

Report to the Cabinet

Report reference: C-017-2018/19
Date of meeting: 18 October 2018



Portfolio: Leisure and Community Services
Subject: Leisure Management Contract Finance
Responsible Officer: Derek Macnab (01992 564050).
Democratic Services: Adrian Hendry (01992 564246)

Recommendations/Decisions Required:

1. (i) That the Cabinet seek a Supplementary Capital Estimate from the Council in the sum of £225,000 to meet unanticipated costs in relation to the construction of Waltham Abbey Leisure Centre and other Leisure Centre refurbishments at Loughton Leisure Centre and Epping Sports Centre, and

(ii) That in addition a further Supplementary Capital Estimate is sought from Council in the sum of £475,000 to undertake the partial demolition of the vacant buildings on the former Junior School site in St John's Road, Epping, and also to undertake site investigation surveys.
2. (i) That the income received from PfP as part of their monthly payment is reduced by £161,000 over the remaining period of the financial year to mitigate their loss of membership income due to them from the Council's previous contractor SLM; and

(ii) That the Council actively seeks the recovery of the £161,000 under the previous contract with SLM.
3. That Cabinet approve the cost of undertaking an options appraisal for the replacement of leisure facilities in the District in the sum of £20,000 to be funded from within existing resources.

Executive Summary:

After a competitive dialogue procurement process, the Council appointed Places for People Leisure Ltd (PfP) as its partner for the development and management of its Leisure facilities. Under the terms of the 20 year contract, Places for People on a design build basis, have constructed a new Leisure Centre at Waltham Abbey and undertaken significant refurbishment and extension projects at Ongar, Epping and Loughton Leisure Centres. This report seeks additional unanticipated capital expenditure arising from the construction works.

In addition, this report outlines a course of action to address an outstanding contractual issue arising from the hand-over from the previous contractor SLM with regard to up-front membership fees, to the value of £161,000 which is still outstanding to Places for People.

Finally, the report also highlights the Statement of Common Ground between the District Council and Sport England and specifically the requirement to undertake further feasibility work to support the relocation/provision of any future Leisure facilities. With the failure to achieve a mutually agreeable sale of the St John's Road site, the option of relocating Epping Sports Centre on to the site now becomes a potential option. Irrespective of the final form of any future development, in order to mitigate any further site security expenditure and also to inform the quantum of potential development costs, funding is sought for partial demolition and site investigation surveys to be commissioned.

Reasons for Proposed Decision:

Places for People Leisure Ltd are contractually entitled to additional costs over their agreed capital contributions for the new Leisure Centres and facility refurbishments. Similarly, they are also entitled to receive the outstanding Membership Fees. This report seeks to address these issues.

The Council could elect not to clear the St John's Road site in the short-term and postpone survey works. However, this would not mitigate security costs and delay any potential redevelopment.

Other Options for Action:

There is no alternative course of action with respect to the additional capital contributions. However, the Council could elect not to pursue SLM for the outstanding membership fees, however, this would result in a loss to the Council.

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1. Prior to the letting of the new Leisure Management Contract with Places for People, the Council had previously agreed to replace Waltham Abbey Swimming Pool which has reached the end of its economic life. Despite being a popular community facility, the swimming pool needs a level of ongoing expenditure to the fabric of the building, which could not be justified for a building approaching 50 years old.
2. Bidders for the Leisure Management contract were advised as part of the procurement process, that the Council would make up to £20 million available of Capital borrowing to build the new Leisure Centre at Waltham Abbey, and fund any refurbishment proposals for the other Centres. Places for People have borrowed a sum of £13.5 million from the Council which they will repay over the length of the contract at a competitive interest rate. The new Waltham Abbey Leisure Centre that Places for People have designed and built to meet the Council's requirements is due to open on the 17 November 2018. However, there have been a number of unanticipated items of Capital expenditure, outside of the contract which are the responsibility of the Council. In summary, they are

1. **Sauna and Steam Room - £75,000**

The current Waltham Abbey Swimming Pool has a poolside Sauna and Steam Room which is very popular with users. In particular, people recovering from injury or with disabilities enjoy the therapeutic benefits. The original brief from the Council for the new Leisure Centre did not include a replacement. However, public consultation in the planning process demonstrated a strong demand. It was hoped to fund the additional cost through compensatory savings. Whilst this has been achieved to an extent, it has not proven possible to cover all the installation costs and an additional £75,000 is required.

