

INVESTMENT BOARD

Date	16 October 2023
Report title	CWG Legacy and Enhancement Fund -Sandwell MBC Aquatic Centre Energy Costs Business Justification Case
Portfolio Lead	Councillor Izzy Seccombe OBE – Wellbeing Portfolio Holder.
Accountable Chief Executive	Laura Shoaf CBE Chief Executive West Midlands Combined Authority Laura.Shoaf@wmca.org.uk
Accountable Employee	Clare Hatton Interim Director of Employment, Skills and Communities email: Clare.Hatton@wmca.org.uk Simon Hall Strategic Lead for Wellbeing and Prevention email: SimonHall@wmca.org.uk
Report has been considered by	Ben Percival, Assistant Director Borough Economy – Contracts, Projects, Strategy and Policy Sandwell MBC. Cat Orchard, Head of Commonwealth Games Legacy and Enhancement Funding. Mubasshir Ajaz Head of Health and Communities

Recommendation for decision:

The Investment Board is recommended to:

- (1) Approve the Sandwell Aquatic Centre Energy Cost uplift Business Justification Case for a maximum grant £1,395,754 funded by the Commonwealth Games Legacy and Enhancement Funding (CWGLEF) and subject to the terms and conditions of the funding agreement in place between DCMS and the WMCA and additional clawback clauses if there is an additional expected underspend.
- (2) Approve the release of £604,246 back of the previous March 2023 WMCA Board £2m CWG LEF allocation. Such changes are in line with the WMCA's change control process, enabled by the Single Assurance Framework and signed off by the relevant governance boards of the WMCA. This change control process confirms that any underspends that emerge across the CWGLEF, are directed first towards either the regional Plan for Growth or Community Grants programmes.

- (3) Note, subject to approval of this investment, WMCA will pay a grant quarterly in arrears to Sandwell MBC from October 2023 based on monthly monitoring reports on actual spend. Any additional underspends identified by 30 April 2024 will also be directed in line with the WMCA's Change control process first towards the regional plan for growth or community grants programme
- (4) Note that Sandwell MBC will fund £515,323 of the energy costs and any overspend above the forecast of £1,911,077.

1. Purpose

The WMCA Board agreed that all Commonwealth Games Legacy and Enhancement Funding (CWG LEF) Business Justification Cases would come to the Investment Board for approval. The Sandwell Aquatic Centre (SAC) Energy Cost project sets out the Business Justification Case for investment which will contribute towards the energy cost uplift forecasting for the SAC until 31 March 2025. In response to cost pressures, including the fluctuating energy market, this investment enables Sandwell MBC to continue to provide quality leisure provision at this Games venue and across the Borough delivering positive health, wellbeing, education, and employment outcomes.

2. Background

- 2.1 A paper was taken to WMCA Board in December 2022 to approve the WMCA as the accountable body for the receipt of up to £70m of the Commonwealth Games Legacy Fund, granted by the Department for Digital, Culture, Media & Sport from 75% of the unallocated contingency funding in the Commonwealth Games budget. The funding allocation was agreed to be split across four pillars, one of which is Wellbeing and Sustainability. The WMCA Board at its March 2023 meeting, approved the amendment to the CWG LEF Wellbeing and Sustainability Pillar to include a £2m allocation to The SAC project building on the CWG delivery and the investment to redesign and open the "state of the art" SAC to the community at a time of significant cost pressures.
- 2.2 A venue conceived and built for the 2022 Commonwealth Games, modified and recently opened as a key community local facility and a hub for swimming across the region, operated by the Sandwell Leisure Trust (SLT), the Council's Leisure Management Contractors. A legacy facility for the community, replacing the ageing leisure facilities at Smethwick and Langleigh and a swimming competition venue for the West Midlands
- 2.3 In planning for this conversion into a state of the art leisure facility for the community and the region, Sandwell MBC had asked the WMCA for financial support due to the unprecedented rise in energy costs which has posed significant challenges to the planned successful operation of the centre. Whilst Sandwell Leisure Trust (SLT) (the Council's SAC management contractor) had fixed utility costs for all existing sites, this contract could not be extended to the SAC. Also, as it is a new facility, the venue was ineligible for the Government and Sport England's Swimming Pool Support Fund¹. The WMCA Board approved this ask at its March 2023 meeting with an initial allocation of £2,000,000.

¹ The Government's Swimming Pool Support Fund (SPSF) provides a total of £60 million to local authorities in England as a support package for public leisure facilities with swimming pools.

