



Report to Policy Committee

Author/Lead Officer of Report: Tom Smith,
Director of Operational Services

Tel: 07471 332755

Report of: *Ajman Ali, Executive Director of Neighbourhoods*

Report to: *Charity Trustee Sub-Committee*

Date of Decision: *18th October 2023*

Subject: *Rose Garden Café, Graves Park*

Type of Equality Impact Assessment (EIA) undertaken	Initial <input checked="" type="checkbox"/>	Full <input type="checkbox"/>
Insert EIA reference number and attach EIA		
Has appropriate consultation/engagement taken place?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Purpose of Report:

In the Charity Sub-Committee meeting on 25 October 2022, it was agreed that there would be an appraisal of the options for the Rose Garden Café. This report sets out to:

- Present the feasibility study detailing options 1 – 5 listed below:

Approach	Design Option	Proposed works
Existing building restored	2A	Structural stabilisation of the existing building and full refurbishment
	2B	Structural stabilisation of the existing building with light touch refurbishment to café interiors only
Existing building replaced	3	Demolition of the existing building and provision of Modern Methods of Construction facility
	4	Demolition of the existing building and provision of a traditional build facility
Limited works	1	Site safely secured and café building closed
	5	Demolition of the existing building and site clearance only

- Inform the Charity Sub Committee of the issues, opportunities and risks of each of these options, including potential funding and delivery options.
- To explain why we believe a restoration approach, in partnership with stakeholders, is the option which most aligns with the charitable objectives of Graves Park, including that it is currently the only viable option able to achieve both the following:
 1. Provide a café in Graves Park
 2. Meet the initial commissioning brief objectives. Objective 1 - 'improve facilities for the city'. Objective 2 - 'maximise revenue for each facility'.
- To seek approval from the Charity Trustee Sub-Committee, for officers, in partnership with stakeholders, to pursue the restoration option and proceed with developing a restoration strategy for the Rose Garden Café.

Recommendations:

The Charity Sub-Committee is recommended to approve:

1. The proposal for Sheffield City Council, in partnership with stakeholders, to develop a strategy for the restoration of the Rose Garden Café building (options 2A and 2B), pausing work on a replacement building approach (design options 3 and 4) and a limited works approach (design options 1 and 5).
2. That the Rose Garden Café Partnership, once established, creates an action plan to develop the strategy for restoration, which will include defining the following:
 - A framework for a proportionate public consultation on the Rose Garden Café.
 - Establish funding sources to meet the structural remediation and building refurbishment works.
 - Agree a strategy for public communication.

and then proceeding to carry out the agreed consultation and implement the agreed public communication strategy in order to inform the strategy for restoration that will be brought back to the Committee in due course.

Lead Officer to complete:-		
	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed.	Finance: <i>Jonny McQuillin</i>
		Legal: <i>David Sellars and Leonie Wallace</i>
		Equalities & Consultation: <i>Louise Nunn</i>
		Climate: Consultation at a future date
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	SLB member who approved submission:	<i>Ajman Ali</i>
3	Committee Chair consulted:	<i>Ian Auckland</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Tom Smith</i>	Job Title: <i>Director of Operational Services</i>
	Date: <i>9th October 2023</i>	

1. PROPOSAL

Background

1.1 Project timeline Summary

In Spring 2022, Sheffield City Council developed a brief for the enhancement of the café provision in Graves Park under the 'Better Parks' programme. The initial Commissioning Brief and Fee Proposal set the following project objectives:

Objective 1 - 'improve facilities for the city'.

Objective 2 - 'maximise revenue for each facility'.

An initial site visit by the design team in May 2022 identified structural and safety concerns and the café was temporarily closed on the 27 July 2022. Propping of the building through significant internal and external scaffolding was installed to mitigate any risk of structural failure and the café reopened w/c 19 December 2022 with reduced seating capacity.

Please refer to the Charity Sub-Committee report dated 25 October 2022 for further project context.

1.2 Charitable Status

Graves Park Scheme – Charity Commission Reference (510841) (“the Scheme”).

