

28 September 2020**Agenda Item: 7****REPORT OF SERVICE DIRECTOR FOR PLACE AND COMMUNITIES****COVID-19 CULTURAL SERVICE CONTRACT VARIATION EXTENSIONS****Purpose of the Report**

1. To seek approval for the extension of the COVID-19 Cultural Service Contract Variations agreed with two country park partners.

Information

2. Some information relating to this report is not for publication by virtue of Schedule 12A of the Local Government Act 1972, paragraph 5, due to the confidentiality of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. Having regard to all the circumstances, on balance the public interest in disclosing the information does not outweigh the reason for exemption because the information would add a limited amount to public understanding of the issues but would significantly damage the Council's legal position. The exempt information is set out in the **Exempt Appendix**.
3. On 18 March 2020, Policy Committee approved the closure of premises at all country parks falling under the Council's responsibility due to the COVID-19 Crisis. This was followed on 23 March by a nation-wide instituted 'lockdown' by the Government.
4. Two of the Council's country parks are operated under concession style contracts:
 - a. Rufford Abbey Country Park (RACP)– managed by Parkwood Leisure Ltd.
 - b. Holme Pierrepont Country Park (HPCP) and the National Water Sports Centre (NWSC)– managed by the Holme Pierrepont Leisure Trust (HPLT) who in turn appoint Serco Leisure Ltd. as their managing agent.
5. Under these contractual arrangements, the Council makes a small 'management fee' payment to each partner. The bulk of each partner's revenue is generated from the site's commercial operations such as sales and activities. Thus, each operator is heavily reliant on income from site operations to maintain cashflow, rather than from large scale direct contract payments from the County Council for the services provided.
6. During and subsequent to the lockdown, both partners saw their income from the site drop to near zero, whilst costs remained for operating the site. As such, they both approached the Council to request financial support. This was negotiated by the Council in alignment with Government Guidance in *Procurement Policy Note 02/20 – Supplier Relief due to COVID-19*

and approved by Policy Committee on June 17¹. As a result, two separate contract variations outlining the new COVID-19 period payment mechanisms were signed with HPLT in June 2020 and Parkwood in July 2020. Both contract variations covered the COVID-19 period up to the end of September 2020 and include a possibility to extend the variations to a long-stop extension date of the end of December 2020.

7. In June 2020, the Government published *Procurement Policy Note 04/20 – Recovery and Transition from COVID-19*. This asked contracting authorities to:
 - a. Review their contract portfolio and continue measures in line with PPN 02/20 if appropriate to maintain delivery of critical services.
 - b. Work in partnership with their suppliers to develop transition plans to exit from any relief as soon as reasonably possible.

The policy note also states that contracting authorities operating concession contracts should work with suppliers to identify commercial solutions that are specific and appropriate to the contract.

8. The contract variations were drafted under the terms of PPN 02/20, and extending both contract variations is in line with PPN 04/20 since it is “appropriate to maintain delivery of critical services”. The contracts are almost totally reliant on commercial activities for their income. For instance, the Council’s monthly management fee to Parkwood made up just 5% of total revenue for the site in 2019.
9. It should be noted that the COVID-19 period has highlighted the great importance of green spaces and outdoor activities for the wellbeing and mental health of residents, demonstrating the critical importance of these sites to Nottinghamshire residents.

Parkwood Leisure Financial Support

10. Rufford Abbey was contracted out from the Council in 2017 to Parkwood Leisure. Prior to this the Council was operating the site with an annual budget of £615k. The revenue budget in a normal year now stands at £167k. The usual revenue budget saving through the contract is ~£448k pa.
11. The contract variation agreed with Parkwood Leisure Ltd up to September 2020 involved a monthly payment of £51,958. This was based on Parkwood’s own financial modelling at the start of the lockdown regarding expected monthly losses during full closure. At the end of each three month period, a reconciliation payment is then made by either the Authority or Parkwood to the other depending on whether authority payments have exceeded or fallen short of actual losses.
12. At the end of each month, Parkwood has sent through their monthly accounts on an open book basis to enable the Authority to scrutinise incurred costs. These costs have been scrutinised by the service in conjunction with finance colleagues to audit the monthly/quarterly numbers.

¹ NCC Policy Committee Report, *COVID-19 Cultural Service Contract Variations*, 17 June 2020

- a. At the end of the first three month period in May, a reconciliation payment of £32,521 was made to the Authority by Parkwood as actual losses had fallen short of Authority payments by this amount.
- b. At the end of the second three-month period in August, the site actually made a very slight surplus overall of £2,274, meaning the Council will recoup its entire payments for these months plus this surplus to further offset the payments made for the first three-month period.

13. Actual losses at RACP have been less than initially forecasted primarily due to:

- a. Furlough payments and accrual from March offsetting staff costs and the costs of repairs and sale stock write-off being less than expected;
- b. Facilities at the country park have been gradually reopening with income increasing as a result.
- c. The un-furloughing of staff to resume operations has been undertaken in regular consultation with Council officers to ensure value for money.

