

Cheltenham Borough Council

Officer Decision Report – xx

Arrangements for managing a Sport England Grant to make improvements to Leisure-at-Cheltenham

Accountable member	Cllr. Flo Clucas; Cabinet Member Healthy Lifestyles
Accountable officer	Pat Pratley, Chief Executive Officer
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>The Cheltenham Trust successfully bid to Sport England for a Swim Local grant that will fund a range of improvements at leisure-at-Cheltenham to encourage people to swim.</p> <p>The grant award is broken down into two elements. A revenue grant of £150,981 to fund improvements to the swimming experience and the range of programmes that are on offer. A capital grant of £184,480 to fund the creation of new disabled changing units and improvements to the female changing area.</p> <p>Due to the Trust only having a 7 secure years left of their lease, Sport England have offered the capital grant to Cheltenham Borough Council to manage.</p> <p>Cabinet on 11 July 2017, noted that the Head of Paid Service (now Chief Executive) had delegated authority under the Authority's constitution to enter into the grant agreement with Sport England.</p> <p>Cabinet also delegated authority to the s.151 Officer, in consultation with the Cabinet Member Healthy Lifestyles and Cabinet Member Finance, to agree any subsequent arrangements with the Trust to manage the capital funds to achieve the completion and funding of the works as set out in this report.</p> <p>This report details the decision to enter into the grant agreement with Sport England</p>
Recommendations	To enter into a grant agreement with Sport England to fund the creation of new disabled changing units and improvements to the female changing area at Leisure-at-Cheltenham

Financial implications	<p>The offer of the grant of £184k from Sport England is to fund the refit of the female only changing room to make it more attractive/user friendly and to undertake a range of improvement measures to include creation of "Changing Places" standard changing room/toilet facility and an additional cubicle.</p> <p>Accepting the grant will come with a number of restrictions on how the council can manage the building in the future:</p> <ul style="list-style-type: none">• The grant agreement will run for 25 years• The obligation to seek Sport England's permission when letting the whole of the Leisure Centre or any subleases of the changing facilities or swimming pool for the next 25 years. This means that we would need to get their consent to a new lease to the Trust or any other body CBC takes on to manage the leisure centre. Also we need consent to sell. Failure to do so, could lead to a demand to make a partial or full repayment of the grant.• In addition, if the council were to consider a future use for the site then it would have to make a partial or full repayment of the grant• The council will need to apply to the Land Registry for a restriction on the registered title to the Site to protect Sport England's interest in the Site <p>The offer of funding must be balanced by the restrictions imposed via the grant agreement.</p> <p>Contact officer: Sarah Didcote GO Business Partner Manager (West) <u>Sarah.Didcote@cheltenham.gov.uk</u> 01242 264125</p>
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Legal implications	<p>Under the Council's constitution, the Chief Executive, Executive Directors and Directors have the power to accept grant funding where resources implications do not exceed £100,000.</p> <p>Sport England requires the Authority as the landowner to enter into the grant agreement for a period of 25 years. One Legal has given detailed legal advice to council officers on the terms, conditions and restrictions imposed by this grant agreement. The main issues are contained in the financial and property implications.</p> <p>As the Authority is responsible for compliance with the terms of the Sport England Grant Agreement, if any funds are passed onto the Trust to manage, then advice has been given to officers that the Authority should enter into an agreement with the Trust in which the Trust agrees to comply with the terms of the Sport England Grant and indemnify the Authority for any losses caused by any breach of the agreement.</p> <p>The Authority needs to ensure that it is able to deliver, either itself or through the Trust or any subsequent body contracted to manage the facility, the performance targets and accreditation requirements contained in the agreement.</p> <p>Any breach of the terms could lead to the requirement to repay the grant (in whole or in part) and the decision as to how much is to be repaid is at the discretion of Sports England who are not required to act reasonably.</p> <p>Contact officer: Donna Ruck, Solicitor, One Legal Tel: 01684 272696 Donna.ruck@tewkesbury.gov.uk</p>
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Property/Asset Implications

Leisure-at Cheltenham is currently leased to the Trust on a 15 year term starting on October 2014 with a break clause at year 10, which is why Cheltenham Borough Council has been offered the grant and not the Trust. There are a number of property risks in accepting the grant.

There is an obligation on the Council to seek Sport England's permission when letting the whole of the Leisure Centre for the next 25 years. It is unclear what the recourse is for not seeking this permission, but it is thought that partial or full repayment of the grant could be one. Seeking permission could also impact in terms of time delays on re-letting the Leisure Centre as there is no set time in which Sport England has to reply when approached for permission.

For major capital works to any part of the centre (not just that part subject to the grant), again there is an obligation on the Council (not the Trust) to apply for permission to Sport England to undertake any works. The same time delays and recourse questions apply as above.

As the Council retain responsibility for the costs for most of the structural, fixture and fittings the impact of probable repairs, life expectancy, maintenance liabilities, need to be clear from the outset. Also, as the Council pay for the services (electricity, etc) and the additional costs relating to this need to be clear.

