



Report to: Cabinet Meeting – 14 May 2024

Portfolio Holders: Councillor Susan Crosby, Health, Wellbeing & Leisure  
Councillor Paul Peacock, Strategy, Performance & Finance

Director Leads: Sanjiv Kohli, Director - Resources/Deputy Chief Executive  
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Report Summary	
<b>Type of Report</b>	Open Report, Key Decision
<b>Report Title</b>	Southwell Leisure Centre Works Update
<b>Purpose of Report</b>	<ol style="list-style-type: none"> <li>1. To update Members on progressing the decision made on 19 December 2023, to build a new swimming facility at Southwell Leisure Centre.</li> <li>2. To seek a decision to remove the capital allocation of £5.5m.</li> <li>3. To seek approval to negotiate the surrender of the lease with Southwell Leisure Centre Trust.</li> <li>4. To seek approval from Cabinet to pay Southwell Leisure Centre Trust a total of £497,000 as consideration for surrender of the current lease.</li> </ol>
<b>Recommendations</b>	<p>That Cabinet:</p> <ol style="list-style-type: none"> <li>a) remove the capital allocation of £5.5m to build a new swimming facility at Southwell Leisure Centre;</li> <li>b) retain the £5.5m in the Council’s Capital Programme to be re-allocated to other health and wellbeing schemes in the District;</li> <li>c) give delegated authority to the Chief Executive in consultation with the Deputy Chief Executive, the Assistant Director Legal &amp; Democratic Services, and the Portfolio Holder for Strategy Performance to negotiate the surrender of the current lease with Southwell Leisure Centre Trust;</li> <li>d) as consideration for the surrender of the lease, approve a capital budget of £247,000 to be paid to Southwell Leisure Centre Trust for repairs to the current main pool and a further £250,000 as a contribution to essential works to the dry side at the Leisure Centre. The total of £497,000 to be</li> </ol>

	<p>funded from the existing remedial works scheme currently in the Capital Programme, with the remaining balance of £75,855 to be removed from the Capital Programme. Any negotiated terms outside of these financial parameters be brought back to Cabinet for approval;</p> <p>e) note the £25,000 budget, for design and feasibility of a new leisure facility, approved by Cabinet on 19 December has not been expended to date and will be returned to the Capital Feasibility reserve on termination of the lease; and</p> <p>f) note that the £12,300 to be funded from the Change Management Reserve for the engineered solution to safeguard the structure of the current main pool has not been expended and will be retained in the Change Management Reserve on termination of the lease.</p>
<p><b>Alternative Options Considered</b></p>	<ol style="list-style-type: none"> <li>1. One alternative is to progress the scheme by preparing a submission for the Charity Commission; the reasons for not doing this are set out at paragraph 2.7 of the report.</li> <li>2. Another alternative is to continue with the current lease arrangement, either leaving the pool closed for the long-term or repairing it; the reason for not doing this is set out in the report at paragraph 2.8 of the report.</li> <li>3. A final alternative of last resort would be to close the leisure centre, but this is not considered to be in the best interests of the residents and users of the leisure centre, or the staff working there.</li> </ol>
<p><b>Reasons for Recommendations</b></p>	<ol style="list-style-type: none"> <li>1. The £5.5m allocated to the capital programme on 19 December 2023 to develop a new swimming facility at Southwell Leisure Centre was conditional on the Council agreeing the transfer of land to the Council from the Trust and the Town Council. Nearly 5 months on from the decision, the transfer of land has not been resolved.</li> <li>2. To re-instate the budgets in the Capital Programme, the Capital Feasibility Reserve and the Change Management Reserve.</li> </ol>

## **1.0 Background**

- 1.1 The current lease between Newark & Sherwood District Council (the Council) and Southwell Leisure Centre Trust (the Trust) commenced on 1 October 2021 for a 25-year term with a break clause after 10 years, 15 years and 20 years. The first break in the lease, therefore being on 30 September 2031. The lease was entered into at the request of the Trust following the COVID lockdown in 2020/21 which resulted in the Trust making a loss in that year of £498,677. Since 1 October 2021, the Council has been responsible for the leisure centre with Active4Today operating the centre.

