

PREFERRED SUPPLIER OF LEISURE SERVICES AT THE RAINBOW LEISURE CENTRE

Head of Service:	Andrew Bircher, Assistant Director of Corporate Services
Report Authors	Assistant Director of Corporate Services and Corporate Governance and Strategy Manager
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Appendices (attached):	Appendix 1 – (Exempt Paper) Appendix 2 – Equality Impact Assessment

Summary

This report details the outcome of the procurement exercise which has taken place to find an operator for the Rainbow Leisure Centre for the next 10 years. The contract with the current operator, Greenwich Leisure Limited (GLL) expires at the end of September 2025, without an option to extend. An invitation to tender was published last year to secure an operator for the next contract period. The procurement exercise has finished, and this report makes a recommendation to the Committee, in accordance with our Contract Standing Orders, for the award of contract to the Preferred Supplier.

Recommendation (s)

The Committee is asked to:

- (1) Approve the proposal to appoint the Preferred Supplier for the delivery of leisure services at the Rainbow Leisure Centre (Option A), as identified through the procurement process and in accordance with the Council's Contract Standing Orders.**
- (2) Approve the award of the contract to the second placed bidder, should the contract be unable to be finalised with the Preferred Supplier; and if the same should happen with the second placed bidder, the contract awarded to the third placed bidder.**
- (3) Nominate and authorise the Assistant Director of Corporate Services, in consultation with the Director of Corporate Services and Head of Legal Services to take all necessary steps to bring into effect the recommendations resolved by this Committee.**

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1 Reason for Recommendation

- 1.1 Under the Council's Contract Standing Orders, there is a requirement that any Threshold 4 contracts - the award of the contract for the Leisure Centre is a Threshold 4 contract - must be approved by the relevant committee before the contract can be awarded.
- 1.2 The terms of reference for the Community and Wellbeing Committee cover the provision of leisure services, and so approval is required of Community and Wellbeing Committee. However, as the financial impact of the contract on the finances of the council is significant, approval of the contract award is also sought from Strategy and Resources Committee, as their terms of reference cover the council's budget.
- 1.3 The recommendation above reflects the outcome of the procurement process that has been followed over the course of the past year.
- 1.4 Approving the recommendation will ensure there is a continuity of high-quality leisure, health and wellbeing services delivered by the Rainbow Leisure Centre (the 'Centre'), and that it remains a financially sustainable council-owned facility.
- 1.5 In relation to Recommendation 2, this has been included in the unlikely circumstance that the council cannot proceed with the Preferred Supplier.
- 1.6 Please note that Appendix 1 has been categorised as an Exempt Paper as it contains commercially sensitive information relating to the preferred bid, which in order to uphold and protect the commercial interests of this council, cannot be shared in the public domain.

2 Background

- 2.1 The council owns one leisure centre in the Borough. The facilities at the Centre include swimming pools, sports hall, fitness suite, exercise / dance studios, soft play, seniors' room, and spa.
- 2.2 Since the Centre was rebuilt and opened in 2003, it has been operated by a third-party leisure operator, Greenwich Leisure Limited (GLL), trading under the name 'Better'.
- 2.3 The existing contract with GLL was for a period of 15 years with an option to extend for a further 7 years and 6 months. Having exercised the extension, the contract is due to expire at the end of September 2025 with no further option to extend.

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- 2.4 It was agreed in the council's Annual Plan 2024/25 that officers would progress the re-tendering of the Centre contract, and funding was allocated to procure a specialist leisure consultant. Throughout the process, the Chairs of the Community and Wellbeing and Strategy and Resources committees have been briefed.
- 2.5 The first step in progressing the re-tendering of the contract was to appoint a leisure consultant, FMG Consulting Ltd., to support officers with the procurement. As the council does not have dedicated in-house leisure operation or industry expertise, consultants were necessary to ensure the council was best placed to receive competitive tenders. For the same reason, specialist legal solicitors, Freeths, were also appointed, and our partner, the Shared Procurement Service, has also been used with this procurement.