As per the previous report, pursuant to the powers in the Charities Act 1993, the Charity Commission set up a Scheme from the 12th March 2009 to govern the charity known as Graves Park (510841) and replaced the former trusts of the charity.

The main object of the charity as set out in the Scheme is as follows:-

[1] “The provision and maintenance of a park and recreation ground for use by the public with the object of improving their conditions of life.”

The Council, as the charity’s Trustee, must act in accordance with the scheme.

1.3 Feasibility Study – Stage 1 Options Report

Following Charity Sub-Committee approval in October 2022, a feasibility study was commissioned with the following aims:

- To understand the condition of the existing building and level of repair and refurbishment works required.
- To understand the various options for the café building (restoration, refurbishment, replacement) providing initial costs and scope of works for each option.
- To provide options that respond to the Better Parks Brief and meet the level of service noted in the Better Parks vision statement.

Please see appendix 1 for the Stage 1 Options Report presenting the full feasibility study. The following table is an extract from the report and presents a summary of the design options and associated outline cost estimates. The cost information is based on the commissioned surveys, but it should be noted that these are feasibility stage cost estimates and as such several assumptions have been made. The restoration option has been separated into light touch and full refurbishment options (options 2A and 2B), providing further choice. The structural stabilisation works are costed at £635,000 and are included in the total cost estimate for both options 2A and 2B.

Approach	Design Option	Proposed Works	Cost Estimate
Existing building restored	2A	Structural stabilisation of the existing building and full refurbishment	£1,790,000
	2B	Structural stabilisation of the existing building with light touch refurbishment to café interiors only	£911,000
Existing building replaced	3	Demolition of the existing building and provision of Modern Methods of Construction facility	£1,480,000
	4	Demolition of the existing building and provision of a traditional build facility	£1,560,000
Limited works	1	Site safely secured and café building closed	£95,000
	5	Demolition of the existing building and site clearance only	£137,000

1.4 Appraising Options

In addition to the information presented in the Stage 1 Options Report, the options have been appraised further to understand viability and how each of the options meet the charity objectives. Considerations include Sheffield City Council objectives, community objectives, social value, financial value, funding sources, delivery models and the potential carbon impact of the different approaches.

As outlined in the previous Charity Sub-Committee report, the intent was for a public consultation on all options to form a key part of the appraisal. However, following a viability review it became clear that some design options are currently unviable for reasons relating to the availability of funding and delivery challenges. It was concluded that consulting on all design options would mean consulting on options that we cannot either fund, deliver, or that meet the project and charity objectives.

The following sections (1.5 – 1.10) present our findings and explain why specific design options are recommended to be paused or continued as a result.

Proposal

1.5 Pause Work on Options 1 and 5

It is recommended that work is paused on the limited works approach (options 1 and 5) as the options do not;

- Support Object [1] of the Graves Park Charity Scheme (“The provision and maintenance of a park and recreation ground for use by the public with the object of improving their conditions of life.”)
- Fulfil the objectives of the initial commissioning brief aiming to ‘improve facilities for the city’ and ‘maximise revenue for each facility’.
- Fulfil the commitment to provide a café as set out by Sheffield City Council in press releases.

1.6 Funding and delivery of a Restoration or Replacement Building Approach

Possible funding and delivery routes connected to the design options have been explored. A solution could be funded and delivered by either Sheffield City Council, stakeholder groups (e.g. the Friends of Groups) or an operator, or a combination of these. The review of Sheffield City Council funding sources has concluded that existing funds cannot currently meet the full cost of any of the design options that are providing for a café (2A, 2B, 3, 4) and therefore a mixed funding model is required for these solutions.

Existing Council funds available are prudential borrowing and a contribution from the Essential Compliance and Maintenance Fund. Please see appendix 2 for further details on prudential borrowing and section 4.2.3 for the Essential Compliance and Maintenance Fund. Officers are also committed to seeking opportunities for additional funds, which could include bids for external grant funding in partnership with stakeholder groups. It should be noted that stakeholder groups, Friends of Graves Park and Save the Rose Garden Café Campaign are in support of a restoration approach. A further option available as part of a mixed funding and delivery solution is a long-term commercial development agreement with an operator. A contribution from the Local Area Committee is a further source which could partly fund a solution.