- 1.2 Cabinet, on 31 October 2023, considered the report setting out the condition of Southwell Leisure Centre and the essential works that were required to the dry and wet side facilities at the Leisure Centre. Cabinet, at this meeting, endorsed the decision to close the main pool from 29 October 2023 to 1 December 2023 to carry out further investigatory works. The Teaching Pool remained open during this period.
- 1.3 On 19 December 2023, a further report was considered by Cabinet which reported back on the findings of the investigatory works to the main pool. These findings were that the pool levels were dropping by 8750 litres / 1925 gallons per day. The investigations demonstrated that there was a sizeable leak and that the cost, risks and extent of the necessary repairs did not represent a viable, acceptable, value for money option.
- 1.4 Dye tests and camera surveys of the pipework serving the pool revealed heavy corrosion and degradation of the pipework which was installed as part of the original construction in the 1960s. This camera survey showed very clearly that the pipework was heavily corroded and was highly likely to be the cause of the leaks to the pool.
- 1.5 At its meeting on 19 December 2023, Cabinet considered 5 options which were:
- Do nothing.
  - Sleeve the existing pipework at an estimated cost of £50,000 – not considered viable as the highly corroded state of the pipework would risk a burst during the cleaning process prior to sleeving. It also became apparent that this was an option considered by the Trust in 2016/2017 and was dismissed for the same reason.
  - Line the existing pool at an estimated cost of £645,435. This would involve putting a false floor with pipework underneath. This would reduce the depth of the pool.
  - Close the main pool and build a new main pool adjacent to the current leisure centre building at an estimated cost of £4.5m.
  - Close the main pool and teaching pool and build a new main pool and teaching pool adjacent to the current leisure centre at an estimated cost of £5.5m. The current teaching pool to remain open in the interim period as there were no leakages identified with this pool.
- 1.6 After considering all of the options, Cabinet made the decision to: -
- a) Approve in principle, the option of developing a new swimming facility (main pool, teaching pool plus associated changing facilities) on land adjacent to the current Southwell Leisure Centre, subject to detailed feasibility being undertaken and agreement of land transfer with the current landowner(s); a further report being brought back to Cabinet for approval as soon as practicable.
  - b) Approve the Capital Budget of £5.5m financed by borrowing for the estimated build cost of the replacement pools noting that reports will be brought to Cabinet on revised estimated costs as the feasibility project progresses.
  - c) Approve a revenue budget of £25,000 from the Capital Feasibility Reserve to carry out design works to RIBA Stage1 for a new leisure centre which incorporates the new pool building; the design works to be procured on in principle agreement of land transfer to the Council; and

- d) Request officers to work up options, costings and methods of finance for the replacement pools to form part of aspirations for a wider development of a new leisure centre on the site, in conjunction with partners and relevant landowners.
- e) Approve the additional revenue budget of £12,300 from the Change Management Reserve to fund the engineered solution to safeguard the structure of the main pool.

1.7 The reason for this decision was to provide a long-term, value for money solution for the provision of swimming and other leisure centre activities at Southwell. The alternative option of lining the pool at a cost of £645,435 would reduce the depth of the pool, impacting on swimmer experience, it would not remedy the current accessibility issues for users with disability and there was a risk of cost creep as the infrastructure around the pool and plant room was over 60 years old.

## **2.0 Proposal**

2.1 The decision taken by Cabinet on 19 December 2023 to approve, in principle, the option of developing a new swimming facility on land adjacent to the current leisure centre, was conditional on reaching an agreement with the current landowner(s) to transfer the ownership of the land to the District Council.

