



AGENDA ITEM: 5/7

Cabinet : 17 June 2008

Report of: Executive Manager Community Services

Relevant Portfolio Holder: Councillor G Hammond

Contact for further information: John Nelson (Extension 5157)

SUBJECT: WEST LANCASHIRE COMMUNITY LEISURE TRUST

District wide interest

1.0 PURPOSE OF THE REPORT

1.1 To seek member's approval for discussions to commence with West Lancashire Community Leisure Trust in respect of management and operation of the proposed new leisure centre in Skelmersdale and to explore options to provide additional facilities through the Trust partnership.

2.0 RECOMMENDATIONS

2.1 That the Members agree to the formation of a Cabinet Working Group, comprised of Leader and Deputy Leader, Portfolio Holder for Community Services and Portfolio Holder for Finance, to provide strategic direction to officers during the discussions with the Leisure Trust Partners.

2.2 That the Deputy Chief Executive, in consultation with the Cabinet Working Group, be given delegated authority to enter in to negotiations with West Lancashire Community Leisure Trust and the Trust Partners Serco Leisure Operating Limited.

2.3 That the Deputy Chief Executive, in consultation with the Cabinet Working Group, be given delegated authority to engage consultants and obtain expert legal and financial advice as appropriate, during negotiations with West Lancashire Community Leisure Trust and the Trust Partners Serco Leisure Operating Limited.

- 2.4 Members approve financial support, allocated from contingencies, to support recruitment of specialist consultant, external legal advice and to undertake independent financial appraisals for VAT and tax.
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3.0 BACKGROUND

- 3.1 West Lancashire Community Leisure Trust is a vehicle for the delivery of leisure services within the district. It was put in place by arrangements between the Council, the Trust Board and Serco Leisure Operating Limited. The Trust commenced operation of five of the Council's sports facilities, two swimming pools and three dry sports centres, on the 1st January 2005.
- 3.2 The Trust operates under a Memorandum and Articles of Association and is registered as a company limited by guarantee with Companies House. The Trust operates as a non-profit distributing organisation (NPDO) with charitable objectives.
- 3.3 The Trust operates with a board of six trustees, one of whom is nominated by the Council.
- 3.4 The Leisure Trust operates under agreements put in place for a period of 15 yrs and 3 months for four sites: Park Pool, Nye Bevan Pool, Burscough Fitness & Racquets Centre and Banks Leisure Centre. Due to the anticipated problems with the building structure the agreement term for Skelmersdale Sports Centre was set for a period of 5 years and three months, commencing on the 1st January 2005.
- 3.5 The trust agreements are complex and are split in to three areas of administration/operation, (i) Leisure Services Agreement, (ii) Maintenance Agreement and (iii) Capital Investment Agreement. The interlocking arrangements and the structure of the Trust board arrangement, engaging a partner organisation, which runs co-terminus with the Councils Leisure Services, Maintenance and Capital Investment agreements were unique when the partnership with the Trust was formed.
- 3.6 Prior to the signing of the Trust agreement documentation, the interlocking agreements were scrutinised by external consultants, with specialist legal advice from Counsel and independent financial appraisal both for corporation tax and VAT purposes. The Council's external auditors also commented and provided advice during the partnership selection process and the drafting of the agreements.
- 3.7 The Leisure Trust partnership has seen significant capital investment in the sites, principally in the fitness and health suite areas at Nye Bevan Pool, Burscough Fitness and Racquets Centre and Park Pool. Recent capital investment also includes the replacement of an old tarmac court with a new all weather astro-turf provision at Banks Leisure Centre.

- 3.8 The Trust have improved general access and changing room facilities at all sites, however with the limited expected operating period anticipated for Skelmersdale Sports Centre investment at this site has been limited to general decoration and improvements to the main hall lighting.
- 3.9 The Trust have increased opening hours for customers and provided new-programmed activity sessions. The customer numbers have increased from eight hundred and eighty one thousand from the pre trust year 2004/5 to nine hundred and eighty thousand for the year 2007/08, an increase of 10%
- 3.10 Employees from the District Council were transferred to the Trust under TUPE requirements, 102 staff were transferred on the 1st January 2005. The Trust now employs 120 staff. The conditions of service and pensions arrangements have been maintained for all staff, including the opportunity for new members of the community trust staff to join the local government pension scheme. Rates of pay are increased in line with Local Government pay awards.
- 3.11 The Council have reported year on year efficiency gains from the Trust partnership, the Council have reported savings between £250,000 to £350,000 during the last three years under the Local Government Gershon Efficiency targets, these figures are based on improved service provision, efficiencies through reduced cost of service subsidy and savings resulting from the partnership which have protected the Council from unforeseen additional costs.

