



NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Cabinet
2 October 2024

Appendix B and C - Not for publication pursuant to Regulation 5(2) & (5) of Statutory Instrument 2001 No. 2290 and Paragraph 14 of Part 4 of Schedule 12A to the Local Government Act 1972. Pursuant also to Paragraph 21 of the Schedule, and in all the circumstances of the case, the public interest in maintaining the exemption is considered to outweigh the public interest in disclosing the information.

Report of Director of Education, Leisure & Lifelong learning

Matter For Decision.

Wards Affected:

All wards

Report Title

Future provision of Indoor Leisure Services

Purpose of the Report:

To provide an overview to members of the progress of ongoing discussions with Celtic Leisure ("Celtic Leisure") following a determination by members to enter into dialogue for an extension of the Neath Port Talbot Council's ("the Council") contract dated 14th April 2016 ("the Contract") and to determine whether to now pursue an extension.

Executive summary:

This report sets out three options for members to consider in relation to the future operation of the indoor leisure services.

Whilst there are many positive reasons for choosing to insource the service, the costs related in doing so are significant and in the current financial and funding climate and will inevitably lead to cuts within the service and across the wider Council. Option 2,

represents the best value for money and would see the extension of the Celtic Leisure Contract for a period of 5 years with the staff retained on their existing terms and conditions. This has been provisionally negotiated with Celtic Leisure on the basis it mitigates many of the issues of previous concern. In particular this makes provision for inflationary costs, provides a regular staff pay award, creates an investment fund designed to improve services and drive income, and provides protection against inflationary pressures for utilities and similar costs.

Trade Unions have been fully engaged through a working group process and have put forward an alternative option (3) which, they would contend, is more favourable than the insourcing option. However, it would still add considerable costs for the Council

The Education, Skills and Wellbeing Scrutiny Committee met on the 12th September 2024 to consider this report. However, following this meeting, further clarification was provided by Trade Unions on the details their proposal in respect of Option 3.

Background

In Spring 2022, the Council took the decision to bring the indoor leisure services back in house.

Immediately after the decision was made a series of working groups were set up to work towards a transfer. The groups were focussed on ensuring a safe transition for customers and staff and on trying to drive down the costs of transferring which were previously reported as £1.5m a year.

With increasing pressure on the Council's budget, especially with inflation running into double figures and the Welsh Government's settlement far below the level of inflation the implementation date was delayed by 12 months to 1st April 2024 in the hope the financial climate would have settled down. As members will be well aware, the financial picture continued to worsen and subsequently the implementation date was moved back again to 1st April 2025 which coincided with the end of the Contract. The decision to further delay the transfer in 2024/25 was based on trying to safeguard jobs and public services within the Council and across Celtic Leisure.

On the 16th January 2024, senior Council officers and members met with the Celtic Leisure staff at the request of the trade unions to communicate the intention not to insource from April 2024. At that meeting the trade unions asked for (and it was agreed) a working group be set up to further review the financial pressures and guide the future strategy.

The Contract contains a provision that, should the Council and Celtic Leisure agree, it can be extended for a period of five calendar years from the 1st April 2025 and on 18th March 2024, Cabinet resolved to agree the issue of a formal contract notice to Celtic Leisure Limited in respect of a possible extension of the term to ensure that all options can be considered by elected members going forward. Celtic Leisure subsequently

indicated their willingness to enter those discussions but only on the basis of an extension period of the full 5 years.

Throughout the year a working group has been meeting with representatives from the Council, Celtic Leisure and Trade Unions to examine all the options available and provide challenge on the issues surrounding the insourcing.

The agreed aim of the group was to “*provide a safe working space for the Unions, NPT Council and Celtic Leisure to understand discuss and challenge issues regarding proposed transfer of the Celtic Leisure contract back to the Council*”.

At the initial meeting all parties agreed there must be a clear way forward developed to allow enough time to affect a smooth transition into the Council should that be the agreed way forward and provide the Celtic Leisure staff with certainty after a long period of instability. Everyone expressed a desire to safeguard jobs and continue to improve the standard of the services.

The working group challenged the costs of insourcing, particularly the pension and weekend working estimates. These were both reworked with the group accepting the methodology. The pension costs were reduced by approximately 10% but with 213 staff in the NEST pension scheme compared to 78 in the Local Government Pension scheme the employers' contributions of circa 22.4% mean the additional associated costs are still very considerable, standing at £832k.

The group also looked at weekend working enhancements and particularly if there is any flexibility and whether this should be offered across Celtic Leisure for all staff or just permanent employees. After detailed analysis the financial savings from both of these were negligible and would be at risk of being in breach of legislation and policy, with the creation of a two-tier workforce. The working group also looked at the salaries of staff working across similar leisure providers in South Wales and found these were broadly comparable to what Celtic Leisure are currently offering.

