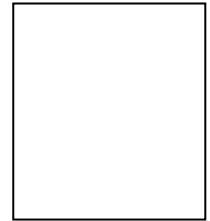




## SHEFFIELD CITY COUNCIL



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**Report of:** Executive Director Place

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**Date:** April 10 2013

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**Subject:** Stocksbridge Leisure Centre (Oxley Park Trust)

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**Author of Report:** Paul Billington

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**Summary:**

The City Council at a Cabinet Meeting on 10th April 2013 have resolved to withdraw the funding from Stocksbridge Leisure Centre as from 30th April 2013 and to serve notice to terminate its lease of part of the Leisure Centre site.

The City Council has also resolved that, if Stocksbridge Town Council or another organisation is able to produce, by 19<sup>th</sup> April 2013, a viable business plan that would enable Stocksbridge Leisure Centre to continue operation without recurrent revenue or capital support from the City Council, it would request that Cabinet on behalf of the City Council acting in its capacity as Trustee of the Oxley Park Charity, resolve to appoint Stocksbridge Town Council or another organisation as a trustee of the Oxley Park Charity and for the City Council to resign as a trustee of the Charity

If no viable business plan is forthcoming, Cabinet, on behalf of the City Council acting in its capacity as trustee of the Oxley Park Charity are recommended to close Stocksbridge Leisure Centre because the Charity has insufficient funds itself to operate the facility.

Should Cabinet resolve to close the facility, if no viable business plan is forthcoming, on the basis that the Charity does not have any funds to secure the site and in order to reduce the health and safety risk from the building being empty, Cabinet are recommended to request that the City Council arrange and fund the demolition of the Leisure Centre buildings and the carrying out of works to return the site to park land.

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**Reasons for Recommendations:**

The City Council has agreed to remove funding from Stocksbridge Leisure Centre from 30<sup>th</sup> April 2013. Accordingly the Oxley Park Charity has the responsibility for the buildings but no funding to operate Stocksbridge Leisure Centre or secure the buildings.

The recommendation is, therefore, to close the centre and unless a viable business plan, for the future running of the leisure centre, is put forward, or funding is made available for the security of the buildings following the closure of Stocksbridge Leisure Centre, to request that the City Council arrange and fund the demolition of the Leisure Centre buildings and the carrying out of works to return the site to park land.

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**Recommendations:**

That Cabinet on behalf of the City Council acting in its capacity as Trustee of the Oxley Park Charity resolve:

- a. to close Stocksbridge Leisure Centre from 30<sup>th</sup> April 2013, unless a viable business plan for the continued running of the Leisure Centre, is forthcoming from the Stocksbridge Town Council or another organisation, prior to that date, that has been approved by the City Council;
- b. to formally request the City Council, in the event that no approved business plan is produced and no funding is made available to the Charity for the security of the buildings following the closure of the Leisure Centre, to fund and arrange for the demolition of the buildings and the restoration of the site as park land;
- c. if a viable business plan is put forward and approved by the City Council, to appoint Stocksbridge Town Council or another organisation (subject to them being properly constituted and suitable to act in that capacity) as a trustee of the Charity and for the City Council to resign as a trustee of the Charity;
- d. if the Leisure Centre buildings are demolished and the site restored to park land, to request a report from a qualified Surveyor (who may be employed by the City Council) on the future use/disposal of the land in such a way as to maximise the charitable objectives of the Trust.
- e. in the event that the disposal of all or part of the land is proposed by such a report, to instruct Legal Services to enter into negotiations with the Charity Commission to obtain a "Scheme" to authorise the disposal and requests that a qualified Surveyor (who may be employed by the City Council) advises upon the best method of disposal and prepares a valuation report for the land that complies with the Charities (Qualified Surveyors Report) Regulations 1992;
- f. to agree to offset the demolition costs (estimated at £105,000) against a future capital receipt for the site, subject to any permissions that may be required from the Charity Commission.

