

Report to Cabinet

17 July 2024

Subject:	Future Use of Smethwick Swimming Centre - Options
Cabinet Member:	Cabinet Member for Regeneration & Infrastructure Councillor Peter Hughes
Director:	Executive Director - Place Alan Lunt
Key Decision:	Yes
Contact Officer:	Luke Dove Assistant Director – Strategic Assets and Land Luke_Dove@sandwell.gov.uk

1 Recommendations

- 1.1 That approval be granted to declare Smethwick Swimming Centre, Smethwick, B67 5QT as being surplus to all Council use.
- 1.2 That the Executive Director – Place be authorised to undertake an open market disposal of Smethwick Swimming Centre following a marketing exercise to be undertaken by the Council’s appointed agent.
- 1.3 That subject to 1.2 being approved:
 - 1.3.1 approval be given to negotiate and agree a disposal of the freehold to the preferred bidder from those bids received.
 - 1.3.2 the Assistant Director of Legal and Assurance be authorised to dispose of the property, on terms and conditions to be agreed by the Executive Director - Place in consultation with the Cabinet Member for Regeneration and Infrastructure.



1.3.3 that authority be given to the Assistant Director of Legal and Assurance to enter into or execute under seal, if necessary, any other related documentation in connection with the freehold disposal of the site.

1.4 That in the event that no suitable bids are received following the marketing exercise as detailed at recommendation 1.2, approval be granted for the freehold disposal of Smethwick Swimming Centre by way of auction.

1.5 That subject to 1.4 being approved:

1.5.4 that authority be given to the Assistant Director of Legal and Assurance to dispose of the property, on terms and conditions to be agreed by the Executive Director - Place in consultation with the Cabinet Member for Regeneration and Infrastructure.

1.5.5 that authority be given to the Assistant Director of Legal and Assurance to enter into or execute under seal, if necessary, any other related documentation in connection with the freehold disposal of the site.

2 Reasons for Recommendations

2.1 The above recommendations support delivery of the agreed corporate Asset Management Budget Savings targets 2023-2026 as detailed below:

2023/24 - £1.6million

2024/25 - £1.6million

2025/26 - £2.5million

2.2 Following the closure of Smethwick Swimming Centre on 14 July 2023, there is currently no identified operational use for the building. Currently, it is also a financial liability to the Council, with security and holding costs being incurred of circa £7,500 per month.



2.3 Following the Centre's closure, the property has also recently been subject to several break-ins and vandalism, resulting in extensive damage being caused to the building. Several photos have been provided below giving examples of this.




- 2.4 In order to address this, a general site clean has been undertaken, and additional security measures have been deployed, including the enhanced boarding/ securing of various access and egress points; erection of additional Heras fencing; and the temporary use of overnight static security and guard dog. This has resulted in further expenditure being incurred of circa £500 per month (included within the total costs stated in section 2.2) and one-off costs of £1,300.
- 2.5 Extensive vandalism across the site has resulted in damage to internal doors, sanitary ware, glazing etc. So, potentially, parts of the listed building element may have been damaged in the process. This is currently being discussed with the Council's Conservation Officer to establish the required course of action.
- 2.6 Whilst the physical damage and associated costs are an issue, the main concerns are centred around health and safety aspects, predominantly the risk of potential harm and the likelihood of people injuring themselves, or worse still, a fatality. The site is split over various levels and a fall from height is a major concern. In addition, we have to be aware of the potential of metal thefts. If these were to occur, the impact on the site is always significant, due to the damage caused by the perpetrators. The continued interim management of a vacant site of this scale will always bring with it major risks, and the Council can only mitigate these risks to a point.
- 2.7 The Council's Asset Management Strategy sets the strategic framework within which the property asset portfolio will be managed. The strategy is intended to guide future decisions concerning the acquisition, use and disposal of property assets. It is also meant to respond to the corporate planning process, providing property solutions that support each of the Council's service areas in the delivery of their service plans.
- 2.8 The recommendations support the delivery of the Council's Medium Term Financial Strategy (MTFS), ensuring that, moving forward, the Council have a balanced budget alongside an efficient operational estate honed to deliver Council services. Should the Council fail to take decisions which declare identified assets surplus to requirements, it will not be able to achieve the assets savings targets as identified in section 2.1 of this report.



