

Decision Maker: EXECUTIVE

**For pre-decision scrutiny at the Renewal, Recreation and
Housing Policy Development and Scrutiny Committee
8 SEPTEMBER 2021**

Date: 22 SEPTEMBER 2021

Decision Type: Non Urgent Executive Key

Title: West Wickham Leisure Centre

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Ward: West Wickham

1. REASON FOR REPORT

- 1.1 This report updates Members on the findings of the recent condition survey for West Wickham Leisure Centre and sets out options for the future of the site. The report recommendations will provide the final information required for a full financial options appraisal to be undertaken which will be reported back to Members for further consideration and decision.

2. RECOMMENDATION(S)

Members of the RRH PDS are asked to:

- 2.1 Note the contents of the report and provide any comments to the Executive.

Members of the Executive are asked to:

- 2.2 Approve the marketing of the leisure centre car park for sale, through a suitable compliant procedure, with conditions on car parking provision for the leisure centre and purchase of any affordable housing as set out in Option 6 within the report.

Corporate Policy

1. Policy Status: Not applicable.
 2. BBB Priority: Quality Environment, Vibrant Thriving Town Centres, Regeneration.
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Financial

1. Cost of proposal: N/A
 2. Ongoing costs: None directly
 3. Budget head/performance centre: Capital Programme – West Wickham Leisure Centre
 4. Total current budget for this head: £993k
 5. Source of funding: Capital Programme
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Non-Statutory
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Before the COVID-19 outbreak West Wickham Leisure Centre had an annual throughput of 265,898 visits. It is expected that refurbishing or replacing the leisure centre would increase visits to c.320,000.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments?
West Wickham Councillors have been asked for comments. In summary:

The Ward Councillors are unanimous in their support for a leisure centre in West Wickham. West Wickham residents and those from surrounding areas have supported the Centre since it opened. It is an extremely valuable asset for the health and well-being of the community. Ward Councillors recognise the extent of the repairs required. They previously supported the proposal to self-deliver a new leisure centre with housing (option 4) however if this proves to be unviable, they would support option six and are therefore content with the report recommendation which will enable a full financial appraisal to be undertaken. Their view is the leisure centre should ultimately be rebuilt rather than refurbished. As a minimum they have identified a need for a 25m pool, a training pool, a gym, exercise and pump room facilities. There is also a need for on-site car parking to protect nearby residential roads. They have requested that if the leisure centre is closed for a significant period, to enable works, that temporary facilities are considered elsewhere in West Wickham.

3. BACKGROUND

- 3.1. West Wickham Leisure Centre was built in 1967 and was last refurbished eighteen years ago in 2003. The leisure centre is now beyond its original intended design life, and as such parts of the fabric of the leisure centre have become more and more costly to maintain and repair and potentially impossible to manage effectively, as parts for some equipment become difficult to source.
- 3.2. The site has been considered for redevelopment since 2017, when Cushman and Wakefield were instructed to undertake a high-level feasibility and viability study to consider how to provide new leisure and library facilities at the site of the existing Leisure Centre, supported financially through the sale of the two sites for residential.
- 3.3. This work was undertaken and the initial capacity study indicated that a new leisure centre to Sports England specifications and library facilities matching the equivalent space, could be accommodated on the existing leisure centre site, with remaining capacity for approximately 73 residential flats, plus a further capacity of 18 residential units on the existing library site. Despite some detailed work being undertaken on this and a further report to the Executive updating on the plans in May 2019 (DRR 19/027), it became evident the original costs for the proposed development were considerably more than previously identified.
- 3.4. In June 2021, (Report HPR 2021/037), the Executive approved a proposal for a new library with residential developed on the existing library site. This proposal will deliver new homes as well as modern library that supports both residents and the business community. Subject to planning permission, this scheme is now progressing successfully independently from the leisure centre site.
- 3.5. Given that the existing leisure centre is beyond its intended design life, it is essential that significant consideration is now given to this Council asset. In 2021, Council officers commissioned a condition survey which estimated the backlog maintenance costs to be £861,900 and the future maintenance costs for the next 10 years to be £451,100. It is important to note that these costs exclude prelims, contractor profit, contingency, fees, and expenses, and have not been adjusted for regional variance. Further exclusions are set out in point 3.6 and the full survey documentation is in Appendix 1.
- 3.6. The 2021 condition survey (Appendix 1) commissioned by Property took the form of a visual inspection only. Parts of the structure which were concealed, covered up or made inaccessible in the course of construction have not been opened up as part of the survey. The survey also excluded tests in respect of asbestos, or other deleterious material therefore no assurance can be given as to the presence or otherwise. Given the above information on excluded costs it is expected that essential Landlord Maintenance costs are likely to actually be in the region of £1.5m in 2021/22 with a further £1m over the next 10 years, with possible other hidden structural costs being identified. This spend of c.£2.5m would repair and maintain the leisure centre only and would not lead to any improvement to the facilities.
- 3.7. West Wickham Leisure Centre is leased to MyTime Active. It is part of the Group 2 MyTime Active leases. The lease excludes the car park for the leisure centre. The

car park is owned by the Council under a separate title, has 64 parking bays, and generates net income from parking fees of c£79kpa.

