

## COUNCIL

**Date: 12 April 2017**

**Wards:** Cannon Hill; St. Helier

### **Subject: Morden Leisure Centre**

**Lead officer:** Christine Parsloe, Leisure & Culture Development Manager

**Lead members:** Councillor Nick Draper, Cabinet Member for Community & Culture

**Contact officer:** Christine Parsloe, Leisure & Culture Development Manager

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#### **Recommendations:**

1. To approve £2.708m of Merton's strategic Community Infrastructure Levy funding to be used towards the provision of the new Morden Leisure Centre project.
  2. To increase the Morden Leisure Centre project capital scheme from £11 million to £13.708 million, this increase funded by Community Infrastructure Levy contributions of £2.708 million.
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## **1 PURPOSE OF REPORT**

- 1.1. The purpose of this report is to approve £2.708m of Merton's strategic Community Infrastructure Levy funding to be used towards the provision of the new Morden Leisure Centre project and to add this to the Council's Morden Leisure Centre project capital scheme budget of £11 million to create a new total project budget of £13.708m.

## **2 EXECUTIVE SUMMARY**

### **Morden Leisure Centre (MLC)**

- 2.1. The Council set aside £11m to replace the existing Morden Park Pools (Capital Programme, 2010). A decision was taken in 2014 to create a new leisure centre at Morden and, once this was open, to demolish the existing facility and reinstate the landscape.
- 2.2. The outcome of public consultations set priorities for facilities, and these were used by the professional design and technical team to produce plans for approval. Planning approval was gained in June 2016 and a construction company was appointed for a two-stage design and build contractual arrangement.
- 2.3. We knew in May 2016 that there were some costs that were to be incurred above and beyond the £11m on this project (due to c.£0.5m on furniture, fixtures and equipment), we are now clearer that there are other increased costs that we were not able to predict at that time. The report to Cabinet in May 2016 identified that we were working to achieve as much as possible within the £11m but also stated that:

***“...It should be stressed that the pricing response received from any given Supplier does not reflect the anticipated final Contract value, as this is developed in the second stage of the tender process ...”<sup>1</sup>***

- 2.4. As a result of increased costs (see Table 4), the project team have worked with Greenwich Leisure Limited (GLL) as the incumbent operator for MLC and Merton Officers, always guided by the community’s expressed priorities to consider a number of options (see Table 6). Of these Option A1 stands out as being optimal in giving the best facility mix to meet the community’s needs whilst providing potential for the best revenue stream for the Council. This solution requires an additional capital investment to the project of £2,708,000.

### **Community Infrastructure Levy (CIL)**

- 2.5. Since Merton Council started to collect Merton’s Community Infrastructure Levy (CIL) in April 2014, the Council has accumulated nearly £5million in CIL receipts to spend on infrastructure. CIL regulations have been subject to frequent change since their inception, but Government continues to encourage council’s to use the levy towards priority infrastructure projects.
- 2.6. This report recommends that £2.708m of Merton’s strategic CIL is allocated to the Morden Leisure Centre project. This project is considered the highest priority for investment from CIL funding, is a significant infrastructure project that is approved for delivery, is ready to go on site and is requesting this investment to spend during 2017-18.

## **3 DETAIL**

### **Morden Leisure Centre Construction (MLC)**

- 3.1. The appointed new MLC contractor, Pellikaan Construction Limited, have been developing the design and securing sub-contractors indicative prices in order to submit the Second Stage Tender Price with the aim of producing a design that can be built for the lowest possible capital cost, whilst still being in accordance with the existing planning approvals. The main reasons for the increases in costs are detailed in para 8.5, Table 4.
- 3.2. The project team and contractor have considered a number of radical options to reduce the capital costs. Some have already been included but others have not since they would have resulted in fewer and/or smaller sports facilities which, in turn, would have a detrimental impact on the operational revenue benefits of the centre and also the quality of the facility that residents and users expect. They have also considered alternative, cheaper materials for construction; however these have not been included due to lifecycle costs, anticipated wear and tear, potential for increased revenue costs and due to planning approval requirements.
- 3.3. The design and facility mix being proposed to be taken forward, subject to the approval of CIL funding, is the planning approved design with changes to the internal layout and some ‘non material’ amendments to the planning approval which, when combined, provides the greatest facility mix and has the potential to provide the largest revenue benefit. It does result in an increase in capital cost to the project of £2.708m. The facilities that the Council intends to provide, based on the public’s priority order, comprise of:
- Café

