

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:

CABINET

Report of

Corporate Director - Place

Date of Decision:

12th December 2017

SUBJECT:

A SUSTAINABLE SOLUTION FOR THE FUTURE OF THE WELLBEING SERVICE OUTCOMES

Key Decision: Yes

Relevant Forward Plan Ref:004496/2017

If not in the Forward Plan:
(please "X" box)

Chief Executive approved ☐

O&S Chairman approved ☐

Relevant Cabinet Member:

Leader: Cllr Ian Ward.

Relevant O&S Chair:

Cllr John Cotton – Health and Social Care

Wards affected:

All

1. Purpose of report:

- 1.1 To note the outcome of the budget consultation for 17/18 for the future of the Wellbeing Service as outlined in Appendix 1.
- 1.2 To propose two strands to the work for the future of the service in order to preserve the social outcomes for citizens:
 - a) The establishment of a Community Benefit Society to deliver services in the future as outlined in Appendix 2.
 - b) To agree a review of all wellbeing sites in conjunction with other community facilities in the locality offering wellbeing services, to establish clear long term options for each site.
- 1.3 To outline the preparatory work and due diligence already undertaken to ensure that the Community Benefit Society will be sustainable as outlined in Appendix 4.
- 1.4 To propose the scope for each strand of work as outlined in 1.2 above.

2. Decision(s) recommended:

That the Cabinet:

- 2.1 Approve the transfer of services to The Active Wellbeing Society (TAWS) a community benefit society, from 1 April 2018 as outlined in 5.7, including the novation of any existing contracts associated with these services.
- 2.2 Approve a grant of £1.62m to TAWS for 5 years to deliver the services outlined in 5.7 and a loan of £0.5m for working capital to be repaid at the end of the 5 year period.
- 2.3 Approves a review of wellbeing sites in conjunction with other community facilities within the locality of each centre, to retain social outcomes whilst meeting the reducing budget envelope as outlined in 4.2 and that an options report is presented to Cabinet in September 2018.

- 2.4 Approves the interim management of the wellbeing sites by TAWS until the outcomes of the options review has been implemented.
- 2.5 Approves the transfer of some facilities already identified as being suitable for transfer to the community through a competitive process, where a viable and sustainable business plan can be demonstrated as outlined 5.10.
- 2.6 Delegates authority to the Corporate Director of Place in conjunction with the City Solicitor and the Head of Property Services to progress the necessary legal, contractual and financial arrangements in order to transfers council services to TAWS and community organisations as outlined in this report.

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3. Consultation

3.1 Internal

Consultation has been undertaken with Members as part of the initial budget consultation work earlier on in December/January 2016/17. The Cabinet Member for Clean Streets, Recycling and Environment and the Cabinet Member for Health and Social Care have been consulted and are supportive of the proposals. Ward Members who have Wellbeing Sites and Hubs located in their Wards have also been advised of the proposals and will be consulted as part of the review. The Chair of the Health and Social Care Overview and Scrutiny Committee has also been advised of the proposals. This has also involved senior officers from the Place and People directorates, as well as joint working with senior officers from within the Economy directorate. Discussions have specifically been undertaken with the Director of Public Health, the Head of the Corporate Policy Team, parks representatives, and The Head of Cultural Development in relation to joint working and potential opportunities for synergy. Informal consultation with Trade Union representatives has also begun on the proposed model and TUPE implications, as well as wider information with those staff potentially affected.

3.2 External

Early discussions with Sport England have resulted in financial support being provided, as well as expertise and guidance based on national learning. The financial support from Sport England (£20,000) has been used to bring in legal and financial experts to help with the potential modelling for a new delivery organisation. Key partner organisations have been informed of the direction of travel for the service, and a dependencies chart has been developed which outlines current partnerships and stakeholder relationships as well as intended post functional possibilities for the new organisation. Timescales for more formal and detailed consultation with partners is planned as part of the ongoing due diligence.

