

## **GOVERNANCE ARRANGEMENTS FOR THE JOINT MANAGEMENT COMMITTEE**

<b>Head of Service / Contact:</b>	Amardip Healy, Chief Legal Officer
<b>Annexes/Appendices (attached):</b>	Annex 1 – Terms of Reference of Voluntary Groups (Confidential) Annex 2 – Draft Public Participation Arrangements
<b>Other available papers (not attached):</b>	Best Value Review 2002 Management Plan 2009-2014

### **Report summary**

**To update governance arrangements for the Joint Management Committee and outstanding work items.**

### **Recommendation (s)**

**The Committee:**

- (1) agrees for a new inter authority agreement for the management of Nonsuch Park to be negotiated;**
- (2) confirms the Committee Procedure Rules of Epsom & Ewell Borough Council apply to the Joint Committee pending a new joint management agreement;**
- (3) considers the proposals for public participation attached at Annex 2;**
- (4) considers the nature and roles of local groups who wish to support and promote Nonsuch Park;**
- (5) offers a standing invitation to Nonsuch Voles to attend JMC meetings (with no voting rights);**
- (6) to investigate with both Councils the ability to utilise existing arrangements each Council has in place to support the work of the JMC;**

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- (7) agrees to Epsom & Ewell Council to take forward a parking management scheme to address parking issues;**
- (8) agrees for work to be commissioned on a draft strategic plan for the Park encompassing a new 10 year management and business plan.**

### **1 Background**

#### **Agreements**

- 1.1 In 1937 an agreement was entered into by the then London County Council, London Borough of Sutton, Surrey County Council and Epsom and Ewell Borough Council, following the purchase of lands which now form part of Nonsuch Park ("the Park"). At the time Surrey County Council handed over management and maintenance of the Park to Sutton and Epsom and Ewell Councils. As a result the Joint Management Committee was set up ("the JMC") to manage the Park.
- 1.2 In 1939 a further deed was entered into by all four parties to treat Nonsuch Park as part of the Green Belt.
- 1.3 In 1993 Sutton and Epsom and Ewell Councils entered into an agreement to amend some of the requirements of the original 1937 agreement. It was agreed amongst other matters:
  - the JMC would be renamed "Nonsuch Park Joint Management Committee";
  - the JMC would consist of 6 councillors, with 3 from each Council;
  - the management and control of the park would be in the hands of the JMC;
  - the costs of management and upkeep of the Park will be defrayed by the Epsom and Ewell and shall be met equally by the two Councils.
- 1.4 In 2008 an agreement was entered into between Surrey, Sutton and Epsom and Ewell Councils on how the Park was to be used and managed. The agreement set out some principles, which were:

'The JMC agrees that all use and management of the Park shall be in accordance with the following principles:

- 1. The local community and visitors can enjoy a green oasis with broad appeal;
- 2. The historic and natural environments are properly cared for;
- 3. The public can enjoy a range of recreational pursuits without harming the enjoyment of the park by others;

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4. Every opportunity is taken to provide visitors with an appreciation of the Park's many significant features;
  5. The potential for education, interpretation and community involved is realised;
  6. The financial return from the Park is optimised provided that it does not prejudice the principles set out above and the park's primary purpose as a public open space'.
- 1.5 The JMC reviewed how the Park could be used and a commercial strategy was developed and implemented. Part of the strategy involved introducing third parties to provide services and events at the Park to paying customers. The sources of income would then be committed towards the upkeep of the Park.
- 1.6 The permitted use of the Park was described as
- 'the use management and maintenance of the *Park* (1) as public open space, public walks, and pleasure grounds, physical training and recreation facilities or uses ancillary thereto with the primary purpose being for the enjoyment and amenity of the park by the public (2) for such commercial use as the JMC sees fit having regard to the provisions of the Green Belt Deed Provided that the range of uses referred to in the Green Belt Deed and the Green Belt (London and Home Counties) Act 1938 shall not be diminished".
- 1.7 This agreement also required for a Management Plan to be produced and updated every five years as a minimum. A draft was presented to the Joint Management Committee in Oct 2009 following which a revised version was sent to Surrey County Council in 2009. The Plan was then updated in 2012, when an application for a Green Flag was applied for. The action plan of the Management Plan was updated in 2014 and presented to the Management Committee in early 2015. The Management Plan is now due for review and renewal.
- 1.8 As part of the requirements, a Maintenance Plan was also required. The Maintenance Plan was expected to be a timed and costed programme of maintenance and repair works for the buildings and structures within the Park, produced following regular condition surveys carried out by the JMC.

