

Appendices: 1



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

Report Title	Capital Investment – Plant & Machinery (Leisure)
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	27th May 2020
Key Decision:	YES
Within Policy:	NO
Policy Document:	NO
Service Area:	Regeneration and Enterprise
Accountable Cabinet Member:	Cllr Tim Hadland, Member for Regeneration and Enterprise
Ward(s)	All

1. Purpose

- 1.1 This report considers the condition of fixed plant and machinery at three sites, Upper Mounts Baths, Danes Camp Leisure Centre and Lings Forum, and the Councils responsibilities to renew these fixtures.
- 1.2 Cabinet are asked to approve a Budget of £1.800M and authorise officers to form a project group to identify all of the urgent works, which when completed will result in the Leisure Centres remaining operational and more environmentally and financially efficient.

2. Recommendations

- 2.1 It is recommended that Cabinet agree to:-
 - 2.1.2 The procurement of an energy professional to support the Council to undertake a peer review of the work undertaken by the tenants to ensure we focus on work that will produce the most efficiency savings. The cost of this will be funded through the responsive repairs budget.

- 2.1.3 A capital budget of £1.8 million for the urgent work to be completed. The cost of this work is to be funded partly by capital receipts from internal borrowing or planned capital receipts.
- 2.1.4 Subject to 2.1.2 above, a further report from the project team to Cabinet in July 2020 confirming the scope, priorities and cost of the urgent works including the programme of work.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Council owns Upper Mounts Baths, Danes Camp Leisure Centre and Lings Forum as specialised assets for the purposes of providing leisure facilities, to support health and wellbeing for the community. Recognising that the leisure industry requires specialist management skills, the Council outsourced the management and operations of the leisure centres in 2011 to Unity Leisure (trading as Northampton Leisure Trust and the Tenant), a company limited by guarantee with charitable status set up to provide Leisure Services for the purposes stated above.
- 3.1.2 The Operating Agreement between the Council and Northampton Leisure Trust (NLT) commenced 1st April 2011 and sets out the detailed terms of the services to be provided and each leisure site is subject to a lease. Although various reports have been brought to Cabinet on the lease arrangements with NLT in the years since 2011 the arrangements and lease dated in 2011 are the current arrangements. Appendix A outlines some of the achievements and value that the Trust as tenant deliver for the Council under its healthy lifestyle agenda.
- 3.1.3 The leases require the Council, as landlord, to undertake refurbishments and renewals to much of the fixed plant, mechanical and electrical (M&E) installations. There are caveats on this obligation, which in summary, means that the Council and NLT must act reasonably in assessing when this is necessary. The Landlord has some control over the timing but ultimately both parties have shared responsibilities to ensure a compliant environment with reasonable facilities for the users.
- 3.1.4 Under the terms of the leases the tenant has no liability to carry out repairs to the fixed plant and machinery where objectively the more economical solution would be to replace or renew the item.
- 3.1.5 To help plan for major works the Council has undertaken condition surveys of the fabric and mechanical and electrical (M&E) plant and some of this equipment has reached the end of its economic life, requiring urgent replacement. Added to this, all the boilers at Upper Mounts Baths have failed and a temporary repair has been provided to ensure the site remains operational. This is not sustainable, and delays to major works will result in further plant failures, resulting in the closure of the facilities.
- 3.1.6 The coronavirus (COVID19) pandemic has led to the temporary closure of these facilities. This Government decision to close retail and leisure premises has

resulted in significant reappraisal of business plans with most operators trying to identify funding to support operations until such time that the restrictions are lifted, and footfall returns to a normal pattern.

