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11 February 2025

Key Decision? Yes

Report No. REG2501

FARNBOROUGH LEISURE CENTRE – NEXT STEPS

SUMMARY AND RECOMMENDATIONS:

In January 2023, the Council was awarded £20m of Levelling Up Funding to support the delivery of a Leisure and Cultural Hub in Farnborough. Design work was undertaken during 2023 and proposals shared with the public in early 2024.

A market tested cost plan was commissioned to ensure the estimated project costs were clear before the decision to move to the next stage of delivery. That work, alongside work by the Council's cost consultant, confirmed that costs had increased significantly, and the Leisure and Cultural Hub Project as designed would be completely unaffordable.

The Council's project team engaged with a team of specialist consultants, known as Delivery Associates, provided by Government to look at how the project could be adjusted to achieve the most important outcomes for local people whilst being affordable for the Council.

This report sets out the outcome of the work undertaken with the support of the Delivery Associates. It proposes a revised project, which would deliver a Leisure Centre in Farnborough, within the time parameters of the Levelling Up Fund and would be affordable for the Council given the Council's wider funding pressures.

It is recommended that Cabinet:

- 1) Agrees the revised approach to providing a Leisure Centre in Farnborough town centre;
- 2) Agrees the facilities mix that is proposed for the new Leisure Centre;
- 3) Agrees the development procurement approach to enable the delivery of the project within the Levelling Up Fund timelines;
- 4) Agrees the commissioning of design work to the end of RIBA Stage 3, planning submission and associated costs of up to £1.35m to be funded by the Levelling Up Fund;
- 5) Agrees the use of Levelling Up Fund Capacity Funding Grant (£40,000) towards legal and other project related costs that cannot be drawn down from the Levelling Up Fund;
- 6) Agrees the overall operator procurement and appointment approach as outlined in this report, and commencement of the process;

- 7) Delegates any decision to amend the procurement documentation as required throughout the process to the Executive Head of Operations in consultation with the Portfolio Holder for Healthy Communities & Active Lives and financial implications in consultation with the Executive Head of Finance (S151);
- 8) Approves a further extension to the existing agreement with Places Leisure to operate the Aldershot Pools & Lido on the same terms until 31 March 2027;
- 9) Notes that a detailed viable Business Case based on the outcomes of RIBA 3 and the initial stages of the operator procurement, including an appropriate funding strategy supported by robust independent due diligence, will be produced before a decision to move to RIBA stage 4 of the project is considered by Cabinet;
- 10) Notes that if it is to proceed beyond RIBA Stage 4, the Council will be accepting the financial risks associated with funding strategy, including the outcomes of the operator procurement, and the risks fully identified, evaluated and scenario tested in the business case;
- 11) Notes that in order to progress beyond RIBA stage 4, the Council must first resolve its current MTFS deficit and to a high degree of certainty, achieve financial sustainability.

1. INTRODUCTION AND BACKGROUND

- 1.1. In January 2023, the Council was awarded £20m of Levelling Up Funding to support the delivery of a Leisure and Cultural Hub in Farnborough. In March 2023, Cabinet considered a report (REG2303) which authorised allocation of funding to enable work to commence and confirmed that the Council should enter into a Memorandum of Understanding with Government to enable the drawdown of funding.
- 1.2. In October 2023, Cabinet approved the final scope of the project (REG2307) with an indicative project budget of £57.6m for the Leisure and Cultural Hub. The final scope of the project included leisure, library, bespoke cultural facilities and civic offices. Funding approval was agreed to progress design development to RIBA stage 3. Approval was also given to commence the Leisure Operator procurement along with the associated budget.
- 1.3. A further report (REG2402) was received by Cabinet in February 2024, approving a revised funding strategy for the project, commission of a market tested cost plan on conclusion of RIBA 3 and agreeing a pre planning public consultation in March 2024.
- 1.4. The market tested cost plan was commissioned to ensure the estimated project costs were clear before the decision to move to the next stage of delivery. That work, alongside work by the Council's cost consultant, confirmed that costs had increased significantly, and the Leisure and Cultural Hub Project as designed would be unaffordable. Over this same period the Council's challenging future

financial position was set out and in that context, the proposed £20m capital contribution to the project included in the original bid was also no longer possible.

