

Agenda Item No: 7
Report To: Cabinet
Date of Meeting: 8th March 2018



Report Title: *Leisure Procurement Exercise*

Report Author & Job Title: Christina Fuller, Head of Culture

Portfolio Holder Cllr Gerald White, Lead Member for Leisure Procurement
Portfolio Holder for: and Portfolio Holder for Housing; and Cllr. Mike Bennett
Portfolio Holder for Culture, Leisure, Environment and Heritage.

Summary: Members will be aware that Officers and lead members have been working on agreeing a joint leisure procurement exercise with Ashford Leisure Trust (ALT). The exercise aims to initiate and complete the procurement of a new operator to secure and implement investment in the town's main leisure facilities, reduce the cost of delivering leisure services and further enhance the effectiveness of those services in reaching target groups.

This report updates Members on progress and provides key documentation that defines the scope and nature of the competitive procurement process which aims at a new operator to be in place May 2019. A further report will be provided once detailed submissions by preferred operators and legal agreements between the Council and ALT are drafted to allow investment and any legal approvals to be considered and agreed by Members.

Key Decision: NO

Significantly Affected Wards: Borough wide

Recommendations: **The Cabinet is recommended to:-**

- I. Endorse the proposed leisure procurement exercise (as defined in Appendix A and B) to enable ALT to contract a new leisure operator, in agreement with the Council;**
- II. Authorise appropriate officers to prepare all documentation required to progress the exercise including lease arrangements between ALT and the Council;**
- III. Agree that Detailed Solutions from appropriately selected leisure operators and final legal documents between the Council and ALT are presented to a future Cabinet meeting for investment consideration and agreement.**

Policy Overview: The Five Year Corporate Plan, under Active and Creative

aspires to the delivery of the best mix of sports, cultural and recreational experiences supporting a range of health and wellbeing benefits for residents of all ages and abilities. It identifies the need to invest to provide a high quality offer, particularly at the Stour Centre improve the management of leisure facilities and extend the offer at key sites such as Conningbrook and Julie Rose.

Financial Implications:

Costs for the procurement exercise are identified at approximately £93,500. ALT will share 25% of the costs up to £45K. The Council's costs are built into the budget as approved by the Cabinet at its February 2018 meeting.

It is anticipated that the Leisure Procurement exercise will result in a minimum of £350,000 revenue savings per annum to the Council as a result of utility payments for the Stour Centre being transferred to ALT and the appointed operator.

Legal Implications

The Council will need to agree a new repairing lease of 15 + 5 years with ALT. The lease between ALT and the Council will only be put in place if the procurement process is successful. ALT is procuring a new operator (with support from the Council) to enable them to pass on responsibility for managing the facilities and appropriate repair and maintenance obligations under a comprehensive operator contract. This contract (drafted by external experts for ALT and in consultation with the Council's legal representatives) will be provided to bidders as part of the procurement process.

The operator may also require guarantees from the Council to undertake certain obligations particularly in reference to the structure of the buildings which will be retained by the Council. These documents are currently being drafted.

Equalities Impact Assessment

See Attached

Other Material Implications:

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Exempt from Publication:

NO

Background Papers:

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Introduction

1. Members will be aware that key members and senior officers have been working on agreeing a competitive leisure procurement exercise with Ashford Leisure Trust (ALT). The exercise will enable ALT to successfully appoint a new Leisure Operator to manage the Stour Centre, Julie Rose Stadium & Conningbrook Lakes and Spearpoint Recreation Ground & Pavilion.
2. Encouraging healthy and active lifestyles for the Boroughs residents is a core ambition for the Council and ALT. At a time when there is growing concern about reductions in the general population's level of activity and growing health inequalities, this exercise is a positive step to secure a new operator to enhance the Boroughs health and leisure facilities and programmes.
3. A Partnership Board with representation from the Council and ALT have been working hard to agree the exercise and legal structure with the support of a leading leisure industry expert, Max Associates. Max Associates has advised the Council and ALT on the leisure procurement process and with additional external legal support a leisure operator contract, which includes an industry standard specification and performance monitoring model, has been drafted based on Sport England guidelines.

Project Documentation

4. A number of key documents explaining the exercise have been produced and are attached. These set out the process, timescales, sites included and the contracting structure. Members are asked to endorse these documents which include:

a. Information Memorandum (Appendix A)

This document provides information to interested parties on the exercise and explains how the Council and ALT, which holds a lease for the Stour Centre up to 2030 and are operating the Julie Rose Stadium under a two year temporary arrangement, have agreed to bring several of the town's leisure facilities into a common structure and to establish new management arrangements under which ALT will provide the strategic management and direction of those facilities and contract with an established leisure operator to manage the facilities and services for 15 years (with an option to extend for a further 5 years).