- 3.8. Under the provisions of the MyTime lease the Council can exercise the Landlord's break in order to give notice to MyTime if the site is being redeveloped. The notice period is a minimum of 12 months.
- 3.9. In terms of the obligations for the maintenance of the leisure centre, the lease sets out that the Landlord shall implement a programme of planned maintenance. The Landlord also has a duty to replace. The Tenant has a duty to undertake certain types of repairs and cyclical maintenance. Given the life span of some of the equipment it is becoming increasingly difficult to repair and maintain some equipment, and some equipment now needs total replacement. Equipment in Leisure Centres that cannot be repaired and maintained and is not replaced can also lead to Health and Safety concerns.
- 3.10. Notwithstanding the ongoing issues with the condition of the property, West Wickham Leisure Centre is still popular with local residents and sports clubs. Pre-Covid the leisure centre had an annual throughput of 265,898 visits made up of:
- Swimming lessons – 71,850
 - General swimming (including hire and clubs) – 80,362
 - Gym – 95,542
 - Group exercise – 18,144
- 3.11. Given the cost of the backlog maintenance, as well as the costs of maintaining the building over the next decade, options for the future of the leisure centre have been assessed.

4. OPTIONS

- 4.1. The Regeneration and Property divisions have identified the following options:
- Option 1 – Do nothing
 - Option 2 – Undertake essential maintenance only
 - Option 3 – Refurbishment (self-delivery) and renegotiation of the lease
 - Option 4 – Demolish and rebuild leisure with housing on site (self-delivery)
 - Option 5 – Demolish and use the site for housing only, with the expectation that an alternative site would need to be found for the leisure centre
 - Option 6 – Part disposal of the site for housing
 - Option 7 – Full disposal of the site for housing and re-provision of leisure

Some financial estimates have been provided by Property Services in relation to these options where available, however these estimates have not yet been interrogated or validated and are supplied only to give Members an indicative understanding of the costs related to each option.

Option 1 – Do nothing

The leisure centre can be left as it is however there is a likelihood it will be forced to close in 2022/23 if this decision is taken. The scale of repairs required to the

building mean that the building will most probably be no longer safe for use. The cost of this option will be the moth balling of the building which is estimated by Property at £78k upfront as well as an ongoing annual cost of £23k. These costs relate to the draining of the pool, security, insurance and critical maintenance to enable access.

The benefit of this option is it requires the least capital outlay. However, closing the leisure centre will reduce residents' leisure opportunities and have a negative impact on health and wellbeing, as well as impacting on elite level training in the borough. Whilst the provision of Leisure Centres is not a statutory service, the Council as the Public Health Authority does have a statutory duty to support the health and wellbeing of the residents of Bromley. If the decision is taken to do nothing, subject to legal advice, the 12 months' notice should be served to MyTime Active.

Option 2 – undertake essential maintenance only

It is estimated that to undertake the essential maintenance only identified by the condition survey will cost c£1.5m once exclusions are taken into account, with a further c£1m inclusive projected over the next ten years. This approach will keep the leisure centre in a usable state for the benefit of residents but will not lead to any real improvements.

The benefit of this option is that it will maintain the leisure centre in West Wickham for community use, and any periods of closure for works will be minimal. However, there is a risk that the costs of maintenance will escalate given that intrusive surveys have not been undertaken. Additionally, the age of the building means that maintenance will become increasingly costly as parts have to be replaced. This option does not create a long-term sustainable future for the leisure centre as the Council would remain responsible for maintenance with no leasehold income from the provider, which is currently MyTime.

Option 3 – refurbishment and renegotiation of lease

The leisure centre could be refurbished to a good standard, the cost of refurbishment is completely unknown. The refurbishment would potentially enable the Council, subject to Legal's view, to either give notice to MyTime and go to market for a new operator, or to renegotiate the lease under the same terms as the Group 1 leisure sites managed by MyTime Active. Following comprehensive refurbishment the new lease would be a full repairing and insuring lease, removing ongoing maintenance revenue costs to the Council.

