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| Report To: | Cabinet | Date: | 15th September 2020 |
| Heading: | LEISURE TRANSFORMATION PROGRAMME | | |
| Portfolio Holder: | PORTFOLIO HOLDER HEALTH AND LEISURE – CLLR KIER BARSBY | | |
| Ward/s: | ALL | | |
| Key Decision: | Yes | | |
| Subject to Call-In: | Yes | | |

Purpose of Report

To update Cabinet in terms of the progress with the Leisure Transformation Programme including the procurement of a new Operating Contractor and the due diligence progress towards the development of the new Leisure Centre in Kirkby which will replace Festival Hall.

To gain approval from Cabinet to enter into a suitable build contract following the completion of the ongoing tender process.

Recommendation(s)

- 1) That Cabinet notes the progress in appointing a new Leisure Operating Contractor for the period of April 2021 onwards for a duration of 10 years with a Council retained ability to extend for a further 5 years.
- 2) That Cabinet gives Delegated Authority to the Director of Place & Communities in conjunction with the Corporate Finance Manager and The Leader and Deputy Leader (Inward focus) to enter the Council into contract with the successful tenderer for the construction of the new Kirkby Leisure Centre.
- 3) That Cabinet gives Delegated Authority to the Director of Place & Communities in conjunction with the Corporate Finance Manager, the Leader and Deputy Leader (Inward focus) to enter the Council into contract with the successful tender for the enabling works package of initial capital works onsite.

Reasons for Recommendation(s)

Cabinet will recall the previous reports regarding progress with the procurement of the Leisure Operating Contract, including the report from January 2019 which outlined the Delegated Authority to

the Director of Place and Communities to enter into the resultant contract following the conclusion of the procurement process.

Council officers continue to progress with the procurement of the leisure operating contractor and the current programme will see them appointed in good time to achieve contract start in April 2021. The procurement of this is being completed in conjunction with the development of the new leisure centre at Kirkby in Ashfield.

The Leisure Centre development at Kirkby has already achieved Planning Permission and has concluded design to RIBA 4 stage. The works are currently out to tender and we anticipate that works will commence in Q3 of the 2020/21 financial year.

Previous reports for the development of the leisure centre have enabled officers to progress with the appointment of the design team and to commence the procurement process. This report requests further approvals to appoint the successful tenderer to construct and complete the new leisure centre development.

The timing of the tender return (17th September) and then completion of the necessary due diligence will fall between applicable governance meetings at the Council and delegated authority to the Director of Place and Communities, Corporate Finance Manager, the Portfolio Holder and the Leader and Deputy Leader (Inward Focus), is sought to ensure continuing momentum with this development.

Alternative Options Considered

Leisure Operating Contract – do not proceed (Not recommended)

Cabinet can consider whether to continue supporting the procurement of a new Leisure Operating Contractor. This is not recommended.

The existing operating contract with SLM has run for many years. It is due to cease at the end of March 2021 and there is no contractual ability to extend the existing contract.

Leisure Operating Contract – run services in-house (Not recommended)

Cabinet can consider whether it is appropriate to operate the leisure centres in-house. This is not recommended.

Given the levels of competition within the sector, the lack of expertise and experience within the Council, this is not considered a viable option with which to progress. Additionally this route will not achieve the necessary revenue savings to cross fund the development of the new Leisure Centre.

Kirkby Leisure Centre – do not proceed (Not recommended)

Cabinet can consider whether it is appropriate to continue with the procurement and stop the planned development of the leisure centre. This is not recommended.

The Council has already achieved Planning Permission for the new leisure centre and the Council is currently looking forwards to the tender return date of the 17th September 2020.

The newly developed leisure centre has also been included within the financial parameters of the leisure operating contract. Should this development not continue, the parameters of the operating contract would then need to be reviewed. The existing Festival Hall site runs at a deficit due to its

limited offer; the likely impact on the tender would be an increased management fee, which would decrease the financial returns and lessen the future leisure offer for the residents of Kirkby.

Detailed Information

Leisure Operating Contract

Cabinet will recall that Council officers have been diligently progressing through the procurement process for a new Leisure Operating Contractor. The new contract is due to commence in April 2021.

Initial tender returns were received in May 2020 and the Council team, supported by expert external consultants have now completed their qualitative review of those submissions. Additionally, Council officers supported by external legal advisors and consultants have now met with the remaining four bidders on several occasions.

On each occasion the Council's team has focused on separate elements of the tenders. Several of these have been by way of negotiation meetings. These negotiation meetings have focused on:

- a) General elements of the bidders responses including clarifications on any included assumptions
- b) Financial elements of the bidders' responses. Understanding in detail where bidders were proposing any changes in the delivery of services, how they believed these would impact on users and how these could be adopted into a final submission document.
- c) Legal elements of the bidders' responses. Each of the bidders proposed a number of variances to the standard Sport England contract that we are advocating. Each of these variances have now been reviewed by our external legal support along with ADC Legal and the external consultants. These have helped form the basis of the final submission.

Final submissions will be sought from the bidders during late September 2020 with a return date of the 14th October 2020.

