

BROMSGROVE DISTRICT COUNCIL

CABINET

9TH JANUARY 2008

DOLPHIN CENTRE & HAYBRIDGE SPORTS CENTRE

Responsible Portfolio Holder	Councillor Mrs June Griffiths
Responsible Head of Service	Phil Street

1. SUMMARY

- 1.1 The report outlines the progress made towards the transfer of the Dolphin Centre and Haybridge Sports Centre to Wychavon Leisure Community Association Ltd (trust) (WLCAL) and seeks approval to move towards the final stages of transfer subject to the negotiation of a satisfactory business case and transfer agreement.

2. RECOMMENDATIONS

- 2.1 It is recommended that:
- 2.1.1 Cabinet approve the progress towards the transfer of the Dolphin Centre and Haybridge to WLCAL as detailed in the report.
- 2.1.2 Cabinet delegates authority to the Executive Director – Partnerships and Projects, the Section 151 Officer and the Head of Legal, Equalities and Democratic Services in consultation with the Portfolio Holders for Culture and Community and Finance to take all actions and decisions needed to ensure the transfer of the centres to Wychavon Leisure Community Association Ltd (WLCAL) subject to the finalisation of a satisfactory business case and transfer agreement.
- 2.1.3 That the above delegation may only be exercised if the overall savings to the Council as detailed within the confidential annexe to this report are exceeded or met within a margin of 5%.
- 2.1.4 Cabinet recommend to Full Council that in so far as they relate to procurement issues the Financial Regulations and Contract Procedure Rules be suspended.

3. BACKGROUND

- 3.1 The Council has been exploring for some time ways in which the efficiency of its Leisure Centres can be increased. The Council has concluded that the current arrangements were no longer sustainable and proposed in 2006 to close Woodrush and Haybridge Centres. Subsequently the Woodrush Centre was transferred from the Council to the management of the school,

but due to the nature of the lease at Haybridge and change to 'conditions of the original funding of the building at Haybridge and the terms of the Shared Use Agreement there

- 3.2 A major study by the Audit Commission, published in summer 2006 highlighted the latest trends in local authority leisure service management. The report acknowledged that whilst no single management option delivered the best overall value for money, or consistently resulted in more investment or higher levels of participation, in-house services tended to be significantly more expensive than the other options. However, the transfer of facilities to a leisure trust is a favoured option both for Government and local authorities in the context of Best Value and enabling local communities to participate in the running of their public services. The transfer of facilities to trusts can assist councils to avoid the payment of non-domestic rates which can release funds for re-investment.
- 3.3 A certain amount of work was undertaken by Council officers regarding an options appraisal. This explored retaining the in-house management of the centres, working with a not for profit trust and outsourcing to a private sector organisation.
- 3.4 The outcome of this officer appraisal pointed to a non-profit-distributing-organisation (NPDO) or leisure trust, working in partnership with the Council as the most likely to secure the improvement sought by the Council at the least overall risk, whilst also meeting the Council's social objectives in relation to both users and employees.
- 3.5 Consequently, the Council began to explore opportunities for the future management of the Haybridge Centre and in so doing specifically explored the option of transferring to a leisure trust.
- 3.6 The adjoining district of Wychavon had transferred their leisure centres to a trust in 1999 and as part of the option appraisal discussions were held with Wychavon District Council (WDC) regarding their experience.
- 3.7 These discussions revealed that a high level of satisfaction existed within WDC with the arrangements they had entered into with the trust and indicated that as a result of transfer they had improved and increased the efficiency of the management of the leisure centres. WDC obtained a 66% satisfaction level for its leisure services in the most recent residents survey which is top quartile performance.
- 3.8 WDC has also secured annually over £200,000 of savings on its grant payments to the leisure provider over the last 7 years and has also retained over £100,000 of business rates savings. Representatives from BDC have met with key WDC staff including the Managing Director and has seen the

benefits WDC has secured by working with the leisure trust on behalf of the users and tax payers.

