

## LEADER OF THE COUNCIL

10 JANUARY 2025

### REPORT OF CORPORATE DIRECTOR ECONOMY AND PLACE

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

Following a procurement exercise, to present an urgent rationale for requesting additional funding to complete the purchase and installation of new mechanical plant at Walton on the Naze Lifestyles and supplement funding already committed from the Swimming Pool Support Fund.

##### EXECUTIVE SUMMARY

Through this report, the Leader of the Council, is exercising delegated powers, paragraph 4b of Part 3.28 of the Council's Constitution, on behalf of the Cabinet, to make a key decision that is not in the Council's "forward plan" in order to implement in as timely a fashion as possible the purchase and installation of new Air Handling and Building Management Systems at Walton on the Naze Lifestyles. This decision is urgent, as Government funding allocated by Sport England is required to be drawn down by the 31 March 2025. Any further delay in entering into an agreement with the proposed contractor could lead towards withdrawal of funding allocated to the Council through the Swimming Pool Support Fund.

In addition, the Chairman of the Resources and Services Overview & Scrutiny Committee (Councillor Paul Honeywood) has agreed that this decision is reasonable in all the circumstances and that the decision can be taken under the "General Exception" provisions set out in Access to Information Procedure Rule 14 of the Council's Constitution.

In October 2023 the Council submitted a funding bid to Government's Swimming Pool Support Round 2 Fund, via Sport England. Although only District and Borough Councils could complete an application, other community swimming pools were able to apply through the local authorities bid. The application, which included a bid from Brightlingsea Lido was subsequently successful and in January 2024 an offer letter was received awarding the following:

- **Tendring District Council: Walton on the Naze Lifestyles**
  - Upgrade of Building Management System: £35,000
  - Air Handling Unit: £59,500
- **Brightlingsea Lido**
  - CIO Photo Voltaic (PV) panels: £41,650

The Air Handling Unit conditions and distributes air within the pool hall. Furthermore, it takes fresh ambient air from outside, cleans it, heats or cools it to ensure the temperature remains at an appropriate level. The Building Management System automates the use of the mechanical plant, to ensure optimum performance and efficiency. This will decrease energy costs and contribute towards the Council's Carbon Footprint.

A decision was made in August 2024 to sign the accompanying funding agreement with Sport England and an accompanying grant adherence letter was also signed to ensure the terms and conditions were adhered to by all parties.

The original estimated cost of the units was derived from a site energy report on Council assets, which was undertaken in June 2021. This estimated cost was the basis for the original bid submission (together with a percentage increase to recognise inflation) to Sport England, as the criteria required an evidence based submission. Following receipt of Sport England's offer letter for the grant, the Council engaged Heaton Design and Engineering Ltd to write the specification of works in October 2024, which would be used to inform potential main contractors through the procurement exercise. Following an assessment of the market conditions and advice on the proposed actual cost from the consultant, the Council allocated £150,000 towards the funding of the Building Management System and Air Handling Unit. The decision to allocate this additional funding was taken by Cabinet through the Financial Outturn 2023/24 Report in July 2024, as set out below. This also recognised the increase in costs, from that estimated in the original Climate Change report.

*Following further review, it has emerged that the cost of the schemes previously approved and funded by an associated Government Grant have significantly increased. The items that these relate to (Air Handling Units and Building Management System at Walton Pool) remain as essential upgrades and would therefore remain as a cost pressure regardless of the funding receivable from the Government. Therefore rather than potentially return the money to the Government, it is proposed to set aside the Council's own contribution to ensure that these works can go ahead.*

Furthermore, the additional funding was allocated as follows:

*'In respect of the £0.150m made available to support the Walton-on-the-Naze Lifestyles Facility projects associated with the Swimming Pool Grant Funded Capital Projects, agrees a delegation to the Portfolio Holder for Leisure and Public Realm to determine the business case and associated allocation of this funding.'*

Following this, the Council commenced a procurement exercise in November 2024 based on the specification of works and the most financially beneficial bid was £400,366. Despite the additional funding allocated above, the project is still £156,000 adrift of a fully funded budget. Although an estimate had been received from the consultant, the actual cost was higher than originally anticipated. Following engagement with the most preferential bidder, a significant proportion of the increased cost has been for ductwork which they established following a site visit prior to submission of the bid. As such, the contractors identified the need for more labour than was initially considered, due to the configuration and design of the building. The market will always dictate the price and the bid selected was the cheapest and most preferential option to meet the needs of the facility.

In early 2023, the Council commissioned an external surveyor to complete condition surveys on all of the Council's Sports Facilities. This was to ensure that a balanced approach to planned preventative maintenance could take place. The Air Handling Unit at Walton on the Naze Lifestyles was listed as an urgent item on that report, so in order to ensure continuity of service, this mechanical plant requires replacing urgently.