- 13m x 15m smaller pool with moveable floor with flexibility for a range of water based activities and suitable for diving
  - 6 lane x 25m swimming pool
  - 3 x Changing rooms - male, female and family/group
  - Large studio / community room
  - Spectator seating overlooking the main pool
  - 100 station health and fitness facility
  - Alternative roof structure (Appendix 1)
  - The 4 badminton court sports hall is **not** included at this stage.
- 3.4. Pellikaan Construction Ltd was procured through an OJEU, Two Stage Design and Build process. In the first stage, preliminaries, overheads and profit were agreed and a pre-construction services agreement (PCSA) contract awarded by Cabinet on 18 May 2016. In the second stage, the works are tendered with the contractor's supply chain on an open book\* basis in order to agree a price as fixed as is possible for delivery of the works. (\*Open book – when parties have adopted a transparent approach on the figures which make up the contract sums).
- 3.5. Pellikaan have agreed to submit a Second Stage Tender price prior to tendering the works with their supply chain, hence, provided no changes are made to the scope and Pellikaan encounters no unexpected contractual Relevant Matters (NB – they have agreed to try to avoid any increase to the Final Price), this is likely to be the maximum price for the works. In the event that the overall tendering of the works results in a price lower than the Second Stage Tender Price, this will represent a saving to the Council's project fund.
- 3.6. Providing the request for CIL funding is approved, the award of the construction contract to Pellikaan will be carried out as a Key Decision in accordance with the Cabinet approval given on 18<sup>th</sup> May 2016
- “... C. Delegate to the Director of Environment & Regeneration, in consultation with the Lead Member, the authority to finalise the award following the planning approval ...”<sup>1</sup>

### **Community Infrastructure Levy (CIL)**

- 3.7. Merton's CIL charging schedule started in April 2014. In November 2014 the Council consulted on what CIL could be spent on (known as the draft Regulation 123 list).
- 3.8. In 2016 and 2017 officers reviewed the 2014 consultation results and the projects to ensure they are still timely. This publication of this listing will come forward for councillor approval in the coming months.
- 3.9. As at March 2017, the MLC project was identified by officers (taking account of the consultation outcomes) as being considered an immediate high priority for the allocation of CIL funding. The key reasons for this are:
- It is a key infrastructure project that aligns with the priorities set out in Merton's infrastructure planning list set out in the Council's adopted Core Strategy as needed to support the development of the area, and Regulation 123 list

- It is a large strategic infrastructure project, this being the type of project that has been identified as good practice for the allocation of CIL
- It is approved for delivery by Council, considerably advanced and requires funding during 2017-18. In addition to this, the Greater London Authority (GLA) stated in their consultation response to the 2016 planning permission for the project that the GLA could support Morden Leisure Centre as it was a necessary piece of key infrastructure to support the new residential development coming forward in Morden town centre.

#### 4 PROCUREMENT

- 4.1. Following approvals by Merton's Procurement Board, a restricted two-stage OJEU compliant procurement procedure was employed whereby the OJEU notice was published on 11 December 2015.
- 4.2. The tendering process was carried out in accordance with the Council's Standing Orders and in accordance with the Public Contracts Regulations 2015 and the EU Procurement Directive 2014/24/EC.
- 4.3. The tender was managed via the Council's web based Electronic Tendering System, Pro-Contract. The exercise was carried out and supported throughout by the Corporate Procurement Team to ensure a robust approach that adopted good practice. Advice and expertise was also provided by the Project Management Company, Currie & Brown UK Ltd (formerly Sweett UK Ltd) and lawyers, Blake Morgan LLP when requested to do so.
- 4.4. Following the Cabinet decision on the 18 May 2016 the Council entered into a Pre-Construction Services Agreement with Pellikaan and the Stage 2 Procurement Process commenced. During this stage the sub-contractors were engaged by the main contractor, value engineering took place, and the final construction details are now being finalised.