Trade Unions have subsequently recognised that insourcing is unaffordable (due to factors such as business rate liability) but have requested a number of conditions updated in the correspondence received from the Unions on 19th September. A summary of how this works financially is presented in Appendix B.

With the Contract ending on 31st March 2025 a determination must now be made as to whether the Council wishes to formally extend the Contract with Celtic Leisure.

Members have three options open to them:

- (1) Proceed with the insourcing of Celtic Leisure from 1st April 2025; or
- (2) Agree a five-year extension of the Contract with Celtic Leisure from 1st April 2025 with the current staff terms and conditions; or
- (3) Agree a five-year extension of the Contract with Celtic Leisure from 1st April 2025 with additional funding to facilitate the revised staff terms and conditions as per

the request from Trade Unions should the Celtic Leisure board be minded to agree.

Option 1: Proceed with the insourcing of Celtic Leisure from 1st April 2025

The proposed insourcing of Celtic Leisure would be subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) meaning they would transfer under their existing terms and conditions. Under TUPE the better pension scheme must be offered to all employees. This would inevitably be financially advantageous for the current Celtic Leisure staff.

As a charity Celtic Leisure gain from relief on Non-Domestic Rates (NNDR) which the Council would not benefit from, however some VAT changes and the loss of the senior officer's post would achieve approximately £400k of efficiencies. The financial impacts are detailed later in this report.

Insourcing could make the leisure offer across Neath Port Talbot more coherent and possibly lead to a number of advantages in closer working across Council departments. These are likely to have minimal financial impact with no quantifiable savings having been identified.

The high costs of insourcing are fixed and will remain however hard the business is driven. With the current severe pressure on the Council budget there is a very real risk that insourcing would directly lead to job losses across the Council and from the Celtic Leisure cohort, with potential reductions to the indoor leisure service having to be made.

Option 2: Agree a five-year extension of the Contract with Celtic Leisure from 1st April 2025 with the current terms and conditions.

In order to agree a five-year extension of the Contract with Celtic Leisure a formal deed of variation and extension will be entered into, which will include an extension to all lease agreements for facilities operated by Celtic Leisure. All of this is currently stipulated under the Contract if an extension is to be pursued.

Following detailed discussions with Celtic Leisure the principles as outlined in Appendix A are being proposed. These principles deliver on some of the concerns around the current contract terms, notably the lack of provision for an annual pay award, allowances for inflation, and an allowance for the volatility in the utility markets, all of which have contributed significantly to the previous concerns about the viability of Celtic Leisure.

The intention will be to agree the management fee by 30 November each year ready for the following financial year. This gives Celtic Leisure certainty it will be solvent and able to trade effectively while ensuring allowances are made for some of the costs relating to the business.

Within the boundaries of the Contract the proposed principles will set the tone for more of a partnership approach where the Council shares the risk but also benefits from

investment and increased trade. The proposal also delivers a contribution to the Council's Medium-Term Financial Plan targets for 2025/26 which is consistent with what is being asked across other Council service areas.

A fundamental part of the proposal is the creation of an investment fund, which would be used to improve the offer, drive income up and reduce costs. It is proposed the permanent CEO, once appointed, would present to the Council an investment/business plan for the use of this fund within six months.

This option is by far the most financially advantageous of those being presented, however is likely to still be more expensive than outsourcing via a new procurement exercise, which would not be possible within the required timescale. It protects the jobs of those in Celtic Leisure provides some certainty for the staff, ensures the financial sustainability of the company and applies the principles being used to develop the Medium-Term Financial Plan across Council departments to Celtic leisure.

Option 3: Agree a five-year extension of the Contract with Celtic Leisure from 1st April 2025 with additional funding to facilitate the revised staff terms and conditions as per the request from Trade Unions should the Celtic Leisure board be minded to agree.

This option provides some of the benefits of option 2 but increases staff pay and gives access to the Local Government Pension Scheme.

On the 19th September, Unison submitted some further clarification, which is detailed below, along with a short narrative of response.

- *All contracted Celtic Leisure Staff be placed on NJC Pay lowest pay scales for grade from 1st April 2025 funded by NPTCBC subsidy including Celtic Leisure profits supported by the new revamped board members.*
 - The staff are employed by Celtic Leisure. Any decision therefore to transfer staff to NJC Pay lowest pay scales is a decision for Celtic Leisure and not the Council. The costs of placing all Celtic Leisure staff on the equivalent grades is £188k in the first year rising to £447k once all staff have moved to the top of the grade. The only way of funding this, at least initially, would be through increasing the management fee. The suggestion to limit increases to the bottom of the grade would require a fundamental change to the staff terms and conditions, which is a decision for Celtic Leisure.

- *NPTCBC to reduce management fee by less than stated in year 1 to cover increased staffing costs*

- This would in fact mean increasing the management fee, and in turn the burden on the council taxpayer by £188k in the first year, rising to £447k a year over the life of the contract.

