

This report will be made public on 5 December 2006

Folkestone

Hythe & Romney Marsh
Shepway District Council



Report Number **A/06/12**

To: Council
Date: 13 December 2006
Status: Non-Key Decision
Responsible Officer: Keith Cane, Corporate Director - Community Services
Responsible Portfolio Holder: Councillor Mrs C J Waters, District Secretary for Tourism and Leisure

Subject: SHEPWAY LEISURE PFI

SUMMARY:

Following consideration of Report C/06/30 on 30 August 2006, Cabinet approved an additional budget of £29,500 to enable a final business case to be prepared and submitted to the Department for Culture, Media and Sport (DCMS).

This additional budget requirement was based upon estimated consultants' fees for business planning and affordability modelling together with the estimated cost of legal advice during this phase of the project. Tenders for the consultancy element have now been appraised and Tribal Consulting has been selected. The cost of this work is higher than the estimate set out in Report C/06/30.

This report updates Council on the current fee position and requests an additional £28,000 to enable completion and submission of the final business case. This will be subject to viability of a part PFI, part design, build, operate and manage (DBOM) being established as a delivery option (Stage 1) and sufficient progress having been made with both Hythe Town Council and Folkestone Sports Centre Trust in reaching a formal partnering agreement.

This report also gives an updated estimate on the likely expenditure up to financial close, which is predicted at March 2008, and seeks approval for additional expenditure of up to £457,500 to facilitate the project to this stage.

REASONS FOR RECOMMENDATION:

Council is asked to agree the recommendations set out below because:

- a) Accurate consultancy costs to enable the final business case to be prepared and submitted to the DCMS are now known.
- b) The fees required to produce a final business case will be over and above the approved budget and in accordance with Minute 133 of Report C/05/102, portfolio holders are required to contain total net expenditure within the approved budget.

- c) Any further procurement fees up to financial close are to be considered by full Council (Decision Number 06/038 refers)
- d) To facilitate the PFI project to financial close.
- e) The Council is committed to improving the district's sporting facilities for the next thirty years and beyond.

RECOMMENDATIONS:

- 1. To receive and note Report A/06/12.**
- 2. To accept the current fee position.**
- 3. To approve a budget increase in the sum of £28,000 for additional fees to enable a final business case to be prepared and submitted to the Department for Culture, Media and Sport.**
- 4. To agree to use uncommitted earmarked reserves to fund the additional budget required.**
- 5. To approve additional expenditure of up to £457,500, to facilitate the PFI project to financial close, to be financed from available savings in 2006/07 and the General Fund reserve.**

1. INTRODUCTION

- 1.1 On 30 August 2006, Cabinet approved a £29,500 increase in the Shepway Leisure PFI procurement budget to enable the preparation of a final business case for submission to the Department of Culture Media and Sport. (DCMS) This increased the total approved budget for the project to £664,500.
- 1.2 The additional budget requirement of £29,500 was based upon the following estimates:

	£
Estimated cost of assessing legal implications of OJEU/business case	10,000
Estimated cost of site revaluation	5,000
Estimated cost of evaluating delivery options, business planning, affordability modelling and preparation of business case	19,500
Sub Total	34,500
Remaining budget	(5,000)
Additional budget requirement	29,500

- 1.3 Following appraisal of tenders for the consultancy element, Tribal Consulting has been selected. Their fee will be £9,500 for stage 1 of this phase of the project (evaluation of a part PFI, part design, build, operate and manage (DBOM) delivery option) and £23,325 for stage 2 (preparation of final business case).
- 1.4 It should be noted that Tribal Consulting has offered to reduce its fee for undertaking Stages 1 and 2 by 33% to £21,884, and only recovering its remaining fees if the revised business case is successful.

2. CURRENT FEE POSITION

- 2.1 Expenditure to 24 November 2006 can be summarised as follows:

Expenditure to 31 March 2006	£555,668
Expenditure from 1 April to 24 November 2006	£72,625
Total expenditure to 24 November 2006	£628,293

- 2.2 In addition, current expenditure commitments to the PFI project total £29,500 as set out below:

Defence of Town Green application	£10,000
Folkestone Sports Centre Trust legal fees	£10,000
Stage 1 Tribal Consultancy fees	£9,500
Total	£29,500

- 2.3 After accounting for commitments there will be available budget of £6,707:

	£
Approved Budget	664,500.
Less Expenditure to 24 November 2006	628,293
Sub total	36,207
Expenditure commitments	29,500
Uncommitted Budget	6,707

3. PROJECTED FEE POSITION (SHORT TERM)

- 3.1 Assuming Stage 1 of the consultants work demonstrates that the preferred delivery option of part PFI, part Design, Build, Operate and Maintain is financially viable, further detailed modelling work will be required in order to produce the final business case. The total cost of Stage 2 of the work is £23,325 (excluding expenses). In addition, the estimated costs associated with assessing the legal implications of OJEU and the business case is £10,000. This would leave a budget shortfall of £23,325 + (£10,000 - £6,707) = £26,618, say £28,000 to include expenses.

