

Commissioner Decision Report July 2015	 TOWER HAMLETS
Report of: Aman Dalvi Corporate Director, Development and Renewal	Classification: Unrestricted
St. Paul's Church Pocket park, Shadwell	

Originating Officer(s)	Mammohan Dayal
Wards affected	Shadwell
Key Decision?	Yes
Community Plan Theme	A Great Place to Live: A Prosperous Community

Executive Summary:

This report relates to the release of match fund of £8,646 to St. Paul's Church for the delivery of a publicly accessible pocket park within the premises of the church. The total value of the project that won the funding was £20,000, out of which GLA provided funding of £9,000. The balance of £2,354 was made up by the Church's own resources.

St Paul's Shadwell ("SPS") gardens have now become one of very few gardens and Open spaces in Shadwell, that have enhanced the Green Grid and contributed towards publicly accessible open space within the borough. The aim of the project was to improve the church gardens in order to create a more inviting publicly accessible open space for local people to enjoy. The space is now fully accessible between dawn and dusk and open to all.

The space has been delivered in partnership with GLA, the Council and the Church. The improvements include improved landscaping, children's play facilities, seated areas and stations to encourage people to carry out exercise. Signage reminding people of the history of the church and its connection to the local docks has also been included.

The Planning Contributions Overview Panel (PCOP), following legal review and development of a Project Initiation Document (PID), approved the project in July 2014. Earlier the GLA had agreed to provide funding on condition that the recipient would provide 100% match funding. The Council agreed to support the project as it aligned with the objectives of the Council's Local Plan related Green Grid Strategy to create more publicly accessible open space within the borough.

Recommendations:

The Commissioners are recommended to:

1. Note the delivery of the pocket park at St. Paul's Church, Shadwell.
2. Note the monies secured by alternative funding (GLA Pocket Park Initiative)
3. Agree a grant of £8,646 to St. Paul's Church from section 106 monies to fund a publicly accessible pocket park within the Church premises.

1. REASONS FOR THE DECISIONS

- 1.1 The approval of this report which includes match funding for the pocket park provides the following benefits:
- The project has contributed towards publicly accessible open space.
 - It has ensured that St. Paul's Church were able to access the grant of £9,000 from GLA's Pocket park Initiative;
 - St Paul's Shadwell ("SPS") gardens are one of very few gardens and open spaces in Shadwell that have enhanced the Council's Green Grid Strategy;
 - This area is located along a popular riverside that connects Tower Bridge to Canary Wharf - a running route where hundreds of runners, bikers and walkers go past each day. The project has not only enhanced the east-west connectivity, but also created the vital north-south link to the Shadwell basin and the river so that the communities north of the Highway will have better access to the river;
 - The project was aimed at the improvement of the church gardens in order to create a more inviting publicly accessible open space for local people to enjoy. The space is fully accessible between dawn and dusk and open to all and includes signage to encourage understanding of the historical significance of the church building;
 - The improvements include improved landscaping, children's play facilities, seated areas and exercise stations to encourage people to be healthy and active;
 - The improvements to St Paul's Church Yard offer respite to the local community and has become a more inviting space for those who use the site as a thoroughfare between Shadwell and Wapping and those who access to Shadwell Basin for the recreation activities on offer there;
 - It ensures that the finances are spent in accordance with the S106 obligation and deliver the projects as agreed with the s106 contributors

- 1.2 The project's aim to provide public open space was identified and agreed with the s106 contributors, prior to release of the funds to Tower Hamlets in accordance with the S106 agreement (PA/12/01977).
- 1.3 The project was approved by PCOP and Owen Whalley, Head of Planning & Building Control at the PCOP meeting in July 2014.

2. ALTERNATIVE OPTIONS

- 2.1 The finances have been secured through the s106 process with the deliverable projects identified and agreed with the s106 contributors prior to release of the finances to the Council. No alternative projects have been considered for the £8,646.