The benefit of this option is the ongoing maintenance cost of the leisure centre to the Council would be removed and the centre would be significantly improved for the benefit of the local community and elite sports teams that train there. In addition, the expectation is that the Council would receive a leasehold income from the site in the same way as it does currently from other Group 1 leisure sites.

Option 4 – demolish and rebuild leisure with housing on site (self-delivery)

This option has previously been explored and it is estimated that the cost of this option (delivering both a new leisure centre and on site housing) is in the region £31m. Given that construction costs in some areas have recently increased by 30% beyond normally allowed inflation, this cost could now be in the region of £40m. Members were last asked to consider this proposal in May 2019, report no. DRR

19/027. As part of this previous scheme stakeholders were engaged with to seek views on the initial concept design.

This option delivers c70 residential units. Based on the assumption that 50% of these would be affordable housing, this could provide a future Council revenue saving of c£12m over a forty year period in temporary accommodation costs. This is indicatively based on past assumptions and these estimates will need updating. The remaining units would be sold privately generating an indicative income of c£10m towards the development costs. The new leisure centre would also bring in a lease income to the Council, which would be in the region of £140-£200k per annum depending on the specification agreed.

These costs did include the provision of a new library, which would no longer be part of the scheme. These development costs would therefore reduce but not by a large amount. The new leisure centre proposed under this option comprised of a 25m pool, plus a training pool, together with a gym and studio space.

Option 5 – demolish and use the site for housing only

The Council is aiming to build or purchase at least 1000 affordable homes across the borough and this site could accommodate c100 residential apartments if no leisure centre was re-provided. Using the land for housing only would contribute to the borough's housing needs, and reduce our temporary accommodation costs, but the loss of a leisure centre would have a detrimental impact on the community and town centre.

The leisure centre is an asset to West Wickham and supports the town's varied offer, bringing in footfall that benefits local businesses. The leisure centre is used by elite athletes for training and the loss of a leisure centre here would impact on elite sport. Most importantly however the leisure centre supports the health and wellbeing of the local community. Therefore it is expected that if this option was pursued another site in West Wickham for a new leisure centre would need to be identified.

Such a proposal is likely to be challenging with the Planning Authority given the loss of community asset as well as Sport England who would be a consultee for such a planning application. Any consideration for this option should include a review of other sites the leisure centre could move to and the financial and community implications of this.

Option 6 – part disposal of the site for housing

The car park could be marketed for sale, with housing developers most likely interested. The value of the car park land is unknown. There are contamination issues, from the spoil from the original leisure centre build, that will impact on value.

The marketing particulars can require for car parking for the leisure centre to be re-provided at capped pricing, most likely through under-croft parking. If a housing developer purchased the site the Council could also require first refusal on purchasing the affordable units.

This may prove to be the most straight forward approach. Selling the car park land would generate a capital receipt, value unknown, to put towards the backlog

maintenance or the refurbishment of the leisure centre site. Long term it would be financially better for the leisure centre to be refurbished rather than repaired, so that an ongoing lease income was generated and maintenance costs no longer fell to the Council. However the costs of refurbishment are currently unknown and it is important to note that costs of refurbishment may be prohibitive. A negative impact would be that the Council would lose parking revenue income on this site unless an arrangement was agreed with the developer in relation to the re-provided parking.

Option 7 – Full disposal of the site for housing and reprovision of leisure

The whole site could be sold with a requirement for the provision of a specified leisure centre. This would not be a marketing exercise but a procurement exercise due to the requirement for re-providing the leisure centre. As with option 6 it could be a requirement that the Council has first refusal on the purchase of the affordable units.

As with previous options the new leisure centre could be leased to a private operator, in the same way as it is now to MyTime, but on a full repairing and insuring lease because it is being handed over in a new condition. This means that the Council would no longer bear any maintenance costs for this site. The leisure centre would also bring in a lease income, which is likely to be in the region of £140-£200k per annum depending on the specification

However, it is unlikely, due to developer's profit, that this option would be financially better than Option 4 (self-delivery). Therefore, the cost gap of providing the leisure centre would be greater. The provision of the leisure centre would not be at no cost as identified in option 4 which was previously explored.