Informal discussions have taken place with a wide range of strategic partners and collaborators including, Birmingham Open Spaces Forum/ Saheli/ Streetgames/ The Real Junk Food Project/ Coca Cola GB/ Wild Network/ The Lawn Tennis Association/ British Cycling/ Sport Birmingham, as well as wider residents networks and local organisations. Initial consultation with citizens was undertaken as part of the overall generic consultation on the budget proposals for 2017/18. It is envisaged that further consultation on the specific outcomes being proposed for the Wellbeing Service will be undertaken as part of the ongoing due diligence phase prior to the final transfer.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

There is clear evidence presented within the supporting documentation to demonstrate that the recommended decisions are closely aligned with the council's strategic approaches and corporate priorities. The City Council has adopted a Vision which sees *a whole Council focus to make a positive difference every day for citizens of Birmingham*. This is supported by four clear priorities which are linked with key drivers of change for its city and citizens.

For **housing**, the objectives currently most contributed to are:

- excellent delivery through partnerships
- cleaner, greener streets and neighbourhoods.

Appropriate **Jobs and Skills** play an important role in wellbeing and objectives the

service contributes here are to:

- support local people to access employment opportunities
- support the growth of thriving, distinctive neighbourhoods.

Health is a key focus for the Wellbeing Service, addressing the objectives below:

- creating a healthier environment for Birmingham
- increasing levels of physical activity in Birmingham and developing a healthy eating environment
- reducing health inequalities
- leading a real change in the **mental wellbeing** of all people in Birmingham
- promoting independence of all our citizens

Amongst key areas where the Service delivers health outcomes are:

- increased use of public spaces for physical activity
- more people walking and cycling
- improved air quality and utilisation of WHO guidance on health and planning
- improved sense of community and individual mental wellbeing
- seeking to prevent, reduce and delay dependency and maximise the resilience and independence of citizens, their family and the community.

4.2 Financial Implications

4.2.1 The financial implications from the proposals to establish a Community Benefit Society (TAWS) are set out below:

4.2.2 Existing Council Health and Wellbeing Service

- The existing Health and Wellbeing Service provided by the Council includes a number of Local Community Leisure Centres/Community Hubs and a Strategic/Commissioning Service
- The net expenditure in 2017/18 to the Council for both services is estimated at £1.7m (this includes £0.3m for the Local Community Leisure Centres/Community Hubs and £1.4m for the Strategic/Commissioning Service)
- The overall Health & Well Being Service is currently funded in part by Public Health Grant – estimated at £4.3m in 2017/18 and projected to reduce to £3.6m in 2018/19, £3.0m in 2019/20 and 2020/21 and £2.0m in 2021/22 thereafter (subject to confirmation of the annual grant funding from central government)
- The Local Community Leisure Centres/Community Hubs will be retained in house and subject to a separate option appraisal – the outcomes will be reported to the Cabinet in September 2018.
- The service that will be transferred to TAWS relates only to the Strategic/Commissioning Service (includes strategic service development, Active Parks, Big Birmingham Bikes, Run Birmingham and other specific projects) and the major components of the net current budget of £1.4m include:
 - employee costs of £1.8m
 - operational costs and external commissioning of £1.5m
 - public health grant of £1.0m
 - other grants and income of £0.9m