4.0 NEW LEISURE CENTRE DEVELOPMENT

- 4.1 The Council have a development agreement for Skelmersdale Town centre with developers, St Modwen. In addition to the land identified in the town centre the area of land immediately surrounding and including Skelmersdale Sports Centre is also included as part of the development.
- 4.2 As part of the development agreement the developers have an obligation to provide for a new wet and dry leisure facility in the town centre. The existing leisure facilities in Skelmersdale, Nye Bevan Pool and Skelmersdale Sports Centre are both at a point where significant investment is required. It is intended that both buildings would be demolished and the land used towards the town centre development.
- 4.3 Nye Bevan Pool was built in 1974 and to a similar design as Park Pool in Ormskirk, although the building is structurally stable, the interior layout and design is dated and is not acceptable for the competing leisure market.
- 4.4 The Skelmersdale Sports Centre building originally operated as a factory unit constructing concrete panels for the new housing developments in Skelmersdale. The building was converted for community use and transferred initially to the Development Corporation and later to the Council. As part of

the conversion two squash courts were added to the building with the main factory space converted to use as a sports hall.

- 4.5 The Skelmersdale Sports Centre building is in poor condition, with the roof requiring significant resources to maintain or replace. The building was never purpose built as a sports centre and although it has a good loyal client base, the building requires significant investment to extend its operational life. Ideally a new purpose built replacement would be provided.
- 4.6 A structural report for Skelmersdale Sports Centre, commissioned as part of the Councils Property Services review of all Council buildings, highlighted significant degradation to the roof structure and roof cladding. The Council have taken additional precautions when instructing contractors for repairs and have undertaken additional measures to reduce unauthorised access to the roof, to prevent further damage and potential injury.
- 4.7 In order for the town centre development to proceed on an economical basis, providing the infrastructure services for the new development and to provide funding to meet the developers obligations to provide a new leisure centre, the developers need to provide a mixture of housing and commercial developments, without the funding provided from these, the total package for the town centre development will not be viable.
- 4.8 The site at Skelmersdale Sport Centre has been identified as a potential housing development site as part of the agreement with St Modwen this will contribute towards the funding required to support the town centre scheme, which includes the provision for a new combined wet and dry sports facility.
- 4.9 The Supplementary Planning Document (SPD), which has just completed its consultation phase, has identified the Nye Bevan Pool site as part of the development to form the new commercial retail area for the town centre. This is a key site and it is important to release this area for development as soon as practicable. As part of the agreement, the new leisure facility in the town centre will be constructed as part of phase one development work. Nye Bevan Pool would only close when the new leisure centre is ready for operation.
- 4.10 St Modwens have appointed architects for the design of the new leisure centre. A design brief has been supplied, by the Council, to St Modwens and costed with the architects, with an estimated cost of construction around £12million funded from the town centre regeneration scheme.
- 4.11 The initial design brief is for an eight lane 25 meter competition pool with spectator seating and a movable pool floor, an eight badminton court sports hall, first floor fitness suite with separate changing facilities and an indoor activity hall which will be able to be used for gymnastics, martial arts, table tennis etc, releasing time in the sports hall for half hall activities and badminton. Two aerobics and dance studios, 100 station fitness suite and small meeting rooms. There is no intention at this stage to include a health suite or sun-bed rooms. An outside astro turf area was considered but there is

insufficient land and funding available to accommodate this facility in the development. The facility will be finished to a high standard and meeting Sports England and the Amateur Swimming association guidelines.

- 4.12 The initial project plan identified that the new facility could be available for use from September 2010, with an alternative date of January 2011 if there is slippage in the building program or planning issues. It is expected that opening of the new leisure centre will happen either at the same time or within a short period from the opening of the new college buildings.