2. **Section 278 Highways Works - £13,000**

After commencement of the construction of the Centre, it was discovered that the existing “banjo” car park area, adjacent to the old Community Centre, was still designated as public highway. As such, a Section 278 stopping order and minor works were required to remove the status. The new Leisure Centre has sufficient parking to offset this minor loss.

3. Utility and Telecommunication Works - £46,000

Although there was a provisional sum allocation provided in the construction contract by PfP, the final cost of diversion of telecommunication cabling and the high cost of final connections to other utility suppliers, exceeded the provisional sum by £46,000.

4. Upgrade to CCTV Systems - £14,000

Due to anti-social behaviour at the construction site early on in the project, the decision was taken, after a risk assessment to link the new Leisure Centre CCTV with the Council’s existing CCTV network to enhance security in the locality. This was outside of the original design and therefore an additional capital allocation of £14,000 is required.

Loughton Leisure Centre

3. In addition to the new Leisure Centre in Waltham Abbey, PfP have recently completed a major extension to Loughton Leisure Centre, to provide a new 150 station Fitness Suite, Movement Studio improvements and a complete refurbishment of the wet side Changing Village. This capital investment in the region of £2m will considerably increase participation. However, there were a number of additional costs incurred to the sum of £53,000 detailed below, arising outside of the original specification:

1. Security Shutters - £4000

Over the last year, the Leisure Centre has been subjected to several break-ins and persistent vandalism which has result in temporary closures and loss of service to users. Therefore, in consultation with PfP the decision was taken to issue a client variation to install security shutters during the construction period.

2. Accessible Handrails - £4000

In response to concerns raised by users with disabilities, a new purpose built handrail in the main staircase was installed, which was specifically designed to assist arthritis sufferers.

3. Air Conditional Upgrade - £45,000

The original design for the refurbishment of the movement studios at the Leisure Centre anticipated utilising the existing air conditioning units. However, further testing demonstrated that the units were under-performing by virtue of their age and condition. As such, they would not meet the expectations of new users in providing a suitable temperature for exercise. A decision was taken to install more powerful units whilst the opportunity presented itself.

Epping Sports Centre

4. Work to convert two of the existing squash courts at Epping Sports Centre to a movement studio, plus the extension of the Fitness Suite and changing room refurbishment is now complete. Epping Sports Centre is an ageing facility and once the fabric was opened up as part of the refurbishment works, additional costs were incurred. However, these have largely been offset by underspends at Ongar Leisure

Centre previously agreed by Members and at Loughton Leisure Centre. However, there is still a requirement for additional funds to cover two outstanding issues:

1. Fire Alarm/Intruder Alarm Upgrade - £14,000

Epping Sports Centre is co-located with the Council's Hemnall Street Offices, with certain common services. During the refurbishment works, it became evident that the existing fire-intruder alarm system was in poor condition and at risk of failure. In order to ensure the health and safety of both Sports Centre users and officers based at the adjacent offices, it was necessary to upgrade the system across both buildings, at a cost of £14,000.

2. Gymnasium Floor Repairs - £10,000

When the floor in the gymnasium was lifted as part of the fitness suite extension, it was discovered that the waterproof membrane had failed and the sub-structure was found to be rotted beyond reasonable repair. As such, it was necessary to replace the membrane and floor. These unforeseen works cost £10,000.

