



## EXECUTIVE

YOU ARE REQUESTED TO ATTEND A MEETING OF THE EXECUTIVE TO BE HELD IN THE DEANE HOUSE, BELVEDERE ROAD, TAUNTON ON WEDNESDAY 27TH AUGUST 2003 AT 18:00.

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### **AGENDA**

1. Apologies
2. Minutes
3. Public Question Time
4. Leisure Trust  
Report of Director of Community Services (enclosed)
5. Rockwell Green Pavilion - Request for Supplementary Estimate  
Report of Leisure Development Manager (enclosed)

G P DYKE  
Member Services Manager

The Deane House  
Belvedere Road  
TAUNTON  
Somerset

TA1 1HE

19 August 2003



## **Executive - 23 July 2003**

Present: Councillor Williams (Chairman)  
Councillors Bishop, Mrs Bradley, Mrs Bryant, Edwards, Garner and Hall  
Officers: Mr S Fletcher (Chief Executive), Mr J J Thornberry (Director of Corporate Resources), Ms S Adam (Head of Finance), Mr D Gary (Somerset Direct Project Manager), Mr M McLaughlin (E-Government Manager), Mrs N Heal (Public Relations Officer), Mr G P Dyke (Member Services Manager)

Also Present: Councillors Gill, Henley and Lisgo

(The meeting started at 6.00 pm).

### 31. Minutes

The minutes of the meeting of the Executive held on 25 June 2003 were taken as read and were signed.

### 32. Apologies

Councillors N Cavill and Mrs Lewin-Harris.

### 33. Somerset Direct

Reported that Somerset Direct was a Government sponsored Invest to Save Budget Project, designed to improve the handling of enquiries by the public to all Somerset Councils. The Office of Deputy Prime Minister (ODPM) was funding 75% of initial project costs but not any ongoing funds.

Each partner had now been asked to commit to the benefits, savings and costs of the project to allow the County Council to sign contracts with suppliers on behalf of the Partnership so that the Council could proceed to live operations.

Consideration was therefore given whether to:-

- (1) adopt the Somerset Direct Model as a Council's methodology for dealing with customer services;
- (2) request a Supplementary Estimate from General Fund Reserves to fund the costs of either £84,638 or £231,002, depending on if the reception area was remodelled;
- (3) note the legal basis under which Somerset County Council would enter into contracts with suppliers on this Council's behalf;
- (4) note the staffing arrangements and accommodation changes required.

Total project size was estimated to be £3.8m. Individual Councils would be responsible for sourcing on-going costs and realising savings.

The ODPM representative for e-government in the South West had recently re-stated keen interest in the project and the benefits it would bring to the people of Somerset. ODPM expected each partner to reflect the project and the resulting meeting of e-government targets in its CPA assessments.

All five district Councils and the County Council had previously committed to the ISB bid and had been working together to bring the benefits to fruition. The Partnership was now at the stage of appointing a key technology supplier.

Progress made so far with the proposal was reviewed. Detailed consideration was given to the anticipated improvements in access to services, increased customer satisfaction and the potential for efficiency savings. Each partner would be able to significantly improve their achievement of e-government targets through Somerset Direct.

Details of the finances of the project were submitted. A Supplementary Estimate of £231,002 would be required for a remodelled Reception and for Somerset Direct. If Somerset Direct was implemented without a remodelled Reception, the Supplementary Estimate required would be £84,638. These costs would be spread over the Financial Year 2003/04 and 2004/05.

The agreement between the partners indemnified Somerset County Council as the Lead Authority and each other as partners in connection with the financial and contractual arrangements. It contained a five year commitment for each partner to meet the project set up and ongoing costs. If any partner withdrew, it needed to give 12 months notice and would be responsible for any resulting cost shortfall.

In Taunton Deane, it was intended to establish a new Customer Services Team to operate the project. There was still a great deal of project management and development work to be done and David Gary would therefore continue as the Project and Implementation Manager. Operational management would be carried out by a Customer Services Manager. This post would be filled from within the existing staff establishment. Customer Services Advisors would also be appointed from within the existing establishment.

A phased approach over a period of 12 months from April 2004 was to be used, bringing all services provided by the Council into the system of dealing with public enquiries.

