

# Harborough District Council



## Report to the Council Meeting of 11 December 2023 (Appendix A - Exempt)

<b>Title:</b>	<b>Procurement of Leisure Contract</b>
<b>Status:</b>	Report: Public Appendix A: Exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12a of the Local Government Act 1972.
<b>Key Decision:</b>	Yes
<b>Report Author:</b>	Rachael Felts, Head of Customer Services and Community Partnerships
<b>Portfolio Holder:</b>	Portfolio – Culture, Leisure and Tourism, Councillor Knowles (Leader of the Council)  Portfolio - Finance, Councillor Graves
<b>Appendices:</b>	<b>Appendix A (Exempt) – Procurement</b> <b>Appendix B – Equality Impact Assessment</b> <b>Appendix C – Leisure Procurement Strategy</b>

## Summary

- i. In September 2021 Cabinet reviewed the outline business case to develop leisure facilities and agreed redevelopment of existing sites.
- ii. The current contract for management of the leisure centres ends on 31<sup>st</sup> March 2024 and cannot be extended.
- iii. In September 2022, Cabinet agreed the Leisure Procurement Strategy which set out the high-level strategic objectives for the future delivery of the leisure services and established a suitable balance between meeting the Council's requirements and ensuring an attractive opportunity to the market.
- iv. The Council's Medium-Term Financial Strategy (MTSF) identifies a £zero cost to the Council for the next leisure contract.
- v. Capital funding of up to £9.75million has been set aside to support redevelopment of both leisure centres which will be repaid by the new incumbent operator.
- vi. The new leisure contract will commence from 1<sup>st</sup> April 2024 for fifteen years, with the option to extend plus five years, plus five years. Totalling a twenty-five-year contract.

## Recommendations

It is recommended that Council:

1. Approve the award of a contract for the Management of the Council's two Leisure Centres located in Lutterworth and Market Harborough commencing 1 April 2024 for a period of fifteen years, with the option to extend the contract by plus five years, and plus five years, totalling twenty-five years, to contractor 1 as detailed in appendix A (exempt).
2. Delegates to the Director of Finance Officer (Section 151), in consultation with the Portfolio Holders, Finance and Culture, Leisure and Tourism and the Head of Legal Services, authority to negotiate, finalise and extend the contract, including any minor variations to terms or costings which meet the strategic objectives and benefits to the Council.

## Reasons for Recommendations

- vii. To ensure that the Council appoints a suitable contractor to undertake the management of its leisure centres located in Lutterworth and Market Harborough.
- viii. The evaluation panel agreed that Contractor 1 should be offered preferred provider status based on the tenders submitted.
- ix. Awarding a contract based on the tender submitted by Contractor 1 offers good value for money for future management of the Council owned leisure centres.
- x. The tender meets the strategic objectives of the Leisure Procurement Strategy approved by Cabinet in September 2022.

## 1. Purpose of Report

- 1.1 To seek approval for the award of contract that will secure the preferred contractor for the provision of Contract Management of the Council owned leisure centres based in Lutterworth and Market Harborough from 1<sup>st</sup> April 2024, for fifteen years, with option to extend for a further five years, plus five years – totalling a twenty-five-year contract.

## 2. Background

- 2.1 Harborough's leisure project initial aim was to determine the shape of future leisure provision in the district and have suitable leisure facilities and services in place at the expiry of the previous Harborough Leisure Trust contract in March 2019. However, following a failed procurement exercise in 2018 for the preferred option of a Design Build Operate and Maintain contract, the project was placed on-hold due to concerns over affordability.

- 2.2 Attempts to negotiate an extension of the Harborough Leisure Trust management contract with Serco in 2018, as an interim measure, failed to reach agreement but a new three-year service only contract was subsequently procured and awarded to Sport and Leisure Management commencing April 2019.
- 2.3 The project then remained on hold whilst the Council reconsidered its options. Early in 2021, the council commissioned The Sport, Leisure and Culture Consultancy (SLC) to assist with an independent assessment of the core leisure management options available to the Council. The options explored were:
- Competitive procurement of the leisure service to a national operator or multi-site trust
  - Local Authority Trading Company (LATC, sometimes referred to as a 'Teckal Company') or Community Interest Company (CIC)
  - In-house provision including bringing the operation and staffing of the leisure centres back under the direct control of the Council.
- 2.4 The Procurement Options 21/22 was an exempt report considered by Cabinet at their meeting on 12<sup>th</sup> April 2021. Cabinet supported the recommendation for the Council to retain its existing management model and the future appointing an operator through a competitive process.
- 2.5 The project was further delayed because of the Covid-19 pandemic, and in September 2021 Cabinet agreed to proceed with the option of redevelopment and refurbishment of the existing sites at an estimated net capital investment cost of £9.75 million.
- 2.6 In October 2021 Cabinet agreed an extension to the existing Sport and Leisure Management contract for a further two years to 31 March 2024 to secure the continued provision of leisure services in the interim.
- 2.7 In September 2022, Cabinet approved the Leisure Procurement Strategy (Appendix C) which set out the strategic objectives for the future delivery of leisure services across the Harborough district. Following results of market engagement and affordability tests by SLC, Cabinet also approved the redevelopment option for capital leisure investment of £9.75 million was the best option to achieve at least a £zero cost to the Council.
- 2.8 Specialist external legal advice to support the project was sourced by HDC's legal team through a procurement Framework. Sharpe Pritchard were instructed to undertake this work.

