

Corporate Policy and Resources Committee



Monday 9th September 2024

Title	Arrangements for displaying and maintaining the “5 Swimmers” statue in Staines-upon-Thames
Purpose of the report	To make a decision
Report Author	Coralie Holman – Group Head Assets
Ward(s) Affected	All Wards
Exempt	Main report: No Appendix 1: Yes
Exemption Reason	Appendix 1 contains exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006 Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information) and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because, disclosure to the public would prejudice the financial position of the authority in any contract or other type of negotiation with the proposed provider who could then know the position of the Council.
Corporate Priority	Community
Recommendations	Committee is asked to: Authorise the Group Head of Corporate Governance to enter into a long term art loan agreement for the 5 Swimmers statue with Berkeley Homes (or such other appropriate form of agreement as shall be agreed with Berkeley Homes).
Reason for Recommendation	The Council has been unable to secure a suitable site on Council owned land. Hence alternatives have been considered within Staines-upon-Thames and the Berkeley Homes site at Eden Grove is the best alternative option available.

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none"> The 5 Swimmers is a statue that is has significant importance for many local residents. Unfortunately, it is currently in storage, having been damaged due to past vandalism and is not available for viewing or visiting by those who value it highly. 	<ul style="list-style-type: none"> To ensure that this much-loved statue once again can be placed in a public realm to be enjoyed. To mitigate the continued storage costs
What do we want to do	These are the next steps
<ul style="list-style-type: none"> Allocate the statue a new location in Staines -upon-Thames which is accessible to the public. 	<ul style="list-style-type: none"> If option 1 is approved enter into an art loan agreement with Berkeley Homes, arrange the repairs to be completed and then the actual relocation of the statue. If Option 2 is progressed continue to identify suitable alternative locations for the statue. If Option 3 is preferred, no further action is required.

2. Key issues

- 2.1 The 5 Swimmers statue was constructed in 1980 by David Wynne O.B.E, an artist and renowned sculptor. It was commissioned at the behest of Grosvenor Developments, the owner of the Elmsleigh Centre with the financial backing of the British Petroleum Pension Fund and gifted to the people of Spelthorne.
- 2.2 It was used as a “wishing well” spouting centre piece for the Elmsleigh Shopping Centre for many years and was still in situ in 1997. At some point after that, the pension fund owners of the Elmsleigh Shopping Centre indicated they did not want it anymore and the statue was moved into storage. This is believed to be because of refurbishment works at the Centre, and it may have impeded the flow of pedestrians. Following this there was a public outcry that the 5 Swimmers statue had been removed from the public realm.
- 2.3 The Council then intervened and installed the statue in the Memorial Gardens by the Old Town Hall in 2006. A location which initially worked well, as the statue is a water feature which requires an underground pump room (and legionella testing) to be used as such and it was situated in the Memorial

Gardens. The pumps were damaged in the flood of February 2014 and had to be decommissioned for a period of time.

- 2.4 Unfortunately, the statue was subsequently vandalised several times in this location assisted by the fact it was located in a quiet location which is not overlooked, culminating in a major incident on 14 February 2022 when some youths climbed on the statue causing it to collapse in pieces. The statue has been held in storage with one of the Council's contractors ever since at a cost of approximately £1,000 per annum.
- 2.5 The 5 Swimmers statue's value is currently listed as £250,000. Its total insurance value is listed as £399,639.24. The statue has been repaired several times in the past and the cost of current repairs needed now stands an estimated sum of £25,000, which could potentially be funded from the Council's Planned Maintenance budget.
- 2.6 Use of the Planned Maintenance budget would result in decisions needing to be taken as to which elements of the Council's planned maintenance programme could be deferred to a future financial year.

Current position

- 2.7 Officers were asked that options were explored for a new site for the possible relocation of the 5 Swimmers to ensure that this statue once again can be placed in a public realm to be enjoyed.
- 2.8 The main considerations are:
 - Location: the statue needs to be relocated to a site where it is less likely to be vandalised, but remains within the public realm as a piece of public art.
 - Ownership: given its value, history as part of Staines-upon-Thames and the public affection for the statue, the Council should seek to retain ownership.
 - Repair and Maintenance: there will be ongoing costs which needs to be picked up, including legionella testing so it can continue to operate as a water feature.
 - Insurance: the Council currently insures the statue and prospectively may need to continue to do so if it retains ownership, though it is expected that Berkeley Homes will take on the insurance alongside its security of its public realm.
- 2.9 Various options for a new location for the 5 swimmers were considered. This resulted in a detailed evaluation of 4 key sites, all within Staines-upon-Thames. These are set out in Appendix 1. There were no suitable sites on land currently owned by the Council. It also became apparent, should the statue be located within a Council owned site i.e. within established operational buildings such as the Elmsleigh Shopping Centre, the installation and ongoing maintenance costs could be in excess of £90,000, due to the various works and alterations required. The five sculptures which form the statue plus the base have a total weight of 403.5kg. The approximate height is 3.7m and approx. width is 3m. A photograph of the statue is shown in Appendix 2.
- 2.10 Positive engagement has been undertaken with Berkeley Homes who are designing and installing a new major public open space within their Eden

