

EAST HERTS COUNCIL

COUNCIL – 18 OCTOBER 2017

REPORT BY EXECUTIVE MEMBER FOR HEALTH AND WELLBEING

LEISURE STRATEGY: DIRECTION OF TRAVEL FOR FANSHAWE
AND LEVENTHORPE POOL AND GYM

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To enable the Council to consider the views expressed by the Community Scrutiny Committee at its meeting on 13th June and the Executive on 27th June 2017
- To enable the Council to consider the views expressed from the public consultation and petition responses
- To enable the Council to consider options of delivery for the two Schools who own their leisure facilities.

<u>RECOMMENDATIONS FOR COUNCIL:</u> That Council:	
(A)	Agree that the Council will commit to acting as a facilitator to help Chauncy School and Leventhorpe School explore alternative ways to maintain their leisure facilities;
(B)	Note that bidders will be invited to submit variant bids for the new leisure contract to include options for the future operation of Fanshawe and Leventhorpe Pools and Gyms should long term Council funding be unviable;
(C)	Note that the operational delivery of Fanshawe and Leventhorpe Pools and Gyms is included in the new leisure contract specification for up to 5 years, subject to each School's ability to contribute 40% of all costs; and

(D)	Subject to the outcome of (A) and (B), agree that the decisions on capital funding for Leventhorpe and Fanshawe Pools and Gyms is considered post tender evaluation.
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1.0 Background

1.1 The Council's corporate strategic plan includes an action to 'Produce a leisure strategy to determine future direction and planning for the Council's two leisure centres and the three joint use swimming pools'. This sits within the core priority to: 'Improve the Health and Wellbeing of our communities'.

1.2 At its meeting in June 2016 the Community Scrutiny Committee received a report from the Leisure Task and Finish Group and concluded that the proposed direction of travel should be endorsed. In summary this is as follows:

1.2.1 **Stream 1 – Joint use Pools**

The development of an outline business case for the management and operation of the Joint Use Facilities, or if this is not feasible, alternatives based on a rationalisation proposal.

1.2.2 **Stream 2 - Hartham and Grange Paddocks Leisure Centres**

The development of an outline business case for the management and operation of the two Council owned sites based on:

- I. Capital costs
- II. Revenue impact
- III. Contract management arrangements
- IV. Contribution to Health and Wellbeing Objectives
- V. Risk assessment

1.2.3 **Stream 3 - Health and Wellbeing**

The development of initiatives through the new leisure management contract which enable the operation of leisure facilities to address key issues identified within the Council Health and Wellbeing Strategy.

1.3 The main issues identified in the report were as follows:

- a. Ageing facility stock
- b. Deteriorating facilities and capital investment requirements
- c. Increased population particularly in Bishop's Stortford
- d. Changing leisure trends resulting in demand for different activities and higher customer expectations
- e. Demand for existing activities to be delivered in different ways for example the increasing popularity of all-weather floodlit pitches
- f. Increased revenue support for ageing facilities and maintenance expenditure
- g. Joint Use facilities are subject to significant financial risk arising from the potential loss of Education Funding Agency (EFA) contribution

1.4 The key conclusion reached in June 2016 was that the option of continuing to operate the existing mix of facilities was unsustainable. In particular the Joint Use facilities are subject to significant financial risk arising from the potential loss of Education Funding Agency (now the Education and Skills Funding Agency) contribution. ESFA funding covers the cost of the school's and County's contribution to the operation of the three Joint Use sites which amounts to 40% of total operating expenditure. In 2015 this amounted to £255,000. The difficulty for EHC is that the Council cannot let a long term Leisure Management contract for potentially 10+ years if the schools anticipate a withdrawal from the Joint Use Agreements. In these circumstances the Council would potentially face a very large claim for compensation from its contractors.

1.5 The District Council cannot absorb the schools 40% costs under the existing arrangements as the Council would effectively be funding education which could potentially be acting 'ultra vires' i.e. beyond its legal power and authority.

