

## **Report to the Cabinet**

**Report reference: C-036-2015/16**  
**Date of meeting: 8 October 2015**



**Portfolio: Leisure and Community Services**

**Subject: Leisure Management Contract - Business Case and Procurement Strategy**

**Responsible Officer: Derek Macnab (01992 564050).**

**Democratic Services: Gary Woodhall (01992 564470).**

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### **Recommendations/Decisions Required:**

**(1) That, as recommended by the Portfolio Holder Advisory Group for Leisure Management, the Business Case and Procurement Strategy for the Council's new Leisure Management Contract be agreed, which will:**

- (a) be through a Design, Build, Operate and Manage contract for a period of 20 years and deliver a new build replacement for Waltham Abbey Swimming Pool;**
- (b) be based on the affordability levels identified seeking to maximise return on investment;**
- (c) consider a detailed variant Business Case to include operating costs for a potential new Leisure Centre development at North Weald, with the option to either replace or retain Ongar and Epping Sports Centres;**
- (d) enable the market to present options which are commercially more favourable to the Council; and**
- (e) utilise the evaluation criteria within the Procurement Strategy to select the best future management partner; and**

**(2) That, in accordance with the Business Case and Procurement Strategy, the existing Leisure Management Contract with SLM Ltd be extended by one year from 3 January 2016, on the existing terms and conditions, and with a three month break-clause included.**

### **Executive Summary:**

In December 2014, the Council adopted a new Leisure and Cultural Strategy. The Strategy identified future need and defined the role that the District Council may play, in the provision of opportunities for people to lead healthier lives. The most significant direct investment in leisure, is the provision of the four Sports/Leisure Centres, currently managed under contract on the Council's behalf by Sport and Leisure Management Ltd (SLM). The ten year contract is due to expire in January 2016.

In preparation for a new contract, the Council has been considering, through the work of the Portfolio Holder Advisory Group for Leisure Management, the level of service to provide in future and the best procurement and contractual options., to deliver the Council's Key Objectives. The Council has appointed external expertise to support the process, (RPT Consultants), who have been working with the multi-disciplinary officer project team to develop a Business Case and Procurement Strategy. The document was presented to the Portfolio Holder Advisory Group on the 17 September. This report seeks Cabinet approval of the Business Case and Procurement Strategy, as recommended by the Portfolio Holder Advisory Group. In addition, it seeks agreement to a contract extension with SLM the current management partner, for up to a year on the existing terms and conditions..

### **Reasons for Proposed Decision:**

To ensure that the Council can continue to operate and maintain its facilities and achieve maximum value for money in the way that it delivers Sports and Leisure opportunities to its residents.

### **Other Options for Action:**

The Council has previously determined that a management contract with a suitably, experienced external private sector operator or Leisure Trust, is the best means of achieving its Key Objectives with respect to the management of its Leisure Facilities. There are alternative options, such as the establishment of an in-house Leisure Trust or re-adopting direct management at the end of the current contract. However, these would present greater financial risks to the Council.

### **Report:**

#### Introduction

1. In December 2014, the Council adopted a new Leisure and Cultural Strategy which identified future need and the role that the District Council may play in the provision of opportunities for people to lead healthier lives, contribute to community wellbeing and promote social inclusion.
2. The District Council currently provides a range of Leisure and Cultural Services to include Arts, Community and Sports/Health Development as well as the District Museum Service. These operate largely on an outreach basis, working closely with other partners in the public and voluntary sector, with a good track record of accessing external funding.
3. However, the most significant direct investment in leisure is the provision of the four Sports/Leisure Centres, currently managed under contract on the Council's behalf, by Sport and Leisure Management Ltd (SLM).
4. The 10 year contract with SLM is due to expire in January 2016. The Council therefore needs to determine the future level of service it wishes to provide and importantly, what Leisure Management procurement and contractual options, it may wish to pursue

#### Key Objectives

5. Epping Forest District Council's Key Objectives with respect to the management of its Leisure facilities, are to increase use and the level of activity for all residents, to provide services which are complementary to and not in competition with facilities provided by others in the District, to improve the range of services offered, maximise external capital investment in the Council's facilities and reduce revenue costs by the minimisation of management fees,

to any external management partner.

