

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**COMMUNITIES and HOUSING ADVISORY BOARD**

**21 July 2020**

**Report of the Director of Street Scene, Leisure & Technical Services**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)**

**1 PARKS AND LEISURE – RESPONSE TO COVID 19**

**Summary**

This report updates Members on progress with the themes/activities identified within the Parks and Leisure section of the recently approved First Year Addendum to the Council's Corporate Strategy. This includes updates on the reopening of the Council's Indoor and Outdoor Leisure Facilities, progress with Capital Plan Projects, potential outsourcing of Leybourne Lakes Country Park to the Leisure Trust and the 2020/21 Events Calendar.

**1.1 Introduction**

1.1.1 At its meeting on the 3 June 2020, Cabinet approved a First Year Addendum to the Corporate Strategy in response to the Covid-19 pandemic. The Addendum identified a number of themes/activities and, within each, identified specific service areas to be reviewed, with an aim to Re-orientate and then Recover these services. Cabinet also agreed that progress with these themes/activities be monitored through updates to relevant Advisory Boards and Committees.

1.1.2 Included within the Addendum was the theme/activity of Parks and Leisure and within the Review section the following service areas were identified:

- Review opening of main leisure centres in light of government guidance, as well as the re-opening of remaining outdoor leisure facilities.
- Review completion timescales of delayed capital leisure schemes.
- Review events calendar.

1.1.3 Further to the above the following were also identified under the Re-orientation section:

- In liaison with the Leisure Trust, look at indoor leisure provision service delivery arrangements – future amendments to the Agreement will be required.
- Ensure the financial sustainability of the Leisure Trust.
- Give consideration to the potential transfer of the management of Leybourne Country Park to the Leisure Trust.

## 1.2 Indoor Leisure Facilities

- 1.2.1 Government restrictions, including the lockdown have had a significant impact on the delivery of indoor leisure, with the enforced closure of all facilities run by the Tonbridge and Malling Leisure Trust (Larkfield Leisure Centre, Tonbridge Swimming Pool, Angel Centre and Poult Wood Golf Centre) from the 20 March.
- 1.2.2 As a result the Trust lost all income streams whilst still incurring costs. Since the closure the Trust has been taking actions to minimise expenditure that has included the furloughing of the majority of its staff, negotiating reductions on contracts and suspending staff pay awards in the current financial year. The Trust has also been drawing down on its reserves.
- 1.2.3 Whilst the Trust were able to seek support through the Chancellor's furlough scheme, unfortunately, other support packages put forward by the government were not available to organisations such as the Trust. The Trust has been lobbying the government through its industry representative Community Leisure UK, which represents 110 leisure trusts, seeking specific financial support in recognition of the key role leisure facilities play in supporting both the community and the economy.
- 1.2.4 Members may be aware that under emergency powers, the Leader of the Council in liaison with Chairman of Overview & Scrutiny Committee agreed to advance a sum of £300,000 to the Trust in accordance with the Cabinet Office's *'Policy Procurement Note (PPN) – supplier relief due to COVID 19'*. Decision notice D200004EM refers dated 24 April 2020. This is not a grant payment, but is an advance to assist with cash-flow.
- 1.2.5 At the meeting of Cabinet on 3 June under part 2 of the agenda, Members also agreed 'in principle' support for the Trust during the pandemic. Cabinet resolved under Decision Notice D200036CAB that:
- 1) the potential financial implications for the Tonbridge and Malling Leisure Trust as a result of the government's directions in response to the pandemic be noted;
  - 2) the written reassurance of the Management Team, in liaison with the Leader and Deputy Leader, to the Tonbridge and Malling Leisure Trust Board be noted;
  - 3) the proposal that Management Team work with the Tonbridge and Malling Leisure Trust to set out potential options to a future meeting of the Communities and Housing Advisory Board be endorsed; and
  - 4) the Management Agreement with the Tonbridge and Malling Leisure Trust be reviewed with details presented to a future meeting.

