

LEISURE PROVISION IN SEVENOAKS DISTRICT - EXTERNAL REVIEW

Cabinet - 8 July 2021

Report of: Sarah Robson, Deputy Chief Executive, Chief Officer, People and Places

Status: For Decision

Key Decision: Yes

Also Consider By: People & Places Advisory Committee - 15 June 2021

Executive Summary: This report provides an update to Cabinet relating to the decision made on 15 December 2020 to commission Max Associates, an external leisure consultant, to review Sevenoaks Leisure Limited t/a Sencio Community Leisure (Sencio) business recovery plan and restructure proposal in light of any future requests for financial support. The resulting review includes analysis of Sencio's proposals and provides insight into whether the District has a fit for purpose leisure operator and model for its communities, with business resilience and future viability. This work will enable Members to make an informed decision around future options for supporting Council owned leisure facilities.

This report supports the Key Aim of various elements of the Community Plan.

Portfolio Holder: Cllr. Lesley Dyball

Contact Officers: Sarah Robson, Ext. 7129 and Kathryn Bone, Ext. 7176

Recommendation to People & Places Advisory Committee

- a) To note the report and appendices
- b) To consider whether or not to approve further financial support to Sencio, taking into account the significant risks and recommendations summarised in section 6.4 of Max Associates report (Appendix A)
- c) To recommend the following to Cabinet:

In the event that Sencio ceases to trade, that members delegate Authority to the Chief Officer - People and Places and Chief Officer - Finance and Trading to investigate an interim shorter term leisure operator for temporary leisure delivery to the community and enter into a contract subject to consultation with the Cabinet Member for People and Places and Cabinet Member for Finance and Investments.

Recommendation to Cabinet:

- (a) To receive and note the report and appendices;
- (b) To consider whether or not to approve further financial support to Sencio, taking into account the significant risks and recommendations summarised in section 6.4 of Max Associates report (Appendix A);
- (c) In the event that Sencio ceases to trade, that members delegate Authority to the Chief Officer - People and Places and Chief Officer - Finance and Trading to investigate an interim leisure operator for temporary leisure delivery to the community and enter into a contract subject to consultation with the Cabinet Member for People and Places and Cabinet Member for Finance and Investments.

Reason for recommendation: Access to leisure services plays an essential role in reconnecting with communities and bringing people together through sport and physical activities. Therefore, it is important that the Council considers the risks and recommendations summarised in Max Associates report and mitigates future financial pressures and risk to the Council

Introduction and Background

1. Sevenoaks District Council (the Council) owns three leisure facilities and a golf course, operated and maintained under lease agreements with Sevenoaks Leisure Limited (SLL) (operating as Sencio Community Leisure). These facilities are:
 - Edenbridge Leisure Centre
 - Sevenoaks Leisure Centre
 - White Oak Leisure Centre
 - Lullingstone Park Golf Course
2. Sencio is a society under the Co-operative and Community Benefit and Societies Act 2014, registered with Inland Revenue for exempt charitable status. The organisation has been set up to benefit the community as a not-for-profit organisation.
3. The leisure sector across the country has been massively affected by the COVID-19 pandemic. Nationally it is expected that the impact will be felt not only in the short term, but also for the medium to long term.
4. Councils across the country are working hard to keep supporting leisure providers and facilities during the coronavirus crisis. This includes introducing a range of emergency measures such as relaxing performance requirements, advance payments, waiving management fees and offering financial support. This is despite the impact coronavirus has had on

councils' own finances and their ability to generate income.

5. The three national lockdowns introduced by HM Government in the UK in March 2020, November 2020 and January 2021 and Tier 4 restrictions in December 2020, to tackle the spread of Covid-19, enforced a mass closure of leisure facilities across the country. This has placed leisure operators under the threat of insolvency as income streams effectively ceased, whilst continuing to incur essential costs relating to the maintenance of the facilities during closure, ongoing supplier and utility costs, furlough salary top-ups and essential staffing.
6. In February 2021, the UK Prime Minister announced Government's 'Roadmap out of Lockdown', which will support outdoor sport and leisure facilities (such as golf and outdoor pitches) reopening from 29 March, indoor leisure (including gyms and pools, but not exercise classes), most facilities will be able to take place indoors, includes indoor exercise classes and all outdoors sports from 17 May and all restrictions lifted from 21 June 2021.
7. Sencio has developed a Recovery Plan (see Appendix B) to support the move out of lockdown.

