

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 02 February 2015

Portfolio: Leisure and Community
Subject: **Appointment of a Leisure Operator for the Western Wards Leisure Centre**
Report of: Director of Community
Strategy/Policy: Leisure Strategy
Corporate Objective: Leisure for Health and for fun.

Purpose:

This report seeks approval for the appointment of the leisure operator for the new Western Wards Leisure Centre.

Executive summary:

The Western Wards Leisure Centre is currently planned to come into operation on 1 May 2016. This report recommends that the new leisure centre be managed by SLM Limited, the current operators of the Fareham Leisure Centre, and that a Deed of Variation to the existing Management Agreement be entered into to formalise this arrangement.

The Heads of Terms of the proposed agreement have been considered by the Project Member Working Group overseeing this project and are presented for consideration within the confidential appendix to this report.

As part of the agreement, it is proposed that the Council fund the purchase of fixtures and fittings, including the fitness equipment for the gym, in return for a higher annual management fee from the operator.

Recommendation/Recommended Option:

That the Executive:

- (a) approves entering into an agreement with SLM Limited to operate the Western Wards Leisure Centre based on the negotiated heads of terms as set out in the confidential appendices; and
- (b) approves a capital budget of up to £585,000 to fund the procurement of fixtures and fittings, including fitness equipment and swimming pool accessories for the new leisure centre.

Reason:

To allow an operator to be appointed and be in place prior to the start of construction of the Western Wards Leisure Centre and to ensure that the same operator manage both of the Fareham Borough Council owned leisure centres in the Borough.

Cost of proposals:

A capital budget of £585,000 is required to purchase the fixtures and fittings for the new Western Wards Leisure Centre. This can be met from within the Council's Capital Programme subject to replenishment in future years.

Appendices:

A: Confidential Heads of Terms

FAREHAM

BOROUGH COUNCIL

Executive Briefing Paper

Date: 02 February 2015

Subject: Appointment of a Leisure Operator for the Western Wards Leisure Centre

Briefing by: Director of Community

Portfolio: Leisure and Community

INTRODUCTION

1. At its meeting in April 2014, the Executive approved the project to construct a new Leisure Centre on the site of the former Coldeast hospital and in July 2014 established a Project Members Working Group to oversee the delivery of this important project. Work on the project is progressing well with a design and build contractor appointed, public consultation completed and a planning application considered by the Planning Committee on the 28 January 2015.
2. In parallel to the work on the design of the Leisure Centre, the management of the new facility has been under consideration. Following consultation with the members working group this report recommends SLM Limited be appointed to operate the new leisure centre.

BACKGROUND

3. Fareham Leisure Centre is operated by SLM under a management agreement which is due to expire on 30 April 2020. Supplemental to this are separate lease agreements relating to the building, the car park and the Park Lane tennis courts.
4. The Western Wards Leisure Centre is currently planned to come into operation in May 2016.
5. The members working group consider it is preferable to have one operator to manage both facilities rather than having different operators for each of the leisure centres, who would then be competing against each other. It is also preferable to have one management agreement for the combined facilities, accepting that there will need to be separate lease agreements for each leisure centre.

LEGAL ISSUES

6. With this in mind, legal advice has been sought to determine if it is acceptable to vary the existing contract with SLM for them to operate the new facility or whether there is a

need to advertise the opportunity and undertake a full procurement exercise.

7. The legal advice received from Counsel was that the addition of the Western Wards Leisure Centre to the existing contract would not represent a material change to the existing arrangement and that a full procurement exercise was not required.
8. However, it was recommended that a voluntary ex ante transparency notice (VEAT) be published to advise potential operators of the Council's intention to negotiate a direct award of contract with SLM and to give them the opportunity to challenge this should they wish.
9. A VEAT Notice was published in the Official Journal of the European Union (OJEU) setting out the Council's intention to award a variation of the existing contract with SLM and the reasons why it was not required to advertise. The VEAT Notice expired on 22 December 2014 and there were no challenges to the proposal which allowed officers to negotiate contract heads of terms with SLM.

AGREEMENT WITH SLM

10. A number of negotiation meetings have been held with SLM to discuss the heads of terms for the variation and these are presented in the confidential Appendix A attached to this report.
11. The new four year agreement will be co terminus with the existing Fareham Leisure Centre management agreement. Following this four year period, both leisure centres will be subject to a competitive tender exercise in a combined contract.
12. The draft heads of terms have been considered by the members working group which recommends the draft heads of terms be approved by the Executive.

FITNESS EQUIPMENT

13. The draft heads of terms agreed with SLM include a proposal for the Council to fund the purchase of the equipment (fixtures and fittings) required to operate the leisure centre e.g. fitness equipment, fitting out the changing rooms and swimming pool and office furniture. Should the actual cost exceed the agreed amount, then SLM have agreed to fund these costs.
14. It is recommended that a capital budget of £585,000 be approved for payment to SLM to allow the purchase of the equipment required to operate the new Leisure Centre.

CONCLUSION

15. The construction of the Western Wards Leisure Centre is due to commence in spring 2015. In parallel to the design process, confirmation has been obtained that a direct award to SLM Limited (the operators of Fareham Leisure Centre) would not constitute a breach of procurement laws and therefore negotiations have been undertaken with SLM.
16. Draft Heads of Terms for a Deed of Variation have been agreed with SLM and have been considered by the member working group. The Executive are requested to consider appointing SLM to operate the new Western Wards Leisure Centre.