2.2 Securing agreement from Southwell Leisure Centre Trust has been delayed and complicated by two main factors. Firstly, the Trust's persistence in wanting the District Council to meet the cost of repairing the pool as well as providing a new one. Secondly, the exclusion of the 6 District Council representatives on the Trust from participating in decision-making, rendering the Trust inquorate and unable, in its view, to decide to progress freehold transfer of its land.

2.3 Senior officers have suggested since December 2023 that the Council and the Trust make a joint application for the land to be transferred to the Council; however until a few days prior to the preparation of this report, the Trust has been unwilling to do so.

2.4 On Saturday 4 May 2024, approaching 5 months since the Cabinet's decision, Southwell Leisure Centre Trust agreed the following: -

"The Trustees will support the construction of a new pool to an agreed timetable instead of the repair of the existing pool.

The new pool will be designed to modern standards. The design will take into account feedback from engagement with users, the Trustees, the Southwell Town Council and the Community of Southwell. This to be subject to the transfer of all freehold land held by Southwell Leisure Centre Trust to Newark and Sherwood District Council, to be transferred upon terms approved by and acceptable to the Charity Commission.

Insofar as it is necessary for the procurement of the new pool for additional land under the ownership of Southwell Town Council to also be transferred to Newark and Sherwood District Council to secure its construction, the consent and approval of Southwell Town Council to the project is also required and will be helped and supported by the trustees as far as possible.

Accordingly, Southwell Leisure Centre Trust will support a commitment for Newark and Sherwood District Council, Southwell Town Council and Southwell Leisure Centre Trust to make a joint approach to the Charity Commission in respect of this matter without undue delay.

The content of such joint approach to be a matter for the parties' respective solicitors."

- 2.5 While it could be said that the District Council has at long-last secured the in-principle agreements that it was seeking, the reality is that opposition to the proposed replacement and not repair of the main pool continues – within the Trust and within some elements of the community. Accusations have been wide-ranging and lacking any substance and include claims that the District Council wants the site of the leisure centre for housing, or to sell to Sainsburys; that it has inflated the estimated cost of the repair to suit its own agenda; that the District Council wants ownership of the centre because it is a lucrative "cash cow." Furthermore, there have been endless assertions that the District Council is compelled to repair the pool as a condition of its lease and that the cost of repairing the pool could be paid back in one year from the surplus income generated by the pool, completely overlooking the running costs of the pool and the impact of financing its repair. The reality is that the lease does not compel the Council to place the leisure centre into a better condition than was the case at the point of entering into the lease and there is very clear evidence that the Trust was aware of the damage to the pool back in 2016 but chose not to repair it. Even at the time of writing this report, the non-independent and non-district appointed trustees are convening a meeting to insert a Trust appointed trustee, even though there is no vacant position on the Trust.
- 2.6 Cabinet members will be aware of the disproportionate amount of time that this scheme is consuming and while the recent indication of support from the Trust is welcomed, it has arrived extremely late and with some resistance and reluctance. That, coupled with the ongoing community opposition, does not bode well for the next steps of progressing freehold transfer with the Charity Commission and subsequent construction of a new pool. Regrettably and mindful of the prospect of yet more public money being wasted on protracted negotiations and defending the Council's position in the community, it is therefore proposed that Cabinet agree to remove the Capital Budget of £5.5m to the developing of a new swimming facility at Southwell Leisure Centre. The £5.5m will remain in the Capital Programme to re-allocate to other projects in the District.
- 2.7 The Trust in early March of this year obtained a quote of £247,000 to repair the existing main pool and the Chairman of the Trust has maintained that this is achievable, stating in fact that it could be repaired for less than this cost and has previously stated figures as low as £150,000. The proposal is therefore that the District Council pays £247,000 to the Trust to carry out the repairs to the main pool. In addition, since the Council recognises that there are some essential works that need to be carried out to the dry side facility an additional £250,000 contribution is paid to the Trust towards the cost of these works. These two payments, totalling £497,000, will be conditional on the Council exiting the current lease with the Trust and handing back full responsibility for the Leisure Centre to the Trust. Currently the Council has

£572,855 of budget remaining from the existing Southwell Leisure Centre remedial works capital scheme. This budget was originally created as £750,000 and was added via a Portfolio Holder decision on 22<sup>nd</sup> March 2023 in relation to works necessary at Southwell Leisure Centre. To date, critical fire safety works have been completed totalling £177,145, leaving the balance of £572,855.