The site has been very popular with the public since reopening. In fact, visitor numbers from June to August 2020 were actually 50% higher than the same period in 2019. However, increased numbers is unfortunately not resulting in increased revenue with total revenue for June to August 2020 down by 28% on 2019 levels and average per capita income down by £4.79.

Thus, although a surplus of £2,274 was made during these crucial summer months, this was nearly 13 times less than the surplus for these months in 2019. As this surplus normally supports the park through the loss making winter months this has left Parkwood facing a significant deficit position for the rest of 2020.

Rufford Abbey Country Park					
		June	July	August	Total
2019	Visitor Numbers	18,963	24,066	43,742	86,771
	Revenue	£172,834	£214,876	£337,832	£725,542
	Per Capita Income	£9.11	£8.93	£7.72	£8.59
2020	Visitor Numbers	31,738	44,270	54,215	130,223
	Revenue	£85,226	£162,837	£272,267	£520,330
	Per Capita Income	£2.69	£3.68	£5.02	£3.80

14. Parkwood have forecast a loss of ~£104k for the remaining three months of the year. This is because:

- a. A drop in income:
 - i. As an outdoor attraction, income is often weather-dependent with the summer months usually generating a surplus which offsets winter losses;
 - ii. Main school holidays have finished and visitor numbers will go down;
 - iii. A number of weddings and events have been cancelled. These usually help offset winter losses;
 - iv. Safety measures like social distancing means the commercial potential from the site's activity, catering and retail offer is not as lucrative as pre-COVID-19 times.

- b. An increase in costs:
 - i. The furlough scheme has changed from August and is due to end on October 31; the site will have to bear full staff costs for November and December.

As such, in line with PPN 04/20, Parkwood are implementing various commercial cost-saving measures.

- 15. The contract variation requires extending to the end of December 2020 as further financial support is required if the park is to remain financially viable and open to the public whose demand for its services has increased.
- 16. However given that the park has performed better than expected so far despite the ongoing Covid 19 crisis, it is proposed to reduce the monthly payments made to Parkwood from £51,958 to £34,667 in line with the new forecasted losses. Besides this, the contract variation will operate as before with any reconciliation payment to the Authority or Parkwood made at the end of December.

Holme Pierrepont Leisure Trust Financial Support

- 17. Holme Pierrepont was contracted out from the Council in 2013 to HPLT. When the Council was operating the site it had an annual budget of £895k which has since reduced to £240k. The annual budget saving from the contract in a normal year is currently ~£654k pa.
- 18. The contract variation agreed with HPLT involved the making of monthly payments totalling £722,361 between April and September 2020 to cover the site's expected losses. Like Parkwood, this was based on financial modelling at the start of the COVID-19 Lockdown.
- 19. As with the Parkwood contract variation, actual costs for this contract have been examined every three months with the Trust sharing its accounts on an open book basis and scrutinization of these figures taking place in collaboration with finance colleagues. Furthermore, the Trust has been in regular consultation with the Council around the reopening of facilities and un-furloughing of staff. HPLT and Serco have also sought to mitigate costs and increase revenue wherever possible.
- 20. Although costs fell slightly short of the financial support provided by the Council for the first few months of the variation period, the easing of lockdown measures and relaxing of restrictions has resulted in costs coming in higher than initially anticipated. It is expected that total losses will amount to £769,637 for the initial variation period ending in September, requiring a further reconciliation payment of £47,276 from the Council to the Trust under the terms of the variation.
- 21. The reasons for the unexpected high costs are as follows:
 - a. The financial modelling was conducted on the basis that the site would remain closed throughout the variation period.
 - b. Increased costs have come particularly from returning staff (60% of whom are 'active' again) required to reopen facilities.
 - c. Agency staff who had to be hired for extra on-site security during the summer as large numbers of young people congregated on the site resulting in an increase in anti social behaviour as experienced in many areas of the UK.

- d. Income from important revenue streams has much reduced. For instance, paid gym memberships have reduced by roughly 400 people since the COVID-19 crisis began and a number of activities are now operating at reduced capacity (e.g. the Skytrail) or not at all (e.g. commercial white water rafting) due to social distancing measures.
22. Between June and August 2020, the site saw revenue drop to just 11% of 2019 levels. This was in large part due to the cancellation of all events and a significant reduction in both activity (either because they were closed or reopened at limited capacity) and accommodation revenue (only the campsite has reopened to the public with the hotel remaining closed).
23. However, the site's green space has been in significant demand with country park visits increasing by 124% on 2019 levels. Indeed, the real country park visit figure is likely to be much higher since it is only possible to count visitors who arrive by car with walk-in visitors being uncounted.

Visitor Numbers (Jun-Aug)	2019	2020	2019 vs. 2020	%Change
Country Park	5,351	11,977	+6,626	124%↑
Events	29,700	0	-29,700	100%↓
Activities & Accommodation	62,958	11,384	-51,574	82%↓
Total	98,009	23,361	-74,648	76%↓

24. However, the country park is not a significant driver of revenue, meaning these visits do little to offset costs, hence the £6.70 fall in per capita income.