- 2.4 If this allocation was not approved, the deficit created by the increase in energy costs at the SAC, Sandwell MBC and the Sandwell Leisure Trust could have been forced to make savings elsewhere such as temporarily closing a facility until such time as energy prices had been reduced or savings could be found. The Leisure facilities options analysis included in this business case, modelled Sandwell MBC closing one of its neighbouring centres which had the potential to run at a deficit broadly equivalent to the projected increase in utility costs at the SAC. This would have negated the positive impact on the opening of the SAC to provide sufficient quality leisure facilities for Sandwell and neighbouring residents to lead healthier, happier and longer lives.
- 2.5 Sandwell MBC appointed energy experts and consultants to forecast & independently verify the energy costs until 31 March 2025. These were remodelled and verified as energy prices changed and Sandwell MBC and the Sandwell Leisure Trust worked towards the SAC's Community opening in July 2023. This modelling was driven the Council's approach to secure the SAC's energy cost long term (in line with the approach at other Council venues) and the Business Justification Case for CWG legacy and enhancement funding investment.
- 2.6 Working with the WMCA and Sandwell MBC, the consultants have forecasted the energy units required until 31 March 2025 including the contingency for any potential increases in the number of units that are required or an increase in the market cost. Sandwell MBC's intention is 50% of the energy is to be forward purchased and 50% purchased at variable rates. This is summarised in Table 1 below taken from Table 22 of the WMCA SAC business justification case.

Table 22 – Two Year Cashflow (£)								
Year	Total	Q3 2023	Q4 2023	Q1 2024	Q2 2024	Q3 2024	Q4 2024	Q1 2025
Income (£)								
Original Budget (Based on 300k P.A.)	£515,323	£65,323	£75,000	£75,000	£75,000	£75,000	£75,000	£75,000
CWGLEF	£1,395,754	£0	£372,139	£198,902	£198,902	£206,178	£419,633	£0
Expenditure (£)								
Revenue (Npower Forecast)	£1,462,481	£183,454	£210,632	£210,632	£210,632	£214,441	£216,345	£216,345
Revenue (Utilities Contingency)	£448,596	£55,106	£63,270	£63,270	£63,270	£66,738	£68,471	£68,471
Capital	£0	£0	£0	£0	£0	£0	£0	£0
Cumulative Net position	£0	-£173,237	£0	£0	£0	£0	£284,816	£0

Table 1 – Summary of the 2 year cashflow including CWGLEF expenditure.

- 2.7 The energy and financial cost modelling used determined the final financial cost forecast for the project of £1,911,077 (the energy cost uplift) until 31 March 2025. Sandwell MBC has confirmed in writing to the WMCA that they are committing £515,213 towards this cost leaving an anticipated shortfall of £1,395,754, which is the CWLG LEF Business Justification Case ask of the WMCA.

- 2.8 This modelling has resulted in Sandwell MBC asking for approximately £600,000 less than the original WMCA Board allocation to the SAC Energy Costs of £2m (March 2023). Sandwell MBC and the WMCA has agreed the £1,395,754 as the final and maximum funding request. If approved, the WMCA will grant fund Sandwell MBC quarterly in arrears against actual spend. Actual expenditure means the amount of money that has been paid by Sandwell Leisure Trust (to its energy supplier against forecast spend by Sandwell MBC and WMCA grant. This will be set out in the grant agreement between Sandwell MBC and the WMCA and monitored monthly.
- 2.9 In line with the March 2023 WMCA Board approved CWG LEF change control policy, the £604,246 CWG LEF underspend, is directed first towards either the Plan for Growth or Community Grants programme for the region and the responsibility of the WMCA's Head of Commonwealth Games Legacy and Enhancement Funding.
- 2.10 Decisions on any additional or expected underspend of the CWG LEF grant ~~including any additional clawback~~ will be reported to future Investment Board and continue to be dispersed in line with the above Change Control policy led by the WMCA's Head of Commonwealth Games Legacy and Enhancement Funding. This will be reflected in additional CWGLEF clauses in the WMCA grant agreement between WMCA and Sandwell MBC, if the SAC project is approved.
- 2.11. Sandwell MBC has confirmed in writing that the Council will underwrite the energy costs post April 2025 and agreed that the £1,395,754 is the maximum grant that can be awarded.