### **3. Details**

- 3.1 The existing contract expires 31<sup>st</sup> March 2024 and cannot be extended as the options for any further extension have been exhausted. Therefore, awarding of a new contract to commence from 1<sup>st</sup> April 2024 will ensure continuity of leisure services across the district for residents for next 15-25 years.
- 3.2 The Procurement Strategy aligns to the Council's key strategies, the Corporate Plan, the Physical Activity Strategy and the Health and Wellbeing Strategy. The Procurement of a new contractor to manage the leisure centres identified five key benefits the project should aim to achieve, these were:

Affordability	<ul style="list-style-type: none"> <li>Reduced HDC revenue contributions, to achieve financially sustainable leisure provision in line with the MTFS (£zero cost to the council)</li> </ul>
Environment	<ul style="list-style-type: none"> <li>Reduced Leisure Centre carbon emissions as far as possible in support of climate emergency and Net Zero 2030 aspiration</li> </ul>
Enhanced facilities	<ul style="list-style-type: none"> <li>An enhanced facility mix at Harborough Leisure Centre through redevelopment (including part new build)</li> <li>Enhanced leisure facilities at Lutterworth Sports Centre through investment</li> </ul>
Improving access to activities	<ul style="list-style-type: none"> <li>Increased Leisure Centre participation</li> </ul>
Health Outcomes / Community Impact (Sport England guidance)	<ul style="list-style-type: none"> <li>Increased mental and physical health outcomes, including for specific groups where inequalities are the greatest e.g., those with a disability, older people, women, and girls.</li> </ul>

- 3.3 As part of the Procurement Strategy a project plan was developed to show each key stage of the procurement process. This project plan was monitored each month by the officer led Project Team at their meetings. Any amendments to this project plan were reported to the Member Project Board and included in the monthly highlight reports to corporate management team. No major changes/amendments were made to the procurement project plan.
- 3.4 The procurement process was supported and monitored by Welland Procurement who managed the stages of the tender process within the Delta system ensuring that procurement legislation was followed.
- 3.5 To give the Council embedded assurance Internal Audit Shared Service undertook audit reviews at key stages of the project. The latest report dated October 2023 confirmed that the procurement process has been conducted in full compliance with Council's Contract Procedure Rules and the Statement of Required Practice for Procurement. These reports were shared with the Chair and Vice Chair of Audit and Standards Committee.
- 3.6 Consideration was given to the continuing uncertainties over the medium term for the state of the economy, public finances in general and market for leisure which is still recovering from the pandemic, and increased running costs. The capital investment repayment rate had to be considered for the life of the contract and needed to ensure the best rate for the council and not to detract bidders. To do this, external professional advice was sort by the Section 151 Officer. Following this advice, the Section 151 recommended to the Officer Project Team and Portfolio that the capital investment repayment rate at 6% was considered for the life of the contract. This was agreed in readiness for final tender stage.
- 3.7 The below table outlines the key stages of the procurement process which have been undertaken in line with the Procurement Strategy Project Plan.

Stage	Description	Status	Areas of work undertaken
Stage 1	Project Inception	Completed	<ul style="list-style-type: none"> <li>Project Team governance</li> </ul>
Stage 2	Market engagement	Completed	<ul style="list-style-type: none"> <li>Market engagement carried out with national leisure operators</li> </ul>

			<ul style="list-style-type: none"> <li>• Hold all Member briefing on key messages</li> </ul>
Stage 3	Development of Procurement Strategy	Completed	<ul style="list-style-type: none"> <li>• Confirmation that the new contract is affordable (at least £zero cost to the council) subject to interest rates</li> <li>• Hold Project Board Workshop to develop Procurement Strategy</li> <li>• Procurement Strategy seek views from Communities Scrutiny Panel</li> <li>• Procurement Strategy considered by Cabinet</li> </ul>
Stage 4	Procurement documentation / specification	Completed	<ul style="list-style-type: none"> <li>• Bidders day</li> <li>• Prepare documentation and undertake Standard Selection Questionnaire (SSQ)</li> <li>• Evaluate returned SSQs</li> <li>• Prepare documentation and undertake Invite to Tender</li> <li>• Evaluate returned Tender bids and hold moderation meeting.</li> <li>• Hold Gate Review meeting with Member Project Board</li> <li>• Carryout contract negotiations meeting with prospective bidders</li> <li>• Prepare documentation and undertake Invite to Final Tender</li> <li>• Evaluate returned final Tenders and hold moderation meeting</li> </ul>
		Next Steps	<ul style="list-style-type: none"> <li>• Council approval of preferred partner</li> <li>• Award letter issued 19 December – followed by 10 day 'stand-still' period</li> <li>• January – final contract negotiations.</li> <li>• Finalise contract</li> <li>• New contract starts 1<sup>st</sup> April 2024</li> </ul>

