

COMMITTEE: EXECUTIVE REF NO: E/19/30
DATE: 3 SEPTEMBER 2019
SUBJECT: KEVIN BEATTIE STATUE
PORTFOLIO HOLDER: COUNCILLOR DAVID ELLESMERE
HEAD OF SERVICE: RUSSELL WILLIAMS

Short description of report content and the decision requested:

The Council has been approached by the organising Committee associated with the proposal to erect a statue in memory of footballer Kevin Beattie and asked whether (and upon what conditions) it might be prepared to take on the project and deliver and own the proposed statue.

The report considers the request and recommends that the Council takes on the role (subject to certain conditions) and that Contract Standing Orders are waived in relation to the proposed sculptor. In addition, a short policy has been produced that sets out the Council's likely position on any similar requests.

Ward(s) affected:

Gipping

List of Appendices included in this report:

- a) *Appendix 1 – Letter from Brad Jones, Editor of the East Anglian Daily Times and the Ipswich Star (and chair of the statue organising committee)*
- b) *Appendix 2 – Draft Policy on Procuring Statues*

This report has been prepared by Russell Williams, Chief Executive, Tel: 01473 432009, Email: russell.williams@ipswich.gov.uk

This report was prepared after consultation with:

Internal consultees

Corporate Management Team

Finance and Procurement Operations Manager

Legal and Democratic Services Operations Manager

Property Services Operations Manager

External consultees

*Brad Jones, Editor of the East Anglian Daily Times and the Ipswich Star
(and chair of the statue organising committee)*

The following policies form a context to this report:

(all relevant policies must also be referred to in the body of the report)

Building a Better Ipswich 2017

Ipswich Local Plan

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

*(papers relied on to write the report but which are not published and do not
contain exempt information)*

1. None

OTHER HELPFUL PAPERS

*(papers which the report author considers might be helpful – this might
include published material)*

1. None

1. Introduction

- 1.1 Following Kevin Beattie's death in September 2018, a fundraising campaign was launched to raise money to erect a sculpture in his honour/memory.
- 1.2 A committee was established with Archant acting as 'banker'. The BBC are also supporting 'The Beat Goes On' campaign.
- 1.3 The Borough Council has had limited involvement to date – beyond indicating that we would be happy for the sculpture to be located (for 'free') on our land – probably either on the north or south corner of the main entrance to the Portman Road car parks.
- 1.4 The Committee has now written (see Appendix 1) to the Council asking whether the Council would take on the delivery (etc) of the statue.
- 1.5 This report considers the issues associated with this request and recommends a (positive) response to the request.

2. Issues

- 2.1 The Council does not appear to have a policy background against which this request can be assessed.
- 2.2 Therefore, it needs to be assessed in isolation but having regard to the precedence any decision might make.
- 2.3 It appears that, for the Borough, the request raises three main issues to consider:
 - (i) Does the Council wish to get involved (beyond a land-ownership role);
 - (ii) Would the Council be comfortable to waive standing orders and directly commission the committees chosen sculptor, Sean Hedges-Quinn, without running a procurement process (estimated contract value £80,000 (excluding VAT));
 - (iii) Bearing in mind the fact that the Fundraising Committee has not reached their overall target (circa £90,500, plus already committed 'in-kind' contributions), how could the Council mitigate any financial risk (and how much risk may the Council be prepared to take).

- 2.4 The Committee has chosen a sculptor and a design. These have been heavily profiled within the media. The proposed sculptor is Sean Hedges-Quinn, who also sculpted the Sir Alf Ramsay and Sir Bobby Robson sculptures. An image of the proposed sculpture is set out below.



- 2.5 The Committee believe that it would be possible to install the sculpture before start of the 2020/21 season.
- 2.6 It is understood that this request has come forward for two main reasons:
- (i) It would simplify the long-term position – i.e. the Council would own the sculpture on land that it owns;
 - (ii) Archant have no / limited knowledge / experience of commissioning (etc) public art.

3. Relevant Policies

- 3.1 Paragraph 9.59 of the adopted Local Plan states that *“Public art can play a critical part in the development and regeneration of places by making the architecture and/or setting or public space around them more attractive, and establishing a sense of place and local identity. It also has intrinsic cultural and aesthetic value.”*

4. Options Considered / Under Consideration

- 4.1 The Council could decide it does not wish to get involved.
- 4.2 If the Council wishes to get involved, then it could make any involvement conditional, e.g:
- (a) Upon an open procurement process being run for the sculptor/design; and / or
 - (b) All the money being raised and available for transfer to the Council before any commitments are made; and/or
 - (c) Appropriate guarantees being in place from third parties to cover any funding gap – in the event that the Committee do not secure their target; and/or
 - (d) Establishing a realistic delivery timetable for the sculpture to be erected/unveiled.
- 4.3 In addition, the Council may wish to consider the ‘precedent’ effect of any involvement in this project (although it should be noted that the Council was involved, in one way or another, in a number of previous sculpture campaigns in the town).
- 4.4 Having considered the matter, it is recommended that the Council should:
- (a) Be willing to get involved;
 - (b) Be willing to waive standing orders to commission Sean Hedges-Quinn, providing it gains confidence that the commission is ‘value for money’ and will be delivered in an appropriate timescale/manner;
 - (c) Require appropriate financial guarantees from third parties to cover any gap (currently estimated to be about £14,500 including contingency) in the event that the fundraising target is not reached; and
 - (d) Having first undertaken due diligence prior to entering into any contractual position(s) (i.e. legal, tax, property, delivery timing and construction etc costs).
- 4.5 It should be noted that it would be simplest to not to be involved. However, the sculpture is a popular project and will add to the array of public art in the town. The project is more likely to happen in a quicker manner with the Borough’s active involvement therefore the view is that the best option is as set out in paragraphs 4.4.
- 4.6 There are some reputation risks associated with getting involved and there are also some risks to not getting involved.

