



Officer Decision Report

Author/Lead Officer of Report: Ruth Bell, Head of Parks and Countryside

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Report to: *Ajman Ali, Executive Director – Operational Services*

Date of Decision: *9th August 2022*

Subject: *Temporary Café Provision in Graves Park following Closure of Rose Garden Café Building*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, what EIA reference number has it been given? <i>(Insert reference number)</i>				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-				
<i>The appendix is not for publication because it contains exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).</i>				

Purpose of Report:

- To set out the background to the closure of the Rose Garden Café on 27th July 2022
- To set out the options regarding future (short-term) refreshment provision within Graves Park
- To make a decision regarding (short-term) refreshment provision within Graves Park

Recommendations:

- That the opportunity to provide a temporary refreshment offer (e.g. provision of a café cart or similar) be offered to the operator from the Rose Garden Café in the first instance
 - In the event that the Rose Garden Café operator does not wish to provide a temporary refreshment offer, that the opportunity be marketed quickly

Background Papers:

(Insert details of any background papers used in the compilation of the report.)

Lead Officer to complete:-		
1	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, where required.	Finance: <i>Not applicable</i>
		Legal: <i>David Sellars</i>
		Equalities & Consultation: <i>Not applicable</i>
		Climate: <i>Not applicable</i>
<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, Executive Director – Operational Services</i>
3	Relevant Policy Committee	<i>Finance Sub committee</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 Decision Maker 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>Ruth Bell</i>	Job Title: <i>Head of Parks and Countryside</i>
	Date: <i>9th August 2022</i>	

1. PROPOSAL

1.1 Background

Graves Park is Sheffield's largest park and is a flagship site providing recreational and health benefits to a wide range of communities across Sheffield. Key facilities at the park include the much-loved animal farm attraction, two playgrounds, sporting facilities and the Rose Garden Café. The café is a well-used facility and provides a significant income to the Parks & Countryside Service. The facility links through the rose garden to the park's largest playground. The café building is believed to be a 1920s construction and does not hold any heritage status.

A number of surveys have been conducted recently looking at the Rose Garden Café building. They are referred to throughout this report. For ease of understanding, an identifier will be included in each reference as follows:

Report No	Report Title	Commissioned by	Report Date	Purpose
01	EST00608 Graves Park Physical Condition Report	Facilities Management	October 2018	Part of a wider condition survey programme to enable SCC to better understand the building condition across our estate so that we could prioritise works in line with the funding available. Survey data provides a snapshot in time of building condition across the estate. Buildings to be resurveyed every 4 – 5 years.
02	EST00608 Graves Park Physical Condition Report	Facilities Management	July 2022	Part of a wider condition survey programme to enable SCC to better understand the building condition across our estate so that we could prioritise works in line with the funding available. Survey data provides a snapshot in time of building condition across

				the estate. Buildings to be resurveyed every 4 – 5 years.
03	Structural Inspection Report Rose Café Graves Park - PC06414	Parks and Countryside	June 2022	A project was identified under “Better Parks” to improve café entrance. Parks & Countryside commissioned CDS (Capital Delivery Service) to undertake feasibility and provide cost report. This report was to provide a structural appraisal with a view to options available for the refurbishment of Rose Garden Café.
04	Structural Café Closure Report Rose Café Graves Park - PC06414 030822	Facilities Management	July 2022	To support the decision made in Report 3 to close Rose Garden Café at Graves Park for structural safety reasons.
05	Independent Structural Survey	Facilities Management	August 2022	To provide an independent assessment of the structural condition of the café following closure

As part of the Council’s rolling condition collection programme to help prioritise investment decisions, condition surveys (Reports 01 and 02) were undertaken on the Rose Garden Café building in October 2018 and July 2022. These were visual surveys that detailed the condition of elements of the building and indicated where further survey work might be required.

