



ADUR & WORTHING
COUNCILS

Joint Strategic Committee
8 September 2020

Key Decision Yes

Ward(s) Affected:

COVID - 19 Financial Support - South Downs Leisure Trust

Report by the Director for the Economy

Executive Summary

1. Purpose

- 1.1 The purpose of this report is to set out the findings of recent work to understand the implications of the Covid-19 Pandemic for the delivery of leisure services in Worthing Borough Council and to make a decision around the level of financial support that is provided to the operator, South Downs Leisure Trust.

2. Recommendations

- 2.1 It is recommended that the Joint Strategic Committee:
- Approves the financial package of support for South Downs Leisure Trust for 2020/21.
 - Approves the use of Government Covid 19 Emergency Funding for this purpose.

3. Context

3.1 National context

3.1.1 On 23rd March, the Government introduced a lockdown in the UK to address the spread of COVID-19 and this resulted in the closure of all leisure facilities. At the same time as their income streams effectively ceased, leisure operators have faced on-going costs for operating and maintaining buildings and facilities. As a consequence, many leisure operators have faced the threat of financial insolvency and/or have become insolvent.

3.1.2 As facilities have begun to re-open since mid-July, operators have also faced additional costs due to the need to invest in new Personal Protective Equipment (PPE) for staff and customer safety, new signage and safety screens, staff training and additional supervisory staff, as well as investing in marketing and communications to provide clear guidance and advice for customers.

3.1.3 The net result is that the vast majority of leisure operators across the UK have approached their local authorities to seek financial support for their retained closure costs and to help them address a significant funding gap over the coming months whilst there remain limits on the operation and capacity of gyms, pools, sports and recreational spaces.

3.2 Worthing context

3.2.1 Worthing Borough Council (WBC) has 4 leisure facilities operated and maintained under a Funding and Management Agreement by South Downs Leisure (SDL). These facilities are:

- Worthing Leisure Centre
- Splashpoint Leisure Centre
- Davison Leisure Centre (dual use)
- Field Place

3.2.2 The Funding and Management Agreement commenced on 1 May 2015 and terminates on 31 March 2040. Under the terms of the Funding and Management Agreement, SDL pays the Council a Contract Service Fee. In addition, a gain share agreement also exists between the Borough Council and South Downs Leisure Trust whereby any surplus generated is transferred into either a Risk Reserve or Improvement Reserve account.

- 3.2.3 During the lockdown and subsequent to reopening most of the leisure facilities, South Downs Leisure Trust has taken a proactive approach and has communicated exceptionally well with its customers and partners, including the Borough Council.
- 3.2.4 Investment in new screens allowed the Trust to establish more than 200 virtual classes each week. In April, the introduction of a South Downs Leisure App meant that 12,000 attendees could benefit from 20 weekly classes. The Trust has also invested in a system to deliver live streaming of classes direct to people's homes.
- 3.2.5 To facilitate re-opening, 85 pieces of equipment have been installed in the Main Hall at Worthing Leisure Centre so that it can operate as a Gym; the existing Gym at Worthing Leisure Centre has been converted into a Spinning Studio and racquet sports relocated to the Davison site.
- 3.2.6 In common with many leisure operators, South Downs Leisure Trust has had to make cost savings and redundancies, albeit the latter have affected less than 15% of staff.

4. Issues for consideration

4.1 Request for financial support

- 4.1.1 Following the closure of the facilities and prior to the commencement of this review, SDL requested lockdown support from the Council in the form of waiving payments due from SDL to WBC and repaying almost all of the gain share detailed above to SDL in the form of a grant. The specific requests are set out in the Exempt Appendix 2.
- 4.1.2 To assist considering this request and mindful of its significance, officers commissioned SLC Leisure Consultants, a team with a nationally recognised profile to develop and agree a business plan for the recovery period which establishes a provisional financial position for the agreed recovery period, based on revised income and expenditure projections and reopening scenarios. This approach has been endorsed and is being supported by Sport England through the provision of grant funding to Local Authorities for consultancy work which will help Councils through a process of positive engagement with the operators to identify solutions to the challenges relating to COVID-19.
- 4.1.3 The recovery business plan provided by the operator and the accompanying narrative has been scrutinised by SLC through a

desktop review and interrogation of specific figures and assumptions with the operator. The operator has provided information as required, to supplement the recovery business plan. The report does highlight significant risks for the Council in providing SDLT with financial support, including a second spike and lockdown; uncertainty about the levels at which customers return; and increased costs as a result of new operational safety requirements. However, since the SLC report has been received, the anticipated level of financial support has been revised downward.

4.1.4 The SLC summary highlights SDLT's track record as an experienced and capable operator that has shown its capacity and confidence in planning for recovery.

5. Engagement and Communication

5.1 Early in the lockdown period, officers of the Borough Council have established 2 weekly meetings with the Chief Executive and Financial Director of South Downs Leisure Trust to monitor the contractual and financial implications and the Pandemic.

6. Financial Implications

6.1 Under the terms of the contract, South Downs Leisure Trust are expected to pay the Council an annual service fee. The budget for this income is £90,460 in 2020/21.

6.2 The consultancy support for the review of the contract cost £6,250 and was part-funded by Sport England £2,080 with the residual costs funded from within existing budgets.