Taking all this into account, it is recommended to enter into an agreement with the preferred contractor, Gowing and Hunt LTD to supply and install the Air Handling Unit and Building Management System.

Finally, it is recommended through this report to directly engage Heaton Design and Engineering Ltd to oversee the contract on behalf of the Council at a total value of £25,060 (this is incorporated in the total project cost), following their work in preparing the specification of works. This will ensure that specialist advice is provided to the Council and the contract can be closely managed by experts in the field and provide sufficient resources for the work. A more detailed list of the works they will provide can be found in the background of this report. Due to the urgency, there is no time for an additional procurement exercise to be undertaken for the consultant's work and this contractor have undertaken a wider span of work for the Council's assets on carbon reduction. When they were engaged initially to provide the technical specification for the procurement, they picked up on the additional cost which would be applied, in addition to the site energy report where the original estimation was provided. As there was a risk in proceeding with this project, due to the unknown total project costs at the time, a decision was taken not to include the additional consultancy work in the original decision. This company's expertise will be invaluable in ensuring the project is delivered successfully and to ensure there is sufficient resource to manage the contract safely, effectively and within budget.

#### **RECOMMENDATION(S)**

**It is recommended that the Leader of the Council:**

- (i) Approves a total capital budget in 2024/25 for the purchase and installation of a new Air Handling Unit and Building Management System at Walton on the Naze Lifestyles of £400,500, which includes £94,500 of external funding following a successful bid to the Swimming Pool Support Fund**
- (ii) Subject to (i) above, approves the allocation of £156,000 from the former Joint Use Sports Centre budget, in addition to the £150,000 previous allocated by Cabinet from the 2023/24 outturn, towards the total project cost of the above project.**
- (iii) Subject to (i) and (ii) above, and following a procurement exercise agrees for the Assistant Director for Economy, Culture and Leisure to enter into an agreement on behalf of the Council with Gowing & Hunt LTD to complete the project.**
- (iv) Subject to (i) and (ii) above, agrees to an exemption to the Council's procurement rules, for the Assistant Director for Economy, Culture and Leisure to enter into an agreement on behalf of the Council with Heaton Design and Engineering Ltd to act as the Council's consultant to provide professional expertise and oversight of the project.**

#### **REASON(S) FOR THE RECOMMENDATION(S)**

To ensure that the Air Handling Unit and Building Management System at Walton on the Naze Lifestyles are installed and the Council is able to utilise £94,500 of Swimming Pool Support Funding to contribute towards the project.

#### **ALTERNATIVE OPTIONS CONSIDERED**

The key alternative option from this decision would be to agree not to allocate additional funding towards the project. This has been fully considered, but as replacement of the Air Handling Unit is listed as an urgent item on a recently undertaken Condition Survey, this is not considered prudent. If the unit was to be deemed beyond economic repair, the Council would need to replace the system at the full cost and would not have access to the external funding allocated.

In effect the underlying business case for this project is the significant risk of failure and the consequential potential closure of the facility and if undertaken now it benefits from external funding as highlighted above.

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

This project will impact on the following objectives, as set out in the Council’s corporate priorities:

- Pride in our area and services to residents – through ensuring customers have continuity of service in the event of a failure with the Air Handling Unit.
- Financial sustainability and openness – by providing a contingency budget for an emergency replacement boiler, in the event of a failure.

The installation of both the Air Handling Unit and Building Management System may also have the following

- Championing Our Local Environment – through furthering the Council’s commitment to achieving net zero

Furthermore, reducing carbon emissions is based on reducing energy use, which will save ongoing revenue costs for the Council, as well as wider beneficial impacts relating to community and social wellbeing outcomes.

The Council adopted a new Sport and Activity Strategy in October 2024 and the installation of a new Air Handling Unit and Building Management System were listed in the action plan for delivery.

### OUTCOME OF CONSULTATION AND ENGAGEMENT

This Sport and Activity strategy referenced above was subject to a six-week consultation and no negative comments were received about this matter.

### LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES	If Yes, indicate which by which criteria it is a Key Decision	<input checked="" type="checkbox"/> Involves £100,000 expenditure/income
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	Due to the urgency of this decision, there has not been sufficient time to list it on the Forward Plan as a Key Decision. As such, the Chairman of the Resources and Services Overview & Scrutiny Committee (Councillor Paul Honeywood) has agreed that this decision is reasonable in all the circumstances and that the decision can be taken under the “General Exception” provisions set out in Access to Information Procedure Rule 14 of the Council’s Constitution.