If any grant is passed onto the Trust, clarification will be needed on who 'owns' those changes (the Council or the Trust), who's balance sheet will capture those changes and who will have ultimate responsibility and these questions need to be answered and captured in the lease and management agreement. This is likely to require a Licence for Alteration or Deed of Variation. The Trust at one point indicated that these elements would belong to them, however this is unlikely due to the longevity of the tie in period of 25 years from Sports England which far out passes the lease length therefore the liability can only rest with the Council.

Therefore the risk comes from loss of control by the Council by not managing the works and potential impacts the works can have on other building elements and increased liabilities for the Council, from the outset. Also, any future works required due to the 'works' here could potentially require the permission of Sports England to undertake.

The Council require the Trust to seek and gain Landlord's consent for these works at this is going to be a crucial element for how CBC will manage future risks relating to the physical and legal elements of the funding agreement.

However, as it is likely that the Council will receive the grant, the changes will be in the Council's ownership (as fixtures and fittings), the Council will be responsible for the ongoing management and maintenance it is unclear what role the Trust have other than a contractual one. Once the way forward is determined for how the improvements will be managed, this will bring clarity to the issue about who should apply for the Licence for Alterations or Deed of Variation and what kind of consent we would be required to give as landlord. If the Trust are to manage these, then to future proof the works it will be important that the changes are legally captured in an agreement between the Trust and Council.

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HR implications (including learning and organisational development)	No HR implications identified with this report
Key risks	As set out above in the financial implications, there are two areas of risk for the council:
Corporate and community plan Implications	Successful delivery of the project by the Cheltenham Trust will help the council deliver its corporate strategy outcome: <ul style="list-style-type: none"> • People live in strong, safe and healthy communities
Environmental and climate change implications	The range of improvements to Leisure-at-Cheltenham will be built in accordance with the environmental specifications set out in the latest building regulations.

1. Background

- 1.1** The Cheltenham Trust was established as a consequence of a commissioning review into how best the Council could continue to support the delivery of its leisure and cultural services, and the management of five properties (The Wilson, Town Hall, Pittville Pump Room, Leisure at Cheltenham, Prince of Wales Stadium) whilst delivering best value to the taxpayer.
- 1.2** The Trust went live in October 2014 and the Council has encouraged the Trust to develop a vision for the Leisure Centre and Prince of Wales stadium.
- 1.3** The Trust has subsequently come back with an initial vision. This is:
- To develop a hub within the town that encourages public participation in diverse experiences that touch and inspire people be it through sport, culture, play, competition, heritage, learning, health and wellbeing. The ambition is to put Cheltenham at the forefront nationally, creating a unique place that contributes to the social, cultural and economic value of the town and enriching the lives of residents and visitors.*
- 1.4** Within this wider vision, Council agreed in March 2017 to offer the Trust a loan of up to £1.5m to update and upgrade the wellbeing facilities at the leisure centre and develop a new aquatic play space.
- 1.5** The Trust have also been active in securing external funds to deliver the vision and applied to Sports England under the Swim Local grant programme.

2. Swim Local programme

- 2.1** Swimming is the largest participation sport in England (around 17 million people aged 14+ who swim at least once a year), but is in a period of steep decline. It is important to stem this decline because of swimming's unique contribution to the physical activity landscape:
- 41% of weekly swimmers just swim and do no other sport (so if we 'lose' a swimmer, we're likely to 'lose' a participant from activity overall)
 - It's the sport with largest female participation and demand (in an overall context of many more men taking part in sport than women)

- It is an accessible sport – it is an activity that can be low impact for those with injuries, disabilities and long term conditions - if disabled swimming was a sport in its own right it would be the 9th largest in England

2.2 Against this backdrop, Sport England is funding a series of pilot interventions to test different ways to increase swimming participation.

2.3 The vision for the pilot is to apply the latest national research around improving the swimming experience to local swimming pools, for local audiences. The desired outcome of the pilot is to understand the impact of making several 'small' (i.e. not major facility refurbishments) improvements simultaneously to the swimming customer experience within a small number of local facilities, to ensure that the swimming experience is improved.

2.4 The impact that we will ultimately be measuring in the pilot will be:

- Awareness of the facility and swimming opportunities available in the local community
- Customer satisfaction with all elements of the swimming experience
- Workforce perception that the culture is centred around providing a great experience for the customer
- Swimming attendance / throughput
- Visitors to the facility/swimming pool are more representative of the profile of the local community (and an increase in groups that were previously under represented.
- Cost effectiveness of the improvements (ROI)

2.5 The council believes the availability of an affordable swimming facility and an excellent customer experience are vital elements in providing a diverse offer and increasing participation in activities to support healthy lifestyles. The availability of the swimming pool is therefore protected in the management agreement with the Trust alongside the specific activities of free swimming for the under-16s and the schools swimming programme.

2.6 The Trust led the bid to Sport England which comprised two elements, a revenue grant request of £150,981 to fund improvements to the visibility and relevance of the swimming experience and the range of programmes that are on offer. A capital grant request of £184,480 to fund the creation of new disabled changing units and improvements to the female changing area.