Financial support

8. As a result of these unprecedented circumstances, leisure providers across the country have been seeking financial support from their local authority partners to subsidise these retained closure costs.
9. The District Council paid the Management Fee of £26,950 and Advantage payment of £20,000 to Sencio for 2020/21 up front. It has also delayed £88,000 of loan repayments from Sencio to the Council due between April 2020 to March 2021.
10. Sencio's Board of Trustees agreed at its meeting on 25 November 2020 to formally approach the Council for urgent financial support. Sencio notified the Council that it found itself in a position that without urgent financial support it would be unable to continue to trade from as early as 31 December 2020 and would be forced to cease operating the leisure centres and golf course.
11. At its meeting on 15 December 2020, Cabinet considered and approved Sencio's request for a grant of £300,000 as a result of the impact of Covid-19 on leisure, which would enable the three leisure centres to reopen on 2 January 2021. Cabinet approved for the grant payment to be paid in three equal monthly instalments, with the first being released in December 2020 and conditional on Sencio agreeing to reopen its leisure centres on 2 January 2021 and support and engage with the proposed consultancy work. Cabinet approved a further £30,000 to support the appointment of a consultant to review Sencio's business recovery plan and restructure proposal to help future proof their leisure operating model and organisational structures.
12. However, the UK Government announced that London, the South East and

East of England would move into new Tier 4 COVID-19 restrictions from Sunday 20 December 2020, which would see the enforced closure of all leisure centres. Government reviewed the arrangements on 30 December 2020, with Kent remaining in Tier 4.

13. Unfortunately, Government announced on 4 January 2021 that England would be placed into a national lockdown, which has resulted in the district's leisure centres remaining closed and also forcing the golf course to close its doors to customers.
14. At its meeting on 14 January 2021, Cabinet considered an update to the Cabinet decision made on 15 December following the announcement of the further national lockdown. Cabinet approved the recommendation for the final two grant payments of £100,000 to Sencio to be reduced to £75,000 per month, paid in January and February 2021, to cover the monthly expenditure incurred by Sencio during the enforced closure and ensure the Council's buildings are maintained and essential monitoring checks, payments to utilities and suppliers and associated staffing costs are covered. If Kent moves into a lower tier enabling plans for the reopening of leisure facilities, the grant payment would be reinstated to the original monthly grant allocation of £100,000 for the remaining period. Cabinet approved for the grant to be funded from the General Fund Reserve.
15. The Council has also worked in partnership with Sencio to submit a funding bid to Government's National Leisure Recovery Fund (NLRFF), administered by Sport England, to support the impact of the most recent lockdown and enable the reopening of leisure facilities. In early March 2021, the Council was notified that the joint funding bid had been successful and we would receive a £220,000 grant (based on the figures provided by Sencio) and a further £1,542 as part of a Monitoring and Evaluation Grant. On 10 March 2021, the Council was informed that there would be an increase to the initial grant and a further £15,104 in NLRFF funding would be received. Payment of the grant was made in late March 2021.
16. Sencio has benefitted from receipt of £144,362.29 in Government business grants relating to the impact of Covid-19, which have been administered locally by the Council. It has also been assisted through Government's furlough scheme to cover staff wages (Coronavirus Job Retention Scheme), which is in place until 30 September 2021.
17. Despite receiving over £756,300 of public money, the trust faces a budget shortfall of £2 million, which includes a pre-Covid trading deficit.

Consultancy work

18. Following the decision by Cabinet on 15 December, officers appointed Max Associates, a leisure consultancy team with a nationally recognised profile, to carry out the review of Sencio's business recovery plan and restructure proposal to help future proof their leisure operating model and organisational structure. The commissioning brief outlined the development

of an independent report reviewing the current and future arrangements provided by Sencio for the management of the Council's leisure centres and golf course, alongside making recommendations to support the aims of:

- Reviewing Sencio's Covid-19 Recovery Plan (and associated risk assessment), recommending how best to mitigate the continued impact of Covid-19 on income, service delivery, customer behaviour and confidence and the need to adapt to changing Government guidance.
 - Reviewing the current restructure proposal to ensure it provides Sencio with long-term operational and financial resilience.
 - Working with Sencio's board of trustees, making recommendations to the board as part of a skills audit to help support recovery and drive Sencio forward.
 - Reviewing the business operational model and offering to local people by considering sustainable opportunities and ensuring consistently high facility provision and service standards.
 - Providing a site by site financial appraisal, including income, expenditure and projected future usage considering longer term delivery of leisure services. This should be completed whilst taking into account that one leisure centre is due to be removed from the portfolio, the optimum timing of which should be identified as part of the appraisal.
 - Reviewing customer footfall and associated marketing and promotion of Sencio's current and future leisure offer.
19. The resulting report (Appendix A) from Max Associates provides Sencio with a review of each of these areas, outlining areas of strength and for improvement, alongside accompanying recommendations to assist them in their recovery and future planning.
20. Sencio's Board of Trustees has submitted a response (Appendix D) in response to the findings of the report undertaken by Max Associates, a leisure consultancy team with a nationally recognised profile.
21. The report provides a summary of the consultant's recommendations and identifies substantial risks in section 6.4, concluding that it would be sensible and likely that the Council should consider alternative management options to ensure any future funding decisions support the most appropriate and best value solution for the Council and the benefit of the local community.