- 2.9 The recommendations would provide the Council with a capital receipt, the value of which would be confirmed on approval of a preferred bidder.
- 2.10 The Council commissioned Savills (via a procured framework) to undertake a full options appraisal of the site. This also included an indicative range, for valuation, of £100,000 to £400,000, based on comparable evidence for properties with similar characteristics.
- 2.11 Should the Council proceed with a freehold disposal, upon completion, all maintenance and associated financial liability would be transferred to the successful bidder.
- 2.12 The recommendations align with the responses received from the public budget consultation, held in 2022, which supported the disposal or development of Council assets.

3 How does this deliver objectives of the Corporate Plan?

	<p>Options identified will contribute to a stronger and more inclusive economy by maximising local asset use. It also has the potential to contribute to the best start in life for young people and to strong and resilient communities by providing more opportunities for community-based social activities. It will also ensure the continued conservation and use of a heritage asset.</p>
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4 Context and Key Issues

- 4.1 Smethwick Swimming Centre is located approximately half a mile from Bearwood Town Centre. The building originally opened as Thimblemill Baths in 1933 as a two-season facility, with swimming in the spring/summer months and concerts during the winter. It is an exceptionally fine building and a complete example of the 'Moderne'



style of architecture. Reflecting this, and the wealth of high-quality Art Deco internal features, the building is statutorily listed as Grade II.

- 4.2 The Corporate Asset Management Strategy (CAMS) was approved by Cabinet in 2022. It acknowledged that the Council is committed to maintaining an effective and efficient property portfolio which supports the delivery of services to residents, provides value for money, reduces our environmental impact, and maximises opportunities to generate value. The strategy is underpinned by asset savings targets as detailed in section 2.1.
- 4.3 At its meeting on 15 March 2023, Cabinet approved the advertisement, on the open market, of the site at Thimblemill Road, Smethwick in order to ascertain commercial interest in purchasing the site. Cabinet also agreed approval to work with The Peoples Orchestra (TPO) and West Midlands Historic Buildings Trust (WMHBT) to develop proposals, and to determine the viability of establishing a base for the Orchestra within the building. This also allowed them to undertake a business planning exercise, to confirm whether they are able to take on the premises under a Community Asset Transfer.
- 4.4 Following the Cabinet meeting, the West Midlands Combined Authority (WMCA) supported procurement of a feasibility study, and ancillary work, to ascertain the viability of repurposing the building into a music venue and community hub. Their business plan and feasibility study are provided at appendix 8.1.
- 4.5 The TPO's vision for the venue is to create a community hub and host a range of activities with music being the main theme. TPO plan to use the venue for rehearsals and performances of their orchestras, choirs, and bands and for their programmes to support local people. The hall would otherwise be hired for many types of activity including live music and theatre, event cinema, weddings and banquets, conferences, exhibitions, and sports like wrestling and e-sports. Other spaces in the building would be available for activities such as dance and music classes, recording music and podcasts, and hot desking. The plan also includes a cinema in the boiler house, and coffee shop in the lobby.



- 4.6 However, TPO / WMHBT would be reliant on the Council to continue underwriting the maintenance and utilities expenditure of the property for a minimum holding period of 18-27 months, whilst they apply for grant funding. Based on recent condition survey costs as detailed in appendix 8.2, this liability could be up to a value of £2.7million over this period. As such, additional budgets would need to be identified to cover this, should this option be progressed.
- 4.7 In addition, TPO have indicated ~~in~~ that their preferred date for the property to be transferred would be on the receipt of grants being awarded. This could be a further minimum period of 6 months, resulting in a total estimated period of up to 33 months, during which the Council would retain liability for the property and all associated costs.
- 4.8 A subsequent business case supporting brief has been provided by WMHBT which indicates that only a partial leasehold would be taken by TPO / WMHBT after the period detailed above, with full transfer of the freehold not expected to take place until 2031-2034 All details relating to the project timeline can be found in the business plan summary and supporting brief at appendix 8.3.
- 4.9 There is also a risk that TPO are not successful in securing grant funding which is a key part of their business plan. As a result, it is not considered feasible to pursue the Community Asset Transfer approach due to the high level of ongoing risk and cost associated with this option.

