

POLICY & FINANCE COMMITTEE

1 APRIL 2021

This report contains information relating to the financial or business affairs of a particular person (including the authority holding that information) and information relating to any consultations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority which are categories of exempt information under Schedule 12A of the Local Government Act 1972, Paragraphs 3 and 4 under which the Committee has the power to exclude the press and public if it so wishes.

RECOMMENDED that under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting during discussion of this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 3 and 4 of Schedule 12A of the Act and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

It is considered that the need to treat the information in this report as exempt outweighs the public interest in disclosure because it contains details of Heads of Terms for a lease and because of the likely staffing sensitivities.

SOUTHWELL LEISURE CENTRE – ALTERNATIVE MANAGEMENT ARRANGEMENTS

1.0 Purpose of Report

- 1.1 To set out for the committee the progress of discussions around the management of Southwell Leisure Centre to be transferred to Newark & Sherwood District Council for Active4Today.
- 1.2 To advise the Committee, that the Leisure & Environment Committee has approved proceeding with the Lease on the basis of the Heads of Terms subject to this committee approving the financial framework required to facilitate.

2.0 Background Information

- 2.1 A previous report to the Leisure & Environment Committee, on 19 January 2021, outlined progress with transferring Southwell Leisure Centre to the Council via a lease which will be operationally managed though extending Active4Today's management arrangements.
- 2.2 Trustees of Southwell Leisure Centre Trust (SLCT), officers and Members have negotiated a draft heads of terms that has been agreed subject to compliance with the Charities Commission.
- 2.3 A meeting was called for 10 March 2021 for Active4Today Board to consider the proposal to take on management of the centre as part of managing leisure activities on behalf of the Council. The decision of this meeting was to approve the proposal subject to asking the Council to underwrite any losses arising from the pandemic for the next 24 months.
- 2.4 There is currently a Letter of Comfort in place as agreed at Policy & Finance Committee on 24 September 2020.

- 2.5 SLCT have provided information to enable the Councils Asset Team to assess the condition of the leisure centre buildings and estimate the future maintenance requirements for the period of the lease and have estimated the costs over the period of the proposed 25 year lease.
- 2.6 Generally, the leisure centre has been well maintained. The table below, extracted from the Conditions Report created from SLCT information, sets out the costs of maintenance for the leisure centre buildings excluding the day to day maintenance costs of the building, which would include the compliance and general maintenance costs associated with fair wear and tear and the use of the building as a commercial leisure centre.

Maintenance Costs									
Location - Block	Programme Year								Total
	2021-22	2022-23	2023-24	2024-25	2025-26	2026-2030	2031-2040	2041-2050	
Site wide - Survey works identified									
Condition survey report	£ 4,725	£ 2,686	£ 1,972	£ 2,896	£ 1,435	£ 125,789	£ 1,355,134	£ 2,416,121	£ 3,910,758
Fire risk assessment	£ 65,500								
Legionella	£ -								
Electrical	£ 2,300								
Asbestos	£ -								
Swimming Pool survey	£ 5,000								
Management Refurb, renewal	£ 119,500	£ 82,500	£ 60,000	£ 102,500	£ 72,500	£ 72,500			
Total	£ 197,025	£ 85,186	£ 61,972	£ 105,396	£ 73,935	£ 198,289	£ 1,355,134	£ 2,416,121	£ 4,493,058

- 2.7 The draft Heads of Terms seeks to transfer operational management of the Centre to the Council for a period of 25 years. This commitment will ensure the provision of leisure facilities in Southwell area of the District whilst also protecting the charitable objectives of the Trust who will retain oversight of operations.
- 2.8 The term reflects the commitment and funding that will be required over the period of the lease by the Council to maintain and improve the leisure services in Southwell. To this end, the rent has been set as a peppercorn with a budget for incidental costs of the Trust, which has been set at £5,000 to be offset against the current contribution of the Council to the costs for SLCT.
- 2.9 It is expected that the Council will have good dialogue with Trustees formalised twice a year to ensure operations meet with the charitable objectives of SLCT. There are clauses that enable flexibility to deal with unknown or anticipated changes that may affect the Leisure Centre and the Council will take on full repairing obligations hence the conditions report to understand liabilities going forward.
- 2.10 The Committee will be aware that one of the original drivers for the partnership with the Council was the ambition to extend the leisure centre's fitness suite. Whilst this was a priority pre-Covid, the business case for the extension is no longer present. However, the Committee will note the schedule in the draft Heads of Terms refers to the potential development and expansion subject to ongoing leisure trends and usage/capacity information. The capital budget of £1.5m is also still in place which shows the Councils ongoing commitment to the leisure centre with any discussions around this investment being paused whilst the leisure centre recovers from the current financial situation.