2.7 During the bidding process, it became clear that Sport England could not award the capital grant to the Trust. Their criteria states that for any capital funding bids over £100k they would require security of tenure for a minimum of 15 years. In the Trust's case having gone live on 1st October 2014 with a 10 year management agreement and a 15 lease that has a break clause after 10 years, we could only demonstrate security of tenure for approximately 7.5 years.

2.8 Therefore, so as not to jeopardise the grant application, an in principle offer was made that the Council would act as the contract holder for the capital award element. Subsequently, the provisional offer of a revenue grant and capital grant was made in February 2017 with the draft capital agreement being issued to the council in April 2017.

2.9 The Trust has now entered into an agreement with Sport England for the revenue funding.

3. Details of the proposed improvements

3.1 The proposed improvements are as follows:

- 3.2 Creation of a Changing Places changing room/shower and toilet unit
- 3.3 Installation of a mobile PoolPod hoist to enable better and more flexible access into the different pools
- 3.4 Refit of the female only changing room to make it more attractive/user friendly
- 3.5 Disabled changing facilities - range of improvement measures to include creation of "Changing Places" standard changing room/toilet facility, additional cubicle (Phase 1), Pool Pod hoist and training for staff & volunteers to improve disability access issues
- 3.6 The Trust has secured £55k from Gloucestershire County Council to fund the PoolPod and Changing Places conversion (3.2 and 3.3 above), with the £184,780 Sport England capital grant funding items 3.4 and 3.5.

4. **Alternative options explored**

- 4.1 The council is exploring two options for managing the capital works associated with the grant; to specify, procure and project manage the works itself or alternatively to pass the grant onto the Trust to specify, procure and project manage. The S.151 officer is continuing to consult with the Head of Property, the Lead Commissioner for the Trust and the Cabinet Member Healthy Lifestyles about the best option to pursue.

5. **Project governance**

- 5.1 The project will be co-sponsored project between The Cheltenham Trust and Cheltenham Borough Council with oversight being provided by the Joint Commissioning Group. The Joint Commissioning Group is the mechanism by which Cheltenham Borough Council and The Cheltenham Trust work together using a co-commissioning approach to deliver capital development projects relating to CBC owned and TCT managed venues.

- 5.2 Current membership of the Group is:

Jaki Meekings-Davis	Trustee, The Cheltenham Trust
Cllr Flo Clucas	Cabinet Member, Cheltenham Borough Council
Julie Finch	CEO, The Cheltenham Trust
Riah Pryor	Head of Content & Programmes, The Cheltenham Trust
Mark Sheldon	Director Corporate Resources & Projects, Cheltenham Borough Council
Richard Gibson	Lead Commissioner for the Trust, Cheltenham Borough Council
Jackie Rigby	Programme Manager, Cheltenham Borough Council

- 5.3 Scrutiny of the project will be via the Cheltenham Trust's Audit and Governance Committee and the Council's Overview and Scrutiny Committee

6. **Performance management – monitoring and review**

- 6.1 Once the grant agreement with Sport England is entered into, it will be managed via the agreed terms and conditions as set out in the agreement.

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Appendices	1. Risk Assessment
Background information	1. Report to Cabinet “Arrangements for managing a Sport England Grant to make improvements to Leisure-at-Cheltenham”, 11 July 2017

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If any element of the grant is passed onto the Trust to manage, CBC will still remain responsible for compliance with the terms of the Sport England Grant Agreement. If the Trust are then unable to manage the project satisfactorily (in terms of project delivery and/or financial management), there is a risk that CBC may be in breach of the grant terms.	Richard Gibson	27 June 2017	2	3	6	Reduce	Before any grant is passed to the Trust, CBC will enter into an agreement with the Trust in which the Trust agrees to comply with the terms of the Sport England Grant and indemnify the Authority for any losses caused by any breach of the agreement.	31 July 2017	Donna Ruck / Pat Pratley	
	As a result of the agreement with Sport England, CBC will need to seek Sport England's permission when letting the any part of the Leisure Centre for the duration of the agreement (25 years). If Sport England do not reply promptly or positively, this may hamper plans to re-let the building.	Richard Gibson	27 June 2017	2	3	6	Accept			Richard Gibson	
	As a result of the agreement with Sport England, CBC will need to seek Sport England's permission to undertake any capital works at the leisure centre for the duration of the agreement (25 years). If Sport England do not reply promptly or positively, this may hamper plans to re-let the building.	Richard Gibson	27 June 2017	2	3	6	Accept			Richard Gibson	
	If any element of the grant is passed onto the Trust to manage, there is potential for some confusion who is responsible for the ongoing management and maintenance of the changes and the impact on the changes to existing and unchanging elements currently captured in the lease and management agreement.	Richard Gibson	27 June 2017	2	3	6	Reduce	The Trust will need to seek and gain Landlord's consent for these improvement works at this is going to be a crucial element for how CBC will manage future risks relating to the physical and legal elements of the funding agreement	31 August 2017	Abi Marshall	