**Background Papers:**

The Council Budget report for 2013/14

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**Category of Report:**      OPEN

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## Statutory and Council Policy Checklist

<b>Financial Implications</b>
YES/NO      Cleared by: Paul Schofield
<b>Legal Implications</b>
YES/NO      Cleared by: David Hollis
<b>Equality of Opportunity Implications</b>
YES/NO      Cleared by: Ian Oldershaw
<b>Tackling Health Inequalities Implications</b>
YES/NO
<b>Human rights Implications</b>
YES/NO:
<b>Environmental and Sustainability implications</b>
YES/NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
YES/NO
<b>Human resources implications</b>
YES/NO
<b>Property implications</b>
YES/NO
<b>Community Assembly(s) affected</b>
North
<b>Relevant Cabinet Portfolio Leader</b>
Cllr Isobel Bowler
<b>Relevant Scrutiny Committee if decision called in</b>
Economic and Environmental Wellbeing
<b>Is the item a matter which is reserved for approval by the City Council?</b>
YES/NO
<b>Press release</b>
YES/NO

## **1.0 SUMMARY**

- 1.1 The City Council at a Cabinet Meeting on 10th April 2013 have resolved to withdraw the funding from Stocksbridge Leisure Centre as from 30th April 2013 and to serve notice to terminate its lease of part of the Leisure Centre site.
- 1.2 The City Council has also resolved that, if Stocksbridge Town Council or another organisation is able to produce, by 19<sup>th</sup> April 2013, a viable business plan that would enable Stocksbridge Leisure Centre to continue operation without recurrent revenue or capital support from the City Council, it would request that Cabinet on behalf of the City Council acting in its capacity as Trustee of the Oxley Park Charity, resolve to appoint Stocksbridge Town Council or another organisation as a trustee of the Oxley Park Charity and for the City Council to resign as a trustee of the Charity
- 1.3 If no viable business plan is forthcoming, Cabinet, on behalf of the City Council acting in its capacity as trustee of the Oxley Park Charity are recommended to close Stocksbridge Leisure Centre because the Charity has insufficient funds itself to operate the facility.
- 1.4 Should Cabinet resolve to close the facility, if no viable business plan is forthcoming, on the basis that the Charity does not have any funds to secure the site and in order to reduce the health and safety risk from the building being empty, Cabinet are recommended to request that the City Council arrange and fund the demolition of the Leisure Centre buildings and the carrying out of works to return the site to park land unless funding is made available to secure the buildings following closure.

## **2.0 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE**

- 2.1 The impact on the withdrawal of funding from Stocksbridge Leisure Centre is detailed in the report to Cabinet recommending the withdrawal of funding

## **3.0 OUTCOME AND SUSTAINABILITY**

- 3.1 The Oxley Park Charity cannot afford to operate the Centre without financial support. An opportunity exists for the Stocksbridge Town Council or another organisation to come forward with an alternative business plan that would enable the Centre to continue to serve the community but, as the City Council has resolved to withdraw funding, any plan that is forthcoming will need to address

both the revenue operating costs of the building and the future capital needs.

- 3.2 Although the site is part of the Oxley Park, previous discussions with the Charity Commission are reported as indicating that the site could be disposed of provided any capital receipt was utilised by the Oxley Park charity for the benefit of the people of Stocksbridge, it could therefore contribute to the funding of an alternative economic facility in the area. This opinion will have to be confirmed through new discussions with the Charity Commission as the previous files appear unclear on any final agreement.

#### **4.0 Options for the Oxley Park Charity Trustees**

##### **4.1 Background**

4.1.1 The Oxley Park Charity was set up to provide recreational opportunities for the people of Stocksbridge and surrounding areas. The Charity has never been formally registered at the Charity Commission, but that does not have any bearing on its status as a charity.

4.1.2 The Oxley Park Charity has no funds of its own, only the assets of the Park and the Leisure Centre. Accordingly it cannot afford to continue to run the Leisure Centre without financial support, nor can it afford to secure the buildings or maintain them in a safe condition in the event of the Leisure Centre closing.