3. Strategic Aims and Objectives

- 3.1 The aim and objectives of the SAC Business Case closely align to the WMCA's strategic priorities for:
- 3.1.1 ensuring everyone has the opportunity to benefit.
- 3.1.2 promoting inclusive growth in every corner of the region.
- 3.2 This will be achieved by:
- 3.2.1 Improving the quality of public services in terms of the effectiveness of the delivery of health, wellbeing, employment, and education outcomes by supporting the SAC's operation, ensuring there is no loss of services throughout the rest of the Sandwell's Leisure portfolio, retaining a high quality of service for all residents in the Borough and neighbouring areas. This is in line with both the WMCA and Sandwell's vision and Health inequalities programme.
- 3.2.2 To re-procure services to avert service failure(replacement). CWG LEF funding will ensure the SAC operation is appropriately funded, fully operational and able to procure energy services. This will avert service failure service failure including the loss of jobs which would impact on other facilities and residents access to local, high quality facilities and opportunities.

4. Financial Implications

- 4.1 The paper is requesting approval for a maximum £1,385,754 of CWGLEF grant funding through to 31 March 2025, subject to the terms and conditions of the grant agreement in place between the WMCA and DCMS.
- 4.2 Please note that Sandwell MBC has agreed to cover any overspend above the £1,911,077 resulting in £604,246 of the previously WMCA Board approved £2m to be

released back to the CWG funding pot as per the March 2023 WMCA Board approved change control process enabled by the Single Assurance Framework.

4.3 The funding summary is outlined below:

Finance Summary	Business Justification Case (£)
WMCA Board approved allocation:	£2,000,000
Total Project Cost:	£1,911,073
WMCA Funding Required:	£1,395,754
WMCA Funding Stream:	Commonwealth Games Legacy Fund
Funds secured:	£515,323
Funding Stream:	Sandwell MBC
Balance against WMCA Board approved allocation	£604,246
WMCA Board approved Change Control Dispersal Policy	Directed first towards either the Plan for Growth or Community Grants programme

Table 2 – Financial Summary

4.4 Sandwell MBC will be required to cashflow this project as the grant conditions from DCMS stipulate funding must be claimed quarterly in arrears.

4.5 In the Business Justification Case, Sandwell Leisure Trust and Sandwell MBC sets out the risk management of the SAC and this funding, the following are the main risks to the WMCA relating to this funding and the mitigation (summarising the WMCA risk register and mitigation), which will be monitored monthly alongside spend:

Identified Risk	Risk Mitigation
Energy costs rise and Sandwell MBC ask WMCA for additional funding.	This paper is seeking approval for a maximum grant and has been agreed with Sandwell MBC. This will also be reflected in the grant agreement. Grant funding will be provided retrospectively.
WMCA is not able to spend the £604k underspend or additional underspends that may arise by 31 March 2025.	This paper is seeking approval for the release of the £604k of the original £2m allocation for which the Head of CWG legacy & enhancement funding will be responsible to ensure delivery in line with the change control process to first the regional plan for growth and community grants. Any additional underspend will be identified by 31 March 2024, leaving 12 months for spend.
Sandwell MBC grant sets the precedence for WMCA being a funder of the last resort for additional costs for operating facilities.	This indicative funding allocation was approved by the WMCA Board and reflected in the DCMS contract to the WMCA given the community use of the SAC is instrumental in delivering the games legacy. There are no additional funding through this or other funds.

Table 3 – Headline WMCA identified risks and mitigation.

5. Legal Implications

5.1 WMCA has the power to provide this funding under Section 113(1)(a) of the Local Democracy, Economic Development and Construction Act 2009. This statute gives WMCA a power of competence appropriate for the purposes of carrying out any of its functions. This funding is being provided by the WMCA under its economic development

and regeneration function to promote and further the achievement/fulfilment of the following WMCA objectives:

- Ensure everyone has the opportunity to benefit.
- Promote inclusive growth in every corner of the region.

- 5.2 The provision of this funding will promote and further the achievement of these objectives because the CWG LEF grant will enhance leisure provision in Sandwell and the region, giving all residents the option to use accessible local, high quality facilities supporting the WMCA and Sandwell MBC health inequalities priorities and by providing a world class facility that will deliver the CWG legacy of inclusion and growth across the region.
- 5.3. The operation of leisure centres [by SMBC] does not constitute an economic activity and therefore the proposed grant is not subject to the requirements of the Subsidy Control Act 2022 and is therefore lawful. (Mark Nicholson WMCA)
- 5.4 The grant funding conditions relating to the Commonwealth Games Legacy and Enhancement Fund as imposed on West Midlands Combined Authority by DCMS will need to be incorporated into the necessary grant funding agreement with Sandwell MBC This is to ensure that any risks and obligations imposed on WMCA by virtue of the funding agreement are transferred to Sandwell MBC.
- 5.5 It should also be noted that the funding agreement between WMCA and Sandwell MBC will contain strictly non-negotiable, private and confidential extracts from the agreement between DCMS and WMCA which cannot be shared with anyone apart from the parties to it. The agreement will provide for a situation where there are further underspends or any actual overspend, ensuring that WMCA will not make payments in excess of the actual expenditure, taking into account the maximum grant figure which WMCA has committed to pay.
- 5.6 In addition, the grant agreement with Sandwell MBC should be executed by both parties prior to any payments being released. (Angela Willis WMCA)

