

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF CORPORATE SERVICES	EXECUTIVE COMMITTEE	5 December 2023	4
YMCA Disposal Plan & Notice of Motion – Kirkham Pool			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

Councillor Jayne Nixon – Lead Member for Tourism, Leisure and Culture.

PURPOSE OF THE REPORT

The council through the Executive Committee is required to consider the Kirkham Pool Disposal Plan produced by the YMCA in accordance with Schedule 6 of the agreement made when the asset was transferred in July 2009, both documents are included as Appendix 1 and 2 retrospectively to the report.

The report also includes the approach to be taken by the Council following the Notice of Motion agreed at full Council on 2 October 2023 and the measures required to deliver the agreed action.

RECOVERABILITY

This decision is recoverable under section 7 of part 3 of the constitution.

RECOMMENDATION

1. To determine whether the council approves the Disposal Plan submitted by YMCA or outline any elements of the Disposal Plan that the council is dissatisfied with.
2. To approve the expenditure of £25,900 fully funded from the UKSPF (£16,601) and unallocated Covid Support Grant (£9,299) held by the council, for Active Lancashire to deliver the works listed under recommendation 3 of their report (Appendix 3), that is to consult with key local stakeholders and existing swimming providers in Fylde to understand the existing position, potential challenges and opportunities for the short, medium and long term.
3. To delegate authority to the Chief Executive, following consultation with the Leader and Lead Member for Tourism, Leisure and Culture to commission any further work that may be required to address the Notice of Motion regarding swimming provision. Such further work is to be funded from the unallocated Covid Support Grant funding to a maximum of £30,000 including the expenditure to date from the budget of £9,299, any expenditure to be reported to this committee.

REPORT

1. Since 2009 Kirkham Pool had been operated by YMCA under agreement with the council to both operate the facility and obtain the freehold ownership. The agreement was initially for a lease of the asset to YMCA to operate the pool with the freehold of the premises was transferred to YMCA in 2011 as part of the arrangement to ensure the continued operation of the pool.
2. In accordance with the 2009 agreement the YMCA announced a Closure Event on 10 August 2023, and submitted a Disposal Plan to Fylde Council within the required 3 months (10 November 2023). The Closure Event notification stated that YMCA was unable to continue operating the pool and has no use for the asset in delivering the objects of the trust.
3. Schedule 6 of the agreement outlines the 'Effect of Closure Event', and under clause 5, 'Asset Destination' it states:
 - 5.2 *If YMCA is the freehold owner of the Premises, it will comply with this sub-paragraph 5.2.*
 - 5.2.1 *Within three calendar months of the Closure Event YMCA will draw up a Disposal Plan and submit it to the Council.*
 - 5.2.2 *Within 28 days of YMCA submitting the Disposal Plan to the Council, the Council will notify the YMCA whether it approves the Disposal Plan and, if it does not approve, identify the elements of the Disposal Plan which it is dissatisfied.*
 - 5.2.3 *Subject to sub-paragraph 5.2.5, if the Council does not notify YMCA whether it approves the Disposal Plan within the time set out in out in sub-paragraph 5.2.2, it will be deemed to have approved it.*
 - 5.2.4 *The Council must act reasonably in deciding whether to approve the Disposal Plan.*
4. The YMCA formally submitted the Disposal Plan on 10 November 2023, the Council has 28 days to inform YMCA whether it approves the plan or identify elements that the Council is dissatisfied with, the deadline for responding to YMCA is Friday 8 December 2023.
5. The 'Proposed Method of Disposal' in the Plan is a two-stage chronological approach with the first stage providing the opportunity for any stakeholders to express a valid interest in obtaining the asset through a transfer of freehold subject to demonstrating with evidence proposals to operate a pool facility. The first stage of the disposal allows for any interested organisation to acquire the asset for a nominal consideration, therefore there would be no proceeds of sale.
6. If the asset is sold and there are 'Anticipated Proceeds of Disposal' the agreement states that the first call on the proceeds of sale would be to offset net losses accrued by YMCA in operating the premises. This figure would only be known when the YMCA no longer has responsibility for the asset. The second call on any proceeds is '*to pay to the Council to such sum as will cover the costs that the Council have properly incurred in connection with the transfer of the Premises to YMCA or the operation of the Premises by YMCA in accordance with this agreement since the Lease Commencement Date.*' The total of these costs is £530,801.75 which is the cumulative value of the contributions made by the council to the YMCA towards the running costs of the pool since the asset was transferred in 2009.
7. If there are any funds remaining from the proceed of a sale after any costs incurred by YMCA and the Council, they will be used to fund the YMCA's community and social objectives within the rural Fylde, which stated in the agreement include such schemes or projects to be for the benefit of swimming sport or recreation.
8. Based on current market valuation it is likely that if the premises were disposed of by way of sale on the open market and sold at the disclosed valuation outlined in the Plan, that once clause 5.2.7.3 had been exhausted there will be no residual funds from the proceeds of sale.

