

## **MINUTES**

### **CABINET**

**12 DECEMBER 2017**

<b>Councillors:</b> Andrew Williams	Leader of the Council (Chairman)
Margaret Griffiths	Portfolio Holder for Housing
Graeme Elliot	Portfolio Holder for Finance and Resources
Neil Harden	Portfolio Holder for Residents and Corporate Services
Janice Marshall	Portfolio Holder for Environmental Sustainability and Regulatory Services
Graham Sutton	Portfolio Holder for Planning and Regeneration

Also attended: Councillors Douris, England, Imarni, Timmis and Tindall.

#### **Officers:**

S Marshall	Chief Executive
J Deane	Corporate Director (Finance & Operations)
M Brookes	Solicitor to the Council and Monitoring Officer
R Smyth	Assistant Director Performance, People & Innovation)
A Care	Community Partnerships Team Leader
B Hosier	Group Manager (Procurement, Commissioning and Compliance.
K Soley	Communications & Consultation Team Leader
F Jump	Group Manager (Financial Services)
Jim Doyle	Group Manager (Democratic Services)

The meeting began at 7.30 pm.

The Chair introduced the meeting and stated that in order to facilitate its smooth running, he intends to slightly change the order agenda items will be considered; taking items 1, 2, 3, 5, 6 and 7 first and then taking item 4, public participation, running straight into item 8 which relates; the rewarding of the leisure contract.

The Chair explained that the Cabinet would then need to go into Part 2 to consider the restricted report relating to the financial aspects of the award of the leisure contract, stating that at that point he would ask members of the public to leave the meeting. The Chair further advised that members of the public are entitled to remain in the building and will be invited back to the conclusion of the decision relating to that agenda item.

#### **CA/118/17 MINUTES**

The minutes of the meeting held on 28th November 2017 were agreed by the members present and signed by the Chairman.

#### **CA/119/17 APOLOGIES FOR ABSENCE**

None.

### **CA/120/17 DECLARATIONS OF INTEREST**

Councillor Marshall declared a personal interest in item 8, Award of Leisure Contract as she is a member of SportSpace.

Councillor Elliot declared a personal interest in item 8, Award of Leisure Contract, as he is a member of My Gym.

Councillor Imarni declared a personal interest in item 8, Award of Leisure Contract, as she is a Trustee of SportSpace.

Councillor England declared a personal interest in item 8, Award of Leisure Contract, as he is a named administrator on the Leisure Facilities Are Not For Profit Facebook page and apologised for not declaring earlier.

### **CA/121/17 REFERRALS TO CABINET**

None.

### **CA/122/17 CABINET FORWARD PLAN**

That the Cabinet Forward Plan be noted with no changes.

### **CA/123/17 STRATEGIC RISK REGISTER - QUARTER 2**

That the content of this report be noted.

### **CA/124/17 PUBLIC PARTICIPATION**

The Chair advised that requests had been received from eight member of the public wishing to speak and that they would be called in the order in which it they were notified, as follows;

1. Mick Dennis; resident of Hemel and Director of SportSpace since 2004, with a question about the suitability and competence of the 2 key players in the process; The Sports Consultancy and the chosen winners and only bidder, Everyone Active.
2. Brian Malyon; Director of Dacorum Sports Trust, read out a statement on behalf of the Trust.
3. Steve Day; local resident and Trustee of Dacorum Sports Trust expressed his views and posed questions about the process and suitability of bidders.
4. Claire Murray; no speaker came forward.
5. Karina Firth; local resident and instructor at Sport Space with question around how Dacorum will ensure the quality of teaching etc will be maintained under any new arrangements
6. Mandi Tattershall; sent her apologies and was not able to attend so a spokesman 'Yusef Bankali' read out the question on her behalf regarding suitability of the

evaluation process and protection for existing users (clubs) of Sport Space and then added some additional questions of his own.

7. Nigel McArthur; Group Operations Manager at Dacorum Sports Trust with questions about Health & Safety
8. Rebecca Hemmant; Operations Director at Dacorum Sports Trust with questions about evaluation scoring.

A full transcript of the questions/answers can be found in Appendix 1 to these minutes.

## **CA/125/17 AWARD OF LEISURE CONTRACT**

### **Decision**

That the following be approved:

1. To award a 10-year contract (with an option to extend for a further 5 years) to Sports and Leisure Management Ltd (known as Everyone Active) for the delivery of the Leisure Services Contract.
2. To delegate authority to the Assistant Director (Performance, People & Innovation) in consultation with the Solicitor to the Council, Corporate Director (Finance and Operations) and Portfolio Holder for Residents and Corporate Services to finalise the terms of contract.
3. That Cabinet note that there will be a variation to the contract sum to take account of the final list of transferring employees under TUPE and authorise the Assistant Director (Performance, People & Innovation) in consultation with the Corporate Director (Finance and Operations) to agree the final contract sum.

