

Report to: EXECUTIVE CABINET

Date: 10 February 2021

Executive Member: Councillor Allison Gwynne, Executive Member (Neighbourhoods, Community Safety and Environment)

Reporting Officer: Debbie Watson, Assistant Director of Population Health
Tom Wilkinson, Assistant Director of Finance

Subject: **THE COUNCIL'S SPORT AND LEISURE FACILITIES – FINANCIAL SUSTAINABILITY PROPOSALS DURING THE COVID-19 (CORONAVIRUS) PANDEMIC**

Report Summary: The report updates on the plans for financial sustainability of the Council's Sport and Leisure facilities provided by Active Tameside. A Sport and Leisure review is being undertaken across the leisure estate over the next six months. The report describes the first phase of the review focused on those facilities that have been operating at a loss in recent years, followed by a second phase including all sport and leisure facilities being carried out in conjunction with the Councils Operational Estate and Portfolio review of council land and property holdings.

There is a need to safeguard the long term future of leisure services in Tameside following the ongoing Covid-19 pandemic which has resulted in a substantial loss of income for the provider. These losses plus the ongoing uncertainty of current restrictions has required the Council, in partnership with Active Tameside to develop the long term cost saving proposals outlined in the paper.

All sport and leisure facilities are currently closed to the public due to the national lockdown. This report seeks permission to consult on proposals to withdraw Active Tameside services from Adventure Longendale, Active Oxford Park and Active Etherow and ensure the future of these buildings are informed by the Strategic Asset Management Plan (SAMP). The Council needs to ensure that it has a clear long term strategic vision for the future of its leisure facilities, so that resources are applied effectively. Therefore report is also proposing an Operational Estate and Portfolio review on all sport and leisure assets within the Borough. A further report will be presented in a decision document to Executive Cabinet expected in July 2021.

Recommendations: That Executive Cabinet be recommended to:

- (i) Approve the implementation of a public consultation from 12 Feb 2021 to 26 March 2021, to seek views on the initial proposals outlined in the report and to inform the Council's future commissioning approach.
- (ii) Approve that a further review is carried out of all Sport and Leisure facilities in Tameside, including conditions surveys, aligned to the review of the Operational Estate and Portfolio of council land and property holdings.
- (iii) Agree to review the results of the consultation and recommendations from the asset management review, with

final options presented to Executive Cabinet for decision in July 2021.

Corporate Plan:

Healthy Tameside

Policy Implications:

Local authorities have a central role to play when it comes to the provision of community sport and recreation facilities and are responsible for the health outcomes for their populations – specified in the as specified in the Public Health Outcomes Framework.

As part of the health reforms brought in by the Health and Social Care Act 2012, local authorities have a duty to take such steps as they consider appropriate for improving the health of the people in their area. The steps listed in legislation include:

- Providing information and advice
- Providing services or facilities designed to promote healthy living
- Providing services or facilities for the prevention, diagnosis or treatment of illness
- Providing assistance to help individuals to minimise any risks to health arising from their accommodation or environment
- Making any other services or facilities available

Financial Implications:

(Authorised by the statutory Section 151 Officer & Chief Finance Officer)

The Council was facing significant financial pressures prior to the Covid 19 pandemic and facing a budget gap of almost £20m for 2021/22 financial year, increasing to £38m by 2024/25. Therefore a review of the Active Tameside management agreement was already scheduled. The onset of the pandemic increased the 2021/22 gap to more than £28m, and has therefore made this review even more important as leisure providers across the country are struggling for financial sustainability.

Prior to the pandemic, the trust were performing well and had just opened the Denton Wellness Centre, and were forecast to make a surplus of £0.3m for the year.

The management fee paid by the Council to Active Tameside, amounts to £1.077m per annum, however, £0.788m is returned to the Council to repay borrowing it had taken in the past to invest in its assets and equipment. The borrowing was due to be repaid by 2024. However, to support the liquidity position of Active Tameside through the pandemic Executive Cabinet agreed to the deferral of two years of prudential borrowing, amounting to £1.576m. In addition Executive Cabinet agreed to provide an additional loan of up to £1.8m to sustain the Trust through 2020/21 financial year and to provide liquidity whilst Active Tameside pursues its business disruption insurance claim. These two factors will complicate the borrowing position if the insurance claim is insufficient or unsuccessful.