- 2.8 Members should note that the Council has not progressed with feasibility or design works other than the initial massing exercise to demonstrate that a new swimming facility (and future leisure centre) would fit onto the land adjacent to the current Leisure Centre. The £25,000 budget that was approved by Cabinet on 19 December has not been expended to date. The Council would clearly not incur this cost until it had certainty that the Council would have control over the current building and the land on which the new swimming facility is proposed to be developed. On surrender of the lease, as per 2.8 above, this budget of £25,000 would be returned to the Capital Feasibility Reserve.
- 2.9 Similarly, Members should note that the budget approved by Cabinet on 19 December 2023 of £12,300 funded from the Change Management Reserve for the engineered solution to safeguard the structure of the current main pool has not been expended as the pool has not been emptied and filled in as was planned should the developing a new swimming facility have progressed. On surrender of the lease, as per 2.8 above, this budget of £12,300 would be de-allocated from the Change Management Reserve.

### **3.0 Implications**

In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### **4.0 Financial Implications (FIN24-25/1473)**

- 4.1 Currently the Council has a £750,000 Capital Budget in relation to remedial works that were identified at the centre early in 2023. To date £177,145 of this budget has been expended, leaving £572,855 remaining. This budget was funded from the Change Management Reserve.
- 4.2 The proposal to passport £497,000 to Southwell Leisure Centre Trust can therefore be funded from the remaining budget from the remedial works scheme, leaving a balance of £75,855. The remaining £75,855 would therefore be decommitted from the Capital Programme and decommitted from within the Change Management Reserve, therefore being available to fund other activity.
- 4.3 The proposed expenditure of £12,300 and £25,000 would also be decommitted from the Change Management and Capital Feasibility Reserves making these available to fund other activity.

4.4 Currently the £5.5m budget allocated in the Capital Programme in relation to the proposed new pool at Southwell Leisure Centre is funded by borrowing. The profiled timing of revenue expenditure (through interest and Minimum Revenue Provision) is linked to the original assumptions of build time for the pool. Assumptions of the timing of revenue expenditure linked to the reallocation of this budget will be brought forward within future reports regarding the reallocation of the budget and the revision of the Medium-Term Financial Plan.

## **5.0 Legal Implications**

5.1 As Cabinet decisions are final and should normally not be altered or amended for 6 months. However, where a decision proves to be unworkable or not in the best interests of the Council and its communities for whatever reason a further report on the issue can be brought back to Cabinet for further consideration.

5.2 If a lease surrender is agreed in principle, careful consideration will need to be given to any provisions of the Council's Acquisitions and Disposals Policy that may need to be complied with before a formal deed of surrender is entered into. Careful consideration will also need to be given to the formal variation of arrangements with Active 4 Today for the operation of the Leisure Centre.

5.3 The Council cannot compel Southwell Leisure Centre Trust (the Trust) to accept surrender of the lease. The Trust will need to take a decision prioritising the interests of its beneficiaries.

5.4 Notice of this decision was published on the Council's Forward Plan but for less than the required 28 days. Therefore the general exception process as defined in Part D of the Constitution was followed, with the Chair of the Policy & Performance Improvement Committee (in its capacity as the Council's overview and scrutiny committee) being informed in advance of the meeting that any decision could not be reasonably deferred and should not be subject to call in.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Previous Reports to Cabinet:

Southwell Leisure Centre Works - 31 October 2023

Southwell Leisure Centre Works Update – Main Pool - 19 December 2023