Holme Pierrepont Country Park & National Water Sports Centre					
		June	July	August	Total
2019	Visitor Numbers	27,617	38,780	31,612	98,009
	Revenue	£349,509	£543,536	£476,962	£1,370,007
	Per Capita Income	£12.66	£14.02	£15.08	£13.92
2020	Visitor Numbers	3,568	6,033	13,760	23,361
	Revenue	£27,886	£50,444	£75,656	£153,986
	Per Capita Income	£7.82	£8.36	£5.50	£7.22

25. The site is taking measures to cut costs by making efficiencies in its operational systems where possible. It is also looking to increase revenue streams through marketing drives and membership acquisition campaigns. The site is also working with its partners at British Canoeing and British Rowing to bring in sports camps for the final period of 2020 – though these are dependent on further relaxations in government guidance around mass gatherings.
26. Moreover, a benefit of the Trust's links with Serco Group is that it has been possible to redeploy a number of site staff to the Nottingham COVID-19 Test Centre. This not only provides work for otherwise furloughed staff but also enables the site to reduce its own costs.
27. The contract variation requires extending to the long-stop date of the end of December 2020 since further financial support is required. This is because the Trust forecasts the site will continue to operate at a loss of £379,000 for the remaining three months of 2020. It is proposed that monthly payments are set in order to cover this expected loss for the three-month period.

28. Recovery for the site is still a number of months away (depending on any unexpected worsening or sudden improvements in the global COVID-19 situation). Going into 2021, the Trust forecasts predicted losses of £479,000 for the year, and projects casual income from activities as well as catering income will both reduce by 20%.

Other Options Considered

29. The Council could choose not to extend the contract variations beyond 30 September 2020. If this was to be done, there are two possible negative outcomes:

- a. One or both partners could pursue legal measures against the Council under the provisions of the contract. Even if this action was unsuccessful it would incur legal costs, and damage the long term relationship with the partners.
- b. One or both partners choose to terminate their contracts early, leaving the Council to pick up running of the sites once more. Given the significant financial cost incurred by the Council when running the sites itself, and the difficulties going out for procurement again in the current financial environment, this would significantly increase the Council's costs.

30. The sites could simply be closed to minimise costs, but that would hinder the long-term economic recovery from the pandemic, whilst impacting on the health and wellbeing of residents and visitors who could no longer use the facilities.

Reason/s for Recommendation/s

31. The June Policy Committee Report stated that the Finance and Major Contracts Management Committee would be required to approve any potential extensions to the contract variations before the end of September 2020

Statutory and Policy Implications

32. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

33. At Parkwood, monthly payments of £33,667 would be made for the remaining three months of 2020. Actual losses would then be examined at the end of December 2020.

34. At Holme Pierrepont, the Trust's financial modelling forecasts further total losses of ~£379,000 for October to December 2020. This figure would form the basis for the variation payment mechanism for the remaining three months of 2020.

35. For both contracts the Council needs to begin assessing whether it is willing to continue providing financial support into 2021 to mitigate COVID-19-related losses given that it is virtually certain that the sites will continue to be lossmaking (as they usually are) through the

winter months. A further assessment of state aid regulations would be required ahead of this in relation to HPLT.

RECOMMENDATION/S

- 1) That the COVID-19 contract variations and related payment mechanisms with both Parkwood Leisure Ltd. and Holme Pierrepont Leisure Trust are extended to the long-stop date of 31 December 2020.
- 2) That officers continue to closely monitor the two contracts to ensure they continue to be fit for purpose in the medium to long-term, and where appropriate seek to identify other options which could be considered for the sites.

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Constitutional Comments (EP 04/09/2020)

36. The recommendation falls within the remit of the Finance and Major Contracts Management Committee by virtue of its terms of reference and by virtue of the decision made by Policy Committee on the 17th June 2020².

Financial Comments (RWK 17/09/2020)

37. The report sets out financial details for the operation of Rufford Country Park and Holme Pierrepont for the period March 2020 to August 2020. The Council has been making additional payments of £51,958 per month to Parkwood in respect of Rufford Country Park. For the period to the end of May Parkwood have reported losses less than the amount advanced and have made a repayment of £32,521. For the 3 month period to the end of August Parkwood have reported a surplus of £2,274 so a repayment of £158,148 is due.
38. The Council has made additional payments of £722,361 to HPLT in respect of Holme Pierrepont Country Park. For the period to the end of September HPLT have forecast total losses of £769,637 meaning a further payment of £47,276 is proposed for this period.
39. The report proposes additional contact payments of £104,000 (£34,667 per month) for the operation of Rufford Country Park to the end of December 2020 and £379,000 for the operation of Holme Pierrepont Country Park to the end of December 2020. The proposed additional payments total £483,000.
40. There is no existing budget provision to meet these additional contract payments. The additional costs will be included in the estimated additional costs reported to Policy Committee and to the MHCLG and will be considered for financing from the additional funding provided

² NCC Policy Committee Report, *COVID-19 Cultural Service Contract Variations*, 17 June 2020

by Government. Work is on-going to assess the financial impact of the COVID-19 crisis on the Council's 2020/21 budgetary position and its MTFS.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All