### **Reason for decision**

To review and approve the award of the contract for the management of the Council's leisure portfolio.

### **Corporate objectives**

Clean, Safe and Enjoyable Environment – Leisure provision is central to delivering a borough that people can enjoy. This review will help ensure our approach continues to meet the needs of current and future residents.

### **Monitoring Officer/S.151 Officer comments**

#### **Monitoring Officer:**

The proposed award of contract follows a regulated and competitive procurement process. The process has been supported by specialist industry consultants including support from external contract and procurement lawyers.

The successful bidder will enter into an operating contract which is based on a Sport England Model with bespoke amendments relevant to the contracted services and as such is deemed a robust contract for enforcement and performance monitoring purposes.

### **S.151 Officer**

The viability of the payments to the Council proposed within the winning bid rests on the accuracy of the income and expenditure projections within that bid. The assumptions underpinning these projections have been tested by the Service in conjunction with the Council's retained consultants and they appear reasonable.

As with all commercial contracts, it is imperative that the Council monitors the provider's performance robustly, from the start of the contract and throughout, in order to mitigate the risk of underperformance and/or non-payment.

More detail was included within Part II of the report to the Cabinet.

### **Advice**

Having considered the Public Participation on the award of the leisure Contract, the meeting was opened up to those members present to debate any issues arising.

Cllr Harden introduced the report and gave a background overview;

In May 2016, the Council commissioned a review of leisure services, using a range of tools including Sport England data, consultation with key stakeholders and surveys of local clubs.

In December 2016 Cabinet considered the review which concluded that the introduction of a new commercial contract could deliver a range of benefits and new innovations, improved performance and greater value for money for Dacorum taxpayers.

In March 2017 Cabinet approved the decision to terminate the existing agreement, to commission an operator to manage the Council's leisure facilities.

Cllr Harden then asked Robert Smyth to run through the report and evaluation process, as published.

The Chair added to the background; comments that have been made by the questioners and the report introduced by Cllr Harden;

That Dacorum Sports Trust (DST) formed in 2004 and at that time the Council was looking to reduce the cost of the leisure service, in part by forming a trust, which by having charitable status benefited from not having to pay business rates. It should be pointed out that at no point, neither before nor in the awarding of that contract, or since, has the Council tendered its leisure services in any way to ensure it was getting the best value from the asset that it holds.

Since 2004 the grant has substantially reduced to Sportspace, through the benefits of business rates and by improvements in financing the process over those 14 years.

It is still the case that the Council is subsidising Sportspace in the day to day operations of its leisure centres and it has done over the life time of that contract to the tune of in excess of £7.5m.

In those 14 years things have moved on, it is a much more mature leisure market with organisations running facilities for a number of Councils, at a time where local authorities, including Dacorum, need to continue to make significant savings, particularly in our revenue

budgets, it would be inappropriate to reduce other services whilst not looking at the possibility of getting better returns from its leisure estate.

That is what led us to look at tendering this process. The Council has no other way of knowing if it has received best value for those services other than going out to tender.

The Chair opened the meeting to questions and discussion, reminding Members that the item is Part 1 so financial aspects should not be discussed at this stage.

Cllr Elliot asked: You would expect a sport contract to be an attractive contract to bid for, why is it that we have only had 2 bidders, one the incumbent, Dacorum Sports Trust, and another one Sports Leisure Management Ltd?

Robert Smyth responded that the Council believes it to be an attractive proposition for all bidders. It is up to the market to decide if they find the requirements set out by the Council attractive.

Cllr Elliot went on to ask; What benchmarking have we done against the other bidder (SLM)? Did the benchmarking apply to both bidders?

Robert Smyth responded to state that yes in terms of benchmarking, as part of the financial analysis which cannot be discussed at this stage, data has been benchmarked and have used sports consultancies. He advised that we have spoken to Local Authorities, including St Albans and Slough. We have been able to take a full picture based on what the collected data is telling us. Both bidders were treated fairly.

Cllr Elliot the asked if looking at the detail, and not sure if this can be divulged in Part 1, but talking about Slough & St Albans, what did they actually say to us? Robert Smyth confirmed he can not divulge discussion but that they told us they have had positive experiences.

Cllr Tindall then asked if having 1 commercial bidder, whatever the due diligence, is regarded as a financial risk in commissioning terms? He suggested that following this debate the Cabinet consider pausing the bidding process to analyse where they are. Does having only 1 bidder, considering that there are 12 UK companies in the market, suggest something is wrong with the whole process?

Cllr Marshall then asked if In terms of Health & Safety, were the referees asked about H&S, do you have the responses in writing? Was it only St Albans and Slough who were invited to comment?

Robert Smyth responded that when speaking to other Local Authorities, we didn't ask them a specific question about H&S in that context and are not able to go into detail about what was included, but the information provided gave the panel assurance about the quality.