Options need to be considered as to how best manage the on going levels of borrowing owed as it is clear that it is now highly unlikely that it will be able to be repaid by the end of the contract in 2024. One option could be for the Council to internalise the debt in exchange for a permanent reduction in the management fee. The budgetary saving could be used to repay the borrowing over a longer time period and allow the council to take ownership of the

assets. It would be legitimate for the Council to use some of the covid support to reduce the level of prudential borrowing as a direct impact of the pandemic resulting in Active Tameside effectively defaulting on its repayments.

If the Council chose not to support its leisure provider, Active Tameside would be forced into liquidation and in all likelihood result in the permanent closure of most of the estate. The control of the assets over the remaining life of the lease would revert to the charities commission who could direct how they should be used. The distressed nature of the leisure sector means that it is unlikely that a new provider would be able to step in to take over the Active Tameside contract. Staff would have to be laid off and this would place additional financial burdens on the Council due to its requirement to underwrite the pensions liabilities of the Active Tameside staff. Tameside residents already suffer from having poor health outcomes, the closure of the majority of leisure facilities would only be detrimental to the health of the boroughs residents and result in pressures being felt elsewhere in the system through the Council's statutory obligations of looking after the most vulnerable.

This aside the Council has put forward plans to reduce the Active Tameside management fee in full over the time of the medium term financial plan, with a planned saving of £0.15m in 2021/22 increasing to £0.3m in 2022/23. The full saving of the management fee will take place in 2024/25 once the prudential borrowing is full repaid, taking the total proposed saving to £1.077m.

The Trust have been asked to prepare a financial business plan to the end of the contract period in March 2024. This factors in a recovery period to the end of 2021/22, with trade returning towards pre covid levels by 2023/24. The rapidly changing nature of the pandemic, the outstanding insurance claim, and a third national lockdown making this financial modelling extremely complicated.

The report is considering the long term future of leisure facilities in Tameside, for when the pandemic is over. There will be a further paper in March which will seek to quantify and consider the short term measures that will be necessary to ensure that our leisure provider can remain solvent and reopen successfully for the benefit of Tameside residents.

**Legal Implications:
(Authorised by the Borough
Solicitor)**

The reasons for the proposed review are set out in the main body of the report.

The nature of the changes being considered require a consultation process, again as outlined in this report, the outcome of which must be carefully considered by Members as part of their decision making process. This consultation is urgent and necessary to ensure any service commissioned is affordable, deliverable and sustainable. The reason for the Council undertaking the consultation is because it commissions the service from the current provider the Sports Trust. Given the diversity of service users and the overriding need to provide the service to reduce health inequalities the consultation needs to be focussed on obtaining those views and the importance will be how that is achieved particularly in a pandemic rather than how long the consultation takes place for.

We also need to be clear that this provision is not intended to compete with but complements private provision as its main premise is to provide facilities and deliver services that reduce health inequalities so that value for money is achieved by reducing demand on more expensive health services so whilst cost neutral may be an ideal it is not the driver.

It seems that for the foreseeable future it will not be possible to hold public consultation meetings, or even stakeholder meetings (unless they are conducted virtually). Before taking any such steps, however, public bodies will need to give some thought to the legal implications of doing so. If the consultation is non-statutory, or the manner in which the consultation is to be carried out is not prescribed by legislation, then the overarching consideration is likely to be whether what is being considered would constitute a fair consultation. In this context, it is important to bear in mind that fairness is a flexible concept and its requirements vary according to the circumstances. It seems likely that the exigencies of a public health emergency would be one of the circumstances that would affect what fairness requires.

For example, in a situation where social distancing is being strongly encouraged, it is likely to be fair to conduct a consultation exercise entirely on-line or by post, without having drop-in centres or face-to-face meetings. Of course, in such a situation, public bodies still have to think about how to ensure that the exercise is still accessible to consultees.

However, even if there is no statutory duty to consult, public bodies need to think about whether a past practice or a promise of consultation might have given rise to a legitimate expectation of consultation, and whether the circumstances justify resiling from that expectation. For example, the need to conduct a consultation exercise at speed might, depending on the circumstances, justify a body departing from its usual practice of consulting the general public and instead consulting only key stakeholders.

That said as well as the legal implications, public bodies will want to think about how best to elicit the views of consultees, and thereby ensure that their decision-making is as well-informed as possible. This is a key purpose of consulting, and its importance cannot be underestimated, particularly in present circumstances.