- 1.5. This position was flagged to government and support requested. During the spring and summer of 2024, the Council's project team engaged with a team of specialist consultants provided by Government, known as Delivery Associates, to consider how the project could be adjusted to achieve the most important outcomes for local people whilst being affordable for the Council. A revised project proposal was shared with the Levelling-Up Unit at MHCLG in September.
- 1.6. Government have now confirmed that the proposal can proceed utilising the remaining Levelling Up funding. This report therefore sets out the revised project which would deliver a Leisure Centre in Farnborough within the time parameters of the Levelling Up Fund subject to the Council resolving its current Medium Term Financial Strategy (MTFS) deficit and achieving financial sustainability.

2. DETAILS OF THE NEW PROJECT

Revised Scope of Leisure Facility

- 2.1. Following engagement with both the Delivery Associates and MHCLG officials, initial feasibility work commenced on a revised scheme in September 2024.
- 2.2. The Council engaged Alliance Leisure as industry experts with significant experience of design and construction of leisure facilities across the country to establish a facilities mix that was considered fit for purpose and geared towards commercial viability. The revised exciting proposals set out below are considered to meet the priority local need of a new leisure facility in addressing significant issues with obesity, health inequalities and low activity in both adults and children.

Provision of a new state of the art leisure and wellbeing facility comprising 2 swimming pools (a 25m 6-lane main pool, 10m x 8m learner pool), 100+ station fitness suite, 2 x studios plus a dedicated spin studio, a café and active play for children. The facility mix also includes a power-assisted wellness hub (Innerva suite) which provides a low impact, full-body workout circuit for the older population and people with long-term health conditions who cannot use standard gym equipment. The revised scope also incorporates a changing places facility and the provision of a surface car park.

- 2.3. A key change to the facilities mix previously agreed by the Council is the removal of a Sports Hall provision. Given the financial challenges faced by the Council over the medium term, it is imperative to ensure that the commerciality of the facility is maximised. A review of component parts of the service offer undertaken by Alliance (Exempt Appendix A) highlighted that the provision of a

2 Court Sports Hall was the lowest income generator when compared against other income generating elements.

- 2.4. A Competing Provision Analysis undertaken by Alliance highlights that there are 17 sports hall facilities in the local area that could accommodate activities. This has to be considered against the financial viability of delivering a new leisure facility for Farnborough.
- 2.5. The removal of the Sports Hall provision has allowed for a smaller alternative site within the scope of the Farnborough Civic Quarter to be identified to take forward the project. The proposed new location is to the immediate south of the existing town centre high street on Queensmead car park, directly adjacent to existing public transport nodes which will help to improve access for the local community. The prominence of this revised location will be particularly attractive to leisure operators from a marketing/awareness perspective. The relocation presents the opportunity for the Council to explore alternative uses for the former Leisure Centre site and realise much-needed housing where it is anticipated that up to 250 units could be achieved above commercial uses.
- 2.6. The cultural build elements of the original LUF bid, including gallery spaces and artist studios, have also been removed from the project scope. Access to culture can be provided through flexible use of studio space and the café areas and the Council will continue to work to improve access through its current cultural strategy.
- 2.7. A Benefit/Cost Ratio (BCR) exercise has been undertaken against the scope of the revised scheme and indicates a score in excess of 2. The general rule is that a project should be able to achieve a score in excess of 1 to demonstrate that the outputs outweigh the costs. This is a gateway measure for assessing/approving a project.
- 2.8. Initial design work has been undertaken to confirm that the footprint of the revised facility can be accommodated within the existing constraints of the new plot. Given the intended relocation of the facility to Queensmead, the most practical approach to realising parking provision to meet operator demand is to make use of the recently cleared Pinehurst roundabout site to ensure the car parking demand anticipated by the leisure operator is achievable. From a phasing perspective, the provision of the surface car park will need to be prioritised to accommodate the displacement of car park users from Queensmead car park during the construction phase.
- 2.9. The opportunity to future proof the delivery of a new, fit for purpose decked car park on the Pinehurst plot will be explored as part of the initial design work through the delivery of foundation pads to enable additional capacity to meet residential parking demand from the wider Civic Quarter redevelopment above and beyond the capacity previously afforded by the former decked structure on site.
- 2.10. A revised delivery plan has been established. In summary key milestones are as follows.

