

DECISION-MAKER:	CABINET		
SUBJECT:	ST MARY'S LEISURE CENTRE		
DATE OF DECISION:	21 FEBRUARY 2022		
REPORT OF:	CABINET MEMBER FOR FINANCE AND CAPITAL ASSETS		
CONTACT DETAILS			
Executive Director	Title	Executive Director Place	
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STATEMENT OF CONFIDENTIALITY	
Not Applicable	
BRIEF SUMMARY	
This report considers the discontinuation of leisure services from St Mary's Leisure Centre ("SMLC") following the expiry on 31 December 2021 of an agreement with Solent University ("SU") to operate SMLC on the Council's behalf.	
This report also recommends the disposal of the freehold of SMLC.	
RECOMMENDATIONS:	
(i)	Having had regard to representations received to date and the Equality and Safety Impact Assessment, to permanently cease leisure services at SMLC and approve in principle the disposal of the site on the basis set out in recommendation (ii) below.
(ii)	To delegate authority to the Executive Director, Place to, explore the option of restricting the disposal of the building to residential and wholly affordable housing or mixed use with affordable housing in accordance with planning policy. A further decision, in accordance with the Council's Constitution, would be brought forward if this option was to be determined to be viable. If the Executive Director, Place, following consultation with the Cabinet Member for Finance and Capital Assets and the Executive Director for Finance, Commercialisation, determines this option not to be commercially viable, to proceed to disposal of the site on the open market.
(iii)	In accordance with the Council's Financial Procedure Rules, and subject to the anticipated proceeds, explore options for investing a proportion or all of a sum equivalent to the capital receipt arising from the disposal of the building to enhance, improve or supplement facilities and places for people (especially young people) within the community for leisure and recreation.

	(iv)	If the outcome of recommendation (ii) is to dispose of the building without restriction, to delegate authority to the Executive Director, Place to take all necessary action to dispose of the site on the open market, including but not limited to selection of a preferred bidder and undertaking all associated arrangements to conclude the sale of the premises.
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REASONS FOR REPORT RECOMMENDATIONS

1.	Users of SMLC have decreased considerably over 2020 and 2021 and since the reopening of SMLC in May 2021 - following the easing of COVID-related restrictions - users were averaging around 1,100 per month. It is believed that this significant reduction in usage is due to:- <ul style="list-style-type: none"> • SMLC’s closure in accordance with the Health Protection (Coronavirus) Regulations 2021 and associated non-statutory government guidance (referred to in this report as the “Covid-19 impact”) and • SU opening their new academic leisure facility at East Park Terrace (“the Sports Complex”) and the transfer of the academic users from SMLC to the Sports Complex. 																														
2.	In addition to a wide range of Council and privately owned leisure facilities operating across Southampton, a number of facilities exist within a one-mile radius of SMLC. This includes the Sports Complex which is situated approximately 0.2 miles from SMLC and which provides (around its academic provision), public access to a number of activities available at SMLC.																														
3.	The condition of SMLC building and interior facilities are poor and likely to be costly to maintain, particularly as a result of its Grade II listed status. The facility is at odds with the Council’s emerging strategic vision for modern, accessible leisure facilities which actively contribute to the improvement of health and care outcomes for residents and users and result in improved income from such facilities in order to reduce subsidisation by the Council.																														
4.	<p>The annual budget of operating SMLC is £208,000 and the budgeted income from the facility is £60,000 resulting in a net budgeted saving of £148,000 by discontinuing leisure services at SMLC. It should be noted that in 2020/21 and 2021/22 financial years the net cost of operating the facility varied from the £148,000 as shown in the table below. This occurred as a result of the direct and indirect effect of the Covid-19 impact which affected the actual expenditure and actual income.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th colspan="2">2020/21</th> <th colspan="2">2021/22</th> </tr> <tr> <th></th> <th>Budget</th> <th>Actual</th> <th>Budget</th> <th>Actual</th> </tr> <tr> <th></th> <th>£</th> <th>£</th> <th>£</th> <th>£</th> </tr> </thead> <tbody> <tr> <td>Income</td> <td>-60,000</td> <td>-9,732</td> <td>-60,000</td> <td>-11,388*</td> </tr> <tr> <td>Expenditure</td> <td>208,000</td> <td>172,205</td> <td>208,000</td> <td>145,474*</td> </tr> <tr> <td>Deficit</td> <td>148,000</td> <td>162,472</td> <td>148,000</td> <td>134,085*</td> </tr> </tbody> </table> <p><i>*forecast figures to 31/03/2022.</i></p>		2020/21		2021/22			Budget	Actual	Budget	Actual		£	£	£	£	Income	-60,000	-9,732	-60,000	-11,388*	Expenditure	208,000	172,205	208,000	145,474*	Deficit	148,000	162,472	148,000	134,085*
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5.	The capital receipt arising from disposal on the open market without restriction is indicated to be up to £810,000, based on estimates in October 2021 and subject to the caveats set out in paragraph 23 of this report. It should be noted that if disposal was restricted to development for the provision of residential use, the capital receipt is likely to be reduced. The indicative financial impact of restricting the disposal in this manner will be determined by the process described in paragraph 31 and subject to paragraph 33 of this report.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
6.	<p>The following options were considered:-</p> <ul style="list-style-type: none"> a. Continue to use the building as a leisure centre or other publicly accessible facility with services provided directly by the Council or by selecting an alternative provider through a competitive process. b. Community Asset Transfer to a not for profit organisation. c. Close the building and “mothball” it to minimise future costs to the Council. d. Make the building available for rent. <p>Each of these options was rejected as they are inconsistent with paragraph 3 of this report.</p>
DETAIL (Including consultation carried out)	
7.	A contract between the Council and SU for SU to operate SMLC commenced in 2010 and expired in 2019. The Council conducted a bidding process in 2019 to create a ‘community hub’, facility but this did not result in the appointment of an alternative operator as none of the bids received met the Council’s criteria. As a result, SMLC continued to be operated by SU on behalf of the Council with the Council paying SU’s costs and receiving (and taking the risk on) the income until 31 December 2021, when the arrangement with SU ended. Allowing for a usual Christmas period closure, the final date of operational activities at SMLC was 22 December 2021.
8.	A previous consultation was carried out in August 2019 for twelve weeks, regarding the proposal to create a community hub in the building. When asked how to use the space in the future, the highest two responses indicated a preferred usage for sports and wellbeing and for community-driven use. The highest percentage of people completing the survey were from the Bevois area of the City. This consultation informed the Council’s approach to service delivery between its completion and the current date.
9.	An eight-week public consultation regarding the discontinuation of leisure services at SMLC (“the Consultation”) was undertaken between 30 November 2021 and 24 January 2022.

