

Haringey Council

Report for:	Cabinet	Item Number:	
Title:	Sports and Leisure Transfer		
Report Authorised by:	Lyn Garner – Director of Place and Sustainability		
Lead Officer:	John Morris 0208 489 5602 John.morris@haringey.gov.uk		
Ward(s) affected:	ALL	Report for Key Decision:	

1. Describe the Issue Under Consideration

1.1 This report considers the externalisation of the Sports and Leisure Management Service, undertaken at Tottenham Green Leisure Centre, Park Road Leisure Centre, Broadwater Farm Community Centre and White Hart Lane Community Sports Centre and covers:

- The policy and financial context
- The procurement process undertaken over the last 16 months
- The outcomes that will be delivered

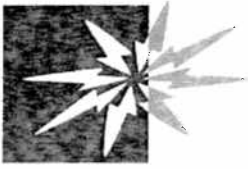
1.2 Consequently, Member approval is now being sought to award the Sports and Leisure contract to an external operator.

2. Cabinet Member Introduction

2.1 Following our decision in February 2011 to externalise the management of our Council owned sports and leisure facilities, I am pleased to report the outcome of the subsequent 'competitive dialogue' procurement process.

2.2 Having received two strong and competitive final tenders, I believe that the preferred bidder offers best value for money, in that it will:

- Deliver the planned £500k revenue saving
- It will cost significantly less than maintaining 'in house' delivery
- Bring about significant investment in new and improved facilities
- Improve customer satisfaction and increase participation
- Maintain and improve access for our most disadvantaged residents



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2.3 Thus I am now recommending award of the Sports and Leisure contract as set out in this report.

3. Recommendations

Members are asked to:

3.1 Note the results of the procurement process and, in particular, the evaluation assessment set out in the 'exempt' report.

3.2 Award a 20 year contract to Bidder B, to manage Tottenham Green Leisure Centre, Park Road Leisure Centre, Broadwater Farm Community Centre, and White Hart Lane Community Sports Centre (for up to 3 years), and to delegate authority to the Director of Place and Sustainability in consultation with the Lead Member for Communities, to finalise and issue the contract.

3.3 Approve the use of Prudential Borrowing to support the related capital investment needs as set out in Part 2 of this report (exempt)

3.4 Note the proposed new/enhanced facilities at Tottenham Green and Park Road.

3.5 Note the application of the mandatory 80% relief on National Non Domestic Rates (NNDR).

3.6 Note the TUPE transfer of 93 Staff (58.99 FTE) to Bidder B concurrent with the commencement of the contract.

3.7 To note that under the Constitution authority to grant 'Admitted Body' status to the Council's pension scheme is delegated to the Chief Financial Officer in consultation with the Chair of the Corporate Committee.

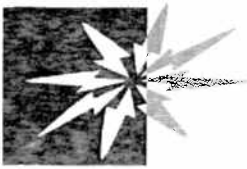
3.8 To approve the Council entering into separate related lease agreements for the four sites and to delegate authority to the Director of Place and Sustainability in consultation with the Head of Legal Services to finalise and issue the leases.

3.9 Please see additional recommendations in Part 2 of this report (exempt).

4. Other Options Considered

4.1 The Council commissioned a detailed Options' Appraisal between July – December 2010, to evaluate the current in house direct management model against the following options for the future management of its leisure facilities:

- The establishment of a new 'In House' Trust



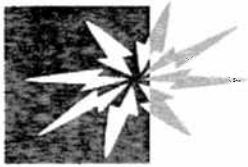
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- Contract with an existing established trust or existing private sector contractor/hybrid trust
- Maintain 'In House' direct management

5. Background Information

5.1 Context

- 5.1.1 In February 2011 Members approved a new strategic direction for Sports and Leisure provision, with the aim of:
- Reducing the cost of providing the Service
 - A much greater focus upon outcomes
 - Concentration on what we provide rather than who provides it
 - Focusing more on the user than the buildings and facilities
 - Increasing the involvement of the voluntary and community sector
 - Transferring some or all of the asset, demand and financial risk onto other parties
- 5.1.2 The key component to delivering these aims is the externalisation of the management and development of the borough's sports and leisure facilities at Tottenham Green, Park Road, Broadwater Farm and White Hart Lane. The decision to contract followed the more detailed options appraisal, highlighted at paragraph 4 above, which considered:
- The Council's strategic priorities and national guidance
 - A review of the market and providers in London
 - An assessment of current performance
 - Future management options and their related advantages and disadvantages
- 5.1.3 The appraisal suggested that the Council could achieve a saving of between £241K and £722K per annum, with the greater saving coming from contracting out the service. This exercise concluded that the Council could achieve better value for money by contracting with an existing Trust or private sector operator, on the basis that:
- It will provide a greater saving to the Council
 - Offers better financial stability
 - There is a healthy market and interest in London
 - It transfers greater financial risk to other parties
 - There is no additional support staffing cost
 - There would be a more commercial approach to sales, marketing and branding
- 5.1.4 Subsequently the Council approved a planned £500K efficiency saving reducing the remaining subsidy available from £1.13m to £630K (excl. WHLCSC and corporate overheads). A 'competitive dialogue' procurement process was initiated with a related OJEU notice in May 2011. The Service Director was delegated authority to approve the final scope and methodology, in conjunction with a Member Working Group. Whilst White Hart Lane has been included in the scope of the procurement, Members also agreed to