3 Our approach to the procurement

- 3.1 The council has followed a clear, compliant, transparent and competitive two-stage procurement process (competitive procedure with negotiation) in accordance with the Public Contracts Regulations 2015 (as the procurement exercise began before the government's implementation of the Procurement Act 2023), and the council's Contract Standing Orders.
- 3.2 Within the procurement documentation shared with potential bidders for the Centre contract, the council put forward the following priority outcomes:
- High quality services that meet and exceed customer expectations.
 - Delivering a financially and environmentally sustainable and well-maintained leisure facility.
 - Improved health and wellbeing of the community, through increased opportunities to participate in sport and physical activity, from beginner to elite level.
 - Improved access to facilities, activities and opportunities for targeted groups that participate less in sport and physical activity.
 - Providing wider social value through strong and positive engagement with partners.
- 3.3 The existing contract reflects its time, with respect to the primary focus being placed on the operation of the facility. The current approach through this procurement has been to seek an operator who will be able to provide a much more holistic offering to the community, namely by providing a robust active communities programme, which will involve delivering services outside of the Centre itself, and which addresses the council's health and wellbeing priorities for the Borough. The approach has also sought to ensure that a balanced programme of activities is provided within the Centre, and an appropriate range of concessionary rates are on offer to customers. In addition, the new Centre contract is based on the latest template version produced by Sport England.

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- 3.4 The council has been very satisfied with the way the Centre has been operated over the past 22 years, and consider it a key community facility. This includes the operation through some very difficult times, such as Covid.
- 3.5 Overall, the Centre is in good condition and receives high satisfaction levels from its users. However, as the building is now over 20 years old, fresh investment in the facility would ensure it continues to perform well into the future and remains a sustainable council owned venue.
- 3.6 The council does not have an in-house leisure team or have officers with the level of expertise required to operate a leisure facility. Hence, partnering with a specialist external provider who can operate the Centre is the council's only option, apart from closing the Centre after September 2025.

4 The Procurement Timetable:

- 4.1 The process so far, and onward:

Stage / Activity	Target Date
Market Interest Day	22 nd October 2024
Issue Find A Tender Contract Notice	15 th November 2024
Deadline for Selection Questionnaire (SQ) and Initial Tender clarification questions	24 th January 2025
Deadline for SQ and Initial Tender submission	7 th February 2025
Evaluation of Initial Tenders	10 th February – 14 th March 2025
Negotiation Meetings with bidders	17 th March – 11 th April 2025
Bidders invited to submit Final Tenders	11 th April 2025
Deadline for Final Tender clarification questions	25 th April 2025
Deadline for Final Tender submission	Midday 9 th May 2025
Evaluation of Final Tenders	9 th May – 21 st May 2025
Council governance processes	22 nd May – 17 th June 2025
Award notice and standstill period	18 th June – 28 th June 2025
Contract finalisation, signature and mobilisation period	30 th June – 30 th September 2025
Contract start date	1 st October 2025

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- 4.2 To keep the members of the Community and Wellbeing and Strategy and Resources committees updated on the progress of the procurement, two briefing sessions have been held (31st July 2024 and 25th March 2025). Furthermore, updates on the progress of the procurement have also featured within the council's corporate performance reports, and given at the monthly Community and Wellbeing Committee and Strategy and Resources Committee Chairs' meetings

4.3 Initial Tender Submission

- 4.4 Following the publication of the tender opportunity on the council's website, 4 bids were received, all of which had passed the Selection Questionnaire, which is designed to ensure that any potential operator has the professionalism, qualifications, policies and credentials to deliver the contractual requirements on behalf of the council.
- 4.5 The Invitation to Submit Initial Tender (ISIT) document clearly sets out the council's priority outcomes for the Centre contract and partnership, and the basis on which bidders should develop their initial tenders. The council's base bid (preferred position) required bidders to complete quality responses to predetermined questions around areas such as active communities, activity programmes, investment proposals, customer services, sustainability, facilities management, and pricing. The base bid was comprised of a 10-year contract with the opportunity to extend for a further 5 years. It was also stated that the operator would be responsible for all elements involved in the day to day running of the Centre, including providing equipment and maintenance, excluding items related to the structure of the building, which the council will be responsible for.