4.2.3 Medium Term Financial Plans from 2018/19+

- The grant that will be awarded to TAWS is estimated at £1.62m per annum (including £1.3m of existing Health & Well Being Service Budgets and £0.32m of Public Health Grant) – this compares to £2.4m of Council resources that are currently invested in the service (£1.4m of existing budgets and £1m of public health grant)
- The proposed grant to TAWS of £1.62m will be funded from the existing approved Health and Well Being Service budget and will allow the Council to deliver the approved saving of £0.7m in 2018/19 (representing the reduction in the Public Health contribution to the service)
- There are no proposed transfers of physical assets (land and buildings) to TAWS and there are no financial considerations in this regard.
- All the current existing staff within the Strategic/Commissioning Service will transfer under TUPE arrangements to TAWS and admittance to the West Midlands Pensions Scheme and any future pension obligations will be a matter for TAWS (the Council will not indemnify any future obligations).
- A short term loan of £0.5m is proposed to TAWS (to assist cash flow in the short term) – this will be subject to an annual interest of 5% and will be repaid in 2 equal instalments of £0.25m in 2019/20 and 2020/21 (as set out in the TAWS Business Plan). A rate of 5% is below the rate a commercial lender might be expected to charge for an unsecured loan of this nature.
- the loan advance is not classed as capital expenditure. The Health and Well Being Service will be accountable for managing the loan, including budget responsibility for the interest income and any losses/write-offs costs which may arise. The cost of Council borrowing to fund the loan at 1.1% per annum will be met by the service.

4.2.4 Other Financial Considerations

- The financial viability of TAWS will be established through their independent service and financial business plan – this also includes the generation of additional income or potential reduction in expenditure (this is set out in the provisional TAWS Business Plan that is appended to the report).
- the development of TAWS and the option appraisals were funded from an allocation of £0.3m from public health grant (carried forward as an earmarked reserve into 2017/18).

4.3 Legal power to carry out:

- (1) Under Section 1 of the Localism Act 2011, the Council has the power to enter into the arrangements set out in this report, which are within the remit and limits of the general power of competence under Sections 2 and 4 of the Localism Act 2011.
- (2) Under the Co-operative and Community Benefit Societies Act 2014, the Council has power to create a Society for carrying on any industry business or trade (including dealings of any description with land) provided that it conducts the

In advance of consultation in accordance with TUPE (Transfer of Undertakings [Protection of Employment] Regulations) 2006, there will be engagement with service users, affected employees, trade unions and Elected Members.

Data Protection

The requirements of the Data Protection Act 1998 and Human Rights Act 1998 have been taken into consideration in terms of the processing, management and sharing of data involved in these proposals. Data Processing and Data Sharing agreements will be drawn up as part of the transfer process.

4.4 Public Sector Equality Duty

A copy of the Equality Act 2010 – Public Sector Duty statement is appended together with the initial equality assessment screening – Appendix 3A and 3B.

5. **Relevant background/chronology of key events:**

5.1 In December 2013, a report was presented to Cabinet outlining the final recommendations for the leisure assets for the city. The recommendations included:-

- i) Community Asset Transfers (CAT) of some facilities.
- ii) The use of Leisure Framework contractors to deliver and manage both new and remaining facilities.
- iii) The establishment of a Wellbeing Service which incorporates existing facilities and an outreach service in parks and open spaces, commissioning directly and through a range of partners

This process was completed on 1st June 2015 and at this point the Wellbeing Service went live operating the remaining centres in the most deprived parts of the city that required an ongoing subsidy. This subsidy was made up from a contribution of mainstream leisure budget of £1.6m and a Public Health allocation of £4.3m. Key targets were established for the Wellbeing Service to deliver against the Public Health Outcomes Framework and a behaviour change programme was established that focused on removing the barriers to engagement, for those who are the most deprived and inactive, while still providing a service for everyone.

5.2 The drivers behind the current budget savings relate to pressures within BCC to realise savings on the non-statutory, controllable spend, while also preserving the outcomes for citizens wherever possible. The rationale behind the original wellbeing service was to provide physical activity interventions at scale for those communities most likely to be the most sedentary. This is where the biggest impact on health inequalities can be made. Evidence shows a clear correlation between poverty and physical inactivity, and as such the focus of the work for the Wellbeing Service has been to work with poorer communities to identify and overcome the barriers including financial to physical activity.

