

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Councillor Sharon Holder, Cabinet Member for Public Realm

Date: 19/06/2023

Subject: Leisure Operating Contract Modification to include Capital Works at Lillie Road Fitness Centre

Report of: Bram Kainth, Strategic Director of Environment

Report author: Adam Shears – Facilities and Contracts Manager

SUMMARY

The roof at Lillie Road Fitness Centre is damaged and in need of replacement. Under the council's existing leisure operating contract with Greenwich Leisure Limited (GLL), the replacement of the roof is the responsibility of the Council and not the contractor (GLL are responsible for some other elements of building maintenance and repair).

It is proposed to vary the existing contract with GLL in order for them to undertake the capital works directly, under an appropriate works contract with their own contractor. The works will be funded by the Council (as owners of the building) from borrowing (via the Corporate Planned Maintenance Programme), at a total one-off maximum capital cost of £355,000. The works are expected to take 4 months to complete, with the total cost expected to be incurred during 2023/24.

RECOMMENDATIONS

1. To modify the Leisure Operating Contract dated 25 March 2021 between LBHF and Greenwich Leisure Limited, to include works to replace the roof at Lillie Road Fitness Centre at a total cost not exceeding £355,000.
2. To enter into a Deed of Variation and any ancillary documents necessary to give effect to the decision at recommendation 1.
3. To fund the capital works from borrowing, up to a maximum of £355,000 in 2023/24.

Wards Affected: (Give the Wards directly affected, or "None" or "All")

All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	The fitness centre is used on a daily basis by many local residents. Replacing the roof will enable residents to continue to use this vital service hub for years to come.
Creating a compassionate council	Services offered at this venue consider the needs of our residents and help enable them to work towards a healthier lifestyle.
Doing things with local residents, not to them	Working with local residents to help them improve their own health and wellbeing.
Being ruthlessly financially efficient	The roof replacement will protect the internal areas of the building and its equipment. GLL are our current leisure operator and are equipped to carry out this vital work quickly, thus ensuring the protection of this council asset.
Taking pride in H&F	The roof replacement will help provide a safe and clean environment for local residents to continue to use. The replacement will help maintain the infrastructure of the building.
Rising to the challenge of the climate and ecological emergency	The new roof will help lower energy consumption as the modern materials used will help insulate the building better.

Financial Impact

The total maximum one off capital cost of the proposed works is £355,000. It's expected that this will be funded from the Council's existing Corporate Planned Maintenance Programme (CPMP), which is funded from borrowing. The CPMP budget for 2023/24 already includes an allowance of £150,000 for Lillie Road, and it is expected that there is sufficient capacity within the existing programme to fund the remaining £205,000 (subject to the approval of a revised programme). Should there be insufficient capacity to fund the works in full from the existing CPMP, the residual amount will require additional borrowing, at an additional annual borrowing cost of £15,200 (3.2% MRP and 4.2% interest). It is recommended to vary the existing leisure contract in order for the contractor (GLL) to undertake the works directly. It is expected that this will provide improved value for money given that GLL have the expertise within their facilities management team to plan, consult, appoint and manage projects of this size. Additionally, as they are the building operator, they will be able to plan the works so that minimal disruption is caused to the service and its users.

Kellie Gooch, Head of Finance (Environment), 25 May 2023
Verified by Sukvinder Kalsi, Director of Finance, 25 May 2023

Legal Implications

The Council has a concession contract with GLL Leisure dated 25th March 2021 for the provision of leisure services as procured by RBKC/WCC on behalf of LBHF. One of the premises used to deliver the services is at Lillie Road Fitness Centre. Over

the last months, it has become apparent that the roof at Lillie Road Fitness Centre requires replacement. This was not anticipated when the contract was procured because the roof at that stage was reported as not requiring replacement (see inspection report from 2018). Consequently, the replacement works are not within the existing scope of what GLL is required to provide under the contract. However, there is a Change Control procedure at Schedule 24 which can be used to expand the scope so that these works are included. The works will be carried out under an appropriate JCT works contract between GLL and GLL's contractor carrying out the works.

The addition of the works is a permissible modification to the contract under the Concession Contracts Regulations regulation 43 (1)(a) (by virtue of the clear and unequivocal review clause in 9.7 and in the Change Control procedure at Schedule 24) and/or are permissible under regulation 43(1)(e) (being a non-substantial modification) and/or are permissible under regulation 43(1)(c) (being works which the Council could not have foreseen).

Under the Council's Contract Standing Orders, modifications of contracts are dealt with at Section F, paragraph 24. The requirements of the CSOs are satisfied in this instance on the same grounds as set out above to satisfy the requirements of the Concession Contracts Regulations 2016.

As the effect of the modification is to increase the total contract value by less than 10%, the appropriate decision maker is the relevant SLT Member. The decision is a Key Decision as it involves expenditure of over £300,000. Therefore, the report must be submitted to Committee Services for publication on the Council's website. The modification to the contract must be formalised in a Deed of Variation (Schedule 24, 11.1 of the contract)

The appropriate decision maker is the Cabinet Member for Public Realm.

