

# Brighton & Hove City Council

## Strategy, Finance & City Regeneration Committee

## Agenda Item 45A

**Subject:** Royal Pavilion Estate Capital Project Phase 2

**Date of meeting:** 04 August 2023

**Report of:** Executive Director Economy, Environment and Culture

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**Ward(s) affected:** All

### For general release

*Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that additional discussions with funding partners were required to confirm project requirements.*

### 1. Purpose of the report and policy context

- 1.1 The council and Brighton Dome & Festival Ltd (BDFL) signed a Memorandum of Understanding (MoU) on 18 August 2014, to formalise the joint working with the former Royal Pavilion & Museums. The Royal Pavilion and Museums subsequently transferred to an independent Trust in October 2020. The MoU underpinned the delivery of the phased capital works to the Royal Pavilion Estate which aim to secure its long-term future and financial viability. Phase 1 works to the Corn Exchange and Studio Theatre were substantially completed in May 2023 at a cost of circa £39.50million with £6.323million funded by NLHF.
- 1.2 This report provides an update on the planned Phase 2 works to the Royal Pavilion Estate Garden and a National Lottery Heritage Fund (NLHF) Round 2 bid for £4.4M to be submitted for these works by the council and Royal Pavilion and Museums Trust (RPMT). This report also covers the measures that will be put in place to manage governance and risk.

### 2. Recommendations

- 2.1 That Committee notes the planned submission by RPMT and the council of the National Lottery Heritage Fund Round 2 bid for the capital works with the project aims set out in paragraph 3.5.
- 2.2 That Committee agrees that a contribution of up to £0.250m from capital funds set aside by Budget Council for toilet refurbishment is made to this project. Details are set out in paragraphs 3.8 and 3.9.

- 2.3 That Committee delegates authority to the Executive Director Economy, Environment and Culture to agree the final value of the contribution up to £0.250m for new public toilets to be included in the project.
- 2.4 That Committee delegates authority to the Executive Director Economy, Environment & Culture, subject to a successful National Lottery Heritage Fund Round 2 bid and the requirements laid out in paragraph 3.12 and 3.13, for the council to procure and appoint a Main Contractor to carry out the restoration works to the Royal Pavilion Garden within the project cost plan.
- 2.5 That Committee notes the Garden restoration proposals include the reinstatement of the boundary railing but that 24 hour public access to the Garden will be maintained as described in paragraph 3.3 and further discussions to agree a strategy for addressing anti-social behaviour in the city centre as described in paragraph 3.4.

### **3. Context and background information**

- 3.1 The Memorandum of Understanding signed by the council, RPMT and BDFL on 18 August 2014 proposes to redevelop and improve the Royal Pavilion Estate as a world class cultural and heritage site by integrating the Royal Pavilion, Brighton Dome, Brighton Museum & Art Gallery, Corn Exchange and Studio Theatre with their historic setting, improving the world class centrepiece of Brighton & Hove's cultural quarter. The capital works will seek not only to improve the Royal Pavilion Estate, but also restore some of the connectivity between Brighton Dome, the Brighton Museum & Art Gallery and the Royal Pavilion, which will enable further co-working in the future on the delivery of cultural events and celebration of the parties' unique heritage.
- 3.2 The phased capital improvement works aim to significantly enhance the quality of the Estate's visitor offer and the heritage in its care, delivering a legacy of sustainability and resilience, which will safeguard the future of the council's freehold properties. Following the Phase 1 works to restore Brighton Dome's Corn Exchange and Studio Theatre, the buildings reopened to the public in May 2023.
- 3.3 Historic England placed the Garden on its Heritage At Risk Register in 2017 and since this time a programme to protect and maintain the Garden and its infrastructure has been in development. The planned works to the Garden follow the recommendations of the Conservation Plan and Management & Maintenance Plan that have been updated as part of the preparation of the NLHF Round 2 bid. The works will address the issues that have led to the inclusion of the Garden on the Heritage at Risk Register. The principal proposed design elements include improved footpaths and infrastructure, new education space, Changing Places accessible toilet and refurbished public toilets, reinstatement of historic boundary railings, and planting plan. Following discussions between the council and RPMT it has been agreed that 24 hour public access to the Garden will be maintained.
- 3.4 To protect the dual function of a royal palace regency garden and a public park, the council, RPMT and other city centre stakeholders will continue

discussions to agree a strategy that seeks to address the serious criminal and anti-social behaviours that takes place in the Garden within a wider city centre approach. This might include a series of measures including joint working with the police, increased security, improved lighting and design and expanded CCTV coverage to minimise maintenance and operational costs. The strategy will be key for NLHF to demonstrate that should it award the grant funding its considerable investment will be safeguarded and that the Garden will be maintained in the future.