4.6 Negotiation Meetings

- 4.7 After the officer evaluation panel had reviewed the initial tenders, 3 bidders were invited to attend negotiation meetings. 1 bidder did not progress to this stage as they couldn't reach the council's expectations regarding the management fee that would be paid by the operator to the council. Bidders were allowed to vary, on an annual basis, the management fee they would pay the council (i.e. profile the fee), so long as it did not fall below a minimum of £400,000 per annum for any year of the contract period, which approximately reflects the council's current management fee payment from the existing operator.
- 4.8 The aim of the negotiation meetings was to clarify and negotiate around areas of their tender submissions. Each bidder was given an equal opportunity to present and clarify areas of their quality method statements, information in the pricing schedule, and the draft contract presented in the tender documentation. Information gathered from these sessions, combined with the initial tender documents, helped the evaluation panel to determine the basis on which the bids would be evaluated at the Invitation to Submit Final Tender (ISFT) stage.

4.9 Final Tender Stage

- 4.10 Following the dialogue meetings and a review of all the financial information generated at ISIT stage, the council set the basis on which it would evaluate the final tenders. The final position was closely aligned to the base bid position with the exception of increasing the page limits for the quality question responses. The council's core requirements are set out in the table below:

Core Requirements
<ul style="list-style-type: none">• 10 Year Contract with the option for the Council to extend this by up to 5 years.• Management of facilities and services in scope in accordance with the Services Specification.• Delivery of an Active Communities Programme.• Shared lifecycle replacement responsibility in accordance with the Services Specification.• A risk share approach on utilities tariff increases.• The Council will remain responsible for insuring the buildings including the payment for this.• The Operator will be required through modern ICT, to accurately measure exercise participation in the Borough. This information will subsequently be used by the Operator to raise participation levels for all residents and target groups and localities as set out in the Services Specification.• A positive variable annual management fee payment from the Operator (which must be greater than £400,000 in each contract year).

- 4.11 The council received 3 final bids. The evaluation panel individually scored each quality question response and then met to agree a moderated score for each question. The Shared Procurement Service then combined the overall moderated quality score for each bidder with their pricing submission to arrive at the Most Economically Advantageous Tender (MEAT). The final scores for each bidder are shown in the exempt appendix (Appendix 1): if the contract award is approved these scores can be made public.
- 4.12 Members should note that following this meeting, should Recommendation 1 be approved, a 'standstill' period will begin whereby the contract award can be challenged. Therefore, Members should not divulge any confidential information related to this report until the standstill period has finished. When appropriate the council will issue a press release.

5 Closing the existing contract

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- 5.1 Whilst this report seeks approval to award a new contract for the operation of the Centre going forward, there is the matter of closing down the existing contract to ensure a good handover, irrespective of whether that is to the same operator or not.
- 5.2 To inform the procurement process and ensure proper closure of the existing contract, the council commissioned a stock condition report, which covered work to be completed under the current contract, and future works to be completed by the new operator. The existing operator and all bidders have reviewed the report, and works to be completed before the end of the current contract have been agreed with the existing operator. Council officers regularly check-in with the existing operator to ensure these works remain on-track.

6 Options

- 6.1 **Option A:** That the committee approves the proposal to appoint the Preferred Supplier for the delivery of leisure services at the Centre, as identified through the procurement process and in accordance with the Council's Contract Standing Orders.

(Recommended)

- 6.2 Risks - See Appendix 1 (Exempt Paper).
- 6.3 Opportunities
- 6.4 There are many opportunities if Option A were to be approved, in terms of: continued revenue to the council through the management fee paid by the operator; investment in the Centre ensuring it remains a sustainable facility which can deliver enhanced services to residents, including an active communities programme that supports the council's health and wellbeing strategy.
- 6.5 **Option B.** That the committee does not approve the Preferred Supplier and decides to close the Centre from 1st October 2025, as there is not a legal option to extend with the current operator and the council does not have the resources to operate the Centre in-house.

(Not recommended)

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- 6.6 Risks: Option B could lead to a significant worsening of the council's financial position, through the loss of its management fee for the Centre and costs associated with decommissioning and maintaining the site; reduction in the provision of health and wellbeing services in the Borough, hence negatively impacting the delivery of the council's health and wellbeing objectives; and reputational risks. There are minimal short-term mitigations that the council could put in place that would have a significant impact on lowering these risks, e.g. alternative funding sources that would cover the management fee paid to the council, and alternative council delivery mechanisms for similar health and wellbeing activities in the Borough.
- 6.7 Opportunities: One opportunity with Option B is that the council could consider alternative uses for the site, however this would require substantial financial investment and would be a long-term project with an uncertain outcome (at present).