### **Committee Procedure rules**

- 1.9 The processes used at the JMC have effectively been those of the Epsom & Ewell. The appointment of members to the joint Committee was modified by the 1993 Agreement, however other committee processes are unclear as the original agreement setting up the JMC has been lost. References to 'standing orders' have been found in historic minutes for the JMC, but a record of those standing orders cannot be located.

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- 1.10 From recent events and correspondence, there appears to be some confusion as to the nature of the relationship with external organisations and the JMC.
- 1.11 It was agreed in 1995 (Minute 3197) that a nominated advisor from the Friends of Nonsuch, with no voting rights, have a standing invitation to all meetings of the JMC which are open to the public.
- 1.12 A request from Nonsuch Watch was then made in 1997 for similar representation on the JMC. This was refused (Minute 3280), because “The Committee considered it inappropriate to agree to such representation in view of the fact that Nonsuch Watch was essentially a pressure group”.
- 1.13 In 2000 the JMC agreed (Minute 3371):
- “After consideration it was agreed that a representative of the The Friends of Nonsuch should continue to be invited to attend all meetings of the Joint Management Committee and that the following organisations be invited to send a representative to attend meetings, as and when appropriate, with the right to speak on relevant items:-
- Nonsuch Watch
  - Nonsuch Antiquarian Society
  - Epsom Protection Society
  - Cyclists Touring Club (South West London District Association)
- It was also agreed that the Clerk be authorised after consultation with Chairman to invite any other organisation to send a representative to a meeting with the right to speak on relevant items.”
- 1.14 This makes it clear that only those invited to a meeting would have a right to speak on a relevant item.
- 1.15 In 2010, a scheme for public speaking was introduced. The Committee were reminded that the JMC meetings were not public meetings but meetings open to the public. It was agreed the arrangements would be kept under review and considered annually. This has not happened, and therefore, the current governance review is an opportunity to both revisit the approach and process.

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- 1.16 Despite there being agreement on arrangements at the meeting and the setup of the committee room, it would appear confusion has arisen over these arrangements. Both the issue of how matters should proceed and how to ensure the arrangements are embedded in, need to be addressed as it is important for the JMC to be clear on its processes and procedures. In light of the nature of the length of time since the last review, it is recommended that the JMC reviews its meeting set up, processes and procedures.
- 1.17 However, this will take some time to agree and complete by both authorities. As such it is being proposed some interim steps are put in place to ensure, for example a clear set of committee procedure rules. At present without any, the Committee is unable to manage and control meetings in the normal way as its procedure rules cannot be found. Although this may not have been an issue to date, following disruption at a recent meeting, the JMC needs to ensure it has all the normal committee powers to deal with any issues that arise at meetings.