Conclusion

- 4.2. The reprovision of a leisure centre in West Wickham is listed in the Council's adopted Regeneration Strategy. The leisure centre is well used and there is high demand from residents. However, the leisure centre is at the end of its life and spending monies on maintaining the existing site could be wasteful. Pure refurbishment of the existing leisure centre would not make the most of the site in contributing to housing provision in the borough, and would likely be the most expensive delivery option.
- 4.3. For the Council to make a final decision on the future of the leisure centre site, additional information is required, namely the market value of the car park land and the cost of refurbishment. In addition, the estimated costs and potential incomes stated in the above options are very much indicative at this stage and need further investigation, refinement and validation. This information would enable officers across Council departments to undertake a full financial and community benefit appraisal.
- 4.4. Therefore, it is recommended that officers take forward option 6 whilst there is time, prior to backlog maintenance spend on site. Taking the car park area of the site to market will confirm the value. If any offers are received for the land the Council will be able to take a decision on whether to accept or whether to progress with one of the other options set out in this report following the full financial appraisal.

- 4.5. In tandem with taking the car park to market consultants will be instructed to cost the refurbishment of the leisure centre, and to identify the cost of building a stand-alone leisure centre on an alternative site if one is identified. Again this information is needed for a full financial appraisal of the options to be undertaken.
- 4.6. It is likely that the result of delivering any option except for Option 2 will result in the leisure centre being closed for a period of time. Officers will need to discuss the implications of this with the current leaseholder and operator MyTime Active as well as the potential impact on their overall business viability.
- 4.7. If the recommendations in this report are agreed it is expected that officers will bring a report back to committee in early spring setting out a full financial and community benefit appraisal with recommendations for the future of the site.

5. POLICY CONSIDERATIONS

- 5.1. Building a Better Bromley Priority: Quality Environment, Vibrant Thriving Town Centres Regeneration.
- 5.2. Regeneration Strategy 2020-2030
- 5.3. Health and Wellbeing Strategy 2019-2023

6. PROCUREMENT CONSIDERATIONS

- 6.1. Disposal of local authority land is subject to best value considerations when considering the method of disposal.
- 6.2. Should the disposal be determined (subject to legal and professional advice) to include works or services (e.g. infrastructure or dwellings) then the Public Contract Regulations 2015 may apply and, if so, a suitable compliant procurement procedure must be used.

7. FINANCIAL CONSIDERATIONS

- 7.1. The financial information contained in this report is indicative and not complete; where information has been provided, this has not been validated. There is currently no estimate of a potential capital receipt that may be generated from disposal of the car park and it is not therefore known whether this will be sufficient to support the refurbishment ambition of Option 6. Furthermore, the various options that have been set out have not been subject to a costed financial appraisal and therefore it is not possible to determine at this stage which option is likely to present the best value solution for the Council.
- 7.2. If the recommendations in this report are approved, a full costed options appraisal and business case for a preferred option will need to be brought back to Members before a final decision is taken. All relevant financial information will need to be provided and confirmed in order for this to be undertaken, including:
 - Backlog and ongoing maintenance liabilities
 - Refurbishment and re-equipping costs

- Future rental and car parking income
- Estimated capital receipt from disposal of the car park

7.3 The existing Capital Programme of £993k to progress design and feasibility for this scheme was approved by the Executive in March 2018.

8. LEGAL CONSIDERATIONS

- 8.1. Section 111 Local Government Act 1972, the Council has power to do anything calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. Section 2 of the Local Government Act 2000 gives the local authority the power to do anything which it considers is likely to promote or improve the social, economic or environmental well-being of the local authority's area for the benefit of its residents.
- 8.2. Local authorities can under section 123 of the Local Government Act 1972 to dispose of land for best consideration that can reasonably be obtained (usually based on open market value). Section 128 of the Local Government Act 1972 confers power to the Secretary of State. General Disposal Consent 2003 removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land where the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the well-being criteria in the Local Government Act 2000 when the "undervalue" (i.e. the difference between the unrestricted value of the interest to be disposed of and the consideration accepted) is £2,000,000 or less:
- The promotion or improvement of economic well-being;
 - The promotion or improvement of social well-being;
 - The promotion or improvement of environmental well-being.
- 8.3. Section 123 (2A) any disposal of land considered as open space (any land, enclosed or not, on which there are no buildings, and the whole of the remainder of which is laid out as a garden or is used for recreation purposes or lies waste and unoccupied) requires the local authority to give notice of its intention to dispose of the land for two consecutive weeks in a newspaper circulating in the area in which the land is situated, and they must consider any objections to the proposed disposal which may be made to them.
- 8.4. The Council as a public body must comply with the Public Contracts Regulations 2015.
- 8.5. **Options 2, 3, 4 and 5:** If the Council appoints any third parties to carry out any of the activities described in Options 2, 3, 4 and 5 (i.e. if the Council does not carry out any of the relevant activities itself 'in house' or does not delegate such activity to another local authority), such appointments will be subject to the Council's Contract Procedure Rules, and (if the relevant contracts are over relevant thresholds), the Public Contract Regulations 2015. As a result, unless specific exemptions apply, the Council would either need to conduct its own compliant procurement procedure (probably a published invitation to tender exercise, given the likely contract values), or to make appointments from existing compliant frameworks which the Council is eligible to use.