3. DETAILS OF REPORT

- 3.1 The project will deliver publicly accessible open space in an area where the availability of green open space around the site is severely limited. It was approved for funding by the GLA and Mayor of London's Pocket Park Initiative, launched in November 2012, which promotes improvements to the city's outdoor spaces. The total value of the project that won the funding was £20,000, out of which GLA provided funding of £9,000. The balance of match funding was sought by the Church from the Council and from its own resources. The Council was able to provide match funding of £8,646 from its S 106 funds and the balance of £2,354 was made up by the Church's own resources;
- 3.2 The project contributes towards publicly accessible open space. The Borough's Annual Monitoring Report (AMR 2012/13) has indicated that the Borough is currently providing just 1.0ha of public open space per 1000 population. With a growing population and limited potential for new open space there is a risk that the deficiency will get worse. St Paul's Shadwell ("SPS") gardens are one of very few gardens and open spaces in Shadwell that, when implemented, will enhance the Green Grid and contribute towards publicly accessible open space within the borough (Appendix 2);
- 3.3 The site also constitutes a thoroughfare for foot traffic between Shadwell and Wapping and offers access to Shadwell Basin for the recreational activities on offer there. This area is located along a popular riverside that connects Tower Bridge to Canary Wharf - a running route where hundreds of runners, bikers and walkers go past each day. The project will thus not only enhance the east-west connectivity, but also create the vital north-south link to the Shadwell basin and the river so that the communities north of the Highway will have better access to the river;
- 3.4 The Church is a listed building and also within the St. Paul's Church Conservation Area. The Tower Hamlets Appraisal of the St Paul's Shadwell Conservation Area stated that "*The church yard is the most important open space in the Conservation Area.*" Council has a duty to consider the enhancement of conservation areas under the 1990 Planning Act.

- 3.5 The project was aimed at the improvement of the church gardens in order to create a more inviting publicly accessible open space for local people to enjoy. The space is now fully accessible between dawn and dusk and open to all and includes signage to encourage understanding of the historical significance of the church building. The improvements included improved landscaping, children's play facilities, seating areas where individuals and families can enjoy and stations to encourage people to stretch and carry out exercise. Signage reminding people of the history of the church and its connection to the local docks is also included;
- 3.06 The S106monies are part of the Tower Hamlets Council S106 Delivery Portfolio and is aligned with the agreed Heads of Terms (HoT) for the Deed creating Planning Obligations and undertakings for the development at Challenger House, 42 Adler Street, Whitechapel (PA/12/01977).
- 3.7 The agreement obliged the developer to pay the Council £8,646 for the purpose "*towards public open space in the borough*" of enabling the Council to create public open space in the borough.
- 3.8 The amount of £8,646 is match funding to the Church who have successfully secured £9,000 from the GLA Pocket park Initiative Fund.
- 3.9 The balance of £2,354 has also been secured and spent by the Church for the delivery of the pocket park.
- 3.10 The urgency for undertaking a decision on this because the project has been completed and the Council needs to fulfil its part of the commitment made to GLA and the Church.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report seeks the approval of the Commissioners to make a contribution of £8,646 from specific Section 106 funding towards the St. Paul's Church Pocket Park in Shadwell.
- 4.2 On condition that it could attract match funding towards the project, the Church secured funding of £9,000 from the GLA's Pocket Parks Programme towards the estimated £20,000 redevelopment cost of St Paul's Shadwell Gardens. It is proposed that the £8,646 that the Council received in respect of the planning obligations and undertakings for the development at Challenger House in Whitechapel (PA/12/01977) be utilised as funding for this scheme. The Church has separately secured the balance of funding (£2,354) that is required for the project.
- 4.3 Under the terms of the specific Section 106 agreement, the Council has to utilise the funding towards a public open space initiative within the borough. The proposals in this report satisfy the requirements of the planning agreement, however as alternative projects could potentially be undertaken, the proposed payment should be treated as a grant which requires

Commissioner approval under the terms of the Ministerial Direction of 17th December 2014.