- 3.1.7 It is acknowledged that some organisations will not be able to survive this difficult time but the demand for leisure will continue with affordable facilities becoming more important as the impact on the coronavirus affects people's income. The tenant has prepared a business plan factoring in realistic expectations that footfall will be reduced when they re-open with a steady move back up to previous levels.
- 3.1.8 The Council is committed to providing leisure facilities that are inclusive and affordable. This is the reason that the Council has granted a long leasehold of these centres, and the tenant and Council continue to work collaboratively to secure grant funding to support investment in the facilities. In 2017 the Council were successful in obtaining lottery grant funding to improve the changing facilities at Mount Baths furthering the commitment to provide modern facilities for all users.
- 3.1.9 The Corporate Plan prioritises facilitating the health and wellbeing of local people, a priority for the Council is to ensure that leisure facilities are accessible, inclusive and affordable. These leisure centres are run on a "not for profit" basis with fees restricted to levels that cover operational costs and with payment concessions for people with qualifying circumstances.
- 3.1.10 The establishment of a project team consisting of officers from assets, legal and finance officers to review and prioritise the urgent works required at the three leisure sites. This group will look at the options to renew or replace the existing equipment, noting that there is a clear priority for the improvements to support the reduction of running costs and reduce carbon emissions. Close liaison with Unity Leisure in these discussions and planning would be maintained.

3.2 Issues

- 3.2.1 The immediate issues are that some of the fixed machinery and plant has failed and professional advisers confirm that other plant failures are imminent.
- 3.2.2 The failing of this equipment would lead to the leisure centres reverting back to the Council, where either a new operator would need to be identified and procured for these centres or the buildings would need to be sold.
- 3.2.3 Unity Leisure have provided evidence of their success to date as documented in Appendix A. The leisure market was relatively strong before Covid19, but the impact of Covid19 has meant that we can attach less weight to market information, we are faced with an unprecedented set of circumstances on which to base judgement as to what the market for leisure will be like when the restrictions lift but we should attach a high degree of caution when considering the option of not fulfilling our repairing obligation.
- 3.2.4 What this means is that the commercial operators are likely to reduce in numbers, they will consolidate and reduce their holdings, focussing on areas where they can achieve the highest return, we will see more sale and leasebacks of property and sadly more insolvencies.

- 3.2.5 Landlords are encouraged by government policy to work with their tenants to benefit from longer term economic and social success. The Council as Landlord would have an even higher responsibility to resist taking any action that would facilitate the demise of a tenant.
- 3.2.6 Should the tenant, Unity Leisure, not be able to operate as a result of our inability to maintain our repairing obligation under the lease, and therefore return the properties to us, the Council will be left with, not only the issues around contractual obligations, but three substantial vacant properties to secure. In the current market we are unlikely to get another operator for the foreseeable future, and the Council would need to offer substantial financial incentives to attract an operator, these incentives are likely to be much more than the cost of repairs currently under consideration.
- 3.2.7 The empty property holding costs would be significant, closed premises being at risk of antisocial behaviour and vandalism. Significant costs would be incurred to secure the site and comply with insurance regulations (likely to include draining the pool(s) with scaffold placed into the drained pool to mitigate injuries from unauthorised access and provide structural stability to the pool), empty property business rates (excepting one is a listed building and therefore subject to concession). Closure would result in no affordable leisure facilities for the community.
- 3.2.8 The loss of the Leisure Centres would have a significant detrimental impact on both adult, children and family's activity levels. The outreach including the street sports project attracts 5000 hard to reach attendees each year. The Health walks attract a similar number of walkers. These activities would be unable to continue and as they are delivered free of charge to the most deprived wards within the Borough and funding depends on overall income levels.
- 3.2.9 The Over 50's health and fitness members benefit from a wide range of activities and classes which are supported and delivered in the Leisure Centres. There is strong evidence that people who are active have a lower risk of heart disease, stroke, type 2 diabetes, some cancers, depression and dementia. In addition, regular exercise can reduce the risk of falling in older adults. Northampton has a very high proportion of active members for the over 50's activities.
- 3.2.10 For the wider Northampton population, taking part in leisure activities supports health, equality and mental wellbeing. Studies have highlighted that the availability of recreational facilities in a location impacts the amount of physical activity in which residents participate.
- 3.2.11 The Council has procured professional advice on the condition of the fabric and M&E in all the premises. A comprehensive survey was completed in 2010 and updated in 2016, both reports highlighted the need to prepare to replace the fixed plant and machinery. The leases require a cooperative approach to resolving major plant replacements and the tenant has identified the areas where replacement will result in savings in running costs and reductions in energy consumption.
- 3.2.12 The capital costs are estimated to be £1.8 million for works to replace boilers, air handling and condition units, pumps and filtration, energy efficient lighting, all

