
Meeting: Executive

Date: 15 May 2012

Subject: **Extension of Leisure Facilities Management Contracts in north Central Bedfordshire from 1 April 2013 until 30 September 2013 with an option to extend for up to a further 6 months until 31 March 2014.**

Report of: **Cllr Brian Spurr, Executive Member for Sustainable Communities - Services**

Summary: To consider a 6 month extension of the 'north' leisure management contracts which include Sandy Sport and Community Centre, Saxon Pool and Leisure Centre, Biggleswade and Flitwick Leisure Centre to run from 1 April 2013 to 30 September 2013 with an option to extend for up to a further 6 months until 31 March 2014.

Advising Officer: Jane Moakes, Assistant Director Community Safety, Public Protection, Waste and Leisure.

Contact Officer: Jill Dickinson, Head of Leisure Services

Public/Exempt: Public

Wards Affected: All

Function of: Executive

Key Decision Yes

**Reason for urgency/
exemption from call-in
(if appropriate)** N/a

CORPORATE IMPLICATIONS

Council Priorities:

1. The extension of the 'north' leisure management contracts which include Sandy Sport and Community Centre, Saxon Pool and Leisure Centre, Biggleswade and Flitwick Leisure Centre to run from 1 April 2013 to 30 September 2013 with an option to extend for up to a further 6 months until 31 March 2014 followed by a procurement process for a 7 year contract period will allow the Council to continue to develop a strategic approach to the provision of leisure facilities, and consider its investment priorities across the area and balance this with other ways to support the community to access and undertake physical activity to improve their health and wellbeing.

Financial:

2. The Medium Term Financial Plan (MTFP) agreed by Council on 24 February 2011 included service reductions and efficiencies in respect of the leisure facilities at Sandy which is a subject of this report.
3. Savings relating to the Sandy facility were met by a combination of partner funding in 2011/12 and extending the 'north' contract for all 3 facilities to 31 March 2013 agreed by Executive on 23 August 2011.
4. The Sandy Centre is a dual use facility at Sandy Upper School for which the school receives a contribution of £53k per annum. The school (which is transferring to Academy status) supports the aim of keeping the facility open to the community but it requires a continuation of the financial contribution for maintaining and enabling use of the joint use areas. Therefore, this level of annual contribution would need to continue during an extension period.
5. With regard to capital expenditure, the approved Capital Programme for 2012/13 – 2015/16 includes planned expenditure for leisure facilities in the north contracts.
6. With regard to the financial arrangements within the management contracts concerned, an open book accounting profit sharing model enables the contractor to operate the centres within a fixed annually agreed budget. The budget determines the annual contract figure which is a guaranteed payment from or to the contractor, known as the 'contract fee'.
7. The contract fee includes contractor costs (central office, staffing, utility premise and marketing) and an agreed profit figure the contractor can take from the operation of the facilities. Any surplus above the contract fee is a profit share on an agreed percentage between the contractor and the Council, which is used for investment in the facilities.
8. A 6 month extension on the same contract terms will pose a financial challenge for the contractor. An implication may be that any profit share used for investment in the facilities for 2012/13 is reduced.

Legal:

9. The contracts have been extended before, firstly from 1 April 2011 to 31 March 2012, and then on 23 August 2011, Executive approved a 1 year extension from 1 April 2012 to 31 March 2013 to enable savings agreed in the MTFP with regard to the Sandy facility to be delivered and for the leisure strategy to be developed.
10. The current contracts do not provide specifically for the term to be extended. However, there is provision for the term to be varied by agreement in writing between the Council and the Provider. Approving the recommendation will require for a variation to the current contracts to be undertaken by Legal Services.

Risk Management:

11. The proposal to extend the 'north' contracts while the Leisure Strategy is being developed means that the Council is not committed to a longer term contract before it had agreed its strategic approach to future provision, therefore mitigating any potential reputational or financial risks. A 6 month extension with an option to extend for up to a further 6 months will require for the Leisure Strategy timetable to be revised so that the facilities part of the strategy can be concluded as quickly as possible. The issues and implication of entering a longer term contract before the Leisure facilities part of the Leisure Strategy is complete is set out in paragraph 24 of this report.
12. There is a risk of legal challenge as the contracts have been extended before, however there have not been any legal challenges to date.
13. Extending the current contracts does not test the contract price in the open market, and so any potential savings would not be realised.

Staffing (including Trades Unions):

14. The proposals contained in the report do not affect any Central Bedfordshire Council employees.

Equalities/Human Rights:

15. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
16. A decision to extend the contract aims to minimise disruption to the customers of the centres and ensure the facilities continue to provide fair access to the local community whilst the Leisure Strategy and the Council's investment priorities are being developed.

Public Health:

17. A decision to extend will enable the Council to consider its Public Health role in the management and operation of leisure facilities, and support the delivery of its priorities.

