

## The Executive – 2 December 2020

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Minutes of the meeting of **The Executive** held on **2 December 2020** when there were present:-

Chairman: Cllr S E Wootton  
Vice Chairman: Cllr Mrs C E Roe

Cllr D S Efde  
Cllr S P Smith  
Cllr I H Ward

Cllr M J Webb  
Cllr A L Williams

### **VISITING MEMBERS**

Cllrs Mrs D L Belton, Mrs J R Gooding, D J Sperring and M G Wilkinson

### **OFFICERS PRESENT**

A Hutchings	-	Acting Managing Director
M Harwood-White	-	Assistant Director, Assets & Commercial
A Law	-	Assistant Director, Legal & Democratic
N Lucas	-	Assistant Director, Resources
L Moss	-	Assistant Director, People & Communities
D Tribe	-	Assistant Director, Transformation & Customer
D Goodman	-	Team Leader, Strategic Planning and Economic Regeneration
S Worthington	-	Principal Democratic and Corporate Services Officer
L Morris	-	Democratic Services Officer

### **206 MINUTES**

The Minutes of the meeting held on 4 November 2020 were agreed as a correct record and would be signed in due course by the Chairman.

### **207 DECLARATIONS OF INTEREST**

Cllr I H Ward declared a non-pecuniary interest in item 8 of the agenda relating to leisure service provision by virtue of membership of the Rayleigh Horticultural Society who hold events at the Mill Arts & Events Centre.

### **208 DISCOVER 2020 – 200 YEARS OF HMS BEAGLE**

The Executive considered the report of the Acting Managing Director providing an update on plans for the recreation of the Council-led “Beagle Event” Project and on options to achieve a suitable commemoration for 2021.

#### **Resolved**

To note the plans for the recreation of the Council-led “Beagle Event” Project and to agree that the Portfolio Holder with responsibility for Tourism works with the Acting Managing Director to achieve a suitable commemoration for 2021. (A/MD)

### 209 QUESTIONS ON NOTICE FROM COUNCILLORS

The Proper Officer reported that, pursuant to Executive Procedure Rule 3.1, the following Member questions had been received:

(1) From Cllr M G Wilkinson to the Leader of the Council, Cllr S E Wootton:-

“A decision has been taken - to be ratified this evening by The Executive - to close the Mill Hall & Arts Centre on a permanent basis.

On behalf of the residents who use this facility what, if any, consultation took place with these user groups to investigate the impact on them? In addition, why is this decision being taken now, during a period of national lockdown, when attendance figures will be skewed due to the Covid pandemic? Would it not be better to wait until life returned to some degree of normality? Please can financial figures be provided to show the basis behind this decision.

This decision has caused a great deal of alarm, and so an explanation is needed.”

The Leader of the Council requested the Portfolio Holder for Community, Cllr M J Webb, to respond to this question. The Portfolio Holder responded as follows:-

“Fusion Lifestyle have engaged with user groups and organisations who had bookings at the Mill Arts & Events Centre prior to COVID-19 regarding returning to the centre. A number of the groups and organisations that were able to return under the government restrictions in place indicated that they would not be returning at this time and in some cases indicated that they would not be returning until everything was back to normal.

Paragraph 6.4 of the report refers to the evidenced lack of demand for the facilities. The Council is satisfied that Fusion were proactive in looking to secure bookings in the lead up to the reopening, but even before the pandemic the site ran at a significant loss and therefore the cost to operate the site in the current climate is unsustainable.

Two different variations of the contract have been modelled over each two or three year extension period as outlined in paragraph 5.6 of the report. Both options allow Clements Hall and Rayleigh Leisure Centre to remain open. Option 1, which would assume the Mill Arts & Events Centre and Castle Hall sites reopen until the redevelopment of the Mill Arts & Events Centre in June 2023, and Option 2, which would assume that the Mill Arts & Events Centre and Castle Hall sites are mothballed. Both options assume that the Freight House site remains mothballed, as agreed by the Executive in August 2020.

The estimated cost of both options for both a 2 year and 3 year extension period is set out in table 2 of paragraph 5.6. There would be an additional pressure on the medium-term financial strategy of approximately £180,000 if

the Mill Arts & Events Centre and Castle Hall were reopened. This is over double the pressure on the medium-term financial strategy compared to the current budget and the preferred option of mothballing the two sites.

As a Council, we need to show value for public money and due to the low uptake of the Mill Arts & Events Centre, we would be heavily subsidising any use and this is not sustainable. The sites were running at a loss pre-Covid and Covid has only exacerbated this issue.”

