

BRENTWOOD BOROUGH COUNCIL

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Leisure Procurement Options Review
5 March 2021



THE
SPORTS
CONSULTANCY

1. BACKGROUND & OBJECTIVES

- 1.1 Brentwood Leisure Trust ('BLT') was set up in 2004 to operate sports and leisure facilities and services on behalf of Brentwood Borough Council ('BBC' or 'the Council'). The major component of its business was the management of the Brentwood Centre, a community leisure facility and events venue.
- 1.2 With its weak financial position exacerbated by COVID-19, BLT entered liquidation in October 2020 before was eventually being wound up in November 2020.
- 1.3 BBC stepped in to manage the leisure portfolio on a short-term basis (which includes five public halls as well as the Brentwood Centre), with specialist consultancy support provided by Sports & Leisure Management Limited ('SLM') under a 9-month agreement which expires on 23 August 2021 (although under the terms of the contract this is extendable by written agreement). BBC retain all operating and financial risk of the portfolio.
- 1.4 To put the leisure service on a sounder footing, the Council is looking to implement a more sustainable management solution in the short to medium term. BBC has therefore appointed The Sports Consultancy to advise on the management options, and provide a solid evidence basis to enable the Council to make a well-informed decision with the benefit of a clear audit trail.
- 1.5 As well as finding a sustainable solution for the management of its leisure portfolio, BBC is also starting to consider the future of the Brentwood Centre. The facility was built 33 years ago (opening in 1988) and is considered to be reaching the end of its economic life. Whilst not part of our brief and therefore beyond the scope of this report, BBC's aspiration to enhance the quality of the facility (particularly the health and fitness components) in the medium term needs to be taken into consideration when choosing the most appropriate management model now.
- 1.6 BBC's objectives for its leisure services can be summarised as identifying and implementing:
1. a sustainable management solution

2. an appropriate sports and leisure facility solution to address the needs of Brentwood residents.

- 1.7 The draft report sets out our interim advice.

2. THE MANAGEMENT OPTIONS

- 2.1 BBC has four potential management options to consider, as set out below:

- a. **In-house management**
- b. **Establishing a new organisation/trust**
- c. **Outsourced management to an established operator**
- d. **Asset transfer**

- 2.2 In developing the scope of our appointment, BBC stated it has already dismissed the options of (a) in-house management (due to the greater financial burden and the Council's lack of experience in direct management), and (b) establishing a new organisation/trust (in light of its experience with BLT). We therefore focus on (c) outsourced management and (d) asset transfer in this report

Outsourced Management

- 2.3 The main characteristics of outsourced management to an established operator are as follows:
- i. The Council would be the "client" and would manage operations under a contract agreed by both parties which would normally include a specification and performance measurement system
 - ii. The management opportunity would typically be defined by a number of key heads of terms, including:
 - A fixed contract term (typically 10 to 15 years)

- A management fee payable by the operator to the Council incorporating excess surplus share arrangements
 - A Services Specification setting out the council's requirements in respect of the delivery of the management services (typically including aspects such as pricing, programming, customer care, cleaning, opening hours, facility maintenance and quality management etc.)
 - The operator undertakes management of the facilities, gathering all income generated by the facilities and being responsible for the majority of costs incurred by the facilities
- iii. Typically, the Council would retain some responsibilities and risks (usually in respect of some structural repairs and maintenance and occasionally utilities tariff increases) and incur costs in respect of these responsibilities. These risks can be transferred depending on the age and quality of the facilities but this typically comes at a risk price premium
- iv. Staff are employed by the outsourced management via a transfer under the TUPE regulations
- v. The majority of operating risks of the services are transferred to the outsourced management, although they would incorporate their own profit (risk) margin within the management fee agreed with the Council and achieve this profit margin by delivering the projected financial performance
- vi. The Council would monitor the operational performance and service standards delivered by the operator, such that any failures to perform may be subject to financial deductions
- vii. The outsourced management would use their own central support costs and will not need to use those of the Council
- viii. Now typically the preferred option by Councils nationally.

- ix. Under outsourced management, there is perhaps greater protection from local government funding cuts (particularly for loss-making facilities being cross-subsidised by more profitable facilities within a portfolio) than under an in-house model. The facilities are contracted as a package for the operator to manage throughout the life of the contract and it is more difficult to make changes to the contract terms to close facilities mid-contract.