1.6 The facilities operated at Grange Paddocks (East of the District) and Hartham (West of the District) are owned by EHC and are therefore not exposed the financial risks associated with Joint Use sites. They do however require significant capital investment to reduce the deficit to the Council.

1.7 In July 2016 the Executive agreed to explore the future direction of travel for its leisure facilities and the joint use pools in preparation for the contract renewal for the operational management of the sites.

1.8 At its meeting in June 2017, the Overview and Scrutiny Committee received a report from the Leisure Task and Finish Group for the future direction of travel for the Council managed facilities and provided the following recommendations to the Committee:

1.8.1 (A) the Committee considers and offers its views on:

- a. investment and development at Grange Paddocks and Hartham leisure centres
- b. investment and development at Ward Freman Pool
- c. the two options available for Fanshawe Pool and Gym
- d. continuing the operation of Leventhorpe Pool until a time becomes appropriate to consider an exit strategy with the School.

(B) the Committee considers and offers its view on the Vision for Leisure Facilities with a view to have these included in the Physical Activity Strategy;

(C) Members' comments are forwarded to the Executive and Council for consideration; and

(D) the Task and Finish Group is extended to support the development of the leisure service specification in relation to key service policy considerations such as concessionary pricing policy, health and wellbeing and community development.

1.9 The Members of Overview and Scrutiny Committee debated the proposed future direction of travel for Council managed leisure facilities at length and acknowledged that leisure and its contribution to the health and wellbeing of its residents was important to support. Members acknowledged the investment proposed was a large sum of money but that some of its managed facilities specifically Grange Paddocks were not currently meeting the needs of the local population. These problems will be amplified further as a result of Bishop's Stortford North and other proposed housing developments. Concerns were expressed regarding EFA funding which would be provided via the school investment and what could happen if this was withdrawn. Members also referred to the need to consider investment in infrastructure to address the impact of traffic on Rye Street in Bishop's Stortford.

1.10 Members of Overview and Scrutiny Committee were fully supportive of the investment proposal with the exception of option

A in relation to Fanshawe Pool and Gym which they felt they could not support in terms of further investment. They expressed a preference for option B which does not include proposals for long term capital investment for significant development at Fanshawe Pool.

- 1.11 Members endorsed the view that the existing joint use facilities should remain in operation wherever possible until compensating investments had been made at Hartham and Grange Paddocks.
- 1.12 The recommendation also included no long term capital investment for significant development at Leventhorpe Pool and Gym.
- 1.13 The views of Overview and Scrutiny were considered and supported by the Executive on 27 June 2017, and proposals were referred to Council on 18 July 2017 for a decision.

Proposals from Overview and Scrutiny to Council -18th July 2017

- 1.14 The proposals included no capital investment for significant development in Fanshawe and Leventhorpe Pools and Gyms which created some concern from the public in relation to the future of these facilities. The Executive Member for Health and Well-being proposed an amendment to recommendations which Council agreed to. The recommendations agreed were:

- 1.14.1 Public consultation and further investigation of the options for Fanshawe Pool and Gym are carried out; and a report is presented in October 2017.

- 1.14.2 Public consultation and further investigation of the options for Leventhorpe Pool and Gym are carried out; and a report is presented in October 2017.

- 1.15 Funding for Grange Paddocks, Hartham and Ward Freman Leisure Centres were agreed at Council on 18 July 2017.

2.0 Report

- 2.1 The public consultation requested at Council on 18 July 2017 went live on 3 August 2017 for 8 weeks. Due to high demand the consultation was extended for a further five days with an ability for residents to email and send hard copy responses. 819 responses were received of which 46% living in the Ware area, 28% from

Sawbridgeworth, 11% from Bishop's Stortford and 10% from Hertford and surrounding areas. The key themes and concerns raised were:

- 2.1.1 Pool Closure
- 2.1.2 Discussions with Schools
- 2.1.3 Funding for Pools
- 2.1.4 Travel to other sites
- 2.1.5 EFA Funding
- 2.1.6 Swimming provision for Primary schools
- 2.1.7 Accessibility for Disabled People
- 2.1.8 Significant Housing growth
- 2.1.9 Compulsory Purchase
- 2.1.10 Ware Swimming Club

The next section of this report considers the concerns raised as part of the consultation.