operated by a new building management system to minimise energy consumption and by doing this reduce the properties carbon output. However, these assumptions are a guide and more work is required to establish a phased capital replacement programme of works. The peer review will also help to identify the optimum solution and the most effective way to deliver the plant and machinery requirements for each site. Once the scope of work is determined this work will be tendered following procurement regulations to minimise cost, maximise potential efficiency savings and ensure value for money.

- 3.2.13 In the meantime, all three boilers at Upper Mounts Baths, a Grade II listed premises, have failed, a temporary solution is being provided at a cost of £36,300 ex Vat to cover a six month period of operations, with a weekly cost of £700 ex Vat thereafter until a permanent solution can be found. The temporary solution needs to be installed even with the premises currently closed as if this work was not done it will damage the calorification equipment which would have a cost in excess of £200k to replace. Therefore, it is deemed essential to avoid further repairs, with a greater cost, down the line.
- 3.2.14 In terms of practicality it would be advantageous if some of the major works or at least the intrusive preliminary works could be done during the lockdown closure (and the anticipated slow reintroduction of the business as usual model) to minimise disruption to the tenant and users of the facility.
- 3.2.15 Lings forum is currently being investigated for redevelopment with a feasibility underway to look at developing a shared public sector building for health and leisure in Weston Favell. This will mean that the Lings building has a lower life than the other and so Mounts and Danes Camp will be prioritised with only improvements that have a quicker payback to be investigated for the Lings site.
- 3.2.16 The suggested way forward is to:-
- 3.2.17 Establish a project team to comprise of technical property specialists supported by legal and finance to review and prioritise the urgent works and to prepare a programme for the fixed machinery and plant. This group will look at the options to renew or replace the existing equipment, noting that there is a clear priority for expenditure to support the reduction of running costs and reduce carbon emissions where economically possible to do so.
- 3.2.18 As part of this project, the Council would procure the assistance of an energy professional to complete a peer review of the work completed by the tenant to ensure works will focus in areas that produce the most cost-efficient savings.
- 3.2.19 The Council requires a maximum budget of £1.8 million capital expenditure for the urgent work to be completed. Further analysis will be undertaken to reduce these costs where possible. The work is to be funded by internal borrowing, unless capital receipts from the disposal of surplus property become available.
- 3.2.20 The project team will report back to Cabinet in July 2020 confirming the scope and full cost of the urgent works including the programme of work.

3.4 Choices (Options)

- 3.4.1 The options are to approve a capital budget to undertake the works to keep the centres operational.
- 3.4.2 The Council could choose not to do the works and the centres would remain closed. This would not be support with the Corporate Plan and may expose the Council to legal claims of financial loss from the tenant.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The capital investment plans to focus on measures that reduce energy consumption supports the Council Policy to become Carbon Neutral in 2030, along with the policy for healthy lifestyles and community engagement.

4.2 Resources and Risk

- 4.2.1 The option of doing nothing to undertake the works as provided for in the lease in this instance would expose the Council to significant risks of financial compensation by the Tenant. The council would also suffer reputational risks and the closure of the centres without a longer term solution to provide facilities would not support the Corporate Plan.
- 4.2.2 A robust due diligence process will be carried out to ensure that the optimum solution is found to minimise costs, maximise efficiencies and deliver the Council's contractual obligations to the tenant. This will include a cost/benefit analysis and a value for money assessment.
- 4.2.3 Should the Tenant currently managing these facilities not wish to continue providing the services due to lack of investment by the Council, the services and buildings could be returned to the Council providing an immediate Business Rates Liability of £334K per year in addition to building maintenance and security costs and the loss of community leisure facilities.

