



Meeting	Cabinet (Leisure Centre) Committee
Date and Time	Monday, 14th January, 2019 at <u>4.00 pm</u> .
Venue	Walton Suite, Guildhall, Winchester

AGENDA

PROCEDURAL ITEMS

- 1. Apologies**
To record the names of apologies given.
- 2. Disclosure of Interests**
To receive any disclosure of interests from Members and Officers in matters to be discussed.
Note: Councillors are reminded of their obligations to declare disclosable pecuniary interests, personal and/or prejudicial interests in accordance with legislation and the Council's Code of Conduct.
- 3. To note any request from Councillors to make representations on an agenda item under Council Procedure Rule 35.**
Note: Councillors wishing to speak about a particular agenda item are requested to advise the Democratic Services Officer before the meeting. Councillors will normally be invited by the Chairman to speak immediately prior to the appropriate item.
- 4. Minutes of the previous meeting held on 18 September 2018 (Pages 5 - 10)**
- 5. Public Participation**
– to receive and note questions asked and statements made from members of the public on issues relating to the responsibility of this Committee (see note overleaf).



BUSINESS ITEMS

6. Winchester Sport and Leisure Centre - Operator Procurement (less exempt appendix) (Pages 11 - 40)

Key Decision

(CAB3081(LC))

7. EXEMPT BUSINESS:

To consider whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- (i) To pass a resolution that the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100 (I) and Schedule 12A to the Local Government Act 1972.

8. **Winchester Sport & Leisure Centre - operator procurement (exempt appendix)** (Pages 41 - 46)

Key Decision

(CAB3081(LC))

L Hall
Head of Legal Services (Interim)

Members of the public are able to easily access all of the papers for this meeting by opening the QR Code reader on your phone or tablet. Hold your device over the QR Code below so that it's clearly visible within your screen and you will be redirected to the agenda pack.



4 January 2019

Agenda Contact: Nancy Graham, Senior Democratic Services Officer
Tel: 01962 848235 Email: ngraham@winchester.gov.uk

Membership 2018/19

Chairman: Griffiths (Portfolio Holder for Health & Wellbeing)
Ashton
Warwick

Deputy: Brook

Non-Voting Invited representatives

Councillors Huxstep, Laming, Prince and Stallard

Councillors McLean (Non-voting Deputy) and Porter (Non-voting Deputy)

In the event of any of the standing or deputy or deputy member not being available for a particular meeting, another member of Cabinet will be selected in alphabetical rotation by the Legal Services Manager to substitute for the standing member.

Quorum = 3 members

PUBLIC PARTICIPATION

Public Participation is at the Chairman's discretion. If your question relates to an item on the agenda, you will normally be asked to speak at the time of the relevant item. Representations will be limited to a maximum of 3 minutes, subject to a maximum 15 minutes set aside for all questions and answers. If several people wish to speak on the same subject, the Chairman may ask for one person to speak on everyone's behalf. As time is limited, a "first come first served" basis will be operated.

To reserve your place to speak, you are asked to arrive no later than 10 minutes before the start of the meeting to register your intention to speak. Please contact the Democratic Services Officer in advance for further details.

The names of members of the public etc who have registered to address committee meetings will appear in the minutes as part of the public record, which will include on the Council's website. Those wishing to address a committee meeting who object to their names being made available in this way must notify the Democratic Services Officer either when registering to speak, or within 10 days of this meeting.

DISABLED ACCESS:

Disabled access is normally available, but please phone Democratic Services on 01962 848 264 or email democracy@winchester.gov.uk to ensure that the necessary arrangements are in place.

TERMS OF REFERENCE

Included within the Council's Constitution (Part 3, Section 2) which is available [here](#)

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CABINET (LEISURE CENTRE) COMMITTEE

Tuesday, 18 September 2018

Attendance:

Councillors

Griffiths (Chairman)

Ashton

Warwick

Other Invited Councillors:

Huxstep
Laming

Prince

Others in attendance who did not address the meeting:

Councillors Bell, Porter and Thompson

Apologies for Absence:

Councillors Stallard

1. **DISCLOSURE OF INTERESTS**

Councillors Huxstep and Warwick declared disclosable pecuniary interests as they were both County Councillors and the County Council had awarded £1 million to the project. However they both participated in the meeting and, in the case of Councillor Warwick voted on items as below, under the dispensation granted by the Standards Committee.

Councillor Ashton declared a personal but not prejudicial interest as his wife was a trustee of "Allegra's Ambition" which was involved with the project.

2. **MINUTES OF THE PREVIOUS MEETING HELD ON 25 JULY 2018**

RESOLVED:

That the minutes of the previous meeting held 25 July 2018, be approved and adopted.

3. **PUBLIC PARTICIPATION**

Three members of the public and/or representatives of local sports groups spoke during public participation and their comments are summarised below.

Mike Fisher (Winchester City Penguins Swimming Club) noted that there had been a degree of negativity about the project recently which was in danger of

overshadowing the many positive benefits that a new Centre would bring. The Club had approximately 1,200 members who would all benefit from the increased capacity offered by a 50m pool, together with many other people including local school pupils and the general public. The increased water space would also offer a wider range of activities to take place. In summary, he welcomed the proposals and the opportunity to work collaboratively within the community to ensuring the success of the new facility.