5. LEGAL COMMENTS

- 5.1 The power of the commissioners to make decisions in relation to grants arises from directions made by the Secretary of State on 17 December 2014 pursuant to powers under sections 15(5) and 15(6) of the Local Government Act 1999 (the Directions). Paragraph 4(ii) and Annex B of the Directions together provide that, until 31 March 2017, the Council's functions in relation to grants will be exercised by appointed Commissioners, acting jointly or severally. This is subject to an exception in relation to grants made under section 24 of the Housing Grants, Construction and Regeneration Act 1996, for the purposes of section 23 of that Act (disabled facilities grant).
- 5.2 To the extent that the Commissioners are exercising powers which would otherwise have been the Council's, there is a need to ensure the Council would have had power to make the grants in question but for the directions.
- 5.3 The Council has the power in accordance with Section 164 of the Public Health Act 1875 to "purchase or take on lease lay out plant improve and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever". The proposed grant of money for the pocket park falls within the description of support or a contribution and, accordingly, it appears the Council has power to make the grant.
- 5.4 Section 1 of the Localism Act 2011 gives the Council a general power of competence to do anything that individuals generally may do, subject to specified restrictions and limitations imposed by other statutes (the general power of competence). As there does not appear to be a relevant restriction on the making of the proposed grant, the general power of competence provides an independent source of power for making the grant.
- 5.5 In this instance the money for the proposed grant has been provided from a third party pursuant to an agreement entered into under section 106 of the Town and Country Planning Act 1990. The Council is restricted in how section 106 monies may be applied to the purposes expressed in the agreement itself. The report confirms that the proposed payment would be for a permissible purpose.
- 5.6 A payment of section 106 monies may be a grant or it may be procurement, but in this case appears to have the character of a grant. When implementing the schemes, the Council must ensure that no part of the funds issued represents a profit element to the recipient. The inclusion of profit or the opportunity of making a profit from the grant or third parties indicates that the grant is really procurement activity and would otherwise be subject to the Council's Procurement Procedures and other appropriate domestic and European law. This would mean therefore, that the Council would have failed

to abide by the appropriate internal procedures and external law applicable to such purchases.

- 5.7 The Council has a duty under section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. This is referred to as the Council's best value duty. In order to help secure value for money there should be a grant agreement in place and provisions included within the grant agreement to ensure delivery of the scheme in line with the application and approval and in the event of non-delivery to protect the Council's position. Robust monitoring requirements need to be in place and appropriate performance related payment mechanisms introduced into the terms of any grant award to ensure the anticipated scheme is delivered.
- 5.8 When making grants decisions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). A proportionate level of equality analysis is required to discharge the duty and information relevant to this is contained in the One Tower Hamlets section of the report.
- 5.9 With regard to equalities it is appreciated that it is stated within the report that the park would be available to the whole community to use. The Council should ensure that this is the case and that the look and feel of the final park must not particularly disfavour any group who has a protected characteristic and include such things as appropriate access and usage arrangements and or be of no particular religious significance.
- 5.10 The proposed grant is under the de minimis threshold for the purposes of European restrictions on State aid.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The proposed pocket park meets an identified shortage of public open space in Shadwell. The project has enabled the Church to provide an improved service to the local community, including the children, the elderly and disabled who visit the park. The new open space promotes community cohesion.
- 6.2. The proposals has benefitted the whole community with a new space to:
 - contribute towards publicly accessible open space within the borough
 - enhance the east-west connectivity, and also created the vital north-south link to the Shadwell basin and the river so that the communities north of the Highway will have better access to the river;
 - create a more inviting publicly accessible open space for local people to enjoy.
 - not adversely affect people with Protected Characteristics and has delivered a facility for the entire community to enjoy and benefit.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.1 The proposals include the delivery of an pocket park on site along with seating and play equipment. The park is primarily used for children and mothers and by the adult volunteers for skill share sessions
- 7.2 The equipmentdesign uses recycled materials, with low ongoing energy requirements:

8. RISK MANAGEMENT IMPLICATIONS

- 8.1. There is a risk that if the grant is not approved the benefits identified in section 1.0 and6.2 will not be realised to the detriment of the local community, visitors and volunteers.
- 8.2. The match funding was secured through the s106 process and without approval of the project the s106 obligations would not be met.
- 8.3. The risk of not fulfilling its commitment will be detrimental to the Council's reputation

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 9.1 There are no crime or disorder implications.

10. BEST VALUE

- 10.1 The delivery of this project ensures the Council meets its s106 obligations.
- 10.2 The match funding ensures the funding from GLA Pocket park Initiative is secured and the project is fully funded through the GLA Pocket park Initiative and s106 Contribution.
- 10.3 The creation of a park to benefit the whole community funded through a grant and s.106 contribution is considered to offer excellent value for money.

11. SAFEGUARDING IMPLICATIONS

- 11.1 The St. Paul's Church, Shadwell is an established community asset and a registered charitable organisation.
 - 11.2 There are no safeguarding implications.
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Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- NONE

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

Officer contact details for documents:

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