedure Rules would be satisfied by the approach proposed, being an open advertised process. The process for procurement will have to be in accordance with the Contract Procedure Rules. As a Category A contract, it would be for the Mayor and Cabinet to take a decision on the award of any contract.

6.4 The Council has adopted a Social Value policy which must be considered and applied; and the Council's Sustainable Procurement Code of Practice will be applied to the contract. The matters to be considered must only be those relevant to the services to be procured and it must be proportionate in all the circumstances to take those matters into account.

6.5 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty) which replaced, broadened and expanded upon similar duties which already existed in relation to race, disability and sex. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.6 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

6.7 The duty continues to be a "have due regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

6.8 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/publication-download/services-public-functions-and-associations-statutory-code-practice>

<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

6.9 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

6.10 The essential guide provides an overview of the equality duty requirement including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

7. Equalities implications

7.1. Operators' tendering for the provision of this service contract will be required to submit a copy of their equal opportunities policy. An assessment of the accessibility of the service to all sections of the community will form part of the assessment criteria.

8. Climate change and environmental implications

8.1. The invitation to tender for this contract does not have any direct climate change implications. The energy consumption of the lake's mechanical and electrical infrastructure will remain in the control of the Council and will be managed in line with corporate energy policies. The Council already encourages sustainable travel to Beckenham Place Park and will continue to do so. We promoting bus, rail, quiet cycling routes and walking times from key locations to encourage use of these modes. In 2020 parking charges will also be introduced for those who drive to the park.

9. Crime and disorder implications

9.1. During hot weather there is the potential for high numbers of users and excess demand for swimming. Queue management and communication will be key areas that the contractor will need plan for as part of their service delivery strategy. Even in well established venues like Hampstead Ponds this excess demand can lead to misbehaviour.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- 9.2. Contractors will be asked to submit a method statement outlining their strategy for dealing with peak demand as part of their submission.

10. Health and wellbeing implications

- 10.1. The provision of a high quality open water swimming venue offers a new opportunity for people to become and stay active. Open water venues have seen significant increases in use in recent years with the recorded number of users of Hampstead ponds tripling since the beginning of the decade. The lake can also offer paddle sports which have proved popular during the trial period. Operators may also consider the introduction of a regular timed swim, similar to a Parkrun operation which can help create a strong community of users.
- 10.2. It is likely that the lake will continue to be used for occasional competitive events with interest already being shown in repeating the small scale triathlon that took place in 2019. There are relatively few venues in the area that can offer this sporting activity.
- 10.3. There is a growing body of evidence that outdoor swimming and cold water swimming can have a beneficial impact on mental as well as physical health. By supporting the use of the lake year round this gives local people the opportunity to explore the benefits for themselves.

11. Social Value implications

- 11.1. Any social value implications will be outlined at contract award stage.

12. Background papers

- 12.1. None.

13. Report author and contact

- 13.1. Gavin Plaskitt – Senior Programme Manager - Capital Programme Delivery 020 8314 6398
- 13.2. Vincent Buchanan – Service Group Manager Greenscene – 020 8314 2024

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>