(2) From Cllr M G Wilkinson to the Leader of the Council, Cllr S E Wootton:-

“Item 8 also discusses the extension, by 3 years, to the current contract with Fusion Lifestyle post March 2021. Have other companies been explored to see if we could achieve better service and better value for money for the taxpayers? If not, then why has no tender process taken place and why has no other company been considered for this contract?

I am aware that under regulation 32(2)(c) of the Public Contract Regulation 2015 – authorities are permitted to do this in cases of “Extreme Urgency”. Seeing as we have known this contract was upcoming for some time now, how can this Council claim this is a case of “extreme urgency?”

The Leader of the Council requested the Portfolio Holder for Community, Cllr M J Webb, to respond to this question. The Portfolio Holder responded as follows:-

“As stated in paragraph 2.2 of the report, as agreed at the meeting of the Executive in August 2020, in consultation with myself, the Portfolio Holder for Community and the Portfolio Holder for Finance, the Assistant Director, Assets & Commercial initiated negotiations with Fusion to agree a new commercial arrangement for the operation of the Council’s leisure sites beyond the 2020/21 financial year.

Paragraph 2.3 of the report states that as reported to the Executive in August 2020 it was proposed to modify the existing contract terms further to include the period from April 2022 to a new end date, which would enable the Council to be clearer about its proposed next steps for future service provision.

Paragraph 3.4 of the report states that the Council had planned to tender for a new leisure contract to commence on 1 April 2022, in accordance with its Leisure & Cultural Services Strategy. Officers had been working with the Sport, Leisure and Culture Consultancy to prepare a procurement exercise which was due to commence in January 2021. This was considered the latest date a procurement exercise could begin in order to run a competitive procedure prior to the current contract ending.

Paragraph 3.5 of the report states that COVID-19 forced the Council to reconsider its approach, since procuring a new contract in a commercially

uncertain environment would be unlikely to achieve value for money or incentivise innovation or investment by a service provider.

Paragraph 7 of the report details the alternative options considered, including other operators; specifically paragraphs 7.4 to 7.6 refer to the option of another operator taking over the operation of the Council's leisure sites and the advantages the incumbent has.

Paragraphs 1.4.10 to 1.4.12 of the briefing note from the Sport, Leisure and Culture Consultancy state that the alternative to agreeing a contract extension with Fusion Lifestyle would be to resume the process of procuring a new contract from April 2022. The timescales to do this would be challenging but achievable, but with a number of associated risks. The operator market is in an uncertain position with some operators not currently exploring new contract opportunities and all are understandably adopting a more risk averse position, seeking to share more of the major risk areas with local authorities (e.g. utilities benchmarking) and to protect themselves against similar future closures and restrictions.

It is possible that an initial period of open book would be required to provide more comfort to bidders in the first year; the overall financial position would be less favourable than it would have been pre-COVID or could be in the future when operators have more certainty over the leisure market and recovery of demand for facilities and services.

This alternative would also require the negotiation of terms for the final year of the contract with Fusion, which would need to be on a similar open book basis as the current financial year. It is also possible that, without the incentive of a contract extension, Fusion would insist on a margin in their costs for this final year. The Council would have very little leverage in negotiating the position for this final year and the costs would likely be higher than those included for 2021/22 within the financial submission for the contract extension."

### **210 LEISURE SERVICE PROVISION FROM APRIL 2021**

The Executive considered the report of the Assistant Director, Assets & Commercial outlining options for leisure service provision from 1 April 2021.

The Leader of the Council followed the introduction of the report with a statement informing Members that due to the importance of the report, he had requested a meeting with the Chief Executive of Fusion Lifestyle. The Leader of the Council followed by reading a section of a letter received from the Chief Executive of Fusion Lifestyle:-

"Rochford District Council will benefit from a capped financial position in 2021/22 by the income share arrangements, which is the first of this sort that Fusion has ever entered into, offers significant upside potential and an immediate opportunity for the Council to benefit from any overperformance against the revenue targets.

We are also willing, if Quarter 4 shows a positive performance, to discuss with the Council a possible reprofiling and revised cost proposition ready for April 2021. We continue to be fully committed to Rochford and we will use our best commercial endeavours to drive down the cost and improve the revenue to deliver on the contract extension, and to share any success with the Council.

Our financial position gives us a stable and sustainable future and enabled us to invest in both the facilities and additional personnel in Rochford to deliver the exciting active communities agenda.”