5.0 NEW LEISURE CENTRE MANAGEMENT OPTIONS

- 5.1 The existing leisure services agreement with West Lancashire Community Leisure Trust does not restrict the Councils options regarding the future management options for the proposed new wet and dry leisure centre, although there are advantages in selecting the Trust as the operating partner.
- 5.2 The Council has a number of options in relation to the management arrangements for the proposed new leisure facility.
- 5.2.1 Direct management operation; the Council would employ the staff and manage the facility as a direct service unit.
 - 5.2.2 Contract out to a service provider; undertake an expression of interest and tender process with the view of contracting the service to a third party managing company.
 - 5.2.3 Agree to transfer the management operation to West Lancashire Community Leisure Trust and in turn negotiate with the Trust partner to deliver the service on behalf of the Council
- 5.3 The Council undertook extensive work in engaging and delivering the current partnership arrangements, which commenced serviced delivery in January 2005. The existing arrangements do allow for early closure of facilities however there are penalties, which the Council would face in respect of redundancy and loss of income.
- 5.4 The option of direct service delivery and tendering the management of the service to a third party are options which remain available, however given the previous decisions by Council to bring the operation of the Councils two swimming pools and three leisure centres under trust management and that the market has only relatively recently been tested by undertaking the management appraisal process and appointment of trust partners, it is therefore recommended that negotiations commence with West Lancashire Community Leisure to proceed towards the new leisure facility being managed by the Trust.
- 5.5 Local authorities can undertake the transfer of activities and facilities to a trust, which has been set up specifically to deliver local authority services, without the necessity of undertaking a competitive procurement process.

- 5.6 At the Trust board meeting held on the 22nd April 2008, the board were advised of the requirements for the closure of two sites in order for the development for a new leisure centre to proceed.
- 5.7 The Trust board was asked to indicate if they wished to be considered for the management of the proposed new leisure facility. The board welcomed the proposals for the new facility and stated that they would wish to be considered as a future partner in its operation. The Trust partners Serco Leisure indicated that they would welcome the opportunity to become involved.
- 5.8 The Trustees of West Lancashire Community Leisure have agreed that the Trust partners Serco Leisure Operating Ltd, can act on their behalf during discussions with the Council, with a requirement that any agreement would need to be brought to the Trust board for scrutiny prior to approval.

6.0 ISSUES

- 6.1 As noted earlier the new facility is not expected to be ready for occupation until 2010, however the negotiations for management of the facility need to commence early in order to provide the future operator the opportunity to influence the final fitting out stage of the new facility.
- 6.2 If agreement cannot be reached with the Trust, commencing negotiations early will also allow sufficient time for the Council to investigate other methods of service delivery/partners if required.
- 6.3 The Trust has the ability to extend its areas of operation, providing and managing additional leisure services/facilities in addition to its current service area, the Council has an opportunity during the negotiations to explore the options to increase the scope of Council leisure services provided by the Trust.
- 6.4 During the appraisal process, partnership evaluation/assessment and formation of the original partnership agreements for West Lancashire Community Leisure, a number of Council departments provided key staff as part of the officer working group, it is anticipated that similar demands will be placed on Council departments, particularly legal and financial services. In addition there will be demands on staff time in other services divisions depending on an appraisal of the scope and range of additional services which may be provided by West Lancashire Community Leisure Trust in the future.
- 6.5 The proposal to extend the partnership agreement with the Leisure Trust is supported and compatible with the Councils aspirations of improved services provision, together with a commitment to working with our partners and towards meeting the shared services agenda for Local Government.
- 6.6 In considering the opportunity to expand the range of Council leisure services to be provided by the Trust, it would be unwise to assume any direct cost

savings as a result of transfer of services. To do so would place the Trust at an instant disadvantage, particularly if the principal rationale behind the transfer is 'service improvement', however opportunities may be available for savings from central service provision, including long-term savings from the reduction in space requirements for staff in Council offices.

- 6.7 A number of authorities have or are looking at opportunities to provide an increasing range of leisure services through trust partnerships. There is no one model which appears to be readily adaptable, local circumstances and an appraisal of the service requirements will determine and influence any agreement. In order to facilitate the appraisal of options of the services to be provided and to aid the negotiations with the trust, it would be appropriate to appoint consultants to advise the Council on current changes within local authorities for the delivery of the leisure services and the services options available to this Council.