The decisions sought via this report would ordinarily be a Cabinet decision in line with the following

constitutional requirements:

*Cabinet may approve a supplementary estimate of any single item (revenue or capital) up to £500,000 subject to that supplementary estimate not causing the total of supplementary estimates approved by the Cabinet and the Corporate Finance & Governance Portfolio Holder to exceed £1,000,000 for General Fund Services (capital or revenue) or £1,000,000 in respect of Housing Revenue Account (capital or revenue) for the financial year concerned.*

However, given the relative urgency it is proposed to seek the agreement of the recommendations above from the Leader of the Council under general exception provisions – the necessary governance activities will therefore be undertaken in line with the relevant decision making requirements, which would involve informing the Chairman of the Resources and Services Overview and Scrutiny Committee.

Subject to the recommendations in this report being agreed, it is intended that the Council will enter into a JCT design and build contract with Gowing & Hunt LTD. The intention to use a JCT contract was set out in the specification and procurement documentation.

In terms of the exemption from procurements rules that is being sought, exemptions up to £50,000 can be agreed in consultation with the Chief Finance Officer and Finance and Governance Portfolio Holder. This is effectively being obtained via the recommendations in this report including the comments of the S151 Officer below.

**The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:**

Whilst this decision if approved allows for additional budget to be allocated and for contracts to be entered into, it is essential that the contract management and record keeping is robust for both the technical works and oversight, to ensure that the works and services, as specified are completed within the scope, terms and conditions of the contract.

The Council has recently adopted a Social Value Policy for procurement purposes and whilst the tender for the works may have been commenced before the policy was in place, social value considerations should have formed part of the specification and should be referenced within the report.

#### **FINANCE AND OTHER RESOURCE IMPLICATIONS**

Following the procurement exercise, the total project cost is overall is £400,366 for the works including £25,060.00 for consultancy fees. £94,500.00 is being funded from Swimming Pool Support Fund and £150K was allocated by Cabinet in July 2024, leaving a shortfall of £156K to fund the project that has since been successfully tendered.

The table below includes the funding required for this project.

<b>Cost</b>	<b>Amount (£)</b>
Consultant Costs	25,060.00
Electrical	87,321.65
Mechanical	287,984.35
<b>Total Consultant &amp; Project</b>	<b>400,366.00</b>

**How is the project being funded?**

It is proposed that the total project costs are funded as follows:

Swimming Pool Support Fund Grant: £94,500

Funding agreed through Cabinet Report in July 2024: £150,000

Funding agreed through this report: £156,000

**Total Budget: £400,500**

### **Payback Period**

From calculations provided by the Council's consultant, it is estimated that annual savings against energy costs of £11,923 will be made through the installation of this mechanical plant at Walton on the Naze Lifestyles. It should be noted that the savings made through this project is value added to the project, as the key driver / business case is ensuring business continuity, as without a working air handling unit, the building will not be able to open.

### **Estimated Cost of Closure**

Due to the works requiring a two week closure, there will be an associated loss of income during that period. Although the exact dates of closure are not clear at this stage, this is estimated to be between £8,000 and £10,000. There is likely to be a reduction of expenditure during this period, due to casual staff and energy expenditure reducing due to the building not being open to the public. Due to the current positive position, this can be accommodated within the annual overall budget for the year.

**The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:**

The key financial elements supporting the decision proposed are adequately set out elsewhere in this report.

In terms of the procurement exemption being sought, as set out within the recommendations above, this is supported.

The additional funding requested of £156k is proposed to be met from the budget previously associated with the Joint Use Sports Centre Review. This has been 'held' pending the development of the Sport and Activity Strategy. There is currently £207,770 available within this budget to support the recommendation above.

### **USE OF RESOURCES AND VALUE FOR MONEY**

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	This report will ensure the Swimming Pool is not impacted by a closure and will sustain the service to customers. Furthermore, this will guard against the potential of losing the associated income.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	This report will ensure that all appropriate decisions are in place to arrange the supply and installation of the mechanical plant set out in this report.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	A new Air Handling Unit and Building Management System will reduce the Council's carbon footprint, by moving towards more carbon efficient technology and automated

control of mechanical plant at Walton on the Naze Lifestyles.

### **MILESTONES AND DELIVERY**

As the procurement exercise has already been undertaken, the next stage will be to enter into contract with the successful bidder. Although there is a 12 week lead in period for ordering the mechanical equipment required, following the agreement being signed by both parties, the contractor will commence preparation work on site in a few weeks following publication of this report and associated decision to approve the recommendations.