Asset Transfer

- 2.4 This is rarely an option seriously considered by local authorities, unless it wishes to dispose of non-core assets (e.g. lidos) to the private sector, other public bodies or community organisations in the face of budgetary constraints. There is no connected service agreement or funding arrangement.
- 2.5 BBC may also wish to offer a long-term lease to an operator, but in order for the operator to be able to make the facilities commercially viable they will require a number of conditions, such as:
- i. The freedom to determine the facilities it provides and the pricing and programming to enable it to maximise the commercial opportunity that the facilities will provide
 - ii. The Council might need to address any defects in the facilities before the asset transfer
 - iii. Upfront investment from the Council to enhance the assets, potentially in partnership with investment from the operator
 - iv. The Council to retain the risk in relation to any pensions deficit associated with transferring employees
 - v. A wide degree of freedom relating to future potential rationalisation of assets and/or the ability to develop some sites/elements of sites for commercial uses (noting this can often be in addition to maintaining/enhancing existing uses).

BBC'S Strategic Priorities

- 2.6 BBC's imperative to continue to protect community facilities is set out in its Built Facility Strategy (2018-2033):

"3.5.4 The Council will therefore ensure that a range of community facilities are provided to meet existing and forecast demand by:

Protecting and nurturing existing leisure culture and recreational assets such as the Borough's Country Parks for residents and visitors to the Borough and promote and enhance social inclusion, health and wellbeing."

- 2.7 In 3.7.9 it goes on to state that BBC will

"aim to continue to improve [physical activity] statistics [of Brentwood residents] through:

- *maximising opportunities for sport and physical activity to work with commissioners of health, social care, young people's services and community safety.*
- *Developing a strategic approach for sports facilities and opportunities based on need and evidence."*

- 2.8 BBC's Built Facility Strategy recommends protecting the provision of swimming and play and sports halls, and increasing the provision of health and fitness gyms in certain areas of the Borough (with the exact scale and location to be determined by detailed feasibility studies).

Recommended Management Option

- 2.9 Given an asset transfer or long term lease will effectively cede control over the delivery of these strategic outcomes to a third party and that these will need to be delivered in potential conflict with commercial priorities, we do not consider this to be a viable option for BBC to pursue. Another important consideration is the age and condition of the Brentwood Centre - and the concomitant risks and likely ongoing costs of repairs and maintenance – is likely to militate against third party interest in the portfolio, particularly if BBC requires certain controls to ensure sustainable and affordable community use of those assets

- 2.10 We therefore consider Outsourced Management to be the most viable and sustainable management option for BBC to pursue.

3. FINANCIAL EXPECTATIONS

- 3.1 As part of our review, to help inform BBC's financial expectations for the outsourced management of its facility portfolio, we have undertaken a high level review of historical trading, using actual performance in the 12 months to 31 March 2020 as a basis.

- 3.2 The Sports Consultancy has a comprehensive performance data of community leisure facilities within our Facilities Index, a database containing over 1,450 financial years' of data from more than 450 public leisure facilities across the UK. This helps us benchmark performance of leisure facilities and services, showing the differences in performance across a number of key performance indicators. This also allows us analyse for example income per visit, users per square metre, members per station, member yield, maintenance costs per square metre, energy consumption and costs, central costs and operator profit as a percentage of income.

- 3.3 We have used the BLT management accounts which were shared by the council. We should point out that compared to the comprehensive accounts we typically see from other operators, BLT's accounts are deficient in a number of areas, such as detailed information on key performance drivers such as visitor numbers, memberships, and swim school pupils. That said, we have been able to gauge the following KPI's, set out against the average performance across the TSC Facilities Index. This is summarised in Table 1.

- 3.4 We comment as follows:

- a) Income from swimming is poor, at 25% below our average benchmark (swimming income per m² of pool area)



- b) Income per visit is 18% below average benchmark. This is based on the assumption of 750,000 visits in the year, for which no evidence is provided within the accounts.
- c) Health and fitness income (i.e. from gym memberships) per fitness station is 5% lower than benchmark.
- d) Whilst the income from the sports hall appears to be strong, at 9% above benchmark, we believe this includes income from all five community halls, which might overstate performance.
- e) Staffing costs appear low compared to benchmark. It is not clear whether staff costs are included elsewhere in the accounts (for example in event costs)
- f) Annual visits per square metre are 48% higher than benchmark. Again, this might be overstated as the facility areas at Nightingale, Hutton Poplars Lodge, Hutton Poplars Hall and Merrymeade House have not been taken into consideration.
- g) Swim school numbers are low for a pool with the benefit of a secondary learner pool.

