

Waverley Borough Council

Report to: Leader of the Council

Date: 20 December 2023

Ward(s) affected: Haslemere and Shottermill

Report of Director: Ian Doyle, Transformation & Governance

Author: Kelvin Mills – Executive Head Commercial Services

Executive Portfolio Holder/ Lead Councillor responsible: Cllr Kika Mirylees

Report Status: Open

The Edge – Interim Management Arrangement for Community Use

Executive Summary & Background

- 1.1. Waverley Borough Council (WBC) terminated their lease of the Edge Leisure Centre in December 2022 having provided the requisite six months' notice and consulting with Surrey County Council (SCC) (owner of the facility) 18 months prior to the notice being served.
- 1.2. There was an expectation by WBC that SCC would be able to negotiate an agreement with Woolmer Hill School where the school would manage the facilities once WBC were no longer leaseholders. Prior discussions with representatives of the school suggested they were interested, subject to the terms of any agreement, to take over the facility. However, during the six-month notice period an agreement between the School and SCC regarding the future running of The Edge was not reached.
- 1.3. SCC currently permits Woolmer Hill School to use The Edge but only during school hours. This current agreement does not include community use out of school hours and several clubs, including two disability groups, have been impacted.

- 1.4. WBC officers have been in dialogue with SCC and interested parties since 1st July 2022 with a view to SCC coming to an arrangement with these parties as to the reopening of the facility for the community use required. However, no such agreement has been reached or completed and the facility continues to be used on this limited basis.
- 1.5. It is apparent that the closing of the Edge Sports Hall, for its use by the wider community, has had a significant impact on several local clubs. Indeed, one could be facing closure given the lack of alternative affordable local facilities.
- 1.6. Importantly, The Edge Sports Hall is the only local facility that allows full accessibility for two specific user groups: the Wheelchair Disabled Sports Team and the Cerebral Palsy Football Group. It was well used by these groups before closing, providing the physical and mental health benefits that other groups can enjoy at other local sites such as Haslemere Leisure Centre. Denying these two groups an equal opportunity to enjoy the same benefits as other user groups is one of the key reasons that WBC has been engaged with SCC over opening the facility more widely. This would have enabled such disadvantaged groups to continue their valuable service to community wellbeing whilst a longer-term solution is sought.
- 1.7. The delay to opening the Sports Hall has also severely impacted the stability of the disability groups and any further delays will adversely impact on their survivability. This will be a loss of service that will be difficult to replace as The Edge is the only facility truly accessible in the Borough and surrounding area.
- 1.8. It is against this background that the leaders of both SCC and WBC met with a view to finding resolution; both leaders are desirous to see this facility available for the use of the wider community and are inclined towards committing funding from their respective authorities to facilitate this. Both sets of officers have been working together with a view to seeing what possibilities there would be in reality to bring this desire to fruition for the benefit of the local community.

- 1.9. As owner, SCC would be the obvious facilitator however they have expressed their wish not to directly contract with any leisure operator. SCC say that as a county council, they do not have the skills or resource to directly manage a leisure service.
- 1.10. Given SCC's above approach and with a view to ensuring community use and access for disability groups, WBC have explored the prospect of taking a short-term lease in order to facilitate the wider community use required.
- 1.11. The speed of discussions and the commitment to opening the facilities as soon as possible mean that to open the facilities would need to be done on a licence to occupy basis with limited security of tenure , with the aim of completing formal lease arrangements thereafter. The Council would be entering this arrangement with SCC who own the building who we currently have a disagreement around dilapidations from the previous notice given on The Edge.

2. Recommendations

THAT: The Leader of the Council resolves to pursue Option No 2, as referred in this report at paragraph 4.2 below

3. Reason(s) for Recommendation:

Professional advice from legal and property officers is that:

- a) given the facts, condition and circumstances, any step-in arrangement of any description would not be the recommended course of action at this time. There exists unquantified financial risk to the council which is considered unnecessary in the context of continuing to provide this discretionary service in this way; and

b) This does not achieve value for money for the council as a pure financial consideration. Option 3 is aimed at providing community benefit, in particular to disability groups.