### **Local Group representation**

- 1.18 There are three main local groups which have provided a range of support to the Park and the JMC. The nature of the support is varied amongst the groups as is the focus of the groups.
- 1.19 As part of a governance audit, the three local groups were asked for copies of their Constitutions, confirmation of appointment of their nominated representatives and the terms of reference for such representative.
- 1.20 All three groups have submitted their Constitutions and they are attached at Annex 1. As these documents are private documents to those groups, it was felt that they should be treated as confidential. However, it is important to draw attention to the Objectives of each group.
- 1.21 The objectives for Nonsuch Voles is set out as:
- “the objective of the Groups shall be: to help to maintain and improve the formal garden and woodland at Nonsuch park by working in partnership with Epsom & Ewell Council staff and other Nonsuch Park voluntary organisations”.*
- 1.22 Friends of Nonsuch have a wide set of objectives, to highlight a few:
- “The Charity’s objects are*
- (i) the making available of the encouragement of the provision of access to and the study and appreciation of any building of national historic ....and in particular the mansion house known as Nonsuch Park Mansion Cheam and any furniture pictures ...*

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(ii) *the establishment of a museum for the benefit of the general public*  
...

(x) *the promotion of the study and appreciation of ecology and conservation* ....

*and the Executive Committee ...apply Funds for the Charity and income ..for these purposes in relation to the land and buildings comprising Nonsuch park...*

1.23 Nonsuch Watch set their objectives out as follows:

(i) *“to promote and conserve the natural beauty of the Nonsuch Open space.*

(ii) *to encourage the preservation and protection of indigenous wildlife, trees and plants..*

(iii) *to protect the general quiet amenity of the Nonsuch Open space*

(iv) *to promote the study and appreciation of biology, ecology and nature conservation. “*

1.24 Nonsuch Voles confirmed they have a process for the appointment of a representative to the JMC along with terms of reference for such. This appointment was formally confirmed in September 2018. The role rests with the Chair of Nonsuch Voles, the terms of reference for such are

*“Represent the Nonsuch Voles at meetings as required, abiding by the regulations and requirements of those meetings. In particular, if invited, the Chair will represent the Nonsuch Voles at the quarterly Nonsuch Park Joint Management Committee (JMC) and contribute as required by the JMC Chairperson. This may include an oral summary of the recent voluntary work undertaken by the Nonsuch Voles”.*

1.25 The Friends of Nonsuch, do not have a formal process, but their current representative has the endorsement of the group and therefore attends the meetings.

1.26 Nonsuch Watch confirmed the appointment of their Secretary as their representative on the JMC, in September 2017, but have no terms of reference for such nominee. Correspondence from the Nonsuch Watch refers to the appointee as an ‘advisor to the JMC’.

1.27 It is important to note the content of Minutes 3280 and 3371, set out at para 1.12 and 1.13 above. The JMC have not appointed any advisor to the Committee from Nonsuch Watch.

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- 1.28 To ensure the aims of the Park are best served, the JMC need to consider the terms of reference of the current represented groups and the work they carry out on behalf of the Park, so as to clarify roles and expectations.
- 1.29 The government published a report on Public Parks in February 2017 <https://publications.parliament.uk/pa/cm201617/cmselect/cmcomloc/45/45.pdf>
- 1.30 The report addressed 3 questions: why parks matter, what challenges are facing the parks sector and how we can secure a sustainable future for parks. The report recognised the many benefits parks can bring but also recognised the 'considerable challenges' they face. There were many calls for a statutory duty on local authorities to provide and maintain parks in order to raise the profile of parks within the local authority prioritisation and budget allocation. Although this was found to be potentially unworkable, it was stressed that guidance should be produced encouraging Health & Wellbeing Boards to work with local authorities articulating the contribution and roles parks to wider local authority objectives.
- 1.31 The report notes the key role played by 'friends, volunteers, and other community groups...in mitigating the impact of budget reduction'. The volunteer hours by Nonsuch Voles and Friends of Nonsuch confirm the reliance by the JMC on the voluntary sector to provide both financial and non-financial. As a result the JMC are asked to formally recognise the Nonsuch Voles by a standing invitation to the JMC with speaking rights on relevant matters, but no voting rights.
- 1.32 It is also important to ensure all park users and potential park users have the ability to play a role in the development of options and facilities. This is a usual component of any application for external grant funding. Although the JMC was not successful in its recent application for Heritage Lottery Funding, the experiences along with the learning from the Beddington Park bid, will assist the JMC with future applications for grant funding.
- 1.33 The bid experience has also shown that it is important for the Park to generate an independent income. Such a source could then be used as a source for grant match funding, which is often a key requirement of requirement to be able to award.
- 1.34 There are other sources of funding which could also be explored. For example, there is one example where a local health authority have provided a local authority with funding for organising outdoor health walks and putting outdoor gyms in its parks and open spaces. Again these and other areas which could be considered and explored in the future as part of the development of the strategic plan for the Park.