| Project Stage | Date |
|--|----------------|
| Design development to RIBA stage 3 | August 2025 |
| Planning submission | September 2025 |
| Cabinet to consider business case and move to RIBA stage 4 – Key Decision Gateway | September 2025 |
| Commence RIBA stage 4 (subject to business case) | October 2025 |
| Planning approval and end RIBA Stage 4 Design & Cost | January 2026 |
| Cabinet approval of final business case – Key Decision Gateway | January 2026 |
| Award of construction contract (Subject to Cabinet approval) | February 2026 |
| Start on Site | Spring 2026 |
| Practical Completion | Autumn 2027 |
| Facility Open | Autumn 2027 |

- 2.11. Project Officers met with counterparts at the Ministry of Housing, Communities & Local Government (MHCLG) in January 2025 to seek assurances that the project could positively move forward with grant support on the basis of the revised scope. MHCLG wrote to confirm that a project adjustment request (PAR) would not normally be considered until projects reach at least RIBA stage 3 to ensure cost confidence in plans presented. However, given the Council's proposal includes an extension request to March 2028 for outputs, which requires approval via the Spring Budget, it was content for the Council to continue progressing revised project designs to RIBA Stage 3.

Leisure Centre Development - Procurement Approach

- 2.12. It is proposed that the Council pursue a framework procurement route, utilising the UK Leisure Framework (UKLF) for delivery of the scheme. The Council has utilised this approach to enter into a Framework Access Agreement with Alliance Leisure Services Limited. The initial scope of works covers the appointment of a design team to propose development opportunities associated with a new leisure centre facility.
- 2.13. The UKLF allows for the direct appointment of a Development Partner for scoping, design, refurbishment, construction and the development of leisure centres, theatres, play facilities, recreation facilities and sports facilities across the UK public sector. Alliance Leisure have been the appointed Development Partner on the UK Leisure Framework since 2017. They have been working in partnership with Local Authorities, Trusts and leisure operators for more than 20 years.
- 2.14. The UKLF is leisure-specific and allows for Alliance to appoint all professional, design and construction services required for the project from a pre-procured supply chain, with the ability to direct award the construction contract to a

specialist leisure contractor, delivering a turnkey solution. This enables the project to proceed at pace in line with both Cabinet ambition and Levelling Up funding timescales.

- 2.15. Recognising the need to move at pace, Alliance has set out that early contractor engagement is key and recommend making a Direct Award for Principal Contractor based on the best fit for the project. Having listened to the Councils' priorities for delivery of this project, Alliance propose using a Principal Contractor that has extensive experience of delivering leisure schemes and a proven track record of delivering within an affordability envelope. The Council is advised that the proposed contractor has capacity to take on this project and mobilise quickly based on the current programme ensuring delivery within the LUF funding timescales.
- 2.16. This approach has been taken by multiple councils in delivering their Leisure schemes. Alliance advise that the alternative is a Mini-Competition route for the Principal Contractor which would delay commencement by 8 weeks+ and it would have a knock-on effect through the rest of the programme and mean a later start on site date which will increase cost due to inflationary uplift and potentially increased consultancy fees.