Cllr Imrani sked if H&S been an important enough consideration in this process as we need to be sure that we are maintaining H&S, not to find out when something has gone wrong and reflect, with regret, on the decisions that are made.

The Chair reiterated the assurances that have already been given regarding H&S.

Robert Smyth added that the Council has set out in detail what it expects and what it requires in terms of managing H&S, it was a defined area within the bidding process and will

be set out in the contract. There will be a robust regime for monitoring H&S. We recognise the importance of this area and that is why it is such a key element.

James Deane confirmed that the requirements will be contractual as per guidance given by a specialist responsible for H&S across the Borough.

Cllr Marshall then made reference to the evaluation, Para 5.15 on Pg 32; and asked if the evaluation was undertaken by a panel of senior officers supported by the Council's leisure consultants. Can you confirm that is correct, that the leisure consultants were involved in the evaluation of the bids? Robert Smyth responded to confirm that the leisure consultants were involved in the evaluation process.

The officers were asked if Para 3.4 on Pg. 28, which states that the service specification was reviewed by a panel of members means Councillors, and then asked who they were? Robert Smyth responded to say it did mean Councillors, Council Members. Chaired by NHarden, the feedback from this was combined with the results from the survey sent out to all 51 Members. The group consisted of Chair plus 5 Councillors.

Cllr Tindall stated that he asked for the details of the contract documents and spent about an hour and a half with Robert Smyth and his assistant going through the main documents.

Cllr Imarni then went on to the matter of Breakage costs. When it was decided that this was an area to review, what conversations did we have with the incumbent about the existing model and what could be done? It is my understanding the outcome of this is that there will be substantial breakage costs, the details of which will be contained in Part 2; will we come out financially better off, or might it be that it might be more prudent to negotiate different ways of working for the remainder of the contract?

The Chair responded that we cannot go into the details of finances here, but can confirm that colleagues have had several meetings over the last few years with SportSpace, at officer and Trustee levels, in which we have urged them to look at their operating model and to be more commercial.

Cllr Imrani then said that when this was put to Members last year, one of the comments that all Members were keen on was for the operator to be engaged with the community. Looking at Everyone Actives corporate social responsibility, for a company that turns over £150m, they pledge to raise £100k for MIND and they only managed to raise £8.5k. That would suggest they are not that popular with their Stakeholders and I would like the Council to look into this further before we make any final decisions.

The Chair responded that the question of charitable support is not one that is relevant to this contract; and is straying from the subject.

Cllr Elliot asked about Community Outreach; how will we ensure that any new provider will be able to go out into the community and deliver to the more disadvantaged members of our community that cannot make it to a Sport Centre. Robert Smyth responded that there are a number of ways, again it set out in the Service Specification in clear detail what we require in terms of Community Outreach, as well as robust reporting and monitoring. All this has been equally built into the evaluation criteria.

Cllr Sutton enquired if DBC should go through with this and the contract is awarded and we enter into negotiations with the service provider, how will other interested parties be invited to take part in that planning process? Robert Smyth responded that with any implementation plan for whoever is successful there will be an implementation phase. One of the key things that has been set out in the specification is about building that relationship with users, with local clubs, with members. Cllr Imarni sought clarification as to how the Council will monitor the contract if we do not have any sport specialist staff in the Council? Robert Smyth responded that we also have specialist contract management staff within the Council who will be taking over responsibility for managing this contract; to ensure everything as set out clearly in the contract is delivered and maintained. James Deane added that we have H&S experts who are responsible for making sure that every business within the Borough is compliant with the regulations we govern.

Cllr Tindall returned to the issue of Health & Safety and asked how, given the inherently dangerous nature of a Sport Centre in terms of injuries, accidents etc, the H&S of the tender evaluation is only given 5% of the score; has enough weight been given to H&S when setting up the matrix in the first place? The Chair responded that regardless of how the matrix was set up, both bidders have been assessed fairly and equally against that evaluation process.

The Chair advised that concludes the discussions under Part 1 of the agenda and that the meeting will now move to Part 2, all non Council staff or Members are asked to leave the meeting and are welcome to wait outside or in the Council Chamber while Part 2 discussions take place. Details of the debate in part II can be found in the Part II minutes.

The meeting returned to Part 1 at 10.26pm and members of the public were invited to re-join. The Chair thanked everyone for their patience and confirmed the meeting was now back in Part 1, public session.

Cllr Griffiths addressed the meeting, referring to a statement made earlier in discussions, that because we have started this process, we would have to continue it. Cllr Griffiths advised that she has been a Member of the Council for a long time and is very passionate both about the area she represents and the Borough of Dacorum. She continued that she feels it is important that people understand that this Council has, on occasion, stepped back at the brink of appointing contracts because it wasn't right for the Borough. That appointed Councillors do take their positions very seriously and do care about what happens in their communities, and after viewing all the information, she believes the best way forward would be for us move with the officers recommendation.

