

Decision Maker:	PORTFOLIO HOLDER FOR RENEWAL, RECREATION AND HOUSING
Date:	For pre-decision scrutiny by the Renewal, Recreation and Housing Policy Development & Scrutiny Committee on 15 June 2023
Decision Type:	Non-Urgent Non-Executive Key
Title:	LAWN TENNIS ASSOCIATION PARKS TENNIS RENOVATION FUND – TENDER PROCESS
Contact Officer:	Paula Young, Head of Culture Tel: 0208 461 7202 E-mail: paula.young@bromley.gov.uk
Chief Officer:	Director of Housing, Planning & Regeneration
Ward:	Bromley Town, Hayes and Coney Hall, Orpington, St Mary Cray

1. REASON FOR REPORT

- 1.1 In November 2022 the Executive approved acceptance of a grant (£230,580) from the Lawn Tennis Association (LTA) to fund the renovation of 10 tennis courts across the borough at Church House Gardens, Coney Hall Recreation Ground, Goddington Park and Poverest Park.
 - 1.2 In accordance with the approach set out in the report to the Executive, officers have worked with colleagues at the LTA to develop an agreed tender process for the works.
 - 1.3 This report seeks authority to proceed to procurement and sets out the proposed tender process for seeking an operator to manage this concession contract.
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2. RECOMMENDATION(S)

- 2.1 That members of the Renewal, Recreation and Housing PDS note the report and make any comments available to the Portfolio Holder.
- 2.2 That the Portfolio Holder for Renewal, Recreation and Housing:
 - 1) Approves proceeding to tender for an operator to manage the tennis court sites at Church House Gardens, Coney Hall Recreation Ground, Goddington Park and Poverest Park. The contract will be a concession contract with an estimated turnover value of £23,236 per annum for a 5 year contract with the option to extend for 5 years (estimated whole life value of £232,360). The concession contract will be cost neutral to the Council.
 - 2) Approves the procurement of a minor works contract from the LTA's framework contract for the capital build improvement works at an expected value of £230k, to be funded by the LTA as previously approved.

Impact on Vulnerable Adults and Children

Summary of Impact: Following completion access to the courts will be low cost with some free provision available. Improvement of these Tennis Courts will increase physical activity in the wider community.

Corporate Policy

- 1 Policy Status: Existing Policy: Making Bromley Even Better Priority:
 - (1) For children and young People to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
 - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
 - (4) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.
 - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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Financial

1. Cost of proposal: £230k grant funded
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: None
 4. Total current budget for this head: None
 5. Source of funding: LTA (Lawn Tennis Association) Parks Renovation Fund via the DCMS (Department of Culture, Media & Sport).
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Non-Statutory
 2. Call-in: Applicable: Portfolio Holder decision.
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Procurement

1. Summary of Procurement Implications: The report proposes to proceed to procurement for a concession contract for an operator to manage the Tennis Courts; and minor works via the LTA.

Customer Impact

Estimated number of users/beneficiaries (current and projected): Sport England's modelled Market Segmentation data suggests that 6,181 people currently play tennis and 6,440 would like to play across the borough.

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No

3. COMMENTARY

- 3.1 Bromley Council accepted a grant of £230,580 to refurbish ten courts across four sites in the borough (Goddington Park, Poverest Park, Coney Hall Recreation Ground and Church House Gardens). The details are set out in report number HPR2022/054. There was no capital match funding requirement. Additionally, there was no ongoing revenue requirement with the LTA working with the Council to put in place an operating model similar to the agreement the Council already has with the Park Langley Club. Park Langley currently operates four public park tennis courts for the Council and cover the full cost of management and maintenance through a low pay to play model – they currently charge an annual fee of £24 for a whole family to access the four courts.
- 3.2 By accepting the grant of £230,580 from the LTA the Council was required to adhere to the following conditions: The works must be delivered through the LTA's procurement framework; online booking must be offered; the LTA's established operating model must be followed with some free access available for those who cannot afford the low-cost model; there must be a recreational competitive offer; and a sustainability plan in place. All of the operating requirements are dealt with as part of the tender for an operator.
- 3.3 As part of the refurbishment each tennis court will be fitted with the Lite GA System. This system manages access to the court through a Clubspark booking system. The booking system will be managed by the preferred operator and includes a low-cost charge which covers the cost of managing and maintaining the court. The technology is simple and extremely effective, with a proven track record of growing participation. In 5 simple steps a player can locate, book (and pay if required) and access any court at their desired location.
- 3.4 Free access will be managed by the operator but the Council can stipulate how this is managed in the agreement. This could be in the form of one or all of the below:
- Free slots made available on the online booking system at any of the venues. This will be totally free for the participant to sign up and book and typically ranges between 6 – 12 free hours available per venue, per week. The booking process and customer-journey will be the same for anyone accessing free or paid-for court time or activity.
 - Free weekly operator-led sessions for all ages and abilities, imagine a ParkRun for tennis type offer. The LTA are currently piloting this offer in London & Manchester. As part of the DCMS/LTA criteria, the operator will need to deliver these in at least 30% of the newly renovated venues.
 - Some Local Authorities also provide a free household season ticket offer for specifically identified residents i.e. residents access housing benefits etc. This option is more admin heavy especially when controlling data with a third party but can be done.
- 3.5 Officers have conducted a soft market testing exercise to identify potential operators.
- 3.6 Bromley Council intends to procure a concession contract for an operator to manage and promote the newly refurbished tennis facilities at Poverest Park, Church House Gardens, Goddington Park and Coney Hall Recreation Ground. The agreement will be for a 5-year period, with the option to extend for a further 5 years. The procurement will be via an Open Tender using the e-procurement system Pro-Contract. The tender will include the completion of a standard questionnaire and tender documentation with pricing schedule and method statement questions.