#### 5 OPTIONS

- 5.1. Three funding options have been considered:

**Table 1 – Funding Options**

	<b>Funding Option</b>	<b>Impact</b>	<b>Recommendation</b>
<b>(a)</b>	Approve CIL funding request	Build a new Morden Leisure Centre with facility mix identified in paragraph 3.3	<b>Recommended</b>
<b>(b)</b>	Not approve CIL funding but consider additional borrowing from Council's capital programme	Additional cost of borrowing to fund the proposed additional costs is summarised in Table 9, para 8.21.	<b>Not recommended</b> Merton has collected c. £5m of strategic CIL; has consulted on a draft list of projects; this is a priority project; better for Merton's financial management and reputation to allocate strategic CIL
<b>(c)</b>	Not approve CIL funding	Do not build a new Morden Leisure Centre. Operate existing Morden Park Pools until it fails and at that time let a	<b>Not recommended</b> All demolition costs would be a one-off revenue cost to be borne

		demolition contract, demolish building and landscape the site	in one financial year. Loss of community leisure facility
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NB None of the options include the sports hall and spinning studio as the inclusion of these would increase costs further.

## 6 CONSULTATION UNDERTAKEN OR PROPOSED

- 6.1. In November 2014 Merton Council consulted on Strategic CIL in line with Government regulations and received 123 responses.  
[http://www.merton.gov.uk/merton\\_s\\_strategic\\_infrastructure\\_questionnaire\\_oct14.pdf](http://www.merton.gov.uk/merton_s_strategic_infrastructure_questionnaire_oct14.pdf)
- 6.2. Since Cabinet's approval to award the MLC pre-construction services agreement contract, further public consultation has taken place as part of the formal planning application process and was reported at the Planning Committee on 16 June 2016.
- 6.3. Meetings with Morden Park Playing Fields Community Trust (MPPFCT) occur every eight weeks to progress both this and their proposed project for the adjacent land. A meeting with the committee of the Morden Park Playing Fields Association and attendance at their AGM to explain the project and some of the ecological issues has also been undertaken.
- 6.4. An officer has also attended Morden Area Forums to keep the community updated and provided verbal updates at all Sustainable Communities & Transport Scrutiny meetings until they advised that such updates were no longer required.
- 6.5. Newsletters and press releases have been published whenever there have been newsworthy items.

## 7 TIMETABLE

- 7.1. There has been a delay against the original construction timetable initially caused by the finding of Great Crested Newts (GCNs) in a pond within Morden Park and in the proximity of the site of the new Morden Leisure Centre. GCNs are a protected species and once found requires an EU licence to be gained against a detailed mitigation plan, which fully takes account of the actions this project will need to take to protect the species and give due regard to their habitat and life-cycle.
- 7.2. Whilst this work was being progressed the project team took extra time to work with the contractor to conclude the Pre-Construction Services Agreement (PCSA), and to develop alternative options for consideration. The project team also procured further specialist surveys to feed into the design and to develop the plans. Other work was undertaken towards discharging planning conditions in readiness for starting on site.
- 7.3. During this time it became clear that the project budget was insufficient to be able to deliver everything that this project expected and thus time has been taken to value engineer the design as much as possible as well as considering more radical facility reduction options to reduce capital costs.
- 7.4. All of these matters have delayed the project. The new timetable for construction of the Morden Leisure Centre is as follows:

**Table 2 – Timetable for Construction of Morden Leisure Centre**

Activity	Date
Full Council	12 Apr 2017
Discharge of planning conditions	April/May 2017
Contractual arrangements in place	May/June 2017
Site set-up	June 2017
Construction works commences	Early July 2017
Completion	Aug 2018
Operator Mobilisation Period	Aug 2018
Opening of Morden Leisure Centre to public	Sept 2018
Demolition of Morden Park Pools commences	Oct 2018

## **8 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

### **CAPITAL**

- 8.1. A capital budget of £11m was agreed as part of the Council's Capital programme on 3 March 2010. It should be noted that this amount was based on soft market testing of the Sport England Affordable Leisure Centres models which were at that time being developed to specify low-cost, high quality model community sports facilities. So far the following sums have been spent on the scheme:

**Table 3 – Budget Spent to Date**

Year	£
2014-15	24,316
2015-16	507,723
2016-17 (Up to 31/01/17)	370,969
<b>Total</b>	<b>903,008</b>

- 8.2. The budget, when originally set, was considered to be sufficient to replace the existing Morden Park Pools (MPP) (minus the FF&E) with a new family friendly Morden Leisure Centre (MLC) and to demolish the existing MPP. The Sport England indicative prices on which the MLC project was based included a number of assumptions, which have proved not to be applicable in our case. All of these have contributed to increased costs, including:

- A green field site with no abnormal ground conditions - Morden Park substructure is London Clay with a relatively high water table and is a site of archaeological interest
  - External works included as a notional allowance – heritage area with many ecological restrictions including Great Crested Newts, natural grassland and tree protections, etc.
  - Drainage beyond the building footprint is site dependent and included within the notional external works allowance – the drainage beyond the site boundaries are in poor condition and need to be replaced as part of this project in order to be appropriate for this project
  - Incoming services assessed as a notional value, assuming availability from existing infrastructure – the new centre location does not have any existing incoming services within the vicinity hence the notional value to connect up to is not sufficient for the particular circumstances of this project.
- 8.3. The furniture, fixtures and equipment (FF&E) would ordinarily be funded by the centre operator (GLL) and therefore these costs were not included in the original £11m budget. In January 2017 GLL advised that they did not have capital to invest at this time. Had GLL been able to invest capital it would have resulted in reduced revenue to the Council and poorer value for money over time. The cost of FF&E is £573,000, and this amount is part of the £2.708m requested from CIL.
- 8.4. The car charging points are required as part of a Government directive. In order to meet London Plan objectives, the Mayor of London / GLA has made this a requirement of the MLC planning permission.
- 8.5. Earlier assumptions were valid at the time that they were considered, but costs have increased and Table 4 provides the value of those increases and the reasons behind them.

**Table 4 - Reasons for Increased Costs**

Item		Cost £	
Initial Project Budget – Anticipated Costs		£11.000m	
Extra Costs		Reasons	
1.	Add Furniture, Fixtures & Equipment (FF&E)	£0.573m	This cost has never been part of the £11m capital budget and it is now appropriate to be funded from capital
2.	Increased allocation to fees	£0.300m	Includes increased costs for reports, surveys, assessments, specialist professional fees on a range of aspects required in delivery of this project, including: Topographical; Ecological; Pool Filtration; Drainage; Flood Risks; Planning - MOL; Archaeological; Heritage; Geo-technical; etc.
3.	Increased building area	£0.118m	The building had to be increased in size in order to maximise the higher income generating areas on the upper floor and provide improved room space on ground floor. This was included prior to planning approval. This figure also includes an inflation

			adjustment.
4.	Increased scope of work to car park charging	£0.270m	This includes allowance for a separate substation to the car park, external car park lighting, car charging points and associated infrastructure
5.	Repairs to local drain infrastructure	£0.038m	The surface water drainage system in the (council owned) access road was discovered to be in a poor condition and not suitable for the drainage needs of the new leisure centre. Repairs/replacement is therefore required.
	<b>Total Cost Plan - Stage 4</b>	<b>£12.299m</b>	
6.	Pellikaan Second Stage Tender Cost Plan increase	Figure 1 in exempt appendix 2	<p>Including :</p> <p>Increased costs on construction methods due to detailed findings from the land surveys and the resultant construction methods that are required to build swimming pools.</p> <p>Diving pool construction methodology requiring sheet piling.</p> <p>Packaging of the works i.e. pool tank, filtration and finishes all as one package versus smaller packages of works - being revisited in final tenders</p> <p>External works are estimated at a high cost. Reasons include: planning requirements, the historical and heritage nature of the site; ecological habitats within this location and the surrounding areas; etc.</p> <p>Replacement of existing drainage infrastructure as it is not of a sufficient quality, size and standard to support the new MLC.</p> <p>Provision of new utility supplies and services to support the new building as there are no existing services to link into within the existing vicinity.</p> <p>Increased costs of materials e.g. steel, requirement to use wood and glass rather than cheaper construction materials – as required by the planning committee</p> <p>This is further exacerbated by the economic climate particularly in the leisure centre construction market, which is currently very buoyant. Some of the specialist packages of work are only provided by a small number of sub-contractors, hence prices remain high.</p> <p>Includes a reduction of £340k for an alternative roof design, which will be the subject of a 'non-material change' application to Planning.</p>
7.	Removal of spoil from site and ground conditions—previously assumed all would be retained	£0.055m	The previous assumption was that all material would be retained on site in mounds or used as infill to the existing pool after demolition.
<b>Total Forecast Project Cost:</b>		<b>Figure 2 in exempt Appendix 2</b>	



- 8.6. The project team have significant experience within the leisure and construction markets. The team are engaged in other projects across the country that have either experienced similar scenarios to the cost scenario that Merton currently finds itself in.
- 8.7. Examples where leisure centres have cost more than originally intended include:

**Table 5 – Leisure Centre Cost Overruns**

<b>Leisure Centre</b>	<b>Locality</b>
Down Leisure Centre	Newry, Mourne & Down Council
Fleming Park Leisure Centre	Eastleigh, Hampshire CC
Letchworth Leisure Centre (extension)	North Herts District Council
Stone Leisure Centre	Stafford BC
St. Sidwell's Point	Exeter Council
Tenby Leisure Centre (Refurbishment),	Pembrokeshire CC
Woodford Leisure Centre	Hull City Council
Waltham Forest Leisure Centre	LB Waltham Forest

- 8.8. The project team and contractors have considered a number of radical options to reduce the capital costs and also considered the risks and the impact on future revenue. Table 6 details the build and not to build options, whilst Table 7 identifies the risks and Table 8 the revenue impacts. All need to be considered in the round to gain a holistic view of the project.

**Table 6 – Facilities Options**

This Table contains exempt information and has therefore been moved to an exempt Appendix (Appendix 2)

**Table 7 – Summary of Risks**

Option	Planning	Financial – Capital	Financial – Revenue	Reputational
<b>Recommended - Option A1</b>				
<b>A</b>	<b>LOW</b> (outstanding conditions only)	<b>HIGH</b> (significantly above the current project budget)	<b>LOW</b> (optimum scheme for revenue position)	<b>LOW</b> (fully meets public expectations)
<b>1*</b>	<b>MEDIUM</b> (is not as approved roof design, but informal planning advice is that an application for some 'non-material changes' will be required but that it is unlikely to be sufficiently material enough to require a new planning permission)	<b>LOW</b> (produces a saving against the capital costs)	<b>LOW</b> (little impact on revenue subject to health & fitness & other useable floor areas as original size, however there may be energy saving efficiencies of a lower height pool hall)	<b>MEDIUM</b> (is a change to the visual impact of the roof and an internal mezzanine floor over the café – but neither detract significantly from original plans)
<b>Not Recommended - Option B</b>				
<b>B</b>	<b>LOW</b> (outstanding conditions only for demolition and land re-instatement)	<b>LOW</b> (Demolition could not be capitalised as no new leisure facility, hence all costs would be revenue)	<b>HIGH</b> (all of the project capital currently spent on the project c. £1m would become revenue and the cost of demolishing separately would also be revenue as it is no longer linked to the re-development scheme)	<b>HIGH</b> (complete loss of leisure facility is likely to cause public petitions, whilst it would put increased pressure on other facilities to meet school swimming curriculum requirements)

\* There is a risk that planning do not approve the roof design when the formal request is made and this could result in an additional project cost.

- 8.9. This table does not consider other non-financial, non-reputational risks such as:
- being unable to deliver sufficient curriculum swimming (statutory requirement for local schools)
  - levels of participation in physical activity
  - health and well-being benefits
  - user and resident satisfaction, etc.
- 8.10. There is a financial risk that the current demolition costs are insufficient. These costs have been based on benchmark costs for similar works. It is recognised that there is risk to this sum in the event that asbestos contamination is significant. This is noted as a key risk on the risk register and any additional costs that are incurred here will need to be funded. It is currently intended that this would have to be by the overall project contingency allowance, held by the client, however the project team are currently getting demolition companies to provide indicative prices.
- 8.11. The contractors are now carrying out open-book tendering of the works packages with the project team in order to produce a final price, which will be as fixed as is possible at this stage upon the information available for the Morden Leisure Centre construction and associated works ("the Final Price"). The intention is that

this Final Price will be no greater than the Second Stage Tender Price included in this report.

- 8.12. The Second Stage Tender Price submitted by Pellikaan combined with additional project costs, inflation and other economic reasons has resulted in an increase in total project costs of up to £2.708m.
- 8.13. Once the contract has been entered into, changes will only be those that are essential to the success of the project. These will be issued through a change order regime once costs are known and deemed affordable within the budgets available. A suitable contingency sum has been set aside for this purpose, which will be held and managed by the client team during the construction period to account for any essential changes required.
- 8.14. External funding opportunities have already been explored without success. The options to meet the capital shortfall are there for either additional borrowing and/or to use some of the Council's CIL for this project.
- 8.15. Further project savings could be made if the Council were able to allocate other Council capital spend to deliver in support of this project – should that be appropriate e.g. charging points, tree planting, photo-voltaic installation, etc. However, the total cost would still be one for the Council as a whole.

