

CABINET

12th January 2023

CATMOSE SPORTS LEISURE CONTRACT

EXEMPT APPENDIX B

Report of the Strategic Director for Places

Strategic Aim:	Vibrant Communities	
Key Decision: Yes	Forward Plan Reference: FP/	
Exempt Information	Yes	
Cabinet Member(s) Responsible:	Cllr Marc Oxley, Portfolio Holder for Communities, Environment and Climate Change	
Contact Officer(s):	Penny Sharp, Strategic Director for Places	01572 758160 psharp@rutland.gov.uk
	Robert Clayton, Head of Culture and Registration	01572 758435 rclayton@rutland.gov.uk
Ward Councillors	All	

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves one of the options below:

- a) the termination of the Council's lease for the Catmose Sports Centre, and consequent cessation of public access to the facility, as a result of the lack of any nil-cost tenders to operate the service from 1st April 2023, **or**
- b) the extension of the Stevenage Leisure Limited contract for the operation of the Catmose Sports Centre for up to 24 months, to 31st March 2025, to enable the development and implementation of a new model for future provision

2. Authorises the Strategic Director for Places, in consultation with the Cabinet Member with portfolio for Finance, to conclude discussions with Sport England on any financial liabilities to the Council arising from the Catmose Sports construction grant

3. Authorises the Strategic Director for Places, in consultation with the Cabinet Member with portfolio for Finance, to conclude discussions with Catmose College on any financial liability to the Council arising from the site

1 PURPOSE OF THE REPORT

- 1.1 To update Cabinet on the outcome of the procurement exercise for the operation of the Catmose Sports Centre in Oakham, and to outline the options available to the Council.

2 MAIN CONSIDERATIONS

- 2.1 The Council continues to operate in a challenging budgetary position, with the Council's expenditure exceeding its income by around £2m per annum. The Financial Sustainability Strategy agreed by Council in **November 2022** envisages revenue spending being supported by reserves for the next 4 years whilst also making savings. The draft Local Government Finance Settlement published on 19th December, although increasing the Council's spending power by 7%, does not represent a real terms increase in funding, with CPI inflation currently at 9-10% and the cost of delivering local authority services (particularly adult social care) continuing to increase. The Settlement's spending power estimate also assumes the Council will increase Council Tax by the maximum 5% allowed without triggering a referendum.
- 2.2 As a result of the financial situation, the Council must endeavour to reduce expenditure wherever possible, and seek to mitigate any financial risks to the authority and Council Tax payers. The Council must therefore ensure that any new commitments must, wherever possible, be either nil net cost to the authority, or contribute positively to the Council's finances.
- 2.3 While Cabinet has to date agreed to underwrite the costs of operating the Catmose Sports Centre in the short term due to the Covid pandemic and dramatic utility price increases, the Centre must operate without any subsidy as soon as this can be achieved, in line with the recommendations of the Growth, Infrastructure and Resources Scrutiny Committee, Report No. 156/2021, agreed by Cabinet on 16th November 2021.

3 BACKGROUND

- 3.1 On 1st September 2008, RCC accepted a £500,000 grant from Sport England to assist with funding the construction of the Catmose Sports facilities, as part of the £29.86m Building Schools for the Future (BSF) Catmose College rebuild ("The Big Build"). The agreement is directly between Rutland County Council and Sport England. The College was not a party to the funding arrangement as this took place prior to academisation, at a time when the Vale of Catmose College was a Foundation Comprehensive School. Rutland County Council directly undertook the rebuild of the College, receiving and expending the funding for the project. Details of the project were approved by Council on **2nd March 2009**. Key assumptions for the project were that the Campus would become a multi-functional shared use community space, incorporating learning, arts, sport, culture, disability resources, and that the College would remain a Foundation School, as outlined in Appendix 2 of the 2009 report.
- 3.2 One of the terms of the Sport England grant was for the Council to agree a Deed of Dedication, lasting for 21 years to 1st September 2029. This Deed requires Sport England to give written authorisation for any sub-lease of the sports facility, or to terminate the lease. If the lease is terminated, or the Centre is closed to the public,

the Council will need to discuss the outcome with Sport England and resolve potential capital grant claw-back from the original construction of the facility.