3.7 As a twin track approach the LTA are also running a procurement process to appoint SAPCA – Sports & Play Construction Association (Industry Association) approved contractors to refurbish the four sites over the coming months. A separate contractor will install a Smart Gate Access Control System. The Council will be required to enter into a minor works JCT contract for the delivery of the refurbishments.

3.8 The operator will be required to operate the improved tennis courts in the parks and complete routine maintenance. The operator will be expected to provide for a sinking fund for the eventual replacement of the tennis court surfaces. The operator will also promote the courts with an aim to increase participation across the demographic, including underrepresented groups. The operator will have the choice on how coaching is delivered on the courts. This can be done through the operator providing coaches themselves or through engaging another organisation to deliver coaching on their behalf.

3.9 It is officers' intention that the tender goes live on the e-procurement system at the beginning of July 2023. The tender opportunity will be live for a minimum of four weeks. Officers will evaluate tender submissions with colleagues at the LTA before recommending a contract award, which at the estimated value is a Chief Officer decision in accordance with the Council's Contract Procedure Rules. It is envisaged the contract will commence in the autumn subject to renovation works being completed.

4. MARKET CONSIDERATIONS

4.1 Officers conducted a soft market exercise in January/February 2023 and have reflected their findings in the recommended procurement approach.

5. SOCIAL VALUE AND LOCAL / NATIONAL PRIORITIES

5.1 Carbon reduction in relation to this programme is negligible, but significant social value in terms of public health, wellbeing and inclusion for all residents, all ages and abilities amongst the green spaces where courts are situated.

6. STAKEHOLDER ENGAGEMENT

6.1 Officers have liaised with Designated Sports Managers at all sites where court improvement works are to be completed.

6.2 Members of the officer project team have also met with a representative of the Friends of Coney Hall Recreation Ground to discuss how the tennis project and another multi-sport project funded by the Platinum Jubilee Parks Fund might complement each other onsite.

6.3 Officers gained initial approval to move forward with the project from Bromley Council's Executive committee in November 2022 and ward councillors were consulted at this point.

7. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

7.1 Estimated Value of Proposed Action:

The concession value is based on expected turnover for the concessionaire and is estimated at up to £23,236 per annum according to the LTA modelling, with a proposed contract period of 5 years with an option to extend for 5 years. Therefore the estimated minimum total concession value is up to £116,180, and if extended is up to £232,360. See Appendix 1 for a breakdown of the figures and how this is modelled.

- 7.2 The procurement timetable will commence on 1st July. The tender will be live for a minimum of four weeks. The tenders which have been submitted will be evaluated shortly after the opportunity closes. It is expected that the contract will commence in autumn 2023.
- 7.3 The method of evaluation will be a joint consensus meeting with LBB employees and a member of the LTA. Scores for each response will be individually completed by evaluators prior to this meeting, then a final score will be agreed upon between all evaluators.
- 7.4 The successful operator will be awarded a concession contract.

8. IMPACT ASSESSMENTS

- 8.1 This decision has been judged to have no negative impact on local people and communities as existing tennis court facilities are being improved and developed. It is a highly positive development for the local community as it offers improved facilities with the ability to have an impact on peoples quality of life.