The final submissions will include parameters for bidders such as a second swimming facility at Hucknall Leisure Centre which the Council is to bring forward. The proposal for the second swimming facility at Hucknall Leisure Centre has already been discussed with the design team who are leading on the Kirkby Leisure Centre to ensure that the costings and design are within the applicable parameters which the Council has set.

Final submissions will then be reviewed and recommendations made to the Director of Place & Communities who has the delegated authority to enter into the resultant operating contract, in consultation with the Corporate Finance Manager and Portfolio Holder. The appointment is expected to be completed in October 2020 with a start of the contract being April 2021.

Kirkby Leisure Centre Development

The Council has previously received approval to the appointment of a design team to progress with the development of a new leisure centre in Kirkby which will replace Festival Hall. Design has progressed through to RIBA 4 (Detailed Design) and the Council has now received Planning Permission for the development.

Currently at tender stage, responses from bidders are expected on the 17th September 2020. Following receipt of the tenders these will be reviewed by the external design team to ensure compliance against the tender requirements as well as a full detailed financial review of the documents to ensure consistency.

Following due diligence, the Council will be in a position to appoint the contractor, provided that the project remains within the agreed financial parameters as agreed by Cabinet in June 2020. This is an overall financial envelope of £15.5m.

The current project plan for the leisure centre identifies initial enabling works to commence on-site in the coming months with the main contractor taking possession of the site on the 1st November 2020. Completion of the new leisure centre is identified as being March 2022 with the Festival Hall then demolished and replaced by additional car parking by October 2022. A detailed Communications Plan is in place.

It is intended that as part of the overall budget parameter an element of ‘enabling works’ will be let initially via a compliant tender process, this will include works such as boundary hoardings, the re-alignment of the public sewer across the site by Severn Trent and the levelling of the ground (cut & fill). These works will shorten the overall construction period for the main works whilst enabling the Council to proceed in the most diligent way forward.

Implications

Corporate Plan:

The development of the Leisure Centre is a key priority within the Corporate Plan and will aid the Council in its long term aspirations regarding the health and wellbeing of the people of Kirkby.

The appointment of a new leisure operating contractor will aid the Council in ensuring long term financial sustainability by reducing the current level of outgoing revenue funds for this provision, whilst also assisting the affordability of the new leisure centre.

Legal:

Internal Council legal representatives along with external consultants are involved within the appointment of the new leisure operating contractor.

The appointment of a new Leisure Operating Contractor will ensure ongoing viable service delivery in line with legal processes and avoid the Council from having to review and implement an interim agreement with the existing provider.

Finance:

| Budget Area | Implication |
|---|--|
| General Fund – Revenue Budget | Expected saving of revenue funding currently paid to existing operating contractor to achieve a net zero or positive financial position |
| General Fund – Capital Programme | Capital costs £15.5m for the new leisure centre are included in the Capital Programme, approved by Council on 9 th July 2020. |
| Housing Revenue Account – Revenue Budget | N/A |
| Housing Revenue Account – Capital Programme | N/A |

Risk:

| Risk | Mitigation |
|--|--|
| Leisure Operating Contract – that the final submissions from bidders does not deliver the expected revenue returns to support the leisure centre development. | Throughout the procurement process the Council has consistently made it clear that a net zero or positive management fee is required as an output of the tender process. The Council has also taken on board recommendations from the bidders on how to alter the leisure offering to increase turnover. |
| Leisure Operating Contract – that the final submissions are impacted by the COVID-19 pandemic | The Council has considered and discussed with each of the bidders on how best to mitigate the impacts of the pandemic. The revised timescale will enable the October 2020 membership data from the existing incumbent to be used as the baseline, thus minimising the impact upon the tenders. |
| Leisure Operating Contract – that the Kirkby Leisure Centre is not completed on time impacting on the operators financial model | The indicative dates are included within the operating contract. The Council will levy Liquidated Damages where possible to offset the costs and these where applicable will be ‘passed through’ to the operating contractor to offset the loss in profit of the new facility. |
| Kirby Leisure Centre – That the tenders are returned and that these are outside of the financial parameters | The Council team including the external designers have continually reviewed the design and benchmarked the cost plan to date. Where necessary ‘value engineering’ has already been undertaken and should tenders be returned above the anticipated budget further elements of ‘value engineering’ are available to be implemented. |

Human Resources:

There are no directly applicable human resources implications upon the Council. The Council has adequate management and project management experience in place to oversee both work streams.

Environmental/Sustainability:

The agreed design of the new leisure centre has taken into account all necessary environmental standards and the design is above the minimum requirements set by the Approved Documents and Building Control.

Further environmental interventions such as the installation of PV's to the leisure centre have been considered and will be funded outside of the core financial model.

Equalities:

An Equality Impact Assessment (EIA) has been carried out to consider all the equality implications within the report. Appropriate concessions will be available for residents and fees and charges will be reviewed for the targeted activity programme Inc. free activities and discounted usage.

Other Implications:

There are no further implications as a result of this report.

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

Cabinet Paper, Leisure Transformational Programme, January 2019
Cabinet Paper, Leisure Transformation Programme, November 2019
Cabinet Paper, Leisure Transformation Programme, June 2020

Report Author and Contact Officer

Theresa Hodgkinson

DIRECTOR OF PLACE AND COMMUNITIES

t.hodgkinson@ashfield.gov.uk

01623 457374