

Committee: City Gardens & Open Spaces	Date: 15 July 2019
Subject: Finsbury Circus Reinstatement	Public
Report of: Director of Open Spaces	For Decision

Summary

Crossrail has started decommissioning its worksite that currently occupies part of Finsbury Circus Garden. In order to comply with the Crossrail Act 2008, Schedule 5, it needs to submit plans detailing the condition in which the site will be handed back to the City. These plans have been prepared in response to comments and observations made by the City.

Due to uncertainty over the actual date when Crossrail will be vacating the site, and that the final landscape reinstatement will be implemented by the City, the plans submitted do not reflect the final landscaping scheme, but instead a temporary interim landscape design that will allow safe access by the public, and to which both parties are amenable.

Recommendation

Members are asked to:

- Delegate to the Superintendent of Parks and Gardens approval of the reinstatement proposals attached at Appendix 1, as the temporary landscape condition to be installed by Crossrail prior to its vacation of Finsbury Circus Garden, in accordance with the Crossrail Act 2008, Schedule 5;
- Note that, in agreeing this temporary landscape, the City's right to reasonable compensation in respect of the costs of reinstatement of the final landscape, will not be compromised.

Main Report

Background

1. Members will recall that, in March 2010, Crossrail (CRL) took possession of a substantial part of Finsbury Circus Garden for the purposes of a works site to construct its high-speed rail link. Approximately one half of the garden is occupied, which required the removal of the 'Pavilion Wine Bar', a Bowling Green, the listed drinking fountain, and soft landscaping elements. The land is occupied under CRL's statutory powers in accordance with the Crossrail Act 2008 (the Act).

2. Under the terms of the Act, specifically Schedule 5, paragraph 2(1), it is stated that *“Before giving up possession of land of which possession has been taken under paragraph 1, the nominated undertaker shall, in accordance with a scheme agreed with the owners of the land and the relevant planning authority, put the land into such condition as the scheme may provide”*. In short, before surrendering Finsbury Circus Garden, CRL must put the land back into a condition that has been agreed with the City, both in its roles as Planning Authority and as landowner. This is done through the submission of plans and technical drawings, agreed by both parties, and is commonly referred to as a “Schedule 5 submission”.

Current Position

3. Your officers have been in regular contact with their counterparts at CRL throughout the duration of CRL’s occupation. Following the delays that have been widely reported in the media, it has now become clear that CRL are preparing to decommission the worksite with a view to surrendering the garden back to the City. Consequently, CRL has submitted its Schedule 5 drawings (attached at Appendix 1), and naturally are keen to have these agreed as soon as possible.

Proposals

4. Ideally, the Schedule 5 submission would represent the final landscape design so that, when CRL depart, the garden could be immediately opened to the public in its finished form. However, due to Crossrail not being prepared to carry out the final landscaping and pavilion reinstatement, Members may recall that the City has instead agreed to be compensated for the cost of the built elements and landscape design, with the intention of undertaking the permanent reinstatement work itself. Therefore, in this instance, CRL’s Schedule 5 submission does not represent the proposed final landscape.
5. Due to the lack of certainty around the actual date when CRL will be ready to hand back the garden, it is also not possible for officers to arrange for the landscaping works to begin immediately the site is vacated. Furthermore, it is not acceptable for the garden to remain closed to the public unnecessarily, whilst not being used by either CRL or the City as a worksite. Indeed, to delay reopening the garden without valid reasons could potentially lead to a breach of the City of London (Various Powers) Act 1900, Section 8, which includes a duty to keep Finsbury Circus for open space and recreation use by the public.
6. For these reasons, the Schedule 5 submission represents a temporary handover landscape, that will allow the garden to be open to the public in a safe and secure condition as soon as possible, until the City is ready to begin reinstatement works.
7. The plans attached at Appendix 1 have been worked up with great scrutiny by, and input from, officers of relevant disciplines across the organisation. It should be noted that, in this instance, CRL have been flexible in trying to

accommodate officers' requests wherever practical, for inclusion in the submission. Therefore, the submission attached at Appendix 1 is recommended by your officers for approval.

Corporate & Strategic Implications

8. The reinstatement of Finsbury Circus Garden with a landscape that suits a wide range of uses throughout the day and encourages access for all, strongly supports 9 of the 10 strategic aims in the City of London Open Space Strategy SPD.
9. The provision of high-quality open space in the City also supports key outcomes of the City of London Corporate Plan 2018-23, including:
 1. People are safe and feel safe.
 2. People enjoy good health and wellbeing.
 4. Communities are cohesive and have the facilities they need.
 11. We have clean air, land and water and a thriving and sustainable natural environment.
 12. Our spaces are secure, resilient and well-maintained.

Implications

10. **Legal Implications** – these are included in the body of the report.
11. **Planning Implications** – Schedule 5 of the Crossrail Act requires that the site is reinstated *in accordance with a scheme agreed* by the City as local planning authority. Crossrail's statutory reinstatement responsibilities under the Act are therefore fully met once the approved Schedule 5 scheme has been implemented. It has been agreed that the City will implement the final reinstatement of the garden and construction of the Pavilion following the grant of planning permission and conservation area consent.
12. The proposed interim reinstatement would until the final reinstatement allow public access and use of the full extent of Finsbury Circus Garden and would accord with the following Local Plan policies:

Core Strategic Policy CS19: Open Spaces and Recreation

To encourage healthy lifestyles for all the City's communities through improved access to open space and facilities, increasing the amount and quality of open spaces and green infrastructure, while enhancing biodiversity, by:

- i) protecting existing open space, particularly that of historic interest, or ensuring that it is replaced on redevelopment by space of equal or improved quantity and quality on or near the site;

Policy DM 12.5 Historic parks and gardens

1. To resist development which would adversely affect gardens of special historic interest included on the Historic England register.
2. To protect gardens and open spaces which make a positive contribution to the historic character of the City.
13. The proposed temporary landscape scheme would be acceptable pending permanent reinstatement and can be recommended for agreement by the Chief Planning Officer under delegated powers, on the basis that it is temporary only and that permanent landscaping will follow.
14. **Property Implications** – The reinstatement of the proposed temporary landscape will ensure the Garden remains safe, secure and useable by the general public pending construction of a contemporary and fit for purpose garden with associated refreshment facility.
15. **Financial Implications** – In agreeing this temporary scheme, the City's right to reasonable compensation for the cost of the final landscaping scheme, covering the area of the garden occupied by CRL, is not affected or compromised. Negotiations on the costs of the landscaping element, along with the other outstanding Heads of Claim, remain ongoing.

Conclusion

16. In preparing to hand back Finsbury Circus Garden to the City, CRL need to submit plans showing the condition in which they will return the site, in order to comply with Schedule 5 of the Crossrail Act 2008.
17. Without any certainty over a precise handover date and therefore when the City will be able to start reinstatement works for the final approved scheme, it is deemed prudent to require CRL to hand back the site in a condition that is safe and secure for the public to access at the earliest opportunity.
18. Therefore, CRL's Schedule 5 submission reflects a temporary landscaping scheme that has been discussed at length with the City and with which your officers are satisfied. The scheme attached at Appendix 1 is therefore recommended for adoption, pending the main reinstatement works to be undertaken by the City.

Appendices

- Appendix 1 – Plans submitted by Crossrail under Schedule 5 of the Crossrail Act 2008

Background Papers:

Finsbury Circus Reinstatement Issues – Committee Report dated 18 April 2016

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