5 Alternative Options

- 5.1 Option 1 – Retain the asset. This would not be considered viable due to no identified operational use, and the inability to support delivery of the Asset Management Budgets Savings targets 2023-2026, due to ongoing repairs and maintenance, security and other holding costs, alongside the current anti-social behaviour now being demonstrated on site.
- 5.2 It should be noted that should the asset be placed in auction for disposal, this would then not afford the Council the same level of control over offers received, or to ensure that the building is repurposed in an appropriate manner and timeframe.



- 5.3 Option 2 – Invest in the asset prior to disposal. Based on indicative valuations and comparable evidence, this would not be a viable option due to the level of investment required which would not be recoverable, resulting in a negative return on investment.
- 5.4 Option 3 – Progress a Community Asset Transfer with TPO / WMHBT. Based on the information provided this would not be a viable option due to the potential level of ongoing financial liability for the Council, timeframes involved, and associated risks with project delivery.
- 5.5 The option to de-list the property has been explored, in order to enable a wider range of development proposals to be considered. However, after reviewing the de-listing application guidance, as provided by Historic England, the property still meets the statutory criteria and general principles that the Secretary of State applies when deciding whether a building is of special architectural or historic interest. It should therefore be added to the list of buildings compiled under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is therefore advised that any such application would be unsuccessful and therefore does not provide a viable option.

6 Consultation

- 6.1 As part of this exercise, consultation has been undertaken with Ward Councillors representing each of the wards, namely Abbey, Bristnall and Smethwick that collectively cover the wider Smethwick area.
- 6.2 As part of this consultation, a number of queries have been raised which have been summarised in Table 1 below, along with a response to each, detailing what mechanisms are, or will be, in place to ensure any risk to the Council, the property and the wider Smethwick community are mitigated both now and moving forward.

Table 1: Consultation Queries and Associated Mitigation



<p>Should an open market disposal be progressed, what mechanisms are in place to ensure any proposed development to the property takes place within a suitable timeframe?</p>	<p>If an open market disposal is progressed, the Council will enter into a development agreement as part of the sale that will dictate a timeframe that the proposed development of the property must take place within based on the proposal provided by the purchaser. These timeframes will be established with the Council as part of required due diligence prior to the completion of the sale. This will also include a reasonable contingency to</p>
	<p>allow for any unforeseen matters but will afford the Council a legal mechanism to ensure the property is brought back into use within a suitable period.</p>
<p>Should the proposed development to the property not be undertaken within an established timeframe, what measures are available to the Council to safeguard the future of the property?</p>	<p>If an open market disposal is progressed the Council will insert appropriate legal mechanisms within the sale to mitigate against the risk of the proposed development not taking place within the required timeframe as established. A right of pre-emption will be included in the Transfer that will allow the Council to re-acquire the property at purchase cost originally paid by the purchaser should the development not be undertaken within the prescribed timeline range. This will safeguard that any potential purchaser brings the asset back into operational use within the community, supported by appropriate legal mechanisms.</p>



<p>Should an open market disposal be progressed, what mechanisms are in place to ensure the Council have control over the type of any development to the property post sale?</p>	<p>If an open market disposal is progressed, the Council can insert appropriate restrictive covenants as part of the Transfer that will allow any future use of the property to be restricted; the council as beneficiary of this covenant will have the security that any other alternative use is subject to the Councils consent and premium payment where applicable. In addition, any change of use would require Planning Permission that would be required to be obtained by the purchaser through the appropriate processes. It must however be noted that the property was, during Council ownership, utilised in part as a residential premises and as such this may be a consideration for use in part again moving forward as part of any development proposal.</p>
<p>Should an open market disposal be progressed, what mechanisms are in place to ensure the Council receive</p>	<p>The Council under s123 of the Local Government Act 1972 have a fiduciary duty to ensure that all disposals of public assets achieve</p>