4. Options Considered with analysis and suggested delegated authority (as required):

- 4.1. **Option 1. - Do nothing.** The provision or facilitation of such services is entirely optional as there is no statutory obligation upon the council to do so.
- 4.2. **Option 2 - Continue to press SCC, as owner, to facilitate the use required.** This would involve SCC contracting directly with the relevant party or parties to facilitate this. This is not a Waverley Borough Council asset and therefore, on one analysis, it should be for SCC as the landowner to facilitate it is availability to its (SCCs) residents. SCC have been consistent in their position that they do not have the skills or knowledge to manage a leisure operator and run a sports hall operation. Given the position taken by SCC thus far though, it is likely this option will result in the facilities remaining closed for community use for a much longer period. Any further closure will impact the viability of the community groups who used the facility and in particular the disability groups that relied on the facility. WBC and SCC have received significant criticism as a result of the facilities not being open for the community and will continue to do so if they do not open.
- 4.3. **Option 3 - WBC enter into an interim arrangement with SCC to enable the facilities to reopen for community use whilst SCC agree an arrangement regarding long term use for community benefit.** This would be a 12-month arrangement whereby WBC would take back possession of [some or all] of the facility to assist in the reopening of the Sports Hall and would also agree a to share the costs and income of doing so as detailed in Paragraph 7 below. This has the advantage of securing the future of the clubs responsible for supporting wheelchair sporting facilities and cerebral palsy football time slots. Failure to enter such an arrangement means we risk losing the associated health and wellbeing benefits that these clubs provide. If we do not facilitate this interim arrangement these specific disadvantaged groups will not have

equality of opportunity moving forward as the clubs will have to close in the New Year. On the other hand, this option could involve risk and expenditure for WBC that it does not have to incur.

Draft Decision and delegated authority if this option selected –

THAT: The Leader of the Council resolves to pursue Option No 3, as referred in this report at paragraph 4.3 on the following basis:

- a) Waverley Borough Council go back into possession of that part of The Edge Leisure Centre (if not the whole) in order that the community use referred to in this Report be provided; and*
- b) the expenditure required as part of entering into the above arrangement, as more particularly set out in Paragraph 7 of this Report, be authorised; and*
- c) Waverley Borough Council agree the related cost and income sharing arrangement, the terms of which are also set out in Paragraph 7 of this Report; and*
- d) The Executive Head for Commercial Services in consultation with the Executive Head for Legal and Democratic Services be delegated authority to settle the terms of and then enter into all the legal documents required and take any other necessary steps required in order to implement Option No 3.*

4.4. **Option 4 – WBC look for alternative facilities.** Officers have explored this with the clubs and have been unable to locate suitable premises that are fully accessible locally for disability groups.

4. Exemption from publication

No

5. Purpose of Report

- 5.1 To set out options analysis with recommendations in relation to any future use of The Edge Leisure Centre following the ending of the council lease of the facility.

6. Strategic Priorities

- 6.1. Leisure and health and wellbeing of our residents is a core principle of the councils' strategic priorities.
- 6.2. Equal opportunities, the closure to community clubs has adversely impacted disability groups as The Edge is one of the few truly 'accessible' sites in the borough and surrounding area.

7. Anticipated Terms of Interim Arrangement

7.1. Summary of Agreement

- Discussion over the financial aspects of this arrangement have led to officers considering that the annual cost of running the Sports Hall will be £250,000. This liability would be split between the two councils as follows: £100,000 from WBC and £150,000 from SCC.
- Any surplus at the end of the arrangement be returned using the same rationale split of 2/5th 3/5th.
- Any income generated during this interim period, including rent from the incumbent organisation Healthflex is returned to the central pot for later redistribution as outlined above.
- SCC will be responsible for ensuring all maintenance of the property is conducted during this interim period.

- WBC will provide operational management of property outside of school hours usage via a third party, Woolmer Hill Sports Association (WHSA)

8. Consultations

The Leader of the Council should consult with the Executive, the Chairs of the Overview and Scrutiny Committees and the Strategic Director of Place in making any decision.