- 2.11 An independent consultant has confirmed the arrangements set out in the Heads of Terms satisfies the requirements of the Charities Commission around best consideration for the Trust in terms of the value of the leisure centre. This disposal does not need to be referred to the Charities Commission for a decision.
- 2.12 The timescales for a successful transfer (subject to approval) depends on a number of work streams around communications, the legal process (including transfer of staff) and the decision making process. There are two issues outstanding around a Deed of Covenant and understanding the pension liabilities of SLCT.
- 2.13 In order for SLCT to dispose of the leisure centre (which includes entering into a long term lease with the Council), SLCT needs to enter into a Deed of Covenant with all current neighbouring freehold landowners to confirm all will comply with the 2003 Deed of Covenant. This covenant provides certain rights for the owners affected needs to be agreed between all land owners. Whilst contact is currently being made with the landowners we do not have a timescale of when this will be completed. SLCT will expect the Council to pick up any contributions arising whilst the lease arrangements are in existence.
- 2.14 The pension situation is outlined in section 6.11.
- 2.15 From the implementation plan, the next steps would be:
- NSDC legal team drawing up a lease for agreement and signing
 - The creation of an under lease between SLCT and NSDC for Active4Today to formalise management arrangements
 - Commence TUPE arrangements to transfer staff from SLCT to A4T
 - Communicate to staff and beneficiaries about the proposed changes

3.0 Proposals

- 3.1 The Leisure & Environment Committee agreed the following at their meeting held on 16 March 2021:

Approval in principle, to enter into a Lease for Southwell Leisure Centre between the District Council and Southwell Leisure Centre Trust based on the Heads of Terms as set out in the Report.

The Committee approve an Under Lease of the Leisure Centre to be entered into by the District Council and A4T based upon the Heads of Terms attached to the report;

That approval be given for a Contract for Services to be entered into between the Council and A4T for the management of the Leisure Centre, and for a Side Agreement to be entered into between the Council and the Trust as necessary to ensure that the Trust is able to fulfil its charitable obligations;

That the Director - Housing, Health & Wellbeing, after consultation with the Chairman and Vice-Chairman of the Leisure & Environment Committee and the opposition spokesperson, be given delegated authority to conclude the Lease, Under Lease, Contract for Services, and Side Agreement negotiations with

Southwell Leisure Trust and A4T as detailed in the report - including making any non-material amendments to the Heads of Terms.

That the above recommendations are all subject to the Policy & Finance Committee approving the budgetary provision to facilitate this arrangement.

- 3.2 Given the resolution of the Leisure & Environment Committee, the Policy & Finance Committee are asked to consider the financial implications as set out in Section 6 of the report and approve the budgetary provision.

4.0 Equalities Implications

- 4.1 Transferring management of this leisure centre helps to maintaining accessible leisure provision for all residents in and around Southwell to provide health and wellbeing benefits to those who wish to use this facility.

5.0 Digital Implications

- 5.1 None identified in this report.

6.0 Financial Implications (FIN20-21/306)

- 6.1 At the meeting of Policy & Finance held on 24 September 2020 it was agreed that a letter of comfort be agreed between the Council and Southwell Leisure Centre Trust regarding underwriting liabilities up to £220,000. This would take the form of an interest free loan and would need to be returned to the Council within 24 months of the date of advance. The Trust would need to utilise all of its reserves prior to requesting funds from the Council. To date, the Council has not received any request for support.
- 6.2 The trust had provided an estimate budget for the construction of the fitness suite. The capital budget of £1.5m has been retained in the capital programme for the extension to the Leisure Centre in order to reflect the Council's ongoing commitment to the Centre, however, this will be considered in light of the changes to the leisure industry and the timing of this would need careful consideration. The original profile of funding for the £1.5m was a contribution from the Council's Change Management Fund of £750,000 a contribution from SLCT's reserves of £525,000 and £225,000 from the receipt of S106 funds in respect of a number of developments within Southwell. The decision to continue with the extension would be subject to the Council undertaking its own due diligence and feasibility studies and the creation of a separate business case.
- 6.3 As the SLCT reserves have been depleted as a result of the pandemic, the contribution of £525,000 from the trusts reserves will not be available going forward. Once the Council's due diligence and the creation of a separate business case has been created, the impact on the funding will be assessed at that stage.
- 6.4 As detailed at paragraph 2.6 there will be an on-going requirement for the repairs and maintenance to the existing building. This is forecast to be £4.493m over the term of the lease agreement. The table shows the total cost of R&M inclusive of costs that would be passed to the operator (A4T) and therefore would not be borne by the Council (being the

