

COUNCIL – 21 NOVEMBER 2017

QUESTION AND ANSWER SESSION

QUESTION FROM MR D BIGBY TO COUNCILLOR A V SMITH

“Many in our Community are concerned that, in order to finance a new Coalville leisure centre, it is proposed to outsource operation of this new facility and Hood Park Leisure Centre in Ashby to the private sector for at least the next 25 years. One major aspect of concern is the ceding of public accountability over these important community services for a very long period.

Whilst much financial detail of the proposed Project has been kept Confidential, the information that has been made public suggests that the main area of potential saving lies in exemptions from Business Rates and VAT available to an independent trust. I understand that the Cabinet has recently agreed to a joint bid with the other Leicestershire authorities to take part in a pilot for 100% local retention of Business Rates. Also, in July, the European Court of Justice upheld Ealing Borough Council’s appeal that they should be treated in the same way as not-for-profit bodies regarding exemption from VAT for the provision of sporting services and the Government has not yet determined how it will respond to this ruling.

I would therefore ask the following question;

How do these taxation developments affect the Council's business case and wouldn't a combination of 100% Business Rate retention and the potential for either VAT exemption for Council provision of sporting services or the possibility of the new provider losing VAT exemption, negate the main financial justification for outsourcing management of the leisure centres with the associated loss of democratic accountability?”

RESPONSE FROM COUNCILLOR A V SMITH

“The market for the management of leisure centres on behalf of local authorities in the UK is largely delivered by charitable trusts and NWLDC will, in line with best practice, have a number of strict legal controls in place with a new operator including a contract, lease and service specification that will ensure the highest levels of public accountability throughout the contract period. The Council will also retain a key function to monitor the contract and its performance which will be reported accordingly to the Cabinet and Council. User and stakeholder meetings will also be held at each centre to ensure local accountability for service standards. An indication of the controls that the Council will have includes protection and minimum standards in a number of areas including the following:

- Prices
- Protection for existing user groups
- Opening hours
- Customer care
- Maintenance
- Performance and quality

There are a number of financial benefits to outsourcing the leisure centres which are not derived from Business Rates and VAT exemptions. These will be tested by the tender process itself but in summary operational savings can be attributed a number of areas including the following:

- Increased usage and income from larger more fit for purpose facilities e.g. larger sports hall, swimming pool and gym
- A more commercial approach to operating the leisure centres by an operator that is experienced in maximising revenues from leisure assets
- A more economical building to heat, maintain and operate
- Savings from Council support services

The improved financial position of the Council as a result of the project is due to a combination of factors which include exemptions from Business Rates and VAT, but also an improved income position through improved usage and a saving to the Council in corporate overheads.

We do not yet know the outcome of our joint bid to become a pilot within the 100% Business Rate Retention scheme. If successful, the pilot will be for one year only and after that year, the existing arrangements under the 50% retention scheme will continue until such time the Government rolls out the 100% retention scheme (this date is currently unknown, although it is anticipated to be 2021).

The European Court of Justice's (ECJ) ruling in the Ealing Borough Council case does give rise to some uncertainty as to what the VAT position will be in future. However, this is no different to the possibility of any relevant law being changed at any time. This is because ECJ decisions relate to specific points of European Law that arise in particular court cases. That decision is then interpreted by the English court and applied to the case in front of them only. While the ECJ has pointed out a matter of UK law that is inconsistent with European law, the UK law will stay as it is until parliament changes it or HMRC updates its guidance. In addition, it is not known whether any such change/update will give the Council a VAT exemption on leisure services or remove the provider's exemption. Since the law remains the same for now, despite the ECJ's ruling, and the government's response to the ruling could go in different directions, the business case is based on the law at the moment.

That said, the Council will keep the business case under constant review and will continue to model the financial impact as and when more information is known. The implications of the possible changes will also be discussed with bidders through the tender process to ensure any financial risk is properly managed".