- 4.7 It is also considered that a simple 'policy' should be produced, consistent with the above, that would enable the Council to consider any future suggestions for it to be involved in a sculpture project. This is attached at Appendix 2. It is proposed to consult on this draft policy prior to a version being adopted later in this municipal year.

5. Consultations

- 5.1 The sculpture will require planning permission and there will be consultation as part of that process. Clearly the topic/sculpture has been profiled heavily within the local press.
- 5.2 In the event that the recommendations are agreed, consultation on the draft policy in Appendix 2 will be held with key stakeholders in the coming months.

6. Risk Management

Risk Description	Consequence of risk	Risk Controls	Probability of risk occurring taking account of controls (scale 1-6) 1 – almost impossible 6 – very high	Impact of risk, if it occurred taking account of actions (scale 1 – negligible; 4 – catastrophic)	Actions to mitigate risk
1. Involvement costs the Council money	Unbudgeted for impact on financial position	Most of funds have been raised and funding guarantees to be required	1	1	The guarantees have been agreed in principle
2. Involvement sets an inappropriate precedence	Reputational damage	Establishment of policy to determine any future requests	2	2	Draft policy set out in Appendix 2 – consultation on it recommended
3. The statue isn't completed / installed	An opportunity to enhance public art and sporting heritage is missed	Agreement to be reached with fundraising committee to take on the project	1	2	Council involvement in project

7. Environmental Impact Assessment

- 7.1 The EU Directive on Environmental Impact Assessment (EIA), as amended, requires that a formal assessment – including public consultation – is undertaken for specified types of projects before they can go ahead. Direct and indirect environmental impacts should be identified and quantified. Where these are negative, actions to mitigate these impacts should be identified. Examples include impacts on land, water, air, noise, odour, biodiversity, energy, procurement, use of resources, climate change, etc. Whole life costing is an appropriate tool to use in assessments.
- 7.2 The planning application would consider any relevant issues.

8. Equalities and Diversity Implications

- 8.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 8.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 8.3 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty.
- 8.4 It is not considered that this proposal raises any particular issues providing that Appendix 2 is agreed as part of the process.

9. Financial Considerations

- 9.1 It is not considered that there will be any direct financial implications to the Council's position in relation to this proposal (i.e. as the statue will be 100% externally funded). This is based on the financial guarantee position set out within Appendix 1 and as summarised in section 4 of this report.

- 9.2 Detailed tax advice has been sought with regards to the Councils V.A.T. position. Provided that the Council owns the land and statue, the V.A.T. is reclaimable upon the cost of its construction and installation. An invoice from the statue creator to the Council will satisfy this requirement as the Council owns the land and will procure the statue using the funds made available as detailed in Appendix 1.

10. Legal Considerations

- 10.1 The Council is permitted by the Contract Standing Orders to waive any requirements contained within them for specific projects, provided specific criteria has been met.
- 10.2 Should the Council wish to take this matter forward, it will be necessary to have in place the requisite contracts / agreements with those providing the funding to the Council for the Sculptor, the guarantors for the gap funding, and with the Sculptor himself. It is also likely that the Council will want to enter into contracts with MC Contracts and/or Ridgeons who have pledged to fund the plinth and associated groundwork in kind.

11. Performance Monitoring

- 11.1 It is planned to get to a contractual position with the sculptor by 30th September 2019 and for a planning application to have been submitted prior to the end of December. Realistically installation of the sculpture should be before the start of the 2020/21 football season (with all the funding being received by the Council by the end of the current financial year).

12. Recommendations

- 12.1 That the Chief Executive be asked to response positively to the request from the Editor of the Ipswich Star (i.e. that requests the Council's involvement in the delivery of the Kevin Beattie statue);**
- 12.2 That the Chief Executive be authorised to complete and enter into relevant contracts, after consulting the Head of Governance, that would deliver the sculpture having first:**
- (i) Received appropriate financial guarantees from third parties to cover any gap in the event that the fundraising target is not reached; and**
 - (ii) Completed the undertaking of due diligence, including legal, tax, property, delivery timing and construction etc costs.**

12.3 That, in delivering 12.2, it is noted that Contract Standing Orders will need to be waived to commission Sean Hedges-Quinn to make/construct and install the sculpture (with a value that doesn't exceed £80,000 (excluding VAT)).

12.4 That Executive authorise the Chief Executive to consult with key stakeholders on the draft policy set out in Appendix 2 to the report and for the outcome to be reported back before the end of March 2020.

Reason: To respond appropriately to the request received and set in place a consultation process that should lead to a policy position for any future such request.