3.5 The aim of the project is to ensure the Garden is a safe, people-focused environment where:

- People of all ages can engage and learn about the importance of gardens and green spaces in urban areas through new interpretation bridging the past with the present;
- People can learn about how the garden provides habitats for a variety of species and the importance of enhancing and protecting biodiversity;
- An exemplar is set for how citizens come together to form a community board and to care for their heritage through volunteering to undertake tasks ranging from gardening, to upkeep of basic infrastructure, to greeting visitors and telling stories of the Estate and the city;
- Access to the Garden is maintained at all times.

#### Previous Committee Approvals

3.6 In November 2017, Policy, Resources & Growth Committee agreed that an initial NLHF bid for development funds be submitted for Phase 2 works to the Royal Pavilion Estate. Committee also agreed that should this bid for development funds be successful, a Round 2 bid would then be prepared and submitted to NLHF. Committee also agreed capital funding of £1.00m to support Phase 2 works that would be equally split between the Royal Pavilion Garden and the Royal Pavilion.

3.7 In October 2019, Policy & Resources Committee agreed that £0.500m allocated for the Royal Pavilion be reallocated to Brighton Museum & Art Gallery (BMAG) due to the poor condition of the roof and the urgent need to replace it. The council retains the Royal Pavilion Garden allocation of the remaining £0.500m. Historic England placed the Grade II listed Garden on the Heritage at Risk Register, which resulted in the Phase 2 Garden works being prioritised for the NLHF funding application. The bid for development funds was successful and NLHF awarded funding of up to £214,400 to prepare the Round 2 bid for the Garden, which is now being completed for submission by 17<sup>th</sup> August 2023 and is the subject of this report.

#### Public Toilets

3.8 To support both the restoration of the Garden and improved public access, Policy & Resources Committee in March 2023 agreed to lease the Prince's Place toilet block and land to the RPMT. Delegated authority was given to the Executive Director for Economy Environment and Culture to agree the terms of the lease, including any financial contribution to reorientate the

toilet block, following consultation with group leaders. The proposal is that the toilet block is refurbished to provide a fully accessible Changing Places toilet and it is redesigned to face into the Garden. The council has allocated capital funding of up to £0.250m for cubicles for public use that will be operated and managed by RPMT. This approach would be included in the NLHF round 2 bid and would provide a long-term solution for public toilet provision in this location. RPMT have allocated £180K within the bid to NLHF towards the cost of the Changing Places Toilet and attached Garden Store and kiosk.

- 3.9 The public toilets in the Garden are currently closed as they have been the focus of serious anti-social behaviour, criminal activity and repeated vandalism. There is now the opportunity to replace the toilets with a 'secure by design' building to provide a safer environment for visitors. A Changing Places toilet is already part of the works to the Garden using NHLF (subject to a successful bid and a business case). Combining facilities is cost effective for the council and RPMT.
- 3.10 Officers have been considering options to provide safe and modern public access toilets in this area of the city. Stakeholders have been engaged with, including BDFL, who have agreed to offer the Corn Exchange and Dome Foyer toilets as options for the public when they are open. There are publicly accessible toilets at Jubilee Library, which is within two hundred metres of the Garden. We recognise that these do not provide easy access for everyone currently using the Royal Pavilion Garden and we are considering how to bridge that gap while this NLHF Round 2 bid is being considered.
- 3.11 The NLHF Round 2 bid sets out the project costs, associated funding and a comprehensive risk register. The costs include contingency of 10% and an allocation to engage a Clerk of Works to monitor the site works on behalf of the council.
- 3.12 Should the NLHF Round 2 bid be successful and subject to gaining planning permission, the project will be reviewed to ensure costs remain current and the works are considered to be achievable within the funding envelope. Other requirements at this stage will include an updated and acceptable Risk Register, agreed Change Control procedures and confirmation of governance arrangements and structure chart. The project will be required to pass through this gateway process before proceeding to procurement of a Main Contractor to deliver the works on site.
- 3.13 A robust procurement process will be carried out in accordance with the Council's Contract Standing Orders and the Public Contracts Regulations 2015 to achieve a fixed price contract. Following return of tenders, costs will again be scrutinised to ensure that the fixed price contract for the works can be delivered within the available funding to ensure mitigation of cost risk before letting the contract and starting works on site. At this gateway, contingency of 10% will be confirmed to ensure any discoveries on site or unforeseen works can be covered within the funding envelope.

- 3.14 If the NLHF Round 2 bid is successful, then cost and risk reviews are satisfactory and gateway approval is achieved, the works are anticipated to start on site in early 2025.
- 3.15 Discussions will continue about the siting of proposed statues in parallel with the NLHF bid. The proposed statues provide important social context for the Royal Pavilion and its Gardens and would also create an important opportunity for increased community engagement. The statue sponsors can explore potential funding opportunities including through future NLHF bids for production and all potential sites for installation.