5.3 Increasingly in the last 18 months of the service's delivery, there has been a shift from straightforward participation in physical activity interventions to creating opportunities for more active citizenship in total. In order to deliver on a wide range of social outcomes for the city, a focus on active citizenship and enhancing moral agency by using physical activity to do the 'social knitting' with communities has been gathering pace. This was

subsequently the focus of a recent bid for funding to Sport England to become a Local Delivery Pilot area for which a formal announcement is still to be made. If the bid is successful the work on active citizenship will form an essential part of the vision for the new mutual.

- 5.4 In addition to funding from Public Health and from the Council's sport and leisure budget, the service has been successful in securing external funding streams that include grants from Sport England, EU funded projects, funding from the Department for Transport, and corporate sponsorship.
- Due to the reduced funding outlined in 4.2 the following is now proposed to retain the outcomes delivered by the service:-

Community Benefit Society

- 5.5 Due to the ongoing pressures on the public purse and specifically on the Public Health and leisure budgets, additional sources of funding need to be identified to sustain the service. The main benefit of a decision to mutualise the service through a community benefit society (CBS) would be to draw down funding streams currently not accessible to the council, which are numerous within the wellbeing environment. Furthermore a new mutual organisation independent from the council could deliver services beyond Birmingham boundaries to a much wider market, potentially bringing in additional income to help sustain the service. This could include delivering a wider legacy from Commonwealth Games across the region, subject to a successful outcome of the bid.
- 5.6 In order to move the proposal forward, The Active Wellbeing Society has been set up and a Shadow Board established in readiness to receive the transfer of council services and facilities. If the Council makes available a grant and specifies its broad requirements for wellbeing outcomes in the grant agreement, the requirement to advertise in OJEU and conduct a competitive tender process is not required. As a result a full due diligence process is well underway and has established the costs and liabilities of the new organisation. Through this process a robust and sustainable business model has been developed that builds on a proposed grant from the council of at least £1.62m per annum (subject to the site reviews and future delivery options outlined in 5.8) for a minimum of 5 years, with the focus on performing a strategic wellbeing function and the delivery of existing programmes.
- Once established, there are high expectations that business growth will be achieved from other sources of external grant funding and commissions.
- 5.7 The initial scope of the services to be transferred from 1 April 2018 includes :-
- Strategic development and representation for the city at a national and international level: including EU projects, core cities representation, Sport England work, International work (funding from EU), Sponsorship development (funding from Sponsors), Relationship management and stakeholder development directly within remit for the Council.
 - Specific outdoor projects: Active Parks/Parklives, Big Birmingham Bikes, Active Streets, Be active plus, Run Birmingham (project through Sport England), Bikeability (contract through Transportation), National data work (part funded by SE), Workforce planning (Part funded by SE), This Girl Can (Part funded by SE), Young adult's cancer referral pathway (funded by Macmillan), Disability activity/ Disability swimming 'level water' (part funded by SE), Swimming tutor apprenticeships (part funded by ASA), Active citizenship work (directly within remit from BCC), Community cohesion (Part funded by SE), Strategic analysis and policy development (directly within remit for BCC).

Staff involved with these core services and programmes will be TUPE transferred to TAWS, subject to resolving any timing issues and requirements with the West Midlands Pension Scheme.

Note the council will retain all intellectual property rights over its existing brands through this transfer.