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### **Byelaws & other Restrictions**

- 1.35 The Park is covered by byelaws made and agreed by the JMC in 1951 under section 164 of the Public Health Act 1875 for pleasure grounds.
- 1.36 Following concerns raised around the use of drones, consideration for public space protections orders to regulate such use were being considered. These matters now need to be followed up.
- 1.37 In 2018, Sutton secured a permanent injunction against unauthorised encampments against various sites in Sutton. At the request of the JMC, Nonsuch Park was also included. Following this with the support of Sutton's Legal Team, Epsom & Ewell have also secured an interim injunction for a number of its sites. On advice this has included Nonsuch Park to enable easier enforcement process should this arise.

### **Listing**

- 1.38 There are several listings for Nonsuch Park under listed buildings, scheduled monuments and registered parks and gardens with Historic England.
- 1.39 The garden and land were registered under the Historic Buildings and Ancient Monuments Act 1953 with the Register of Historic Parks and Gardens by Historic England for its special interest.
- 1.40 In 1954 Nonsuch Park House was listed at a grade II listed Building. In 1995 the Park and Garden were given a Grade II listing. The building was listed under the Planning (Listed Buildings and Conservation Areas) Act 1990, for its special architectural or historic interest.
- 1.41 In 1954 the remains of the banqueting House to Nonsuch Palace where listed as Grade II. This building was listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 for its special architectural or historic interest.
- 1.42 Nonsuch Palace, its formal gardens and associated remains and Cuddington medieval settlement were listed in 1969 as a Scheduled Monument. This monument is scheduled under the Ancient Monuments and Archaeological Areas Act 1979, as it appears to the Secretary of State to be of national importance.
- 1.43 In 1974 the wall flanking the east side of the garden to south of Nonsuch Park House was listed as Grade II, under the Planning (Listed Buildings and Conservation Areas) Act 1990, for its special architectural or historic interest.

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### **Parking issues**

- 1.44 Over the years a number of issues have been regularly raised around problems created by inconsiderate parking at the Park. The issues continue to be raised and therefore now need to be addressed more formally.
- 1.45 In an effort to find a pragmatic solution, a site visit took place last year by members of the JMC to review the arrangements of the parking enforcement trial at Beddington Park.
- 1.46 The background to the Beddington Park trial is similar to the issues Nonsuch park experiences. At Beddington park large number of cars were parking in undesignated areas, which often caused blockages. The emphasis was to ensure parking only occurred in designated car parks, and not on other areas such as grass or access roads. Although parking in designated car parks remains free of charge, if parking takes place elsewhere other than in a designated place, a Penalty Charge Notice of £100 is issued.
- 1.47 The arrangements are designed to proactively manage parking. The scheme is self-funding with no cost to the Council for enforcement. It is recommended that the Nonsuch introduces a similar scheme and arrangements as Sutton, and if possible to utilise Sutton enforcement arrangements. This is likely to require works to mark where parking should be permitted and if the introduction of a scheme is supported, work on costings will commence.