Cllr Marshall spoke to support Cllr Griffiths motion that we accept the Officer recommendation. Further, stating that she is a member of DST and knowing personally of the superb trainers and the very friendly staff, so speaking with a very heart in saying that it is a big plus that DST is locally created and locally run, but the question is, could we do better? We as a Council have an obligation to our residents, not just in terms of getting better value for money from our assets, it is about getting a far better service for our residents. It is important to note that the scoring of the bids, the majority of the scores were based on quality, not the finance. DBC has had a long working relationship with DST, and it is a great shame that it has come to this point that it is very obvious that the marking is not even close between the two bidders and it is very clear that SLM would be the better option for the residents of Dacorum.

The Chair added that there are multiple requirements here in ensuring, not just the financial situation with our sports and leisure provision. We need to ensure that we have a good leisure offer and be confident that whoever is delivering our leisure contract can deliver a quality offer to our residents. We have a duty to our residents, not just as leisure users, but also in terms of taxpayers.

A member of the public asked to make a statement, the Chair advised that they are not now permitted to make a statement, that you are invited to listen to the outcome of this discussions.

The Chair continued that we have a duty to both our residents and our taxpayers to assure ourselves that we are getting the best value for the services we provide and that we are getting the best quality services for our residents. Having gone through this process and having had this discussion, we are confident that the award of the contract to SLM has the option to strike a balance between delivering the best value and services to our residents. The majority of staff working for Sportspace or DST will be entitled to TUPE over to SLM and will have the opportunity to deliver the same quality with the same passion and enthusiasm that they bring now, and therefore I am supporting this recommendation that the Council awards the Council to Sports Leisure Management.

The Chair asked for a show of hands from everyone on the committee in favour of that and confirmed that it is the decision of the Cabinet.

### **Voting**

Recommendations agreed unanimously.

## **CA/126/17 TREASURY MANAGEMENT MID-YEAR REVIEW**

### **Decision**

1. That the half-year report on targets and performance, in Sections 4-7 of the report to Cabinet be agreed.
2. That the decision to elect to professional client status under the implementation of the Markets in Financial Instruments Directive (MiFID) II be noted

### **Reason for decision**

Mid-year information on Treasury Management performance for consideration.

### **Corporate objectives**

Dacorum Delivers – Optimising investment income for General Fund and Housing Revenue budgets whilst managing investment risk is fundamental to achieving the corporate objectives

### **Monitoring Officer/S.151 Officer comments**

#### **Monitoring Officer:**

None.

## S.151 Officer

This is a Section 151 Officer Report.

### Advice

The Cabinet considered the officer's report and recommendations.

## CA/127/17 COUNCIL TAX BASE 2018/19

### Decision

That the following be approved:

1. the Collection Fund deficit estimate of £150,678.49 as at 31 March 2018
2. the calculation of the Council's tax base for the year 2018/19 incorporating an estimated collection rate of 99.4%
3. That, in accordance with the Local Authorities (Calculation of Tax Base) Regulations 1992, the amount calculated by the Council as its tax base for the year 2018/19 shall be 56,743.6 and its constituent elements shall be:

<b>Part of Area - Parished and Non Parished</b>	<b>100% Tax base</b>	<b>99.4% Tax base</b>
Hemel Hempstead	30,004.0	29,824.0
Aldbury	466.1	463.3
Berkhamsted	8,494.3	8,443.3
Bovingdon	2,065.6	2,053.2
Chipperfield	848.5	843.4
Flamstead	626.7	622.9
Flauden	173.9	172.9
Great Gaddesden	445.7	443.0
Kings Langley	2,299.7	2,285.9
Little Gaddesden	643.4	639.5
Markyate	1,343.3	1,335.2
Nash Mills	1,246.7	1,239.2
Nettleden with Potten End	798.8	794.0
Northchurch	1,286.6	1,278.9
Tring Rural	642.3	638.4
Tring Town	5,030.5	5,000.3
Wigginton	670.2	666.2
<b>Total</b>	<b>57,086.3</b>	<b>56,743.6</b>

### Reason for decision

The estimated Collection Fund surplus or deficit as at 31/03/2018 requires agreement and the Council Tax Base for 2018/19 needs determined.

### Corporate objectives

Not applicable.

## **Monitoring Officer/S.151 Officer comments**

### **Monitoring Officer:**

No comment required.

### **S.151 Officer**

This is a Section 151 Officer Report.

### **Advice**

The Cabinet considered the officer's report and recommendations.

## **CA/128/17 EXCLUSION OF THE PUBLIC**

### **Resolved:**

That the public be excluded during consideration of this item as the report contains information relating to the financial or business affairs of the companies bidding for a contract, (Local Government Act 1972, Schedule 12A, Part 1, Paragraphs 3).