Demonstrating Best Value

- 2.17. As the UKLF is a single supplier framework, the below demonstrates how best value is achieved via this route:
 - **Supply Chain Leverage:** The framework has a well-established and pre-procured supply chain developed over many years. With the potential of repeat business, as part of a larger potential pipeline, this keeps contractor costs most competitive, quality high and the ability to quickly overcome challenges. This leverage is powerful and helps the Council get the best results.
 - **Gateway Process:** The pre-construction process is aligned with the RIBA stages. An End of Stage report, inclusive of a value for money assessment, is issued by Alliance for review by the Council and validated independently, prior to approval being given to move to the next stage.
 - **Sub-contractors:** The sub-contractors available through the Framework consists of building contractors, architects, project managers and equipment providers with a proven track record in delivering high quality projects, on time and on budget in both the public and private leisure sectors.
 - **Evaluation:** The Framework has an evaluation procedure for engaging with its architects, contractors, professional teams, and equipment supply chain ensuring that projects meet the standards required.
 - **Design team:** The selection of the design team will be made by Alliance Leisure Services Ltd, thus enabling them to manage the delivery risk for the project and protecting the Council. This route provides the quickest method to progress pre-construction work for the project and shortens the programme providing some mitigation towards inflation risk.
 - **Early contractor engagement** ensures 'buildability' from the outset and avoids unwanted surprises in later stages.

- **Single point of contact:** Alliance manage multiple appointments helping to relieve additional time and resource required by the Council.
- 2.18. On the basis of the above it is recommended that the Council enter into an Access Agreement with Alliance Leisure Services Ltd for the provision of project management, design and professional services required for the completion of RIBA stages 2 & 3 as set out in Exempt Appendix B and proceed with a direct appointment of the Principal Contractor as identified by Alliance Leisure Services Ltd
- 2.19. The Council does not have to pay an access fee for utilising the framework (0.15% of the project value) until entering into a Development Management agreement to deliver the project at the agreed contract sum at the end of RIBA 4, subject to detailed Business Case and Cabinet approval. The access fee will form part of the detailed Business Case setting out project costs.

Alternative options for delivery via the Framework

- 2.20. An alternative option would be to undertake a mini competition route for the Principal Contractor which would delay commencement of RIBA 2 by 8+ weeks. This would have a knock-on effect on the programme and a later start on site date which, Alliance advises, will potentially increase costs due to inflationary uplifts.
- 2.21. The recommended approach outlined above provides greater cost and delivery certainty however this is offset by reduced flexibility and control over design.
- 2.22. Based on lessons learnt from the original unaffordable scheme, a key driver for the proposed approach is cost certainty, budget lead design and speed of delivery.

Alternative Procurement options

- 2.23. An alternative procurement route is Design and Build. This route is often used in the delivery of leisure schemes and was the route utilised for the original, now unaffordable scheme. This approach requires the council to procure and manage the client side team including project management, cost consultants, employers agent and design team. The principal contractor would also be managed directly. This approach has a time and resource implication in procuring and managing the specialist disciplines and does not offer a turnkey solution.
- 2.24. The other option explored was Design, Build, Operate and Maintain (DBOM). This approach appoints an operator to deliver a turnkey solution, with the operator responsible for the design of the new centre, the construction and operation. The project components are procured from the private sector in a single contract with financing independently secured by the Council. Whilst this approach can have a number of benefits - including the operator leading the design process and taking on the risk of lifecycle maintenance for the duration of the contract – it also has a number of disadvantages. These include the

length of contract commitment required (generally at least 25 years), the limited operator market and, importantly in this case, the lengthy procurement process involved. It is estimated that a DBOM would extend the process by at least six months and, with delivery of the project reliant on retention of LUF funding, accelerated delivery is key. A comparison table of the delivery routes is set out at Appendix C.