Advanced Income ("last month up front")

5. During the previous Leisure Contract, SLM adopted a policy of charging new direct debit (DD) members an up-front fee for their last month of membership. In effect this meant that upon cancellation, a DD member would be able to attend the gym for a further month beyond their cancellation date.
6. When PfP took over the contract, they entered negotiations with SLM to recover that outstanding advanced income. Most of this was agreed and a financial exchange took place. However, they did not settle the issue of the last month up front income. SLM insisted that PfP invoice them individually as each existing member cancelled – a process that could go on for years if a member remained active in the long term. Given the transactional cost of obtaining a refund on a case by case basis, this approach was clearly unacceptable for PfP. This also means that as existing DD members cancel, PfP have to give each member a 'free' month.
7. The value of the last month up front memberships amounts to £161,000. This figure was put to SLM and they again refused to pay despite attempted negotiations at Chief Executive level between the two organisations.
8. As there is no contractual relationship between PfP and SLM, PfP have asked EFDC to intervene using the previous contract as a basis for recovering the money (which EFDC would then pay over to PfP). To date no monies have been forthcoming.
9. In the meantime, PfP have issued an invoice to EFDC for the £161,000 in the last financial year which has not been paid. In May this year PfP resubmitted the invoice and suggested an adjustment be made to the 2018/19 management fee to repay the money. Officers have agreed to this approach (subject to this report) but only from October 2018 thereby requiring a management fee adjustment for the remaining six months of the current financial year. PfP have accepted this approach.
10. Officers are of the opinion that the original contract with SLM made provision for all debts such as the one outlined above to be paid by the original contractor on the termination of the contract, however this is disputed by SLM. Permission is sought therefore to seek legal opinion on this matter and to pursue the recovery of the debt if

feasible.

Statement of Common Ground/Built Facility Strategy

11. As part of the preparation of the Local Plan, the Council was required to undertake a number of evidence based studies to establish demand for future sport and recreation facilities, up to the end of the plan period 2033.
12. External Consultants were engaged, who prepared not only the open space and playing pitch strategies, but also a built facilities strategy which has provided a set of conclusions and recommendations for future sports facility development across the District. The full study is published on the Council's Website.
13. In response to the Regulation 19 Consultation on the Submission Version of the Local Plan, Sport England propose a modification to the effect that any potential closure of the existing Epping Sports Centre and redevelopment of this site, should not take place until an "equivalent or better facility in a suitable location is delivered and is operational". This is to ensure that the public have uninterrupted access to sports/leisure facilities in the local areas. Sport England and the Council have now agreed to enter into a Statement of Common Ground to assist the Planning Inspectorate during the Examination of the Local Plan. This Statement of Common Ground will require the Council to undertake further feasibility work to support the location of a new Leisure Centre at North Weald Bassett or an alternative location, as set out in the Built Facilities Strategy, in order to ensure that the facility would be in an appropriate location to service communities that are affected.
14. In order to comply with this requirement, the Council has sought expressions of interest for suitably qualified consultants on Sport England's approved list to undertake the study. Funding of £20,000 will be met from existing resources.

St John's Road Redevelopment Site, Epping

15. Epping Forest District Council and Epping Town Council originally went into partnership with Essex County Council and a private developer, Frontier Estates, to redevelop the St John's Road site in Epping.
16. The site comprises the former junior school, town council offices, and district council depot. From the outset the advantages of redeveloping the separate sites as a single holistic project made more sense than piecemeal redevelopment. The District Council took a major step forward when it bought the freehold of St John's Junior School from Essex County Council as a means of ensuring that vision was followed.
17. Consultation with residents had previously altered the original design brief. Residents welcomed additional housing, shops and public open space but there was also a strong call for Epping to have its own cinema again, particularly for the benefit of the town's young people.
18. Separately, an ongoing debate has been conducted over the future of Epping Sports Centre. Although the District Council has continued to invest in the Centre, its long-term future has always been in doubt due to its location and age of construction. The site was identified for housing in the draft Local Plan, although the Council promised no plans would be made to close it until new facilities has been provided, as detailed in the previous section of the report.

19. Despite an extensive period of negotiation, it has not been possible to conclude a mutually agreeable sale of the St John's Road site to Frontier Estates. Since the District Council purchased the former Junior School Site from Essex County Council, it has incurred considerable costs in monitoring the security of the vacant site which has attracted ongoing anti-social behaviour and attempted incursions. In order to mitigate these costs and on the assumption that the site will still be developed for an alternative scheme, it is recommended that the current unoccupied buildings be demolished, with the exception of the buildings highlighted as of Heritage merit within the Local Plan Site Specific Requirements EPP.R4. The demolition will be subject to the necessary planning requirements. It is estimated that supplementary expenditure in the sum of £400,000k will need to be sought from Council if this is to be achieved within this financial year. Similarly, in order to ensure progress on any form of redevelopment, site investigation works will be required. These specialist surveys will also need to be funded at a cost of £75,000.