Community Safety:

18. Under section 17 of the Crime and Disorder Act the Council has a statutory duty to do all that it reasonably can to prevent crime and disorder within its area. Leisure Centres and the activities that they offer provide positive alternatives, particularly to young people, who may otherwise engage in activities that may be considered anti social. In addition there are perceptions within communities that there are insufficient activities for young people in communities and that this is contributing to crime and disorder.

19. Leisure Centres provide access to communal activities for many members of the community that may otherwise feel isolated. These activities provide not only health benefits but also provide reassurance and a network of support for more vulnerable members of communities. Agreeing to extend the contracts for the operation of leisure facilities makes a positive contribution to community safety and in so doing the council meets its statutory duties under Section 17 of the Crime and Disorder Act.

Sustainability:

20. A decision to extend the contracts will give the Council time to develop its Leisure strategy and specifically its strategic approach to leisure facilities and allow for a sustainable approach to decisions on future investment. Agreeing to extend the contracts makes a positive contribution to ensuring the continued provision of local leisure meaning that residents won't have to travel to other towns/areas to access similar facilities, avoiding increased private car use, emissions etc.

Procurement:

21. As set out in the financial implications of this report the facilities at Sandy were subject to efficiencies and savings in the MTFP. Subsequently, Executive on 23 August 2011 agreed to extend the leisure management contracts for the 'north' to 31 March 2013. This decision now enables the longer term future of Sandy to be considered, along with those facilities in Flitwick and Biggleswade.
22. In reaching the conclusion to recommend extending the contract for 6 months with an option to extend for up to a further 6 months, followed by a procurement process for a contract for 7 years, a number of other options have been considered and included;
23.
 - Do not retender. The practical implication of this is closure of the north contract facilities on 31 March 2013. This would not be consistent with the Council's Corporate Priorities, emerging Medium Term Plan 2012-2016 or Capital Programme, and is not recommended.

24.
 - Retender a contract for 7 years to start on 1 April 2013. Seven years is a standard contract period within the leisure industry, with an option to extend for up to an additional length of time similar to the original contract length. This allows a contractor time to make and recover their capital investment in the facilities and to receive a return on that investment. As the Council is not in a position to inform a contractor of the exact development plans and investment priorities for the future there is uncertainty and risk for contractors to price a contract which would limit the potential to get the best possible outcome on the contract price, capital investment and for customers. Once the contract had started, any negotiations regarding a return on our investment would be with the existing contractor rather than within a competitive environment, and any investment proposals made by the contractor would need to be scheduled for when the Council is clear about its priorities. It also poses a question with regard to the purpose of the Leisure Strategy. Leisure Strategy stakeholders and consultees will see that the Council is not using the Strategy to inform its facility investment priorities. Therefore given the time line for the Leisure Strategy and potential investment priorities, letting a 7 year contract at this time is not considered appropriate.
25. The proposed extension is outside the scope of the Council's Procurement Procedure Rules and so it will be necessary for the Executive to agree to waive the Procedure Rules to permit the contract to be extended.

Overview and Scrutiny:

26. This matter has not been considered by Overview and Scrutiny.

RECOMMENDATIONS:

The Executive is asked to:

1. **approve the proposal to extend the contract with Stevenage Leisure Limited for the operation of the leisure facilities in the north of the area from 1 April 2013 until 30 September 2013 with an option to extend for up to a further 6 months until 31 March 2014; and**
2. **approve that the Council's Procurement Procedure Rules be waived to allow the contract to be extended on the ground that a change of supplier would cause disproportionate technical difficulties, diseconomies of scale or significant disruption to Council services.**

Reason for Recommendations:

It will enable the facilities part of the Leisure Strategy to be developed and for the Council to use that information to consider its priorities for investment. In turn, its investment priorities will inform the specification of the leisure facility management contract to be procured in 2013 for a 7 year contract.

Executive Summary

27. The report recommends extending the north leisure management contract from 1 April 2013 to 30 September 2013 with an option to extend for up to a further 6 months to 31 March 2014.
28. The proposed extension supports the Council's current priorities and those in the developing Medium Term Plan which includes targets to promote health and wellbeing, increase take up in sport and physical recreation, and an £8m investment in leisure facilities and activities.
29. During the extension period proposed the Council will have developed further its Leisure Strategy which will inform procurement of a 7 year leisure management contract.

Background

30. As set out in the Corporate Priorities of this report, the Council has contracts for Sandy Sport and Community Centre, Saxon Pool and Leisure Centre, Biggleswade, and Flitwick Leisure Centre known as the north contracts which end 31 March 2013.
31. Extending the contract means that the facilities will continue to be operated on behalf of the Council for use by local communities and enables the subsequent retendering of a contract for a longer period subject to further consideration and agreement.
32. A number of other work streams within leisure services are pertinent to the proposed extension of the contracts and these are expanded upon in paragraphs 33-37.
33. The Leisure Strategy currently under development will provide a comprehensive picture of leisure facilities and opportunities within Central Bedfordshire up to 2031, and will provide an evidence base for consideration of priorities for investment in the future for the Council's own capital programme and for securing and spending Section 106 and Community Infrastructure Levy funds.
34. Although the strategy is in early stages of development, it is anticipated that there will be a clearly evidenced need for a continuation of leisure facilities in the current locations across the area, and pressure from additional population growth in Leighton Linlade and Houghton Regis for enhanced, replacement and/or additional facilities.
35. The leisure facilities part of the Leisure Strategy is being developed and it is logical to retender for a longer term 7 year contract once the Council is clear about its priorities. The Leisure Strategy timetable will require revising so that the facilities part of the strategy can be concluded as quickly as possible. A summary of the strategy chapters and current time table, not yet revised, is attached as Appendix A.