- 3.3 On **12th October 2009**, Stevenage Leisure Ltd (SLL) was appointed to operate the Catmose Sports Centre under a 10-year contract which commenced 1st April 2011, running to 31st March 2021.
- 3.4 On 1st April 2011 Catmose College academised, becoming independent of local authority control and focusing on academic and curriculum excellence. Over subsequent years community hub elements of the campus have ceased or relocated off site, with the exception of the sports facilities. The public art gallery was closed in 2011, the Adult Learning suite in 2014, the café in 2015, the Sure Start Children's Centre in 2017, and the Brightways disability provision in 2021.
- 3.5 On **21st January 2020** Cabinet agreed to extend SLL's contract by one year to 31st March 2022, to allow time to procure a new contract. Two months later on 23rd March 2020, the country entered the first Covid Lockdown as part of the pandemic response, a move which included the mandatory closure of sports facilities.
- 3.6 Cabinet on **15th September 2020** agreed financial support for SLL, in common with most local authorities across the country. Details of the potential financial impact of the operator failing, including the Sport England grant risk were included in the exempt appendix to the report. In November 2020 England entered the second Covid lockdown.
- 3.7 On **12th January 2021** Cabinet agreed to the commissioning of a Leisure Review to undertake a Needs Analysis and Options Appraisal which would define what leisure provision would be needed for the county in the future. Cabinet also agreed to extend SLL's contract to 31st March 2023 to allow this work to be completed and if necessary a procurement process to be undertaken.
- 3.8 On **7th October 2021**, the Growth, Infrastructure and Resources Scrutiny Committee received a presentation outlining the results of the Leisure Review. Scrutiny's views were sought on the future of the Catmose Sports facility, and whether there should be capital investment in leisure provision. The presentation noted Sport England grant conditions would need to be factored into any decisions. Following the presentation Scrutiny produced Report No. 156/2021 outlining their recommendations.
- 3.9 On 16th November 2021 Cabinet received the **Leisure Needs Analysis and Options Appraisal**, as well as **Report No. 156/2021** from the Scrutiny Committee, which included recommendations that the pool at Catmose should not be re-opened; and that the dry side operation should be maintained with zero cost to RCC and with public access where possible. **Cabinet agreed** these recommendations and directed the Strategic Director for Places to explore whether procurement of a dry side nil-cost contract was achievable.
- 3.10 Officers worked with Welland Procurement to undertake a soft market testing exercise for the leisure management contract, which indicated at the time there was potential for such a contract to be achieved on a nil-cost basis. This outcome was reported to Cabinet on **5th April 2022** and Cabinet approved a procurement exercise for a successor contract to be undertaken with Welland Procurement, on the basis of nil net cost to the Council and the College, with the award of any contract being

subject to Cabinet approval.

- 3.11 On 29th July 2022 the Invitation to Tender for the Catmose Sports Contract was issued, with only the new build parts of the sports facilities included. The following companies engaged in the procurement process: [REDACTED]

- 3.12 The requirement for the contract to be nil net cost to the Council and College, with all of the utilities pricing risk to be passed to the contractor, was queried by a number of companies, who then withdrew from the tender process following clarification. The government announced the business **Energy Bill Relief Scheme** on 21st September 2022, but the scheme only covers business energy bills until 31st March 2023, therefore providing no certainty after the anticipated contract start date. The outcome of a review into the continued operation of the Energy Bill Relief Scheme was expected to be published by 31st December 2022.

- 3.13 Bidding closed on Friday 4th November with only one company [REDACTED] submitting a bid. The bid was assessed on financial and quality grounds to ensure it met with the minimum requirements of the invitation to tender. The bid from [REDACTED] was non-compliant, as it did not achieve the required nil net cost threshold and did not provide a financial contribution to the mandatory sink fund due to utility price uncertainty. The procurement process was therefore unsuccessful.

- 3.14 In these circumstances, there are the following options for the Council to consider:

Option 1 The Council and College agree to the termination of the lease, and the facility is surrendered to College control

Option 2 The Catmose Sports facility continues to operate while a new model for provision is developed and implemented

The ramifications of each of these options is set out at sections 5 and 6 below; the financial implications are set out at section 10. If neither of the options are chosen, the Council will be in the position of having a lease for the facility without an operator. The implications of this position are noted in section 7 below.

4 USE OF CATMOSE SPORTS CENTRE

- 4.1 There is no statutory requirement for councils to provide leisure centres. Research by the Local Government Association published in December 2022 has shown that across the country, costs for operating leisure centres have increased by up to 200%, and costs are set to grow by 240% next year. In this context of escalating costs and the lack of clarity on the Energy Bill Relief Scheme after 31st March 2023, the research indicates that up to 40% of Council areas are at risk of losing leisure centres or reducing services: <https://www.local.gov.uk/parliament/briefings-and-responses/government-support-leisure-centres>

- 4.2 Catmose Sports Centre currently has just over 900 members paying monthly direct debits or annual membership fees and is also accessed by several thousand additional casual users and members of sports clubs based on the site. Around 250,000 sessions were delivered by the centre last year, across programmes such as individual fitness sessions, Personal Training, Workout Classes, Small Group Training, Badminton, Step, Pilates, Boxercise, Zumba, Yoga, Kettlercise, Les Mills,

Indoor Cycling etc.