Angela Hogan, Chief Solicitor (Contracts and Procurement) 26th January 2023

Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Proposals and Analysis of Options

1. The Council's Leisure Operating contract was awarded to Greenwich Leisure Limited (GLL) for a period of 10 years from 25 March 2021. As part of the contract, GLL are responsible for some building maintenance and repair costs, and the Council is responsible for others. Asset inspection reports were undertaken in 2018 and used to determine the scope of these responsibilities under the contract.

2. The roof at Lillie Road Fitness Centre is damaged and in need of replacement. The inspection report from 2018 did not identify this as requiring replacement, and so this was not anticipated when the contract was procured. Consequently, the replacement works are not within the existing scope of what GLL is required to provide under the contract, meaning that responsibility for replacing the roof is with the Council (as the building owner).

3. The options considered are:

a. Do nothing (not recommended)

If the council does nothing, the building will have to close within the next 18 months or sooner depending on the severity of the next winter period. Additionally, by keeping a building open with a roof in such a bad state of disrepair, we run the risk of irreversible equipment damage and the possibility of injuries to users. There would also be the possibility of claims against the council, either from injured parties, our leisure operator or both.

b. Repair the roof (not recommended)

The roof has been repaired on numerous occasions and the most recent repairs have done little to rectify the major issues. It is not cost effective to continually try to repair the roof when the overall fabric has perished beyond repair in some places.

c. Replace the roof (recommended)

This is the only viable option; it would prolong the life of the building and allow residents to continue to use a vital service that promotes good health and wellbeing. This is also the most cost-effective solution.

4. It is recommended to replace the roof at a total maximum cost of £355,000. The works are expected to take 4 months to complete, with the total cost expected to be incurred during 2023/24.

5. It is proposed that the existing contract with GLL is varied, in order for them to undertake the capital works directly (under an appropriate works contract with their own contractor). This is the preferred approach as GLL have the expertise within their facilities management team to plan, consult, appoint and manage projects of this size. Additionally, as they are the building operator, they will be able to plan the works so that minimal disruption is caused to the service.

Reasons for Decision

6. The roof at Lillie Road Fitness Centre is damaged beyond repair, and in need of replacement.

Equality Implications

7. An Equality Impact Assessment has been completed.

Lillie Road Fitness Centre is a public leisure facility that is available for all to use (charged for at the point of use). This proposed modification to the operating contract will enhance the service experience for all users. As such, there is a positive impact on all those with protected characteristics.

- A wide range of age groups will benefit from the replacement works.
- All current user experience will be enhanced due to the roof replacement works.
- The project does not discriminate and will not affect Human rights or children's rights.
- By replacing the roof and enabling the service to continue to operate safely the project makes a positive contribution to equalities.

Adam Shears, Facilities and Contracts Manager, 11 May 2023

Risk Management Implications

8. The report recommends modifying and varying the current contract with GLL so that they can undertake works to the roof on the Council's behalf.
9. The property is insured under the Council's Commercial insurance schedule. However, as GLL will be arranging the works directly with their own contractor officers must request sight of their contractor's liability insurances and confirmation their policy covers damage to property, together with confirmation of the cover arrangements for the works, as the Insurance Team will still need to notify LBHF's insurers of the works taking place. Alternatively, the Insurance Team can request the Council's insurers arrange the cover for the works.
10. Insurance cover for the existing structures is not a joint names policy nor does it include any waiver of subrogation, meaning if the contractor negligently caused damage to the building, the Council's insurers could pursue a recovery against the responsible party.
11. Officers should ensure that they monitor the works undertaken by GLL to ensure they meet the Council's requirements (taking account of design and environmental considerations) and are contained within the agreed budget.

David Hughes, Director of Audit, Fraud, Risk and Insurance, 6 May 2023

Climate and Ecological Emergency Implications

12. Gas consumption has increased at the site in February and March compared to that of the previous year, with the variance in March being an increase of 3669kwh. In addition to this, electricity consumption has also increased in March to that of the previous year, with the variance being an increase of 1164kwh. With the roof being in a bad state of repair and lack of insulation heat

escapes driving up both consumption and costs. A roof replacement will weatherproof the building, helping to reduce the need for travel by contractors, either repairing roof leaks or other damage the water ingress has caused inside the building. Additionally, a new roof will be better insulated helping to reduce energy consumption by retaining heat within the building. As part of the project, the load bearing of the roof would be looked at, whilst access to the structure could be gained, with a view to review the potential of installing solar panelling.

Adam Shears, Contracts and Facilities Manager, 11 May 2023

Verified by Hinesh Mehta, Head of Climate Change, 7 June 2023

LIST OF APPENDICES

Appendix 1 - Equality Impact Assessment