10.	As a direct and indirect of the Covid-19 impact, many authorities across the country have closed or failed to re-open leisure facilities and operating conditions in the leisure market as a whole remain challenging with local authorities under pressure to establish or increase subsidies.
11.	The Council undertook a successful bid to the National Leisure Recovery Fund which resulted in an allocation of £22,321 to support the reopening of SMLC. These funds were used for this purpose and assisted in mitigating the impact of the income reductions referred to in paragraph 4 of this report.
Consultation - Process	
12.	The Consultation sought feedback from users of SMLC and local residents and business on the impact on a discontinuation of leisure services at SMLC.
13.	The Consultation was made available in variety of formats, including online, hard copy and translated into languages of Polish and Farsi with other languages available on request.
14.	The Consultation was communicated through a variety of media including local radio, press releases, the Council's website and bulletins, posters and postcards and social media. The Council's Stronger Communities team was also actively engaged in promoting the Consultation within the local community, including visiting community spaces and venues and engaging with users at SMLC before its closure for the Christmas period.
Consultation - Results	
15.	The full results summary of the Consultation feedback is contained as Appendix 1. This provides key findings regarding the impact and is supported by comment analysis and demographic/characteristic breakdown analysis.
16.	In summary, 1,758 responses to the Consultation were received. 75% of respondents are users of SMLC (or parents of children who use SMLC). The highest numbers of responses were from those who take part in badminton activities, football and exercise classes. The highest proportion of respondents were of Asian/Asian British ethnicity (892 responses - 51%) and White British ethnicity (288 responses -16%).
17.	86% of all respondents report a negative impact and 7% a positive impact if discontinuation of the services was to take place. 6% felt there would be no impact and 1% didn't know what the impact would be.
18.	The free text comments have been read and categorised into different themes (including positive, negative, user type and suggestions). These are contained in Appendix 1.
19.	Aside from general comments around wishing leisure services to continue from SMLC (266 comments), the top three most frequent free text themes from those responding to indicate a negative impact are:- <ul style="list-style-type: none"> • SMLC is important to the area and community needs the facilities close by (470 comments); • SMLC supports physical and mental health/negative impact if removed (234 comments) and