There would be a need for all of the Customer Services Team to be in one place related to the face-to-face facilities in the Reception area. This presented an opportunity to revamp the area and present a modern customer-friendly area with proper sound management and a 'Meeter and Greeter' to provide both security and greeting to members of the public. It was intended that, apart from a cashier position, staff would be consulted on how the area could be made more customer friendly.

Whilst an improved, remodelled Reception was considered essential to realise the full benefits of this project, it was not necessary to commit the finance for this aspect of the scheme at this stage. Somerset Direct could continue to be implemented with a Supplementary Estimate of a maximum of £84,638. Once this commitment had been made, further detailed and careful consideration could be given to any remodelling of the Reception area.

Part of managing the project was to identify and analyse risks and to instigate preventative actions. The Somerset Direct Risk Register was therefore regularly reviewed.

The technology for Somerset Direct was planned to go live on 1 April 2004 with the ability to handle all types of enquiry to a specified service level. Advisors would be able to fulfil some enquiries in depth, whereas others would be passed to the back office. Between April 2004 and December 2005, the Council would progressively perform towards its target of fulfilling 80% of calls within the Customer Services area.

RESOLVED that:-

- (a) Council be recommended to agree a Supplementary Estimate from General Fund Reserves of a maximum of £84,638;
- (b) the Somerset Direct Project be adopted;
- (c) a further report be submitted with full details of design and costing for a remodelled Reception area.

(The meeting ended at 6.45 pm).

## **TAUNTON DEANE BOROUGH COUNCIL**

### **EXECUTIVE**

**WEDNESDAY, 27TH AUGUST, 2003**

### **REPORT OF THE DIRECTOR OF COMMUNITY SERVICES**

**This matter is the responsibility of the Executive Councillor for Leisure, Arts and Culture, Councillor Mrs. Bradley**

### **LEISURE TRUST**

#### **1. EXECUTIVE SUMMARY**

- 1.1 The report seeks approval to delay the Trust live date by three months, as well as authorising to review the form of leisure trust in the light of recent Government proposals.

#### **2. PURPOSE**

- 2.1 The purpose of the report is to:

seek the Executive's approval to extend the timescale for the Leisure Trust live date to 1st January, 2004; and

to reconsider the most appropriate form of trust in light of recent Government proposals.

#### **3. BACKGROUND**

- 3.1 At a Joint Meeting of the Executive and Health and Leisure Review Panel, held on 21st November, 2002, Taunton Deane Borough Council resolved to establish a Non-Profit Distributing Organisation (NPDO) to operate the Council's Leisure Centres, Golf Course and Sports and Health Development Services.

#### **4. TIMESCALE**

- 4.1 The original target date for commencement of the new leisure trust was October 2003. This allowed a nine month implementation period which was always going to be challenging, but meant that savings could be maximised during the set-up year. However, as the project has progressed there have been a number of issues which have caused some delay. These issues relate to:

- the transfer of leases on Blackbrook, Wellsprings and Castle;

- complications surrounding the most appropriate form of trust following the Government's latest proposals; and
- some general slippage due to the volume of work/impact of other corporate projects.

In view of these issues, it is now believed that a start date of October 2003 is not achievable. The project team and external leisure and legal advisers have revised the timetable and recommend that a more realistic start date would be 1st January, 2004. The financial impact of this change is shown in Appendix A and shows a total cost of £60,000. This can be funded within the existing approved budget as the money set aside to fund the Council's breach of their partial exemption limit will no longer be required. This cannot be confirmed until the scheduled VAT inspection in September has been completed, but our VAT Advisers (PWC) are confident in our conclusions.

## 5. FORM OF TRUST

5.1 At a Joint Meeting of the Executive and Health and Leisure Review Panel held on 21st November, 2002 the Council's advisers, Strategic Leisure Limited, presented a report outlining two forms of NPDO, Company Limited by Guarantee (CLG) and Industrial and Provident Society (IPS). Based on the information available at the time, the IPS was recommended by the consultants and approved by the Council.

Subsequent to that decision the circumstances have changed and the purpose of this section of the report is therefore; to present a rationale for a recommendation to change the form of trust from an IPS to a Company Limited by Guarantee.

