

Report to the Cabinet

Report reference: **C-037-2018/19**

Date of meeting: **7 March 2019**



**Epping Forest
District Council**

Portfolio: **Business Support Services**

Subject: **Waltham Abbey Leisure Centre – Option to Tax**

Responsible Officer: **John Bell** **(01992 564387).**

Democratic Services: **Adrian Hendry** **(01992 564246).**

Recommendations/Decisions Required:

That in order to safeguard the Council's financial position Cabinet agree to "Opt-to-Tax" Waltham Abbey Leisure Centre.

Executive Summary:

The Council currently enjoys the protection of Section 33 of the VAT Act 1994 whereby it can reclaim all the Value Added Tax (VAT) paid on expenditure relating to its exempt supplies as long as VAT on costs relating to the exempt supplies is less than 5% of the total VAT incurred by the Council in any given financial year.

Leisure services are, in general, subject to exempt rates of VAT and the relevant expenditure of running sports centres is predominantly standard rated, it is requested that Waltham Abbey Leisure Centre be added to the list of properties "opted-to-tax" along with all other sports complexes.

Reasons for Proposed Decision:

To enable the Business Support Service Director to "Opt-to-Tax" Waltham Abbey Sports Centre after gaining relevant advice from VAT advisors thus ensuring the Council can reclaim all the VAT incurred on its exempt supplies.

Other Options for Action:

- (i) Do not "Opt-to-Tax" and do not reclaim any VAT on exempt supplies;
- (ii) Do not "Opt-to-Tax" and repay over £2m of reclaimed VAT to date;
- (iii) Do not "Opt-to-Tax" and do not reclaim VAT paid on construction costs.

Report:

1. As many of the services provided by the Council are statutory functions and funded by local taxation and Government grants they are generally non-business in nature and as such VAT is not recoverable. S33 of the VAT Act 1994 allows Councils to recover VAT on its non-business activities as well as its exempt supplies up to a de-minimis limit of 5%, the position of the Council currently stands at around 4% per annum.

2. Construction costs on commercial properties are subject to VAT at the standard rate along with incidental costs such as consultants also attracting the standard rate of VAT, by opting to tax this land the Council can reclaim this VAT.

3. As Leisure Services, are predominantly exempt from VAT the Council would be unable to recover any of the VAT incurred on any of its costs of maintaining the site. To remain consistent with the other Leisure Centres, opting to tax the land we can reclaim all VAT without it affecting our partial exemption limits. This practice is in place at present with formalities to be put in place.

Resource Implications:

If the Council decides not to take up the option to tax then for this year only we would have to repay all VAT reclaimed to date, in excess of £2m, and be unable to recover any other VAT incurred for the remainder of the contract, approximately £500,000 per annum.

Legal and Governance Implications:

Section 33 VAT Act 1994.

Safer, Cleaner and Greener Implications:

None.

Consultation Undertaken:

PWC Accountants, the Councils VAT advisors.

Background Papers:

None.

Risk Management:

By opting to tax the leisure centre the Council will minimise the risk of suffering a loss due to irrecoverable VAT.