Sue Falconer spoke on behalf of Winchester SALT stating that everyone involved in the project wished it to succeed. However, as the scheme was progressing, they had concerns that there was no final agreement with the University of Winchester and the impact on the project's viability if the University were not involved. She highlighted that Weston Park Blades Netball Club had not been consulted until recently, despite the Council being informed about the club at an earlier stage and suggested that other clubs might have been excluded from the consultation. She stated that representations favouring provision of 12 courts at the new centre had been passed to the architects but had been misrepresented in the final report. She believed that this raised questions about the advice provided and whether it was biased in favour of a particular way forward. She queried how the new centre could guarantee sufficient demand and the support it would offer to local clubs.

Geoff Wright (resident of St Giles Hill) highlighted that the first two risks in the risk register contained as Appendix 2 to Report CAB3076(LC) had a current risk score of being likely and significant but the report did not appear to address this adequately. With regard to the projected underspend of £6m, he believed this suggested a significant slippage which was likely to increase the overall cost of the project. He did not consider this was adequately addressed in the report either.

4. **WINCHESTER SPORT & LEISURE PARK - PROJECT UPDATE & BUDGET**

(CAB3076(LC))

The Chairman introduced the report and confirmed that comments made during public participation would be addressed (as far as possible) during the course of the meeting. She highlighted the following points:

- the summary of actions from Advisory Panels on the project which was contained as Appendix 1 to the report and had been provided in response to comments made at the previous Committee meeting;
- a preconstruction agreement for the construction of the new facility had been agreed with Wilmott Dixon, a firm with considerable experience of delivering leisure centres;
- the date for the Planning Committee to consider the planning application had not yet been set but was expected to take place in October 2018;
- Paragraphs 11.3 to 11.6 summarised earlier decisions taken by the Committee regarding the provision of bleacher seating in response to the matter being raised again at the previous Committee meeting;
- The "Frequently Asked Questions" section of the Leisure Centre project webpage had recently been updated to address recent questions raised.

She announced two forthcoming consultation events in November for which invitations would be issued and further publicity arranged in due course.

In response to questions raised by Members during the meeting and earlier in the public participation period, the following points were made. Responses were provided by the Head of Programme and the Head of Sport and Physical Activity, together with Mike Lawless (LA Architects) and Olivia Burton and Sean Clark (MACE) who were also present at the meeting:

Concern over seating, lighting and glass wall limiting use of sports hall

Mr Lawless confirmed that the lighting was designed to be flexible and it conformed to national guidance and Sport England requirements. Blinds would be installed over the glass for use as required. Although one elevation was intended to be glass, there was over 60m of other wall space in the hall which could be played against.

The flooring proposed was of a high standard and robust. However users would have to have regard to the type of seating brought in to prevent damage. For major competitions, usual practice was for a mat to be brought in to protect the floor.

Weston Park Blade Netball Club

The Head of Sport and Physical Activity confirmed that discussions had taken place with the Club who were happy that their matches could be accommodated in the new centre. They intended to use existing chairs for matches but consider hiring in additional seating if necessary.

Provision of changing rooms for umpires of club matches

Provision of adequate changing rooms was highlighted as a key matter by two Members.

Query regarding RIBA stage 5/construction costs

The advisors from MACE stated that RIBA stage 4 involved detailed level of design being agreed which reduced the risk for the Council on handing over the scheme to a contractor. An element of RIBA stage 5 was also part of the pre-construction stage and was split due to the design and build contract adopted by the Council.

The contract would be awarded on a fixed price basis. The costs for the pre-construction period had been agreed with Wilmott Dixon and it was hoped that by the end of 2018, the final cost would be set.

Spend Profile (re underspend)

The Head of Programme advised that further detailed consideration of the facility mix (as had been requested by members) had resulted in some delays in the programme and associated spend slippage. However, the project was still within the budget figure set at the time that the final facility mix was agreed. .

Proposed advance works (paragraph 11.13 of the report)

The Head of Programme advised that it was intended to provide a link path between the Garrison Ground and KGV playing fields and Officers were working

with the County Council to enable this. In addition, if planning permission was granted and construction began, it would be necessary to construct a temporary pedestrian access to the Garrison Ground and KGV playing fields. The meeting was shown slides giving an indication of these proposals.

Risks (including University of Winchester and other partners' involvement)

The Chairman confirmed that discussions with the University were ongoing but until final agreement was reached it remained a risk to the project. Councillor Ashton emphasised that preparation of the outline business case had included financial modelling of replacing partnership funding with borrowing to ensure the project could remain viable. A final decision would not take place until the Full Business Case had received agreement.

The Head of Programme advised that the University had confirmed in writing they were content with the agreed eight court provision. The Council also had agreements in writing with the Pinder trust and the County Council had allocated funding in its capital programme.

The Head of Programme explained how the risk scoring in Appendix 2 of the report had been completed. He emphasised that Officers were taking steps to reduce the likelihood of any of the risks stated taking place.

Operator Procurement

In response to comments made on behalf of Winchester SALT during public participation, the Head of Programme recognised the importance of the Operator contract and that the contract specification confirmed the priority of local clubs. The procurement process was underway and it was intended to bring a report to the 14 January 2019 Committee meeting to agree a preferred bidder. However, appointment could not be confirmed until agreement of the Full Business Case, scheduled to be considered by the Committee in February 2019.

Councillor Ashton noted that the revenue provided by the operator contract was a significant risk in the viability of the project but Officers had taken measures, such as soft market testing, to minimise this risk. In addition, the high standard of design, specification and facility mix should ensure a high degree of interest.

Comments of sports clubs etc being properly taken into account

In response to points made by Winchester SALT during the public participation session, the Head of Programme emphasised that previous meetings of the Committee had considered fully comments from local clubs and sports groups, in addition to Sport England the The Sports Consultancy. Inevitably, there were some issues that could not be completely resolved and some compromises required but these had all been agreed by the Committee and the scheme still met the requirements of the original brief. Officers continued to discuss proposals with local clubs as the project moved forward.