	<ul style="list-style-type: none"> • SMLC provides low-cost leisure/more affordable in comparison (192 comments). <p>Aside from other positive comments about discontinuing leisure services from SMLC (9 comments), the top three most frequent free text themes from those responding to indicate a positive impact are:-</p> <ul style="list-style-type: none"> • Better/other facilities elsewhere (11 comments); • Building is unfit for use (9 comments) and • Money is better prioritised elsewhere/cost concerns of refurbishing (4 comments).
20.	A number of negative comments received early in the Consultation were from groups who use SMLC for regular activities and therefore are directly affected by the potential closure. Throughout the Consultation period, Council officers have been working closely with SU and other leisure providers to mitigate the effect of the potential closure by identifying alternative leisure venues for these groups. This has been largely successful with SU now able to accommodate a number of groups at their new Sports Complex in addition to providing a competitive gym offering to the public with discounted rates for holders of Smartcities cards.
21.	Appendix 2 to this paper summarises the affected groups which have made contact and where the Council has been able to secure alternative arrangements. It should be noted that Appendix 2 is based on the Council's understanding of the position at the point at which this report was drafted.
22.	Whilst the consultation does not directly concern the possible disposal of SMLC, a number of the consultation responses referred to its future.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
23.	<p>The current annualised budgeted cost of operating the facility including staffing costs, repairs, utilities and Business Rates is £208,000 and the budgeted income from the facility is £60k per annum. There is therefore a budgeted net saving of £148,000 to General Fund revenue by discontinuing leisure services at SMLC.</p> <p>It should be noted that that actual expenditure and income figures in financial year 2020/21 and those estimated for financial year 2021/22 are less than budgeted as set out in more detail in the table in paragraph 4 of this report.</p>
24.	The capital receipt arising from disposal on the open market without restriction is estimated to be £810,000. The building's listed status, condition, restrictive covenants on the title and the lack of comparable evidence, give rise to material valuation uncertainty and consequently, this valuation is indicative and should be treated with a high degree of caution. If disposal is restricted to development for the disposal of the building to wholly affordable housing or mixed use with affordable housing, the capital receipt is likely to be reduced and the indicative reduction would be considered as part of the future further Cabinet decision.
25.	The proceeds from disposal may depend on the subsequent use of the land and planning considerations in accordance with the Council's Constitution, therefore

	the capital receipt is uncertain. A sum equal to a maximum of any residual net capital receipt realised will be considered for re-investment within the capital programme. This will be to ensure enhanced, improved or supplemented facilities and places for people (especially young people) to use within the community for leisure and recreation and to promote these activities.
26.	A delay in the disposal of the building may result in the Council incurring additional mothballing, maintenance and security costs.
Property/Other	
27.	SMLC was built in 1889 and is an ex-drill hall and is Grade II listed. It is captured by Class E and F of Schedule 2, Part A of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which restricts its usage without further planning permissions to those set out in Appendix 3.
28.	A building condition survey dated 27 September 2021 identifies a cost of £382,309 to undertake repairs to maintain the building and includes £232,172 relating to partial replacement and repair of the roofing. This amount represents the sum of repairs to maintain the building and does not take into account any statutory building compliance-related maintenance and/or improvements to the building. Furthermore, it does not contain any costs for any upgrade or improvement of the interior of the building and its services.
29.	The building contains asbestos which is currently being managed by the Council in situ based on the condition of the material. The roof of the building is considered to have reached the end of its life. If the Council were to retain the building, its standard asset management approach would be to continue to repair the roof in sections based on its building condition surveys, but an alternative approach would be to make a capital investment in order to replace the roof.
30.	SMLC is located within the defined local centre of St Mary's Road, where flexibility is afforded by the Council's adopted Development Plan for a wide range of commercial and community uses. Otherwise, the site is not allocated for development. As the existing use falls within Class E and F of the national classes system, the building can be used for a wide range of similar non-residential purposes without the need for planning permission. If a material change of use is proposed and a planning application is then triggered, the current Development Plan confirms that proposals that result in the loss of a community facility will not be supported if it is viable for the commercial, public or community sector to operate it and if there is no similar or replacement facility in the same neighbourhood. In these circumstances a robust submission would be required to justify the loss of the community use. Any physical works to the building would require Listed Building Consent, and whilst no fee is required the target for this process is eight weeks for an application to be determined. Any application for a change of use will be expected to work with the existing building envelope and form with minimal interventions. This will be a constraint to finding successful alternative uses.
31.	It may be possible to restrict the disposal of the building to a residential wholly affordable housing or mixed use with affordable housing, although the current Development Plan seeks to protect active, community ground floor uses within