Consultation - Pool Closure

- 2.2 It is important to note that the leisure strategy report presented on 18 July 2017 did not refer to the closure of either Leventhorpe Pool and Gym or Fanshawe Pool and Gym. The two facilities do not belong to the Council and therefore it is not in the Council's power to close a building that is not our asset. The reference to an "exit strategy" referred to the Council's management of the School facilities and other opportunities to explore to manage the facilities.

Funding for Pools

- 2.3 The leisure strategy report presented to Council on 18 July 2017 focussed on the potential impact of capital investment for significant development into the 3 joint use facilities and two Council owned facilities to address a number issues highlighted in para 1.3. It is important to note that there is not an assigned Council budget for the proposals and that these are not essential immediate works to continue the operation of the facilities but a framework to consider for increasing participation, contributing to health and wellbeing and reducing the leisure facility management deficit to the Council in the long term.
- 2.4 The leisure strategy report proposed to seek approval for capital investment for significant development to the sites. In the case of Fanshawe Pool and Gym this was a proposed investment of £1.2m for a redeveloped internal change to the facility including extending the size of the gym and small studio area, refurbishing

changing rooms and retiling and redecorating the pool. This is a significant capital investment amount to consider for an asset that is not owned by the District Council. As the centre is performing well soft market testing suggests that there is a possibility that the market will provide a variant bid to the Council's tendering process to maintain the operation of the facility. This would require flexibility from the School to allow a reconfiguration of curriculum activity to allow more community use. This could mean that the facility continues to operate without funding required from the District Council.

2.5 In relation to Leventhorpe Pool and Gym the capital investment for significant development explored by the leisure task and finish group was for £400k to improve the pool hall and changing areas by refurbishing the changing rooms, redecorating the pool hall and providing an external canopy for viewing. The pool is situated on the same site as the Leventhorpe Leisure Centre, which is also owned by the school and currently run by another provider. Having two separate facilities on the same site does not provide the best return for investment and operational expenditure. Soft marketing testing has suggested that 'packaging' the two facilities together could be more attractive for the market to operate and maintain. This would also require flexibility from the School to allow a reconfiguration of curriculum activity to allow more community use.

2.6 In terms of ongoing funding for these sites the Council is committed to the maintenance and operation of all sites in the medium term through its revenue budget and the contributions from the Schools. Should essential capital works be required for day to day operation of the site, the Council's usual capital funding approval process will apply. Subject to approval and further surveys this could include:

- 2.6.1 Replacing pool circulating pumps
- 2.6.2 Replacing air handling and air conditioning plant to the gym
- 2.6.3 Repairs to the pool lining
- 2.6.4 Maintaining carpets, flooring and changing rooms
- 2.6.5 Maintain hot water supply pumps

2.7 During the consultation period the Council and Chauncy School have discussed the future possibilities of the leisure facility. These are summarised as the following:

2.7.1 The school is prepared to work with the Council and the

Community on a solution that supports the operational management of Fanshawe Pool and Gym

- 2.7.2 Should ESFA funding be withdrawn the School will not be in a position to fund the 40% contribution to the operational management of their facility as there is not a school budget allocated for this.
- 2.7.3 The school is willing to understand the offer from the market through variant bids from the leisure contract tenders, however the school is keen to ensure that the solution involves a relationship with the Council directly.
- 2.7.4 Chauncy School pupils will need to receive free access to the Fanshawe pool facility during curriculum time in any future operation.
- 2.7.5 The school will continue to pay its 40% share of costs as long as the ESFA is available.
- 2.8 The Council also met with Leventhorpe School to discuss the future possibilities of the leisure facility. These are summarised as follows:
 - 2.8.1 The school is prepared to work with the Council and the Community on a solution that supports the operational management of Leventhorpe Pool and Gym.
 - 2.8.2 Should ESFA funding be withdrawn the School will not be in a position to fund the 40% contribution to the operational management of their facility as there is not a school budget allocated for this.
 - 2.8.3 The school is willing to understand the offer from the market through variant bids from the leisure contract tenders. The tender process will only include the Pool and Gym that is currently managed by the Council's contractor.
 - 2.8.4 The School is willing to review their usage during the day to expand the community use hours.
 - 2.8.5 The school will continue to pay its 40% share of costs as long as the ESFA is available.
- 2.9 Based on the discussions with schools and the market Council is