Movement Strategy

It was noted that the County Council Movement Strategy was due to be available in October 2018. The Head of Programme confirmed that some improvement

works, such as street lighting in Domum Road, could take place in advance of this.

The Committee agreed to the following for the reasons set out above and outlined in the report.

RESOLVED:

1. That the latest progress on the project be noted and the next steps as set out in this report including the completion of RIBA Stage 4 and the commencement of RIBA Stage 5 Design be agreed.
2. That the appointment of a site supervisor for the construction element of the project be agreed and the Head of Programme be given delegated authority to make this appointment.
3. That expenditure of up to £665k from the existing approved capital budget be approved to:
 - a. cover the cost of additional work incurred during RIBA Stage 4
 - b. transition from RIBA Stage 4 to RIBA Stage 5
 - c. carry out some advance works as detailed in this report
4. That recommendation 3a above and to recommendation 3b and 3c be agreed subject to the pending planning application being approved at Planning Committee and in advance of discharging any related conditions, and that delegation is granted to the Head of Programme in liaison with the Portfolio Holder for Health and Wellbeing to determine the extent of works to be undertaken based on the ongoing assessment and discussions.
5. That a specialist contractor be agreed to undertake the path construction and associated clearance works in accordance with Council's Contract Procedure Rules.

The meeting commenced at 5.00 pm and concluded at 6.10 pm

Chairman

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REPORT TITLE: WINCHESTER SPORT AND LEISURE CENTRE – OPERATOR
PROCUREMENT

14 JANUARY 2019

REPORT OF PORTFOLIO HOLDER: CLLR LISA GRIFFITHS - HEALTH AND
WELLBEING

Contact Officer: Andy Hickman Tel No: 01962 848105 Email
ahickman@winchester.gov.uk

WARD(S): ALL

PURPOSE

To report the results of the leisure management contract procurement process for the appointment of an Operator to manage the new Winchester Sport and Leisure Centre on behalf of the Council for a period of 15 years (with the option of a 5 year extension at the sole discretion of the Council).

The procurement of an operator is a crucial aspect of the future success of the new Sport and Leisure Centre and is one of the key elements of achieving a satisfactory Business Case for the project.

RECOMMENDATIONS:

1. Endorse the evaluation process which supports the appointment of the preferred Operator (Bidder B) as the preferred Leisure Centre Operator.
2. Approve the Council entering into a management agreement (subject to the required standstill period and the approval of a satisfactory Business Case for this project in February 2019,) with Bidder B to manage the new Winchester Sport and Leisure Centre on behalf of the Council for a period of 15 years from its opening and with the option (at the sole discretion of the Council and subject to satisfactory performance) to extend the contract for a further period of 5 years.)

3. Note that there were no response(s) to the advertisements under s123 (2A) of the Local Government Act 1972 for the disposal of part of the open space at the Garrison Ground by way of a lease to the Operator of the new Sport and Leisure Centre
4. Authorise the Head of Asset Management to agree terms in respect of any necessary leasehold arrangements detailed below and subject to approval of the Full Business Case to enter into the leasehold arrangements as required.
 - (a) with the University of Winchester in respect of the Sports Stadium and Artificial Grass Pitch
 - (b) with the preferred Operator (subject to a satisfactory business case having been first approved) in respect of the new Leisure Centre and the Sports Stadium and Track and Artificial Grass Pitch.
 - (c) with the University of Winchester to vary the University's existing lease from the Council of a strip of land between numbers 69 and 71 Milland Road Winchester which serves as the vehicular and one of the pedestrian accesses to the Stadium.
 - (d) to enter into such collateral warranties for the benefit of the preferred Operator as may be required by the Operator from any consultants and the contractor and which relate to the construction of the new Sport and Leisure Centre.

IMPLICATIONS:1 COUNCIL STRATEGY OUTCOME

1.1 This project supports the Health and Happiness outcome of the Council Strategy through the provision of new facilities to meet the needs of a broad cross section of our communities for now and in the future.

1.2 The Vision for the Sport and Leisure centre is a centre that :

- Reflects sporting needs and aspirations for the people of our district
- Is flexible to provide for current and future sporting needs and trends
- Is deliverable and affordable
- Is in a park setting providing additional sporting and leisure opportunities
- Provides an excellent water based offer for community use

1.3 The objectives for this project are:

- To provide accessible public sport and leisure facilities to improve the health and happiness of the District's residents
- To increase participation in sport and active recreation
- To improve the quality and energy efficiency of Winchester's main leisure facility
- To provide a Sport and Leisure Centre that is financially sustainable

2 FINANCIAL IMPLICATIONS

2.1 The outcome of this procurement process is a key element in the overall financial business case for the new Winchester Sport and Leisure Centre. The fee received from the preferred operator will be one of the key factors to determine whether the Council can achieve a satisfactory full business case.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The procurement strategy for the operator procurement was agreed by Cabinet on 13 November 2017. More detailed aspects of the process, evaluation and assessment were agreed by Cabinet on 6 June 2018.

3.2 The procurement of the leisure centre operator has been undertaken in accordance with EU compliant processes under the Public Contracts Regulations 2015.

3.3 Tenders were required to be submitted (on 9 November) in a final form, capable of evaluation and acceptance and were evaluated against the approved award criteria as approved by Cabinet on 6 June 2018. Tenders are required to reflect Health and Safety legislative duties in all aspects of their operation. They are also required to reflect the asset management requirements in terms of ongoing maintenance and renewal of the property

and equipment and to provide financial and performance reporting. These requirements are set out in the Specification for the management of the new centre which were agreed by Cabinet in June 2018.