line titled Management refurb, renewal). The total of this line is £509,500 leaving £3.984m outstanding as a cost to the Council over the term of the lease agreement.

- 6.5 There is a budget impact of £77,525 that would need to be borne by the Council during 2021/22 for which there is currently no budget provision. This would need to be funded by the Council's Change Management Fund. The future Council requirements identified will then be built into the 2022/23 budget process and future revisions of the Medium Term Financial Plan, in order to contribute to the Council's Repairs and Renewals fund so that funding will be available in the necessary year, whilst smoothing the impact of generating those funds.
- 6.6 A4T Board will be asking the Council to underwrite any losses within the next 24 months due to uncertainties around the leisure sector recovery. The Council has already allocated £840,000 through the budget process as a contribution towards the projected shortfall for Active4Today during 2021/22. During the Leisure and Environment Committee of 19th January 2021, it was noted that Active would work with the Council in order to reduce the forecast 2021/22 deficit. The A4T Board have subsequently resolved to restructure which will lead to a reduction in expenditure. Therefore should the Council continue to contribute the existing £840,000 budget, the efficiencies that have been created based on the restructure will contribute to any losses generated by the acquisition of the Southwell Leisure Centre.
- 6.7 Any potential losses that may arise for the 2022/23 financial year will be dealt with during the creation of the Council's budget process for that financial year. The above does however assume that there is no further Government funding available to Active4Today through the Department for Culture, Media and Sport.
- 6.8 At the point of transfer, it is anticipated that there will be a residual amount of reserves left within the Trust. Once all liabilities have been serviced these will be transferred into the Council. It is then suggested to transfer these remaining reserves into A4T in order to mitigate any potential losses arising as a result of the decision to transfer the operations, which would serve to reduce any impact of having to underwrite any losses arising.
- 6.9 The proposed £5,000 budget for incidentals (cost of audit etc.) will be funded from the existing £80,850 budget which is currently paid to A4T and hence the amount paid to A4T will be reduced to £75,850.
- 6.10 Currently the Council provides services in kind to Southwell Leisure Centre Trust. The value placed against this is currently £52,520. Due to the nature of the relationship with Active4Today and the Teckal status of the company, it would not be possible to provide the services for free. Hence, it is anticipated that the previous donated services provided would be charged for, with an equivalent increase in the management fee to offset this charge. Hence there would be no impact as a result of this for the Council or for Active4Today.
- 6.11 During the TUPE process there will be a requirement to transfer staff into the Active4Today pension scheme. Officers are currently liaising with Nottinghamshire County Council to understand the impact of this decision on Southwell Leisure Centre Trust in relation to the future liabilities arising from the active members in their scheme. There will be a requirement to make a decision on the how the deferred and future liabilities are funded.

Once this information from Nottinghamshire County Council has been received a decision, through Member involvement, will need to be taken.

7.0 Community Plan – Alignment to Objectives

7.1 Improve the health and wellbeing of local residents through supporting the ongoing provision of leisure facilities in Southwell.

8.0 RECOMMENDATIONS that:

- a) the Committee note the approval, in principle, by the Leisure & Environment Committee on 16 March 2021 to enter into a Lease for Southwell Leisure Centre;
- b) the budgetary provision to facilitate this arrangement be approved; and
- c) the Council establish a budget for £77,600 funded through the Change Management Reserve as highlighted in paragraph 6.5 of the report, to complete actions arising from Fire Risk Assessments.

Reason for Recommendations

To secure the provision of leisure facilities in Southwell by progressing with the Lease arrangements as soon as practicable.

Background Papers

Draft Heads of Terms
Conditions Report

For further information please contact Suzanne Shead on Ext 5520

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