6. Single Assurance Framework Implications

- 6.1 The funding source is the Commonwealth Games Legacy Funding that WMCA Board has agreed WMCA to be the accountable body for. The BJC has been completed in accordance with the SAF process and colleagues in Programme Assurance and Appraisal.

7. Equalities Implications

- 7.1 The SAC is in Smethwick, which is in the top 30% deprived areas in the Country and as above Sandwell average number of residents from ethnic minorities. Sandwell also has one of lowest levels physical inactivity and inequalities in physical activity in the region and the SAC investment enables the Council and its partners to ensure that the facilities and activities are inclusive and accessible and contribute to improving health, wellbeing, education, and employment opportunities.

8. Inclusive Growth Implications

- 8.1. This report aligns to several of the WMCA's Inclusive Growth fundamentals, which are identified as a catalyst for improved and sustained outcomes for people and place, co-designed with partners and beneficiaries.
- 8.2 Health and wellbeing and Education and Learning are the most prominent fundamentals for this project:

Fundamental	Intended IG Metrics	Justification	Intended Impact
Education and Learning	Young people not in education, training or employment by enabling Sandwell Leisure Trust provide accessible jobs for those looking to get into the leisure industry.	Employment that is accessible to young people as their first full time job, paying the real living wage or higher	CWG LEF funding to SAC ensures there is no reduction in staffing levels – maintaining the same level of employment opportunities for residents.
	Improved level of skills for all to flourish by Sandwell Leisure Trust providing apprenticeships to local people and have a dedicated training budget.	Increased no. Of people receiving on-going on the job informal training or formal training in the workplace. Increase the number of people with vocational qualifications inc. Functional skills in sustainable jobs	CWG LEF will enable Sandwell Leisure Trust to retain the existing training budget for vocational training for existing or new staff.
Health and Wellbeing	Personal wellbeing - User numbers per month for Tipton Leisure Centre (Oct-Marc) was 1,942 inc. 831 junior, 155 concessions, 745 65-year-old & 211 disabled people visits	Create the opportunities to lower the barriers to accessing health & care services	CWG LEF will ensure that there is no loss in any other leisure centre.
	Healthy life expectancy -Across Sandwell's 2021 School Swimming programme, 369 schools have booked in with 60 having not attended due to the pandemic. Total number of school pupils attending session is 19,597.	Prioritise early intervention and prevention in a way that confronts the root causes of ill health	Maintain access to school swimming programme for local schools. This will keep school children more active, increasing the opportunity to continue to stay active and improving health outcomes.
	Healthy life expectancy- SLT currently operates 7 Leisure Facilities accessible to 334k+ Sandwell residents. SAC is centre no. 8 Tipton Leisure Centre as an example has an estimated population catchment of 27,334.	Improve access to green space and opportunities for physical activity.	CWG LEF ensures no service loss in other leisure centres or provision, which would have resulted in residents having to commute to other health and wellbeing activities.

Table 4 – SAC's contribution and impact on the WMCA's inclusive Growth Framework fundamentals.

9. Geographical Area of Report's Implications

9.1 Principally this project focuses on the area of Smethwick and the Borough of Sandwell. The SAC also attracts users from neighbouring local authorities.

- 9.2. In addition, due to the state-of-the-art swimming offer at the SAC, it is also a regional to national training and competition venue for swimming and diving.
- 9.3 The identified and any future underspends related to the SAC BJC will be dispersed across the region in line with the WMCA's CWG LEF Change control process first to the plan for growth and community grants projects.

10. Other Implications

There are no additional implications.

11. Schedule of Background Papers

- Birmingham 2022 Commonwealth Games legacy report
- Sandwell Aquatics Energy Cost Business Justification Case
- Sandwell Aquatics Energy Cost Risk and Investment appraisal.