- 3.4 There was an ongoing process of clarifications requested by bidders during the tender process through the Hampshire County Council procurement portal. This was supplemented by two face-to-face clarification sessions, plus separate session with the Council's sports development team, the University of Winchester and the Pinder Trust (all overseen by the Council). In addition, there was an ongoing process of written clarifications (nine sets in total) provided to all bidders through the portal.
- 3.5 It should be noted that the Council will notify bidders of the outcome of the evaluation of tenders and commence the legal standstill period as required under the Public Contracts Regulations 2015, following consideration by this Committee. This is needed before any contract may be concluded and formal appointment will be subject to approval of the Full Business Case. Names of bidders cannot therefore be made public until this process has been completed.

4 WORKFORCE IMPLICATIONS

- 4.1 The staffing implications for this project are continually being reviewed to ensure effective and timely project delivery.
- 4.2 TUPE regulations and guidelines have been followed in relation to this procurement and the required form of contract. A TUPE list covering all staff who would transfer to the new operator was provided to all bidders. This ensured that they were all aware of the staffing implications arising from this procurement.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The contract and specification set out the obligations of the Operator in respect to the maintenance and operation of facilities to be included in the contract. The maintenance obligations are enshrined in the Asset Management Responsibilities. These documents will form a schedule to the new contract.
- 5.2 The operator was also required to provide (and cost for) a proportion of the new centre's fixtures, fittings and equipment according to a schedule provided during the Invitation to Tender phase.

6 LEASES

- 6.1 It will be necessary for the Council to grant a lease to the preferred Operator of the New Leisure Centre on completion of construction of the New Leisure Centre for the term of the management agreement between the Council and the preferred Operator.

- 6.2 The Council will also need to enter into leasehold arrangements with the University in respect of the Sports Stadium and Track and the Artificial Pitch which forms part of King George V Playing Fields to enable the Council in turn to grant under- leases of these facilities to an operator.
- 6.3 The Council may also need to vary its existing lease to the University of the access between numbers 69 and 71 Milland Road to reserve rights of access over this land to the new Sport and Leisure Centre for the Council and an Operator.

7 CONSULTATION AND COMMUNICATION

- 7.1 The engagement, listening and learning process to support the development of this project has been extensive and has allowed the project team to capture the aspects of leisure centre operation that are important to key groups and partners.
- 7.2 The establishment and input from a Contract Management Advisory Panel has helped to ensure that the evaluation criteria and the requirements of the tendering process have been thoroughly reviewed to ensure that the new centre will operate efficiently and effectively.
- 7.3 A period of Soft Market Testing which commenced in April 2018 and an Awareness day with potential operators has informed the detail of the tender process and the associated documentation.
- 7.4 In order to enter into a long term lease with an Operator a process under s123 (2A) of the Local Government Act 1972 for the disposal of part of the open space at the Garrison Ground requires that Notices are advertised allowing for comments to be submitted to the Council. This was formally advertised during November 2018 and no responses were received as the result of the advertisements.

8 ENVIRONMENTAL CONSIDERATIONS

- 8.1 The operator will be expected to manage the Centre in an environmentally sensitive and sustainable manner to reduce energy consumption, minimise chemical usage and will be required to recycle non hazardous waste. This has been reflected in the specification.
- 8.2 Once an operator is appointed it will be important to work with them to formulate energy management best practices and performance indicators.

9 EQUALITY IMPACT ASSESSEMENT

- 9.1 The facilities and services provided by the Operator must comply with the legislation relating to the Equality Act 2010.
- 9.2 An equalities impact assessment is an ongoing process undertaken as part of the detailed design and engagement work of this project.

9.3 The contract specification requires the Operator to report against a series of indicators, including visits from those from a range of target groups.

10 DATA PROTECTION IMPACT ASSESSMENT

10.1 The operator will be required to work with the Council to agree a protocol regarding the sharing of data in line with the EU General Data Protection Regulation and the Data Protection Act 2018. This has been set out in the contract specification.

11 RISK MANAGEMENT

11.1 This project has a separate risk register which is managed by the Programme Lead. See Appendix 1.

11.2 The procurement of an operator is an important aspect of the future success of this project and was fully considered at Cabinet in November 2017 and June 2018 as part of the formulation and agreement of the overall procurement strategy.

11.3 The main risk for this project at this stage is achieving a satisfactory Full Business Case which is affordable to the Council.

12 SUPPORTING INFORMATION:

Background

12.1 Cabinet agreed the strategy for the procurement of an operator for the proposed new Sport and Leisure Centre in November 2017. Then on 6 June 2018, Cabinet agreed a report setting out how an operator will be selected for the management of the new Winchester Sport and Leisure Centre including details of the evaluation process and specification. It was agreed that the Council would follow a single stage process for this procurement using an open type procedure. The services fall within Schedule 3 of the Public Contracts Regulations 2015 which allow for more flexibility.

12.2 The Sports Consultancy has been appointed to be the Council's advisor on the procurement of an operator for the new Sport and Leisure Centre. An external legal advisor has also been appointed and Hampshire County Council's procurement team is assisting and advising with the procurement.

12.3 The management fee achieved through this tendering process is a key determinant to achieving an acceptable business case for the new Sport and Leisure Centre.

12.4 The Council have allowed for 'Income Benchmarking' to offer bidders a degree of protection against being committed to paying a certain management fee over the life of the contract if factors occur such as economic or legislative impacts which are outside of their control. It should be emphasised that this benchmarking provision is part of the Sport England template leisure

management contract (which is the basis for the contract here) and reflects the current market position. Allowing this within the contract ensured that bidders remained interested in the opportunity and that the Council could achieve the required level of management fee.