- 1.2.6 In considering the report, Members acknowledged the significant investment that the Trust has made in the facilities, in particular Larkfield Leisure Centre, and of the importance of the provision of health and leisure services to our residents. As the country emerges in due course from the pandemic, it is highly likely that services such as these will be essential for general health and wellbeing. Indeed, it is encouraging to note that since its re-opening in mid-May, within tight social distancing and health and safety requirements, Poult Wood Golf Centre has been fully booked on a daily basis with demand for tee-times exceeding supply.
- 1.2.7 In response to the above, at its meeting on 30 June Cabinet also recommended to Full Council that a supplementary budget of £1m be established in 2020/21 in respect of the Council's Leisure Management Arrangements. In addition, Cabinet recommended that the Council in liaison with the Leisure Trust lobby government for financial support.
- 1.2.8 With regard to the reopening of the facilities the Council continues to review this in liaison with the Trust with an aim to re-orientate where possible and recover provision of these public services. This, however, is currently dictated by central government and following the Prime Ministers announcement on the 23 June 2020 the timing of any reopening remains unclear at the time of writing this report. It is hoped that an announcement will be made in advance of the meeting of this Board. I will update Members verbally at the meeting.
- 1.2.9 Any reopening will be in strict adherence to government guidance, will be subject to detailed risk assessments and will be undertaken on a phased approach. This approach worked extremely well in regard to the reopening of Poult Wood Golf Centre and the Trust kept customers fully informed as changes were introduced.
- 1.2.10 The next stage following the reopening of the leisure facilities will be a detailed review of the Management Agreement in liaison with the Trust. This will involve the production of a revised Business Plan and any amendment in the short term to the Service Fee. It is likely that a series of short term adjustments to the service fee will be required before the formal 5-year review in April 2023. In view of the financial sensitivities and the need to take action quickly to ensure continued operation of the facilities concerned, delegated authority is sought to enable discussions and negotiations to proceed, specifically with regard to the first short term adjustment to the Service Fee in advance of the next meeting of the Advisory Board.

### **1.3 Outdoor Leisure facilities**

- 1.3.1 The Council's grounds maintenance contractor, Landscape Services, has continued to fully maintain public open spaces throughout the period of lockdown, and this has been essential in allowing residents to use the facilities for daily exercise in accordance with government guidance. The Council did, however, close areas such as ball courts, tennis courts, outdoor gyms and play areas in

compliance with government guidance. The Council also took the decision to close the main car parks serving its Country Parks and woodland sites due to high levels of public use and the inability to ensure government guidance was adhered to regarding social distancing. All sites did, however, remain open for local pedestrian and cycle access.

- 1.3.2 Following the Government's easing of lockdown restrictions on the 13 May 2020, Country Park car parks, ball courts and tennis courts were reopened with additional measures put in place to assist the public to continue to adhere to social distancing guidelines. This has included onsite advisory signage and practical onsite measures such as the widening of paths through additional grass cutting at the Country Parks. Following notable issues at Leybourne Lakes Country Park, additional external security staff have also been employed to assist the Rangers with enforcement of Park rules and social distancing guidance at peak times.
- 1.3.3 Children's Play Areas reopened to the public on 4 July in accordance with detailed risk assessments, which have taken government guidance into account.
- 1.3.4 Formal sports, including football, rugby and cricket on the Council's sports pitches ceased on the commencement of lockdown, though the basic maintenance of these facilities has continued. Whilst we have seen the phased return of some professional sports specific guidance is awaited for the return of grassroots activities. Some relaxation and guidance has, however, been given to training.
- 1.3.5 Operations at Tonbridge Cemetery have also been under specific scrutiny and again all due consideration has been given to government and industry guidance which is reviewed on a continuing basis. Maintenance of the site and funerals have continued throughout the lockdown period though procedures and protocols have been adapted in liaison with Funeral Directors. The need to comply with social distancing rules has been the key consideration and, in line with government guidance, attendance at funerals has been restricted. The Council has also suspended use of the Chapel for services due to its size and the resulting inability to adhere to these social distancing rules. From 13<sup>th</sup> June 2020 the guidance was modified so that members of a support bubble also count as household members.
- 1.3.6 It is also worthy of note that concessions at the Council's outdoor sites have been re-commissioning since the 13 May 2020 and have included catering, angling and water sports. Each Concessionaire has been required to submit, for Council approval, updated risk assessments and working practices to address government guidance and their own industry best practice/guidance. All concessions are being closely monitored to ensure compliance, and are also required to seek Council approval for any proposed alterations or extensions to their service provision (many are for example operating reduced services and hours at the current time).