committed to working in partnership to explore ways to maintain the operation of the Pools and Gyms at Leventhorpe and Fanshawe. As mentioned previously it would not be the District Council's decision to close the School facilities, the Council will continue to contribute the 60% of the operational management of the facilities on the proviso that the Schools pay their 40% share. The District Council cannot absorb the schools' 40% costs under the existing arrangements as the Council would effectively be funding education which could potentially be acting 'ultra vires' i.e. beyond its legal power and authority. The Council is asked to note that the operational delivery of Fanshawe and Leventhorpe Pools and Gyms is included in the new leisure contract specification for up to 5 years, subject to each School's ability to contribute 40% of all costs. This will allow the Council to understand costs for a set period of time from the tender submissions with the option of the bidders providing a variant bid.

Travel to other sites

- 2.10 During the consultation period members of the public were asked what would encourage them to use alternative sites. 175 of people said extended hours, 132 said something different/better range of activities, 123 said more pool lanes and 119 improved public transport. 331 stated 'other' with responses ranging from being able to walk there, to provision being more affordable.
- 2.11 Understanding what could encourage residents to use alternative sites allows the Council to build these considerations into the technical and operating specification of a future contract ensuring that these are safeguarded or provided in alternatives site should a variant bid not be acceptable to a school.

Risk of ESFA funding

- 2.12 From our discussions with the Schools, we understand that they have not had confirmation of ESFA funding beyond August 2018 to support the operation of their leisure facilities.
- 2.13 In December 2016, it was announced that the funding for exceptional premises such as these joint use facilities will be included in the national funding formula (NFF) for schools which will be introduced for 2018-19. Further consideration and consultation on how the premises factors will operate and be funded, will be undertaken by the ESFA.
- 2.14 The Council raised an enquiry with the ESFA (reference: ENQ-231309-M8V8L1). The response was as follows:

“We provided the following information on premises factors in paragraph 66 of the national funding formula for schools and high needs policy document.

‘We will say more in due course about how we will fund the premises factors in 2019-20 and what our options are for funding them through a ‘hard’ formula in the longer term. We will need to work with local authorities and schools to consider options in detail and consider any interim improvements.’”

- 2.15 The Council will continue to enquire on the matter with Schools, the County and ESFA. To date, it continues to remain unclear whether Schools will be able to contribute via funds received from the ESFA.

Swimming Provision for Primary Schools

- 2.16 Concerns have been raised over swimming provision for primary schools. As mentioned previously, to date there is no confirmation of pool closure. However, there is uncertainty over funding from the Schools for their contribution (via ESFA) which could lead to a risk. To ensure we are able to cater for the future possibilities, the investment in Grange Paddocks seeks to increase pool space to accommodate more participants including Schools use and in Hartham the Council will be seeking pragmatic programming solutions to accommodate additional swimming lessons in the future.
- 2.17 Further work would need to be carried out with primary schools to assess their requirements for swimming provision if this was to become an issue. The Council is aware that a number of schools across the District travel via coach to the leisure centres for swimming lessons and we would seek to ensure other schools were provided the opportunity to learn how these schools manage this.

Accessibility for Disabled People

- 2.18 The Council received 7 responses in relation to access concerns for disabled people. Concerns were raised over driving to other sites and the time it will take to alternative sites. An Equalities Impact Assessment has been carried out for all possible options which is cited in **Essential Reference Paper B**.
- 2.19 Understanding the barriers to using alternative sites allows the Council to build these considerations into marketing, communications plans and programming of activity as well as

areas it may be able to influence change i.e. sustainable travel infrastructure to ensure that any migration to an alternative site was managed appropriately where a variant bid not be acceptable to a school or alternative methods of delivery.

