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5 February 2025

Dear Councillor

I am now able to enclose, for consideration at the Special meeting of the **CABINET** on Thursday 6 February 2025 at 6.00 pm, the following report and Restricted appendices that were unavailable when the agenda was printed.

3 **TIDES LEISURE CENTRE - REVIEW OF INTERIM OPERATING ARRANGEMENTS** (Pages 2-8)

To consider the attached report of the Director of Environment and Place.

Responsibility: Portfolio Holder for Community and Corporate Property

5 **TIDES LEISURE CENTRE - REVIEW OF INTERIM OPERATING ARRANGEMENTS** (Pages 9-17)

The attached Appendices 1 and 2 to the report at Agenda Item 3 are Restricted.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", written over the text "Chief Executive".

Chief Executive

Subject:	TIDES LEISURE CENTRE – UPDATE AND REVIEW OF INTERIM OPERATING ARRANGEMENTS
Meeting and Date:	Special Cabinet – 6 February 2025
Report of:	Christopher Townend, Head of Place and Growth
Portfolio Holder:	Councillor Charlotte Zosseder, Portfolio Holder for Community and Corporate Property
Decision Type:	Executive Key Decision
Classification:	Unrestricted – except for Appendices 1 & 2 which are RESTRICTED and NOT FOR PUBLICATION by reason that they contain information which is exempt by virtue of the provisions of Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Act 1972).

Purpose of the report: This report seeks to consider an update and review of interim operating arrangements at Tides Leisure Centre between 1 April 2025 and 31 March 2026.

Recommendation: That Cabinet:

1. Approves the appointment of an interim operator, Your Leisure, for Tides Sports Hall & Indoor Tennis Centre from 1 April 2025 to 31 March 2026 and agrees draft proposals as set out in Appendix 2 - Heads of Terms which is RESTRICTED.
2. Approves the implementation of a competitive tendering process to appoint a new operator for the new Deal Leisure Centre beginning long-term operations from 1 April 2026.
3. Delegates authority to the Director of Environment and Place, in consultation with the Portfolio Holder for Community and Corporate Property, to take all necessary decisions and actions required to deliver recommendations 1 and 2.
4. Agrees that, in the opinion of the decision-maker, the matter is urgent and to suspend call-in, with approval from the Chairman of the Council, for the reasons set out in paragraph 3.3 below.

1. Summary

1.1 This report should be considered in parallel with Member recommendations in relation to two recent reports on Tides Leisure Centre presented to Cabinet on 13 January 2025, as well as the Council's Overview and Scrutiny Committee recommendation to Cabinet of 27 January 2025.

1.2 Following the recommendation from the cross-party Project Advisory Group (PAG), Members have approved plans to proceed to the next stages of development for a £20.4m project to deliver a six-lane pool with toddler splash pad and an extensive range of health & fitness facilities. In a separate RESTRICTED report Members recommended the temporary closure of Tides Leisure Centre for a period of nine months for reasons set out in that report. The decision to close Tides Leisure Centre from 1 April 2025 for nine months has brought forward two new proposals with options to continue services when the existing lease ends with Your Leisure on 31 March 2025. This report seeks to update Members, review the new proposals and decide whether and how operations can be delivered within best value to the taxpayer.

1.3 It is proposed to appoint an interim operator, Your Leisure, for the Tides Sports Hall & Indoor Tennis Centre from 1 April 2025 to 31 March 2026 until a new long-term operator is appointed to commence in April 2026 following a competitive tender process for the new Deal Leisure Centre. The swimming pool and gym facilities will continue to close on 31 March 2025.

2. Introduction and Background

2.1 Your Leisure manages Tides Leisure Centre (TLC) under a lease agreement that expires on 31 March 2025. It was essential the Council considers how and if dry-side facilities could remain open for an interim period, during which time it is proposed to demolish the swimming pool building, and until the start of the new leisure management contract in 2026 following a competitive tender exercise.

2.2 A number of options for operating the dry side at TLC on an interim operating arrangement were presented to Cabinet on 13 January 2025.

2.3 Members took the difficult decision that no options presented were acceptable other than to close TLC from 1 April 2025 until the start of a longer-term leisure management contract commencing in January 2026 for the new Deal Leisure Centre. The reasons for this decision are contained within the RESTRICTED report. See CAB 74 (b).

2.4 Existing and future operating arrangements have consistently been monitored during the project delivery lifecycle. This approach reflects best practice for project management and aligns to the Council's project management guidance policy. The project reached the start of its most recent development stage (RIBA STAGE 2) on 29 July 2024, see CAB 74 (b).

2.5 Due to uncertainty of project delivery, it was not possible to progress any interim or long-term operations options until a Cabinet decision had been made following the outcome of RIBA stage 2.

2.6 RIBA Stage 2 provides a more detailed assessment of design, risk and cost. It is completed to provide more certainty on the project's position. It is at the end of this stage only where:

- (a) It enables a planning application to be submitted in RIBA stage 3; and
- (b) A competitive tender can commence for the new Deal Leisure Centre based on more accurate design and costs.

2.7 The project programme across all different workstreams, including existing operating arrangements, is reported, updated and reviewed at each gateway.