7 Risk Assessment

- 7.1 The main risks associated with this report are presented in Appendix 1 (Exempt Paper) and the section above.

Legal or other duties

- 7.2 Equality Impact Assessment (EIA)

7.2.1 Please see Appendix 2 for the Equality Impact Assessment. In brief, no negative impacts on the protected characteristics are foreseen as a result of this procurement exercise, as the contract seeks to positively support certain groups. In some cases, fees for certain concessionary memberships may increase slightly but this is not considered to have a negative impact overall.

- 7.3 Crime & Disorder

7.3.1 The implementation of an active communities programme and participation in health and leisure activities can have an influence on crime and disorder.

- 7.4 Safeguarding

7.4.1 The operator of the Centre will take all necessary steps to ensure safeguarding requirements are in place.

- 7.5 Dependencies

7.5.1 If the committee approves Option A, then the council will be dependent on the preferred bidder to operate the Centre.

- 7.6 Other

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7.6.1 None.

8 Financial Implications

- 8.1 The Council's agreed 2025/26 budget includes an income budget of £381,000 for an annual management fee from the Rainbow Leisure Centre operator. All three bidders have submitted tenders which provide an annual management fee that exceed this budgeted income.
- 8.2 Awarding the contract to the preferred bidder (or the second or third), will assure the Council is able to recover sufficient income to meet the budgetary requirement detailed in paragraph 8.1. If the contract is not awarded, the consequence will be under-recovery of income resulting in an adverse budgetary position for 2025/26 and future years.
- 8.3 **Section 151 Officer's comments:** There are both direct revenue and potential capital financial implications arising from the Leisure contract. The council has ensured that the new contract does not exert financial pressure on current and future budgets. Option A achieves financial savings and/or cost avoidance for the council which I support as the section 151 officer.

9 Legal Implications

- 9.1 The comprehensive form of Service Contract proposed is closely in line with the Standard Template Document produced by Sport England with amendments agreed during the selection process between the Preferred Provider and our external legal advisers, Freeths LLP. This accounts for such things as the Operator's particular corporate structure, the way any future pandemic would be handled in terms of relief from obligations, and a contractual requirement to perform in accordance with the detailed specification provided by the Authority or to face financial penalties or (in extreme cases) potential contract termination. The Contract incorporates provisions giving the Operator day-to-day control and responsibility for the operation and maintenance of all leisure facilities to be operated by them and to fully insure their operations.
- 9.2 **Legal Officer's comments:** As noted above, specialist legal advice has been provided throughout this project by our external legal advisors and they have reviewed this report in advance of its publication.

10 Policies, Plans & Partnerships

- 10.1 **Council's Key Priorities:** The following Key Priorities are engaged: Green and Vibrant, Safe and Well, Effective Council.
- 10.2 **Service Plans:** The matter is included within the current Service Delivery Plan.

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- 10.3 **Climate & Environmental Impact of recommendations:** The council's Sustainability Officer was part of the tender evaluation panel and therefore has contributed to this procurement exercise.
- 10.4 **Sustainability Policy & Community Safety Implications:** No direct implications.
- 10.5 **Partnerships:** The operator of the Centre is a key strategic partner of the council. The council will continue to conduct a robust contract management process regarding this contract and will update the process to reflect the new contract (inc. its performance management clauses).
- 10.6 **Local Government Reorganisation Implications:** This contract will be transferred over to a new authority following its vesting day. The contract is for a single leisure centre which will create a positive return for the council, and therefore it should not pose any high risks to any future council.

11 Background papers

- 11.1 The documents referred to in compiling this report are as follows:

Previous reports:

- None.

Other papers:

- Epsom & Ewell Borough Council (2024) *Annual Plan 2024-2025, Strategy & Resources Committee*, 25th January. Online available: [Epsom and Ewell Democracy](#) [last accessed 16/05/2025].
- Epsom & Ewell Borough Council (2024/25) Performance and Risk Report (multiple). Audit & Scrutiny Committee (September 2024 – July 2025 meetings). Online available: [Epsom and Ewell Democracy](#).