

# CABINET

Agenda Item: 13

**Ward:** All

**Portfolio:** Governance, Assets, and Public Spaces

**Report Author(s):** Portfolio Holder Governance, Assets, and Public Spaces

**Date:** 9<sup>th</sup> December 2013

**SUBJECT:** Leisure Strategy and Leisure Management Contract

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Report Sign off	Seen by:	Name	Date
	Legal	Donna Nolan	26/11/13
	Finance	Adam Savery	26/11/13
	Procurement	Paul Taylor	26/11/13
	Corporate Manager GAPS	Donna Nolan	26/11/13
	Portfolio Holder	John Parham	27/11/13
	Ward Member(s)	N/A	
Summary:	<p>This report appraises Members of the conclusions of the recent Soft Market Testing exercise in respect of the Leisure Services Management Contract. It also seeks Cabinet approval; following recommendations from the Leisure Services Member Working Group to explore the option of undertaking a market testing exercise to establish whether a property transfer of the Council's built leisure estate can deliver a more sustainable long term solution for the continued provision of leisure services.</p> <p>By way of background the report to Cabinet of 11 March 2013 and Minutes are attached as Appendix 1 to this report.</p>		
Recommendation:	<p>That Cabinet:-</p> <ol style="list-style-type: none"> <li>1. Note the contents of this report.</li> <li>2 (a) Delegate authority to the Deputy Leader; the Portfolio Holders for Governance, Assets and Public Spaces; and Policy &amp; Performance; and the Corporate Manager for Governance, Assets and Public Spaces to undertake a marketing exercise to formally establish levels of interest for a property solution to the future delivery of the Council's built leisure estate.</li> <li>(b) Delegate authority to the above mentioned group to agree</li> </ol>		

	<p>the Heads of Terms to which any such transaction would be subject, following consultation with the Chief Executive and Leader.</p> <ol style="list-style-type: none"> <li>3. Note that a report seeking agreement to proceed with an asset transfer will be brought back to Cabinet upon agreement of Heads of Terms; or sooner if the marketing exercise does not deliver a positive outcome.</li> <li>4. Re-confirm that the previously established Member Steering Group will continue to oversee delivery of the project.</li> <li>5. Recommends the approval of a one off supplementary estimate of £60,000 from general reserves to fund the external support. Any funds unspent at the end of the financial year will be placed in an earmarked reserve (subject to final outturn) and carried forward to enable the project to continue</li> </ol>
<p><b>Direct and/or indirect impact on service delivery to our customers and communities:</b></p>	<p>This report has no direct impact on service delivery to our customers and communities. However, a successful outcome as a result of this decision could deliver a sustainable solution to the long term provision of built leisure provision across the District.</p> <p>Whilst discretionary the provision of leisure services is regarded as an important ambition for the Council in support of its community leadership role; supporting business growth; and providing a range of health and wellbeing benefits for communities across Mendip.</p>
<p><b>Legal Implications:</b></p>	<p>There are a raft of legal issues associated with this matter. Given the complexity of the issue and the tight timeframe for marketing and negotiations, external specialist property lawyers will be instructed to support the project team.</p>
<p><b>Financial Implications:</b></p>	<p>It currently costs MDC £1,341,830 per annum to provide leisure services, comprising fees under the management contract; utilities costs; depreciation; and repairs and maintenance.</p> <p>The purpose of this report is to propose a possible solution that may deliver a cost neutral position for the council, and open up routes for capital investment to both address legacy repairing issues and enable facilities to be improved and rejuvenated over the long term.</p> <p>However, to deliver this solution there will be direct costs associated with the project. There will be a need for significant Officer resource to support the project, but in addition external support to deliver the initiative will be imperative. The cost of external support is difficult to quantify with certainty, as the extent will be dictated by the complexity of private sector interest, however, a conservative estimate is £60,000.</p>

<b>Value for Money:</b>	<p>The approach recommended in this report will enhance value for money in the service area by driving both cashable and non cashable efficiencies.</p>
<b>Equalities Implications:</b>	<p>Equalities Impacts Assessments will be carried out as part of the final bid evaluation.</p>
<b>Risk Assessment and Adverse Impact on Corporate Actions:</b>	<p>There are significant risks to the proposed approach which are set out in the body of the report. Risk management will be an integral part of the project.</p>
<b>Scrutiny Recommendation (if any)</b>	<p>None.</p>

## **INTRODUCTION**

Physical activity and sport have a significant role in improving the quality of life for people of all ages. It also makes an important contribution towards achieving a wide range of policy objectives especially in areas such as social inclusion, regeneration, community safety, crime reduction, lifelong learning and health and wellbeing. Despite the fact it is a non statutory service Councils are perceived to have a major role in contributing to the participation in sports and physical activity. Until the mid 1980's Council sports and leisure facilities were almost wholly managed in house. Since then there has been a shift towards management by private sector contractors and more recently to management by Trusts.

The Council has outsourced leisure provision for many years, with the current contract due to expire in 2015. The current buildings are ageing and it is questionable whether they are meeting changing needs and customer expectations. To plan for the future the Council must develop a revitalised strategic partnership with the private sector, and with other external parties, so as to improve planning, develop facilities, explore all options for cost savings and develop innovation in service delivery.