- 4.3 Catmose Sports Centre has to date hosted the Exercise Referral function whereby GPs are able to prescribe programmes of physical activity to individuals who would benefit from such interventions. This function will be delivered through the Council's Active Rutland team from April 2023 and is therefore not impacted by the decisions on the future of Catmose Sports Centre.

5 OPTION 1: TERMINATION OF LEASE

- 5.1 If the Council decides to terminate the lease for the facility, Catmose College has indicated it would be amenable to early termination. The College has also made clear that it would make use of the facility for its own internal purposes, as it does not have the capacity to manage full public access. The College may be willing to allow some limited club-based activities but would require the Council to meet any costs of this provision, including charging for staffing and utility costs.
- 5.2 If the Catmose Sports facility is closed to the public, Sport England have confirmed that they will seek to claw back funding invested in the construction of the facility. Sport England's opening position is that they are entitled to claw back the entire £500,000 paid to the Council in 2008, however, the amount of any clawback will be subject to negotiation (see Section 10.2 below).

6 OPTION 2: CONTINUED OPERATION

- 6.1 SLL have indicated that they would be willing to consider an extension, on the basis of full financial underwriting of losses. It is anticipated that this could exceed the £100,000 of support provided for the present financial year due to continued increases in utility costs.
- 6.2 There are several potential options for a future operating model. These would need to be developed and implemented during an extension period of up to 24 months (the maximum extension that would be possible). These include:
- Developing a new Community Managed model
 - Undertaking a new procurement on the basis of shared utility risks (using Sport England model clauses)
 - Contracting with a partner local authority
 - Setting up a Local Authority-owned organisation to operate the site
 - Direct insourcing of site operation
- 6.3 If the Council were to seek either to operate Catmose Sports Centre itself, or to commission another organisation to operate the Centre, there would be a relevant transfer for the purposes of TUPE, meaning that the new operator would become liable for all statutory rights, claims and liabilities of those former SLL employees defined as "Returning Employees" under the terms of the existing agreement between the Council and SLL. Any dismissals because of a transfer would be automatically unfair unless the new employer could demonstrate an "economic, technical or organisational" reason necessitating a change in the workforce.

7 RETENTION OF LEASE WITHOUT OPERATOR

- 7.1 If the Council allows the current contract with SLL to end at its current termination date of 31st March 2023 while retaining the lease for the site, the Council will become liable for the operating costs of the facility, i.e. utility costs and business rates. This option carries the greatest liabilities for the Council since with no operator there would be no income to offset the site costs of c. ██████████ per annum, and Sport England would still seek to claw back all or part of the £500,000 grant. If the Centre were to be re-opened, there may be TUPE implications as outlined in 6.3 above.
- 7.2 This option is available in theory, but not included as a recommendation due to the level of liability involved. This option would be the outcome if the College were not to agree early termination of the lease, or if SLL declined to extend their contract.
- 7.3 This option would also be triggered by default if no decision is made. Without confirmation of an extension of their contract, SLL will need to issue redundancy notices to their staff, and their sub-lease will expire on 31st March 2023. The Council will be left with the lease from the College and no operator.

8 CONSULTATION

- 8.1 Throughout the procurement process updates have been provided to the Leisure Contract Project Board, which includes the Portfolio Holder for Finance, and the Portfolio Holder for Communities, Environment and Climate Change.
- 8.2 Officers presented the outcome of the procurement exercise and the available options to a meeting of the Strategic Overview & Scrutiny Committee on **13th December 2022**. Scrutiny Members considered the position and advised that they would prefer to see the Catmose Sports facility retained for public access with greater certainty around the potential costs to the Council.
- 8.3 Officers met with the Leisure Review Stakeholder Group on 3rd January to outline the available options.
- 8.4 Officers have met with Sport England, Catmose College and Stevenage Leisure Ltd to outline the present position, and their comments have informed this report.

9 ALTERNATIVE OPTIONS

- 9.1 Sections 5 and 6 outline the alternative options open to the Council.
- 9.2 If Central Government announce further energy support and local authority support measures, incorporating additional funding, this may change the financial impact of the options.

10 FINANCIAL IMPLICATIONS

- 10.1 The Council's existing contract with SLL was designed to be nil cost, except for significant repair costs. However, as a result of the Coronavirus pandemic, and subsequent utility prices escalation, the Council has been required to provide financial support to SLL of around £368,000 over the last three years to prevent operator failure.
- 10.2 Sport England have initially indicated that if public access ceases, they will seek to

claw back the capital grant which they provided for the construction of the facility in 2008. The grant provided at the time was £500,000, which would be the maximum that could be reclaimed from the Council. Officers are engaging with Sport England to attempt to mitigate the impact on the Council's financial position of any repayment that may be required should Council decide to terminate the lease, particularly on the basis that the site has been providing public leisure provision for twelve years (more than half of the grant term), and that the Council has in good faith attempted to procure a nil-cost contract but this has not proved possible in the current financial environment. If the contract is extended by a further 24 months, the Council will fulfil its obligations for 17 years of the 21-year grant term.