The report also contains information, which could be subject to a claim for legal professional privilege.

Local Government Act 1972, Schedule 12A, Part1, Paragraphs 3 and 5 (Minute No CA/125/17)

## **CA/125/17 AWARD OF LEISURE CONTRACT**

This decision related to details of a contractual payment and breakage costs resulting from the award of the contract. Full details of the discussion and decision can be found in the Part II minute of this item.

The meeting ended at 10.39 pm

## **Appendix 1: Full transcript of questions/responses of minute CA/124/17 – Public Participation**

### **1. Mick Dennis**

I have come as a resident of Hemel and a Director of SportSpace since day 1 in 2004. My question is about the suitability and competence of 2 of the key players in the process; the Sports Consultancy and the chosen winners and only bidder, Everyone Active. Sports Consultancy has a vested interest in finding someone they can say would be good for this Council and the people of Dacorum. The 3 major works carried out for the £240k paid; 1<sup>st</sup> report, the rewritten report and the bid document all contained serious errors of fact and misrepresentation and omission. In my day job, until I retired, sports writer and broadcaster for National newspapers and National broadcasters I have come across the Sports Consultancy before; they do very good work at big events but do not have any expertise, nor claim on their website, for working with Local Councils, this is an area they want to get into and Dacorum have given them that opportunity. I understand the financial pressure you are under, which would of course lead to a rush to accept their conclusions and ignore the glaring errors. Once you'd started the process you felt you'd got to continue it.

Moving on to Everyone Active; before giving publically owned facilities to a Leicester company for a decade, you have a statutory duty to assure yourselves of that companies practices. What due diligence has been done by or for you about Everyone Active? Specifically the way their company is structured, the lead implications of the tax position and how much money they earn from Councils by holding those Council's to fine print of contracts. Speak to Slough Council. You have received an email today, which I have seen a copy of, from Chief Executive of the Sports and Recreation Trust Association SPORTA, pointing out very real concerns at a National level for what you threatened to do today.

So really my question is, how will you explain to voters the slipshod approach of the consultants and their alarming choice of winners, when details of this debacle are revealed to Local and National media?

### **ClIr Harden responded;**

Sports Consultancy has a list of local government contracts; Bromsgrove District Council, Southwark Council and St Albans Council. They have also have expressed interest in working with a number of Local Authorities. The Council has paid £50k so far to consultancy to support this tender process; the remaining money is allocated to cover the cost of any legal services, including supporting the draft of the contracts. With regard due diligence; all bids were assessed against a minimum requirement standard, this includes grounds for mandatory exclusion, grounds for discretionary exclusion, economic and financial standing, technical and professional ability and additional questions on insurance, equality and environmental management. The Council's Finance & Procurement team undertook the assessment and the document was structured so that the Council obtains information on suppliers experience, ability and suitability to assess whether they are suitable to deliver the Council's contractual requirements. A financial check was also made regarding their accounts. The Council also subjected the bids to scrutiny to ensure that it is confident that it is delivered as they propose.

## **2. Brian Malyon**

I am the Chair of Dacorum Sports Trust and I would like to make a statement on behalf of that trust.

On behalf of the board of Dacorum Sports Trust I wish to express our deep disappointment concerning the recommendation to Cabinet that the sports and leisure facilities in Dacorum should be contracted to a third party commercial organisation with no links to the Borough. We are also surprised and disappointed that DBC released the recommendation in to the public domain before they had the courtesy to inform us of that recommendation. Even, indeed now, we have had no official communication from the Council. This put us in an embarrassing position with our staff and indicates a serious lack of sensitivity on behalf of DBC.

Dacorum Sports Trust have successfully run the leisure facilities in partnership with DBC for 13 years and have year on year reduced the grant from the Council by a combination of increasing participation, expanding facilities and efficiency savings, whilst maintaining charges to the public at affordable levels. We are a local charity, run by Dacorum residents, to support the local community and all surpluses have been, and will continue to be invested, in that community. Our track record on community involvement and sports development speaks for itself, and the XC, our £5.5m facility at Jarman Park was completely funded without any DBC cash involvement and is being heralded as how to attract young people into activities. We are conscious that DBC are under server financial pressures and must be seen to be obtaining best value, but be aware that Sport England, UK Active and SPORTA have expressed concerns to DBC over the tender process. You will also be aware that only 1 other company have bid for this contract and we have concerns about the morality or indeed the legality of DBC breaching its Standing Orders that 3 quotations should be obtained. Accordingly we ask that the Cabinet reject the recommendation and we invite DBC to enter negotiations to discuss an alternative way forward that will ensure that not only are the current high standards maintained, but all income generated remains firmly in Dacorum for the people of Dacorum, thank you.