Unrelated to this standard information gathering process, the Parks & Countryside Service commissioned CDS to undertake a Structural Inspection Report at the Rose Garden Café in May 2022. This request was made as the lease arrangements with the cafe operator had reached the end of the formal lease period and there was an opportunity to extend arrangements on a temporary basis giving time to assess the potential of the building before undertaking an external tender process. It has been felt within Parks and Countryside that the café offer could be improved within Graves Park (for example through improving the entrance and providing a view of the rose garden from within the café). The structural survey (Report 03) was undertaken in July 2022 by Sheffield City Council staff and a report produced.

1.2 **Survey Information**

Extract from Condition Survey (Report 02)

The original Rose Garden Cafe has a plain tile roof, which is in poor condition with numerous missing and damaged tiles. The timber fascia's are deteriorating and the clock tower requires further investigation and restoration. The windows are similarly deteriorating with replacement of decayed units required. The timber framed structure forming the Rose Garden Cafe has been subject to historic and significant distortion. The café has been subject to longstanding water ingress issues. The water ingress has potentially damaged the timber structure. Specialist third-party specialists should be engaged to inspect the condition of the timber structure. Whilst no evidence of recent instability was apparent, prior to recovering the main roof, further investigation required by Structural Engineer to ensure all movement is complete.

The standard condition survey was carried out in June 2022 and identified issues with bowing and distortion of the structural frame which could be seen both in the roof structure which is sagging and the front elevation which is leaning out.

The report also highlighted issues relating to longstanding water ingress which had potentially damaged the building and it recommended that third-party specialists be engaged to inspect the condition of the timber structure.

A structural appraisal of the café (Report 03) was then carried out on 20/06/2022 by both a Council Structural Engineer and a Senior Architect. This was a visual inspection of the café which identified roof sag to both elevations, that the dormer windows leaning backwards both sides, that there were roof leaks in various locations, that the gutters were in a poor condition, that the clock tower was leaning backwards, and that all the window frames were rotten and the window frames to the front elevation were leaning outwards.

The appraisal raised concerns about the structural stability of the building. As a result, the Facilities Manager, contacted the Structural Engineer, with regards to carrying out an inspection of the timber trusses to confirm if the building was safe to occupy.

From the discussion it was noted that further survey would be difficult to carry out safely without first propping each truss and creating a walkway in the roof space causing major disruption to the café. The Structural Engineer also confirmed that they would need to inspect the ends of each truss which would involve removal of the fascia boards.

It was concluded that a more thorough inspection of the roof space would be expensive (and incredibly disruptive to anyone within the building) to carry out safely and would only confirm what we already knew, i.e., that timbers are rotten and need replacing which is evidenced by the bowing and distortion both in the roof structure which is sagging and the front elevation which is leaning out.

1.3 **Current Position**

An urgent meeting was arranged between internal stakeholders (present were Nathan Rodgers, Head of Facilities Management; Ruth Bell, Head of Parks and Countryside; Tammy Whitaker, Head of Regeneration and Property Services/Chief Property Officer; the Green & Open Spaces Manager; the Structural Engineer; a Senior Surveyor and the Facilities Manager) on 27th July 2022.

Information was sought from our (Public Liability) insurance provider who confirmed that the council would not be covered should an incident occur at the café because we were now aware of the structural issue.

As it was not possible to confirm whether the building is structurally safe without incurring major disruption within the building and costs and we have reports highlighting significant concerns around stability, Nathan Rodgers and Ruth Bell took the decision to close the building (and therefore the café) to ensure the safety of staff and members of public whilst further investigations / discussion could take place.

Stakeholders (including the café operator and Elected Members) were immediately informed of this decision following the meeting and the following day (28th July) officers, including the Graves Park Manager, met with the Café Director and the Café Manager to discuss the closure and issues with the building.

The Structural Engineer carried out a further visual inspection of the café on 28th July as part of the visit to the café to talk through the issues with the café operator. They concluded that in their opinion there had been further deterioration since the last visit and that the café was not safe to remain open. This information has been captured within Report 04.