- 10.3 SLL have indicated that they would be willing to consider an extension, however they would only do so on the basis of full financial underwriting of losses. It is anticipated that this could exceed the £100,000 of support provided for the present financial year due to the continued increases in utility costs.
- 10.4 The **estimated** summary financial impact of each scenario is outlined below, including the total impact to the end of the Sport England grant agreement period in September 2029.

The Clawback to Sport England may be reduced depending on the outcome of negotiations.

A range of figures are given as the financial impact may improve if utility prices and inflation stabilise after 2023, and a new basis for provision is achieved attracting consistent numbers of users.

		Estimated Cost to Sept 2029				
Option	Assumption	Operator Support	Sport England clawback	Dilapidations TBC	Legal Costs	Total
1) Terminate lease & cease public access	Full Sport England claw back	£0	£500,000	██████	██████	██████
	Pro-rata Sport England claw back	£0	██████	██████	██████	██████
2a) Extend SLL contract for up to 24 months and develop new nil-cost model for provision	Operator support - 2yrs @ 130k, nil costs thereafter	£260,000	██████	██████	██████	██████
	Operator support -1st year 130k, 2nd Year 80k, nil costs thereafter	£210,000	██████	██████	██████	██████

Scenarios if it is not possible to secure nil cost operation after 24 months:

		Estimated Cost to Sept 2029				
Option	Assumption	Operator Support	Sport England clawback	Dilapidations TBC	Legal Costs	Total
2b) Terminate lease after 24 months of subsidised provision & cease public access	Operator support -1st year 130k, 2nd Year 80k Full Sports England Claw back	£210,000	£500,000	██████	██████	██████
	Operator support -1st year 130k, 2nd Year 80k Pro-rata Sports England Claw back	£210,000	██████	██████	██████	██████
2c) Continue subsidised provision to end of term	Operator support -1st year 130k, 80k thereafter	£570,000	£0	£0	£0	£570,000

11 LEGAL AND GOVERNANCE CONSIDERATIONS

These are incorporated into the body of the report.

12 DATA PROTECTION IMPLICATIONS

- 12.1 A Data Protection Impact Assessment (DPIA) has been completed. No adverse or other significant risks / issues were found arising from Cabinet considering this issue. A copy of the DPIA can be obtained from Robert Clayton, rclayton@rutland.gov.uk

13 EQUALITY IMPACT ASSESSMENT

- 13.1 A full Equality Impact Assessment (EqIA) has been completed which outlines the potential areas of impact.

14 COMMUNITY SAFETY IMPLICATIONS

- 14.1 Provision of accessible, good quality sports and recreation facilities may help to reduce levels of anti-social behaviour, by providing diversionary activities. Membership of sports and recreation organisations helps to build community bonds and a sense of local pride.

15 HEALTH AND WELLBEING IMPLICATIONS

- 15.1 Provision of facilities to enable individuals and groups to participate in sports and recreation can be of significant benefit to the health and wellbeing of the community. A vibrant sports community exists in Rutland, with significant numbers making use of the Catmose Sports facility. A positive attitude to physical fitness and personal health has also been shown to improve the mental wellbeing of individuals. The range of facilities and pursuits available in Rutland is also a strong draw for persons considering relocating to the area.
- 15.2 If the Catmose Sports facility closes without alternative provision, there could be short and longer term health implications for the wellbeing of a number of residents both young and old. The loss of the Catmose fitness facilities could result in a downturn in levels of physical activity within the County.

16 ORGANISATIONAL IMPLICATIONS

- 16.1 Environmental implications
- 16.2 Provision of local leisure and wellbeing facilities reduces the need of residents to travel significant distances, which reduces the carbon impact on the environment.
- 16.3 Procurement Implications
- 16.4 If a new leisure management contract for the operation of Catmose Sports dry side is to be let in due course, the outcome of the procurement would be subject to further Cabinet approval.

17 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 17.1 This report summarises the outcome of the procurement exercise for the Catmose

Sports contract. Options are provided for Cabinet to determine the most appropriate course of action.

- 17.2 With the Council's contract with SLL ending on 31st March 2023, a decision must be made in January to enable SLL to commence redundancy processes for their staff if their contract is not extended (Option 1). If Option 2 is pursued, contractual and legal work must be undertaken at pace to ensure the continuity of the service, and to develop future provision options.

18 BACKGROUND PAPERS

- 18.1 There are no additional background papers

19 APPENDICES

- 19.1 There are no appendices

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