4.1.3 The Stocksbridge Town Council along with other organisations are looking at options for a community based operation and Sport England are funding a short sharp study into the operation to determine if there is any alternative management operation that could be viable

##### **4.2 Proposal**

4.2.1 The proposal is that Stocksbridge Leisure Centre be closed to the public on the 30<sup>th</sup> April 2013 unless arrangements have been made for the running of the Leisure Centre that are not reliant upon funding from the Charity

4.2.2 In addition, it is proposed that, unless there is an alternative arrangement for the running of the Leisure Centre and no funding is made available to the Charity to secure the buildings, then in order to ensure safety the buildings be

demolished as soon as possible following the closure of the Leisure Centre.

#### 4.3 **Benefits**

4.3.1 The benefit of this proposal is that the Oxley Park Charity remains solvent and potentially has a capital receipt that it can apply to alternative provision for the people of Stocksbridge.

#### 4.4 **Risks**

4.4.2 Given the unclear position regarding the Charity Commission requirements and the uncertainties of the property market at present there is a risk that there may not be a capital receipt to offset the demolition costs. There is also a significant risk that, even if a capital receipt could be generated, the Charity Commission would not permit it to be used to offset the demolition costs. As stated under the Legal implications heading, use of part of the park as a leisure centre is in breach of the objects of the Charity and consequently, any scheme obtained to authorise the disposal is likely to specify that the receipt is applied to further the objects of the Charity, rather than be offset against the demolition costs.

#### 4.5 **Financial Implications**

4.5.1 It is essential that Cabinet, as Trustees of Oxley Park Charity obtain and consider advice, from an accountant or other suitably qualified person, explaining the nature and effect of the withdrawal of funding in relation to the continued running of the leisure centre.

#### 4.6. **Legal Implications**

4.6.1 Oxley Park was acquired originally by Stockbridge Urban District Council in two separate conveyances in 1921 and 1925 from Thomas Oxley, which state that the land is held upon trust “for ever for perpetual use by the inhabitants of Stockbridge as a Park or Recreation Ground...”.

4.6.2 The appointment of Stocksbridge Town Council or another organisation as a trustee of the Charity and the resignation of the City Council as a trustee would not require any consents or approvals from the Charity Commission as the objects of the Charity would not be affected and a transfer of the trusteeship is not classed as a disposal.

4.6.3 Use of part of the park as a leisure centre is in breach of these objects and no application has been made to the Charity Commission to amend them. The lease of part of the site to the City Council operates to authorise the use of part of

the site for the purpose of a leisure centre, but the remainder of the buildings are subject to and in breach of the original objects of the Charity. In addition, the City Council have resolved to serve notice to terminate the lease and upon its termination, the whole site will revert to the Charity and be held upon the original objects of the Charity.

4.6.4 The demolition of the leisure centre and the restoration of the site to parkland, as initially proposed, would have the effect of bringing the use of the land back in line with the objects of the Charity. Consequently, no specific permission is required from the Charity Commission to authorise the demolition.

4.6.5 Any proposal to dispose of the whole or part of the leisure centre site would require a formal application to the Charity Commission for a scheme to authorise it. The City Council, as Trustee of the Charity would need to ensure that they were satisfied that any disposal was in the best interests of the Charity. The advice of a Qualified Surveyor would also need to be obtained in relation to the steps to be taken to market the land in order to maximise the capital receipt, who would then compile a report confirming that any disposal negotiated was the best that could be obtained in the current market.

#### 4.7 **Property Implications**

4.7.1 The vacant building would be complex and hard to secure effectively. The option therefore to demolish and potentially dispose of the site requires to be evaluated.