- 3.9 Following discussion with WDC and subsequent meetings with the “trust” operating their leisure centres, the scope for transfer was widened from Haybridge to include the Dolphin Centre for which there were also concerns regarding overall efficiency. Single site operations do not have much scope for financial savings and in the case of small authorities with relatively small leisure services the trend is for working with others to secure the economies of scale needed. This is one of the main reasons that the idea of setting up a stand alone Bromsgrove Leisure Trust was rejected.
- 3.10 The Council believes that there are substantial and beneficial reasons to negotiate with a single “trust” and the track record of WLCAL is clear. An analysis of the local leisure market has shown that WLCAL have been securing contracts from other authorities against open competition and have a public sector ethos which will complement the aspirations of the Council and its leisure customers.
- 3.11 BDC began some informal work on transfer to a trust to test the viability of the concept and subsequently requested Member approval to pursue formally the exploration of transferring the Dolphin Centre and Haybridge Sports Centre to WLCAL. This request was approved and since February 2007 discussions have progressed into detailed work on transfer.
- 3.12 A project group has been established to progress the Human Resources; financial; property and legal elements of transfer. This group meets on a regular basis to ensure that all operational issues are addressed and that a transfer, if approved, can be carried out by the end of the financial year.
- 3.13 The key financial and operational information has now been provided to WLCAL, the preferred leisure partner, based on current information they have prepared an initial 5 year business plan which shows that substantial savings are achievable by transferring the service.
- 3.14 The point has now been reached where Members are being formally asked to approve in principle measures that would result in the transfer of the Dolphin Centre and Haybridge Sports Centre to a leisure trust subject to a satisfactory final business case being presented. Furthermore that powers be delegated to the Executive Director – Partnerships and Projects etc. in line with delegation to agree the final arrangements for transfer.
- 3.15 In the case of the Dolphin Centre there has been a gradual increase in the Council’s expenditure. The Council invested over £1m in the Centre in upgrading some of the facilities in 2004/05. This has improved the appearance of the facility, but has not significantly increased income and

the costs of running the Centre have continued to grow. In the period 2006/7 the Council made a net payment for the Centre of £414,000. The net payment for Dolphin in 2007 / 8 is £470,000.

- 3.16 The Council has agreed to make a further investment through the financing of a fitness suite at the Dolphin Centre. This will attract further income and consequently will lead to a reduction in costs. It is crucial that this increase in income is realised as there is a reduction in the net budget for operating the Dolphin Centre. It is proposed that the trust possesses proven skills of the sort that will be needed to ensure the optimum return from the investment.
- 3.17 The Council needs to ensure that the trust undertakes a proactive marketing campaign and that dedicated customer advisors are put in place. The trust will ensure staff training is refocused to improve customer care and engagement. Through doing this the return from the substantial investment will be maximised.
- 3.18 One of the most forceful reasons for supporting transfer is that at some point in the future, should costs continue to increase regardless of whether this is at the current rate or not, the Council will have to make a decision about the Centre's future. It will have to decide whether it wants to go on bearing these costs, close the centre or outsource the facility. The longer the time taken to arrive at a decision the less attractive the facility will be to an external organisation and the greater the cost to the Council. In making any such decisions the Council needs to be mindful of its responsibilities for providing leisure and community facilities and how it would deliver its social agenda in the future. The focus on young people, disadvantaged users and health are all supported by the leisure facilities.
- 3.19 In the case of Haybridge, the Council received a National Lottery Grant in 1999 which the Council would be required to repay (over £800,000) should it withdraw from the agreement within 21 years. This could be challenged by the Council, but the risk is that if the challenge failed, resources would be expended and the Council would still be responsible for operating the sports centre. This is a key risk to the Council as it is currently meeting a substantial ongoing deficit which is likely to rise in the future.
- 3.20 Transfer to a trust has a number of significant attractions. Discussions based on the outline business case from WLCAL indicate that they would provide substantial savings over a five year period. The potential savings are detailed in the confidential annex to this report.
- 3.21 WLCAL would provide proven and high quality management. They have specialist management with a single focus on the effective delivery of leisure centre services. They can provide swift and informed leisure industry

decisions, a record of effectively marketing facilities, high level of customer satisfaction and have good working relations with local authorities.