### **REVENUE**

- 8.16. The operational contract is required to generate efficiencies of £100k, which are already agreed as part of the Council's Medium Term Financial Strategy 2015/18, to take effect from April 2018. This would reduce the net revenue surplus available for further borrowing against the capital shortfall. The potential revenue surpluses in Table 8 take account of this £100k savings requirement.
- 8.17. The operation of the centre will be by Greenwich Leisure Limited (GLL). When the last leisure centre contract was let it allowed for the closure of Morden Park Pools and for the operation of a replacement leisure centre. Once the scope of the new facility was decided and planning permission gained, the Council has been able to work with GLL so that they could prepare a revised Leisure Operators Base Trading Account (LOBTA).
- 8.18. GLL has provided a number of indicative options for a new LOBTA, all of which produce further savings when compared to the current cost of the service. The figures shown represent an average annual revenue saving against the current budget 2016/17. The figures do not take account of the £100k savings already agreed as part of the council's MTFs due to come out in 2018/19. (NB These figures are also still the subject of negotiation).

### **Table 8 – Revenue Implications**

This Table contains exempt information and has therefore been moved to an exempt Appendix (Appendix 2)

- 8.19. This paragraph contains exempt information and has therefore been moved to an exempt Appendix (Appendix 2)
- 8.20. There would also be a one-off revenue sum equivalent to the total capital project costs currently expended plus any project liabilities still due, since this expenditure

could no longer be capitalised. This figure would be in excess of £900k, which is not budgeted for.

- 8.21. All demolition costs would be a revenue cost (all borne in one financial year) as these costs would no longer be linked to a re-provision and therefore cannot be capitalised.
- 8.22. This paragraph contains exempt information and has therefore been moved to an exempt Appendix (Appendix 2).
- 8.23. Should the Council wish to consider additional borrowing rather than CIL, the additional cost of borrowing to fund the proposed additional costs is summarised in the table below (all figures in this table are £'000s):

**Table 9 – Additional Costs of Borrowing**

<b>External Interest Rate Used in the Model</b>	<b>Maximum</b>	<b>-</b>	<b>Per £1 Million</b>
	<b>£</b>		<b>£</b>
<b>Estimated Additional Cost</b>	2.708		1,000
<b>Financing Costs p.a.</b>			
MRP @ 29.3 years	93		34
External Interest in Model @ 2.0%*	54		20
<b>Total</b>	<b>147</b>		<b>54</b>
* PWLB rates on 28-02-17 and the equal instalment rate is 2.58% for a repayment over 29.3 years			

- 8.24. Utilisation of CIL would reduce the annual impact on revenue (debt charges) by removing the MRP element of costs. It is envisaged that there would be an opportunity cost in respect of interest as Merton's balances are utilised to generate interest.
- 8.25. The life of a new leisure facility should be expected to be 50-60 years.

**PROPERTY**

- 8.26. None for the purposes of this report.

**FUNDING**

- 8.27. The initial costs of the scheme of £11 million will be met from borrowing.
- 8.28. This report requests additional funding towards the MLC project of £2.708m from the CIL strategic infrastructure fund.

**9 LEGAL AND STATUTORY IMPLICATIONS**

**Morden Leisure Centre (MLC)**

- 9.1. The procurement process has been undertaken in accordance with the Council's Contract Standing Orders, the Council's Procurement Strategy, the Public Contracts Regulations 2015 and the EU Procurement Directive 2014/24/EC.

- 9.2. The Pre Construction Services Agreement (PCSA) has been entered into with Pellikaan Construction Ltd. and the main construction contract will be progressed following the final agreement to the contract sum, centre design and final scope of services to be included.
- 9.3. Blake Morgan has been appointed to provide legal advice in response to specific queries raised by the Council's project management team. Blake Morgan has provided advice and assistance in response to such specific requirements throughout the tendering process.