12.5 The controls in place for this process include:

- The process can only be implemented 5 years into the contract
- The operator cannot call for this process as a result of their net income being down due to poor performance
- It can only be triggered if the operator income is down by an agreed proportion of their profit as part of their bid e.g. 50%
- The operator has an obligation to mitigate any loss or decline in income prior to a benchmarking exercise
- A third party can be appointed if the Council and operator cannot agree to the management fee adjustment
- There is a process of dispute resolution if no agreement can be reached

12.6 Bidders were informed that sport and Leisure Centre users who pay for activities will not be charged for car parking. A management system which allows for this will be implemented by the Council. .

12.7 Tender Evaluation

12.8 On 6 June 2018 Cabinet approved the tender evaluation as follows (see also Appendix 2 and Exempt Appendix 3):

- the commercial response 60%
- the technical response 40%

12.9 The commercial response cover the bidders' financial submissions including their business plan and management fee (50%) as well as approaches to sharing any profit (5%) and their response to the draft legal contract (5%).

12.10 The technical side of the evaluation is a series of method statement responses covering key aspects of the service from a quality perspective. These include:

- i. Programming and Pricing (7%)
- ii. Asset Management and Cleaning (7%)
- iii. Sports Development, Health and Wellbeing and Outreach Work (4%)
- iv. Marketing, Customer Care and CRM (6%)
- v. Staffing (7%)

- vi. Financial Management, Reporting and IT Systems (5%)
- vii. Catering (3%)
- viii. Contract Mobilisation (1%)

- 12.11 These method statements were agreed with the project team and Advisory Panel at the outset and were also weighted based on a relative importance assessment exercise undertaken by each member of the team.
- 12.12 Bidders provided a response to each of these in the form of method statements, which were then assessed as part of the overall evaluation.
- 12.13 The tendering process commenced on 6 August 2018 with the publishing of the OJEU Notice. Two bidder clarification days were organised in August and September which were attended by 6 operators.
- 12.14 Bids were submitted on 9 November 2018
- 12.15 Selection Questionnaire analysis was undertaken by Finance officers with all submissions being compliant.
- 12.16 A detailed technical assessment of the documentation was undertaken by Council officers with specialist expertise including legal advice and The Sports Consultancy input and focused on each of the method statements.
- 12.17 The moderation process was overseen by the Hampshire County Council's Procurement Service to ensure that an impartial and objective approach to agreeing the final scores was achieved.
- 12.18 Details of the evaluation criteria are shown in Appendix 2 and details of the scoring are shown in Appendix 3 and summarised in the table below:

Operator	Overall Score (Percentage points)
Bidder A	73.3 %
Bidder B	90.0%

13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 Procurement options were considered by Cabinet in November 2017 in relation to how the new facility will be operated, together with the VAT implications for each option.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3031 – 6th June 2018 Winchester Sport and Leisure Centre – Procurement of a Centre Operator

CAB2972 – 13th November 2017 Sport and Leisure Park Project - Procurement

Other Background Documents:-

None

APPENDICES:

Appendix 1 - Winchester Sport and Leisure Centre Project - Risk Matrix

Appendix 2 - Technical Evaluation Criteria

Exempt Appendix 3 – Operator Evaluation Report

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Appendix 1 Winchester Sport and Leisure Centre Project – Risk Register

Risk Register – Key:

Likelihood Rating

It is unlikely that in many cases the probability of a risk occurring can be calculated in a statistically robust fashion as we do not have the data to do so. However, as an indicator, the likelihood is defined by the following probability of a risk occurring:

Likelihood	Probability
Highly Unlikely	1% to 25% chance in 5 years
Unlikely	26% to 50% chance in 5 years
Likely	51% to 75% chance in 5 years
Highly Likely	76% to 100% chance in 5 years

Risk Proximity

The score for risk proximity supports the Council in focusing on certain risks that may occur soon and ignore risks that will not occur in the near future. This enables risk management to be more efficient.

A number of between 1 and 4, where 1 means the risk is about to occur within the next 3 months and 4 means the risk is not likely to occur within the next year is provided.

Risk Proximity Score	Time scale
1	Occurring within the next 3 months
2	Occurring within the next 6 months
3	Occurring within the next 1 year
4	Unlikely to occur within 1 year

Financial Impact

The financial impact to the Council is an important consideration, however this should be viewed alongside the likelihood of the risk occurring and not assumed to be inevitable.

The scoring of the financial impact relates to the cost to the Council if that risk were to occur, however it should not relate to the cost of managing or mitigating the risk.

The financial impact is scored as highly likely it would be prudent for the Council to ensure that it has set aside an adequate financial provision. The financial impact is scored as follows:

Financial Impact Score	Time scale
£	£1 – £20,000
££	£20,0001 - £200,000
£££	£200,001 - £2,000,000
££££	£2,000,001 plus

Winchester Sport and Leisure Centre Project – Risk Register

Impact Rating

The following table provides the definitions which should be used when determining whether a risk would have a Low, Moderate, Major or Significant impact

	Low (1)	Moderate (2)	Major (3)	Significant (4)
Financial	Less than £20K	£20k or over and less than £200K	£200K or over and less than- £2MK	£2M plus
Service Provision	No effect	Slightly Reduced	Service Suspended Short Term / reduced	Service Suspended Long Term Statutory duties not delivered
Health & Safety	Sticking Plaster / first aider	Broken bones/illness Lost time, accident or occupational ill health	Loss of Life/Major illness – Major injury incl broken limbs/hospital admittance. Major ill health	Major loss of life/Large scale major illness
Morale		Some hostile relationship and minor non cooperation	Industrial action	Mass staff leaving/Unable to attract staff
Reputation	No media attention / minor letters	Adverse Local media Leader	Adverse National publicity	Remembered for years
Govt relations	One off single complaint	Poor Assessment(s)	Service taken over temporarily	Service taken over permanently

