

TONBRIDGE & MALLING BOROUGH COUNCIL
COMMUNITIES and HOUSING ADVISORY BOARD

10 November 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 LEYBOURNE LAKES COUNTRY PARK: FUTURE MANAGEMENT AND FACILITY DEVELOPMENT

Summary

This report updates Members on both the proposed transfer of the site management of Leybourne Lakes Country Park [LLCP] to the Tonbridge and Malling Leisure Trust [Leisure Trust], and the Capital Plan scheme for the provision of additional lakeside facilities. The proposed transfer is identified in the Council's First Year Addendum to the Corporate Strategy.

1.1 Introduction

1.1.1 As reported to Members of this Board on the 21 July 2020 and subsequently approved by Cabinet, it is proposed that the site management of LLCP be transferred to the Leisure Trust from the 1 April 2021. Further to this a report was also taken to the meeting of the Finance, Innovation and Property Advisory Board on the 16 September 2020 and subsequently recommended by Cabinet for Council approval, in regard to the proposed facility improvements. In taking forward both projects the following aims are to be achieved:

- to achieve a financial saving to the Borough Council;
- to improve the financial position and sustainability of the Leisure Trust; and
- to improve the quality of onsite facilities and services to the visiting public.

1.2 Site Management

1.2.1 It is proposed that the management of LLCP be transferred to the Leisure Trust in line with the arrangements already in place in the Management Agreement for the Council's indoor leisure facilities, i.e. Larkfield Leisure Centre, Tonbridge Angel Centre, Tonbridge Swimming Pool and Poulton Wood Golf Centre. The current Management Agreement with the Trust allows for the transfer of additional facilities and it is in accordance with Section 10 of the Agreement that the transfer is proposed. The current Agreement allows the Trust to develop public service provision whilst still aligning to the Council's aspirations and objectives. The current partnership between the Council and the Leisure Trust has been

extremely successful and productive resulting in the increased development of, and investment in, the Council's facilities. It is felt that this success can be replicated for LLCP.

1.2.2 As highlighted above the transfer will see the addition of LLCP to the Trust's management portfolio and the same guiding principles and obligations in the current Management Agreement will be applied to the management of the Country Park. These will include the following:

- The Trust shall have full discretion to establish fees and charges for the facilities and/or services (including the Car Park).
- The programming of services at LLCP will be included in the Trusts' Annual Service Delivery Plan that is revised on an annual basis and subject to Member approval through this Board.
- The transfer of the two on site staff to the Leisure Trust in accordance TUPE legislation.
- Repair and maintenance of the facility shall be shared between the parties in accordance with an agreed Repair and Maintenance Matrix. In general, day to day repair and maintenance obligations will be transferred to the Trust and the Council will retain responsibility for Capital Renewals and Building Repairs.
- The site ownership is retained by the Council
- The Trust shall establish a customer satisfaction and complaints procedure.
- The Trust shall retain the Green Flag accreditation in relation to the facility for the duration of the Agreement.
- The Trust shall regularly monitor customer satisfaction and present the results to the Council.
- The development of key Outputs and Performance Indicators relevant to LLCP that will be monitored through the Trust's Business Plan and Annual Service Delivery Plan.

1.2.3 The approach is supported by the Leisure Trust and I have attached at **Annex 1** correspondence from its Chief Executive following consideration of the potential transfer at its Trust's Board meeting on the 21 September.

1.2.4 In addition to developing a formal variation to the Management Agreement regarding the transfer the next task will be negotiated with the Leisure Trust to agree, amongst other things, the financial arrangements relating to the transfer. Paragraph 1.5 sets out the initial indicative costings. Should Members decide to proceed subject to the caveats set out in this report, more detailed work will be undertaken in liaison with the proposed operator. The ensuing financial proposals will be reported to a future meeting of this Board and will need to meet the aims outlined in sub section 1.1.1 earlier in these papers.

1.3 Facility Development

- 1.3.1 As reported to the Finance, Innovation and Property Advisory Board on the 16 September 2020, the Council has had a long held aspiration to provide a purpose built lakeside facility at the site to primarily provide year round catering and a centre for water sports. Subject to final approval by Council on 27 October, the project will be included in the Council's Capital Plan. A copy of the evaluation is attached at **Annex 2** for information.
- 1.3.2 In addition to the above, Cabinet also agreed to further investigation into the use of the Denbighshire County Council UK Leisure Framework for the procurement and delivery of the project. This work has progressed through liaison with Alliance Leisure Services Ltd (ALS) who are a leading leisure development consultant and the selected company within the aforementioned Framework. The Council are aware of the work undertaken by ALS due to its previous engagement with the Leisure Trust on the project management and delivery of the new fitness studios at Larkfield Leisure Centre.
- 1.3.3 Liaison has been undertaken with ALS on the provision of new facilities at Leybourne Lakes and its' initial Development Proposal can be found at **Annex 3**. The proposal outlines the project brief, initial concept design ideas, illustrative project costs and ALS's Gateway Approach in relation to the next steps of developing Cost Confidence and Cost Certainty.
- 1.3.4 Members will be aware that the Council has a finite budget of £741,000 for the project that is being funded in full by external funding secured through Section 106 contributions. It will, therefore, be essential that the Council has confidence in the budget before committing further expenditure. It will then be essential that the contract is only let with cost certainty to reduce the risk of overspend.
- 1.3.5 Members comments on the Development Proposal attached at **Annex 3** are sought, and subject to comments received it is proposed that the Council progresses the development and delivery of the new facility in accordance with ALS' Development Proposal.
- 1.3.6 The design of the building is being undertaken in full consultation with the Leisure Trust as the intended operator of the facility and the project is being delivered through an inter departmental Project Group. The building will be subject to planning approval.