- 3.22 The Council will also be able to transfer some of the operational risks to the trust such as income levels, staffing risks etc, and will be able to use a number of control / influence measures to ensure it maximises the benefits of the proposed arrangements. The Council will be able to adjust the level of grant paid to the trust on an annual basis if performance exceeds expectations and will also be able to use its future investment decisions to exert control if necessary.
- 3.23 Indications are that Bromsgrove's interest in the Shared Use Agreement of the Haybridge Centre can be transferred to WLCAL for a period of 7 years without having to repay the original funding received from Sport England . Discussion have already taken place with the various parties to the agreement and they are supportive of the proposals. The Council will transfer its existing obligations to WLCAL, but will still be responsible for the performance of the obligations under the agreement in the unlikely event that the trust does not fully discharge them.
- 3.24 In the longer term the Council will endeavour to renegotiate the basis of the agreement to reduce its costs and risks. All parties in the agreement – the schools, Sport England and the Council can potentially benefit from a revised agreement. The council will need to secure beneficial occupation for the trust and which will allow NNDR savings to be made which can be shared between the parties by an overall reduction in cost.

4. MANAGEMENT FEE

- 4.1 The transfer of the service would still result in the service operating at a deficit so a management fee would be required by the trust. The first years management fee would be based on the initial business plan approved by the Council. Subsequent years would also reflect the business plan as well as any adjustments needed due to under or over performance against the previous years proposal as well as any service improvements requested by the Council.
- 4.2 The management fee negotiations with the trust have worked on the basis of transferring as much of the operational risk as possible to them and they would be responsible for any failure to meet the business plan target unless the failure was due to a Council omission such as not maintaining the building or plant satisfactorily.
- 4.3 The other main risk in the business plan is a significant error being found in the information provided by the Council such as the TUPE information or in the operational information provided about the cost of running the service. If

the error is substantial the trust would seek additional management fee to offset any additional costs they incur. The Council will need to warrant the information provided but the detailed scrutiny this project is receiving from a number of Heads of Service mean that the risk of incorrect information being provided is negligible.

- 4.4 A five year business plan has been provided showing the assumed deficit funding requirement in each year. The total savings compared with the cost of retaining the service in-house is over £1m over the 5 years. An initial 3 year management fee agreement has been proposed as this will give the trust the comfort they need to invest in the service whilst protecting the Council's position in respect of future negotiations.
- 4.5 The experience from Wychavon is that the revenue payment has reduced over eight years as the benefits of capital investment have lead to a reduced management fee requirement and the Trust has been able to spread its overheads by taking on new contracts.
- 4.6 In the case of Bromsgrove a reduction in the management fee level over time in excess of that shown in the business plan may occur as the negotiations have been based on a full operational risk transfer to the Trust. As such the Trust will have allowed for costs associated with this in their proposals. If the risks do not materialise the Council can expect to benefit from further reductions over time.
- 4.7 A management fee reduction arrangement has been agreed which will see BDC benefit from a share of any surplus generated beyond an agreed level. The level will be negotiated with the trust before transfer and will be included in the management fee agreement. This will be dealt with by way of a net reduction in the following years management fee.
- 4.8 Management fee by their nature are discretionary and can be withdrawn or withheld if necessary. In the worst case the Council could refuse to provide a management fee and this would trigger an inevitable closure of the service. In this circumstance a more managed process would actually be implemented to ensure the service and staff revert to the Council or are transferred to a new operator. It is most unlikely that such draconian measures would be needed or that the relationship with the trust would fail to such an extent. However it is prudent to ensure measures are available to the Council should they be necessary.
- 4.9 The powers that can be used to make management fee payments are discussed elsewhere in this report.
- 4.10 In addition to making a revenue management fee to the Trust for the operation of the service the Council would retain responsibility for major

capital repairs, improvements and maintenance of certain items of plant. To this end £50,000 has been included within the Business Plan although this would be retained by the Council until such time as it was required.

- 4.11 Having a long-term contract with a private sector operator would not have such flexibility as the contract sums would need to be negotiated initially and the mechanism for varying the sum agreed in detail. Whilst it is possible to achieve contracts which replicate the benefits of the above arrangements they are difficult to agree and require substantial legal input.
- 4.12 The Council would be able secure its social responsibilities within the management fee agreement for discounted access to priority groups etc. The business plan includes the current level of discounts on offer and the Council can choose to enhance the offer by redirecting savings.
- 4.13 Key groups such as the swimming club, schools etc. can be deemed as “protected users” within the management fee agreement but the Council must use this ability with care otherwise it will limit the trust in their ability to manage the centres and maximise the income levels.