3. LEISURE OPERATOR PROCUREMENT

- 3.1. The Council is seeking a partner who shares its vision for the proposed new Farnborough Leisure Centre and will operate to optimise participative opportunities and benefits for the local community. As noted above, the new facility will play a significant role in reducing health inequalities, physical and mental, and increasing levels of physical activity.
- 3.2. The partnership and operational management contract will operate on an open book basis. The contract will be based on the Sport England standard format but has been updated to reflect relevant changes since the pandemic relating to change in law, risk and utility benchmarking.
- 3.3. In relation to risk, the Council is seeking a hybrid approach to maintenance. The operator will take full lifecycle responsibility for the new facility, but will only be responsible for routine compliance checks, servicing and day to day response repairs at the Aldershot Pools and Lido. Soft Market testing has advised that Operators would be very reluctant to bid on the basis of accepting the lifecycle costs associated with the Aldershot facility.
- 3.4. The Contract Specification will be adapted from the standard Sport England toolkit and made bespoke for Rushmoor. The key elements of the Specification will include:
 - Produce a balanced programme of activities to maximise participation, engagement, physical activity and reduce health inequalities in the borough.
 - Set an appropriate pricing system to deliver the core outcomes of the contract whilst maintaining commercial viability, including a concessionary pricing structure.
 - Employment of a Health and Wellbeing Officer to establish links with local health and care services and providers to provide pathways into physical exercise and wellbeing activities, particularly for residents with poorer health outcomes.
 - Outreach into the Borough to promote healthier lifestyles among residents and communities that are harder to reach, those who are less likely to access traditional facilities and those who are more likely to experience longer term health inequalities.

Procurement process

- 3.5. It is the Council's current view that the contractual arrangements are classified as a service concession contract under the Public Concessions Regulations (2016) and furthermore fall under the scope of the Light Touch Regime services listed under Schedule 3 of the regulations.
- 3.6. Under the new procurement regulations - which will come into force when the Procurement Act 23 goes live on 24th February 2025 - it is the Council's view that the contract will continue to be classified as a concession arrangement and will also continue to be subject to light touch regime exemptions.
- 3.7. The Procurement Act 23 will introduce the new 'Competitive Flexible Procedure' which will enable contracting authorities to design project specific procurement processes to align with project objectives and market norms. As the operator procurement process will commence after the 24 February 2025 it will be subject to the new regulations.
- 3.8. As required by law under the Procurement Act 23 the Council will need to undertake a compliant procurement process to secure a partner operator. No framework agreements exist which would allow the Council to source an operator without undertaking a fully advertised competitive procurement process.
- 3.9. In order to benefit from the flexibilities that will be available under the new regulations, the Council will undertake a procurement process using the competitive flexible procedure. Designing a process under this procedure will allow the introduction of shortlisting, limited dialogue if required, interviews and potential for negotiation.
- 3.10. The first stage of the procurement process will invite suppliers to submit applications via submission of a Procurement Specific Questionnaire. Questionnaire responses will be assessed on a pass / fail and scored basis and will cover legal standing, financial standing, insurance, health & safety and relevant experience. This process will ensure that only operators with sufficient experience and scale will be taken forward to the next stage. It is envisaged that the highest scoring 3-4 applicants would be shortlisted and invited to submit detailed tender submissions.
- 3.11. The tender evaluation strategy will need to be developed but will have a high emphasis on the provision of fixed income to the Council.
- 3.12. As the procurement progresses, the Council will need to develop its approach and delegation is sought for the Executive Head of Operations to develop the procurement documents in consultation with the Portfolio Holder for Healthy Communities & Active Lives and financial implications in consultation with the Executive Head of Finance (S151).
- 3.13. Following evaluation of the detailed tenders, the Council will have the option to instigate an award to the preferred bidder and commence the standstill period which must run for a minimum of 8 working days, However, if the Council considers that a better outcome may be reached through improving the tenders

it has received, it may instead enter a final period of negotiation and invite best & final tenders from the highest scoring bidder/s.

