



Cabinet Meeting
17 June 2024

**Report from the Corporate Director,
Community Health & Wellbeing**

**Lead Member – Cabinet Member for
Community Health & Wellbeing
(Councillor Neil Nerva)**

Vale Farm Procurement Option

Wards Affected:	Sudbury
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Part Exempt – Appendices 1, 2, 3 and 4 are exempt as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
List of Appendices:	Four: Appendix 1 (exempt): Vale Farm Sports Building Inspection Report Appendix 2 (exempt): Financial modelling summary Appendix 3 (exempt): Options appraisal Appendix 4 (exempt): Tri Brough Scoping Report
Background Papers:	None
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1.0 Executive Summary

- 1.1. This report seeks Cabinet approval to undertake a Tri-borough procurement exercise with Ealing and Harrow, to deliver the leisure service provision at Vale Farm Leisure Centre from September 2025.

2.0 Recommendation(s)

That Cabinet:

- 2.1 Notes that the Council's current Tri-borough contract in respect of Vale Farm Leisure Centre with Sport & Leisure Management Limited (SLM) ends in August 2025.
- 2.2 Approves the undertaking of a Tri-borough procurement with the London Boroughs of Ealing and Harrow to deliver leisure service provision at Vale Farm Leisure Centre, such procurement to be led by the London Borough of Harrow.
- 2.3 Approves the use of the London Borough of Harrow's Contract Standing Orders and Financial Regulations in the procurement of the contract referred to in Recommendation 2.2 above.
- 2.4 Delegate authority to the Corporate Director, Community Health and Wellbeing in consultation with the Lead Member for Community Health and Wellbeing to approve steps in the procurement of the contract referred to in Recommendation 2.2 as are necessary and consistent with the contents of this report.
- 2.5 Notes that following the procurement of the Contract referred to in Recommendation 2.2, Officers will report back to Cabinet to seek approval to award the Contract.

3.0 Detail

3.1 Cabinet Member Foreword

- 3.1.1 Our Leisure Centres contribute to the mental and physical health of our residents. Realising their full potential requires leisure centres to be utilised by the whole community and that services are provided in such a way that those who may not have historically accessed a leisure centre are encouraged to do so.
- 3.1.2 The COVID-19 pandemic, the cost-of-living crisis and the cost of utilities have had a fundamental impact on, and significantly challenged, the operation and financial performance of the sports and leisure sector in general, and therefore also on the council's leisure facilities. The provision of any new Leisure service offer must reflect the changed and more challenging financial context in which the industry and local government is operating.
- 3.1.3 Re-specifying the leisure offer to residents provides much more inclusive opportunities for residents to improve and maintain their physical and mental wellbeing and to cater both for those who already enjoy active leisure and to attract less active or socially isolated residents. This reflects our commitments in the Health and Wellbeing Strategy to create healthy lives and healthy places for Brent residents.

3.2 Background

- 3.2.1 The Council's three Leisure Centres operate under different arrangements with three different operators: Bridge Park Community Leisure Centre is operated in-house and will form part of a larger planned redevelopment; Willesden Leisure Centre is managed under a PFI contract which runs until 2031; Vale Farm Leisure Centre is delivered through a Triborough contract with Harrow and Ealing Councils. Neither the contract / PFI end dates nor the timeline for the redevelopment of Bridge Park CLC align at this moment.
- 3.2.2 Vale Farm Leisure Centre is currently operated by Sports and Leisure Management Ltd (T/A Everyone Active) on behalf of Brent Council. This service is provided as part of an existing Tri-borough agreement with the boroughs of Ealing and Harrow, the initial term of which expired on 31st August 2023.
- 3.2.3 A decision to vary and extend the current contract for one year until 31st August 2024 was approved by the Lead Cabinet Member in October 2022. At the time it was envisaged that this would provide time to consider and implement options for a new service provision. However, after meetings held with colleagues in Ealing and Harrow in early 2023, it became clear that a one-year extension was insufficient to allow a re-procurement of the service on a tri-borough basis.
- 3.2.4 Cabinet Member approval was given, in October 2023, to vary and extend the existing Tri Borough Leisure Contract for Vale Farm Sports Centre by a further year from 1 September 2024 to 31st August 2025. Approvals for the contract extension until August 2025 were sought to allow Brent the time to consider all the different management options. A full options appraisal has been conducted. This considered the options of in housing, the creation of a LATCO (local authority trading company), procurement by Brent alone and Triborough procurement with Ealing and Harrow (Appendix 3). The Triborough procurement is the favoured option in terms of affordability, market testing and service offer.
- 3.2.5 From a financial perspective, Brent has seen clear benefits from the Tri-borough approach which have enabled it to benefit from wider economies of scale although only having one facility within the contract.
- 3.2.6 Being a part of the Tri-borough contract increases the market appeal of the opportunity far beyond what would have been achieved by putting Vale Farm out as a standalone management contract.
- 3.2.7 There have been benefits from a non-financial perspective to the Tri-borough approach around shared contract management and learning/ knowledge sharing across the three boroughs.
- 3.2.8 A larger provider will offer increased opportunities for career development for leisure staff. London living wage compliance will be a requirement of the new contract and commissioners will explore the possibility of an employment charter or standards for leisure staff. The provider will be expected to offer a variety of good employment options for staff including sessional opportunities