It reports on the local context, the Council's corporate plan and details of the sites to be included in the exercise. It states that as part of the procurement process, the Council and ALT are looking for investment within the portfolio of facilities to best meet the shared outcomes of the partners. Also that the Council may be in a position to fund capital works to the assets (subject to the business plan value for money / affordability / Council approval), but the partners are looking for an operator who can project manage and deliver the design and build elements of the works, taking this project management, build, programme, cost and subsequent revenue risk of the projects.

b. Project Initiation Document (Appendix B)

This document explains the shared vision of the partners and key deliverables for the exercise. It includes the governance structure and the planned timescales (refer page 12).

Key dates are highlighted in the timetable and include:

- September/October 2018 when preferred submissions will have been identified to include detailed solutions for the sites;
- February 2019 when all approvals will need to be secured; and
- May 2019 when the start of the contract is expected.

Market Expectations

5. Max Associates has recently approached the market leaders in the leisure operation industry with a series of informal questions to gauge the appetite of the industry to bid for the Ashford facilities. The responses obtained have been very encouraging and indicate that at least 5 of the major leisure companies intend to bid for the Ashford contract.
6. Moreover the market is largely comfortable with the legal structure, detailed on page 22 of Appendix A, showing the relationships between the Council, ALT and the new operator. Some have expressed a need for the Council to guarantee various aspects such as repairing obligations (which would be normal if the contract was direct with the Council). Such guarantees are being considered which will be fully defined in the leisure operating contract being drafted by Trowers Hamlin on behalf of ALT.
7. The chance to manage and enhance Ashford's facilities and build on ALT's community health and wellbeing programme is attractive to the leading leisure operating companies currently active in a nationally buoyant market. Operators are releasing local authorities from their obligations in respect of utilities, repairs and renewals whilst working in partnership with Councils to make beneficial improvements through investment to leisure buildings and the surrounding environment to create first-class facilities of the highest order befitting of a modern and growing area.
8. It is expected that the new operator will be responsible for utilities, equipment purchase and replacement, repair and maintenance except structure of the buildings and major plant which remains with the Council as Head Landlord. This should result in a significantly improved position for the Council and may result in savings of a minimum of £350,000 per annum which will primarily be realised from a reduction in utility payments.
9. Councils have been minded to invest in the identified improvements and combine any repair backlog, through a mix of direct investment and a loan repayable over the term of the contract by the operator or trust body in place. In addition some operators have offered direct funding investment in addition to full project management.
10. As part of the leisure procurement exercise, bidders will come forward with proposals for development, supported by viable business plans. This will include Detailed Solutions and may include areas that the bidders believe are

in need of refurbishment or renewal. It will be important that the preferred operators' detailed solutions are presented to Members so an informed decision can be made concerning any possible investment in the facilities to support ALT and the operator. It is anticipated that this would be around September/October this year.

Implications and Risk Assessment

11. The main risk attached to this project is the potential for the number of bidders to be small and their quality low. This is being mitigated by Max Associates using their expert market knowledge to construct the bid documents. They have also sought to gauge the interest of the market and answer questions operators may have at an early stage which is detailed earlier in this report. Larger leisure operation companies are active in pursuing contracts in South East Kent at this time.

Equalities Impact Assessment

12. Members are referred to the attached Assessment. The key issues arising are that the proposals under consideration will not have a negative impact on people with protected characteristics.
13. Provision will need to be made to continue to provide community sports facilities for people with different abilities and characteristics.

Consultation Planned or Undertaken

14. Consultations have taken place with ALT staff, the leisure market and Council Members.

Options and Reason for Recommendation

15. Were the Council not to work in partnership with ALT to help them procure a new operator, ALT have the right to remain in occupation of the Stour Centre to the end of their lease at 2030. The Council's legal department advise that there are no means under which the Council could end this occupation without the Tenant's consent and under some circumstances ALT could claim security of tenure and extend their lease.
16. Working in partnership offers the best solution for attracting a high quality leisure operator to jointly invest with the partners in providing outstanding modern leisure facilities for a growing population.

Next Steps in Process

17. The intention is that the facilities are tendered to the market on 8th March. The full timetable is attached in Appendix B (page 12).

18. Property Services are in the process of finishing full surveys of the facilities, so that potential bidders will be able to submit their proposals based on a firm understanding of the current condition of the existing facilities. The Council will need to ensure that the centres are in a reasonable condition at handover.
19. Additional legal documentation (from that being undertaken by the external lawyer) including the new property lease between the Council and ALT and any direct guarantee arrangements with the new operator are being considered by the Council's lawyers.

Conclusion

20. This leisure procurement exercise is an opportunity to improve the management and leisure offer in the borough. It aims to provide Ashford with modern leisure buildings and equipment which will increase participation and enable a significant improvement in the health and wellbeing of residents in the Borough whilst significantly reducing the Council's repair and running obligations to the facilities.

Portfolio Holder's Views

21. This project is seen as an exciting opportunity to secure a major leisure operator bringing in new expertise, resource and procedures to effectively manage and improve the Borough's growing stock of leisure facilities. I fully support the approach offered by this report and recommend the Council accepts the recommendations herein.

Cllr Mike Bennett

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