#### Future Leisure Management Contract Options

6. As part of the Council's initial decision to seek an alternative provider in 2005, extensive consideration was given to the respective management options available, namely direct management, private sector operator, in-house trust or established trust. An evaluation of the benefits of adopting the particular options was undertaken, and a firm conclusion was reached that outsourcing to a private sector partner or external trust, was the preferred option.

7. A recent review of these options has reached the same conclusion. This decision was informed as a result of a number of exploratory visits to other authorities who have recently re-let large management contracts, coupled with the increasing feature in the leisure contracting market of private sector companies being willing to invest capital or enter into joint development arrangements, for new or extensively extended leisure facilities.

8. There is considerable amount of complexity in relation to the procurement of a new Leisure Management contract for the Council, by virtue of the number of variables and unknowns in relation to the condition of buildings, and future services options. Whilst it would be possible to replicate the previous approach, where the Council had specified its requirements in detail through the contract specification, this would have a constraining effect on any future contractor. The Council's current operator has already referred to this restriction and has indicated that an alternative approach of competitive dialogue may be preferable.

#### Portfolio Advisory Group and Consultancy Support

9. The procurement of the new Leisure Management Contract needs to be addressed in a strategic way. This is particularly true given that there are increasing demands on the Council's resources, resulting in a need to determine future corporate priorities, alongside the changing socio-economic and demographic make-up of the District, with future levels of growth being determined by the Local Plan.

10. As such, the Council agreed to appoint a Portfolio Holder Advisory Group. The role of the Group is to offer advice and guidance to the Leisure and Community Services Portfolio Holder, in determining the specification for the contract and the scope of any new facilities.

11. Due to the complexity of the Competitive Dialogue process, (although it has been successfully utilised in the procurement of the Council's Waste and Recycling Contract) and the amount of resource required to undertake the procurement in the required timescales, experienced external support was sought. RPT Consulting were appointed through a competitive tender. The lead consultant Robin Thompson has been working closely with the multi-disciplinary officer project team, established to manage the project.

#### Project Plan

12. In June, RPT Consultants presented a draft Project Plan to the Portfolio Holder Advisory Group. In summary, it was agreed that the new contract would be procured through three Phases. Phase 1 to focus on the development of a Business case and Procurement Strategy, the subject of this report. When adopted, this will lead to Phase II, the Procurement Phase. This should consist of three stages. Firstly a pre-Qualification, whereby a shortlist will be drawn up of a maximum of five bidders and a OJEU (Official Journal of the European Union) notice issued. The second stage will be the invitation to Submit Detailed Solutions (ISDS), which should include the key Method Statements from the bidders for the delivery of

the service. At the end of this stage, the shortlist will be reduced to a maximum of three bidders. At this point, the Council will need to decide which of the Business Case options to progress with. The third stage is the Final Tender stage where the bidders will submit their best and final offer. There will be further dialogue and clarification with the final bidders, and the outcome will be the selection of the preferred and reserve bidder. Finally, Phase III of the process is the Contract Mobilisation and handover. A three month period will be allocated for this. It is planned to formally award the new contract in June 2016, with a predicted start date of September 2016.

13. Finally, Phase III of the process is the Contract handover, and a three month period will be allocated for this. With the current contract due to expire in January 2016m a short-term extension to the current contract with SLM will be required. RPT have advised that short-term extensions are common to allow a procurement process to complete, and it is recommended that a one year extension is granted on the existing terms and conditions to SLM. This would allow a contingency period for any delays, however, it is anticipated that a contract start date of September 2016 is realistic. To allow flexibility, it is also recommended that a 3 months notice break-clause which can be triggered after the initial six months of the extension, should be inserted to accommodate any slippage.

#### Contract Extension

14. With the current contract due to expire in January 2016, a short-term extension to the current contract with SLM will be required. RPT have advised that short-term extensions are common to allow a procurement process to complete. It is recommended that a one year extension is granted on the existing terms and conditions to SLM. This would allow a contingency period for any delays to the overall procurement timetable. However, it is anticipated that a contract start date of September 2016. is realistic. To allow flexibility it is also recommended that a 3 months break-clause notice, which can be triggered after the initial six months of the extension, should be inserted, to accommodate any slippage.