1.4 Legal Implications

- 1.4.1 The proposals outlined in this report are the subject of ongoing legal advice with the Council's legal service and external legal advisors to ensure that the Council is acting lawfully. Further external advice is currently being sought and any recommendations within this report are to be subject to the Monitoring Officer confirming that the action to be taken is lawful once the advice has been finalised.

- 1.4.2 In relation to the use of the Denbighshire County Council UK Leisure Framework, it is possible for the Council to use this Framework Agreement provided that the Services are called off prior to the expiry of the Framework Contract on 31 January 2021. This will require the process set out in the Framework to be followed which includes a Development Agreement being entered into by this date.”
- 1.4.3 The two existing on site staff working at LLCP will transfer to the Leisure Trust and their employment rights will be protected under the Transfer of Undertakings [Protection of Employment] regulations [TUPE]. The staff have been advised of the potential transfer and consultation will continue as the transfer progresses in liaison with the Council’s HR department.

1.5 Financial and Value for Money Considerations

- 1.5.1 In bringing forward these proposals to Members, the initial assessment undertaken in liaison with Financial Services suggested that the transfer of responsibility for management of LLCP including the proposed purpose built lakeside facility could deliver a financial benefit to both parties. This would be by way of a cost saving to the Council and a net income stream to the Trust.
- 1.5.2 Further ‘high level’ costing has been undertaken and this indicates that, on transfer, there should be an immediate saving to the Council of circa £10k. Once the new lakeside facility is open, indicative ‘high level’ estimates suggest that there should be an increased net income stream of circa £30k to the proposed operator (i.e. the Leisure Trust). Members should note that this of course would be taken into account in any revisions to the overall Management fee, netting down any financial impact of Covid to leisure facilities which has been referred to in reports elsewhere.
- 1.5.3 It is important to note that these figures are high level and detailed work has not been undertaken with the Leisure Trust at this point. If Members, having considered these proposals, decide to proceed as outlined into this report subject to all the caveats given, more detailed work in liaison with the Leisure Trust will begin and the resulting financial assessment will be reported to a future meeting of the Board.

1.6 Risk Assessment

- 1.6.1 With regard to the site management the transfer will only progress if the aims highlighted at 1.1.1 of this report are met including the financial benefits to both the Council and the Leisure Trust.
- 1.6.2 The facility development is being taken forward based on a phased approach including both Cost Confidence and Cost Certainty as highlighted within the report.

1.6.3 There is clearly a risk that if the projects do not proceed the opportunity to maximise income from the Park will not be achieved, quality of service on site will not improve and savings will not be generated. Taking into account the Council's overall financial position and the discretionary nature of the facilities there is clearly a need to deliver the site as cost effectively as possible.

1.7 Equality Impact Assessment

1.7.1 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.

1.8 Policy Considerations

1.8.1 Asset Management, Biodiversity & Sustainability, Community and Procurement.

1.9 Recommendations

1.9.1 It is **RECOMMENDED** to Cabinet that subject to the Monitoring Officer being satisfied about the legality of the actions in relation to the potential transfer that:

- 1) the potential transfer of the site management continues to be addressed in liaison with the Leisure Trust in accordance with the principles of the existing Management Agreement;
- 2) consultation continues with the relevant on site staff at LLCP in liaison with HR regarding their potential TUPE transfer to the Leisure Trust;
- 3) a report be presented to the next meeting of this Board on the financial implications /viability of a future transfer;
- 4) the transfer only be progressed if it achieves a saving to the Council and an income stream to the Leisure Trust.

1.9.2 It is **FURTHER RECOMMENDED** to Cabinet that in regard to the potential development of a new Lakeside Facility at LLCP:

- 1) Alliance Leisure Services Ltd be appointed through the UK Leisure Framework to progress the project up to the Cost Confidence stage outlined in its Development Proposal;
- 2) the project only be progressed to the Cost Certainty stage by Alliance Leisure Services Ltd if there is confidence that the project can be funded from within the available budget; and
- 3) approval be granted for a Planning Application to be submitted for the proposed facility development.

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:

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Nil

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