5. STAFFING ISSUES

- 5.1 Transfer to a trust is supported by staff at the leisure centres and has been positively received by the trade unions. A letter of support has been provided by the Union. The TUPE (2006) arrangements protect the rights of those currently employed at the two centres but does not include their pension rights. Negotiations with the trust which is an admitted body in the Worcestershire County Pensions scheme have been on the basis that staff who are in the scheme on the day of transfer can continue to be part of the pension scheme (this is typical in this type of transfer).
- 5.2 The impact on the authority in providing this guarantee is neutral as the Council currently meets the cost of the pensions and will continue to do so indirectly in the management fee. Although there has been an increase in the number of staff joining the scheme as a consequence of the discussions with the trust (which is a cost to the Council prior to transfer) the opportunity exists to reduce, in effect, the cost of the staff which will include pensions should the management fee decline in the future years.
- 5.3 The Council will almost certainly need to enter into a pension guarantee with the Pension fund in respect of the staff transferring to the trust. Although the Council should expect the trust to make the required contributions to the fund it is possible that should the Council not renew the lease after 7 years or withdraw its management fee support the staff may revert to the Council under a reverse TUPE. Any deficit on the pension fund as a result of non

payment or actuarial movements would then be the responsibility of the Council.

- 5.4 The Council is currently nearing completion of a council wide pay review. It is expected that the revised pay structure will be implemented in April 2008. As the Council is unable to provide the trust with details of the likely impact on the leisure staff the Council has agreed in principle to underwrite these costs. Again this has a neutral effect on the Council as the costs would be borne by the Council if it retained the service (and provision for the effects of Single Status are included elsewhere with the revenue budget). It does however prevent finalisation of the business plan until the results are known as staffing costs are the main head of expenditure within the service.
- 5.5 Financial savings are already being realised with the deletion of an establishment post currently held vacant due to the acting up of the post holder. The transfer of the leisure centres will reduce the activities of the Culture and Community Department and will allow for a restructuring which will generate savings which have been included within the review of the medium term financial plan.
- 5.6 However, the effective operation of any agreement reached with the trust will require vigorous monitoring and control. This has been built into the proposed restructuring of the Culture and Community Service merger with Street Scene and Waste Management. It will be essential that an appropriately qualified and experienced officer of BDC act as commissioning officer. It will be expected that the commissioning officer will sit on the local management group. The local management group will consist of the portfolio holder for Culture and Community; BDC's commissioning officer; a representative of WLCAL; BDC's Executive Director – Partnerships and Projects and a user representative.
- 5.7 Under the provisions of TUPE the Council must give 90 days notice to staff that they are likely to be transferred under TUPE to a new economic operator. This notification was made on 20th December 2007. However, if BDC decides not to proceed with the transfer the notices can be withdrawn.

6. TRANSFER PROCESS

- 6.1 The process of transfer is demanding and detailed. However, it is proven and reasonably straightforward and actions have already taken to ensure that the process can be completed by the end of this financial year, subject to Agreement in principle to the transfer being obtained from the Cabinet.
- 6.2 Members should note that the proposed transfer is already creating capacity issues within the Council and that external support is being used to ensure

timely delivery of the scheme (as approved by Executive Cabinet on 1st August 2007).

- 6.3 Support is being provided by an officer from WDC who is familiar with the transfer process. However, all decision are taken by the project team which is comprised of the Heads of Service or their representatives. The group is led by the Executive Director – Partnerships and Projects and currently meets on a three weekly basis. The Group will increase the frequency of its meetings as the transfer date nears.
- 6.4 BDC is using external specialist financial and legal advisors to satisfy themselves as to the possible tax savings and procurement issues. It is also intending to appoint external solicitors to provide a technical oversight on the transfer documentation.
- 6.5 Specialist VAT advice is also being taken from PriceWaterHouse Coopers who have already provided confirmation that the VAT arrangements and structure that are being proposed are workable.
- 6.6 The Head of Legal, Equalities and Democratic Services and her team are closely involved in the process and are assisting in the preparation of leases, contracts, deed of variation, grants and management document.

7. THE DECISION

- 7.1 The Council is now faced with a choice. The benefits and risks of transferring the operation and management to the trust are clear and have been set out above. It is recommended that the transfer proceeds subject to the agreement of the business plans and transfer documentation.
- 7.2 Retaining the management of the Dolphin Centre and Haybridge in house has a high risk of increased costs and future service failure. Alternatively the Council could decide to carry out a full market test and / or to seek a commercial partner with which to work. This last option has been discounted in the initial review as it is not considered likely to deliver the same benefits as the trust option. A full market test would take at least a year to complete and cost around £100,000. This would present a significant difficulty to the Council both in capacity terms and in respect of total costs. A delay of a year would cost the Council at least £150,000 (saving as a result of transfer) plus procurement costs of £100,000.
- 7.3 It is therefore recommended to proceed with the transfer to WLCAL.