### **Community Infrastructure Levy (CIL)**

- 9.4. Under Regulation 59 of the CIL Regulations and government guidance *strategic CIL* (80% of local authority CIL received) is to be spent on “infrastructure to support the development of its area”.
- 9.5. For the purposes of spending CIL “*infrastructure*” is defined under Section 216 of the Planning Act 2008 as amended by Regulation 63 of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regulations) as including:
- “ (a) roads and other transport facilities,  
(b) flood defences,  
(c) schools and other educational facilities,  
(d) medical facilities,  
(e) sporting and recreational facilities, and  
(f) open spaces”<sup>2</sup>
- 9.6. Regulation 123 of the CIL Regulations states that CIL charging authorities, like Merton Council must do the following:
- base their CIL charge on the strategic infrastructure projects that it may fund through CIL: in Merton, this list is found in Merton Core Planning Strategy 2011 (see table 27.2 – Infrastructure).
  - and, publish this in a “Regulation 123 list” to state which projects or types of infrastructure that it may fund through CIL. In Merton, this Regulation 123 list is found on Merton’s website here:  
[http://www.merton.gov.uk/regulation\\_123\\_list\\_version\\_1-2.pdf](http://www.merton.gov.uk/regulation_123_list_version_1-2.pdf)
- 9.7. Publication of the Regulation 123 list is not a statement that all of the projects will be put forward for funding or of the funding priorities, at any particular time.
- 9.8. This proposal has been identified within the infrastructure projects list set out in the Merton’s adopted Core Strategy (table 27.2) as necessary to support the development of the borough, so accords with Regulation 59 of the CIL Regulations, which states that charging authorities must apply CIL to funding infrastructure to support the development of its area.
- 9.9. Regulation 60 (1) permits the application of CIL to reimburse expenditure already incurred on infrastructure so CIL may be spent on expenditure already incurred upon the Morden Leisure Centre project.
- 9.10. With the absence of a Secretary of State direction permitting a percentage of CIL to be spent on repayment of loans, Regulation 60 (2) does not currently permit

such expenditure, should that be sought with respect of the Morden Leisure Centre project.

## **10 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 10.1. There are not expected to be any human rights implications.
- 10.2. The design and technical team have been required to design a facility that is not only Equality Act 2010 compliant but also designing in elements to make the facilities easy to use and appealing from a family friendly and inclusivity perspective.
- 10.3. The facility is designed to be open and welcoming to all, recognising personal preferences and accommodating for those in a respectful and appropriate way so as to create a place where all people can engage together in a community setting, harmoniously supporting the community cohesion of Merton.

## **11 CRIME AND DISORDER IMPLICATIONS**

- 11.1. During the design process the design team worked with the Metropolitan Police Officer with responsibility for designing out crime. The designs at RIBA Stage 3 have met with their approval.
- 11.2. The openness of the exterior of the design creates a welcoming approach, whilst the interior leads to activity spaces with limited corridors and corners to dwell in.
- 11.3. CCTV coverage will be provided both internally and externally.

## **12 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 12.1. Risk, assumptions, issues and dependencies are being actively managed as part of the programme.
- 12.2. Health and safety implications are paramount in such a construction contract and these are overseen on the projects behalf by the Principal Designer.
- 12.3. The contractor will be responsible for insurance and will be required to provide copies of their policies to the council as part of the contract, prior to any works commencing.

## **13 TABLES**

- 13.1. Table 1 – Funding Options
- 13.2. Table 2 – Timetable for Construction of Morden Leisure Centre
- 13.3. Table 3 – Budget Spent To Date
- 13.4. Table 4 – Reasons for Increased Costs
- 13.5. Table 5 – Leisure Centre Cost Overruns
- 13.6. Table 6 – Facilities Options
- 13.7. Table 7 – Summary of Risks
- 13.8. Table 8 – Revenue Implications
- 13.9. Table 9 – Additional Costs of Borrowing

**14 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- 14.1. Appendix 1 – Alternative Roof Elevation
- 14.2. Appendix 2 (EXEMPT) – contains information that is exempt from publication by virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972

**15 BACKGROUND PAPERS**

- 15.1. Morden Leisure Centre Project files
- 15.2. Community Infrastructure Levy Regulations 2010 (as amended)
- 15.3. Government’s Planning Practice Guidance on CIL
- 15.4. Merton’s Regulation 123 list
- 15.5. Cabinet Report – Morden Leisure Centre, 10 November 2014
- 15.6. Cabinet Report – Morden Leisure Centre, 18 May 2016

**16 REFERENCES**

- 1. Cabinet Report – Morden Leisure Centre, 18 May 2016
- 2. Section 216 of the Planning Act 2008 as amended by Regulation 63 of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regulations)

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