

# WIRRAL COUNCIL

## CABINET

7 NOVEMBER 2013

<b>SUBJECT:</b>	<b><i>BYRNE AVENUE RECREATION CENTRE, BYRNE AVENUE, ROCK FERRY.</i></b>
<b>WARD/S AFFECTED:</b>	<b><i>ROCK FERRY</i></b>
<b>REPORT OF:</b>	<b><i>HEAD OF UNIVERSAL &amp; INFRASTRUCTURE SERVICES</i></b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b><i>COUNCILLOR ADRIAN JONES</i></b>
<b>KEY DECISION?</b>	<b><i>YES</i></b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to advise Members of the present position in respect of Byrne Avenue Recreation Centre, seek authority to take possession of the building from The Byrne Avenue Community Trust, declare the property surplus and progress with the disposal of the property.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 At its meeting on 14<sup>th</sup> April 2011, Cabinet resolved that:-

(1) The Byrne Avenue Recreation Centre is transferred to the Byrne Avenue Community Trust, by way of lease;

(2) The Director of Law, HR and Asset Management in consultation with the Portfolio Holder for Corporate Resources agree the terms and conditions of the lease;

(3) The Director of Law, HR and Asset Management be authorised to complete the necessary legal documentation and

(4) In the event of appropriate terms of lease not being agreed, or the necessary funding not being obtained, the matter be reported back to Cabinet.

- 2.2 Cabinet on 4<sup>th</sup> November 2010 requested that £350,000 from the Community Fund be allocated to support the Community Asset Transfer of Byrne Avenue with the sum being made available only when the total funding package is confirmed and the group's business plan agreed.

- 2.3 Byrne Avenue Community Trust (BACT) completed the 99 year lease on the 10<sup>th</sup> February 2012. Under the terms of the lease BACT had twelve months (by 10<sup>th</sup> February 2013) to secure all funding to complete the refurbishment which BACT estimated at £700,000. To date, BACT has secured £35,000 from the Morgan Foundation, £35,000 from the Johnson Foundation and £500 from Unite Wirral 9515 Branch (total £70,500) leaving a shortfall of £279,500 on their original estimates. BACT were unsuccessful in bids to Sport England and Reaching Communities and attached in

Appendix 2 is a list of the funding applied for. BACT were also required to submit a business plan to the Council for approval in respect of the operation of the swimming baths and community building from Byrne Avenue Recreation Centre prior to 10<sup>th</sup> February 2013. The Business Plan has not been received.

2.4 The lease included a clause that terminated the lease on 12<sup>th</sup> February 2013 if the conditions of the lease were not met.

2.5 In March 2013 BACT summarised their options which are set out below:

1) Continue to fundraise for the £279,500 which would take another 12 months.

2) Call it a day and hand back to Wirral Council.

3) Undertake the refurbishment in two phases

Phase 1 - Swimming pool, changing facilities, balcony, boilers and reception estimated at £450,000

Phase 2 - Refurbishment of the sports hall, changing facilities estimated at £250,000.

BACT is requesting that Wirral Council allocate £350,000 into phase 1, matched against £70,500 BACT have already secured, plus another £30,000 BACT anticipate they can raise. The estimated timescale is that the work on phase 1 could commence in Autumn 2013. Option 2 is not a route BACT would wish to take and option 3 is their favoured option.

### **3.0 SUMMARY OF POSITION**

3.1 BACT has been unsuccessful in securing funding to completely refurbish the building. Their proposal to carry out the work in two phases, using the Community Fund £350,000 for phase one, gives no assurances that the funds for phase two will be secured. In the absence of a Business Plan, any phased development would be difficult to support as Phase 1 will see the refurbishing the pool which is commonly the loss-making activity in a Sports Centre and would need to be supported by more profitable dry activities.

3.2 The building could therefore remain partly refurbished indefinitely. The lease was subject to the condition that BACT would secure all the funding within twelve months of signing the lease and the building would be completely refurbished prior to opening.

3.3 The deadline for securing the funding and submitting the business plan in the lease was 10<sup>th</sup> February 2013 and therefore the lease has ended.

3.4 The Council's Disposal Policy sets out the procedure for the disposal of surplus assets. The sale could proceed on the open market with the existing building or a cleared site.

3.5 A sale of the existing building would remove all liability from the Council and there would be no delay in marketing the building. The market will determine whether the building is refurbished and reused or demolished and the site redeveloped. The risk is that, on disposal, the Council would have no further control over the building which could be left vacant and unused by the purchaser and therefore may become vandalised and detrimental to the surrounding area.

- 3.6 A sale of the cleared site would require the demolition of the building. Demolition costs, including a type 3 asbestos survey, are estimated at £160,000. There is no budget identified to meet this expenditure. This option would ensure the building is not left empty for a long period but would remove the possibility of the building being reutilised.
- 3.7 Any delay in disposing of the building will result in additional empty property costs.