In March 2013 Cabinet approval was given to a soft market testing exercise to inform the best long term solution for built sports and leisure facilities across the district. Soft market testing was considered vital to ensure that the Council harnessed private sector input into its consideration and did not limit the range of options available.

Following soft market testing the Council has been considering all possible options given the need to find a creative and innovative approach if a financially sustainable solution is to be found against the backdrop of increasing funding pressures for non-statutory services.

## **SOFT MARKET TESTING EXERCISE**

As approved by Cabinet a Soft Market Testing exercise has been conducted, following an invitation to participate being published in the national leisure press. 13 national and regional organisations that are involved in the provision of Local Authority leisure services submitted written responses on how they might support the Council in the future provision of leisure. 10 of the organisations were interviewed by a panel of Council Members and Officers, with support from Sports Solutions, a specialist leisure consultancy. The main themes to come out of the Soft Market Testing exercise were that the companies generally:-

- did not have the ability to raise significant capital sums for investment, at least without the Council having to underwrite long term finance risks.
- were interested in entering into a traditional leisure services management contract, for a period of 10 to 15 years.
- could not see a way to enhance incomes in order to provide a revenue-neutral solution for the continued provision of leisure services, especially with swimming (which always requires a high level of subsidy) being maintained.

However, the soft market testing exercise revealed an interest from the market in exploring a property solution rather than a leisure services management contract, the highlights of which would be:-

- A medium to long term lease (rather than a management contract) of the Council's leisure assets.
- A longer term property interest being the lever to raise significant capital investment for leisure facilities to be maintained and enhanced over time.
- A possibility of moving towards a cost neutral position.
- Facilities would operate on a commercial basis, so that the leisure estate could be kept vibrant with a focus on providing at all times a range of popular modern activities.

Provided the leases are arm's length property transactions, it will not be necessary to comply with EU procurement procedures – although a competitive disposals exercise should be undertaken to ensure achievement of value for money objectives, and compliance with the Council's good governance standards.

## **THE PROPOSAL**

For these reasons, and whilst noting that there are risks attached to this option which are highlighted below, it is recommended that the Council should explore whether a property transaction is achievable in the current market as this could:-

- deliver a more exciting, popular, and refreshed range of leisure facilities and leisure activities over the long term.
- provide a vehicle for substantial capital investment from the private sector, at reduced risk to the Council.
- meet an aspiration to achieve a cost neutral position.

There are emerging examples of transactions of this nature being implemented and considered by other local authorities, with whom the Council is maintaining a close dialogue.

In order to gauge levels of interest it is recommended that the Council undertakes an intensive and relatively short term property marketing exercise to establish demand from property investors and developers active in the leisure arena, with a view to having Heads of Terms agreed by the end of March 2014.

A working group will be set up to oversee this project, and agree the Heads of Terms on which a property transaction could proceed, which will include the control mechanisms that can be achieved.

If a robust property solution cannot be found within that timeframe then the Council will still be able to undertake and complete a more traditional procurement exercise for the

retendering of the leisure services contract that is appropriate against the uncertainties of the current funding climate.

## **RISKS OF THE PROPOSAL**

Whilst the potential benefits to the district in the provision of long term, affordable and popular activities from well maintained facilities are substantial, there are also significant risks to this approach as follows:-

- This is a highly innovative solution that is only being considered by a small number of authorities, and significant hurdles to concluding such a ground-breaking venture can be expected.
- The degree of control that the Council will retain over the future provision of leisure services will be restricted by the bidders' needs to find a commercially sustainable delivery model, and the complex legal issues.
- Whilst manageable, the timescales for implementing a solution by May 2015 are challenging.
- The Council does not currently have sufficient tenure over all its leisure assets to be able to grant medium to long term leases, although negotiations with relevant partners and stakeholders over the asset transfers that would be necessary to support the exercise are progressing positively.

## **RECOMMENDATIONS**

That Cabinet:-

1. Note the contents of this report.
- 2 (a) Delegate authority to the Deputy Leader; the Portfolio Holders for Governance, Assets and Public Spaces; and Policy & Performance; and the Corporate Manager for Governance, Assets and Public Spaces to undertake a marketing exercise to formally establish levels of interest for a property solution to the future delivery of the Council's built leisure estate.
- (b) Delegate authority to the above mentioned group to agree the Heads of Terms to which any such transaction would be subject, following consultation with the Chief Executive and Leader.
3. Note that a report seeking agreement to proceed with an asset transfer will be brought back to Cabinet upon agreement of Heads of Terms; or sooner if the marketing exercise does not deliver a positive outcome.
4. Re-confirm that the previously established Member Steering Group will continue to oversee delivery of the project.
5. Recommends the approval of a one off supplementary estimate of £60,000 from general reserves to fund the external support. Any funds unspent at the

end of the financial year will be placed in an earmarked reserve (subject to final outturn) and carried forward to enable the project to continue

## **REASONS FOR RECOMMENDATIONS**

To further explore the methods for ensuring the continued provision of affordable leisure facilities across the district.

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**Background Papers:** Cabinet Paper and Minutes of 11 March 2013.