### 5.2 The Original Decision

The report prepared by Strategic Leisure in October 2002 went into some detail about the characteristics of the two forms of trust and set out the main advantages and disadvantages of the two models. A synopsis of this is set out in the table below.

<b>Company Limited by Guarantee</b>	<b>Industrial and Provident Society</b>
<p><b>Main Characteristics</b></p> <ul style="list-style-type: none"> <li>• Incorporated organisation with limited liability</li> <li>• Trustees recruited from the 'great and the good'.</li> <li>• Organisation complies with Company Law and Charity Law.</li> <li>• Receives mandatory relief from NNDR, Council can 'top-up' using discretionary powers.</li> <li>• Need for trading subsidiary.</li> <li>• Subject to Corporation tax on 'profit'.</li> </ul>	<p><b>Main Characteristics</b></p> <ul style="list-style-type: none"> <li>• Incorporated company with limited liability.</li> <li>• Can have employee ownership and 'worker Directors'.</li> <li>• Can be established with wider community representation.</li> <li>• Can apply for 'exempt' charity status.</li> <li>• Regulated by Financial Services Authority.</li> <li>• NNDR relief discretionary.</li> <li>• No need for trading subsidiary.</li> </ul>

<b>Company Limited by Guarantee</b>	<b>Industrial and Provident Society</b>
<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Mandatory NNDR relief.</li> <li>• Model understood by the business community.</li> <li>• Relatively easy to alter constitution.</li> <li>• Becoming the Government's favoured approach.</li> </ul>	<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Less regulation.</li> <li>• Allows employee ownership and involvement.</li> <li>• Taxation advantages the same as CLG subject to local authority policy on rate relief.</li> <li>• Established model for leisure services.</li> </ul>
<p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• No scope for employee ownership and involvement if charitable status is sought or required</li> <li>• Need to comply with two regulatory bodies</li> </ul>	<p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Somewhat 'antiquated' structure, less understood in the business community.</li> <li>• Difficult to change constitution.</li> </ul>

The choice of form of trust is taken by individual local authorities based on the relative importance of all the factors described above.

In the specific case of Taunton Deane Borough Council, the consultants advised in favour of an IPS because it was their view that that particular form of trust most closely reflected the objectives of the Council in relation to the 'externalisation' of leisure services and in particular:

- the ability of an IPS to be deemed an 'exempt' charity and therefore receive the same tax advantages as a CLG without the involvement of the Charity Commission (subject to the use of the Council's discretionary powers);
- the potential for greater ownership, involvement and empowerment of staff through the IPS model due to the fact that it is not required to be a registered charity.

### 5.3 What Has Changed?

Since Taunton Deane Borough Council resolved to establish an IPS the Co-operative and Community Benefit Societies Act 2003 has been enacted and the Home Office has produced its response to 'Private Action, Public Benefit', a consultation document produced by the Prime Minister's Strategy Unit concerning a review of Charities and Not-for-Profits. It is clear from both the primary legislation and the Government's response to the consultation document that IPSs will be brought more into line with company and charity law. Indeed the Secretary of State has advised as much in recent guidance issued to local authorities.



## 5.4 Issues and Implications

The implication of these recent changes for Taunton Deane Borough Council's leisure trust is that the balance of factors previously in favour of an IPS relative to a CLG has now altered. For example, it is likely that the exemption in relation to charitable registration will be removed. If this happens the responsibility for regulation of the leisure trust will move from the Financial Services Authority to the Charity Commission thus placing the organisation in the same position as a CLG in relation to; participation of employees in the Board of Management, taxation issues and the rigidity of the regulatory framework.

When the current advantages of the IPS are stripped away some of the advantages of the CLG assume greater significance such as mandatory as opposed to discretionary relief from NNDR, the familiarity with the business model etc.

The issue of the ownership and involvement of employees is an important consideration for the Council. Under a CLG scenario this only becomes an issue when the organisation applies for charitable registration. Directors of a charity are precluded from receiving remuneration thus preventing staff from having ownership or a seat on the Board. Should the Council accept the recommendation of this paper, it will be of critical importance to manage the expectation of employees and consult them fully on the rationale for the change of form of trust.