Delivering the Notion of Motion

9. At full council on 2 October 2023 a Notice of Motion was approved that states:

“In the corporate and local plan this Council seeks to maintain or encourage public swim provision. I propose that this Council as a matter of urgency, supports that position and in light of the recent announcement by the YMCA to permanently close Kirkham Baths looks at all practicable options to work with partners and stakeholders to support that provision, and such options to be considered by the external Scrutiny Committee.”

10. Officers have received direction from lead elected members on the required actions to ‘look at all practicable options’ and to establish what resource in terms of skill set and financial budget would be required to carry out the work. The council has not employed officers with experience and knowledge in leisure and swim provision since the decision in 2009 to no longer operate the pools. To ensure that the assessment of works required is carried out appropriately Active Lancashire have been commissioned to provide industry-based advice on the approach that should be taken.
11. Active Lancashire have provided information based on research and current data on swimming provision in the Borough. However, to understand the extent and requirement for ‘all practicable options’ further detailed work with a wide range of stakeholders will be required. The recommended actions from the Active Lancashire advice include surveys and focus groups with stakeholders including schools, health providers, residents, other swimming facility providers (public and private) local businesses, local leaders, existing YMCA members, community groups including grassroots sport groups and Sport England. Feedback from stakeholders and the research proposed by Active Lancashire will be required to help the council understand local need, ambition, capacity, and existing provision as well as any options from other potential partners.
12. The additional work recommended by Active Lancashire will enable the Council through the external scrutiny committee to consider all practicable options for working with partners and stakeholders to support rural swimming provision. The work has been packaged into separate recommended actions and Active Lancashire was asked to provide quotes for delivering each workstream. Appendix 3 includes the workstreams identified and the quotes from Active Lancashire, the workstreams in recommendations 1 and 2 would be necessary to support the scrutiny committee’s consideration of all practicable options. It has not been possible to quote for the fourth workstream because of the requirement to involve Sport England and industry specialists, officers have contacted Sport England to progress this work.
13. Additional resources will need to be commissioned to deliver the workstreams outlined in Appendix 3 because of the experience, skill set, industry knowledge, and capacity required to complete the work by 1 April 2024, which is the shortest timeframe possible based on the actions required to produce the information to support a comprehensive assessment of all practicable options.
14. Given the urgency stated in the Notice of Motion the Chief Executive, in consultation with the Leader and the Lead Member for Tourism, Leisure and Culture, Active Lancashire have been commissioned to carry out recommendation 3 (a combination of recommendations 1 and 2) at a cost of £25,900. The work to be fully funded from UKSPF (£16,601) and unallocated Covid Support Grant (£9,299) funding that the Council has carried forward. The committee is asked to approve the funding for Active Lancashire and delegate authority to the Chief Executive following consultation with the Leader and Lead Members for Tourism, Leisure, and Culture, to allocate any further funding that may be required to deliver the Notice of Motion. The funding is to come from the unallocated Covid Support Grant funding held by the council to a maximum of £30,000 including the £9,299 commissioned from the budget to date.
15. Officers are working with the YMCA to obtain an indication of the capital cost to reinstate a fully fit for purpose facility on the existing site in Kirkham as well as an indication of the running cost for any prospective organisation operating an existing or new facility, this would inform any future requirement for subsidy from the council.
16. Officers will also be discussing with industry professionals to explore the work that would be required to identify suitable locations, carry out viability assessments, site surveys, develop proposals, and design and build new