Administration Costs as a % of income	1.2%	6.6%	5%
Advertising & Marketing Costs as a % of income	1.7%	1.7%	0%
% Cost Recovery	98.9%	88.1%	11%
Net Income / (Subsidy) per visit	-£0.04	-£0.98	96%

Usage KPIs	BLT Year to 31 March 2020	Facilities Index Average	Variance
Visits per sqm	121	82	48%
No. on Swimming Lesson Programme	620	1,108	-44%

3.5 In general, we would have expected income generation to have been higher for a facility which enjoys the benefit of a relatively strong demographic catchment.

3.6 We expect the reasons for this relatively poor performance to be a combination of the quality of the facility and the lack of operating focus by the BLT management, particularly in relation to sports and leisure. For example, anecdotally we understand that there were only 290 direct debit members as of March 2020, suggesting that the majority of members were still paying their monthly subscriptions by cash or card. For a facility of this scale we would expect there to be c2,000 direct debit members, which would be significantly higher if the quality of the centre were brought up to good industry standards, depending on the competitive environment.

3.7 We would recommend that SLM be encouraged to help BBC improve the reporting protocols and standards they have inherited from BLT to allow a greater focus on the key performance drivers and allow BBC to better understand the dynamics of the business. The Sports Consultancy can help here by implementing its Contract Monitoring Index.

3.8 In order to accurately formulate a budget which represents good value for money for the Council, we would recommend sourcing additional detail on the historical financial performance. For example, there is no information provided regarding repairs and maintenance or utility costs, which forms a crucial component of the expenditure base.

Table 1 Benchmark Analysis

Income KPIs	BLT Year to 31 March 2020	Facilities Index Average	Variance
Income per visit	£3.35	£4.06	-18%
Swimming Income per sqm of water	£833	£1,115	-25%
Health & Fitness Income per station	£10,505	£11,017	-5%
Sports Hall Income per badminton court	£19,825	£18,237	9%
3G income per pitch	£51,700	£36,103	43%

Expenditure KPIs	BLT Year to 31 March 2020	Facilities Index Average	Variance
Staff Costs as a % of Total Income	45.2%	45.9%	1%

3.9 In accordance with the Government's COVID-19 roadmap, indoor sports and leisure facilities are expected to reopen no earlier than 12 April 2021. COVID-19 has had a devastating impact on the public sector leisure sector, forcing local authorities to take back the operating and financial risks of their portfolio. Councils are generally expected to retain these risks until such time as social distancing restrictions have been lifted and the industry has returned to pre-COVID levels of activity. TSC expects some degree of restrictions to be in place until the end of the 2021 calendar year.

4. FACILITY OPTIONS

4.1 Before we address these procurement options, however, it is worth considering the facility options for the Brentwood Centre. We understand that a team of SLM, GT3 Architects and Alliance Leisure are looking at initial design options for refurbishment / extension / new build. We would recommend that this be undertaken as a robust feasibility study to provide a strong evidence base for BBC's decisions regarding its future.

4.2 This should include but not be limited to:

- a) Background review
- b) Evidence of need and demand taking into consideration existing provision, current and projected future demographics and ensuring they align to relevant Council strategies Assessment of core and optional facilities
- c) Recommended facility mix and accommodation schedule
- d) Review of Do Nothing, Refurbishment, New Build options
- e) RIBA Stage 1 Designs
- f) Capital costs
- g) Operating projections and assumptions
- h) Funding and affordability of the project, taking into consideration public accessibility and commerciality
- i) Timescales for delivery
- j) Business continuity throughout any development
- k) Programme
- l) Risks and opportunities
- m) Delivery model and procurement options (taking into account considerations such as whether a refurbishment or new build is the recommended option.

4.3 Initial feasibilities typically take between 8-12 weeks to complete and this should be factored into the overall programme.

