

Date of Meeting 18th October 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Colyton Leisure Centre – Capital contribution to School’s investment works to all-weather pitch

Report summary:

On 20th July 2022 Council approved a capital budget of up to £140,000 to contribute to the School’s capital investment works to the all-weather pitch and by doing so securing improved future community use. This matter was considered by the LED Monitoring Forum on 7th June 2022 and by Cabinet on 8th June 2022 as part of a wider matter relating to the restructuring of arrangements at this site. Minutes of both meetings are attached as background papers.

The earlier reports had advised that the capital payment to the school would not be made until the Council receives the necessary contractual commitment that the other provisions detailed within those reports had been adopted i.e. new lease and management agreement entered into. The works to the all-weather pitch are now almost complete and the school have therefore made staged payments. Heads of Terms are still being finalised and hence delaying the stage at which payment would be made until realistically early / mid 2023. This creates a cash flow issue for the school. The school have acted in good faith, negotiations have continued constructively and we are now very close to agreeing heads of terms which will provide for wider community access to the all-weather pitch and re-profiling our actual usage of the building to what is actually required and accordingly reducing our maintenance obligations. The proposal currently is that the school take on responsibility of both internal and external repairs and maintenance with LED remaining responsible for its equipment and with the Council’s reduced contribution being by way of service charge.

The earlier reports deal with the overall arrangements, this report is merely in respect of the request by the school that the contribution is paid before completion of the new lease and management agreement.

In exchange for this capital contribution, the all-weather pitch is secured for community use for generations to come. Whilst the all-weather pitch is currently used by the community, there is no long term legal arrangement for this to continue, protected only through a management agreement which can be regularly reviewed. An additional benefit is that 2 netball courts would also now be able to be used by the community, again for generations to come, with both the all-weather pitch and the netball courts being incorporated into the lease until 2103.

As part of this proposed package and also reflecting new operational requirements for EDDC / LED of the Leisure Centre itself, by removing school holiday daytime usage and the existing minimal school day usage there is a reduction in operating and property maintenance and repair costs falling on EDDC and LED.

The Leisure Strategy 2021-2031 identifies priorities for investment in the all-weather pitch at Colyton (surface and floodlighting). It also sets out that there is a need to renegotiate all existing dual use facility agreements in favour of the Council to increase access and value for the East Devon community. The proposal satisfies these recommendations in the strategy and fundamentally achieves increased secured access and value for the East Devon community.

This report deals only with the request to make this capital contribution in advance of the new lease and management agreement being in place. If the Council is to make this up-front capital payment prior to securing the new lease and management agreement, the School have agreed that in the event that the new lease and management agreement are not completed by Dec 31st 2023 (longstop date) then the school will be liable to repay the full capital payment. The Council's Legal Services will draft the necessary documentation to secure this commitment by the school although it needs to be acknowledged that the preferred outcome would have been as originally intended, namely that the lease and management agreement be entered into before payment.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Cabinet:

Delegate authority to the Service Lead – Place, Assets & Commercialisation in consultation with the Strategic Lead – Finance, Strategic Lead – Governance & Licensing and the Portfolio Holder for Economy & Assets to arrange advance payment of the capital contribution of up to £140,000 prior to completion of the new lease and management agreement.

Reason for recommendation:

To enable an advance payment being made and thereby securing community use of the all-weather pitch now benefitting from new surface and floodlighting.

Officer: Tim Child, Service Lead – Place, Assets & Commercialisation, tchild@eastdevon.gov.uk , 01395 571692

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; Enables community use of enhanced all-weather pitch.

Links to background information [Minutes for Cabinet 8 June 2022](#) [Minutes for LED Monitoring Forum 7 June 2022](#)

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
 - A greener East Devon
 - A resilient economy
-

Report in full

N/A

Financial implications:

The Council have approved the budget and the report does not amend that sum. The request is we make payment prior to a new lease and management agreement being signed to meet the schools urgent cash flow requirements to help make contract payments for the works that near completion. Members will have to consider that this request from the school will facilitate the partnership working that is providing good outcome for both parties against the risk of the school not finalising the final agreements in line with what has been agreed to date. The Council through legal will seek to protect its position but note the legal comment included in this report.

Legal implications:

It is permissible for the Council to decide to pay the capital sum in advance of the completion of the relevant agreements to secure the agreed usage. This represents a risk to the Council which is acknowledged in the report and mitigated by the intent of having, what is in effect, a grant agreement, which would require repayment of the capital sum in the event the usage agreements are not secured by December 2023. Legal will assist in the preparation and completion of those agreements.