Risk Management:

A risk log will be developed as the recommendations of this savings programme are implemented. Active Tameside have risk management and business continuity plans in place. Any additional risks identified as a result of the review will be noted and action taken to mitigate these.

Background Information:

For background papers relating to this report can be inspected by contacting Debbie Watson, Assistant Director of Population Health on 0161 342 3358, or at debbie.watson@tameside.gov.uk or Tom Wilkinson, Assistant Director of Finance tom.wilkinson@tameside.gov.uk

1. INTRODUCTION

- 1.1 The current financial position of the Council plus the impact of the Covid-19 pandemic has meant the current model of delivery of sport and leisure facilities is not sustainable.
- 1.2 The commitment of the Council to deliver and commission services that help improve the borough's health and wellbeing remains as strong as ever but the drop in income and member demand as a result of the ongoing pandemic, means Active Tameside and the Council are looking at new ways of delivering these services and review the current sport and leisure assets.
- 1.3 The Council needs to ensure that it has a clear future strategic vision for the future of all its sport and leisure facilities, so that resources are applied effectively and the delivery of services is sustainable. This will ensure that local people enjoy high quality sustainable leisure facilities that meet the needs of communities, reduce inequalities and maintain and improve the quality of their lives.
- 1.4 All sport and leisure facilities are currently closed to the public due to the national lockdown. This report seeks permission to consult initially on proposals to withdraw Active Tameside services from those facilities which have been operating at a loss in recent years, and to ensure the future of these buildings are informed by the Strategic Asset Management Plan (SAMP). It is imperative that in the current environment of budget constraints together with increased transparency and scrutiny that all resources at the Council's disposal are employed as efficiently and effectively as possible. The Strategic Asset Management Plan will ensure this is the case, providing assurance that the asset base is being used to best effect at every opportunity
- 1.5 The Council needs to ensure that it has a clear long term strategic vision for the future of its leisure facilities, so that resources are applied effectively. Therefore report is also proposing initiation of an Operational Estate and Portfolio review on all sport and leisure assets within the Borough. A further report will be presented in a decision document to Executive Cabinet expected in July 2021.
- 1.6 The outcome of this Operational Estate and Portfolio review, will set out a position statement on the suggested facility hierarchy and approach, along with recommendations for phasing of future facility developments and rationalisation. The aim is to ensure that the Council can develop a more sustainable future solution in relation to meeting customer needs and affordability whilst supporting the overall vision of the Council's Corporate Plan.

2. BACKGROUND AND FINANCIAL CONTEXT

- 2.1 Since the review of the Council's Leisure arrangements by Max Associated in 2018, the Trusts financial performance had improved significantly. Income generation has been aided by a focus on the core activities of swimming, health & fitness and gymnastics and facilitated by the opening of the new Tameside Wellness Centre, in Denton. The Trust has also prioritised re-purposing its facilities to deliver commissioned programmes within health and social care. It has been commissioned directly by the Council's Adult, Children's and Public Health teams to deliver Live Active, Active Education and Everyone Can programmes.
- 2.2 The management fee has reduced over that time from £1.498m to £1.077m with the Trust forecasting a surplus of £0.3m in 2019/20. Closure of all facilities in the last 2 weeks of March 2020 resulted reduced this surplus to £0.127m, such was the impact of the full closure on income.
- 2.3 The annual management fee is also partly used to repay long term borrowing to the Council for capital investments in the estate made in previous years. These borrowing repayments

amount to £0.788m per annum and are repaying capital expenditure on the fabric of the Council owned buildings that will revert to the Council at the end of the lease in March 2024. The net management fee was therefore only £0.289m in 2020/21 and with the projection of a £0.3m surplus, the Trust would have been in a position to accept a further management fee reduction as part of the next round of management fee discussions.