1.3.7 Looking to the future it is clear from the experience of the pandemic to date, that outdoor spaces have been key in enabling the public to leave their homes for exercise and enjoy a healthy lifestyle. The spaces have been extremely popular with many people using them and experiencing them for the first time. It is also recognised that people who enjoy a healthy lifestyle and exercise have been more robust in tackling the virus if they were unfortunate enough to contract it. Whilst only time will tell it is anticipated that the outdoor leisure facilities may grow in popularity and usage levels will increase. This will need to be recognised in future maintenance schedules, Management Plans and improvement schemes, for example the capacity of the car parks and the emptying of litter bins. It may also offer greater income generating opportunities at specific sites most notably in regard to secondary spend such as catering.

#### **1.4 Leybourne Lakes Country Park**

1.4.1 As reported to Members of the Board on the 12 November 2019, the Council is investigating the potential outsourcing of the management of Leybourne Lakes Country Park. As previously reported delays had been experienced due to pressure on staff resources and the complexity of the tender documents that need to be prepared. It was, therefore, proposed to recommence the preparation of tender documents in spring/summer 2020, when hopefully workload pressures will have reduced. It was also agreed that consideration should be given to the commission of an external consultant.

1.4.2 The commencement of this project has been impacted by other priorities during the Covid 19 pandemic though the Council has taken this opportunity to review its options regarding outsourcing, particularly in regard to the procurement route. This has taken into account discussions that have been taking place on the future sustainability of the Tonbridge and Malling Leisure Trust referenced earlier in this report.

1.4.3 External legal advice has been sought by Legal Services over the potential transfer of elements of the operation of the site to the Trust, including the operation of any future facility development of the site. The provision of a lakeside café and water sports centre is included in List C of the capital plan for evaluation funded in full by developer contributions held by the Council. Early feedback from the external legal advisor is that a transfer to the Trust will be within the scope of procurement and state aid legislation. The intention, subject to final legal advice and agreement by the Trust is to include LLCP in the Management Agreement by 1 April 2021. In order to prepare for this, it is proposed that the List C capital Plan evaluation be brought forward for Full Council approval in October 2020. Given the timing of meetings, the likelihood is that this will therefore need to be reported via the September meeting of the Finance, Innovation & Property Advisory Board in September and Cabinet in October. Legal, Leisure and Financial Services will continue to work to clarify this position in order that progress can then be made on bringing forward this Capital Plan Evaluation.

## 1.5 Capital Plan Schemes

1.5.1 There have been two significant capital projects which have been progressed during the lockdown period.

1.5.2 Larkfield Leisure Centre Roof, Ventilation and Boiler replacement/refurbishment – on commencement of lockdown, works were paused. The Council, Leisure Trust and the contractors [Kier] worked hard to ensure progress on site could continue, while ensuring government guidance was fully adhered to. As a result work resumed and the following has been completed on site:

- Removal of the old air handling unit in the plant room
- Delivery of the new air handling unit from Germany and installation
- Installation of new ventilation ductwork in the pool hall
- Installation of new LED lighting in the pool hall
- Removal of all external scaffolding
- Removal of the large internal scaffolding

1.5.3 I am pleased to report that the main capital plan works have now been completed, and the handover from Keir took place on the 3<sup>rd</sup> July 2020.

1.5.4 Following handover, the Council and the Leisure Trust are undertaking a range of works to ensure the pools are able to be safely re-commissioned. This includes tile repairs, works to the pool filters and replacing the main walkway flooring that runs through the pool hall. Once these works have been completed the pools can be re-filled, which will take around 10-14 days, ensuring that both the temperature and chemical mix is right. It is currently estimated that the repairs and re-filling will take around 4 weeks to complete, although we will do all we can to shorten that timeframe where possible.

1.5.5 Tonbridge Swimming Pool Roof – Members will be aware of the phased approach being taken to the replacement of Tonbridge Swimming Pool roof, with Phase 1 (front elevation) and Phase 2 (Reception area and Health Suite) being undertaken in 2016 and 2017 respectively. Due to the disruption caused to the operation of the facility by phases 1 and 2 it was agreed to defer Phase 3 (rear elevation) until October 2020. However, with the building closed through the lockdown period Management Team agreed to bring forward these repairs to minimise the impact on users of the facilities and any loss on income claim from the Trust.

1.5.6 Works commenced on the 4 May and I am pleased to advise Members that they have progressed well with no underlying rot in the roof being discovered (as was found with the front elevation) therefore no internal works have been required.

