

30 November 2020**Agenda Item: 8**

REPORT OF SERVICE DIRECTOR FOR PLACE AND COMMUNITIES

COVID-19 CULTURAL SERVICE CONTRACT VARIATIONS

Purpose of the Report

1. To seek approval for the variation of contracts with two country park partners for the period January-March 2021.

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 Some information relating to this report is not for publication by virtue of Schedule 12A of the Local Government Act 1972, paragraph 5, due to the confidentiality of information in respect of which a claim to legal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**.

Background

3. The County Council provides four Country Parks in partnership with third parties at Sherwood Forest, Bestwood, Rufford Abbey and Holme Pierrepont, alongside an extensive range of other green spaces managed in house by the Council or through other partnership arrangements.
4. The COVID-19 period has highlighted the great importance of outdoor activities for the physical wellbeing and mental health of people in general, and has demonstrated the critical importance of these green spaces and Country Park sites to Nottinghamshire residents.
5. The contracting models vary across the four Country Parks although two sites, Rufford Abbey and Holme Pierrepont rely heavily on income generation to maintain the financial sustainability of their operations, and have therefore been impacted severely by the pandemic and the constraints this has placed on the service offer during summer 2020.
6. Although visitor numbers at both Rufford and Holme Pierrepont Country Park (HPCP) have increased significantly in 2020 against 2019 with 50% more visits at Rufford and more than a doubling of recorded visits to the green spaces at HPCP (which has helped income generation somewhat due to increased car park revenue), the wider loss of income from reduced catering and retail offers at both sites, cancellation of weddings at Rufford, and

particularly at HPCP through the inability to operate facilities such as the white water course, host specific events and camps, and reopen the hotel accommodation has reduced other income to marginal levels.

Proposed Contract Variations

7. The contract variations proposed below therefore apply specifically to these two country parks:
 - 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 appointed Serco Leisure Ltd. as their managing agent.
8. Both parks are operated under concession-style contracts, meaning the Council pays a small 'management fee' to each partner, with most of their remaining revenue generated commercially from sales and other on-site activities. Operator cashflow therefore relies heavily upon site income, rather than large-scale direct contract payments from the Council itself.
9. During the Coronavirus pandemic, income from each site has fallen substantially, whilst operating costs for partners have continued to be incurred despite efforts to minimise those through the application of other funding streams such as furlough, redeployment of staff elsewhere, and reductions in business rates. Accordingly, both Parkwood and HPLT approached the Council requesting financial support.
10. Contract variations were negotiated, and later extended, in line with Government Guidance on *Supplier Relief and Recovery and Transition*, as expressed in *Procurement Policy Notes (PPN) 02/20* and *04/20*. The principles of these documents continue to be valid in respect of these Country Park contracts which rely heavily on summer income to sustain the service through the winter, and PPN 04/20 specifically recognises that some contracts may require ongoing support for the duration of the pandemic.
11. The first contract variations covered losses sustained between the start of Lockdown in late March 2020, and September 2020, and were approved by Policy Committee on 17 June. A three-month extension to the variations was then agreed at Finance and Major Contracts Committee on 28 September.
12. These extended arrangements are effective from 01 October 2020 and are due to end on 31 December 2020, when the Council will reconcile any surpluses or losses exceeding the agreed relief payments. Details of the payment mechanisms for each previous contract variation and extension are summarised below.
13. This report proposes further variations to both contracts on terms largely mirroring the previous arrangements. However, the previous variations were time limited to a 'long-stop' date of 31 December 2020 whereas the proposed further variations will be extended until March 31st 2021.
14. The terms of the proposed variations have been drafted considering the Council's open book accounting scrutiny of partner finances— which began at the point of commencement of the

first COVID-19 contract variations— as well as its assessment of the latest financial projections provided by the partners themselves. This ongoing analysis will ensure that any future payments reflect value for money for the Authority and Nottinghamshire residents.