- 3.14. Consideration will be given to the composition of the evaluation team, which will include specialist expertise in the key areas associated with service delivery.
- 3.15. An indicative programme for the procurement process outlined above is set out below:

| Activity | Timescale |
|---|--|
| Preliminary Market Engagement | 10 th - 28 th March 2025 |
| Issue Tender Notice & Procurement Specific Questionnaire (PSQ) | 28 th April 2025 |
| PSQ Deadline | 30 th May 2025 |
| PSQ Evaluation Complete & Shortlist Confirmed | 13 th June 2025 |
| Issue Invitation to Tender | 30 th June 2025 |
| Tender Return Deadline | 5 th September 2025 |
| Tender Evaluation Complete | 19 th September 2025 |
| Commence Negotiation Stage | 29 th September 2025 |
| Best & Final Tender Return Deadline | 17 th October 2025 |
| Tender Evaluation Complete | 3 rd November 2025 |
| Approval process as part of Business Case update for leisure project at end of RIBA 4 | February 2026 |
| Issue Assessment Summary & Contract Award Notice | February 2026 |
| Standstill Period | February 2026 |
| Contract Commencement | TBC |

- 3.16. The Council is currently targeting to have awarded the contract to the successful Operator by end February 2026. The Interim Phase of the Contract is then planned to commence shortly after, (date TBC), at which point the Operator will be required to commence delivery of services at the existing Aldershot facilities.
- 3.17. The Council's target date for opening of the new Farnborough facility is Autumn 2027, at which point the contract will enter its Main Phase. The duration of the Interim Phase is dependent upon when the new facility is ready to be opened, but is likely to run for around 12 to 18 months.
- 3.18. The timetable for the operator procurement runs beyond the existing contract with Places Leisure for the operation of the Aldershot facility which ends on 31 March 2025.
- 3.19. A provision in the existing Deed of Variation allows for an extension on the same terms until 30 September 2025. However, to facilitate the operator procurement, as outlined above, Cabinet is recommended to approve a further extension to the existing agreement with Places Leisure on the same terms until 31 March 2027. Whilst in practice, a maximum extension of eighteen months is

likely to be required, the longer time period allows for any delays in delivery of the build project. An appropriate break-clause will be included in the new agreement.

4. PROJECT BUDGET AND FUNDING STRATEGY

- 4.1. As noted above, the Council was successful in securing £20m of Levelling Up funding from Central Government in January 2023. Approximately £1.5m of this grant was utilised to progress design costs associated with the previous Leisure and Cultural Hub project, leaving a residual £18.5m to utilise going forward.
- 4.2. In dialogue with Alliance, the Council has established an anticipated cost envelope of £23.5m based on similar scopes across the country to realise the proposed facilities mix alongside new parking provision on the Pinehurst site (£22.5m towards the Leisure Centre build and £1m towards the car parking provision). Cost certainty, including the requirement for a contingency, will not be known until the project has progressed sufficiently through RIBA Stage 4. MHCLG has confirmed that it is content that the Council can draw down further Levelling Up funding to support the progression of design work through to RIBA Stage 3 when the Council will be in a better position to provide cost confidence. Alliance has advised that the costs associated with RIBA Stage 2 is £490,950 and RIBA Stage 3 £765,975. Alliance is comfortable in the proposed RIBA Stage 3 fees, based on current knowledge of the project and benchmarking against similar schemes. They are required to complete the RIBA Stage 2 work to confirm the RIBA 3 fees once the Principal Contractor is onboarded. In addition to the RIBA 2/3 fees (totalling £1,256,925), there are additional costs associated with a planning application submission that are considered as part of the overall budget recommendation of £1.35m.
- 4.3. In addition to the £18.5m of LUF remaining, a Local Growth Capacity Support Payment of £40,000 will be made by MHCLG on or around 17th February 2025 to help mitigate any immediate delivery issues that the Council is encountering in the delivery of the LUF project. It is proposed that this allocation of grant is utilised as a contingency to cover any unforeseen Council costs associated with the delivery of the project that may fall outside of the qualifying criteria for drawdown of the residual £18.5m of LUF as it progresses through to the conclusion of RIBA Stage 3.
- 4.4. At this stage, there is no requirement for the Council to commit any capital contribution towards the delivery of the project beyond the existing grant funding available.
- 4.5. In order to commit to any Build Contract, the Council must resolve its current MTFS deficit and achieve financial sustainability prior to contractually committing to this project. A detailed Business Case, including an appropriate funding strategy supported by robust independent due diligence, will be produced prior to consideration by Cabinet on conclusion of the RIBA Stage 3 work and updated after conclusion of RIBA Stage 4 and the finalisation of the operator procurement process.