### **Financial arrangements**

- 1.48 Both Sutton and Epsom & Ewell contribute to the costs of the Park. However, the contributions both Councils can make is naturally limited by the pressure on both Council's budgets.
- 1.49 The JMC are entirely financially responsible for all rates, taxes, charges and all other outgoings arising from or due in relation to the Park. The JMC are responsible for all the costs of keeping the Park in good repair and condition. This is particularly important in light of the listed nature of many parts of the Park.
- 1.50 Recent issues have required a disproportionate amount of senior officer time to be devoted to them. Such an approach is unsustainable. It has however, highlighted that senior officer time spent on JMC matters is not being charged to the JMC and this will need to be addressed.

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### Strategic Plan

- 1.51 Much of the work each authority is undertaking invariably does not specifically include Nonsuch Park, because of the nature of the joint arrangements for the management of the Park. As such there is a gap in setting a strategic vision for the Park along with aspects of operational functions.
- 1.52 It would be useful for the JMC to draw upon the work each of the authorities are undertaking in their own Borough's around sustainability, being enterprising and also around the wellbeing agenda and to draw these together in the form of a business plan for the Park. The benefits could include:
- Improving customer experience;
  - Increasing operational efficiency;
  - Increasing resilience and flexibility through the pooling of resources;
  - Pooling scarce specialist resources and creating additional capacity;
  - Savings through common procurement strategies and sharing expertise.
- 1.53 By developing a business plan for the Park, the JMC will then be able to take forward much of its recent discussions around promoting the Park and its distinctiveness. Key to this is developing a brand and identity for the Park.
- 1.54 There will be investment costs associated with taking forward any changes. If the JMC are happy to consider options and to take forward proposals for the development of a Park Business Plan, a further report could be bought with proposals and costings.
- 1.55 Since the Park Management Plan is also now out of date, it is particularly opportune to bring forward a Strategic Plan for the Park, which captures all the key plan elements for the management of the Park in one place.

## 2 Proposals

- 2.1 In light of recent issues, to ensure resources are managed effectively and efficiently, it is important for the JMC to have a clear set of procedure rules for the running of the Committee.
- 2.2 Both Councils currently operate a Committee based model, both have their own Constitutions. Neither deal specifically with the committee procedure rules for the JMC.

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- 2.3 Currently Epsom and Ewell provide support to the JMC in terms of democratic officer support. The Clerk to the Committee is the Chief Executive of Epsom and Ewell. The Clerk is presented at the JMC by Epsom and Ewell's Chief Legal Officer who is also the Council's Monitoring Officer.
- 2.4 All support in relation to finance, planned maintenance reporting, property management and park management is provided by Epsom & Ewell Council.
- 2.5 Sutton's support is provided by their local Neighbourhood Manager.
- 2.6 It is proposed that the Committee Procedure Rules of Epsom and Ewell apply to the JMC. The JMC is not a policy making committee and therefore would not be regarded as such under the committee procedure rules. This would mean there would be no public questions, as a result of the application of the committee procedure rules. This would be entirely consistent with the role and function of JMC.
- 2.7 The JMC currently have a scheme which was agreed and this is attached at Annex 2. The scheme was originally a trial, but perhaps was not reviewed because the scheme was not utilised to any great extent.
- 2.8 It is proposed that this be amended to enable public questions to be asked at meetings rather than a process for public speaking. At present both Councils have processes for public questions but public speaking is limited to regulatory committees such as planning and licensing. It is therefore unusual to have public speaking at a management type of committee.
- 2.9 From reviewing previous meeting minutes, it is clear that other park users have spoken to the JMC about their experiences. For example a representative of Parkrun has often attended to give an update on their activities. In light of the growing role parks, it is important to encourage park community feedback. The question is how this community engagement could be encouraged and supported, particularly when sometimes people do not have the time to attend Committee meetings.
- 2.10 As an interim step the JMC may wish to consider the ability to invite an interested park user group to speak to the JMC on a matter of interest to the JMC. This is particularly relevant in light of the support the JMC needs in relation to accessing or applying for any 3<sup>rd</sup> party funding or grants. A recent example would be where Nonsuch Voles worked very closely with officers in relation to an application for funding from the Suez Communities Trust.