	the City's defined local centres. It is recommended that alternative uses, including a residential scheme, are explored to establish whether or not there is a viable long-term use for the site that gives longevity for this Grade II listed building whilst respecting its historic integrity, form and fabric.
32.	The process to establish the viability of the approach described in paragraph 30 will include a Best Value assessment and a test in accordance s123 of the Local Government Act 1972. This process will include, but not be limited to, a range of considerations including community engagement, social and environmental impact, financial impact, any procurement implications, the commercial benefits, valuations, local outcomes and benefits, heritage considerations as a result of the listed status of the building, planning constraints and legal advice.
LEGAL IMPLICATIONS	
Statutory power to undertake proposals in the report:	
33.	Under the delegated decision process the Head of Property has the delegated authority to approve terms of sale of property exceeding £500,000 in value providing the consideration does not exceed £1.5 million, following consultation with the relevant portfolio Cabinet Member and the Cabinet Member for Finance.
34.	The Council has the necessary statutory powers to dispose of land pursuant to s123 Local Government Act 1972. The Council is required by s123 to dispose of land for the best consideration reasonably obtainable except where the disposal is a short tenancy (grant of a term not exceeding 7 years) or with the consent of the Secretary of State. The 2003 General Disposal Consent (England) permits local authorities to dispose of land at an undervalue if (a) the purpose of doing is to promote the economic, social and/or environmental wellbeing of their area and (b) the difference between the consideration obtained and the unrestricted value of the land does not exceed £2m. The Council intends to achieve best value in any disposal of land. In the event that any option brought forward results in achieving less than best consideration, the matter will be brought back to Cabinet or Council for a further decision to include a detailed and comprehensive best value assessment of any options to be considered.
Other Legal Implications:	
35.	It is not believed that there are any Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") implications for the Council arising from the cessation of services at SMLC.
36.	Any decision must be made having regard to the Human Rights Act 1998 and the Equality Act 2010, in particular the Public Sector Equality Duty. An Equality and Safety Impact Assessment (contained as Appendix 4) has been completed in order to inform the recommendations, setting out the implications and mitigations for those with protected characteristics. The Council also has a legal duty to consider the impact of its decision on crime and disorder in its local area.
RISK MANAGEMENT IMPLICATIONS	
37.	Whilst user numbers at SMLC were relatively modest in the period up until which leisure services ceased, a range of expressed concerns have been expressed as part of the Consultation and through separate representations to the Council and Ward Members. This included a deputation to the Cabinet meeting on 20

	<p>December 2021 where the potential disposal of SMLC was included as a proposed saving for 2022/23 onwards.</p> <p>These responses include concerns about and risks relating to a lack of local community leisure facilities, places for people (especially young people) to use and the impact on health and well-being. The impacts associated with the proposals have, and continue to be, mitigated through directing users to a variety of alternative sports and leisure venues in the city. The Council has worked collaboratively with SU to maximise the level of public use available from their new Solent Complex. Recommendation (iii) of this report describes the approach the Council will take to enhance, improve or supplement facilities available within the community for leisure and recreation in order to address the concerns raised in the consultation and create and support places for people (especially young people) to use.</p>
38.	The SMLC building has a number of maintenance needs and further investment would be needed if the Council wished to improve the building to make it a reasonably modern leisure facility which is fit-for-purpose. The disposal of the building will eliminate the known and unknown financial and operational risks associated with providing leisure services from SMLC.
39.	The time taken to explore the options associated with recommendation (ii) along with the time required to take any associated decision may result in the building remaining unoccupied for a significant period of time, resulting in additional costs to the Council of mothballing and maintenance of the building.
40.	There is a risk that restricting disposal conditions will reduce the overall Capital Receipt available for investing in the enhancement, improvement or supplementation of facilities available within the community for leisure and recreation as considered by recommendation (iii).
41.	There is a risk that a potential closure may be seen to undermine City of Culture strategy objectives. This is being mitigated by aligning with and supporting City of Culture communications and the bidding process.
42.	The Council has previously undertaken a bidding process to identify an alternative operator on a community hub basis. This process failed to appoint an operator. It is, therefore, a risk that the Council would be unable to identify and appoint an alternative operator without continuing to subsidise the facility or potentially increasing the subsidy. Discontinuation of the leisure services eliminates this risk.
POLICY FRAMEWORK IMPLICATIONS	
43.	The recommendations of this report to dispose of the site on the open market are consistent with and not contrary to the Council's policy framework. The Council will however investigate, in respect of recommendation (ii), whether or not the principle of an affordable housing scheme, possibly as part of a wider mixed-use scheme, could be supported under the Council's Local Development Framework (planning Policy) given the benefits that meeting an acute housing need may bring when balanced against the constraints outlined above at

	paragraph 29. In the event any proposal may require a departure from the approved Local Plan policies, a further decision of Council may be required.
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KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	All Wards.
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Consultation – Full results summary
2.	Alternative arrangements
3.	Class E and F of Schedule 2
4.	Equality and Impact Assessment

Documents In Members' Rooms

1.	Not Applicable
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes (contained as Appendix 4)
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1. N/A	