The issues with the structural frame and roof were shown and explained to both the Café Director and Café Manager who agreed that the café should close due to the health and safety concerns.

Arrangements were made for the locks to be changed that morning to prevent any unauthorised access and arrangements put in place for Heras fencing to be erected around the café to restrict access to the site. The fencing off of the compromised structure mitigates the health and safety risks indicated by the structural report to a certain degree. At this stage the fencing and closed, unoccupied building is not attracting any vandalism. This is being assessed daily. Parks staff are present on site (although not always in the immediate vicinity), 7 days a week.

The toilet block that adjoins the café was constructed separately to the café, and at a later date. This structure has been assessed and determined to be unaffected by the issues of the main structure. This building therefore remains open. The toilets are accessed via a side entrance and are separated from the rest of the site by the Heras

fencing. Alternative management and cleaning arrangements have been put in place now that the café is closed.

Work has been undertaken to assess the options regarding any potential 'refreshments offer' on or near this location within the park. Feasibility and costs assessments have been drawn up and evaluated. This report presents and reviews the options for a short-term, immediate response to the closure of the café. It does not seek to make any contractual commitments regarding future café / refreshment operators which will be a matter for open tender exercises.

Further work is ongoing regarding the viability of the building and the options around dealing with the structural issues. That work will be presented entirely separately to this report regarding the 'refreshments offer'. It will require a formal decision via the Committee structure (this will be via the Charities Subcommittee for decisions regarding the building and the Finance Subcommittee for any funding decisions).

1.4 **Community Context**

There has been a significant online response to the closure of the café due to the news that the Rose Garden Café building is considered structurally unsafe.

- A petition (with over 5,149 signatures as at 4th August) has been established to 'make the Council repair not demolish the Rose Garden Café'
- A JustGiving page (which was originally created to raise funds for improvements to the Rose Garden Café building) has raised £1,802 (as at 4th August) with mention of the structural issues of the building
- A public meeting was arranged and well attended by local people on Friday 5th August in the café gardens to launch the 'Save the Rose Garden Café Campaign'
- Local Councillors and MPs have been in touch (predominantly with Parks and Countryside) regarding the closure of the 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)

1.5 **Temporary Refreshment Options**

As a large popular park, there are currently provisions in place for three refreshment offers: Rose Garden Café, and 2 coffee carts at Charles Ashmore Entrance and the Animal Farm.

The closure of the café means that there is no refreshment provision other than limited offer provided by the 2 coffee carts which are located at some distance from the café building.

There are several different options in assessing what temporary refreshment facilities could be provided within Graves Park whilst the Rose Garden Café remains closed (but particularly during the busy summer period).

Option	Detail	Costs	Total Cost	Benefits	Risks / Disbenefits
1. Do nothing	Do not offer temporary refreshment facilities within Graves Park (at least in the short-term)	<ul style="list-style-type: none"> Loss of cafe income 	<p>No direct additional costs</p> <p>(All options have potential loss of cafe income)</p>	<ul style="list-style-type: none"> No additional rental / security / connection costs 	<ul style="list-style-type: none"> No café refreshment offer in Sheffield's largest park during peak summer period May not meet immediate public expectation
2. Hire temporary facility (3.8m)	Hire Grab & Go Catering Cube (3.8m unit)	<ul style="list-style-type: none"> 6,415 (6-week hire) 10,000 (utility connections – up to £10k) Loss of cafe income 	<p>£16,415 (6 weeks)</p> <p>£22,830 (12 weeks)</p> <p>£64,525 (12 months)</p> <p>(All options have potential loss of cafe income)</p>	<ul style="list-style-type: none"> Provides refreshment offer within Graves Park (reasonably quickly) 	<ul style="list-style-type: none"> Timeframe for future decisions and any subsequent work is unknown but likely to be significant – could result in the expectation that the facility remains throughout the period (up to 24 months potentially) Significant cost with very limited options to recoup appropriate rent / profit from operator
3. Hire temporary facility (6.2m)	Hire Grab & Go Catering Cube (6.2m unit)	<ul style="list-style-type: none"> 11,002 (6-week hire) 10,000 (utility connections – up to £10k) Loss of cafe income 	<p>£21,002 (6 weeks)</p> <p>£32,004 (12 weeks)</p> <p>£103,517 (12 months)</p>	<ul style="list-style-type: none"> Provides refreshment offer within Graves Park (reasonably quickly) 	<ul style="list-style-type: none"> Timeframe for future decisions and any subsequent work is unknown but likely to be significant – could result in the expectation that the facility remains throughout the period