4.4 Given that a full feasibility has yet to be undertaken (and there are unknowns around scope, scale, evidenced need, affordability, delivery model and procurement method), BBC is not yet in a position to make an informed decision on the future of the Brentwood Centre. Whilst the SLM/GT3/Alliance Leisure team will provide a delivery solution based on their proposals this will be but one in a range of possible options.

5. FACILITY PROCUREMENT ROUTES

5.1 Regardless of which facility option BBC ultimately chooses, the procurement of the solution (which could require a £10m+ investment) is likely to require a competitive process to ensure the council is in the best position to achieve best value.

5.2 The characteristics of the procurement routes available for whatever facility solution is chosen are set below. These are:

1. Traditional construction contract with separate management contract
2. Design and Build (D&B) construction contract with separate management contract
3. Design Build Operate Maintain – DBOM
4. Design Build Finance Operate – DBFO

Traditional construction contract with separate management contract

5.3 The design process is separate from the construction

5.4 Full documentation (i.e. drawings, work schedules, bills of quantities) must be supplied by the client before the building contractor can be invited to tender for carrying out the work

5.5 The management contractor appointment is separate from the construction contract.

Design and Build (D&B) construction contract with separate management contract

5.6 Design and Build procurement works on the basis that the main contractor is responsible for undertaking both the design and construction work on a project, for an agreed lump-sum price. The employer has control over any design elements of the project that are included in their requirements, but once the contract is let responsibility over design passes to the contractor, so the employer has no direct control over the contractor's detailed design.

5.7 The management contractor appointment is separate from the construction

Design Build Operate Maintain – DBOM

5.8 DBOM takes Design and Build one step further by including the operations and maintenance of the completed project in the same contract. Typical minimum contract term is 10-15 years. Competition among management contractors will be more limited. The council provides the capital funding. Here is a link to an article by The Sports Consultancy published in Sports Management magazine which highlights more of the features and includes opinions from key players in the local authority facility market: (<https://www.sportsmanagement.co.uk/Sports-features/sports-management-magazine/Local-authority-Is-combining-design-and-build-with-operator-contracts-the-best-way-to-build-a-leisure-centre/32723?source=homefeatures&p=14>)

Design Build Finance Operate – DBFO

5.9 DBFO is similar to the DBOM option but with the contractor's consortium also providing finance in return for a long-term contract for operating and maintaining the facility. PFI contracts are the best example of this arrangement, although since the withdrawal of PFI credits for leisure schemes there have been no new DBFO projects in the leisure market, primarily because the cost of private finance is significantly higher than councils can access directly through the Public Works Loan Board leveraging their prudential borrowing powers. Competition among management contractors is very limited with Parkwood and Places for People Leisure the main operators active in DBFO market.

5.10 We have listed some of the key considerations relating to the procurement options in Table 2.

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Table 2 Key considerations of facility delivery methods

Considerations	Notes
Council control over design of the facility	<p>Traditional and Design and Build offer the greatest levels of Council control over design of the facility. Under the Traditional route the Council is responsible for working up full design and cost plan, giving it maximum control over design and specification. With Design and Build the Council gives up some control. Contractor undertakes more of the design process.</p> <p>Council's influence diminishes significantly in DBOM and DBFO, although this can be mitigated through devising a detailed specification.</p>
Time taken from initial feasibility to opening	<p>Design and build typically takes the least time to deliver of the options. The Traditional route involves 3 separate processes run sequentially with minimal overlap until the management contract procurement, where this can be achieved to an extent. It also involves three distinct milestones or appointments.</p> <p>Under Design and Build the programme is shortened as the management contract can be run in parallel. More complexity and consequently more time is required under the DBOM and DBFO (mainly due to legal and financial implications). DBFO is the most time-consuming process, with procurement processes previously running over several years in some cases.</p>
Cost certainty (build and lifecycle costs)	<p>There is a greater degree of cost certainty involved under the Design and Build, DBOM and DBFO options. DBOM & DBFO involve the Council signing up to a fully costed solution, including lifecycle costs.</p> <p>Under the Traditional route there are a number of cost variables e.g. cost of the management contract will be dependant on the design and quality of build.</p> <p>Lifecycle costs remain a risk under both Traditional and Design and Build options, as these will only become clear when costed in by the management contractors as part of their proposals for operation of the sites.</p>
Risk transfer (from Council to operator)	<p>There is a greater degree of risk transfer under the DBOM and DBFO options, as more major risks are transferred under a longer-term contract than via the Traditional and Design and Build options. However, this will be far more difficult to achieve for an extension/remodelling compared to a new build.</p> <p>Under the Traditional route all stages are split so more risk e.g. design to build and from build to management. This fragmented approach provides increased scope for risk. There is potential for a mismatch between the completed building and management operator needs. This can be mitigated to some extent through consultation with operators during the design process.</p>