#### **4.0 RELEVANT RISKS**

4.2 As summary above.

4.1 When possession of the building is taken the Council will be responsible for the costs of holding the asset including any liability in respect of potential insurance claims. These could be mitigated by an early sale and / or by the demolition of the building.

#### **5.0 OTHER OPTIONS CONSIDERED**

5.1 Proceed with the Community Asset Transfer of the building by

- Extending time period on the offer of £350,000 from the Community Fund
- Extending the deadline for securing the full funding or
- Agreeing for the work to be carried out in two phases.

These options do not guarantee that the remaining funding will be secured and the building could be partly refurbished using the Community Fund which would not be an acceptable option and would require a new lease.

#### **6.0 CONSULTATION**

6.1 As part of the process of compiling its business plan, BACT has consulted potential customers and other user groups who might use the facility if it was reopened following refurbishment.

#### **7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

7.1 The building was previously run by a voluntary group, which was unable to continue to operate the premises as a swimming pool. The building was advertised for Community Asset Transfer (CAT) in accordance with the Council's CAT policy and BACT were the preferred bidder.

#### **8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

8.1 The works identified to refurbish the Centre are estimated by BACT at £700,000. BACT has secured £70,500 and with the Council / Community Fund contribution of £350,000 leaves a shortfall of £279,500 to fund the works.

8.2 The £350,000 earmarked from the Community Fund will be re-allocated to support other Community Asset Transfer activities in accordance with the conditions of the allocation from the Fund which is administered by Magenta Living (Wirral Partnership Homes).

- 8.3 The sale of the building would generate a capital receipt. If the site was cleared then this would incur demolition costs of approximately £160,000, for which no funding has been identified but could be considered for inclusion in the Capital Programme.
- 8.4 The annual costs incurred by the Council in maintaining this vacant building prior to the lease being completed were approximately £23,000 including business rates, electricity, insurance, rental of temporary fencing around the pool, security and boarding up.
- 8.5 Byrne Avenue Recreation Centre was originally leased to Byrne Avenue Recreational Trust on a 30 year lease from 1995 but ceased trading in 2009. The building has remained closed since 2009.

## **9.0 LEGAL IMPLICATIONS**

- 9.1 BACT will need to be advised the Council require possession of the building as the lease has ended and be asked to remove the entry of the lease from the registered title.

## **10.0 EQUALITIES IMPLICATIONS**

- 10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

## **11.0 CARBON REDUCTION IMPLICATIONS**

- 11.1 The building is currently vacant. The carbon emissions are 4.723 tonnes.

## **12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

- 12.1 Planning permission would not be required to re-commission the building as a swimming pool and sports centre. Planning consent would, however, be required for the redevelopment of the site.
- 12.2 The site is located in a Primarily Residential Area where new housing development could be permitted subject to compliance with Policy HS4 in the Wirral Unitary Development Plan, which contains criteria to address design and amenity.
- 12.3 Paragraph 74 of the National Planning Policy Framework however states that existing open space, sports and recreational buildings should not be built on unless an assessment has been undertaken which has clearly shown the asset to be surplus to requirements or the asset would be replaced by equivalent or better provision in terms of quality or quantity in a suitable location or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.
- 12.4 Unitary Development Plan Policy REC1 also safeguards existing facilities of Borough wide importance for sport.
- 12.5 Policy CS31 of the Proposed Submission Draft Core Strategy, which was approved by Council on 15 October 2012 (Item 51 refers) as a material consideration in future

planning decisions, states that land and buildings used for sport and recreation will be protected from incompatible development unless it can be demonstrated that the site is genuinely surplus and not required for any other recreational purpose, supported by evidence of continuous marketing or that the facility will be replaced with an equivalent or better facility capable of serving the same local community.

### **13.0 RECOMMENDATION/S**

13.1 That possession of Byrne Avenue Recreation Centre is taken from Byrne Avenue Community Trust as the lease has ended on 10th February 2013 as the Trust has been unsuccessful in securing the necessary funds for the refurbishment.

13.2 That the grant of £350,000 from the Community Fund be withdrawn and re-allocated to support other Community Asset Transfer activities.

13.3 That the asset be declared surplus and authority be given to its disposal in accordance with the Council's disposal policy.

13.4 In the event that the asset is to be sold on the open market the existing building be sold by auction.

### **14.0 REASON/S FOR RECOMMENDATION/S**

14.1 To make the best use of the council's property assets and to seek authority to a disposal of the building by auction.

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### **APPENDICES**

- 1) Location plan.
- 2) Byrne Avenue Community Trust, List of Funding Applied for.

### **REFERENCE MATERIAL**

No reference material has been used in the preparation of this report.

### **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Cabinet</b>	<b>14<sup>th</sup> April 2011</b>
<b>Cabinet</b>	<b>2<sup>nd</sup> September 2010</b>