- 2.4 The business was budgeting to turnover £11.6m in 2020/21. The closure of all facilities to the general public on 20 March 2020 until the reopening of some centres in July and subsequent reclosing has resulted in a loss of almost £1m a month in lost trading income. By taking advantage of the government business grants, staff furlough scheme and VAT holidays, as well as other cost saving measures running costs have been reduced by as much as practically possible.
- 2.5 To continue to support the business through the pandemic Executive Cabinet approved that the Council advanced its management fee (as usual), and allowed the deferral of the prudential borrowing repayment and advanced funds for the provision of commissioned services for the rest of the year.
- 2.6 Despite these measures and the reopening of some services, it was still predicted that Active Tameside would run out of cash mid November 2020 and become technically insolvent. The situation had been made worse as leisure providers are exempt from most Covid-19 emergency support funding. Without further support from central government, the Council, or an insurance payout this would ultimately have resulted in Active Tameside ceasing to be able to trade and handing back the assets to the Council for it to run.
- 2.7 On 2 November 2020 Executive Cabinet approved an amount of £1.8m to be paid via a loan agreement to be paid back over the lifetime of the contract to allow Active Tameside to remain solvent during 2020/2021.
- 2.8 As Greater Manchester was placed in Tier 3 from 2 December 2020, Active Tameside were unable to deliver group exercise classes or sell food and beverages, which has also meant they have been unable to open attractions such as the 10 pin bowling at Tameside Wellness Centre. Active Tameside are still working on detailed figures but early estimates for the group exercise loss is around £100K for December 2020 to March 21. There was also an expectation that Tier 3 will lead to increased cancellations of Memberships, which will severely impact 21/22 revenues. The situation currently is that all services to the public are closed due to the national lockdown, with the majority of staff in the organisation furloughed.
- 2.9 Throughout the closure periods Active Tameside have been able to continue to provide a level of commissioned service to vulnerable groups throughout the pandemic and have been paid for these by the Council accordingly. The current level of spend for commissioned services as at 30 November 2020 is approx. £1.8m. Some of this spend relates to part of the advanced payment and some to additional spend over and above the original projection.
- 2.10 As a result of the Council's current financial position all commissioned services that are provided by Active Tameside are also being reviewed. It is necessary to consider all provision commissioned is effective and provides value for money. Following the review it may result in some of the current services for vulnerable adults and children being delivered in a different way and this may have financial implication on the business.
- 2.11 Active Tameside have sensibly insured themselves against business interruption for events that are outside of their control. Unlike most Companies in the UK. Active Tameside Insurers Royal Sun Alliance withdrew a recent court appeal, so Active Tameside now have a claim of £2.5m for non-damage business interruption. The clause in Active Tameside's policy has a cap of £2.5m per claim. There is uncertainty over whether this cap is per centre or in total but worst case it will be a minimum £2.5m over a 3-year period.

- 2.12 An initial claim covering March 20 to October 20 has been submitted to loss adjusters for consideration and this shows losses of around £3m. Active Tameside received an initial payment of £1M on 24 Dec 2020.
- 2.13 The DCMS and Sport England has also announced a National Leisure Recovery Fund of £100m that is available for Council commissioned Leisure services. The fund is available to support the difference between income and expenditure for the period 1 December 2020 to 31 March 2021 that enables leisure facilities to reopen, or partially reopen, where this offers a reasonable balance of activities and programming within coronavirus guidelines. Tameside Council were asked to take part in a discussion with Sport England consultants Grant Thornton to help shape this procedure. An Expression of Interest has being developed and submitted on 15th January 2021. The current best estimates for a Tameside claim vary between £0.25m and £0.5m. Any funding received will assist the Trust to remain solvent at this challenging time.
- 2.14 Ongoing communication and an open book approach to Trust finances is vital to ensure that the financial position is closely monitored and understood. It is important to note, that should Active Tameside become insolvent the facilities would return to Council control and along with them any ongoing liabilities associated with their operation, including any pension liabilities of those staff in the Greater Manchester Pension Fund.
- 2.15 The Council's Medium Term Financial Strategy requires a reduction in the management fee to the Trust from 2021/22 onwards. The Council are proposing to reduce the current management fee by £0.15m recurrently in 21/22 and by £0.3m in 22/23 and 23/24.
- 2.16 The Trust have been asked to prepare a financial business plan to the end of the contract period in March 2024. This factors in a recovery period to the end of 2021/22, with trade returning towards pre covid levels by 2023/24. A further financial update will be presented at Executive Cabinet on 24th March 2021.