Option	Detail	Costs	Total Cost	Benefits	Risks / Disbenefits
			(All options have potential loss of cafe income)		(up to 24 months potentially) <ul style="list-style-type: none"> Significant cost with very limited options to recoup appropriate rent / profit from operator
4. Purchase temporary facility (3.8m)	Hire Grab & Go Catering Cube (3.8m unit)	<ul style="list-style-type: none"> £33,000 (purchase costs) £19,245 (18-week hire assumed) £10,000 (utility connections – up to £10k) Loss of cafe income 	£62,245 (All options have potential loss of cafe income)	<ul style="list-style-type: none"> Provides refreshment offer within Graves Park (reasonably quickly) Facility could be utilised elsewhere on SCC estate as required following any works being completed at Graves Park 	<ul style="list-style-type: none"> Requires rental before purchase due to extended lead-in time for purchased unit Significant cost with very limited options to recoup appropriate rent / profit from operator Future need for the purchased unit is not yet known
5. Purchase temporary facility (6.2m)	Hire Grab & Go Catering Cube (6.2m unit)	<ul style="list-style-type: none"> £58,000 (purchase costs) £33,006 (18-week hire assumed) £10,000 (utility connections – up to £10k) Loss of cafe income 	£101,006 (All options have potential loss of cafe income)	<ul style="list-style-type: none"> Provides refreshment offer within Graves Park (reasonably quickly) Facility could be utilised elsewhere on SCC estate as required following any works being completed at Graves Park 	<ul style="list-style-type: none"> Requires rental before purchase due to extended lead-in time for purchased unit Significant cost with very limited options to recoup appropriate rent / profit from operator Future need for the purchased unit is not yet known

Option	Detail	Costs	Total Cost	Benefits	Risks / Disbenefits
6. Operator given permission to hire facility	Operator given permission to operate within the park (on assigned area) and rent facility (within certain parameters) at their own expense	<ul style="list-style-type: none"> £10,000 (utility connections – up to £10k) Loss of cafe income 	£10,000 (All options have potential loss of cafe income)	<ul style="list-style-type: none"> Reduces costs to SCC Operator bears costs (in lieu of ongoing rent) Provides refreshment offer within Graves Park (reasonably quickly) 	<ul style="list-style-type: none"> May not meet immediate public expectation
7. Expand the offer provided by the two coffee carts via Expression of Interest	Coffee cart operators invited to enhance offer or provide additional facility close to Rose Garden Café following recent tender exercise for coffee cart provision in other locations on site	<ul style="list-style-type: none"> Minimal Loss of café income Some of this may be offset by additional rent from coffee cart(s) 	(All options have potential loss of cafe income)	<ul style="list-style-type: none"> Reduces costs to SCC Operator bears costs Provides refreshment offer within Graves Park (reasonably quickly) 	<ul style="list-style-type: none"> May not meet immediate public expectation
8. Go to the market	No further contractual arrangement put in place with existing operator. Quick market tender exercise undertaken to provide opportunity to put coffee cart (or similar) in the park	<ul style="list-style-type: none"> Minimal Loss of cafe income Some of this may be offset by income from coffee cart 	(All options have potential loss of cafe income)	<ul style="list-style-type: none"> Reduces costs to SCC Operator bears costs Provides refreshment offer within Graves Park (reasonably quickly) 	<ul style="list-style-type: none"> May not meet immediate public expectation