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- 2.11 Other examples would include and also in relation to completion of works related to management plans. For example, the Nonsuch Voles work closely with officers in terms of management of the formal gardens, the Pinetum along with general maintenance and support around the Park. The award of the Silver Gilt this year again evidences the value of the support of the voluntary sector to the park.
- 2.12 The work of the Friends of Nonsuch to bring a museum to the Park and make the history of the Park available for all to enjoy is another key component to the Park's continued attraction and success as a heritage asset.
- 2.13 The tireless work of the Nonsuch Voles and Friends of Nonsuch to support the Park is critical to the work of the JMC in terms of management of the Park within available resources.
- 2.14 At present Nonsuch Voles are not referred to specifically in any of the minutes with a standing invitation to attend the JMC meetings. In light of their work for the Park, it is recommended that they be accorded the same status as Friends of Nonsuch.
- 2.15 It is therefore proposed to delete the current public speaking procedures entirely and replace them with a modified standard process for public questions, a draft of which is attached at Annex 3. To facilitate discussions, it is also proposed that the nominated group's representatives, who attend the JMC as advisors, have the ability to respond to questions from the JMC and assist the JMC as and when required. To avoid limiting the JMC, it is also recommend that public participation not be limited as provided for by minute 3371 (set out above). Namely that the JMC have the ability to extend an invitation to recognised voluntary groups, to attend a meeting when invited to do so. This does not stop any group from attending a meeting as a member of the public, but instead carves out a role for those groups from whom the JMC may wish to hear in relation to any JMC work stream.

### 3 Financial and Manpower Implications

- 3.1 In the event the recommendations with financial implications are agreed, further reports with costings will be brought to the JMC before any expenses are incurred.
- 3.2 Officers will utilise existing resources and available arrangements, but it is envisaged work will be need to be commissioned.
- 3.3 **Chief Finance Officer's comments:** *None arising from the contents of this report.*

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### **4 Legal Implications (including implications for matters relating to equality)**

- 4.1 The arrangements for the Park in terms of joint management are fixed. However, over time the complexity of demands has now lead to pressure for the nature of those arrangements to be extended. This covers a wide spectrum of activities, from clarity of decision making, conduct of meetings to greater shared working between to the two managing councils.
- 4.2 Both Councils, in common with all in the sector, face considerable financial pressures. Recognising that reductions in local government funding will continue and that over time, the ability to make further savings reductions in budgets is becoming increasingly difficult, the JMC now needs to consider the need for being more enterprising in terms of the Park's management, so as to ensure services can be maintained.
- 4.3 The heritage listing of parts of the Park including buildings, the nature of the paths and access routes all add to the high costs of maintenance. The work program is unable to move at the pace it needs to because of the pressure on funding. This inevitably increases the risk to the JMC, which has to be managed.
- 4.4 The nature of the management arrangements also adds to the complexity. It also sometimes results in the Park not being captured within the strategies or policy frameworks of either Council or for work programs not being kept up to date. By formalising processes and procedures through a strategic plan for the Park, capturing both the management and business plans, in one place, will help to address some of these issues.
- 4.5 ***Monitoring Officer's comments:*** None arising from the contents of this report.

### **5 Sustainability Policy and Community Safety Implications**

- 5.1 These are set out within the body of the report.

### **6 Partnerships**

- 6.1 These are set out within the body of the report.

### **7 Risk Assessment**

- 7.1 These are set out within the body of the report.

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### **8 Conclusion and Recommendations**

- 8.1 Customer expectations, the role of local authorities, the financial background and nature of risk have all changed radically since the JMC was set up in the 1930s. These strands all have placed a pressure on the work of the JMC, which requires a fundamental rethink of how the JMC undertakes its work, how that work is funded, along with how the Park needs to respond and provide for its local community and park users.

**Ward(s) affected:** Nonsuch Ward;