- 5.8 Changing the way the service is delivered also provides an opportunity for the council to review its assets and look at appropriate future options for the wellbeing sites together with other community buildings including Adult Social care within the locality. This may present opportunities to rationalise services, co-locate provision, release capital receipts and replace some of the existing buildings that are reaching the end of their economic life.
- 5.9 The building options review process will be completed over the next 6 months by the council in collaboration with TAWS, with options being presented to Cabinet in September and implemented from April 2019. In the interim TAWS will manage these sites on behalf of the council through a service level agreement to retain the existing synergies and outcomes that exist within the current service. Until the preferred options have been agreed, staff will remain employed by the council at these sites which include:- Handsworth, Kingstanding, Small Heath, Saltley, Newtown and Shard End wellbeing centres and Calthorpe and Stanhope Community Hubs.
- 5.10 The other sites currently within the service have already been identified as having significant interest from community organisations and work to transfer these is underway subject to receiving sustainable business propositions through a competitive process. These included Nechells wellbeing centre; Firs and Bromford, Masefield, Aston Pavilion and pitches, and Ackers Pavilion.
- 5.11 Details of the proposed business plan for TAWS is outlined in Appendix 4 which includes the operation of transferred core services and programmes and the interim management of sites pending the outcome of the review.
- 5.12 The council has commissioned Anthony Collins Solicitors to independently review the business plan and assess the new organisations sustainability. Anthony Collins Solicitors report is included in Appendix 5 and has given the new organisation a “clean bill of health” subject to receiving the grant and loan for working capital, as outlined as outlined in paragraph 4.2.
- 5.13 On the basis of such an ethical and legal model, a clear vision for the new organisation is proposed that would:
- Provide a new format for the delivery of the non-statutory public sector offer that affords citizens a clear stake in the design and delivery of the service, and has a level of participatory membership expected within its governance and structure (in this case through a participatory membership role).
 - Continue to promote active citizenship opportunities through the deliberate provision of physical activity interventions designed to bring people together around a sense of place (park, street, and neighbourhood).
 - Continue to increase levels of physical activity in deprived communities
 - Co-create solutions with citizens at a local level
 - Provide anchor institutions in key local communities to ensure that priority communities have support around place holding and place shaping.

6. Evaluation of alternative option(s):

- 6.1 A number of options have been explored in terms of securing the long term outcomes for citizens currently being delivered. These included other models that could be used to take the service out of the council, as well as an analysis of the risks and potential benefits of keeping the service within the council. More information about these options is contained in Appendix 2. Therefore a decision to transform the Wellbeing Service into a community benefit society, is the preferred option as it opens up opportunities to additional funding streams and provides citizens a stake in the design and delivery of the service.
- 6.2 Options for the operation and re- provision of the wellbeing sites have been considered including running them in house or transferring them to the framework. However, retaining them in house would also retain the operational deficit risk and the council no longer has the expertise to design, manage and operate sites within the market without subsidy. Transferring them to framework would not provide the social outcomes currently being delivered by the service, and it is acknowledged that these are a key strategic outcome for some of the most deprived and vulnerable citizens. As such, developing a review process which allows full consideration of each site alongside some of the key services within adult social care and the wider cultural and community services will be critical to reducing liability, risk and funding, while maintaining the social outcomes for marginalised citizens.

7. Reasons for Decision(s):

- 7.1 The decision to support the externalisation of the Wellbeing Service through the transfer of strategic services and programmes to TAWS makes the most of the limited funding available while balancing the delivery of the social outcomes key to the strategic intent of the Local Authority. It uses the funding flexibilities available to a Community Benefit Society and unlocks further potential for the council to work more smartly to deliver the citizen a joined up and invested opportunity to experience wellbeing services at a local level.
- 7.2 Carrying out a wider review of the wellbeing sites will enable Members to consider options on the best way forward, on a site by site basis in September prior to implementation from April 2019.

Signatures

Leader:
Cllr Ian Ward

Date:

Chief Officer:.....
Jacqui Kennedy,
Corporate Director - Place

Date:

List of Background Documents used to compile this Report:

1. Options appraisal paper 2016
2. Original PDD 2015/16
3. Legal report on structures– Elderflower 2017
4. Leisure transformation Cabinet report December 2013
5. Background and context to cooperatives and mutual 2017
6. Appendix 1 to 6 of TAWS Business Plan.

List of Appendices accompanying this Report (if any):
<ol style="list-style-type: none">1. Budget consultation wording2. FMG report on the future of the wellbeing service3. Equalities Public Sector Duty Statement and Initial Equalities Assessment Screening.4. The Active Wellbeing Service Business Plan.5. Anthony Collins Solicitors report on TAWS Business Plan.

Report Version		Dated	<u>5.12. 2017</u>
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