#### 4.8 **Planning Policy implications for future use of the site**

4.8.1 In planning policy terms, the site is designated as Open Space Area in the Unitary Development Plan. Core Strategy policy CS47 safeguards the site as open space and has a presumption against the site's redevelopment for alternate uses unless:

1. as soon as practicable equivalent or better replacement open space would be provided in the area; or
2. the site is identified as surplus to its current open space function, and:
  - a. a proposed replacement would, as soon as practicable remedy a deficiency in another type of open space in the same local area; or
  - b. it could not fulfil other unsatisfied open space needs; or



3. Development would be ancillary to the open space and have a minimal impact on the use or character of the open space.

In the event of redevelopment of the site, the policy would require replacement of the open space with an equivalent area of open space within the same local area.

- 4.8.2 There is a covenant on the site which requires the land to be used for the benefit of the people of Stocksbridge for recreational purposes. This would affect the disposal of the site for alternative land uses as it will not allow the land to be used for alternate uses unless the covenant is transferred to an alternate and equivalent open space in Stocksbridge. The requirement for replacement of open space could also facilitate transfer of the covenant on the land.
- 4.8.3 There is no local planning policy requirement to replace Stocksbridge Leisure Centre. Unitary Development Plan Policy CF2 has a presumption against development that would result in the loss of community facilities, but built leisure facilities such as sports halls, swimming pools and outdoor play areas are not within the definition of 'community facilities' in the national use classes order or local policy and therefore, this policy does not apply.
- 4.8.4 National Planning Policy (paragraph 74) indicates that existing sports/recreational buildings and land should not be redeveloped unless they are surplus to requirements, or would be replaced in a suitable location. The Council's proposal (outlined in paragraph 4.2.3 above) to explore with partners the potential for a new pool in the North of the City may help to meet this national planning policy requirement.
- 4.8.5 In summary, current planning policies would support, though not require, the continued use of the site for leisure purposes. However, it would require retention or replacement of the Open Space Area. This is without prejudice to operational considerations relating to the centre itself.

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## **5.0 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 Stocksbridge Town Council and other organisations have been given the opportunity to produce a viable business plan for the continued running of the Leisure Centre, which the City Council have resolved to give due consideration to.

## **6.0 REASONS FOR RECOMMENDATIONS**

- 6.1 Oxley Park Charity cannot afford the operation or upkeep of the building without financial support. The recommendation is

therefore to close the centre and in order to minimise the health and safety risk from the vacant building and for it to be demolished unless a viable alternative can be proposed.

## **7.0 RECOMMENDATIONS**

It is recommended that Cabinet on behalf of the City Council acting in its capacity as Trustee of the Oxley Park Charity resolve:

- a. to close Stocksbridge Leisure Centre from 30<sup>th</sup> April 2013, unless a viable business plan for the continued running of the Leisure Centre, is forthcoming from the Stocksbridge Town Council or another organisation, prior to that date, that has been approved by the City Council;
- b. to formally request the City Council, in the event that no approved business plan is produced and no funding is made available to the Charity for the security of the buildings following the closure of the Leisure Centre, to fund and arrange for the demolition of the buildings and the restoration of the site as park land;
- c. if a viable business plan is put forward and approved by the City Council, to appoint Stocksbridge Town Council or another organisation (subject to them being properly constituted and suitable to act in that capacity) as a trustee of the Charity and for the City Council to resign as a trustee of the Charity;
- d. if the Leisure Centre buildings are demolished and the site restored to park land, to request a report from a qualified Surveyor (who may be employed by the City Council) on the future use/disposal of the land in such a way as to maximise the charitable objectives of the Trust.
- e. in the event that the disposal of all or part of the land is proposed by such a report, to instruct Legal Services to enter into negotiations with the Charity Commission to obtain a "Scheme" to authorise the disposal and requests that a qualified Surveyor (who may be employed by the City Council) advises upon the best method of disposal and prepares a valuation report for the land that complies with the Charities (Qualified Surveyors Report) Regulations 1992;
- f. to agree to offset the demolition costs (estimated at £105,000) against a future capital receipt for the site, subject to any permissions that may be required from the Charity Commission