5. CONSULTATION

- 5.1. Public consultation was undertaken on the previous iteration of the Leisure and Cultural Hub during March 2024. There has been no public engagement since that time in relation to the provision of a Leisure Centre. Further public engagement will coincide with progressing the RIBA Stage 3 design phase during the Summer prior to formal submission of a planning application.

6. IMPLICATIONS (of proposed course of action)

Risks

- 6.1. The Council will be accepting a number of risks in opting to proceed with delivery of this project. These include the usual risks associated with the development and delivery of a capital project of this scale such as site ground conditions, contractor solvency, cost overruns, inflationary increases and associated stakeholder management. As identified in Section 4, while the Council has the residual £18.5m grant funding to employ against the scheme, if it is to proceed beyond RIBA stage 4, it will be accepting the financial risks associated with the funding strategy and the risks fully identified, evaluated and scenario tested in the business case. Whilst there is an understanding of the indicative project cost envelope (£23.5m), cost certainty will not be achieved until conclusion of detailed design work in addition to a firmer understanding of what lies below ground following intrusive surveys.
- 6.2. There is mitigation in place to manage the financial risks through a gateway process. This Cabinet report does not commit the Council to the construction phase. A further report to Cabinet will need to demonstrate that the Business Case is financially sound as a pre-cursor to formally entering into a build contract. Any expenditure up to that point is utilising the Levelling Up fund with the agreement of MHCLG. The Council is not obligated by the Framework Agreement to proceed through to build stage.
- 6.3. A risk register is maintained for the project with the top 10 risks reported to MHCLG as part of the quarterly monitoring return requirement associated with the Levelling Up process. This will continue to be managed and updated throughout project delivery with risks being closed out as the scheme progresses. For reference, the MHCLG risks are attached at Exempt Appendix D.

Legal Implications

- 6.4. External legal assistance and budget will be required on various aspects of the project, including property, planning and contractual matters. Work will include

(but is not limited to) reviewing of appointments, carrying out necessary due diligence and drafting contractual agreements. The initial estimate for external legal work to reach RIBA 3 is £20,000-£40,000. The variation in estimate will depend on the complexity of agreements, any issues within the Land Registry title(s) as part of the due diligence and any third-party rights, such as leases/restrictive covenants on the land.

- 6.5. If the project proceeds beyond RIBA 3, a project of this nature and size could need further legal budget of between £50,000 and £150,000 depending on whether there are any third-party rights to consider, resolving any contractual issues, and to minimise legal risk(s) for the Council as far as possible. This is in the context that whenever the Council is working with a third-party supplier or contractor or starting a significant project, there are additional financial and legal risks.
- 6.6. Under the Local Government (Miscellaneous Provisions) Act 1976, section 19, "Recreational Facilities", a local authority may provide such recreational facilities as it thinks fit, and this includes indoor facilities, such as sports centres and swimming pools, and outdoor facilities such as sports pitches. This reinforces the social value and contribution of public sport and leisure services to health, wellbeing and to communities.
- 6.7. Building a new leisure centre falls under providing discretionary services of the local authority, which are services that an authority has the power but not a duty to provide. The Council should consider fully the long-term liabilities and risk of maintaining the proposed leisure centre, prior to committing to RIBA Stage 4 work/a building contract. Risk relating to the construction of a leisure centre can be mitigated but not entirely minimised, and contingency funds would need to be made available.
- 6.8. Affordability of the project and any wider legal implications should be clearer once the RIBA Stage 3 work and operator procurement process have been concluded. A detailed business case and independent due diligence will be required for Cabinet before proceeding to RIBA Stage 4 as per paragraph 4.5 above.