8. FINANCIAL IMPLICATIONS

- 8.1 A detailed business case is being prepared by the leisure trust. However, due to changing circumstances a final business case cannot be presented until March 2008. This is due to changes in staffing levels and costs and the uncertainty as to the opening date of the new gym development.
- 8.2 It is projected that the Council will save a substantial sum over the next five years (over £1m). The medium term financial plan includes £150,000 savings in 2008/9 in relation to the transfer.
- 8.3 An updated report in relation to the financial savings will be presented to members once the final business case is produced.
- 8.4 The Council will need to establish a sinking fund / reserve to meet its obligations as Landlord. The annual costs of this reserve will be met from overall savings generated by the proposed transfer. This is estimated at £50,000 per annum.
- 8.5 The costs of the transfer process are being met from the £25,000 approved in August and from savings expected to be made on VAT attributable to the gym development which should be recoverable if the Council are not the operator of the Dolphin centre.
- 8.6 The Council currently has to account for VAT on certain types of expenditure within the leisure centre such as capital works and repairs. Should the transfer proceed the Councils VAT position will improve as the Council will no longer be receiving a substantial amount of exempt income.
- 8.7 The proposed transfer to the trust will require the Council to reallocate certain internal costs in the short term but it will provide the opportunity to reduce some service costs in the short to medium term which may provide additional savings to the Council. These costs have been considered as part of the review of the medium term financial plan.
- 8.8 Savings will also arise from the transfer of vacant Head of Service post, which have been included within the review of the Medium Term Financial Plan.
- 8.9 Should the Council decide not to proceed with the transfer it will be faced with a number of abortive costs which will need to be met from within existing resources e.g. legal costs, external advisory support and fees.
- 8.10 VAT planning will be critical to the overall financial arrangements and advice on this matter has been sought from VAT experts conversant with the process.

- 8.11 The overall project plan includes a significant contingency sum to meet unexpected costs should they arise. This sum will also be used to replace the telecommunications systems in the leisure centres as they are currently integrated into the Councils systems.
- 8.12 The report of the Review of the Medium Term Financial Plan elsewhere on the agenda shows how this transfer will contribute towards the Councils Gershon savings requirements.

9. OVERALL FINANCIAL OBJECTIVES

- 9.1 Total savings over a 5 year period are expected to be at least £1M against the cost of retaining the service in house. Even after recovery of some of the capital spent on the gym extension the Council is likely to save over £1M in five years.

10. LEGAL IMPLICATIONS

- 10.1 There are significant legal implications associated with transfer. These are being addressed, but include:
- 10.1.1 Drawing up a transfer agreement which details responsibilities and payments. This is critical to ensuring the Council maximise the benefits of the transfer, ensures local representation in the operations of the leisure facilities and minimises the Council's ongoing risks. External legal opinion is being obtained on this and a number of other issues to provide members and officers with comfort that the agreements are reasonable and legally sound.
- 10.1.2 Preparation of a lease. It is proposed that the Council would enter into a seven year lease with the trust with the Council retaining responsibility for the building structures and major plant. This maximises the respective financial positions of the trust and the Council and enables the service cost to be reduced. The Council will still retain the freehold of the Dolphin Centre and will ensure that the right to renewal is removed.
- 10.1.3 A Deed of Variation needs to be completed which will allow the Council to transfer its obligation under the existing shared use agreement at Haybridge to WLCAL for a period of seven years. This variation will be prepared following discussions with Sport England and the school. This not expected to be a problem as the community use will be maintained. The use of a third sector not for profit operator should be welcomed by Sport England and there is a similar arrangement in operation within the County.

10.1.4 Preparing a management fee document that will secure and identify monitoring and governance involvement by the Council. The management fee agreement will include defining and preserving the following:

- Service level outcomes
- Local representation
- Management Group Composition
- Priority Users
- Insurance
- Accounting arrangements
- Information exchanges

10.1.5 Preparing a management fee Document which will clearly define the service outputs expected in return for the Council management fee support.

10.1.6 s19 of the Local Government (Miscellaneous Provisions) Act 1976 states that 'a local authority may provide inside or outside its area, such recreational facilities as it thinks fit' and assist 'by way of grant or loan towards the expenses incurred.... by a voluntary organisation in providing any recreational facilities.'