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pursue a separate longer term bespoke partnership leasing solution to achieve a further £470K saving from 2012/13.

5.1.5 The in-house 2011/2 actual income outturn was £538K (13%) down on target, with an ongoing underlying pressure of around £450K, primarily relating to gyms, swimming and events underperformance. The 2011/12 income shortfall was partly offset by further actual spend reductions across the Service/Directorate, and usage for the same period was also down 80K (7%) against target.

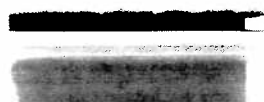
The projected actual cost of maintaining the current ‘in-house’ operation, assuming tackling additional lifecycle maintenance costs, would be in the region of £976K per annum.

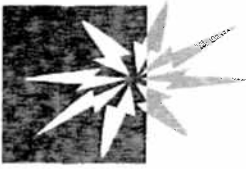
5.2 Procurement

5.2.1 Haringey is one of only two London Boroughs with an ‘in-house’ operation, with the other thirty one having contracted arrangements for up to 20 years, although none have fully disposed of any facilities. Between them, Bidder A and Bidder B are operating in 19 boroughs with a range of management fees reflective of local requirements and local market conditions.

5.2.2 A detailed service specification (see appendix A) and contract document were drafted together with related evaluation criteria and methodology, which set out the outcomes sought by the Council. The content was informed by user views and opinion as expressed through the National Benchmarking Survey (2010) results and local 60 Second Survey data. The successful contractor will produce Annual Service Plans for each site, and must demonstrate how the plans have been developed in consultation with key stakeholders, user groups and customers. The evaluation process and outcomes sought were developed by an officer working group with external assistance from external consultants and reviewed and signed off through the Member Working Group. At this point, the Council also undertook asset condition surveys of all sites, which suggested a lifecycle maintenance investment need of £18M (see summary below) over the next 15 years. This represents an additional cost pressure for the Council whether it is externalised or not.

Centre	Year 1 (Urgent Work)	Year 2 Essential Work	Years 3-5 (Desirable)	Total 15 Years
TGLC	£584K	£2.47M	£539K	£8.60M
PRLC	£24K	£2.23M	£658K	£5.05M
WHL	£117K	£906K	£1.22K	£2.69M
BWFCC	£37K	£207K	£285K	£1.70M
TOTAL	£762K	£5.81M	£2.70M	£18.04M





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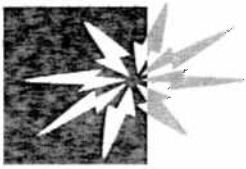
5.2.3 Following the publication of an OJEU notice in May 2011, over 300 companies expressed an interest in the project. The Council received completed Pre Qualification Questionnaires (PQQ Stage) from 7 companies. Following Pre Qualification selection, 4 bidders were 'invited to submit detailed solutions' (ISDS Stage).

- Bidder A
- Bidder B
- Bidder C
- Bidder D

Bidder C and Bidder D then chose to withdraw from the process, whilst Bidder A and Bidder B both submitted ISDS bids.

5.2.4 The evaluation criteria and weighting for both the Invitation to Submit Detailed Solution (ISDS) and Invitation to Submit Final Tender (ISFT) stages are set out below:

Criteria	Weighting (%)
Cost	
Management Fee	30%
Income/Profit sharing proposals	5%
Business Plan	5%
Capital Development	10%
SUB TOTAL	50%
Technical	
Annual Service Planning	4%
Increasing Participation	5%
Sports Development	4%
Pricing and Programming	5%
Staffing and Local Employment	4%
Maintenance and Equipment	4%
Environment and Sustainability	4%
Health and Safety	2%
Quality	4%
Marketing	4%
SUB TOTAL	40%
Legal	
Mark up of draft contract	10%
Total	100%



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5.2.5 Both organisations passed the ISDS stage and entered into Competitive Dialogue with the Council.