Appendix 3 provides a summary table of funding sources explored.

1.7 Pause Work on Options 3 and 4

Based on the outlined funds and delivery methods, the most viable option to cover the estimated c.£1.5 million costs for a replacement building is a solution financed through prudential borrowing and the Essential Compliance and Maintenance Fund. This would need to be implemented through a long-term commercial development agreement with an operator, with the operator committing to a base rent able to cover the borrowing. Appendix 2 provides an indication of how an agreement could work, including rent and length of agreement required to meet the estimated costs. Based on existing café leases, the extent of the agreement figures is unlikely to be appealing to an operator and it is therefore concluded that a replacement building approach as described in the Stage 1 Options Report is currently unfeasible. Given this, and the information in sections 1.8 and 1.9, it is therefore recommended that work is paused on design options 3 and 4 and we focus on a restoration approach for the Rose Garden Café.

Going forward, should it become the case that a restoration approach is no longer feasible, there may be a need for the strategy to provide a café to be reviewed. The replacement building options are currently based on a new building of equivalent size to the existing Rose Garden Café, however a building with a smaller footprint could still operate as a café and building costs could be reduced.

1.8 Stakeholder Priorities

Friends of Graves Park remain committed to supporting restoration and have requested that as per their email to Sheffield City Council dated 24 June 2023 *'the council honours its original agreement to support the Friends' funding applications and efforts to restore the building'*.

The Save the Rose Garden Café Campaign similarly supports a restoration approach only, with the offer of a *'genuine partnership approach by the Friends Group and the Save the Rose Garden Cafe Campaign to work on both identifying and raising the necessary capital to do this'* as per their email to Sheffield City Council dated 01 September 2023.

The Make the council repair, not demolish, Rose Garden Café, Graves Park' Petition started 29 July 2022 as promoted by Liz Hnat, has 10,146 signatures. (as of 26 September 2023). The petition has 530 supporter comments noting their reasons for signing. Of the 530 comments, over 40% noted that they liked the appearance of the building, including that the building is 'beautiful', 'lovely' or of 'heritage' value, with 40 comments stating the building was an 'icon', or 'landmark'. Over 17% commented a reason for signing was because of memories made at the Rose Garden Café. The supporter comments have been read and considered by Officers, who are not professional data analysts. They are included to provide an indicative insight into the petition.

As with all petitions using a single statement, the petition has its limits and cannot be considered proportionate consultation. For example, the only way that someone can disagree with the petition statement is by not signing the petition, which cannot be quantified.

Please see section 3.2 for considerations for further public consultation.

1.9 Local Listing

On 18 September 2023 the Rose Garden Café was added to the South Yorkshire Local Heritage list. An asset is considered for local listing when a member of the public nominates it, deeming it to be of local importance. The nomination is reviewed by an assessment panel who make a recommendation to the Head of Planning for approval. Local listing provides no additional planning controls but recognises the local importance of a heritage asset which Local Planning Authorities should take account of. The listing specifics note that the building has age, architectural interest, historic interest, group value and landmark status.

1.10 Partnerships Approach

We believe that adopting a partnerships approach to restoring the Rose Garden Café presents the greatest opportunity for providing a facility that best aligns with the needs of the public and the Graves Park charity objectives. A partnerships approach enables a collaboration of skills, resources and funds.

The Partnership will be governed by a Terms of Reference defined by the Partners. Ahead of recommending a partnership approach, Officers have the following suggestions for the Rose Garden Café Partnership for discussion with the partners:

- Any group or organisation that can positively contribute to the delivery of the Rose Garden Café Strategy can become a Rose Garden Cafe Partner.
- The Chair of the Partnership is third party and independent. They should be an experienced facilitator with community engagement skills and should not be affiliated to a political party.
- During initial feasibility design, structural engineers commissioned by Sheffield City Council and the Friends of Graves Park have recommended various solutions to resolving the structural issues of the front wall. The Friends of Graves Park suggested that a conservation accredited engineer (CARE engineer) be appointed to undertake a survey of the Rose Garden Café. A CARE accredited engineer could also be a Partner, providing valuable professional advice throughout the design and delivery of the project.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The proposal to pursue a restoration approach in Partnership with stakeholders is felt to be in the best interests of the Graves Park Charitable Trust for the reasons outlined in this report.