#### **4. Risks, Analysis and consideration of alternative options**

- 4.1 The successful NLHF initial bid released funding to develop the Round 2 bid. This bid is now almost complete and will be submitted before the NLHF 17<sup>th</sup> August 2023 deadline. NLHF funding for the Garden was sought to underpin the funding strategy to address the At Risk status of the Garden with the aim of having it removed from the Historic England At Risk register. The proposed works will restore and protect the Regency Garden, improve the environment, facilities and public safety, provide a Changes Places toilet combined with public toilets and ensure its sustainable future within the overall vision for the Royal Pavilion Estate.
- 4.2 In taking forward this project to restore the Garden, the council as freeholder will be liable for procuring a Main Contractor to deliver the works on a fixed price contract. There is the risk of increased costs due to such issues as project delays, construction inflation and discoveries on site during the works. The council as contracting authority would be liable for these costs and to mitigate these risks a realistic programme will be confirmed and reviewed prior to tendering the works, the design will be kept under review through the preparation of the tender information and the included contingency of 10% will be confirmed before procuring and appointing a Main Contractor. The project Quantity Surveyor will also be the Contract Administrator enabling a strong link between project costs and management of the contract. The project budget includes an allocation to employ a Clerk of Works who will monitor works taking place on site on behalf of the council.
- 4.3 The costs of the Phase 1 works to the Corn Exchange increased significantly following the council's Main Contractor going into administration in July 2019 and the following pandemic. In terms of liabilities, the Garden carries considerably less risk due to the relatively simpler nature and lower costs of the plans. There are limited mechanical and electrical installations, and no significant structural works to historic buildings, such as were necessary with the restoration of the Corn Exchange. This reduces the risk of large cost overruns on what will be a fixed price contract. Should the Main Contractor go into administration, the recovery process would be more straight forward, with a new fixed price contract being procured.
- 4.4 The project funding profile includes RPMT following a fundraising strategy with a target of £0.870m. This is considered to be an achievable total but should it not be reached, the council will expect RPMT to provide alternative

sources of funding or a revised scope of works. Any changes to the original plans will require discussions to be led by RPMT with the council and NLHF.

- 4.5 RPMT hold a lease for the Garden, BMAG and the Royal Pavilion from the council, with 22 years remaining. The lease for the toilet block would run concurrently and operation for the Changing Places and public access toilets would be managed by the RPMT. RPMT has a vested interest in maintaining the toilets to a high standard to support the wider investment in the Garden and as a visitor destination and this arrangement will be included in the lease.
- 4.6 Officers will explore bringing forward the refurbishment of the toilets including the Changes Places toilet to achieve reopening as soon as possible. Current estimates for design and procurement suggest that the toilets could be brought back into use by early 2025 and before the main project works to the Garden start in late 2025, subject to a successful NLHF bid.
- 4.7 There are currently no known alternative sources of funding to carry out the full scope of the works required to address the issues that have led to the Garden being placed on the Heritage At Risk Register. If the NLHF bid is not submitted or if it is unsuccessful, it is possible that the Royal Pavilion Garden will lose its listed status, which could jeopardise wider Estate improvements and may result in reduced visitor numbers.

## **5. Community engagement and consultation**

- 5.1 The initial unsuccessful NLHF submission for the whole Estate was informed by a series of consultation and engagement sessions, which included workshops, presentations and surveys undertaken with a variety of stakeholders. In relation to the Garden, a number of stakeholder workshops, including one solely for young people was held along with public consultation in the Garden and an exhibition in Jubilee Library along with an online survey on the council's consultation portal.
- 5.2 An online survey completed in 2018 informed the NLHF bid for development funds. It was completed by 1,363 Brighton and Hove residents who were regular visitors to the Garden, or using it as a cut through, or to sit and relax. Those who responded were visiting the buildings in it, or using the Garden as a place to meet friends and to use the café.
- 5.3 Preparation of the Activity Plan for the NLHF Round 2 application included public consultation in summer 2022 consisting of; on-line surveys; individual interviews with identified stakeholders; two focus groups with local adult residents; one focus group with young people aged 17 to 24 years old with special educational needs; five focus groups and follow up phone calls with 21 individuals working with young people, low income families and adults supporting people with disabilities or ill health and in community support organisations in Brighton and Hove; and focus groups with primary and secondary school teachers.

- 5.4 A Community Day was held in the Garden on 26th October 2022 to feed back the initial ideas for the Activity Plan, interpretation and capital works gathered during the summer consultation. The plans were presented on pop up panels and through conversations and activities. The event lasted four hours and all community and education consultees were invited to the well-attended event.