15. Furthermore, to help ensure their continued viability, both partners have sought actively to minimise and offset their costs, limiting the financial burden on the Council and, where necessary, reducing their offer to visitors in line with government safety guidance.
16. The Council continues to work with the contractors to develop minimum operating models for the sites to ensure their financial sustainability in both the short, medium and long term and it is proposed that a report is presented to Committee in spring 2021 to outline these arrangements.
17. As mentioned above, the importance of green spaces to residents and members of the public during the pandemic has been a key consideration in determining previous contractual variations with Parkwood and HPLT. The proposed new variations have also taken into account the recent implementation of a second national Lockdown, which again restricts the meeting of individuals from different households to public outdoor venues, including country parks.

Parkwood Leisure Financial Support

18. 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 (net of income). The revenue budget in a 'normal' year now stands at £167k to cover the fees paid to Parkwood. The usual revenue budget saving through the contract is therefore ~£448k pa.
19. The first RACP contract variation was agreed up to September 2020, and involved a monthly payment of £51,958 x 7 months = £363,706. This was based upon Parkwood's own financial modelling of expected monthly losses from the start of lockdown in March 2020. Every three months, a reconciliation of actual costs and income was undertaken and balancing payments made.
20. At the end of each month, Parkwood submitted their monthly accounts on an open book basis, and their incurred costs were scrutinised by Cultural Services and the finance business partner.
21. In the period March to September the site made an overall loss of £135,773, meaning a repayment to NCC of £227,933. The County Council has already been credited £163,658 with a further £64,275 to be repaid by the end of December.
22. The site did make a surplus of £27,011 in August; this was attributable, at least in part, to the June, July and August visitor numbers being 50% higher than in 2019, reflecting an increased demand for green spaces.
23. In 'normal' years, summer surpluses support the park through the winter months, where losses are usually incurred. The August 2020 surplus, whilst positive, was significantly less than the same period in 2019, meaning funds carried over into winter this year are minimal.

24. In view of the sites financial performance up to September, and a significant projected winter deficit, the contract variation was extended to cover the months October-December 2020. Actual losses from the first variation period were lower than initially forecast, and, as agreed by Committee on 28 September, the value of the monthly payments for this extended variation was reduced from £51,958 to £34,667, covering Parkwood's forecast losses of ~£104,000 for the quarter.
25. For January-March 2021, Parkwood have forecast losses of £134,811 – this is compared to £91,115 for the same period in 2019. Due to the potential cumulative strain of COVID-19 restrictions, combined with other seasonal operating and financial constraints, it is proposed that the Council covers the sites predicted losses for January-March 2021, split into monthly payments of £44,937. This contract variation will operate as before, with any reconciliation payments made to the Authority or Parkwood at the end of March 2021.
26. This projection is based on the usual seasonal factors (inclement weather and customers' reduced capacity to spend after Christmas, affecting visitor numbers and park revenue), and the general impact of COVID-19 in reducing income from the sale of goods (including food and beverages) events and car parking. Parkwood will continue to receive their contractual monthly management fee (currently £10,295.79) alongside these additional COVID-19 payments.
27. The implementation of a second national Lockdown on 05 November will likely compound the loss of income referred to above and any subsequent restrictions after the Lockdowns end date of 02 December may potentially reduce Christmas revenue, which has, historically, offset losses sustained in other winter months. The accuracy of the figures above may be affected if government guidelines change.
28. To minimise losses and offset costs for the winter period and through the second lockdown, Parkwood have taken a series of timely actions, including:
- The postponement and cancellation of events, including weddings;
 - The renegotiation of corporate supplier contracts, where possible; and
 - Furlough and headcount reduction to assist with reduced staff costs.

Holme Pierrepont Leisure Trust (HPLT) Financial Support

29. Holme Pierrepont was contracted out from the Council in 2013 to HPLT. When the Council operated the site it had an annual budget of £895k (net of income) which has since reduced through the contracting arrangements to £240k to cover the fees paid to HPLT. The annual budget saving from the contract in a 'normal' year is currently therefore ~£654k pa.
30. The first HPLT contract variation involved making monthly payments between the end of March 2020 and September 2020 totalling £722,361. This covered costs and loss of income related to cancellation of events and a reduction in activity and accommodation revenue.
31. Quarterly open-book examination of HPLT accounts has been conducted since the beginning of the variation by the service in conjunction with the finance business partner.
32. It was reported to this Committee in September that actual losses were expected to exceed the total COVID payments made from April, but the actual losses made by HPLT for the 9

months January to September was £688,980, resulting in a repayment to NCC of £33,381. This will be reimbursed to the Council by the end of December 2020.