Significant Housing Growth

2.20 During the consultation there were questions raised about the growth of our towns and pool closure. As mentioned previously, the Council is not in a position to close the Pools and Gyms owned by the Schools. The Council recognises that these facilities are valued locally in Ware and Sawbridgeworth and these are sited in the Council's built facilities strategy (a planning document for leisure facilities).

2.21 As mentioned earlier the Council and Schools are willing to work together to maintain the operation of these facilities.

Compulsory Purchase

2.22 At least one response suggested that the Council should take out a compulsory purchase order on the facilities owned by the Schools. At this stage the Council is committed to working with the Schools and a CPO would potentially undermine the partnerships developed. No further investigations have been carried out to explore this further at this time

Ware Swimming Club

2.23 A number of respondents raised concerns over the future of Ware Swimming Club if the Pool closed. As mentioned, a variant bid would seek to continue the operation of the facility that was acceptable to the School. Our understanding is that there is a positive relationship between the School and swimming club and therefore the continuation of bookings from Ware Swimming club in a future model should be feasible. The Council will endeavour to facilitate this and engage with the swimming club to explore this further.

3.0 Petitions

3.1 The Council received two petitions regarding the leisure proposals for Leventhorpe and Fanshawe Pools and Gyms. The Council invited lead petitioners to come in for a meeting to discuss their concerns. To date we have had an acknowledgement of this invitation but no further indication of meeting dates. The Council remains open to a meeting if requested.

3.2 The Council committed to reviewing the comments made from the Save Fanshawe Pool online petition. Consideration was also given to the responses as regards to Leventhorpe School and comments were similar to those raised in the public consultation.

4.0 Other Considerations

Variant Bids

4.1 As mentioned in paragraphs 2.3 and 2.4 the Council has had discussions with leisure providers who may consider submitting variant bids as part of the Council's tendering process for the management of Council leisure facilities and the joint use pools. It is only when we go out to tender will we be in a position to understand further the opportunities for Fanshawe and Leventhorpe Pools and Gyms.

Procurement of a new provider

4.2 Procurement of a new provider will be dependent on the outcome of variants bids and school's desire to go down this route. Currently this option is still open for consideration.

Community Trust/Body

4.3 The consultation asked for views on the development of a community trust/body whereby the local community works together to form a self-sufficient, not for profit organisation to manage the facilities. To date we are not aware of any groups coming forward. There were concerns raised with this option during the consultation which included that there may be a lack of relevant skill sets and concerns over long term financial viability. Currently this option is still open for consideration.

Sponsorship from local businesses

4.4 The Council is exploring options with local businesses in relation to possible sponsorship and this option is still open for consideration.

Alternative use of the sites

4.5 To date neither schools have expressed a desire to use the leisure facilities for alternative use. The key concerns from the public were that this could mean Housing and expansion of school facilities but not health and fitness related for community use.

5.0 Conclusion

5.1 Following the Council meeting on 18 July 2017, a public

consultation has been carried with key concerns considered in this report. The Council will consistently monitor its obligations under the Equalities Act and its public sector equalities duties with respect to the leisure facilities. In addition, the Council has and will continue to explore options with Schools, the community and the market for the future operation of the leisure centres. The Council recognise that variant bids from the market is a viable option but that the uncertainty of ESFA funding remains a risk until a new contract that is commercially viable is established. Subject to variant bids and exploring other models of delivery the decisions on capital funding for Leventhorpe and Fanshawe Pools and Gyms will be considered post tender evaluation.

6.0 Implications/Consultations

Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Council report and minutes 18 July 2017:

<http://democracy.eastherts.gov.uk/documents/g2877/Public%20reports%20pack%2018th-Jul-2017%2019.00%20Council.pdf?T=10&J=6>

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