8.6. **Option 6:** The main procurement issue relates to the re-provision of the car park. The procurement requirements will depend on the following:

- If the Council wanted to contractually require the purchaser (as a requirement of the sale) to demolish the existing car park and build a replacement, the contract would be construed to be a works contract and would need to be procured in compliance with the Council's Contract Procedure Rules and (depending on contract values - the works threshold is currently £4,733,252) the Public Contracts Regulations 2015. Unless specific exemptions apply, the Council would either need to conduct its own compliant procurement procedure (probably a published invitation to tender exercise, given the likely contract values), or to make appointments from existing compliant frameworks which the Council is eligible to use.
- If the Council wanted the purchaser to operate the car park (regardless of whether or not it was rebuilt, either as contractually required by the Council or by the purchaser voluntarily, or whether it was left as it is), either of the following would apply:
 - If the Council substantially accepted the commercial risk of the operation of the car park (i.e. if the Council paid the purchaser an agreed fee to operate the car park, so that the purchaser got paid the same regardless of usage), then this would be a contract for services between the Council and the purchaser (who would also be a 'service provider' to the Council). As a contract for services, it would need to be procured in compliance with the Council's Contract Procedure Rules and (depending on contract values - the services threshold is currently £189,330) the Public Contracts Regulations 2015. Again, unless specific exemptions apply, the Council would either need to conduct its own compliant procurement procedure (whether obtaining quotations or running a published invitation to tender exercise, depending on estimated contract values), or to make appointments from existing compliant frameworks which the Council is eligible to use.
 - If the purchaser substantially accepted the commercial risk of the operation of the car park (i.e. if the main source of income for the purchaser came from the operation of the car park – e.g. car parking charges incurred by car park users, with either zero or minor subsidy from the Council) then this would be a concession. The concession contract could either contractually require the purchaser to operate the car park (e.g. at certain hours) or could make it optional (i.e. it could choose whether or not to operate, but would have financial incentive to operate even if there is no contractual obligation to do so). A concession contract would be subject to the Concession Contracts Regulations 2016 and not the Public Contracts Regulations 2015. The Council is only required to conduct an advertised procurement exercise for a concession if the value of the concession is over the concession

threshold is currently £4,733,252 (same as the works threshold). There are no specific rules in the Council’s Contract Procedure Rules covering concessions, so that if the value of the concession was less than the Concession Contracts Regulations 2016 threshold, the Council would have an option whether or not to conduct a public procurement exercise.

- 8.7. **Option 7:** Procurement considerations would apply if the Council wanted to contractually require the purchaser (as a requirement of the sale) to demolish the existing facility and to build anything (e.g. housing, a replacement leisure centre and/or anything else) and/or to provide the Council with any other services (i.e. a services contract). There would be no need for a concession contract if the purchaser wanted to operate the leisure centre or appoint someone else to do so (whether the existing facility or any new one) on its own land. It would effectively be another private leisure facility operated by or on behalf of the purchaser. If the purchaser wanted the leisure centre to be operated as a public leisure facility, it could always lease the land back to the Council who would then consider its options (e.g. operating it ‘in house’ or granting concessions to a relevant operator, which may be the purchaser or someone else).

If the Council wanted to contractually require the purchaser to demolish the existing leisure centre (possibly) to build something else, the contract would be construed to be a works contract and would need to be procured in compliance with the Council’s Contract Procedure Rules and (depending on contract values - the works threshold is currently £4,733,252) the Public Contracts Regulations 2015. A contractual requirement to demolish the building would itself be a works contract, regardless of whether there is any further obligation to build anything. Unless specific exemptions apply, the Council would either need to conduct its own compliant procurement procedure (probably a published invitation to tender exercise, given the likely contract values), or to make appointments from existing compliant frameworks which the Council is eligible to use.

Non-Applicable Sections:	Personnel Considerations
Background Documents: (Access via Contact Officer)	DRR 08/081 DRR 19/027 HPR 2021/037 Appendix 1 – Condition Survey