2.8 The three-year lease agreement with Your Leisure expires on 31 March 2025. It has not been possible to change the duration for reasons set out in the RESTRICTED

report of 13 January 2025. This option alongside others investigated, led to the decision to temporarily close Tides and enable the major investment proposals to be developed further.

3. Programme Considerations

- 3.1 The interim closure period previously equated to nine months, but the revised proposed interim timeframe as set out in new proposals is one year from 1 April 2025 to 31 March 2026. The extended time provides the potential interim operator with a better opportunity to grow the business. Furthermore, it gives a more reasonable timeframe for DDC officers to implement the competitive tendering process which otherwise is compressed.
- 3.2 This report with supporting RESTRICTED appendices sets out the new potential interim operating options recently investigated and under review, with the cost implications and community benefit, to help Members decide how best to proceed. It should be considered as a follow up to the Tides Leisure Centre Interim Operating Arrangements RESTRICTED report presented to Members on 13 January 2025.
- 3.3 The Special Cabinet meeting has been called with urgency to address the recent changes with new proposals for interim operating arrangements and to agree a way forward to continue some services at Tides Sports Hall & Indoor Tennis Centre. This has always been the intended approach and a key project objective. The end of the current operating lease agreement is fast approaching, and a final decision is needed to address all matters promptly. Therefore, to assist in expediting this process to benefit the needs of the local community and the Council, the Chairman of the Council has given agreement to suspend call-in.

4. Legal and Procurement

- 4.1 It is proposed that interim operating legal arrangements will comprise of a one-year Management Agreement, with an appended Lease Agreement. The Management Agreement will incorporate any Heads of Terms that have been agreed, including a fixed management fee, exit clauses, and Transfer of Undertakings Protections of Employment (TUPE) provisions.
- 4.2 The current legal threshold for service contracts is circa £178k (excluding VAT). This is the threshold at which public procurement opportunities are subject to the full suite of UK regulations governing public contracts.
- 4.3 The proposed Management Fee, set out in the Heads of Terms, will be below the legal threshold but still caught by the Council's internal governance procedures, namely the Council's contract standing orders and will therefore require a waiver to be applied for.
- 4.4 The utilities will be in the name of the Council, as we wish to control the building and be able to liaise with providers as the build gets underway. The utilities figure will therefore not form part of the overall figure when looking at legal thresholds for procurement purposes.
- 4.5 See more details in Appendix 2 – Heads of Terms which is RESTRICTED.

5. Identification of Options

- 5.1 There are four options for Cabinet to consider:

- Option 1: Interim Operator Alternative - To approve the appointment of an alternative interim operator for Tides Sports Hall & Indoor Tennis Centre from 1 April 2025 to 31 March 2026.
 - Option 2: Interim Operator Your Leisure - To approve the appointment of an interim operator Your Leisure for Tides Sports Hall & Indoor Tennis Centre from 1 April 2025 to 31 March 2026 and agree draft proposals as set out in RESTRICTED Appendix 2 - Heads of Terms.
 - Option 3: Closure of Tides Leisure Centre, including the Sports Hall and Tennis Centre, until 1 April 2026 (12 months).
 - Option 4: Closure of Tides Leisure Centre, including the Sports Hall and Tennis Centre, until 1 January 2026 (9 months) - in line with Cabinet recommendation (13 January 2025).
- 5.2 All options assume the swimming pool and gym will close from 1 April 2025. Options 1 and 2 assume that temporary access arrangements will be put in place to provide and maintain safe access so that services can be maintained within the sports hall and tennis centre whilst work progresses on the proposed construction site.
- 5.3 The third option assumes the temporary closure of all facilities with a provisional access constructed to enable dry-side operations to be resumed from 1 April 2026 under a new long-term leisure management operating contract following a competitive tender process.
- 5.4 The fourth option disregards all new options and retains Cabinet's recommendation of the 13 January 2025. Please refer to this report for more details.
- 5.5 In considering the new options, it should be noted that following the publication of the report on Interim Operating Arrangements on 3 January 2025, the Council received an expression of interest (EOI) from the alternative operator and officers commenced dialogue from 7 January 2025. Following meetings, several exchanged emails and negotiations, a proposal was submitted within a week, however, this was too late to raise and discuss at Cabinet's Meeting on 13 January 2025. In addition to this, following the decision taken by Cabinet on 13 January 2025, the Council received a revised and more competitive expression of interest from Your Leisure and DDC officers commenced dialogue to include rigorous negotiations on 24 January 2025, with a proposal and key principles complete within a week under the same comprehensive approach.
- 5.6 Each of the options have been analysed through consultation with the relevant operators and service areas at DDC to ascertain whether they meet community needs and financially they could be accommodated within the Council's revenue budget provision. The financial analysis undertaken by The Sports Consultancy uses the same methodology as reported on 13 January 2025. It includes costs such as TUPE, staffing, business rates (NNDR), repairs & maintenance, utilities, insurance & security. A contingency sum has been applied to each option to cover but not limited to significant unknowns at this stage.
- 5.7 The financial analysis of each option is set out in RESTRICTED Appendix 1 – Financial Analysis of Options. The evaluation of each option considered is also described, given that some information contains commercially sensitive details that cannot be disclosed in public.