3. HAS THERE BEEN ANY CONSULTATION?

3.1 Ongoing Consultation

The dedicated Rose Garden Café page continues to be updated as significant developments take place. The following are responses to the closure of the café as reported in the Charity Sub-Committee report dated 25 October 2022:

- A petition supporting a proposal to ‘make the Council repair not demolish the Rose Garden Café’
- A JustGiving page (originally created to raise funds for improvements to the Rose Garden Café building)
- A number of public meetings have been arranged by local people around the ‘Save the Rose Garden Café Campaign’
- Local Councillors and MPs have been in touch (predominantly to the Council’s Parks and Countryside department) regarding the closure of the Café Building
- Local Councillors have reported significant contact from the public regarding this matter

- The Council has been contacted by local media (including The Star and BBC Radio Sheffield)
- The 'Save the Rose Garden Café Campaign' and Friends of Graves Park have attended local meetings

3.2 Proposed Consultation

3.2.1 Why is a public consultation recommended?

We note that both the Friends of Graves Park and the Save the Rose Garden Café Campaign have previously expressed that they do not believe there is a need to undertake a public consultation on design options 1-5. As detailed in section 1.4, we also agree that consultation on all design options is not appropriate. We do however recommend a proportionate public consultation is designed and undertaken by the Partnership to provide different ways for the public to engage and participate in the future of the café, whether this be workshops, events or surveys. The existing petition provides an insight into why the Rose Garden Café is important to the public but is limited to the petition statement. The proposed consultation could help the Partnership understand community objectives for the Rose Garden Café, whether that be establishing user experiences or highlighting which aspects of the refurbishment are most important to park and café users.

3.2.2 The Rose Garden Café Partnership to create a framework for public consultation

We believe the framework will consider the following:

- Consultation to build on the themes established in the existing petition.
- Consultation should be in accordance with the Equality Act 2010, the Sheffield City Council Involvement Guide and Sheffield City Council Consultation Principles, including that consultation should be proportionate, inclusive and accessible.
- Consultation to be city wide as Graves Park is a designated destination site.

4. **RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

4.1 Equality Implications

4.1.1 A restoration approach to the building requires a review of existing accessibility and proposals for any improvements. Buildings should be accessible to all in accordance with Part M of the Building Regulations, Access to and Use of Buildings.

4.1.2 The Equality Act 2010 and Public Sector Duties recognise some people will face additional barriers over others, and require us to: advance equality of opportunity, eliminate discrimination, victimisation and harassment, and foster good relations. This guidance should be considered in both the public consultation and the establishing of the partnership. As described previously,

any further consultation should be proportionate. The partnership should also be representative and inclusive.

- 4.1.3 As part of the Rose Garden Café Partnership Strategy, an Equality Impact Assessment (EIA) will be considered to understand the potential equality impacts of a restoration approach. The EIA will be updated as required to take account of any potential negative impacts and the mitigations needed to address these.

4.2 Financial and Commercial Implications

4.2.1 Charity Finances

Each Charity must use the funding available to fulfil its objectives. The cost of managing and maintaining Graves Park exceeds the income generated from the charitable activities, including income from the cafe lease. Should a park asset, like the Rose Garden Café, fall into disrepair and require significant works there is a funding shortfall. Please see the [Rose Garden Café FAQs](#) for further information on the funding model of the Park and how the Council spend the money generated by the Graves Park Charity.

4.2.2 Prudential Borrowing

The amount that can be borrowed is determined by the Rose Garden Café's income target and the estimated rental value. Given the existing income target and estimated rental value, a total of £198,000 could be borrowed for a restoration option. Please see appendix 2 for further detail.