The employees were initially fully consulted on the proposed transfer to a leisure trust on the basis that they would have an opportunity of being members of the organisation and having two places (plus the Managing Director) on the Board. It is not therefore considered proper or sensible to remove these rights and, indeed, their expertise and in particular the expertise of the Trust's Managing Director will add considerable value to the Board at a critical and formative stage in the Trust's development. When the organisation seeks charitable status, employees will not be able to retain their places on the Board and may not be able to retain their role as members of the organisation. This can be provided for in its constitutional documents. It will be important, however, to ensure that mechanisms are identified and introduced to enable staff to continue to play an active role in the management and development of the Trust.

There is also consensus between the advisers and the Council's Officer Steering Group that the new organisation should be established on as firm a footing as possible. Whilst it would be possible for an IPS to change into a CLG once the implication of legislation and guidance becomes clearer, this would be an unnecessary distraction from the business of providing a leisure service. It is better to amend the form of trust now before the organisation is formally constituted.

## 6. CONCLUSION

6.1 For the reasons given above it is appropriate to re-visit the approved form of trust for Tone Leisure. At this stage in the implementation process this change can be accommodated with no real impact on; the cost of establishing the trust, the timescale or the future business plan. Given the changes taking place nationally and the advice being given to local authorities, it is considered prudent to recommend that Taunton Deane Borough Council forms a CLG rather than an IPS.

## 7. EFFECT ON CORPORATE PRIORITIES

7.1 The creation of a Leisure Trust will contribute towards the delivery of the Corporate Priority of Healthy Lifestyles.

## 8. RECOMMENDATIONS

8.1 The Executive is RECOMMENDED to:

8.1.1 request Full Council to approve a virement of £60,000 from the earmarked Partial Exemption VAT Reserve to the Leisure Trust set-up budget;

8.1.2 resolve that Tone Leisure Limited is established as an incorporated Company Limited by Guarantee;

8.1.3 defer a decision regarding whether to apply for charitable status at this stage; and

8.1.4 resolve that the initial constitution of the CLG allows employee involvement, this to be reviewed concurrent with future consideration of charitable status.

### Contact Officers:

**Penny James**                      **Director of Community Services**  
**Tel: Extension 2601**  
**E-mail: [p.james@tauntondeane.gov.uk](mailto:p.james@tauntondeane.gov.uk)**

**Shirlene Adam**                      **Head of Finance**  
**Tel: 01823 356310**  
**E-mail: [s.adam@tauntondeane.gov.uk](mailto:s.adam@tauntondeane.gov.uk)**

**Juliette Dickinson**                      **Head of Commercial Services**  
**Tel: 01823 356311**  
**E-mail: [j.dickinson@tauntondeane.gov.uk](mailto:j.dickinson@tauntondeane.gov.uk)**

### Background Papers

Health and Leisure Report - 21st November, 2002 - Leisure Trust Status

## APPENDIX A

### LEISURE TRUST

#### Financial Implications of Trust Start Date Slipping To 1 January 2003

<i>Figures From SL Model</i>	Full Year Impact	Start Date		04/05 Budget	Eventual FYI
		Impact on 03/04 Budget			
		01-Oct	01-Jan		
VAT Savings	108,086				
Business Rate Relief	181,914				
Reduction in Deficit Funding	32,000				
<b>TOTAL SAVINGS</b>	<b>322,000</b>	<b>161,000</b>	<b>80,500</b>	<b>322,000</b>	<b>322,000</b>

**Less/**

Set-Up Costs	70,000	70,000	-	-
Working Capital	25,000	10,000	25,000	-
Additional Support Costs	40,000	40,000	70,000	70,000
Full Cost of HOCS	7,945	11,918	15,890	15,890
	142,945	131,918	110,890	85,890

**Usable Savings**

**18,055      -51,418      211,110      236,110**

**Less Additional Costs**

Staff in Community Services Directorate	798	1,115	4,459	22,908
Leisure Officer	15,000	7,500	30,000	30,000
	15,798	8,615	34,459	52,908