- 3.8 The Procurement Strategy sets out the evaluation criteria which was used during the evaluation process. The returned Tenders at each stage of the procurement process were independently evaluated by the officers of the Project Team, along with specialist officers; Health and Safety, Human Resources, Assets, Environment Coordinator and Finance/S151. These independent evaluations were reviewed at a Moderation Panel meeting, facilitated by Welland Procurement, to provide an overall score for each bidder. A summary of the tender submissions is included as Appendix A. This Appendix A is exempt from publication.
- 3.9 Following the Moderation Panel, the Officer Project Team agreed that Contractor 1 should be awarded preferred provider status and the contract for management of the Council's Leisure Centres. The decision is subject to a statutory 'standstill' period of ten days, due diligence, and agreement of the final contract.
- 3.10 The initial contract term will be for a period of fifteen years from 1<sup>st</sup> April 2024. Contract extensions of a maximum of 2 further periods, in five-year increments, may be granted by the Council, subject to satisfactory performance by the contractors.
- 3.11 The contract includes measurable performance indicators which will be monitored by the Council and reported through business as usual. These indicators focus on quality of

service and contractor monitoring to give the Council assurance that the Leisure Centres are being managed.

## **4. Implications of Decisions**

### **Corporate Priorities**

- 4.1 The recommendations will enable the Council to secure value for money and financial sustainability, whilst acknowledging the importance of creating a sustainable environment, carbon reduction, promoting health and wellbeing and encouraging healthy life choices throughout the term of the contract.

### **Consultation**

- 4.2 High level engagement has taken place between December 2021 and January 2022 as part of the development of the Health and Wellbeing Strategy. 38% of respondents (169 residents) thought that sport and leisure facilities need improving to make Harborough a healthy and active place to live.
- 4.3 In June 2022 all Member briefing was held on the key messages from the community engagement and the future leisure provision.
- 4.4 Engagement with and feedback from leisure users for both sites was undertaken to inform the service specification.

### **Financial**

- 4.5 Appendix A gives details of the financial implications for the Council. This Appendix is exempt due to commercial sensitivity.
- 4.6 The recommendation offers the best means of achieving value for money and financial sustainability at £zero cost to the Council.
- 4.7 The capital investment interest rate is set a 6% for the life of the contract which is payable by the new contractor.

### **Legal**

- 4.8 The Council has conducted a procurement process in accordance with the requirements of the Public Contracts Regulations 2015. The process has been supported by specialist external contract lawyers and procurement officers at Welland Procurement.
- 4.9 The successful bidder (as outlined in Appendix 1) will enter into an operating contract which is based on a Sport England Model for contracted services and includes contract provisions for performance monitoring and enforcement purposes.
- 4.10 The current contract for leisure centre services expires on 31<sup>st</sup> March 2024, therefore the new contract is proposed to commence on 1<sup>st</sup> April 2024.
- 4.11 Any re-provisioning will require a TUPE transfer of existing Leisure staff directly involved in the delivery of the service and this information will be ascertained as part of contract negotiations.

### **Environmental Implications**

- 4.12 In so far as is possible within financial constraints, implementation of the recommendations will support the Council's commitment to become a net zero carbon Council by 2030.

## **Risk Management**

4.13 Failure to award the contract will jeopardise the future operation of the Council's Leisure Centre forcing closure of both sites from 31<sup>st</sup> March 2024.

## **Equalities Impact**

4.14 Please see attached Equality Analysis at Appendix B.

## **Data Protection**

4.15 UK GDPR and Data Protection Act 2018 implications and data protection will be included as part of the final contract negotiations.

## **5 Alternative Options Considered**

5.1 The Cabinet considered the Leisure Project Review report at its meeting on 6<sup>th</sup> September 2021. Within this report options for the future leisure provision were considered. It was resolved that Option B – Redevelopment, be agreed as the preferred way forward. This option was a major redevelopment of the existing sites to include additional facilities.

## **6 Background papers**

- [Leisure Procurement Strategy - Cabinet 12<sup>th</sup> September 2022](#)
- [Leisure Procurement Strategy - Scrutiny Communities 1<sup>st</sup> September 2022](#)
- [Leisure Project Review - Cabinet 6<sup>th</sup> September 2021](#)
- [Leisure Options – Exempt Cabinet 12<sup>th</sup> April 2021](#)
- [Leisure Procurement – Executive 3<sup>rd</sup> December 2018](#)
- [Harborough District Council Leisure Facilities – Executive 4<sup>th</sup> September 2017](#)
- [Leisure Provision – 15<sup>th</sup> Executive May 2017](#)