4.3 Legal

- 4.3.1 The provisions of each lease are clear that the responsibility for capital works to Fixed Plant and Machinery (as defined therein by each lease) sit with the Council as Landlord, this is in addition to other repair covenants (obligations) which relate to each Building (as defined therein by each lease).
- 4.3.2 With respect to each of the aforementioned provisions the Council reserved the right to decide these issues on an "as and when basis" with respect to any item for which it is responsible under each lease, having due regard to the Tenant's need to trade effectively, (albeit that the Council is not bound by that alone), it is clear each party under the lease is to act in good faith and to mutually assess as and when it appears to be more cost effective to undertake works of replacement, but within a timeline decided by the Council as Landlord.
- 4.3.3 Whilst the Tenant, they may wish to pursue the Council in respect of a breach of its obligations under the lease as noted at paragraph 4.2 above, pursuant to the

liability provisions contained in each lease the Council as Landlord is not liable to the Tenant for any financial loss howsoever it occurs arising from any decision made by the Landlord not to undertake, delay or defer expenditure upon renewals or replacement with respect to the structural parts of the Building or Fixed Plant and Machinery or anything for which is has a responsibility to renew or replace under the lease. The lease identifies there is no liability for the Tenant under the leases to carry out repairs to the Fixed Plant and Machinery where objectively the more economical solution would be to replace or renew the item.

4.3.4 The Operating Agreement sets out the overarching contractual position in respect of obligations, rights and remedies in circumstances arising from the provision of services and would become relevant if the Council chose not to fulfil its obligations under the leases.

4.3.5 The Government has recently issued guidance on the impact of the Corona Virus pandemic on local authority decision making and the guidance suggests that local authorities should consider any decision to be make (which is likely to have a significant impact on its community) from the perspective of whether the decision to be made can still be considered to be the proper utilisation of available Council resources in light of the pandemic.

4.4 Equality and Health

4.4.1 The replacement of fixtures and fittings will ensure that the works improve ongoing servicing access arrangements and that the outputs contribute to providing a better environment for all users.

4.5 Consultees (Internal and External)

4.5.1 Finance, Legal, Assets, Property Maintenance, the Tenant, CMB.

4.6 How the Proposals deliver Priority Outcomes

4.6.1 This capital project supports the Corporate Plan, our vision, mission and values. We want to encourage our community to use affordable leisure facilities for health and wellbeing and support the local economy.

4.7 Environmental Implications (including climate change issues)

4.7.1 The works to replace fixed machinery and plant will support the Climate Emergency motions. Replacement will prevent water leaks and result is energy savings with reduced requirement for electricity and gas. This will be measured and reported back to Cabinet to compare the consumption before the works pre and post completion.

4.8 Other Implications

4.8.1 None

5. Background Papers

- 5.1 Northampton Borough Council Corporate Plan, Northampton Leisure Trust
Corporate Plan. Plant & Machinery condition surveys

6. Next Steps

- 6.1 The project team to review works and in conjunction with the tenant plan a programme of works that minimises disruption but proceeds as quickly as reasonably possible to make the best use of the ability to undertake works during the lockdown period. All works will be undertaken taking account of government guidelines for safe distancing and the method statement will be signed off by the Project Manager.

**Economic, Growth and Regeneration Manager
Kevin Langley**

Northampton Leisure Trust – Outcomes on behalf of Council/Community

Northampton Leisure Trust (NLT) was formed in 2011 to provide leisure facilities and services for the community, initially with Council support of a grant of £1.25 million per year. Over the last five years NLT have successfully reduced funding to zero therefore assisting the Council with the drive to reduce costs.

Northampton Leisure Trust (NLT), operating under the brand of Trilogy Leisure, is a registered charity and all profits are reinvested into its facilities and services for the benefit of Northampton residents. NLT operates several facilities in partnership with NBC, Duston Parish Council, Northampton General Hospital and the University of Northampton to inspire active lifestyles in Northampton.