Resource Implications

Additional Capital Expenditure is sought to meet the unanticipated client costs highlighted in the report of £225,000.

Additional Capital Expenditure at £475,000 will also be required to meet the costs of demolition and site investigation surveys for the St John's Road site.

That the revenue increase from the contract with PFP is reduced by £161,000 over the next 6 months to compensate PFP for the 'last month' income due from SLM. SLM will be pursued for this income by the Council to mitigate the loss.

Legal and Governance Implications:

A planning application will be required prior to the demolition of any part of the St John's Road site.

Specialist legal advice is being sought with regard to the recovery of the final month income from SLM. However, there is no contracted relationship between PFP and SLM and therefore PFP who anticipated the income as part of their tender submission, have the right to be compensated.

Safer, Cleaner and Greener Implications:

The new Leisure Centre at Waltham Abbey is being constructed to high energy efficiency standards and contains sustainable elements such as a "green" roof. Additional CCTV will enhance community safety.

Consultation Undertaken:

With Places for People Leisure Ltd.

Background Papers:

Epping Forest Submission Version 2017 Local Plan. Appendix C Site Specific Requirements EPP.R4 Land at Epping St John's, P9 Heritage.
Local Plan Built Facility Study.
Draft Statement of Common Ground with Sport England.

Risk Management:

To not undertake the essential Fire Alarm upgrading at Epping Sports centre would have exposed the Council to significant risk in respect to failure in meeting its statutory Health and Safety responsibilities.

Policy to be analysed	
Is this a new policy (or decision) or a change to an existing policy, practice or project?	YES
Describe the main aims, objectives and purpose of the policy (or decision):	To fund additional expenditure.
What outcome(s) are you hoping to achieve (ie decommissioning or commissioning a service)?	Meet unforeseen costs.
Does or will the policy or decision affect: <ul style="list-style-type: none"> • service users • employees • the wider community or groups of people, particularly where there are areas of known inequalities? 	Enhanced quality of service to users in particular improvement of public health.
Will the policy or decision influence how organisations operate?	
Will the policy or decision involve substantial changes in resources?	
Is this policy or decision associated with any of the Council's other policies and how, if applicable, does the proposed policy support corporate outcomes?	
Evidence/data about the user population and consultation	
What does the information tell you about those groups identified?	▪
Have you consulted or involved those groups that are likely to be affected by the policy or decision you want to implement? If so, what were their views and how have their views influenced your decision?	Disabled users at Loughton Leisure Centre regarding handrails.
If you have not consulted or engaged with communities that are likely to be affected by the policy or decision, give details about when you intend to carry out consultation or provide reasons for why you feel this is not necessary:	

Impact of policy or decision

Use this section to assess any potential impact on equality groups based on what you now know.

Description of impact	Nature of impact Positive, neutral, adverse (explain why)	Extent of impact Low, medium, high (use L, M or H)
Age	There is no impact resulting from this report. Further detailed reports will be presented to members in due course.	
Disability		M
Gender		
Gender reassignment		
Marriage/civil partnership		
Pregnancy/maternity		
Race		
Religion/belief		
Sexual orientation		

Conclusion

		Tick Yes/No as appropriate	
5.1	Does the EqIA in Section 4 indicate that the policy or decision would have a medium or high adverse impact on one or more equality groups?	No <input checked="" type="checkbox"/>	
		Yes <input type="checkbox"/>	If 'YES', use the action plan at Section 6 to describe the adverse impacts and what mitigating actions you could put in place.

Section 6: Action plan to address and monitor adverse impacts

What are the potential adverse impacts?	What are the mitigating actions?	Date they will be achieved.
N/A	N/A	N/A

Section 7: Sign off

**I confirm that this initial analysis has been completed appropriately.
(A typed signature is sufficient.)**

Signature of Derek Macnab, Acting Chief Executive	
Do.	