6. Evaluation of Options

- 6.1 Option One – Not Recommended - To approve the appointment of an alternative interim operator for Tides Sports Hall & Indoor Tennis Centre from 1 April 2025 to 31 March 2026 and agree draft proposals.
- 6.2 The alternative proposal presents a wide programme of activities with opening hours that exceed existing operating arrangements which will meet community needs. The costs implications are projected to be almost accommodated within the draft 2025/26 Council budget. The proposal includes an element of contingency which, if not required, would mean this option will be accommodated within the existing provision. The associated financial risks with a continued service are high as detailed in RESTRICTED Appendix 1 - Financial Analysis of Options. Therefore, this option is not recommended.
- 6.3 **Option Two - RECOMMENDED** - To approve the appointment of an interim operator, Your Leisure, for Tides Sports Hall & Indoor Tennis Centre from 1 April 2025 to 31 March 2026 and agree draft proposals as set out in RESTRICTED Appendix 2 - Heads of Terms.
- 6.4 The Your Leisure proposal presents a similar range of programmed activities to the current arrangements with a trial opportunity to extend opening times that exceed existing operating arrangements which will meet community needs. The cost implications are projected to be slightly above the 2025/26 draft Council budget with medium associated financial risks and low continued service risks. The proposal includes an element of contingency which, if not required, will mean this option will be accommodated within the existing provision. The proposed key Heads of Terms as detailed in RESTRICTED Appendix 2 - Heads of Terms will help to manage and reduce further associated risks. Therefore, this option is recommended.
- 6.5 Option Three – Not Recommended - Closure of Tides Leisure Centre, including the Sports Hall and Indoor Centre, for 12 months, until 1 April 2026. This option is significantly outside the 2025/26 draft Council budget.
- 6.6 New options have come forward that bring significant benefit to the community and can mostly be contained and delivered within the Council's financial budget constraints. Therefore, this option is not recommended.
- 6.7 Option Four – Not Recommended – Closure of Tides Leisure Centre, including the Sports Hall and Tennis Centre until 1 January 2026 and in line with CAB 74 (b). This option can be accommodated within the 2025/26 draft Council budget.
- 6.8 However, new options have come forward that provide better outcomes for the community and can mostly be contained and delivered within the Council's financial budget constraints. Therefore, this option is not recommended.

7. Resource Implications

- 7.1 The 2025/26 budget includes an allowance for the management/closure costs associated with the Tides Leisure Centre. The proposals for the interim management are anticipated to be mostly contained within the provision included. Should any additional costs from the final decision be incurred in 2025/26, this will be reported to Members in the quarterly performance report and suitable funding identified. This may include (but is not limited to) savings from other service areas, use of contingency or application of the Smoothing Reserve.

7.2 Please refer to RESTRICTED Appendix 1 - Financial Analysis of Options for full financial implications of the proposals.

8. **Climate Change and Environmental Implications**

8.1 The opportunity to install a new LED lighting system at the Indoor Tennis Centre will be explored and potentially delivered during the interim operating period or closure period. The new installation will provide significant energy efficiencies, reducing energy consumption and costs, contributing to the overall improved environmental and sustainable features of the proposed new Deal Leisure Centre.

8.2 Small other works within the Sports Hall and Tennis Centre will also be explored. This may include the provision of temporary power and heating following the closure of the pool area and associated plant room.

8.3 Designing out crime and anti-social behaviour will also be fully considered as part of any works and development.

9. **Corporate Implications**

9.1 Comment from the Head of Finance & Investment: The Head of Finance & Investment has been consulted on this report and has no further comments to add. (HL)

9.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make (BD).

9.3 Comment from the Equalities Officer: The updated report on the Tides Leisure Centre Report Interim Operating Arrangements proposing to appoint an interim operator Your Leisure for Tides Sports Hall & Indoor Tennis Centre from 1 April 2025 to 31 March 2026 does not specifically highlight any equality implications. An Equality Impact Assessment is being prepared as part of the development of the displacement strategy. In discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

10. **Appendices**

10.1 RESTRICTED Appendix 1 – Financial Analysis of Options

Restricted NOT FOR PUBLICATION by reason that this report/appendix contains information which is exempt by virtue of the provisions of Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Act 1972).

10.2 RESTRICTED Appendix 2 – Heads of Terms

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11. **Background Papers**

Previous Cabinet Papers

- 13 January 2025 – Tides Leisure Centre – Review of Interim Operating Arrangements
- 13 January 2025 – Tides Leisure Centre
- 29 July 2024 – Tides Leisure Centre

- 6 November 2023 – Tides Leisure Centre.
- July 2022 – Tides Leisure Centre.
- February 2020 – Tides Leisure Centre.
- 2 July 2018 – Tides Leisure Centre.
- 3 February 2025 - Draft Budget 2025/26 and Medium-Term Financial Plan 2025/26 – 2028/29.
- November 2024 RIBA Stage 2 Design Report, Deal Leisure Centre

Contact Officers:

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item No 5

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