The Leader of the Council congratulated the Assistant Director, Assets and Commercial for the negotiation of this contract and thanked him and Fusion Lifestyle for their work on this.

In response to a Member question regarding refunds for existing bookings at the Mill Arts & Events Centre, officers confirmed that full refunds would be offered as with the closure of the Freight House.

In response to a Member question regarding how many groups currently use the Mill Arts & Events Centre, the Portfolio Holder for Community advised that 9 groups per week were using the facilities.

In response to a Member question regarding how Members could be assured that Fusion would not keep returning to the Council for financial aid, officers advised that the contract would be a capped open book process in year one, and a fixed payment for the following years which would be written into the letter of variation that the Council would agree with Fusion Lifestyle. The Member requested clarification that the Council would be unlikely to see vast increases of financial help and was advised by officers that if there were a further lockdown, this could lead to a further negotiation outside of the contract which would need to be negotiated, but the report was based upon the projections Fusion Lifestyle have for the recovery of the market at this time.

In response to a Member question regarding how soon the development of the new community centre in Rayleigh could be brought forward, officers advised that GB Partnerships would be working with the Council to investigate how the site could be brought forward to achieve an earlier date of completion. The Member requested that this was made a priority so that Members could keep residents fully informed. In response to a Member question as to whether officers and Fusion Lifestyle would help groups to relocate, officers advised that the Council's Leisure and Cultural Services Team would assist any groups to find alternative accommodation whilst the sites within the Asset Delivery Programme are being developed. The Member responded to advise that the Rayleigh Horticultural Society has events three times a year and require a large hall to host these events and requested that the Assistant Director, Assets & Commercial make note of this and contact them directly.

The Leader of the Council clarified that any references to building a community facility refer to a brand new, purpose built, standalone community building with flexible space, which is cost-effective to operate.

A Member raised a point that the report often referred to this as a 'preferred option' and stated that this was instead the most sustainable option, as it would be preferable for the sites to remain open. The Leader of the Council agreed with the Member and emphasised that this was a question of considering the reality of costs and there should be no doubt that this was favoured by the Council.

A Member stated that he had been approached by many residents who were under the impression that the Mill Arts & Events Centre would be replaced by housing and had to clarify that a replacement venue would be built.

A Member congratulated all involved in the negotiation and hard work put into the agreement between Rochford District Council and Fusion Lifestyle and expressed his excitement for the development. The Chairman stated that this was an extremely important decision for the Council and not one that had been taken lightly.

In response to a Member question about the possibility of the Mill Arts & Events Centre being used on an *ad hoc* basis run by Fusion Lifestyle, officers advised that operationally this would not be feasible due to the costs involved in getting the site back up and running.

### Resolved

- (1) That, following consultation with the Portfolio Holder for Community and the Portfolio Holder for Finance, the preferred option set out in paragraph 6 of this report for leisure service provision from 1 April 2021 be approved.
- (2) That additional budget of £123,732 over the lifetime of the contract extension be approved to enable the preferred option to be implemented, subject to agreement by Fusion Lifestyle ("Fusion") to the proposed letter of variation to the current contract.
- (3) To agree to fund the additional costs via a Leisure Contract Smoothing Reserve to be created by moving monies currently held within the Business Rates Smoothing Reserve which currently has a balance of c£1.3m.
- (4) That authority be delegated to the Assistant Director, Assets & Commercial in consultation with the Portfolio Holder for Community to enter into a contract variation with Fusion to implement the preferred option.

(7 Members voted for the Motion, 0 voted against and 0 abstained)

### 211 ESSEX BUSINESS ADAPTATION FUND (EBAF)

The Executive considered the report of the Assistant Director, Place & Environment seeking approval for the Council to enter into a grant agreement with Essex County Council (ECC) to receive monies from ECC from which to administer the Essex Business Adaptation Fund in the form of grant payments to local businesses in Rochford District.

#### **Resolved**

- (1) That the Council enters into a grant agreement with Essex County Council (ECC) to receive monies from ECC from which to administer the Essex Business Adaptations Fund (EBAF) in the form of grant payments to local businesses in Rochford district.
- (2) That the Assistant Director, Place and Environment finalises the grant agreement with ECC in consultation with the Portfolio Holder for Enterprise.

(7 Members voted for the Motion, 0 voted against and 0 abstained)

The meeting closed at 8.24pm.

Chairman .....

Date .....

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