facilities in the current market. Details of the process, resources, timeframe, and cost to consider alternative facility provision will be included in the scrutiny committee when considering all practicable options.

17. The work with Active Lancashire, YMCA, and discussions with industry professionals as well as other local authorities involved in delivering new leisure facilities are the actions that constitute the approach taken to deliver the Notice of Motion and the work that will inform the scrutiny committee.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

IMPLICATIONS	
Finance	The report recommends approval of initial expenditure of £25,900 fully funded from the UKSPF (£16,601) and unallocated Covid Support Grant (£9,299) held by the council to commission work by Active Lancashire as detailed in the report, and potential further expenditure of up to a total of £30,000 (including the £9,299 of the above commission), with the costs of such further work being fully funded from remaining unallocated Covid Support Grant funding held by the Council.
Legal	The legal implications of the Disposal Plan are covered in the report.
Community Safety	There are no implications because of this report.
Human Rights and Equalities	There are no implications because of this report.
Sustainability and Environmental Impact	There are no implications because of this report.
Health & Safety and Risk Management	There are no implications because of this report.

SUMMARY OF PREVIOUS DECISIONS
<p>Full Council October 5th, 2023, Notice of Motion</p> <p><i>“In the corporate and local plan this Council seeks to maintain or encourage public swim provision. I propose that this Council as a matter of urgency, supports that position and in light of the recent announcement by the YMCA to permanently close Kirkham Baths looks at all practicable options to work with partners and stakeholders to support that provision, and such options to be considered by the external Scrutiny Committee.”</i></p> <p>Cabinet decision from 15 January 2009 regarding the Asset Transfer of Swimming Pools.</p> <p>“RESOLVED –</p> <ol style="list-style-type: none"> To refer the matter for consideration by Overview and Scrutiny prior to making a final decision. To approve the report and consider at the time of making a final decision on the matter any relevant financial clawback conditions and/or buy back provisions should the operational proposal prove not to be economically viable.” <p>Cabinet minutes from 11 Feb 2009 regarding the transfer of Kirkham Pool:</p> <p>“RESOLVED:</p> <ol style="list-style-type: none"> That officers be authorised to implement option 2 in the report and undertake immediate discussions with representatives from the YMCA to secure this. That if the YMCA is not able to agree to the terms contained in option 2 then officers be requested to make arrangements for the closure of the pool on 31 March 2009.

3. That contract procedure rule 6 (open tendering) be not applied to the disposal of Kirkham Pool as envisaged under option 2.
4. That, in its opinion, disposing of the Kirkham Baths land to YMCA on the terms set out in the report would be likely to contribute to the achievement of the promotion or improvement of social well-being of persons resident or present in the council's area;
5. That the use of any proceeds remaining after the disposal of the asset, should the pool close, be considered at a future meeting.
6. That representatives from YMCA and Rural Splash be thanked for their input into the proposed transfer and the staff at Kirkham Pool be also thanked for their dedication and hard work during these uncertain times."

BACKGROUND PAPERS REVELANT TO THIS ITEM

Name of document	Date	Where available for inspection

LEAD AUTHOR	CONTACT DETAILS	DATE
Gemma Broadley	Gemma.broadley@fylde.gov.uk & Tel 01253 658513	22 nd November 2023

Appendix 1 - [Kirkham Pool Disposal Plan](#)

Appendix 2 – [Appendix 2 2009 Agreement Kirkham Pool.doc](#)

Appendix 3– [Active Lancashire Recommendations](#)