6.3 The pandemic has compromised the ability of the Trust to generate income, initially due to the lockdown itself and, more latterly as the facilities have opened, as a result of the impact of social distancing and health protection measures. In parallel, the Trust has additional costs associated with reconfiguring the spaces, cleansing and PPE. Whilst the Trust have endeavoured to mitigate the cost impacts through furloughing the staff and setting up on-line classes, inevitably the financial impacts for the Trust are very significant.

6.4 The Council, in common with many others, has been approached for additional funding for both 2020/21 and 2021/22 to support the provision of

leisure. Thereafter, it is expected that the Trust will revert to paying the Council an annual service fee.

- 6.5 The Government has announced additional funding to support Council's lost income from fees and charges. The Council will receive 75p for every £1.00 lost after bearing the impact of the first 5% of income lost from fees and charges. Consequently, the Council will receive some direct government funding towards the funding package requested.
- 6.6 Overall, financial impact of the net level of support is set out in the Exempt Appendix 2
- 6.7 The Council has received £1,322,000 in emergency funding from the Government for support during this period. It is proposed to allocate part of this funding towards the net cost of the proposed funding package. Elsewhere on the agenda is the budget monitoring report which estimates that after allowing for government funding and the cost pressures associated with Leisure, the Council's overall deficit for the year will be £362,000 which will be funded from the reserves that were set aside for this purpose at the year end.
- 6.8 In parallel to seeking funding from the Council, the Trust is carefully monitoring the availability of funding from other sources. It is possible that the DCMS will provide additional funding for leisure operators. If the Trust is able to source other funding then the call on the Council's resources will reduce and this will be embedded into the associated legal documentation. In addition, if the financial performance of the Trust is better than expected then the amount of funding requested will be reduced. It has been agreed that the level of funding requested will be on an open book basis with regular reviews of the performance of the Trust.
- 6.9 As observed elsewhere on the agenda, there is an inconsistency in the Government's approach. Those Councils who provide leisure directly will be covered fully by the income guarantee, whereas Councils who have chosen to outsource their leisure services will not receive the same level of support.
- 6.10 There does of course remain the risk of a second quarantine and the impact that this may have on our leisure operator. If this manifests, then the amount of financial support needed may need to be revisited.

Finance Officer: Sarah Gobey

Date: 20th August 2020

7. Legal Implications

- 7.1 Under Section 111 of the Local Government Act 1972, the Council has the power to do anything that is calculated to facilitate, or which is conducive or incidental to, the discharge of any of their functions.
- 7.2 S1 of the Localism Act 2011 empowers the Council to do anything an individual can do apart from that which is specifically prohibited by pre-existing legislation.
- 7.3 Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority 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.
- 7.4 Under Clause 29.7 of the Funding and Management Agreement dated 1st May 2015 the Council is entitled at its own election or if requested by the Trust to make exceptional payments in the event of any major catastrophic and unanticipated event that has a material and adverse impact on the Trust's Business Plan and/or Services, although the Council can reserve the right to recover these funds from the Trust within an agreed timeframe. Under the existing Agreement the parties have the power to make contract variations on the terms set out in this report, which may also include a term that if SDL revenue increases, or the Department for Digital Culture Media and Sport provides additional funding for leisure services, that any amount paid shall be recovered over the duration of the Agreement term.
- 7.5 In March 2020 the European Commission published a State Aid temporary framework to support the economy during the COVID-19 pandemic, which recognises that in these exceptional circumstances undertakings of all types face a lack of liquidity. The Commission recognised that temporary and limited amounts of necessary and targeted aid to undertakings, can be an appropriate solution providing that (and of relevance here):-
- a) The aid does not exceed EUR 800,000 per undertaking in the form of direct grants, repayable advances, tax or payments advantages; all figures used must be gross, that is, before any deduction of tax or other charge.
 - b) The aid is granted on the basis of a scheme with an estimated budget.

- c) The aid may be granted to undertakings that were not in difficulty (within the meaning of the Article 2(18) of the General Block Exemption Regulation) on 31 December 2019;
- d) The aid is granted no later than 31 December 2020. (If the aid is granted in the form of tax advantages, this deadline is not applicable and the aid is considered granted when the 2020 tax declaration is due.)

In addition the Council is to keep detailed records of aid granted to confirm the above necessary conditions have been observed, and further consider a notification to the EU Commission for the grant of aid under this temporary framework.

Legal Officer: Joanne Lee

Date:21/08/20

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Sustainability & Risk Assessment

1. Economic

The pandemic has had a major impact on the wider economy and has made operating conditions in the leisure sector challenging. Remaining limitations on operating leisure facilities will need to be taken into account in any financial plan for re-opening facilities.

2. Social

2.1 Social Value

The pandemic has had a major impact on the lives of individuals, families and our communities. Leisure and its relationship with health and well being will be of vital importance to local communities as we recover.

2.2 Equality Issues

The pandemic has had a disproportionate impact on some communities and this will need to be reflected in our recovery planning for leisure.

2.3 Community Safety Issues (Section 17)

The pandemic has raised a number of community safety issues both direct and indirect. Leisure, health and well being have an important role to play in this regard.

2.4 Human Rights Issues

No specific matters.

3. Environmental

The environmental impact of leisure provision is an increasingly important consideration and encompasses aspects such as travel and the management of buildings and facilities.

4. Governance

Governance advice will be sought from the councils's Monitoring Officer.