for residents seeking to develop portfolio careers in the leisure and sports industries.

3.2.9 The specification for the new service will require the provider to respond to the diversity of Brents' resident with tailored offers for neurodiverse residents and the differently abled and culturally competent provision. A larger provider managing a wider portfolio of services will be expected to offer greater specialisation within its offer.

3.2.10 The Council is developing its vision for active leisure as a means to improve health and address health inequalities. This includes aspirations to a more equitable offer for all residents and all parts of the borough. The provider will be expected to partner with the Council, community and voluntary organisations, sports clubs, and governing bodies (amongst others) in realising this vision.

3.2.11 The Council's two other facilities, Willesden Sports Centre (operated by 1Life under a PFI contract) and Bridge Park Community Leisure Centre (currently run in-house), fall outside of the scope of the current contract. However there is an ambition to align the management of the three facilities in the future. A redeveloped Bridge Park Community Leisure Centre would be a key new leisure asset for the borough going forward. The PFI at Willesden Sports Centre expires in 2031. Officers will explore the possibility of including these two leisure centres in the scope of the Tri-borough contract as options that the Council may exercise at some future time.

3.2.12 Sport England frameworks suggest a minimum contract length of 10 years. Ealing and Harrow are proposing a contract of 10 + 5 years. Officers will explore the potential for a break clause for Brent to facilitate the alignment in 3.2.11.

4.0 Stakeholder and ward member consultation and engagement

4.1 User feedback on the current offer at Vale Farm will be reflected in the specification.

5.0 Financial Considerations

5.1 The extension of the contract that commenced on 1st September contains a reduced management fee of circa £53k per annum. This represent a significant reduction from the £223k that was received annually prior to the first extension. The reduction is predominately attributable to increased costs, estimated increases in utilities costs and inflation.

5.2 A detailed financial analysis has been carried out to estimate future costs of operating the leisure contract. The assessment is predominantly based on the expenditure incurred and income currently received by the existing operator. The Council had also commissioned FMG consulting to review the financial projections (Appendix 2).

- 5.3 The market testing indicates that any future outsourcing will most likely result in no income management fee, albeit a management fee may need to be paid to the operator. The Tri-Borough arrangement is also likely to create an additional annual budget requirement to be included in the Council's Medium-Term Financial Strategy.
- 5.4 The building condition report (appendix 1) suggests that additional investment will be required over the next 10 years to ensure the building remains in a condition to provide high quality leisure services to residents. This cost would remain with the Council, even as part of any outsourcing arrangements.

6.0 Legal Considerations

- 6.1 Section 111 of the Local Government Act 1972 provides powers for a local authority to do anything (whether 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 function.
- 6.2 In considering any recommendations regard must be had to the Council's obligations to carry out its duties in accordance with the principles of best value - to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Under section 3 of the Local Government Act 1999 the Council has a general 'best value' duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Best Value is a mandatorily relevant consideration, being a positive duty. Best Value consultation is required, under Section 3(2).
- 6.3 The current service provision ends in 2025. Where there is a significant change in service provision envisaged, consultation is required. Consultation must be carried out while proposals are at a formative stage, must give sufficient reasons for proposals and allow adequate time for consideration and response. Given the recommend option is to continue with the tri-borough arrangements, it is not considered that consultation is required.
- 6.4 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) is likely to apply to staff currently employed at Vale Farm Leisure Centre with staff transferring pursuant to TUPE to another provider if SLM is not reappointed.
- 6.5 Officers recommend the re-procurement of an external provider to deliver the service. Such contract is likely to fall within the definition of a 'public services contract' under the Public Contracts Regulations 2015 ('PCR 2015') and is above the procurement threshold for services currently £214,904 (inc. VAT). As such, this procurement will be subject to the full application of the new procurement rules under the new Procurement Act PCR 2023. The contract is also categorised as a high value contract under the Council's contract standing orders and accordingly is subject to the Council's rules for high value contracts,

to include a requirement for Cabinet approval to authorise any procurement and award any contract. Any outsourced service involving the appointment of an alternative provider will involve the transfer of staff currently employed at Vale Farm Leisure Centre pursuant to TUPE.