Key areas incorporated in/arising from the 'Dialogue' were:

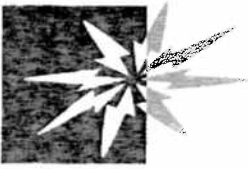
- Early investment is needed to both improve and sustain income growth to fund investment and reduce net cost with a 2-3 year lead in.
- Bidders were reluctant to fund any early year's cash flow gap.
- VAT savings could be achieved on capital investment, whilst also still transferring related asset condition and delivery risks.
- Bidders were prepared to review, revise, and spread life cycle maintenance spend, whilst still accepting full asset condition risk (except latent defects).
- Bid(s) content indicate that both National Non Domestic Rates (NNDR and Value Added Tax (VAT) income savings can be achieved, whilst there are increases on staffing and repairs/maintenance.
- There is some planning related risk regarding building extension proposals at Park Road.
- Bidders are prepared to accept utilities consumption cost related risk.
- Bidders are prepared to accept full risk on service/user demand and income.

5.2.6 Subsequently, Bidder A and Bidder B were invited to submit Final Tenders by 13th July 2012. The outcome of the tendering process is reported in the exempt part 2 of this report.

5.2.7 The Council currently employs 93 staff (58.99 FTE) across the 4 sites, who it is anticipated will transfer to the incoming operator under TUPE regulations. Staff and their Trade Union representatives have been briefed on progress during the procurement process and formal consultation will be initiated upon contact award.

5.2.8 It is proposed that the contract is awarded on the following basis:

- The proposed facility improvements are noted.
- It is for a period of 20 years
- It includes Tottenham Green, Park Road and Broadwater Farm
- It also includes White Hart Lane for up to 3 years, with specific conditions, linked to proposed separate longer term leasing and redevelopment of the site
- Prudential borrowing is provided to support both capital investment and life cycle works
- Mandatory NNDR relief is applicable
- TUPE transfer of existing staff and 'admitted body status' to pension scheme for the new contractor is approved
- Agreement to related leases for all four sites



5.3 Outcome

5.3.1 The externalised management and operation of the leisure centres as set out above and in the exempt part 2 of this report, will:

- Deliver the anticipated £500K revenue saving identified in the 2010 options appraisal
- Cost significantly less than the projected 'status quo' in-house operation over the next 20 years
- Secure significant immediate capital investment in both new facilities and tackling lifecycle asset maintenance
- Significantly increase user visits and facility utilisation
- Reduce the subsidy per user visit and net cost to the Council
- Improve the quality of service delivery and customer satisfaction
- Maintain and improve access for disadvantaged residents through 'protected' pricing and programming arrangements.

5.3.2 It is important to note that the cost profile varies over the 20 years, linked to capital investment timing and repayment particularly in the early and middle years. This is largely offset by the use of prudential borrowing and spreading repayment.

5.3.3 Subject to Member approval of contract award, the timetable to transfer and start is as follows:

Cabinet Consideration and Award	18 September 2012
Call In Period	21 st - 27 September 2012
Standstill Period	28 th September – 8 th October 2012
Formal TUPE Consultation	28 th September – 27 October 2012
Finalise and Sign Contract	9 th October 2012
Mobilise and Lead In	October – November 2012
Contract Start	1 st December 2012

5.4 Client and Contract Monitoring

5.4.1 The lead role will be picked up by the Leisure Services Client Unit and the Head of Leisure Client Services.

5.4.2 The Contractor must demonstrate and evidence continuous improvement in service delivery, through the development of robust, reliable and accurate systems for data collections, which are capable of independent validation. New targets and performance indicators will be determined through discussion between the Contractor and the Council, and detailed in the Annual Service Plan.



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5.4.3 The Contractor will produce Annual Service Plans for each centre that includes as a minimum:

- Financial income and expenditure targets for each centre.
- Participation targets for each activity area and target group for each centre, linked to the Council's and the Contractors annual sports development plan.
- Lifecycle works, planned maintenance and decoration works.
- Marketing and research objectives and quarterly actions.
- Environmental plan and targets.
- Targets and KPIs in relation to the Councils key aims and objectives.
- Reducing the percentage of adults who are inactive as measured in the Active People survey.

5.4.4 In addition the Contractor will:

- Undertake and participate in a national benchmarking exercise every 2 years.
- Demonstrate that it understands the attitudes and perceptions of users and non users.
- Provide relevant national and local performance indicators data.
- Comply with the Councils Complaints Procedure.
- Introduce comprehensive methods of accurately measuring regular participation by demographic profile.
- Annually measure service effectiveness, economy and efficiencies.