#### Business Case and Procurement Strategy

15. Having accepted a general Three Phase approach to the procurement of the new Leisure Management Contract, the Portfolio Holder Advisory Group, at its meeting of the 17 September 2015, received a presentation from the Council's Consultants on the Business case and Procurement Strategy. A copy of the full document is attached for consideration at Appendix One. The Appendices to the Business case and Procurement Strategy contain a considerable amount of detailed analysis, to support the conclusions and recommendations of the document. These have not been published in full within the Agenda, but are listed as Background Papers.

16. In summary, the Business Case and Procurement Strategy covers:

- **Section 1** – An outline of the procurement stages and timetable.
- **Section 2** – An analysis of the relative performance of each of the Council's Leisure Centres, and the required level of subsidy in the form of management fees.
- **Section 3** – An assessment of the likely level of investment required for each of the Leisure Centres with respect to ongoing maintenance, based on building condition surveys.
- **Section 4** – An indication of the key outcomes to be achieved through the

procurement process, in line with the agreed policy aspirations of the Council's Leisure and Cultural Strategy.

- **Section 5** – The identification of a number of development options for future leisure provision, namely Option One – Maintain Existing Provision, Option Two – Refurbishment and new Build and Option Three – Refurbishment.
- **Section 6** – An outline of the establishment of an affordability position for the Council considering a number of factors to include the future revenue position of the Council and how much capital input may be required. Evaluation criteria for the new contract are also proposed.
- **Section 7** – Contains a Summary of the key issues of the Business Case and Procurement Strategy and makes a number of key recommendations.

### Conclusion

17. Having considered in detail the Business Case and Procurement Strategy, the Portfolio Holder Advisory Group is recommending to Cabinet its formal adoption and in particular the following recommendations:

- That the procurement for the new leisure contract commences in October 2015, through a competitive dialogue process which seeks to deliver the outcomes set out in the Business Case and Procurement Strategy and in particular will:
  - Be through a Design, Build, Operate and Manage contract for a period of 20 years deliver a new build replacement for Waltham Abbey Swimming Pool;
  - Be based on the affordability levels identified seeking to maximise return on investment;
  - Consider a detailed variant Business Case to include operating costs for a potential new Leisure Centre development at North Weald, including the option to either replace or retain Ongar and Epping Sports Centres;
  - Enable the market to present options which are commercially more favourable to the Council; and
  - Utilise the evaluation criteria within the Procurement Strategy to select the best future management partner.

### **Resource Implications:**

Contained within the Council's Medium Term Financial Forecast is a requirement to achieve a £250,000 saving per annum on the current management fee, from year two of the new contract. Capital projections for any new facilities are contained within the Business Case. The estimated costs of future maintenance for the Council's existing Leisure Centres, are contained within the Business Case

### **Legal and Governance Implications:**

A representative of the Council's legal Services is an active member of the Officer project team and is advising on contractual issues in relation to the procurement of the new contract.

A draft Voluntary Ex-Ante Transparency (VEAT) notice has been prepared to facilitate the extension of the existing contract with SLM.

**Safer, Cleaner and Greener Implications:**

Any new leisure Facilities provided under the new contract will seek to achieve the BREEAM standard for energy efficiency.

**Consultation Undertaken:**

The Council's current Leisure Management Contractor has been consulted on the general approach and timescale, to include the requirement for a contract extension.

**Background Papers:**

The Appendices to the Business Case and Procurement Strategy prepared by RPT Consulting, and the Council's Leisure and Cultural Strategy.

**Risk Management:**

Not to agree a procurement strategy and contract extension would present a risk to the continuation of a safe and efficient service to residents.

# Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

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Active participation in sports and leisure activities can assist people in living a healthy and fulfilling life. Participation rates vary between sections of the community. The new contract will have guaranteed elements to ensure that accessible activities are made available to young people, the elderly, and people with disabilities. Women's Only Sessions will be promoted to encourage participation by women of all ages and faiths. Childcare facilities will also be provided.