### **The Chair responded;**

To clarify; notification was given to Sportspace and all the bidders before the agenda was published. Ben Hosier confirmed that correspondence was sent to all bidders via the portal and that has been read by the individual companies, which can be demonstrated through the audit trail available on the portal.

The Chair continued that he felt it important to clarify that point as this notification was sent before this report was published as he asked officers to do so.

Brain Malyon asked the Chair to clarify, advising that what was received was notification that the report was coming to this committee that was all they received notification of. They did not receive notification of what the contents were or that the recommendation would be in the public domain.

The Chair confirmed that we are legally required to publish our reports 5 working days before we consider them, so that report would have been in the public domain.

Brian Malyon addressed the Chair to say that it is fairly important to state that everyone in this room was trying to find out what you were doing and they looked everywhere they could, and the first thing they found on Google was this report, and that was how the staff learned, which was devastating.

### **3. Steve Day**

I am from Adeyfield and in the last 5 years my waistline has gone down and my fitness has gone up and it is all due to Sportspace. I was so impressed that I became a Trustee. So on Saturday night after a glass of wine, I thought there is something missing from the agenda tonight; public participation and so between then and today I have recruited 1100 people on a Facebook Group called 'Leisure facilities are not for profit'. 1100 people. I was at the meeting where 20 people came, we were not informed of it.

I am not going to talk about the opposition, they are rubbish, the internet says that; you can just look it up yourself. I won't talk about the availability of classes in the future and pricing because obviously a commercial operator will obviously have to pay, not only the Council Management Team, but they will also have to make their own profits and a commercial operator will obviously put that before classes and membership prices. There is no protection in the tender document beyond 12 months for pretty much any of the pricing, which is not what Rob said when we had a meeting with him and a resident asked that very question.

Best practice; it is not lucrative enough for most companies to do this because they didn't bid for it. The fact that there is not 3 bidders means that it has got to go to Full Council anyway.

The financial case, well there isn't one, because you don't know how much the thing is going to cost because you don't know what your breakage costs are, so that is really not acceptable. If Dacorum wanted to find money to fund this, they could find it as easily as they funded the Splash Park, there is no case for that so it is whether you want to look after the community or not.

What I do want to talk is morality; I object to public funds from the community being diverted, this building cost £17m, it only benefits the people that work here, yet it is a triple whammy for the community because they are losing public funding, the Council Management fee is going to be given to you guys and there is a profit for the operator, I cannot allow that to happen. Let's not forget Dame Shirley Porter, Westminster Council, was forced to personally pay back £12.5m for miss-spent funds. Finally if this deal goes through tonight, absolutely 100%, the 1100 people that are following this minute by minute on Facebook will all know who voted this through, what do you guys think over there (to audience)?

### **The Chair responded;**

There is not a great deal I can add to that, but I will pick up on the contract element. Leisure centres are a commercial element of the Council and it is appropriate for the Council to seek a return on that process, you cannot compare The Forum with the leisure centres, this is a distinct building cheaper to build than to refurbish the existing one and significantly cheaper to run so a good long term investment for the community of Dacorum and a much more user friendly building in terms of putting several other operators within the same building, so a significant saving over time to the public purse. In terms of the Splash Park you are mixing

up the Capital investment with a revenue subsidy for Sportspace, year on year, which is not the same issue.

Another question I wanted to pick up on was the procurement process; this is a question for Ben Hosier around the 3 bidders, my understanding this is not a Council decision.

Ben Hosier responded to the Chair to confirm that the Council has approached the market in full compliance with the Public Contract Regulations 2015, the market dictates the response from the market; there isn't a minimum requirement of bids as there is not a maximum requirement of bids. We have approached the market and we have complied fully, not only with our own Commissioning & Procurement Standing Order, but also with Public Contract Regulations.

#### **4. Claire Murray**

No speaker came forward

#### **5. Karina Firth**

I am here as a customer of 12 years of Sportspace and also as an instructor at Sportspace. I found out via the website that Everyone Active had won the bid and I was Google searching Everyone Active. I was looking at their customer feedback that is not good at all. I was also looking at how it was working for Everyone Active, they also gave negative feedback. 'Appalling Service', 'unhelpful'. 'dismissive', 'swimming teachers always late, today she didn't even bother to take the class after being late', 'their swimming is always full of kids, full of adults swimming'. We always have lanes open for people who are interested in coming in to swim. We have a good quality of service at our centre so why are on the brink of giving it away to a large organisation with 160 centres all over the country, why not keep it at Hemel. It is a local community; we want to support our locality. So my question is tonight, how you can guarantee that the quality we have at the moment, we don't lose that. How can you guarantee that we do not lose our individuality as we have it now? We have a lot of rehabilitation classes, I can't see anywhere on Everyone Active that they have any rehabilitation classes.