Other options Considered and/or rejected

22. Given the significant risk of insolvency being faced by all leisure industry providers, some initial thought has been given to alternative management options. Max Associates recommends that the Council undertakes a review of the different management options available to enable the Council to make a decision based on an understanding of the associated financial and operational risks.
23. For example, the Council would need to consider operating the facilities in-house or commissioning a new operator with an established leisure

portfolio.

24. An analysis of each option would need to be undertaken to understand risks, financial implications, contractual arrangements, service delivery and value for money.
25. The work undertaken by Max Associates and resulting report (Appendix A) has provided an opportunity to reflect upon the impact of the pandemic on the leisure industry and is a helpful tool for supporting a new approach to integrate more successfully, the leisure, health and well-being aspirations of our residents. It is already clear that the pandemic has changed the outlook of many people to the role of exercise in their lives.

Key Implications

Financial

The COVID-19 pandemic has had a significant impact on the financial viability of the entire leisure industry which has seen its income streams stop and their financial facilities heavily utilised during the last year due to the COVID-19 pandemic.

The financial implications are detailed within Appendix A, the largest of which is the ongoing viability of Sencio, their financial recovery plan and the subsequent ongoing management options.

In addition to the financial elements detailed in Appendix A consideration also needs to be given to the VAT impact on the ongoing management and the potential additional cost to the Council.

Finally, Sevenoaks District Council is the guarantor for Sencio's pension fund and as such may have a pension liability. Any potential pension liability is dependent on whether the ongoing management solution enables the employees to stay in the Pension Fund. Outstanding HMRC contributions provided by Kent Pension Fund as at 28 February 2021 are attached as Appendix C.

Legal Implications

Under Section 111 of the Local Government Act 1972, the Council has the power to do anything that is calculated to facilitate, or which is conducive or incidental to, the discharge of any of their functions.

Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

Section 1 of the Localism Act 2011 empowers the Council to do anything an individual can do apart from that which is specifically prohibited by pre-existing legislation.

Section 1 of The Local Government (Contracts) Act 1997 provides that every statutory provision conferring or imposing a function on a local authority confers the powers on the local authority to enter into a contract with another person for

the provision or making available of assets or services, or both (whether or not together with goods) for the purposes of, or in connection with, the discharge of the function by the local authority.

Section 93 of The Local Government Act 2003 provides that there is a general power to charge for any discretionary service such as leisure and cultural services.

Section 19 of The Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to provide either indoor or outdoor recreational facilities as it thinks fit and that includes the power to provide buildings facilities equipment supplies and assistance of any kind, either without charge or on such payment as the authority thinks fit.

Any advance to Sencio that members may elect to authorise must not offend the rules on state aid or subsidy control. During the current COVID-19 crises the allowable de minimis level of state aid to any undertaking must not exceed the sum of 800,000 euros.

In taking its next steps as authorised by Members the Council must ensure that it also complies with any existing arrangements in its funding and lease arrangements for the leisure properties with Sencio.

Other legal implications are as set out in this report.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

Despite the Council's own finances being hit hard, the authority has supported Sencio with £376,950 in the past year with grants and paying its annual management fees up front. It also agreed to delay loan repayments from Sencio to the Council of £88,000 up to March 2021.

Sencio has also benefited from a £235,000 grant from Sport England following a joint application with the Council and £144,362.29 from various business grants administered by the Council. It has also been assisted through Government's furlough scheme to cover staff wages (Coronavirus Job Retention Scheme), which is in place until 30 September 2021.

Despite receiving over £756,300 of public money, the trust faces a budget shortfall of £2 million, which includes a pre-Covid trading deficit.

Much of the considerations and options explored above are dependent on how Sencio perform in the short and long term, but also how they react to an insolvency situation.

If the Council chooses not to approve any further financial support to Sencio, based on the conclusion and risks to the Council set out in Max Associates report (Appendix A), the Council may be required to take steps to protect its leisure facilities. Sencio could also find themselves in the difficult position of becoming insolvent and the Council having to liaise with the Administrators.

Appendices

EXEMPT Appendix A - Max Associates Report (April 2021)

EXEMPT Appendix B - Sencio Reopening Plan (March 2021)

EXEMPT Appendix C - Outstanding HMRC contributions - KCC (as at 28 February 2021)

EXEMPT Appendix D - Sencio's response to Max Associates Report (May 2021)

Background Papers

None

Sarah Robson

Deputy Chief Executive and Chief Officer - People and Places