10.1.7 s111(1) of the Local Government Act 1972 provides that 'Without prejudice to any powers exercisable apart from this section a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to the discharge of any of their functions.'

10.1.8 The Local Government Act 2000 allows for the promotion or improvement of the economic, social and environmental well-being of an area. S2(1) includes a power to incur expenditure, give financial assistance to any person, enter into arrangements or agreements with any person, co-operate with or facilitate or co-ordinate the activities of any person.

10.1.9 Section 123 of the Local Government Act 1972 provides that a Council may dispose of land in any manner they wish. However, they are precluded, except with the consent of the Secretary of State, to dispose of land otherwise by way of a short tenancy for a consideration less than the best that can be reasonably be obtained. However, the General Consent (England) 2003 gets around this obstacle by allowing any authority to dispose of any interest in land at an under value which the local authority considers will help them secure the promotion or improvement of the economic, social or environmental well being of the area provided that the under value does not exceed £2m. Therefore, the Council to enter into a lease of the Dolphin Centre for a period of seven years at a peppercorn lease.

- 10.1.10 Pension guarantees can be justified under economic development powers.
- 10.1.11 Compliance with procurement legislation. This is a key issue for the Council as Members will wish to be sure of the legality of the process being undertaken. BDC has taken advice from a senior consultant to Clarke Willmott solicitors who are satisfied that the Council does have the power to do as it proposes. The advice to BDC supported by the Council's procurement officer shows how the European and UK legislation is satisfied and how the process is robust enough to enable the Council's Financial Regulations and Contract Procedure Rules to be suspended in this case. In simple terms the award of a contract for leisure services is not subject to a requirement for competitive procurement in the EU as it is classed as a part B service.
- 10.2 Given the above advice it is necessary that the Council's Financial Regulations and Contract Procedure Rules are suspended in order that the transfer can be progressed.
- 10.3 In respect of UK law the Council has a fiduciary duty to demonstrate best value on behalf of its taxpayers. Whilst a competitive process may do this other methods are also justifiable. In this case the likely partner has an excellent track record of delivering these services and the comparison with the in-house operation shows demonstrable VFM.
- 10.4 The study by the Audit Commission, published in summer 2006 mentioned earlier in the report also acknowledges that transfer to a Trust is a cost effective alternative to direct provision.

11. COUNCIL OBJECTIVES

- 11.1 The proposed transfer supports the Council Objectives in relation to enhanced customer service and town centre regeneration. The improvements to the Dolphin Centre form part of the raising of standards in the town centre. Bromsgrove's town regeneration will be based on providing high quality services for people who want high quality life styles.
- 11.2 The transfer specifically contributes to improving performance. The Council has stated in its Council Plan that the Council seeks to improve performance and maintain service delivery standards. The transfer of the leisure centres to a trust is designed to contribute to the achievement of these priorities.

12. RISK MANAGEMENT

Risks

Of not transferring

Continue to be managed in current format
Will not result in maximising return from investment
Continue to invest increasing levels of BDC funds into centres
Have to undertake a fundamental review of the centres
Market test the centres
Spend a year market testing and then be required to devote significant resources to preparing the tender documents

Mitigate these risks

Carry out a wide ranging review, revise the management structure, up skill management and centre staff and invest further into sites.

Risks associated with transfer process

Transfer delayed
Business plan in sufficiently robust
Construction over runs
Dip in performance during transfer and loss of business

Carry out transfer

Marketing is inappropriate, cleaning regime inadequate and customer service unsatisfactory
Trust underperforms according to business plan
Grant payments increase
Bring back staff into BDC on enhanced conditions based on TUPE requirements
Performance is poor and adversely affect BDC's reputation
Not sufficiently rigorous in applying standards and health and safety
Insufficient clarification in agreements
BDC does not perform its landlord responsibilities appropriately

Mitigation these risks

Vigorous analysis of business plan
WLCAL business plans have a good record in similar situations
WLCAL have good user satisfaction ratings
Grant fixed for 3 years
Vigilant control and monitoring of contract, management of centre and commissioning

Continued investment on site to improve customer experience
Adopting a detailed and thorough approach to preparation of lease, grant and management agreements
Performance management and WLCAL's track record will secure high levels of marketing, cleanliness and customer satisfaction.