## **6. Conclusion**

- 6.1 Submitting a NLHF Round 2 bid for the proposed works to the Garden will be an important step in achieving the vision for the Royal Pavilion Estate. If successful, this will continue and build on the achievements of the Phase 1 works and is anticipated to lead to the removal of the Garden from the Heritage At Risk Register. The council's previously confirmed financial support for the project demonstrates its commitment to the project and greatly increases the likelihood of NLHF funding the project, which would result in considerable funds leveraged into the city for the proposed environmental improvements.
- 6.2 The council's project funding also underpins the fundraising strategy for trusts and individuals as it demonstrates commitment to addressing the issues raised by the Conservation and Maintenance and Management Plans that are shaping the scheme design.
- 6.3 Should the NHLF bid be successful, it offers a long term solution to provide a Changing Places toilet to increase accessibility and public toilets to replace the currently closed toilets in the Garden.
- 6.4 Doing nothing can be expected to have serious implications for the future condition of the Garden and people's enjoyment of the green space, as well as jeopardising the Garden's listed status.
- 6.5 Supporting the prepared NLHF Round 2 application will be the next step in achieving the overall vision for the Royal Pavilion Estate, which is an asset of national significance. As the overall project involves phased works, successfully delivering the Gardens project will pave the way for discussions on phase 3 works to the Royal Pavilion buildings.

## **7. Financial implications**

- 7.1 The council has ringfenced a sum of £0.500m capital funds as match funding toward the Phase 2 works for the Royal Pavilion Estate Garden. The Round 2 bid to the National Lottery Heritage Fund (NLHF) is currently being completed and will be submitted by August 2023. A detailed cost plan to ensure financial viability will then be undertaken before proceeding to procure and appoint a main contractor to carry out the restoration works to the Royal Pavilion Garden
- 7.2 A successful NLHF Round 1 bid released NLHF funding of £0.214m to develop the Round 2 bid and this has been incorporated into the Council's Capital Investment Programme and is currently underway.

- 7.3 The proposed capital funding of up to £0.250m for cubicles for public use from capital funds set aside by Budget Council for toilet refurbishment is available for this project.

Name of finance officer consulted: Rob Allen Date consulted 07/06/23:

## **8. Legal implications**

- 8.1 The Royal Pavilion Garden is leased to the Royal Pavilion & Museums Trust. To facilitate the works to the Garden the Trust will enter into a building lease with the Council to enable the Council's contractor to carry out the works. The works contract will need to be procured in accordance with the Council's Contract Standing Orders and the Public Contracts Regulations 2015.

Name of lawyer consulted: Alice Rowland Date consulted: 7/6/23

## **9. Equalities implications**

- 9.1 The proposed works to the Royal Pavilion Garden will improve facilities and safety to promote increased access. The application to NLHF includes providing a Changing Places toilet that enables access for people with disabilities and therefore removes barriers to use of the Garden. Increasing access for vulnerable communities meets both NLHF's funding criteria and importantly provides a much-needed city centre facility. There will be no financial charge for the Changing Places toilet, which will be accessed through the RADAR Key scheme. This Changing Places toilet will complement the network that is currently in development across the city. Providing facilities at this site would contribute to making Brighton & Hove more accessible, aligned with the Accessible City strategy.
- 9.2 The improved educational space and the Activity Plan provided within the project will further increase access for schools and marginalised groups to the Royal Pavilion Estate activities. Plans include creating a Community Forum that will be a local community advisory group working with RPMT to make suggestions about future management and activities. The Forum will have a Terms of Reference and will include representatives of the target audiences for the project.

## **10. Sustainability implications**

- 10.1 The proposed capital works will restore the Regency Garden and secure its sustainable future by delivering against the Conservation Plan and a costed Management and Maintenance Plan. This aims to achieve the principal project outcome of removing the Garden from the At Risk Register. This will promote healthy, safe and secure environments, and protect and enhance local habitats.
- 10.2 The principal risks to the Garden include the continued deterioration of the fabric and quality and the loss of the Garden's listed status. This would



contribute to reduced future resilience and impact use and enjoyment of the Garden by residents and visitors.

## **11. Other Implications**

### **Social Value and procurement implications**

- 11.1 Tenders for associated capital works will follow the Council's procurement requirements.

### **Crime & disorder implications:**

- 11.2 The Garden experiences considerable levels of antisocial behaviour with a number of serious incidents occurring in the recent past. The proposed approach of agreeing a strategy outlined in paragraph 3.4 would reduce the likelihood of anti-social behaviour in the Garden, promote safety and protect the heritage.

### **Public health implications:**

- 11.3 Protecting the Garden and improving public safety will contribute to better environmental conditions that have a beneficial effect on people's enjoyment of the green space. Providing a Changing Places toilet facility and retaining public access toilets in a city centre location will also contribute to health and wellbeing outcomes (including health life expectancy) and help deliver the aims of our Health and Wellbeing Strategy, including: using green & open spaces to improve wellbeing; being an age friendly city; considering the needs of our ageing population in the design of the physical environment; and reducing social isolation and loneliness.