9. IT AND GDPR CONSIDERATIONS

- 9.1 The Council recognises that there will be an element of personal data being held by the contractor. As part of robust due diligence and governance the Council need to ensure that the contractor has adequate data protection and information security frameworks in place though the tender process.

10. PROCUREMENT CONSIDERATIONS

- 10.1 This report seeks approval from the Portfolio Holder of Renewal, Recreation and Housing, for officers to commence a tender exercise to appoint an operator to manage the renovated tennis courts via a concession contract. The estimated value of the concession is up to £116,180 (£232,360 including 5 year extension). The concession contract is expected to be cost neutral to the Council.
- 10.2 In addition, it seeks approval to proceed to procurement for minor works at an estimated value of £230k. The procurement will be managed through the LTA framework with the resulting contract held by the Council.
- 10.3 The concession contract is below the threshold of the Concessions Contract Regulations but will comply with the Regulation principles of transparency and equal treatment. Any time limits imposed, such as for responding to adverts and tenders, must be reasonable and proportionate. Similarly, the minor works contracts is below the threshold of the Public Contracts Regulations 2015 but will adhere to the principles.
- 10.4 As per 8.2.1 of the Council's Contract Procedure Rules, this procurement must make use of public advertisement, and therefore must also be advertised on Contracts Finder.
- 10.5 The Council's specific requirements for authorising proceeding to procurement are covered in 1.3 of the Contract Procedure Rules with the need to obtain the formal Agreement of Chief Officer, Assistant Director of Governance and Contracts, Director of Corporate Services and Director of Finance for the respective values of the proposed procurements. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.

- 10.6 In compliance with the Council's Contract Procedure Rules (Rule 3.6.1), this procurement must be carried out using the Council's e-procurement system.
- 10.7 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

11. FINANCIAL CONSIDERATIONS

- 11.1 This report recommends that the procurement is approved for a minor works contract from the LTA's framework contract for the capital build improvement works at an expected value of £230k. This will be funded by grant funding provided by the LTA .
- 11.2 This report also recommends that approval is given to proceed to tender an operating manager for the newly refurbished tennis courts. As per the agreement between the Council and the LTA, the refurbishment of the courts will be fully funded from LTA grant with no ongoing revenue requirement as the operating model of the courts will fund the ongoing maintenance and management of the courts.
- 11.3 The estimated contract value of the management company is expected to be £23,236 per annum, over a 5 year period with the option of a further 5 years. Therefore, the total estimated value over 10 years if extended is £232,360.
- 11.4 The annual contract cost will be met from the income generated by the courts and therefore will be cost neutral to the Council.

12. LEGAL CONSIDERATIONS

- 12.1 This report requests approval for officers to proceed to tender for a concessions operator to manage four renovated tennis court sites at an estimated annual value of £23,236 with a minimum contract length of 5 years, with an extension option of 5 years at a total potential estimated value of £232,260. It also requests the Council enter into minor works contracts for the capital build improvement works which will be managed through the LTA framework arrangement.
- 12.2 While there is no statutory requirement to provide this leisure service, it accords with the policy priority of Making Bromley Even Better.
- 12.3 The procurement of a tennis operator is a concessions contract. A concessions contract is defined as, "*a contract for pecuniary interest concluded in writing by means of which one or more contracting authorities or utilities entrust the provision and the management of services (other than the execution of works) to one or more economic operators, the consideration of which consists either solely in the right to exploit the services that are the subject of the contract or in that right together with payment.*" Such contracts are regulated by the Concession Contracts Regulations 2016. However, as this concession is a lot less than the threshold of £5,336,937, it is not subject to these Regulations. There are no provisions in these regulations dealing with below threshold contracts but the Council should still treat economic operators equally and without discrimination and should act in a transparent and proportionate manner.
- 12.4 The LTA Grant to the Council for the Minor Works element is provided for on a number of conditions stipulated in their Grant Offer Letter. It is imperative these conditions are fulfilled by the Council in order there is no potential clawback of funds by the LTA. The Minor Works will be called off upon an LTA procured framework agreement which was advertised last year in accord with the Public Contracts Regulations 2015.

12.5 Legal Services have been instructed on this matter and will continue to assist and advise where necessary. The tennis operator concessions contract will use a different structure to the usual services contract as such a contract will grant the operator the right to use the courts rather than be paid for services rendered to the Council. Officers will therefore need to instruct legal services on the specific requirements for the draft concessions contract which goes out to tender.

Non-Applicable Sections:	Policy considerations; Strategic Property Considerations; Personnel Considerations, IT Considerations
Background Documents: (Access via Contact Officer)	HPR2022/054 Appendix 1 – LTA Contract Value Modelling