4.2.3 Essential Compliance and Maintenance Fund

The structural defects of the Rose Garden Café have been assessed and meet the prioritisation criteria set out and approved at the Finance Committee in March 2023 for accessing the fund. For the Rose Garden Café, the fund can be used for financing structural stabilisation works but cannot be used for refurbishment works looking to improve the facility. The amount allocated from the fund for the Rose Garden Café will need to be reviewed alongside other Council assets that meet the criteria. As a restoration approach progresses, the scope and cost of the proposed structural stabilisation works (currently costed at £635,000) will develop in detail and accuracy and this will also inform the amount asked from the fund. It should be noted that at this time, Officers do not believe that the fund could cover the full £635,000 costed.

- 4.2.4 The commercial implications of a restoration solution will be developed as the project progresses and will therefore be determined at a later date. It should however be noted that any operator would have to vacate the premises for the duration of major works.

4.3 Legal Implications

- 4.3.1 The Trustees should at all times act in the best interests of the Charity. All of the options that are currently open for consideration can in principle be implemented as to do so would not be in breach of the terms or Objects of the Scheme.

4.3.2 *Charity Commission Guidance*

Paragraph 10 of the Scheme says as follows:

Questions Relating to the Scheme

The Commission may decide any question put to it concerning: (1) the interpretation of this scheme; or (2) the propriety or validity of anything done or intended to be done under it.

The Charities Act 2011 section 110 also contains similar provisions.

Pursuant to this officers considered that in the circumstances it would be prudent to put the options as set out in this report to the Commission to make certain that any actions proposed to be undertaken fall within the terms of the Scheme.

The Charity Commission has responded regarding this specific point and has declined to provide guidance as it does not consider that the issue in question falls within the ambit of clause 10 of the scheme or section 110 of the Charities Act 2011.

In the absence of guidance from the Charity Commission it remains officers' view that as stated previously all the options under consideration would in principle be capable of being lawfully implemented under the terms of the Scheme.

4.3.3 *The Rose Garden Café Partnership*

This report recommends to members that the Council works in partnership with stakeholders to develop a strategy for restoration – referred to in places as the Rose Garden Café Partnership. The intention is that this approach will enable a collaboration of skills, resources and funds. However, it is not intended to form a legal partnership and the Rose Garden Café Partnership will not be a legal entity in its own right.

4.4 Climate Implications

To assess the climate implications of a restoration approach, carbon over a building's life cycle can be assessed. Operational emissions could be reduced through energy efficiency gains from retrofitting. A Climate Impact Assessment will be undertaken to understand the potential climate impacts of a restoration approach, including the techniques, materials and proposals adopted.

5. **ALTERNATIVE OPTIONS CONSIDERED**

5.1 Two alternative design approaches considered are:

- Limited works not providing a café (design options 1 and 5)
- Existing building replaced, providing a café (design options 3 and 4)

Please see sections 1.5 and 1.7 summarising why it is recommended for work to be paused on these design options.

5.2 Alternative funding and delivery models considered and concluded not feasible at present are:

- A restoration or replacement building solution where Sheffield City Council are the sole funder, as available funds cannot at this time meet the full costs.
- A replacement building solution in partnership with the Friends of Graves Park and Save the Rose Garden Café Campaign as both groups have publicly stated their support for a restoration approach.
- A restoration or replacement building solution where an operator commits to solely funding and delivering either approach given the extent of the estimated costs.

5.3 Alternative to a partnership approach

We recognise that a restoration approach funded and delivered solely by stakeholders may be a possibility. However, we believe that working in partnership provides the best opportunity to improve facilities and meet the charity objectives through a collaboration of skills, resources and funds.

6. REASONS FOR RECOMMENDATIONS

6.1 Given the findings in this report we believe that the recommendation to develop a restoration approach in partnership with stakeholders is currently the only viable option to achieving all the following;

- Align with the charitable objectives of Graves Park - [1] “The provision and maintenance of a park and recreation ground for use by the public with the object of improving their conditions of life.”
- Meet the initial commissioning brief objectives -
Objective 1 - 'improve facilities for the city'.
Objective 2 - 'maximise revenue for each facility'.
- Provide a café in Graves Park.