13. CUSTOMER IMPLICATIONS

13.1 There is currently low and decreasing customer satisfaction with the Dolphin Centre and a view that Haybridge is not being used to best meet customer demands. The satisfaction rating from the user panel published in 2007 indicated levels of customer satisfaction..

13.2 The trust has high customer satisfaction rating (National Benchmarking Service) and an excellent record in delivering services within the leisure community. As shown by the contracts secured from Malvern Hills District Council (Dysons and Martley), Matthew Boulton College and Gloscat. The trust has repeatedly reached and improved its usage targets and has built respect within its sector for the quality of its work.

13.3 The overall Customer Care objectives of transferring the service to a Trust are:

13.3.1 Improved residents satisfaction level from 53% in 2006/07 to 58% in 2009 / 10 as recorded in Audit Commission Best Value review.

13.3.2 Increased user satisfaction level as recorded in the customer user satisfaction survey from the current 55% to 70% in 2009 / 2010

13.3.3 Improved QUEST score from 71 to 77 by 2010 / 2011

13.3.4 NBS data showing top quartile in 2009 / 2010 based on performance areas to be identified in grant agreement document.

13.3.5 Increased level of use – BDC expects 2% year on year

13.3.6 More priority group use – set targets in grant agreement

13.3.7 Get 1 BDC user onto the WLCAL main Board within 3 years (by election)

14. EQUALITIES AND DIVERSITY IMPLICATIONS

14.1 The trust has indicated its commitment to equality and diversity and access arrangements will form part of the management agreement with the trust. As a not for profit organisation operating in the public sector the trust is fully aware of its duties and responsibilities as well as those of its partners.

14.2 Equality issues apply to both customers and staff and measurement of use of the centres by a range of groups will be carried out regularly, The trust also includes steps to facilitate easier use of its sites by people for whom English is not their First language.

14.3 The protection of children and vulnerable adults is part of the day to day working procedures and policies of the trust and all staff are subject to regular CRB checks.

15. OTHER IMPLICATIONS

15.1 All of these issues are addressed in the report but are summarised below

<p>Procurement Issues – See main body of report</p> <p>Discussion took place with the procurement officer at several stages in the transfer discussions, External advice has been sought from an experienced procurement lawyer who has approved the processes. The Council has the legal power to enter into a contract with an external provider for the provision of leisure services by virtue of the Local Government (Contracts) Act 1997, which provides that “every statutory provision conferring or imposing a function on a local authority confers power on the local authority to enter into a contract with another person for the provision or making available of assets or services, or both, (whether or not together with goods) for the purposes of or in connection with, the discharge of the function by the local authority.”</p>
<p>Personnel Implications</p> <ul style="list-style-type: none">➤ Consultation has been instigated with staff who have been involved throughout the process. TUPE is being pursued and HR are a key member of the leisure trust transfer group➤ Unions are supportive of the process➤ Pension implications and Guarantees are being discussed with Pension Fund and County Council➤ Staff employed by the Trust can stand for election to the main Board.➤ Staff can become shareholders in the Trust
<p>Governance/Performance Management</p> <ul style="list-style-type: none">➤ Arrangements will be established as part of the grant agreement that ensure that BDC is involved in the trust’s governance and site management arrangements.➤ Local representation in the management of BDC leisure centre has been agreed by the Trust including member representation➤ Regular meetings to discuss performance and outcomes will be held with the Head of Service➤ BDC will set clear measurable objectives within the grant

<p>agreement and have the right to reduce grants payments if objectives are not met.</p> <p>➤ BDC will retain considerable influences and controls via its grants, investment and Landlord responsibilities and could decide to bring the arrangements to an end if necessary by withdrawing the grant. Steps would need to be taken to have a new operator in place otherwise the Council would be faced with the cost of running the service and meeting any pension liabilities which have accrued.</p>
Community Safety including Section 17 of Crime and Disorder Act 1998 – N/A
Policy – This is in line with the Council’s VFM Strategy.
Environmental - N/A

16. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	Yes
Executive Director – Partnerships and Projects	Yes
Assistant Chief Executive	Yes
Head of Service	Yes
Head of Financial Services	Yes
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	Yes
Corporate Procurement Team	

17. APPENDICES

None.

18. BACKGROUND PAPERS

Details of Progress with Leisure Centre Developments – Executive Cabinet report 1st August 2007

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