36. There is also £8m for leisure strategy implementation in the approved Capital Programme. The Leisure Strategy will inform the profile of expenditure for developments in new facilities and the existing stock, which is yet to be agreed. Extending the contract will enable investment priorities to be included in the contract documentation of a subsequent 7 year contract against which prospective bidders would construct their financial model and submit their bid.
37. In the absence of a programme of investment priorities, prospective tenderers face a level of uncertainty and risk in pricing a bid. The operational costs of running older facilities are generally greater than for new facilities and there are fewer opportunities for income generation.

Conclusion

38. The report recommends that the facilities within the north contracts continue to operate beyond 31 March 2013 for local communities to access and undertake physical activity to improve their health and wellbeing.
39. Extending for 6 months with an option to extend for up to a further 6 months, followed by a procurement process for a 7 year contract period is recommended.

Appendices:

Appendix A – Leisure Strategy

Background Papers: (open to public inspection) None.

APPENDIX A Leisure Strategy

Background

The Leisure Strategy will provide Central Bedfordshire Council (CBC) with a long term strategy for leisure to 2031, linking the facility evidence base to existing CBC and partner strategic aims, and to the requirements of the council's new Public Health role from April 2013.

The Strategy will ensure the council's ability to secure new leisure provision to accompany housing, it will inform priorities for securing and spending S106 and Community Infra structure Levy, and will provide the Council's comprehensive delivery of physical activity programmes in support of its new public health responsibilities.

The Leisure Strategy includes;

- i. indoor sport and leisure centres, comprising a range of sport and leisure activities
- ii. a defined range of green spaces, providing formal and informal recreational activity facilities and opportunities
- iii. outdoor formal, grass and artificially-surfaced sports playing pitches
- iv. all types of physical activity classes, sports, exercises etc. undertaken indoors and outdoor

The Leisure Strategy will address the current mis-match of leisure facility audit and strategy information by undertaking a series of leisure needs audit and assessments, leading to the creation of individual Supplementary Planning Documents (SPD) strategies, in compliance with Local Development Framework (LDF) requirements.

Timetable

Chapter 1: Leisure Facilities

Feb 2012	Provide "hook" for Leisure Strategy within the Development Strategy
Mid March 2012	Completion of desk based Active People and Places facility work required to secure Sport England £10k grant in 2011/12.
End April/May	Provision of Population Data from CBC Popgroup software provided by the Customer & Community Insight team. Data required for population modelling within Facilities Planning Model (FPM 1)
June 2012	Sport England Facilities Planning Model (FPM 1) Baseline facility provision 'run'
June to Sept 2012	Initial Consultation with stakeholders on Baseline FPM data and development of Facility Scenarios for FPM 2.
Oct 2012	FPM 2+ 'runs' based on Facility Scenarios determined above
Nov 2012	Additional FPM runs if required.
Nov/Dec 2012	If no more FPM runs required, production of Leisure Facilities Audit and Assessment report
Dec 2012	If no more FPM runs required, production of Options Report / draft Strategy (to Jan 2013 if more FPM runs required)
Jan 2013	Production of final Strategy for formal consultation and LDF adoption as Supplementary Planning Document

Chapter 2: Recreation & Open Space and Playing Pitches

Sept 2012 to Mar 2013	Recreation & Open Space Audit & Assessment, plus Playing Pitch Audit & Assessment
Mar 2013	Production of Recreation & Open Space Audit & Assessment study, plus Playing Pitch Audit & Assessment study
April 2013	Initial Consultation with stakeholders on both Recreation & Open Space and Playing Pitch audit and assessment studies
June 2013	if no further work required, production of Options Report / draft Recreation & Open Space Strategy and Options Report / draft Playing Pitch Strategy
Sept 2013	Formal consultation for both Strategies
Nov 2013 onwards	Production of final Strategies for formal consultation and LDF adoption as Supplementary Planning Document

Chapter 3: Physical Activity

The audit and assessment documents from Chapters 1 & 2 will provide the majority of the facility information required for the production of this chapter. This chapter cannot be completed until that information is provided. It is estimated that this work can be ongoing with final delivery in Jan-Mar 2013.

Overarching Leisure Strategy Document

The completion of the overarching strategic document is dependent upon the delivery of the four chapters. As such, the timescale for this document will be set when the timescale for Chapter 3 is known.