- 3.2 The figures below summarise the principal reasons for the budget shortfall:

Bevan Brittan legal fees (outstanding invoices)	£ 15,000
Initial land valuation for Hythe Pool site	£1,000
Variance estimated/actual – Tribal	£13,325
Tribal expenses	£1,382
Variance estimated/actual – Cluttons	(£4,500)
Miscellaneous costs (PMP final invoice, rail fares, printing)	£1,793
Total	£28,000

4. FEES TO FINANCIAL CLOSE

- 4.1 It is difficult to accurately predict the fee requirement beyond this point (i.e. to financial close) although Tribal Consulting has estimated that its fees for Stage 3 which includes the bidding process, tender evaluation and competitive dialogue with preferred bidder would be £95,000 (excluding expenses). The table below indicates the areas of work to be carried out and the estimated fees. It should be noted that no allowance has been made for additional work which may be required if the direction and scope of the project changes again, or for costs associated with judicial review and further parish polls. A further report will be submitted when a more accurate projection is available.

Work to be carried out	Est. fees (£)
Bidding process, tender evaluation, competitive dialogue & negotiation (Tribal stage 3, includes expenses)	105,000
Legal agreement with FSC Trust	10,000
Legal fees for Trust set up	100,000
Legal fees – transfer of freehold/lease back arrangements	10,000
Legal fees – project agreement & contract negotiation (Bevan Brittan capped fee)	82,000
Land sale FSC site (1.5% of land value)	34,500
Land sale Hythe Pool site (1.5% of land value)	70,500
PFI training	2,500
Specialist financial advice	10,000
Marketing strategy	10,000
Extension of environmental impact assessment	20,000
Partnering workshop	3,000
Total	£457,500

5. CONCLUSION

- 5.1 The total fee requirement for the PFI project has increased over the latest approved budget, requiring a further £28,000 if the project is to progress to the submission of a final business case to the DCMS. A further, estimated £457,500 will be required to progress the project to financial close.

6. RISK MANAGEMENT ISSUES

6.1 A summary of the perceived risks is shown below:

Perceived risk	Seriousness	Likelihood	Preventive action
Fees associated with submission of the final business case and progression of the scheme to financial close increase over revised budget	High	Medium	Early estimate of events likely to increase fees and early reporting to Members
Council is unable to identify additional budget	High	Medium / High	Incorporate all known information in Medium term financial planning and budget strategy and report any change to members at the earliest opportunity
Project fails and fees are lost	High	Medium	Constant review of partners positions

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's comments (Peter Wignall)

The Legal Officer has contributed to the preparation of this report and has provided the cost estimates for legal work associated with progression to financial close.

7.2 Finance Officer's comments (Charlotte Spendley)

Section 2 outlines the current fee position. In order to progress to Stage 2 of the consultant's work (preparation of the final outline business case), an additional £28,000 is required, as outlined in Section 3. As Recommendation 4 suggests, uncommitted earmarked reserves could be used to fund the additional budget requirement, which would all but exhaust them. Alternatively, if portfolio holders could identify uncommitted savings within existing budgets, the additional fees could be funded without any use of reserves.

Section 4 outlines estimated fees of £457,500 to financial close. Currently the Medium Term Financial Plan and Budget Strategy have identified £100,000 as being provided in 2007/08 for PFI procurement

fees, leaving a shortfall of £357,500. As the project timetable anticipates financial close in March 2008, the majority of the fees will be incurred in 2007/08.

There are few options available to finance this expenditure. Members will recall the 2nd Quarter Budget Monitoring report (C/06/75) identified a projected underspend in 2006/07 of £337,000. Although £150,000 was allocated to fund a contingency, the remaining £186,000 together with any further savings, could be set aside, to reduce the level of reserves that need to be called upon to finance these fees.

The balance of budget required for the procurement fees, would need to be met from the General Fund Reserve. Members will recall that the recent policy on reserves (C/06/61) set the minimum level of reserves to be achieved by 2012 at £1.5m for the General Fund. The current balance on the General Fund Reserve is £1.4m.

Should the 2006/07 underspend not materialise, the use of reserves to finance these fees, could cause the General Fund reserve to dip below £1m. As a result, the Council's ability to respond to any further unforeseen financial pressures will be limited.

7.3 Diversity and Equalities Implications (Keith Cane)

The provision of improved opportunities for sport, leisure and culture, including leisure facilities which are modern and clean and accessible to all is one of the Council's current strategic objectives.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councilors with any questions arising out of this report should contact the following officer prior to the meeting:

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