#### **The Chair responded;**

This is not the question that was submitted. With regard the quality, this may well come about in discussion in the further item on the agenda. But to respond to the submitted question;

#### **Robert Smyth responded;**

We will go into these details in Part 1 of the particular bids, but in terms of protecting quality, what I can say; 60% of the valuation was based around quality with a particular focus on support in outreach. That's because this tender; a lot of this is focused around ensuring that we have high quality services, that there is innovation. There will be a detailed service specification for the first time; we do not have that under the existing model. Puts in place standards and the objectives and outcomes we want from the management of the service. That goes into some details about quality; of customer experience, for the user, sustainability of local clubs. The successful operator will have to comply with that and what we want to see from the bids was real detail about how they are going to comply with that. Alongside

setting out a rigorous framework around quality, we are also introducing a very robust monitoring process, so again we have that assurance both in terms of the customer experience, responding to feedback and also in terms of how staff work and overall management and governance of the process.

## **6. Mandi Tattershall**

The Chair relayed it is his understanding that this speaker cannot attend the meeting this evening and that someone else would be asking her question in her place.

My name is Yusef Bankali. I am here tonight to stand in for Mandi to ensure we get all points of view across. I will be reading Mandi's question but also asking some questions of my own so as not to miss the opportunity.

I (Yusef) am a member a user of Sportspace and also a parent of children that use the Sportspace facility.

Do you think that consultation with 31 residents is a good enough consultation and reflective of the users or residents of Dacorum bearing in mind there are over 150K residents in Dacorum?

Where are the details of the discussions with Hemel School and Longdean with regards Dual use?

How many of the evaluation panel were not employees of Dacorum? Four?. How many members of the evaluation panel are residents of Dacorum or ordinary members of the public?

Where were the consultations carried out?

These are the questions that have been put forward under Mandi. Also, I wanted to ask a couple of questions of my own;

What protection will be in the contract for local sports club, like Hemel Swimming Club, the Gymnastics Club, that are currently using the Hemel venue Sportspace

What protection will be there for the users of the facility in terms of price protection for the next 12 months and then the months after that, has anything been put in the contract with regard these protections?

### **The Chair responded;**

Firstly we will pick up the questions submitted by Mandi. In developing the documentation to Councillors, it captured feedback and evidence from a range of different services, including feedback from users, local clubs, local club members, Herts Sports Partnership, evidence from Sports England, review of key sport strategies, consultants and senior officers within the Council. The evaluation panel will not include residents of Dacorum – the evaluation is undertaken by officers from various offices of the Council as well as being supported by our consultants, but all of them were employees or consultants of the council. I do not know how many of those officers may be officers of Dacorum.

In terms of where the consultations are carried out; I am not sure what consultations that is referring to, if it means consultations on the evaluation process, then they were all undertaken either online or here at the forum.

In relation to protection of clubs; my understanding that in particular with the Gymnastics Club is that there a separate lease arrangement for them because they lease and have full time occupancy of part of the building and those lease arrangements will continue with the new contract. In relation to other clubs, this is a question that will come up as part of the pricing structure.

**Robert Smyth added;**

There is a 12 month pricing programming protection for clubs. Sapphire Gymnastics will have a lease for their specific use of that element of the facility. We are also protecting core pricing for all users for the length of the contract, what constitutes core pricing is set out in the specification. We are introducing a number of protections within the contract, legally it is worth noting that for the successful operator, that they are operating in a competitive and mature market, there are lots of providers of leisure services and activities so they will need to make sure that they are providing competitive price for uses. Alongside the pricing protections that we have introduced, there are also a series of requirements on the operator around balance of programme, utilising usage, supporting local sustainability. All those requirements are detailed in the service specification and come with a series of standards and performance indicators which will all be contractual.

**Yusef asked;**

So, after the first 12 months, the operators can do whatever they like with what they charge the public?

**Robert Smyth responded;**

Under the existing operating model, the Council does not provide any conditions. In putting this new model in place we wanted to introduce conditions. However, any operator, including the current one, needs flexibility to set prices that they think are appropriate. However, in setting those prices, the operator has to have regard to the Council's various other objectives set out in the specification including optimising facility usage, providing a balanced programme etc.

The operator will need to provide Council notification of any intention to change prices, but ultimately they will have to balance the various conditions of the Council.

**Yusef asked;**

Will there be any other forum for members of the public to ask back and forth questions for clarification on this matter

**The Chair responded;**

The Council will reach a decision this evening; so no.

## **7. Nigel McArthur**

I am the Group Operations Manager at Dacorum Sports Trust with over 30 years' experience in the leisure industry. A large part of my role at the moment is to deliver Health & Safety and it is likely that I will do the same for the new provider.