6. Comments of the Chief Finance Officer and Financial Implications

6.1.1 As part of the 2011-12 budget process a saving of £500,000 per annum was assumed from the out-sourcing of the Leisure function, to become effective in 2012-13. The recommended bid will achieve this saving over the 20 year life of the contract and deliver significant capital investment that the Council may not have been able to provide given the limited capital receipts available.

6.1.2 The average budget available over the full contract period will be £735k. The average cost per annum put forward by the Recommended Bidder is below this figure and thus the saving required will be achieved.

6.1.3 Any additional savings achieved beyond the £500,000 pre-agreed saving will help address base budget pressures within the Leisure budget. In the last year the Leisure services budget has suffered a significant budget shortfall due to increased levels of competition from the private sector meaning that planned budget savings from 2011-12 have proved to be unachievable. The remaining base budget problem after contract award is dealt with as part of the 2013-14 budget process, whereby increased savings of £500,000 have been added to the savings required to be identified by services.

6.1.4 The recommended option is significantly cheaper than continuing to provide the service in-house. In addition to the achievement of the pre-agreed saving, it also mitigates



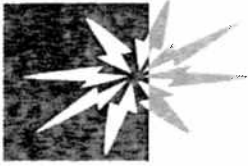
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against the risk of further drops in income received from the leisure centres and avoids the Council having to bear the costs of dealing with the significant maintenance backlog.

- 6.1.5 As part of the recommended option, the Council will undertake Prudential Borrowing on behalf of the recommended bidder, as the Council is able to access borrowing at a cheaper rate than the private sector. As part of the contract the Council's costs of borrowing will be fully reimbursed by the bidder and thus there is no direct financial cost to the Council associated with this.
- 6.1.6 As with any similar contract there is a small risk of bidder default, this is mitigated to some extent by a performance bond with the recommended contractor which would provide £750,000 in the event of default which would be sufficient to cover the Council's operational cost of transferring the service management. Any assets improved by the prudential borrowing would revert to the Council and thus the Council would benefit from the investment made. Members need to be aware in making their decision, however, that a risk remains, in the event of bidder default, that the full capital value of the borrowing may not be fully covered.
- 6.1.7 The main contract relates to the 3 main leisure facilities, Park Road, Tottenham Green and Broadwater Farm. White Hart Lane Community Sports Centre is subject to a separate budget saving which becomes due in 2013-14. The contract agrees provision for the winning bidder to manage the sports centre at a cheaper rate than the Council's existing costs until such time as transfer takes place.
- 6.1.8 Please see additional finance comments in Part 2 of the Report (exempt)

7. Head of Legal Services and Legal Implications

- 7.1 This is a Part B service for the purposes of the Public Contracts Regulations 2006 (the "Regulations") and is therefore not subject to the full requirements of the Regulations. However in accordance with good procurement practice and in order to maximise competition the Council published a notice in the Official Journal of the European Union (OJEU) on the 12th May 2011.
- 7.2 It is very likely that the proposed externalisation of the Sports and Leisure Management Service will fall within the scope of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). Accordingly should Members approve the proposed externalisation then the Council employees assigned to the Service who do not object to transferring will transfer to Bidder B's employment as a result of TUPE. Transferring employees will have their existing terms and conditions of employment protected.
- 7.3 The Council has obligations under the Best Value Authorities Staff Transfers (Pensions) Direction 2007, where it externalises a service, to ensure in the contract with the contractor that pension protection is secured for each TUPE transferring employee. These



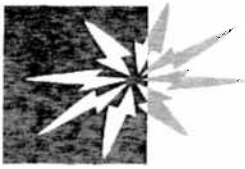
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obligations will be met as Bidder B is required in the contract to obtain admitted body status to the Local Government Pension Scheme in respect of the transferring employees.