- 6.6 CSO 85 provides that any collaborative procurement shall comply with the Council's Standing Orders and Financial Regulations unless in the case of a Medium or High Value Contract the agreement of the Cabinet or an individual Cabinet Member is obtained under CSO No 84(a). As the intention is for the London Borough of Harrow to lead the procurement, it would be intended that its Contract Standing Orders and Financial Regulations would be used to procure the Tri-borough contract.
- 6.7 The Tri-borough contract will involve the Council entering a lease with the successful provider. The lease will be tied to the contract and will cease at the same time as the contract.
- 6.8 Under Part 3, paragraph 11 of the Constitution, the Corporate Director, Finance and Resources or the Director of Property and Assets may acquire or dispose of an interest in land or buildings. The restrictions placed upon such acquisitions or disposals are set out in Part 3 paragraphs 11.2, 11.3 and 11.6 of the Constitution.
- 6.9 The Corporate Director, Finance and Resources may acquire or dispose of leases, licences, and easements in respect of land or buildings except where:
- i) the annual rental value (excluding other outgoings) exceeds £250k
 - ii) if acquired or disposed of at a premium the value would, in his or her view, exceed £1m in value or
 - iii) where the leasehold term exceeds 125 years.
- 6.10 The Corporate Director, Finance and Resource should be advised of any disposal or acquisition undertaken by this delegated authority within three months of any transaction.
- 6.11 The Corporate Director, Finance and Resources may not sell or grant any lease or easement, licence or otherwise dispose of any land or buildings unless the consideration received, as confirmed by them is the best that can reasonably be obtained, whether or not the grant, sale or disposal is covered by a general or specific consent from the relevant Secretary of State.
- 6.12 In acquiring, selling or disposing of any land or buildings or granting any lease, licence or easement in respect thereof regard shall be had to any relevant Corporate Standards on property acquisitions, management and disposals.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

- 7.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 7.2 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 7.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.4 There is no prescribed way the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.
- 7.5 The proposals in this report have been subject to screening and an equality impact assessment completed. Officers believe that there are no adverse equality implications to any service users with any of the proposals considered at this time.

8.0 Climate Change and Environmental Considerations

- 8.1 The council declared a climate and ecological emergency in 2019 and set out to do all in its gift to become carbon neutral on a borough-wide basis by 2030. The council has subsequently adopted a Climate and Ecological Emergency Strategy (2021-2030) which sets out the council's route map to achieve this aim.
- 8.2 The Climate and Ecological Emergency 2022-24 Delivery Plan set out a specific action to lead by example and '*finalise our plans for the council to achieve net zero carbon emissions from the council's own estate and operations by 2030*'. The options for the sports centre beyond the proposed one-year extension, and any proposed capital maintenance work for the building, should place a strong emphasis on environmental sustainability, thereby contributing to the council's stated aims for buildings which could be considered part of its estate.
- 8.3 The government's Swimming Pool Support Fund (SPSF) provides a total of £60 million to local authorities in England as a support package for public leisure facilities with swimming pools and is split into two phases. Phase II of this fund makes £40m available from the government for capital investment to improve the energy efficiency of public facilities with pools in the medium to long term. The council submitted a bid to this fund and Vale Farm Sports Centre was

included. Unfortunately, due to the high demand for this fund, the bid for Vale Farm was not successful and the money awarded instead to Willesden Sports Centre to allow for the installation of solar panels to improve energy efficiency.

9.0 Human Resources/Property Considerations (if appropriate)

- 9.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from the re-procurement of the contract to operate the Vale Farm Sports Centre.
- 9.2 Appointment of another contractor would result in the staff of Sports and Leisure Management Ltd transferring to a new contractor pursuant to TUPE. This will require consultation with staff. The intention would be for staff to be paid the London Living Wage.
- 9.3 The building is council owned and therefore a lease termination will automatically apply with Sports and Leisure Management Ltd at the end of August 2025 if no alternative action is taken. As part of any new contract, the Council will enter in a lease with the new provider.

10.0 Communication Considerations

- 10.1 There are no communications considerations to be considered at this time.

Report sign off:

Rachel Crossley

Corporate Director, Community Health & Wellbeing