**USABLE SAVINGS FOR MAINTENANCE**

**2,257      -60,033      176,651      183,202**

## TAUNTON DEANE BOROUGH COUNCIL

EXECUTIVE - 27<sup>TH</sup> AUGUST 2003

### Report of Leisure Development Manager

(This matter is the responsibility of Councillor Bradley)

### ROCKWELL GREEN PAVILION CONSTRUCTION PROJECT – REQUEST FOR SUPPLEMENTARY ESTIMATE OF £21,160

#### Executive summary

*The negotiations and permissions needed to construct the pavilion at Dobree Park football field are now complete and the project is ready to commence. The specification of some items of the building has been amended to keep the project within budget and a supplementary estimate has been requested in order to reinstate these changes.*

#### 1. Purpose of the Report

- 1.1 To acquaint Members with the background to a request by the Health and Leisure Panel for a supplementary estimate of £21,160 to allow the Rockwell Green Pavilion to be built to the specification as originally drawn up by the architect.

#### 2. Background

##### 2.1 HISTORY OF THE PROJECT

###### (1) The Pitch

The Council required a football pitch to be provided by Bellway Homes as a result of its development at Dobree Park Rockwell Green to help to ease pressure on pitches in the Wellington area. The negotiations as to the acceptability of the pitch as fit for playing competitive football have been very long, but the main issues of drainage and fencing have now been agreed and the work completed. The pitch is ready for adoption but there has been a delay due to legal difficulties associated with the ownership of the site to be conveyed which were resolved on 31<sup>st</sup> July this year.

###### (2) The Pavilion

###### (a) Time frame

Planning permission was granted for the pavilion in May 2001 in anticipation of the adoption of the land and pitch by the

Council. Until the pitch was adoptable it was not prudent to enter negotiations to build the pavilion. As soon as the pitch quality was acceptable, in January 2003, the pavilion project was set in motion.

(b) Funding

The total budget available is £130,000. This sum arises from two sources: a sum of £42,420 in lieu of provision for outdoor sport on the nearby Swains Lane development and the remainder from the Council's capital budget. The sum arising from the Section 106 agreement at Swains Lane must be spent or contracted to be spent by the end of February 2004

2.2 HOW THE PAVILION PROJECT HAS PROGRESSED

(1) The Design:

A brief to the architect was drawn up by the Chief Leisure Officer and Parks Manager in 1999/2000 and included a requirement for two team changing rooms each with showers and a toilet, an officials changing room, a disabled toilet, a kitchen and storage facilities.

(2) Costs/Tenders:

In 2002, the design for the pavilion was costed by the Council's Quantity Surveyor. The estimate was almost £200,000. The building was then redesigned with the budget available in mind, but in May it was again costed by the Quantity Surveyors at some £30,000 over the available funds.

In view of the pressure from the local community to build the pavilion in time for the 2003/4 football season, it was decided to allow the design to be tendered, but a contingency list of potential savings was drawn up in order that, if the tenders exceeded the budget, negotiations on savings could be entered into immediately. The tenders did indeed come in over the budget. Negotiations took place according to normal practice to bring the tender sum within budget, with future maintenance costs and vandalism issues being borne in mind.

(3) The list of omissions/changes currently being made from the building are:

(a) Omissions:

shrub planting; drainage channels adjacent to external doors; mud mat; timber fence; Altropol screed additive; anti-graffiti paint; Sunpipes; roller shutters; water heater; hair driers and one WC cubicle.

(b) Changes to the specification:

Emulsion painted dense blocks instead of Lignacite  
Floor paint in lieu of Altro Atlas 40 flooring  
Wall tiling instead of Whiterock  
Concrete interlocking tiles in lieu of Decra  
Plywood flush doors instead of Plasform  
Wall hung basins instead of Corian vanity unit  
Internal gullies instead of stainless steel channels  
Concrete instead of Saxon paving slabs

The contract sum negotiated is £132,055 including a reasonable contingency sum which if not needed is available for on site variations during construction. Non structural items omitted could be funded from other budgets.

3. **Recommendation**

- 3.1 Members are recommended to consider the request for a supplementary estimate of £21,160

Contact Officer: Karen Dyson  
Leisure Development Officer  
k.dyson@tauntondeane.gov.uk