Financial Implications

- 6.9. The Council has a £16.152m financial deficit to resolve before any mitigations such as reducing its level of borrowing within its current MTFS. Until this has been resolved and financial sustainability achieved, the Council does not have capacity to take on any further cost or underwrite financial risk of an entirely discretionary nature, such as this project.
- 6.10. Progression of the project to RIBA Stage 4 decision will require the Councils' external auditors Ernst & Young LLP to support the proposal due to the Going Concern matter it has raised in the 2023-24 financial statements audit findings report regarding the council's high level of short borrowing and affordability.

- 6.11. Due to the Council's financial challenge, MHCLG will have to also be consulted to ensure that they will not consider the decision to proceed a matter of Best Value resulting in external scrutiny and potential sanctions.
- 6.12. Where government becomes aware that an authority is exhibiting early indications of potential Best Value failure, (i.e. through the councils auditors or published information) the Ministry of Housing, Communities and Local Government will consider issuing a 'Best Value Notice' to facilitate engagement with that authority and to obtain assurance of the steps it is taking to secure compliance with the Best Value Duty, as required by the Local Government Act 1999.
- 6.13. The Best Value Notice will state the government's concerns with the authority and set clear expectations of the actions needed to assure the government that the authority is making arrangements to secure continuous improvement in the way in which its functions are exercised.
- 6.14. In compliance with the Council's constitution and Financial Procedure Rules, Financial Regulation (C7): All new projects and proposals for additional expenditure require the submission of an appropriate business case to ELT, to be prepared in consultation with the Chief Finance Officer. The business case will need to be geared to the significance of the project/additional expenditure in both policy and financial terms. As a minimum, however, it will include the full financial implications of the scheme.
- 6.15. To commit to RIBA Stage 4/Build Contract, a detailed Business Case, including an appropriate funding strategy supported by robust independent due diligence, must be produced prior to consideration by Cabinet on conclusion of the RIBA Stage 3 work and updated after the conclusion of RIBA stage 4 and the finalisation of operator procurement process.
- 6.16. All decisions on borrowing and financing are delegated (Constitution, Part 4 – Financial Procedure Rules - D39) to the Chief Finance Officer, who is required to act in accordance with the CIPFA code
- 6.17. The Council's MTFs will have to be altered to accommodate project costs to RIBA stage 4 that fall outside of the LUF funding and will have to be mitigated by additional cost reductions elsewhere.
- 6.18. Should the project proceed beyond RIBA Stage 4, the business case must include the long-term provision for costs and risks likely to be picked up outside of the operating contract and potential operator shortfalls for the lifetime of the facility.

Resource Implications

- 6.19. An internal Project Team is established with capacity to progress client-side responsibilities associated with the proposals comprising existing establishment roles within the Regeneration and Development Service. There is currently no requirement to bring in external resource to assist with project

delivery. The Council's S151 Officer has indicated that some external support may be required with the preparation of the final business case. Internal legal capacity will need to be established to support the project.

Equalities Impact Implications

- 6.20. The project addresses significant Health and Cultural inequalities. An Equality Impact Assessment will be produced during the next phase of the project and updated as the project progresses. Key stakeholders e.g. Rushmoor Accessibility Action Group will be engaged on the emerging proposals.

7. CONCLUSIONS

- 7.1. The delivery of a new leisure centre for Farnborough is a significant priority for local people and the Council's Cabinet, and it is important that all reasonable actions are taken to ensure the project can be delivered in line with the Levelling Up funding timelines. The focus of the project over the next 6-8 months is to undertake design work at pace in order to firm up a viable and deliverable option for the benefit of local residents. The project must though be affordable for the Council and work during the RIBA 3 process and operator procurement will feed into a business case which will be considered before decisions to proceed further with the project.

LIST OF APPENDICES/ANNEXES:

Exempt Appendix A – Alliance Opportunity Report November 2024
Exempt Appendix B – Alliance Development Proposal January 2025
Appendix C – Delivery Routes Comparison
Exempt Appendix D – MHCLG Risk Register

BACKGROUND DOCUMENTS:

Cabinet Report REG2303
Cabinet Report REG2307
Cabinet Report REG2402

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