9. Key Risks

- 9.1. Running costs exceed original budget - Contract costs exceed the pot of funding identified. This will not happen without warning and officers will be able to bring forward updates summarising performance and funding on a regular basis. This is unpredictable and WBC will therefore seek to agree a right within the legal agreements to terminate the arrangement prematurely in this event. Income from Artificial Training Pitch 2 & the new 3G pitch stand outside this arrangement and could assist with any shortfall.
- 9.2. WHSA are unable to deliver on their commitment -, this would render operation of the Sports Hall difficult. The identified users will be members of WHSA and recognised sports clubs. The requirement and input from WHSA are minimal once the operation has begun. Significant consultation has already taken place between WHSA and the clubs that will use the facility.
- 9.3. Dilapidations Claim – WBC were served with a Schedule of Dilapidations upon vacating the property and discussions are ongoing with a view to bringing this to a conclusion. WBC going back into possession of the property could, at best complicate the position and at worse be adversely impacted by this interim arrangement. Legal advice has been sought on the precise extent and risk that any re-occupation will have, and this included in the exempt annex.

- 9.4. Relationship difficulties – the ability to agree on operational issues between WBC as tenant and SCC as landowner may be challenging whilst the above dilapidation issue remains outstanding unresolved.
- 9.5. Detail needs to be finalised – the detail of each party's rights and obligations are not yet agreed, and this could represent a disadvantage for WBC if any decision involves WBC moving at pace while terms satisfactory to WBC have not yet been agreed.

10. Financial Implications

- 10.1. £100,000 has been committed by WBC which will be funded from 22/23 General Fund underspend.
- 10.2. WBC will collect all income so will have a clear understanding of the potential risk to WBC of using the £100,000 pot and be able to monitor expenditure and income closely throughout this interim period.
- 10.3. A key financial risk to the proposal is the business rates that could be applied, and discussions are currently on going with the valuation team. This could be a significant cost to the interim proposal if not mitigated.

11. Legal & Property Implications

- 11.1. The council has a statutory power but not a duty to provide recreational facilities. That power, which is set out in section 19 of the Local Government (Miscellaneous Powers) Act 1976, enables the Council to *'provide, inside or outside its area, such recreational facilities as it thinks fit.....'*
- 11.2 Section 19 (3) provides that *a local authority may [provide] by way of grant towards the expenses incurred or to be incurred by any other local authority in providing such facilities.*

11.3 Given the need to take possession quickly a temporary arrangement, known as a licence to occupy, would be required in anticipation that the council would then enter in to a lease shortly thereafter. Such a licence, by its nature, means that that, at that time, the council, as occupier, would have limited rights particularly as regards security of tenure

11.4 Any decision to go back into possession of this property as tenant may have an impact upon the council given the outstanding landlord claim for dilapidations. Specialist legal advice will be considered by the decision maker separately on risks concerning dilapidations/repair issues which a possible decision could give rise to.

12. Human Resource Implications

12.1. There will be a small impact upon the leisure management team who will monitor the interim arrangement. This can be contained within existing workloads.

13. Equality and Diversity Implications

13.1. The Edge sports hall is the only such local facility that allows full accessibility for two specific user groups, the wheelchair disabled sports team, and the Cerebral Palsy Football group. It has been previously well used by these groups, providing the physical and mental health benefits that other groups can enjoy at other local sites such as Haslemere Leisure Centre. Denying these two groups an equal opportunity to enjoy the same benefits as other user groups is one of the key reasons for pursuing this course of action and ensuring the groups can continue their momentum and contribution to community wellbeing whilst a longer-term solution is sought.

13.2. The current closure of the hall for community use has adversely impacted the two disability groups as there are no other local accessible sites available to use. These clubs currently cannot operate, and their continued survival is threatened if The Edge is not opened for use early in the new year.

14. Climate Change/Sustainability Implications

14.1 No climate change and sustainability implications have been identified.

Please ensure the following service areas have signed off your report.

Please complete this box, and do not delete.

| Service | Sign off date |
|----------------------------|----------------------|
| Finance / S.151 Officer | 5/12/23 |
| Legal / Governance | 06/12/23 |
| HR | N/A |
| Equalities | N/A |
| Lead Councillor | 20/10/23 |
| CMB | 5/12/23 |
| Executive Briefing/Liaison | |
| Committee Services | |