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 1			Risk Owner: Project Executive			
Risk Title: Project is not financially viable						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
<p>Full Business Case gateway does not confirm that project is financially viable.</p> <p>The management fee proposed by the potential operator and/or the cost of construction are not in line with current estimates.</p> <p>Significant and unforeseeable change in external financial/macro economic position</p> <p>“Viable” = that the annualised cost of the project to the Council based on the preferred facility mix is sufficiently close to the income expected to be generated from a management contract in relation to be a sustainable investment).</p>	<p>Project may be halted for review of underlying assumptions. Revisions are tested and agreed. Project recommences on revised brief, timetable and cost estimate.</p>	<p>Ensure Cabinet is fully aware of likely cost/income equation of facility mix and facility management options. Do not permit ‘project creep’ to add non-essential additional cost elements.</p> <p>Provide sufficient detail to consultancy team to permit accurate projections of cost and income. Close liaison with contractor and design team. Progressing design to RIBA Stage 4 before passing to contractor.</p> <p>Continue to assess all aspects of the project through Business Case Modelling. Soft market testing exercise undertaken. Monitor economic prospects, include substantial contingency in forecasts and secure financial certainty where possible.</p> <p>Manage public expectations of project content and cost, highlight danger of optimism bias.</p>	<p>Likely (Probability 51% - 75%)</p>	<p>Significant (4)</p>	<p>1</p>	<p>££££</p>
Further actions?		Target Date		Residual Risk Score		
				Likelihood	Impact	
<p>Cabinet (Leisure Centre) Committee will make key decisions in line with project plan. Decisions requiring approval of full Council under the Constitution will be referred accordingly. Regular reporting on progress will be made.</p>		<p>Spring 2019</p>		<p>Unlikely (Probability 26% - 50%)</p>	<p>Significant (4)</p>	

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 2			Risk Owner: Project Executive			
Risk Title: Absence of financial support from project partners						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
External grants and partner funding does not materialise or offers withdrawn because Council cannot meet funders' requirements	Project could be rendered nonviable by increasing Council proportion of cost. Review project as in R1.	Continue negotiations with partner organisations and external funders. Maintain contacts at senior level to create alignment of expectations.	Unlikely (Probability 26% - 50%)	Significant (4)	1	££
Further actions?		Target Date	Residual Risk Score			
			Likelihood		Impact	
Translation of negotiated arrangement into legal documentation. Continue Financial appraisal of contribution's value to the scheme vs financial contribution.		February 2018	Highly Unlikely (Probability 1% to 25%)		Significant (4)	

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 3			Risk Owner: Project Executive			
Risk Title: Council unable to recover VAT on construction costs						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
Project and governance structure means that Council unable to recover VAT incurred on construction costs.	The project cost would increase significantly and possibly become non-viable or show major overspend if HMRC refuses claims.	Obtain best available VAT advice at appropriate stages and before decision making. Reflect VAT advice in negotiations with funding partners.	Unlikely (Probability 26% - 50%)	Significant (4)	1	££
Further actions?		Target Date	Residual Risk Score			
			Likelihood		Impact	
Advice reflected in decisions taken, ongoing advice as required.		Spring 2019	Highly Unlikely (Probability 1% to 25%)		Major (3)	

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 4			Risk Owner: Project Executive			
Risk Title: Stakeholders expectations on pricing and usage not met						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
Pricing and usage strategy necessary to create viable project is not in line with stakeholder expectations. i.e. hire charges for club use, membership levels etc.	Business Case and procurement of operator specification may need to be reviewed if Council wishes to alter pricing and usage strategy.	Maintain dialogue with main users. Soft market test assumptions with potential operators. Ensure Cabinet agrees pricing and usage strategy. Close working with appointed operator	Unlikely (Probability 26% - 50%)	Moderate	2	£
Further actions?		Target Date	Residual Risk Score			
			Likelihood		Impact	
Dialogue with likely user groups. Ongoing soft market testing to determine external views. Close working with appointed operator is crucial		Spring 2019	Unlikely (Probability 26% - 50%)		Low (1)	

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 5			Risk Owner: Project Executive			
Risk Title: Stakeholders dissatisfied with facility mix						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
Stakeholders dissatisfied with proposed facilities seek more consultation even after decisions are made.	Council delays decision making. Cost increase arising from either agreement to stakeholder views or time delay could jeopardise project.	Engage effectively through all stages of the design and planning process. Remain firm on delivery to time and budget.	Unlikely (Probability 26% - 50%)	Moderate (2)	1	££
Further actions?		Target Date	Residual Risk Score			
Continue consultation and engagement process.		N/A	Likelihood		Impact	
			Unlikely (Probability 26% - 50%)		Low (1)	