Considerations	Notes
Price (build and lifecycle costs)	<p>DBOM and Design and Build are likely to provide the best price for the Council, in terms of build costs and lifecycle costs. DBFO is likely to be most expensive option, due largely to 3rd party cost of capital. DBOM is likely to be cheaper, because finance provided via the Council is cheaper. Also, greater efficiencies due to the operator working in a consortium with the designer and builder. Operators don't need to price for risk of poor design etc. as they are involved in creating a design that best meets their operating model. Design and Build will not achieve as much of an efficiency saving, as there may be more risk for an operator in accepting a building that they haven't designed. This can be mitigated to some extent through involvement of contractors in the design process via market testing.</p>
Competition within the operator market	<p>Traditional and Design and Build (with a separate management contract) is likely to generate the most competition from the operator market. There are only 2 active leisure contractors in the DBFO market (Parkwood and PPL). DBOM offers a little more choice, with two (Parkwood and Places for People Leisure) with a strong track record and four more with and untested / low level of experience (1Life, SLM, GLL and SIV). Traditional and Design and Build (with a separate management contract) offer access to the full market with a choice of perhaps 10-15 operators. The operator market is currently very competitive and worth testing. Selecting the DBFO or DBOM routes will severely restrict competition from management contractors.</p>
Flexibility of contract term	<p>Traditional and Design and Build offer more flexibility in terms of contract length and ability to test the market more regularly. DBFO requires a long-term contract to achieve a return on investment for the operator, thereby restricting the ability of the Council to test the market. Typical contract lengths under DBFO are 25-35 years (in line with PFI contracts). DBOM is typically a shorter term of 15+ years. Traditional and Design and Build will vary but are likely to be 5 - 10 years and much easier to terminate if required.</p>
Minimise procurement costs	<p>DBOM and DBFO require significant technical input, particularly from a legal perspective, due to the complex nature of the contracts and procurement processes. Traditional also takes a significant amount of time, due largely to the sequential process and the professional fees incurred in developing the complete scheme. Design and Build is likely to offer some savings on professional fees over the Traditional option.</p>

6. IMMEDIATE MANAGEMENT OPTIONS & RECOMMENDATIONS

- 6.1 SLM's interim consultancy contract with BBC has less than six months to run before expiring in late August 2021.
- 6.2 BBC is clear that future investment is needed in the Brentwood Centre in its current condition. The Sports Consultancy would consider the current portfolio to be unattractive to the operator market and would therefore struggle to generate much interest (if any) in its current guise, particularly as other operators would see SLM as being ensconced in the relationship with the Council already. This is notwithstanding Places Leisure's presence in neighbouring Epping Forest District Council.
- 6.3 We would not expect any operators to volunteer taking any operating or financial risks before COVID-19 has been resolved and they have clear evidence of a sustainable recovery on which to base reliable financial projections.
- 6.4 With this in mind, we would recommend BBC considers the option of extending the current contract with SLM, until such time as BBC is in a position to commit to a facility solution following the completion of the necessary feasibility studies.
- 6.5 Given the facilities have largely been closed since the contract commenced, the success of the current arrangement with SLM has yet to be properly tested. We would recommend this be closely monitored and any necessary changes, alterations and additions to the current contract be reviewed when considering an extension.
- 6.6 In terms of timescales, depending on BBC's decision-making processes and reporting requirements in relation to the Brentwood Centre facility options - based on our experience of delivering many similar schemes for local authorities - the Council could be in a position to procure a new management contract in mid-to-late 2022. This would mean a new operator could be in place by late 2022 under a 10-15 year contract term allowing the Council to pass operating and financial risks to a third party..
- 6.7 We would therefore recommend a 2-year extension to the interim SLM contract to August 2023, the commercial terms for which (in particular the management fee and possibly some element of incentivisation) need to be

reviewed in the context of the recovery of the leisure sector following relaxation (and ultimate removal) of COVID restrictions in the coming year

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