An overview of some of the achievements are below:

- over 12,500 adult and 6000 junior health and fitness members benefiting from its value for money package;
 - on course for over 13,200 visits to its 50 plus weekly activity days from March 2019-April 2020;
 - 9700 visits to their under 5's activities across their leisure centres in the last 12 months;
 - over 4000 attendances at their Ofsted approved holiday playschemes during 2019;
 - over 4500 children learning to swim with Trilogy Swim school each week;
 - over 20 athletes benefiting from the Trilogy Talented athlete scheme which includes free membership of their facilities;
 - flourishing student membership scheme.
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- 6,500 Junior Members participating in physical activity every month, developing physical literacy
 - A strong family membership programme at all Trilogy sites, developing family participation in physical activity
 - 11+ Health & Fitness programme at all facilities encouraging healthy lifestyles in young adults
 - Winner of UK Active National Kids Award 2018
 - Northampton Partnership Homes Hero Award (Street Sports)
 - Working in partnership with GP Alliance & NHS Foundation Trust to deliver NHS Health check contracts
 - Trilogy pre-school swim school developing safe swimming for pre-school children
 - Working with University of Northampton to develop Health & Wellbeing and positive activities for students in Northampton
 - Delivery of Children's Weight Management programmes in Northampton focussing on reducing childhood obesity
 - Delivery of Northampton Health walks, with approximately 5,000 participants
 - Supply of Northampton Streets Sports project, with over 11,000 attendances to the street sports programme

- Management and service delivery of the Forum Cinema, offering independent & foreign language film to all communities in Northampton, with approximately 55,000 visits per year, including kid's screens & 50+ screenings
- Delivery of online bookings for all activities and a comprehensive programme of online classes for all ages of the population keeping the community of Northampton physically active at home, with approximately 25,000 views per month

NLT support local communities, in terms of health, equality and mental wellbeing, for example: -

- Contributing in excess of £3.5million economic benefit to the residents of Northampton, through value for money services, innovative diversionary programmes and improving the health of the participants in sport & recreation. These benefits include savings in healthcare costs, social care costs, employment and social security benefits and the criminal justice service.
- Saving the Cripps Recreation Centre located in the grounds of Northampton General Hospital from shutting in 2015. The centre now offers a subsidised health and fitness membership scheme for hospital staff with over a 1/3 of staff benefiting from it.
- Helping to save a local nursery from shutting by providing them with a home in one of their leisure centres and helping them to access funding to bring the space up to Ofsted requirements.
- Working with partners to secure Northampton as a Social Enterprise Place.
- Attracting over half million pounds of external funding into Northampton in the last 2 years to improve facilities and services for the benefit of Northampton residents.
- National recognition and winning awards for their work with adults and juniors across Northampton.
- Delivering the annual Sports Awards event which recognises the sporting talent in Northampton as well as celebrating team and individual successes and acknowledging the work of coaches and volunteers.
- Supporting volunteers in the delivery of numerous activity programmes.
- Overseeing regular free health walks across Northampton and training volunteer health walk leaders.
- Delivering employability programmes and employing several apprentices.
- Supporting local schools, colleges and the University with work placement opportunities.
- Delivering a large scale annual National Playday event in Abington Park providing a free day of facility activities.
- Supporting several Community Safety events.
- Securing funding for Northampton ESCO to enable them to deliver heavily subsidised holiday activity schemes for children across Northampton

Northampton Leisure Trust Corporate Objectives for 2018-2023

- To create and deliver initiatives for the improvement of Health & Wellbeing across the geographical areas we serve.
- To improve the Social Impact and value of our services.

- To continuously improve the customer experience and journey by delivering high quality services and facilities.
- To enhance our skilled and motivated workforce.
- To generate income and surpluses to allow us to invest, improve and increase our leisure offer.

These objectives and the support provided to local communities are synergistic with the Council's vision, mission and values outlined in the Corporate Plan 2019 – 2021. Furthermore, NLT is currently supporting the Council with the development of a Sports Strategy for Northampton.