

MUNICIPAL YEAR 2010/2011 REPORT NO. 97

MEETING TITLE AND DATE:
**Cabinet 3rd November
2010**

REPORT OF:
Co - Director of Education
Children's
Services and Leisure

KD 3152

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Agenda – Part: 1

Item: 7

Subject: Delegating approvals to the Cabinet Member regarding the Leisure Centre Capital Development Programme
Wards: All

Cabinet Member consulted: Cllr Charalambous (Cabinet Member for Young People and Culture, Leisure, Sport and the Olympics)

1. EXECUTIVE SUMMARY

- 1.1 Permission is sought to delegate the tender approvals of the leisure centre capital development programme to the Cabinet Member for Young People, Culture, Leisure, Sports and the Olympics up to the levels indicated in the Cabinet report of March 2010

2. RECOMMENDATIONS

- 2.1 That Authority is given to delegate the decision making for the tender approval process for all the Leisure Centre Capital Developments jointly to the Cabinet Member for Young People and Culture, Leisure, Sport and the Olympics.
- 2.2 That this Authority is approved on the basis that the tender price does not increase beyond the £8,911,873 already approved as a pre tender estimate.

3. BACKGROUND

- 3.1 In February 2009 Cabinet initiated the procurement of an operator for the leisure facilities in Enfield during 2009 and the early part of 2010 utilising the Competitive Dialogue approach.
- 3.2 The outcome of the process was to identify an operator that met the following criteria:

- Lower management fee for the operation of the leisure centres
 - Increased quality of facilities at the Leisure centres
 - More people participating in sports and leisure activities
 - Transfer of risk over to the contractor, including full repairs and maintenance responsibilities and the 'back log maintenance' works
- 3.3 At the end of the procurement process in March 2010, Cabinet approved Fusion as the preferred bidder, and the Council entered into the Leisure Management Contract and Leases with Fusion Lifestyle. This arrangement was based on a 20 year, average management fee basis with their £8,911,873 capital proposals funded by the Council using prudential borrowing arrangements. The significantly reduced management fee arrangements are linked to the development proposals. Should the development not go ahead the costs of the Leisure Management Contract significantly increases over the 20 year life of the contract.
- 3.4 Contracts were finalised in May 2010 and Fusion Lifestyle began operating Enfield Leisure Facilities on 1st July 2010. At the same time an officer working group was put together to ensure the capital projects were delivered on time and within budget. At the meeting in March, Cabinet approved a total of £8,911,873 as being pre-tender estimates for the works at the various centres and that officers working together with Fusion can accept tenders for the works, providing the costs are within these pre-tender figures and the Council's delegated authority criteria are met. The work is being procured in accordance with the Council's contract procedure rules (CPRs).
- 3.5 The Investment proposals, whilst improving value for money over the life of the contract, also increases the risk involved. Bidders were asked to identify the financial cost of delays in delivering the capital investment and the impact this would have on the management fee.
- 3.6 Due to the risk of the capital programme Fusion submitted not being achieved and the relatively challenging timescales, there is effectively a revenue risk to the Council of up to £21,000 per week that could be incurred. This risk is being managed by the cross department working group that is delivering the capital developments.
- 3.7 This working group, which includes representatives from Fusion and the external project managers, is ensuring that the projects are on time and on budget. The first of these developments at Southbury Leisure Centre will start in the very near future and will be completed early in the new year. The working group is looking to ensure that the capital programme is not delayed and continues to deliver savings to the Council.

- 3.8 The Council's constitution defines the scheme of delegation for decision making and whilst a number of the individual projects are below the threshold for decisions that need to be taken by Cabinet, two of the project above go over this limit: Albany due to start in July 2011 and Southgate in June 2011. Where the contracts are in excess of £250,000, the normal Council procedures applying to Key Decisions will apply.
- 3.9 For speed of decision making and ensuring that there are no delays in the project that would risk incurring increased revenue cost for the Council, authority is sought to delegate the decision making to the Cabinet Member for Young People and Culture, Leisure, Sport and the Olympics. When the tender returns need approval for the larger projects, that would usually need to be approved by Cabinet.
- 3.10 This Authority is requested on the basis of a number of criteria being met:
- the tender for each contract not exceeding the amount of the pre-tender estimate;
 - a summary report will be made to Cabinet at the end of the projects informing them of the actual costs;
 - if any tenders exceed the projected costs and value engineering can't be employed to reduce the costs to the level of the pre tender estimates a report will be made to Cabinet, advising them of the position.
- 3.11 The only reason to seek Cabinets permission to delegate this decision making is to ensure that there are no delays in the projects. With the potential for revenue costs to increase if there is a delay to the Council, the approach outlined above minimises the risks whilst ensuring the relevant checks and balances continue to be in place.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative option is to leave the decision making as outlined in the Councils constitution. This however, doesn't allow the same level of flexibility and should we miss a particular Cabinet date due to delays caused by clarifying tenders there is potential to incur added costs in the management fee.

5. REASONS FOR RECOMMENDATIONS

- 5.1 This proposal allows for flexibility in approving the tenders but ensures through the report back to Cabinet at a later stage that Members will be informed of the issues.

6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

6.1 Financial Implications

There are no financial implications arising from this report. The Director of Finance & Corporate Resources will comment on all reports submitted for the approval of the Cabinet Member and will have the opportunity to highlight any concerns there may be about the cost of the tenders.

6.2 Legal Implications

The procurement of the works/goods/services required in relation to the capital development programme for the leisure centres will be in accordance with the Councils Constitution, in particular Contract Procedure Rules, to ensure value for money in accordance with the Best Value principles under the Local Government Act 1999.

Legal services has and will continue to consider/approve all legal agreements required for the capital development programme.

6.3 Property Implications

None received

7. KEY RISKS

7.1 The development works are planned under the Council's Procurement procedures and with the benefit of proper contractual arrangements. Full risk assessments, a risk workshop and the management of a risk log have been undertaken.

7.2 There is risk of increased costs in work of this nature. However the working group are monitoring this carefully.

7.3 The Councils usual financial controls will be in place with the decision making within the already approved Capital fees delegated to the Cabinet Member for Young People and Culture, Leisure, Sport and the Olympics

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The already approved Capital developments will help Fusion provide even better services to customers, through the link with the management fee it helps provide value for money and ensures that the Councils Leisure Services are affordable to all. The delegated authority requested in this paper will ensure that there are limited delays in the project reducing the risk to the Council.

8.2 Growth and Sustainability

These projects ensure that the Leisure Services in the Borough are sustainable in terms of the revenue but also that the facility buildings are sustainable and fit for purpose for a long time to come. The project is part of the £8.9 million capital improvement programme that the Council is making in its Leisure Centres.

8.3 Strong Communities

It is widely accepted that access to sporting and cultural activities helps deliver stronger communities. This project aims to see investment in the long term future of our leisure stock. In turn this will ensure value for money and fair access to leisure for all residents.

9. PERFORMANCE MANAGEMENT IMPLICATIONS

- 9.1 The implications of this investment in Enfield's Leisure centres should have a positive impact on the user numbers. In turn this should have a positive effect on National Indicator 8 which is the number of people regularly taking part in Sport and Physical Activity. It will also ensure that the saving generated as part of the procurement of a new operator of the Council Leisure Facilities are sustained.

Background Papers

The Future of the Leisure Facilities - Procurement Outcome 3rd March 2010 KD 3004 Part 1

The Future of Leisure Facilities 11th Feb 2009 KD 2780

Minutes of the Council meeting 28th March 2007 (Agenda item 13.3 and motion 3)