Dacorum Sports Trust a high performing organisation and our H&S is rigorously tested by an external specialist company. They test our general processes, all high risk areas and conduct unannounced visit. Following their advice we adopted a sensible approach to H&S, ensuring that responsibility is spread throughout the operational team. Sport centres are high risk areas with lots of moving equipment and people moving at high speed. The release of gas, chemical gas, drowning, legionella and cryptosporidium are not unheard of. Members may remember, for example, the evacuation of Jarman Park Aqua Splash a few years ago following a incident with pool cleansers creating mustard gas, and also the cryptosporidium outbreak at Aylesbury Vale which is managed by Everyone Active.

DST has a unblemished H&S record over the past 13 years, we regularly score in excess of 90% on our external audit, and our accidents, per 10k users, not including XC with the skate park, falls well below the industry norm and those of your preferred supplier.

The report to Cabinet says the new contract will improve the management of H&S in relation to leisure and will ensure a robust approach to the management of H&S and give assurances that H&S management is in line with the latest legislation and good practice, this is a bold statement and gives the impression that it is not currently these things, which is not true.

In my view, to improve the management of H&S would require substantial additional spend, that any reduction in resources would significantly increase the risk to health, safety and wellbeing of customers and staff. Given the hazardous nature of running a sport centre and the horrendous consequences if it went wrong, I would ask you to seriously consider and robustly challenge the assumptions and findings of the report in front of you.

### **Cllr Neil Harden responded;**

I am happy to respond to the question we received which was just relating to the operating of the leisure management contract, in particular the H&S implications, so if you are happy we will just give our answers on that.

The service specification and asset management matrix sets out contractually required standards, outcomes and responsibility for staffing, safeguarding, H&S management – this was reviewed by specialist HR, H&S and Asset Management and Safeguarding. The successful operator must meet the outcomes and standards of the new model and put in place a robust monitoring system to ensure that this happens. Furthermore, the ability of bidders to do this was assessed as part of the quality section of the evaluation process, with input with reviews from specialists.

I understand the terminology that you have referred to and I would not for one minute say that you are weak organisation on H&S at all.

### **Nigel McArthur stated;**

The report says that this process will improve H&S and delivery of H&S, which is a false statement because as you say, we are a strong organisation in that department, and even comparing the scores, we matched the incomer, so I cannot see where that statement has controlled for

**Cllr Harden;**

Addressed the Chair to ask if Robert Smyth had anything to add.

Robert Smyth clarified;

The statement is about improving, from a Council perspective, the way that H&S delivery is monitored, that is what this is talking about, it is not questioning the approach that is taken

**Nigel McArthur added;**

It is a bold, emotive statement, which is meant to sway the decision.

**8. Rebecca Hemmant**

I am Operations Director for Dacorum Sports Trust and I started work at what was then Dacorum Sport Centre in 1984. I have seen the sports and leisure service in Dacorum develop and thrive over the past 33 years. I am in particular immensely proud of what we have achieved as Sportspace Dacorum Sports Trust over 13 years and I see on a daily basis how passionate our staff is about being part of the local community. I have also had the absolute pleasure of working alongside motivated and committed individuals in developing the additional leisure opportunities and activities that have been provided under the Dacorum Sports Trust banner.

Our bid was put together by an extremely experienced Dacorum Sports Trust Management Team, we were supported by senior members of Stevenage Leisure Ltd and a well-established external leisure consultant who has worked locally on the contract for Hertsmere, Three Rivers and Luton. I have therefore been astonished that our quality submission only scored 39% compared to SLMs of 49.6%. I would like to know how many years' experience the officers who assessed the quality aspect of our bid have had in day to day operational and strategic management of sports and leisure facilities.

**The Chair responded;**

As I replied in response in to a previous question about the evaluation team; none of them are sports and leisure managers, but a range of senior officers from across the Council including procurement and finance, supported by the consultant specialist leisure consultant. Input was also sought from Senior Officers responsible for overseeing the current leisure contract, as well as info from Resident Services, Regulatory Services, HR, ICT and Asset Management. I have every confidence that there a whole range there of experienced contract and procurement staff.

The Chair advised he would be moving back to the main agenda items.

Brian Malyon asked, whilst a peripheral issue, was clarification found by Ben Hosier regarding the date/time the communication was sent on the portal as it affected peoples lives.

Ben Hosier confirmed that the correspondence went out thanking bidders for their interest in the Councils tender and stating that the Council would like to make them aware that the recommendation of the contract award has been made by officers and that this will be presented to Cabinet on December 12<sup>th</sup>.

**Brian Malyon stated;**

Our staff found out by Google, it doesn't matter in the bigger scheme of things, but it does show you the level of stuff they have had to go through. It just needed a call to our CEO to say it has been awarded to Everyone Active, please inform your staff.

**Chair advised;**

At the point that this report was published, the contract has not been awarded to Everyone Active, it is a recommendation for consideration at this meeting. By sending out the notice we would have expected relevant parties to have looked on our website.

At this point Public Participation concluded and the meeting moved on to consideration and debate of Item 8 on the agenda – Award of the Leisure Services Contract.