- 7.4 Under TUPE the Council has obligations to give information about the externalisation to the representatives of the trade unions recognised by it in respect of any employees affected by the externalisation. This information must be given long enough before the contract start date to enable consultation with these trade union representatives. It must include information about the implications of the transfer for any affected employees and about the measures (if any) the Council envisages the contractor taking in respect of the TUPE transferring employees. Employees affected by the externalisation may include those who will remain Council employees. Accordingly it will be necessary for the Council to identify whether any non-transferring employees will be affected by the externalisation and if so in what way. If the Council envisages it will take measures in relation to any affected employee as a result of the externalisation it must consult the trade union representatives with a view to seeking their agreement to the intended measures.
- 7.5 The Council is also required by TUPE to give employee liability information to Bidder B in respect of any Council employee assigned to the Service. This information must be given no later than 14 days before the contract start date. It will include information contained in their particulars of employment, information contained in relevant collective agreements and information about disciplinary action, grievances and legal proceedings for the last two years before the contract start date. Accordingly it will be necessary for the Council to identify prior to the contract start date, which of its employees are assigned to the Service.
- 7.6 Legal Services should be consulted about employment issues arising in the externalisation to help ensure that the Council's obligations under TUPE are met.
- 7.7 The successful bidder will be granted leases of the three premises detailed in paragraph 3.2 above at a peppercorn rent for a term of 20 years each. This constitutes a disposal and needs to be at best consideration. The Council has the power under section 123 of the Local Government Act 1972 to dispose of land held by it. The granting of a lease for White Hart Lane for 3 years does not constitute a disposal for the purposes of the legislation.
- 7.8 This is a key decision and the Directorate has confirmed that it has been included on the Forward Plan.
- 7.9 As the value of this contract exceeds £250,000 it may only be awarded by the Cabinet.
- 7.10 Please see additional legal comments in the Part 2 report (exempt).

8. Equalities and Community Cohesion Comments

- 8.1 Officers undertook a service delivery Equalities Impact Assessment in conducting the Options Review in 2010. This drew upon information from a range of sources. The Active



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People Survey (Sports and physical activity participation), The National Benchmarking Survey (2010), and local Active Card Membership/Usage data. The key issues and conclusions were as follows:

- Disparity in sport and physical activity participation across age, ethnicity, gender, disability and social grade
- Need to maintain concessionary pricing to support and encourage disadvantaged access and use of leisure facilities.
- Maintain and support good quality sports club/agency use of sports facilities.
- Ensure ongoing engagement and involvement of service users
- Encourage third and private sector investment in new and improved facility provision.

8.2 These issues were embraced in the production of the service specification and related outputs, and reflected in the bids received from both Bidder A and Bidder B.

8.3 The Service currently has a staffing complement of 93 posts (58.88 FTE), with the following characteristics:

- 62% aged 16 – 44
- 62% Black and Minority Ethnic Staff
- 54% of staff are female
- 7% are registered disabled

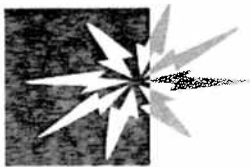
An Equalities Impact Assessment has been completed to consider the potential impact upon the existing workforce. The key issues and conclusions are as follows:

- It is anticipated that all existing permanent staff will transfer to the incoming operator in line with TUPE regulations, including pension arrangements.
- The successful operator is granted 'Admitted Body' status to the Council's Pension Scheme.
- Whilst not a contractual term, both bidders have indicated that they would be supportive of the Council's aspirations for London Living Wage and have incorporated appropriate pay rates in their business plan projections.
- Both bidders have also provided a commitment to encouraging and supporting local employment

9. Head of Procurement Comments

9.1 The initial OJEU tender notice generated 300 "expressions of interests", which is a typical market response as potential bidders requested more information.

9.2 Of these suppliers, 7 decided to submit a pre-qualification questionnaire (PQQ) and 4 were scored as sufficiently capable for the Council to invite to submit an outline tender. At this stage, 2 of the short-listed bidders withdrew.



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- 9.3 A Competitive Dialogue procedure was then followed with the 2 remaining bidders before Final Tenders were submitted and evaluated.
- 9.4 Although there is clearly a limited market for the provision of Sports & Leisure Services of this nature, the procurement exercise did attract sufficient competition to produce a Best Value outcome.
- 9.5 Central Procurement have been closely involved in this exercise and can confirm that the recommendations to Members offer Value for Money.

10. Policy Implications

- 10.1 Approval of the recommendations for this report will assist in implementing the previously agreed Strategic Direction for Sports and Leisure provision considered and approved by Cabinet in February 2011 and fulfils a target within the 2011 Medium Term Financial Strategy.
- 10.2 The proposals submitted by both bidders would simultaneously enable the Council to better meet its financial and wellbeing objectives by securing a more cost effective mechanism for service delivery whilst increasing participation levels in sport and physical activity
- 10.3 The capital investment proposals will also contribute to an enhanced sense of place by providing more attractive, higher quality facilities.
- 10.4 Whilst achieving the above, both bidders would actively contribute to the Council's 40% CO² reduction target by 2015.
- 10.5 Both bidders have also committed to employing local people.

11. Use of Appendices

Appendix A - Service Specification.

12. Local Government (Access to Information) Act 1985

Sports and Leisure – Strategic Direction, Cabinet Report 8th February 2011.