7.0 PROPOSALS

It is proposed as follows:-

- 7.1 that the Council enters discussions with West Lancashire Community Leisure towards extending the scope of Council services provided by the trust including the management of the proposed new wet and dry leisure facility in Skelmersdale;
- 7.2 that an officer-working group be formed headed by the Deputy Chief Executive bringing together officers with experience from the original trust negotiations and other officers as required;
- 7.3 That during those discussions the financial and operational impact of the closure of the two leisure sites affected be identified and offset against the negotiated arrangement for the operation of the new facility;
- 7.4 that a Cabinet working group is formed to provide strategic direction to officers during the discussions with West Lancashire Community Leisure Trust and Serco Leisure Operating Limited;
- 7.5 that the following cabinet members be agreed for the Cabinet Working Group membership, Councillor Grant, Leader, Councillor Owens, Deputy Leader and portfolio holder for Estates and Regeneration, Councillor Hammond, Community Services portfolio holder and Councillor Westley, Finance portfolio holder, the terms of reference/function for the Cabinet Working Group is outlined below.
- 7.5.1 To consider the financial and operational merits of a negotiated agreement with West Lancashire Community Leisure Trust, extending the scope of Leisure services provided by the trust including the operational management of the proposed new wet and dry sport facility in Skelmersdale.

7.5.2 To report recommendations to Cabinet.

7.6 In order to facilitate the complex negotiations and to ensure that any agreement or change to the scope and operation of the Trust is negotiated in a secure financial and legal arrangement, that an initial fund of £35,000 is allocated from contingencies to support the recruitment of specialist consultants, external legal advice and to undertake independent financial appraisals for VAT and tax.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

8.1 The Trust has an agreement, from the 1st January 2005, for the operation of the service for 15 years and three months. The aims of the Trust are to provide recreational facilities for the residents of West Lancashire, which are encompassed within the aims, and aspirations of the Council's Community Strategy.

8.2 The provision of a new wet and dry sports facility in Skelmersdale, replacing two existing buildings, which are no longer sustainable as suitable leisure facilities, further meets the Council's aspirations towards improving facilities and making a commitment towards high quality service and sustainable provision for residents.

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

9.1 The Council pays a support fee to the Trust which is just over £1million per annum covering the three elements of the Trust agreement outlined in section 3.5, being (i) Leisure Services Agreement, (ii) Maintenance Agreement and (iii) Capital Investment Agreement.

9.2 The impact of a change in the current agreement, to replace two ageing leisure facilities with one new purpose built facility is unknown at this stage and can only be calculated when the final design and accommodation and services available in the new facility are known.

9.3 It is expected, however, that the combined wet and dry facility will provide savings through economies of scale (combining two sites into one), the cost of maintenance would be significantly reduced, utilities costs maintained at appropriate affordable levels using new technology, and together with greater utilisation higher levels of income.

9.4 The Council also have an opportunity to consider other service areas which can be included in the scope of the Trust operation. While it would be unwise to assume any direct cost savings as a result of transfer of services, opportunities for savings from central service provision could be considered together with long term savings from the reduction in space requirements for staff in Council offices.

9.5 Funding to undertake the initial assessment of proposals has been requested with fees estimated at £35,000, this will cover the recruitment of specialist

consultants, external legal advice and to undertake independent financial appraisals for VAT and tax, while this is the initial figure suggested for the negotiations, the costs to implement any changes to the service provision provided by the Trust will depend on the level and scope of the services to be transferred, the additional cost will be identified as part of the negotiations and scoping exercise, it is possible that the additional costs could however be offset against future savings from central services and the cost reductions for office accommodation requirements.

10.0 RISK ASSESSMENT

- 10.1 The principal risk associated with the changes to the Trust partnership is if one or other of the partners cannot sustain their contractual relationship and pull out of the contract or go into receivership/liquidation. In this respect the Council have during the initial assessment of the Trust partners, undertaken a robust exercise in the selection of suitable partners and obtained expert legal and financial advice to mitigate this possibility.
- 10.2 In not commencing negotiations with sufficient time prior to the opening of the proposed new facility or in rejecting the option to negotiate with West Lancashire Community Leisure, the Council may be in a position that it does not have an agreed method of management in place as the facility nears completion and may also find that it could incur additional costs from penalties as a result of the early closure of two facilities together with the additional costs of engaging a new delivery partner to manage the service.
- 10.3 A project risk assessment will be undertaken during the negotiations, identifying specific areas of risks, providing options and methods of reducing or managing the risk for the Council.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

None.