2. HOW DOES THIS DECISION CONTRIBUTE ?

- 2.1 This decision goes some way to protecting the Council's revenue budget at a time of significant financial challenge. All options include a loss of income from the Rose Garden Café (as per the previous tenancy) but this reduces the need for further additional spend.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 The speed with which the decision regarding the safety of the Rose Garden Café building was needed, prevented any consultation taking place. Consultation with the Chairs of relevant Committees and Local Ward Councillors has taken place on this decision. All future decisions regarding the future of the building will require consultation with the public.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 There are no equality implications of this decision.

4.2 Financial and Commercial Implications

- 4.2.1 Rental derived from the current tenancy arrangement is a contributor to the Charity Park and the closure of the café will result in a significant income shortfall. Further details are set out under Appendix 1 (exempt) attached.

4.3 Legal Implications

- 4.3.1 By a lease dated 3rd March 2020 the café was leased to Red Holdings Limited for a term up to and including the 31st December 2021. The lease was contracted out of ss24 to 28 of the Landlord and Tenant Act 1954 and so the tenant had no security of tenure after the lease ended on 31st December 2021.

At that time the Council did not require vacant possession and so agreed that a company associated with Red Holdings, Brewkitchen Limited would continue to run a café business under a Tenancy at Will ("TAW").

The agreement to take the TAW was evidenced by a letter from the Council to Brewkitchen Limited. The terms of the TAW were to be the same as the 2020 lease to Red Holdings insofar as the terms were consistent with a TAW. The significance of the TAW is that either party can end the TAW without notice or without a reason.

The Council would normally end a TAW by sending a letter demanding possession. The letter would end the TAW immediately but without prejudice to ending the TAW allow the outgoing tenant a period of time to vacate the premises and take their possessions etc.

In this case given the circumstances it was not possible to do this however the TAW has been ended by the closure of the café.

Because of the precarious nature of a TAW it is arguable that as a matter of law going forward the Council does not have any legal obligations to Brewkitchen regarding finding new accommodation temporary or otherwise. It is also arguable as a matter of law that Brewkitchen does not have a claim for damages whatsoever in respect of any losses it has incurred as a result of the ending of the TAW. Notwithstanding this the Council may on a without prejudice basis wish to take account of the circumstances surrounding the abrupt closure and the liquidated losses e.g. stock that may have been incurred already by the tenant.

4.4 Climate Implications

4.4.1 There are no climate implications of this decision.

5. **ALTERNATIVE OPTIONS CONSIDERED**

5.1 All considered options have been set out within this report.

6. **REASONS FOR RECOMMENDATIONS**

(Explain why this is the preferred option and outline the intended outcomes.)

6.1 The recommendation is:

- That the opportunity to provide a temporary refreshment offer (e.g. provision of a café cart or similar) be offered to the operator from the Rose Garden Café in the first instance
 - In the event that the Rose Garden Café operator does not wish to provide a temporary refreshment offer, that the opportunity be marketed quickly

Providing a temporary facility within the park is likely to take a number of weeks rather than days due to the need to provide utilities (water, power etc) to such a facility once rented or purchased. This would reduce the impact such a provision would have during the busiest holiday season. It is also recognised that the process to respond to the issues with the existing building will not be resolved quickly – this may result in a ‘temporary’ facility being required for in excess of 18 months and perhaps over 2 years. This would have very substantial costs with very limited options to recuperate any income. The recommended option, whilst recognising both the loss of facility for the existing

operator and loss of income for Sheffield City Council, goes some way to protecting the Council's revenue budget at a time of significant financial challenge and ensures some ongoing refreshments are provided within the park.