Additional alterations are, however, being made to the flashing design below the glazed section with the full project due for completion on the 15 July.

- 1.5.7 In addition to the above projects I am pleased to report that improvement works to the sewerage system at Haysden Country Park were also successfully completed.
- 1.5.8 Other capital schemes in the Capital Plan are currently being reviewed and revised timescales will be brought forward as part of the forthcoming review of the capital plan. The opportunity will also be taken to assess whether the projects represent essential spend bearing in mind the Council's overall financial position.

## **1.6 Events Calendar**

- 1.6.1 On commencement of lockdown, the Council suspended authorisation for all imminently pending events on land in our ownership. In reality the majority, if not all event organisers had already taken the decision to cancel their events. Since this date, government guidance has continually been reviewed especially in regard to social distancing measures and guidance on gatherings. At the current time the Council is reviewing authorisation for events on a month by month basis and currently the decision has been taken to not authorise any events during the month of July. Looking a month ahead gives a greater level of notice and certainty to event organisers.
- 1.6.2 Whilst the importance of events to local economies and communities is recognised, the Councils' financial position also needs to be given due consideration, with Members agreeing to only essential spend. In addition to events only being able to progress subject to government guidance it is also proposed that for the current financial year only those events that have a significant benefit to the local economy, are cost neutral or generate income to the Council should progress. As a result of this approach the Medieval Fair at Tonbridge Castle has already been cancelled for this year.

## **1.7 Legal Implications**

- 1.7.1 The statutory framework governing the response to the pandemic is evolving and changing on a frequent basis, both in the restrictions placed upon individuals and upon the responsibility of local authorities. Specific proposals or changes brought forward following a review of the services will be assessed at the appropriate time in liaison with Legal Services to ensure they are lawful.
- 1.7.2 Payments to the TMLT during the lockdown period from the budget approved by Full Council (see paragraph 1.2.7) are subject to the State Aid rules. The State Aid Temporary Framework measure for COVID-19 allows for grants or loans of up to €800,000 to be made before 31/12/2020 to entities which were not in financial difficulty on 31 December 2019 but which are facing difficulties as a result of the COVID-19 outbreak.

1.7.3 Officers have taken advice on the adjustments to the service fee under the Management Agreement. Early legal advice confirmed that it is very likely that the Market Economy Operator (MEO) principle applies so that this does not constitute State Aid. Here the behaviour of a public body is compared to that of a similar private economic entity under the same market conditions to see whether the economic transactions carried out by the public body grant an advantage to the receiving body's competitors. The crux of the test is whether the Council has acted as a market economy operator would have done in a similar situation. This is likely to apply as it is financially more beneficial for the Council to adjust the Service Fee than to risk the operator falling into financial difficulty.

## **1.8 Financial and Value for Money Considerations**

1.8.1 Management Team, and endorsed by Cabinet on 19 May 2020, imposed an 'essential spend only' policy for 2020/21 in order to preserve resources and set a 'savings target' of at least £500,000 to be delivered as a result of this policy.

1.8.2 An earmarked reorientation/post emergency reserve of £200,000 has been established to assist the Council in some of its recovery activity.

## **1.9 Risk Assessment**

1.9.1 The departmental operational risk assessment has been updated substantially and is being revised on an ongoing basis as government guidance on Covid-19 changes.

## **1.10 Equality Impact Assessment**

1.10.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.11 Policy Considerations**

1.11.1 Communications; Customer Contact; Health and Safety; Healthy Lifestyles; Human Resources; Procurement.

## **1.12 Recommendations**

1.12.1 It is **RECOMMENDED** to Cabinet that:

- 1) delegated authority be given to the Director of Street Scene Leisure and Technical Services in liaison with the Cabinet Members for Communities and Finance, Innovation & Property to proceed with negotiations regarding the first short term adjustment to the Service Fee in advance of the next meeting of the Advisory Board;
- 2) subject to legal advice and the agreement of the Trust, the List C capital plan evaluation for LLCP is presented to the Finance, Innovation &



Property Advisory Board in September 2020 with a view to approval at Full Council in October 2020.

The Director of Street Scene, Leisure & Technical Services confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Darren Lanes

Nil

Robert Styles

Director of Street Scene, Leisure & Technical Services