### **ASSOCIATED RISKS AND MITIGATION**

If the agreement is not signed urgently, there is a risk that work will not commence quickly enough to allow the Council to draw down funding from Sport England. This is being mitigated through the urgent decision set out in this report, to ensure the Council can utilise the £94,500 grant funding and reduce the cost of replacement.

The consultant are not anticipating the requirement for a temporary Air Handling Unit, as the works are due to take place over a two week period. The requirement to use a temporary Air Handling Unit is not costed into the budget, as it is not anticipated that it will be required. If the works overrun significantly, there may be a need to request additional funding for this. Although this is recognised as a risk, the timeline provided by the contractor does not imply that an overrun is likely and the labour they are providing, is adequate to provide assurances that a longer than anticipated closure is unlikely.

Due to the closure period required by the works, there will be a loss of income for the site for the two-week period of the estimated closure. As set out in the finance section, this is likely to be between £8,000 and £10,000 and is unavoidable if the plant is to be installed. If the plant is not replaced at this stage, the closure is likely to be for a more prolonged period than two weeks which would increase the loss of income. This would be due to the time it would take to secure the funding package for replacement and procuring the works.

### **EQUALITY IMPLICATIONS**

The issues covered in this report would ensure the service is maintained for customers and local people. If there is a closure, this may adversely impact on the Leisure Centre's oldest and youngest customers.

### **SOCIAL VALUE CONSIDERATIONS**

As the procurement exercise has been undertaken for this project, there are no further opportunities for social value to be added. There is potential for subcontractors and the supply chain to impact on the local economy.

### **IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030**

The Council has set out its plans to become net zero carbon by 2030. The plan, initially covering the period to 2023, sets out a series of measures to reduce the council's own greenhouse gas emissions. If new carbon mechanical plant is purchased through the plan set out in this report, it will impact positively on the Council's footprint and will be another positive step towards the strategic objective.

### **OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS**

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.**

#### **Crime and Disorder**

There are no specific implications at this stage

<b>Health Inequalities</b>	The decisions in this report would maintain current service levels, which would ensure local people have access to services which impact positively on their activity levels, health and in some cases challenges issues of social isolation.
<b>Area or Ward affected</b>	The facility is located in Walton Ward.

## PART 3 – SUPPORTING INFORMATION

### BACKGROUND

The government's Swimming Pool Support Fund (SPSF) provided a total of £80 million to local authorities in England as a support package for public leisure facilities with swimming pools and was split into two phases.

- Phase I - Revenue: £20m was available to support facilities with swimming pools with increased cost pressures, leaving them most vulnerable to closure or significant service reduction.
- Phase II - Capital: £60m was available from the government for capital investment to improve the energy efficiency of public facilities with pools in the medium to long term.

As well as being successful with a funding offer of £94,500 in phase 2 of the scheme, the Council also received £388,717 of revenue funding towards phase 1 in September 2023, as set out below:

Facility Name	Revenue Award Amount
CLACTON LEISURE CENTRE	164,157
DOVERCOURT BAY LIFESTYLES	113,678
WALTON-ON-THE-NAZE LIFESTYLES	110,882

#### Work to be undertaken by the Consultant for this project

The following work is due to be undertaken by the Consultant, who will over see the contract on behalf of the Council:

#### **Planning Duties**

- Produce planning information.
- Assist with necessary planning statements

#### **CDM Duties**

- Carry out role of Principal Designer in accordance with CDM Regulations.
- Provision of Pre-Construction Information as Required for CDM Regulations 2015.
- Review Contractors RAMS.

#### **Contract Administration Duties**

- Buying the Contracts (assuming JCT Design and Build contract)
- Writing the Contract Preliminaries
- Draft for Approval
- Final Contract Draft

#### **Site Duties**



- General liaison between Contractor and Client as required.
- Attendance at pre-contract meeting.
- Attendance at site progress meetings (limited to 3x meetings).
- Undertake a site visit upon completion of the works to carry out a snagging exercise and issue the subsequent snagging list.
- Attendance at handover meeting.
- Chairing of meetings and/or preparation of subsequent minutes.
- Production of interim valuations for contractor invoicing purposes.
- Commenting upon the contractor's draft O&M Manual.

#### **PREVIOUS RELEVANT DECISIONS**

Quarterly Budget Report [Report Template Part A](#)

Agreement to enter into funding agreement for Swimming Pool Support Fund : [Decision - Swimming Pool Support Fund Agreements](#)

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

Cabinet report on the Council's draft Sport and Activity Strategy, 12 March 2024  
[Microsoft Word - Sport and Activity Strategy March 2024 Final Version Final](#)

#### **APPENDICES**

N/A

#### **REPORT CONTACT OFFICER(S)**

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