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 6			Risk Owner: Project Executive			
Risk Title: Project programme/project delivery delayed						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
Delay in programme/ delivery and resulting cost implications due to staff capacity and other information and or decisions being made/available at relevant stages of the project.	Potential for project delay due to a number of potential factors. This could also include the delivery of associated mitigation, accommodation or facilitating works.	Stride Treglown and LA architects appointed to undertake engagement and design work. Mace appointed as project managers and cost consultants. Civil & Structural and Building Services engineering consultancies appointed Other specialisms appointed. Allocate sufficient staff resources by prioritising within project programme. Identify and undertake mitigation, accommodation or facilitating works well in advance and ensure decisions made on these early. Close working with appointed contractors.	Unlikely (Probability 26% - 50%)	Major (3)	1	££
Further actions?		Target Date	Residual Risk Score			
			Likelihood		Impact	
Monthly meetings established between the Project Office and relevant teams including the contractor. Good liaison with agencies including Sport England, Environment Agency, Southern Water and other utility companies to identify issues in time to adequately address.		Ongoing	Unlikely (Probability 26% - 50%)		Moderate (2)	

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 8			Risk Owner: Project Executive			
Risk Title: Legal challenges are raised						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
Legal challenges to any aspect of decision making and or procurement.	If legal challenges are successful the project is halted. If unsuccessful - a delay in the development and additional costs to the project which may render it unviable.	Ensure any legal challenges can be mitigated by obtaining expert advice and evidence to guide and inform processes. Raise awareness of implications of delay. Input from advisory panels.	Unlikely (Probability 26% - 50%)	Significant (4)	1	££
Further actions?		Target Date	Residual Risk Score			
			Likelihood		Impact	
Continue to obtain expert advice on procurement and to inform decision making		N/A	Unlikely (Probability 26% - 50%)		Major (3)	

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 9			Risk Owner: Project Executive			
Risk Title: Unable to agree highway requirements						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
Hampshire County Council is not satisfied with highway proposals for Bar End Road put forward as part of planning application and agreement cannot be reached	Could lead to additional land requirements and costs.	Continue discussions with HCC HCC agreement to planning application.	Unlikely (Probability 26% - 50%)	Moderate (2)	1	££
Further actions?		Target Date	Residual Risk Score			
			Likelihood	Impact		
Further technical work with Highway Authority		Spring 2019	Unlikely (Probability 26% - 50%)	Moderate (2)		

Winchester Sport and Leisure Centre Project – Risk Register

Risk Number: 10			Risk Owner: Project Executive			
Risk Title: Technical studies identify adverse issues						
Causes	Consequences	Current Controls	Current Risk Score		Risk Proximity	Financial impact
			Likelihood	Impact		
Issues are identified that require further investigation or mitigation.	Could affect delivery if results have significant cost implications. Could affect ability to deliver certain aspiration.	Undertake studies early in process. Ensure correct scope for studies. Review the scope of these studies and update as required in conjunction with appointed design team.	Highly Likely (Probability 76% -100%)	Moderate (2)	1	££
Further actions?		Target Date	Residual Risk Score			
			Likelihood	Impact		
Review and update studies as required - technical studies undertaken include on site conditions and utilities in consultation with the design team. These technical studies have and will continue to inform the design and project programme.		Spring 2019	Unlikely (Probability 26% - 50%)	Moderate (2)		

Appendix 2

Leisure Management Contract - Technical Criteria (40%)

For the Technical Criteria, all method statements will be scored out of a maximum of 5 points. The scoring parameters set out below indicate the parameters for how the Council will be differentiating each points score..

For each question, the Council has set a minimum pass level of 2 out of 5. If a Bidder fails to score this minimum level in any of the method statements, the Council reserves the right to exclude its Tender entirely.

Method Statement Scoring Parameters

Score	Guidance
5	The response addresses all of the areas covered in the Guidance section of Table 8 with supporting evidence or clear examples to illustrate how each area will be delivered
4	The response addresses all of the areas covered in the Guidance section of Table 8; however, some supporting evidence or clear examples to illustrate how all of those criteria will be delivered is missing
3	The response addresses most of the areas covered in the Guidance section of Table 8; however, some supporting evidence or clear examples to illustrate how all of those criteria will be delivered is missing
2	The response only addresses some of the areas covered in the Guidance section of Table 8 and supporting evidence or clear examples to illustrate how all of those criteria will be delivered is missing
1	The response is very generic and does not address any of the areas covered in the Guidance section of Table 8 directly and lacks supporting evidence or clear examples to illustrate how all of those criteria will be delivered
0	The response is non-compliant.

The Council's guidance for Tenderers in completing each method statement is set out as follows:

Submission requirements and guidance

Title	Description	Weighting	Guidance	Page (Slide) Limit
Method Statement One	Programming and Pricing	7%	<p>Tenderers should demonstrate a balanced programme of usage and activities designed to meet the leisure and health needs of the District. The programmes should be responsive to changes in demand, market trends and the needs of new priority or target groups. Tenderers should indicate how the programming and activities will be delivered (with relevant examples as appropriate) and contribute to a commercially sustainable offer.</p> <p>Tenderers should set out their approach and strategy to pricing. Prices at the current centre are to remain as they are. Prices for the new centre will be as proposed by the bidder and those proposed to be protected should be outlined. It is suggested that Tenderers submit a Schedule outlining proposed pricing.</p> <p>Taking into account the Council's required discounts for certain target groups, as set out in Appendix 3 of the Services Specification ('Authority Pricing Requirements'), in setting their proposed user prices, Tenderers should demonstrate what research they have undertaken and why prices have been set at a certain level. Tenderers are required to indicate user prices for all activity areas, as well as for memberships, block bookings, and casual usage across all user groups (adult, junior, senior, concessions). Tenderers should recognise the requirement for some of these user prices to be protected by the Council ('Core Prices'), as set out in Appendix 3 of the Services Specification.</p> <p>Tenderers should also make clear how the prices contribute to balancing community use while ensuring commercial success.</p>	10