3. SPORT AND LEISURE REVIEW

- 3.1 The purpose of undertaking the initial review is to understand the potential for immediate efficiency savings in relation to key facilities within the Council's leisure portfolio to support the provider to remain solvent. This report seeks permission to consult initially on proposals to withdraw Active Tameside services from those facilities which have been operating at a loss in recent years, and to ensure the future of these buildings are informed by the Strategic Asset Management Plan (SAMP).
- 3.2 The Council needs to ensure that it also has a clear long term strategic vision for the future of its leisure facilities, so that resources are applied effectively. Therefore report is also proposing initiation of an Operational Estate and Portfolio review on all sport and leisure assets within the Borough. The cost of the review will be met by existing budget within the Population Health directorate. A further report will be presented in a decision document to Executive Cabinet expected in July 2021.
- 3.3 Initially Active Tameside have therefore been asked to develop proposals to deliver services supported by the reduced management fee. Along with service redesign, the initial proposals consider withdrawing Active Tameside services from the facilities which have been operating at a loss over recent years:
- Adventure Longendale
 - Active Oxford Park
 - Etherow Centre

- 3.4 Consultation has been undertaken with the senior management team at Active Tameside, alongside visits to the three facilities in question initially in order to get an 'in situ' perspective of their usage and condition. A desktop review has been undertaken of available data in relation to facility usage, financial performance and programmed activity, along with potential savings, risks and mitigations and can be found in Appendix 1.
- 3.5 A 'do nothing' option is not being considered as the current situation means that urgent transformation is required to enable the Council's sport and leisure offer to remain financially sustainable. Active Tameside estimate withdrawal of services from the facilities listed in section 3.3 will enable a recurrent saving of £98,667 per annum
- 3.6 All facilities, including those listed in section 3.3, will be subject to conditions surveys and evaluated as part of the Council's Operational Estate and Portfolio review to inform a longer term approach. It is imperative that in the current environment of budget constraints together with increased transparency and scrutiny that all resources at the Council's disposal are employed as efficiently and effectively as possible. The Strategic Asset Management Plan will ensure this is the case, providing assurance that the asset base is being used to best effect at every opportunity

4 CONSULTATION

- 4.1 The views of the public and other stakeholders are necessary to inform the Council's proposals and to determine how this can be best achieved through the provision and commissioning of sport and leisure service. It is proposed that the Council carries out a public consultation on the withdrawal of Active Tameside services from Adventure Longendale, Active Oxford Park and Active Etherow from Friday 12 February to Friday 26 March 2021 via the Big Conversation pages on the Council website.
- 4.2 During the consultation period, the Council will also work in partnership with Active Tameside to ensure the views of customers and users of the facilities are included, and focus groups will take place to ensure engagement with residents within protected groups. The proposed consultation framework is attached at Appendix 2.

6 EQUALITIES

- 6.1 The Equality Act 2010 legally protects peoples from discrimination in the workplace and in wider society. It applies across services and public functions; premises; work; education; associations; and public transport. The Act replaced all existing anti-discriminatory laws and extends protection across a number of 'protected characteristics':
- Race
 - Sex
 - Disability
 - Age
 - Sexual orientation
 - Religion or belief
 - Sex reassignment
 - Pregnancy and maternity
 - Marriage and civil partnership
- 5.2 From April 2011, the public sector equality duty came into force. This duty is contained within section 149 of the Equality Act 2010. The general duty requires those subject to it (e.g. Councils) to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation

- Advance equality of opportunity between different groups
- Foster good relations between different groups

- 5.3 The duty requires Councils to give due regard to the protected characteristics. This involves:
- Removing or minimising disadvantages suffered by people due to their protected characteristics
 - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people
 - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low
- 5.4 Equality and diversity monitoring can help identify current and future needs, possible inequalities including problems accessing or using services and information, as well as checking that a cross-section of people have been reached and given their views during the consultation process. A full Equality Impact Assessment will be completed as part of the overall consultation and will be included in the final decision report and any decisions will seek to minimise impact to residents and protected groups.

6 CONCLUSION

- 6.1 The report proposes initial cost-saving measures aimed at safeguarding the long term future of leisure services in Tameside following the ongoing Covid-19 pandemic which has resulted in a substantial loss of income for the provider. These losses plus the ongoing uncertainty of current restrictions has required the Council, in partnership with Active Tameside to deliver services differently. The financial position of the current provider will need to be continuously reviewed by the Council and reported to Executive Cabinet.
- 6.1.1 The Council needs to ensure that it has a clear long term strategic vision for the future of its leisure facilities, so that resources are applied effectively. Therefore the review is taking place of the Councils Operational Estate and a Portfolio review of council land and property holdings. These property projects are part of a Cross Cutting budget work stream and are due to report in July 2021. Conditions surveys will be undertaken in all Sport and Leisure facilities and subsequent recommendations reported.
- 6.2 The results of this consultation and the asset management review will be presented in a decision document expected at Executive Cabinet in July 2021.

7 RECOMMENDATIONS

- 7.1 As set out at the front of the report.