<p>value for money in terms of the disposal value?</p>	<p>best consideration, being that which can be reasonably obtained. An independent valuation of the asset has been undertaken which has provided a comparable value range for an asset nature. All offers received would be benchmarked against this along with supporting information to ensure that best consideration is achieved taking into consideration not only any capital receipt, but also any ongoing financial support required from the Council, conditionality of offer and any wider benefits to be realised by the wider public. In addition, appropriate restrictions will be placed on the disposal that require the purchaser to seek Council consent should they wish to dispose of the property in part or whole in future which can be extended to include an overage clause. This will allow the Council to recover any additional land sale value, in full or part, above that which the purchaser originally paid, further ensuring the Council continue to receive best value post sale completion.</p>
<p>What can be done to minimise any risk to the property in terms of ASB and vandalism both now and in future?</p>	<p>The property is currently secured and managed by the Council's procured security contractor with CCTV installed and regular mobile visit undertaken. Any potential party acquiring the property would be required to arrange their own security measures, however a minimum standard would be advised which would be in the interest of the acquiring party to protect their investment accordingly.</p>
<p>As an alternative, can the Council not retain the property and invest into the same?</p>	<p>As detailed in the main body of this report, the Council have established corporate budgets savings targets to deliver from its asset base of £1.6million during 2024/25 and £2.5million in 2025/26. With no operational use identified, the asset represents a significant liability on</p>



	Council resources in its current form as a void asset. Due to these reasons as stated, the Council cannot consider retention of the asset if it is to meet its agreed budget savings targets.
What is the difference between a Community Asset Transfer and a freehold disposal?	A Community Asset Transfer or CAT is essentially the long-term leasehold disposal of an asset to an organisation that meets a defined set of criteria. The Council will remain as the freehold owner with the asset returning to them at lease expiration. A freehold disposal by contrast is where a purchaser acquires the freehold title of the property from the Council and at the point of completion also incurs also associated liabilities. The only connection the Council will retain with the property is via any restrictive covenants / development agreements / pre-emption rights / overage clauses etc that have been inserted as part of the sale.

7 Implications

Resources:	<p>The Council needs to deliver £2.5m of recurring savings by 2025/2026 from its asset base and to transform the way it uses its assets. The recommendations in this report will support delivery of asset rationalisation, ensuring the Council can continue to operate effective delivery of its services.</p> <p>The Council is currently incurring holding costs for the property of up to £7,500 per month dependent on the level of security deployed. This will continue to be incurred each month while the property remains in the Council ownership and management.</p> <p>There is no dedicated budget allocated for the property as it is included as part of the wider PMA</p>
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	<p>supporting the maintenance of all the Council's corporate property portfolio, and therefore expenditure incurred on this property reduces the value of PMA budget available to support the remainder of the council's estate.</p> <p>An indicative range for capital value is £100,000 to £400,000, based on comparable evidence for properties with similar characteristics.</p>
Legal and Governance:	<p>The Council will require appropriate authority to be obtained in line with the Sale of Land and Buildings Protocol alongside the Assistant Director – Legal and Assurance being authorised to enter or execute under seal where necessary any legal documentation in connection to the granting of a lease or undertaking of a freehold disposal as required.</p>
Risk:	<p>Option 1 – advertise on the open market</p> <ul style="list-style-type: none"> • Compliance with Financial Regulations for the sale of Council building and assets protocol <p>Option 2– Auction</p> <ul style="list-style-type: none"> • Compliance with Financial Regulations for the sale of Council building and assets protocol • Limited control over disposal terms and future development <p>All options</p> <ul style="list-style-type: none"> • Security of vacant site • Ongoing health and safety concerns • Delays with planning
Equality:	<p>The continued review of the Council's asset portfolio and any associated rationalisation will ensure all vulnerable groups such as those with mental health issues & disabilities are considered and appropriate facilities are continued to be provided across the borough in a more targeted manner.</p> <p>All open market offers would be assessed and evaluated to ensure any future development for the property meets the needs of the community and all users</p>



Health and Wellbeing:	The disposal and redevelopment of the property will offer a range of health and wellbeing benefits alongside supporting delivery of the Regeneration Pipeline through improving and developing assets and places for people to go.
Social Value:	The repurposing and regeneration of the Boroughs assets will ensure that they serve as a key driver of the Boroughs economy and will create more employment, education and training opportunities for the residents of Sandwell.
Climate Change:	Adapting and reusing the building will contribute to reducing the Borough's carbon emissions and will help to meet the targets set out in the Council Climate Change Strategy.
Corporate Parenting:	No impact for corporate parenting.

8. Appendices

8.1 TPO business plan report and feasibility report

8.2 Condition Survey and Cost Summary

8.3 TPO Business Plan Summary and WMBHT Supporting Brief

9. Background Papers

9.1 Cabinet report 15 March 2023 - The Future Use of Smethwick Swimming Centre