Title	Description	Weighting	Guidance	Page (Slide) Limit
Method Statement Two	Asset Management and Cleaning	7%	<p>Tenderers should demonstrate how they will maintain the facilities to the best possible standard. For clarity, Tenderers will be responsible for the repair, maintenance and replacement of assets as defined in the Asset Management Responsibilities Matrices (AMRMs).</p> <p>Tenderers should explain any proposed alternative approaches to those indicated by the Council in the AMRMs, stating clearly why an alternative approach is likely to potentially deliver better value for money to the Council and the price difference.</p> <p>Tenderers should include a detailed 15-year asset management plan as an Appendix to their response.</p> <p>Tenderers are required to set out their proactive and reactive approach to the cleaning indicating, how this will ensure a consistently high standard of cleanliness through the facility. Cleaning techniques, methods and machinery and products used should be outlined in addition to whether staff will be directly employed or if cleaning will be sub-contracted.</p>	10 (excluding the 15-year asset management plan)

Title	Description	Weighting	Guidance	Page (Slide) Limit
Method Statement Three	Sports Development, Health & Wellbeing and Outreach Work	4%	<p>Tenderers should demonstrate how they will help the council develop new Sport England strategic outcomes and monitor these,</p> <p>Tenderers should demonstrate a focus on outcomes for Sports Development, Health and Wellbeing and associated wider agendas and explain how these outcomes will be achieved, linking their method statement to proposals for programming, pricing and marketing.</p> <p>Referring to the required outcomes set out in Section 12 of the Services Specification, Tenderers should explain how they will encourage greater participation in under-represented groups and help to address inactivity to reflect Sport England Strategy.</p> <p>Tenderers to demonstrate how they are going to work collaboratively with clubs and organisations from within the Winchester District with Winchester City Council such as: swimming club, athletics club, hockey club and fitness and sport club (over 50s club).</p> <p>The Council will support clubs in agreeing community use agreements and the like and expect the Contractor to work in a collaborative way with sports clubs.</p>	<p>8</p> <p>(excluding a draft sports development and health and wellbeing and development programme)</p>

Title	Description	Weighting	Guidance	Page (Slide) Limit
Method Statement Four	Marketing, Customer Care and CRM	6%	<p>Tenderers should demonstrate their approach to marketing, public relations and customer care.</p> <p>Tenderers should indicate how their marketing activity (including digital marketing) will achieve an appropriate balance to achieve both community and commercial outcomes. Responses should indicate how Tenderers would address the development of a relevant annual Marketing Plan that reflects local trends, venue capacity, target use and the social demographics of the area.</p> <p>Tenderers should outline their approach to customer care, including handling of complaints and comments and how it complies with the Council's policies. They should also outline their approach to developing a clear and concise public relations plan and ensuring it fits with the annual marketing plan.</p> <p>Tenderers should indicate how data collected from user surveys, general customer research and market trend information would be used to improve services, products and increase participation.</p> <p>Tenderers should indicate how they will work with the Council, the Open Data Institute, Get Active Hampshire and other bodies to promote and apply the principles of Open Data.</p>	<p>8</p> <p>(excluding examples of marketing which can be attached as an Appendix)</p>

Title	Description	Weighting	Guidance	Page (Slide) Limit
Method Statement Five	Staffing	7%	<p>Tenderers should demonstrate how they will ensure provision of sufficient on-site staff at all times to secure a high level of performance and standard of customer service. They should also show how they will recruit and retain sufficient qualified and trained staff to operate the facility and all services delivered at all times.</p> <p>The management structure for the contract is critical and Tenderers should provide a clear Organisational Chart (for all areas within the contract) that not only summarises at a senior management level the key functions and responsibilities of each role, but details reporting lines for all staff:</p> <p>As a pre-requisite, Tenderers should provide details on the staff recruitment, training and workforce development strategies that would be put in place to assure the Council that the services will continue to be provided by appropriately qualified staff. Details around apprenticeship schemes offered should be outlined here.</p> <p>Tenderers should provide details of the pension benefits for transferring employees and how these are broadly comparable or better than before transfer.</p>	10
Method Statement Six	Financial Management, Reporting and IT Systems	5%	<p>Tenderers are requested to set out their proposals with regard to IT and e-delivery of services, including their preferred choice of IT systems.</p> <p>Regarding financial management systems and reporting, Tenderers should indicate what systems it proposes to use to track financial performance, what quarterly information it proposes to share with the Council, and how and when key performance indicators will be reported. Tenderers are encouraged to provide samples of the quarterly management reports they propose to share with the Council during the contract.</p>	8
Method Statement Seven	Catering	3%	<p>Tenderers are encouraged to set out how they intend to manage catering and vending services. Good responses will provide detail of the requirements needed for a high quality operation, the locations of the catering and vending within the centre and how healthy options will be provided for on menus and/or through vending machines.</p>	4

Title	Description	Weighting	Guidance	Page (Slide) Limit
Method Statement Eight	Contract Mobilisation	1%	<p>The Council needs to be assured that the Leisure Operator has demonstrable experience of mobilising and launching a new leisure centre.</p> <p>Good responses will set out a detailed handover timetable specifying key tasks, timescales and responsibilities from the appointment of preferred Bidder to commencement of contract.</p> <p>Good responses will indicate where particular attention should be paid to avoid any potential problems, where (or indeed if) these have been experienced in the past, and how these have been overcome.</p> <p>Tenderers will be required to provide a schedule showing the estimated fit out costs for the new facility, a specification for which will be provided during the procurement process. This will only be taken into consideration for the evaluation of the Tenders insofar as the Council may reject a Tender entirely if the fit-out appears to have been costed inappropriately.</p>	<p>2 (excluding mobilisation plan)</p>

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
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