Grove development on London Road, Staines-upon-Thames. A proposal to potentially relocate the 5 Swimmers as a central feature of this fully accessible new public space for Staines-upon-Thames, has actively been pursued.

- 2.11 Installing the 5 Swimmers statue in the Eden Grove complex, does raise the issue of potential transfer of ownership and continued insurance and maintenance liability.
- 2.12 'Giving away' a community asset is clearly not an option. The rules regarding disposal of non-land assets are contained within the Financial Regulations in the Constitution. Hence a long-term loan of the public asset is proposed, on the basis that Berkeley Homes maintained liability and security of the statue in their development. Legal Services have confirmed this is a feasible proposal. It is proposed an agreement is put in place to loan the statue, for a period of c.100 years.
- 2.13 The area in Memorial Gardens where the statue was previously installed, could in the future be used for a play area or other suitable public recreational use, subject to future funding availability.

3. Options analysis and proposal

The Committee has the following options to consider.

3.1 Option 1

This is the recommended option. The Council arranges the repair of the statue at a cost of £25,000 (to be met from the Planned maintenance budget) and allow Berkeley Homes to borrow the artwork for external public display in its Eden Grove development. It is proposed that the arrangement would be documented by way of a long-term art loan agreement of the 5 Swimmers' statue to Berkeley Homes including repairs, maintenance and insurance liabilities to facilitate provision of a new home in the Eden Grove development.

3.2 Option 2

Do not agree the long-term loan of the 5 Swimmers statue to Berkeley Homes but continue to seek suitable alternative Council owned sites and retain repair, maintenance and insuring liabilities, which is an unquantified cost.

3.3 Options 3

Continue to house the statue in storage and incur the on-going £1,000 pa storage costs.

4. Financial management comments

- 4.1 The Council will need to meet the repair costs which are anticipated to be £25,000 and will be funded from the Planned Maintenance budget.
- 4.2 If the statue is not repaired at this time the £1,000 annual costs of storage will still have to be covered from the Council's revenue budget.

5. Risk management comments

- 5.1 The proposed location to re-site the statue will be more visible, which should deter future vandalism.
- 5.2 Not all members of the community may consider this to be good use of public funds at the expense of deferring some planned maintenance works on council owned buildings.
- 5.3 Terms will need to be agreed with Berkeley Homes.

6. Procurement comments

- 6.1 A specialist contractor has been identified to carry out the repair works.

7. Legal comments

- 7.1 The 5 Swimmers statue belongs to the residents of Spelthorne and therefore it is important that it remains visible to the public and title to the artwork is retained.
- 7.2 The precise form of agreement to be used to document Berkeley Homes' borrowing of the artwork will be subject to negotiation with Berkeley Homes, but an art loan agreement is proposed. This agreement allows title to the statue to be retained, whilst passing the insurance, repair and maintenance costs onto Berkeley Homes (subject to agreement of heads of terms). An art loan agreement is proposed in preference to a lease as it does not constitute a 'disposal' of the asset and there is no risk of the Council's incurring rates liability.
- 7.3 As the artwork will be located on Berkeley Homes land (over which the Council has no control or interest), the Council will look to Berkeley Homes to assume responsibility for public liability and insurance.
- 7.4 The erection of the statue itself may require planning consent. This will be a matter for Berkeley Homes' consideration and the onus on obtaining all necessary consents will be passed onto Berkeley Homes.
- 7.5 If the statue is to be fully operational as a water feature, responsibility for legionella testing etc. shall be passed onto Berkeley Homes.

8. Other considerations

- 8.1 Not applicable.

9. Equality and Diversity

- 9.1 Not applicable.

10. Sustainability/Climate Change Implications

- 10.1 Not applicable

11. Timetable for implementation

11.1 As soon as possible following the Committee decision.

12. Contact: Daniel Mouawad, Chief Executive (email: DCM.CEX@Spelthorne.gov.uk)

Background papers: There are none.

Appendices:

Appendix 1: Evaluation of alternative sites

Appendix 2: Photograph of 5 Swimmers statue at previous location