33. In September, an extension to the variation was agreed to cover £379,000 of losses projected for October-December 2020. Accordingly, the Council have agreed to make monthly payments of £126,333 to HPLT, with any reconciliation due at the end of December.
34. To minimise losses and offset costs throughout the pandemic, HPLT have made efficiencies in its operational systems, and, where possible, looked to increase revenue streams through marketing drives and membership acquisition campaigns. Recent HPLT cost mitigations include:
- Core staffing re-structure, as part of wider, long-term improvements to the corporate operating model;
 - Continued minimisation of opening hours for all departments across the facility, to mitigate operating costs, including utilities;
 - Reduction of staffing cover required while the demand for service is diminished;
 - Ongoing use of the national furlough scheme where appropriate;
 - Installation of an improved CCTV / Alarm system, allowing remote monitoring of the facility, resulting in a reduction of two weeks 24 hour security costs over the coming Christmas period.
35. As reported to Committee in September, HPLT had originally projected losses of £479,000 for 2021. This figure has been revised in light of subsequent actual revenue and expenditure and the assessment of the potential long-term implications of COVID-19 restrictions, which resulted in the cancellation of indoor fitness classes and elite sports camps, and the closure of outdoor activity areas, parts of the campsite and a delay to the re-opening of hotel accommodation.
36. Accordingly, the forecast shortfall for January to March 2021 is now £354,810. It is, therefore, proposed that the new variation involves monthly payments of £118,270, with any reconciliations to be made at the end of March 2021. The accuracy of the figures above may be affected if government guidelines change; for example, if full lockdown continues or if other restrictions are imposed or released.

Other Options Considered

37. The Council could choose not to vary the contracts for January-March 2021. The possible implications of this decision are:
- 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 may 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 may significantly increase the Council's costs.
38. 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

39. These recommendations accord with the principles agreed by Policy Committee (17 June 2020) for the variation of contracts to mitigate the financial effects of COVID-19 on Country Park Partners.

Statutory and Policy Implications

40. 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

41. At Parkwood, monthly payments of £44,937 would be made for the first three months of 2021, in line with Parkwood's estimated losses of £134,811. Actual losses would then be examined at the end of March 2021.

42. At Holme Pierrepont, monthly payments of £118,270 would be made for the first three months of 2021, in line with the Trust's financial modelling forecast shortfall for January to March 2021 of £354,810. Actual losses would then be examined at the end of March 2021.

Implications for Service Users

43. Ensuring these green spaces are available to residents through the winter and into 2021 is considered essential in the current situation, and approval of this report will ensure the sites remain operational over the coming months.

RECOMMENDATION/S

That Committee approves;

- 1) Further contract variations with Country Park Partners, Parkwood Leisure Ltd. and Holme Pierrepont Leisure Trust, for the period 1 January 2021 to 31 March 2021 for the reasons set out in this report, and that these be made in accordance with the principles agreed by the Policy Committee on 17 June 2020.
- 2) That the Service Director for Place and Communities be authorised to finalise terms within those parameters and to agree the completion of the necessary contract variations in consultation with the Group Manager for Legal Services and the S.151 Officer.
- 3) That officers continue to manage and monitor the two contracts closely, including developing minimum operating models for the coming winter period to minimise the financial impact on

the Council, and where appropriate seek to identify other options which could be considered for the sites to ensure their sustainability in the medium to long term and report back to Committee in due course.

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Constitutional Comments (CEH 13.11.2020)

44. The recommendations fall within the remit of the Finance and Major Contracts Management Committee under its terms of reference.

Financial Comments (RWK 12/11/20)

45. The report proposes additional contract payments of £134,811 (£44,937 per month) for the operation of Rufford Country Park and £354,810 (£118,270 per month) for the operation of Holme Pierrepont Country Park for the period 1st January 2021 to 31st March 2021. The proposed additional payments total £489,621. The actual losses incurred at both parks will be reviewed after 31st March 2021 and any excess contract payments will be recovered. The cost of any contract payments above the original annual budget allocation will be funded from the additional grant provided by the Government for costs of responding to COVID-19.

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