- *All contracted Celtic Leisure Staff continued to be on NJC Pay scales year 2,3,4,5 of Celtic contract funded by Celtic Leisure Profits supported by NPTCBC also Board Members.*
 - The full financial impact of £447k has been shown in Appendix B.

- *Commitment from NPTCBC and new revamped Celtic Leisure Board Members to work towards staff-by-staff basis placing permanent staff member on the LGPS if requested and criteria is met.*
 - The staff are employed by Celtic Leisure. Any decision therefore to work towards transfer is a decision for Celtic Leisure and not the Council. The full costs of this proposal (£832k) assumes all staff transfer to the LGPS scheme and is shown in Appendix B.

- *Revamped Celtic Board made up of likeminded members committed to making the company the best with NPTCBC taking up their allocation of places also spaces for Trade Union leaders.*
 - Celtic Leisure is an independent company, and this is a decision for the Celtic Leisure Board. However, advice has been provided to members previously about taking up appointments to the boards of companies or charities on behalf of the Council and it would not be advocated that members take up seats in this regard, so any management of the arrangement be via the contractual arrangements.

- *Within five years Celtic Leisure in a place where they can stand on their own feet without subsidy also taking over other Leisure Contracts.*
 - The aspiration for Celtic Leisure to be run efficiently reduce the cost to the tax payer is shared by all parties, however it is unrealistic to suggest it will not require a subsidy in future years. It should be noted that the Contract will expire in five years in any event.

- *Celtic Leisure to be fully funded the increased staffing cost from year 5 onwards with increased surplus /profits from business plan created in partnership with new Celtic Leisure Board, trade unions and NPTCBC.*
 - The current proposal is to extend the Celtic Leisure contract by an additional 5 years as the current Contract allows. Anything beyond five years is outside of the current proposals

- *Continue the Working Group to reduce running costs for example exploring possible, Service Level Agreements.*
 - There is no intention to continue the current working group, however all parties are committed to working together to ensure an efficient value for money service and to improve the staff terms and conditions if affordable.

- Work with the APSE report to reduce costs further.
 - The new CEO of Celtic Leisure will be responsible for producing a business plan that will in turn unlock the investment fund. Improving services and reducing costs will be the way to ensure the indoor leisure services are sustainable in the longer term

The aspiration for Celtic Leisure to be run efficiently and reduce the cost to the tax payer is shared by all parties, however it is unrealistic to suggest it will not require a subsidy in future years. Celtic Leisure is an independent company and must retain that independence in order to operate within the law. Many of the suggestions from the Unions are decisions the company board would have to make and are not something the Council is able to, or should, influence.

The latest Union's proposal reduces the costs with the removal of the weekend working enhancements and while the costs are slightly less than insourcing, they are £1.279m more expensive than option 2.

Financial Impacts:

With the predictions for the Welsh Government's financial settlement for the Council looking extremely challenging, each service area of the Council is currently being asked to assess what financial savings and efficiencies they can make for the 2025/26 financial year.

Adding significant costs for the indoor leisure services will add to the pressure on the revenue budget and will inevitably lead to greater cuts across the rest of the Council and

within the indoor leisure services themselves, this may include reduction in operating hours, reduction in staff levels or in some cases consideration to closure of some venues.

Appendix B details a summary of the three different financial options that have been considered.

To enable a full consideration of such matters, the following factors have been taken into account

- The subsidy for Pontardawe Pool which closed on 31st August on health and safety grounds, estimated to be £300k, has been removed from all options including the current in year costs.
- It is estimated that the costs of bringing all Celtic Leisure staff in line with Council terms and conditions is estimated to be in the region of £447k, for prudence the maximum valuation has been used in the calculations.
- Costs and savings related to implementing the principles in the table above have been applied equally to each of the options.

A narrative against each option is included below:

Option 1 – Bring the Indoor Leisure services back in house

This option adds £1.547m to the cost of running the indoor leisure services which will need to be funded by cuts either from within the service or from across the rest of the Council.

While this option is advantageous from a VAT perspective it adds considerable costs on Non-Domestic Rates, pensions and from bringing the Celtic Leisure staff onto the Council's terms and conditions.

Celtic leisure is currently benefiting from a favourable actuary assessment and therefore the additional pension costs are zero. If brought in house the actuary assessment would be made across the wider Council and there is a risk the pension costs would rise further. This cannot be quantified at this time and will be wholly dependent on a new actuary assessment being carried out.

Option 2: Agree a five-year extension of the Contract with Celtic Leisure from 1st April 2025 with the current terms and conditions.

This option does not provide the VAT efficiency of Option 1 but does reduce the Non-Domestic Rates bill.

Extending the Celtic Leisure contract by 5 years, in the view of officers, is clearly the most affordable option and offers the best value for money. The proposed contract adjustments as detailed in Appendix B will assist in addressing some of the concerns

previously raised by Trade Unions in that it makes provision for an annual pay award and addresses inflationary pressures.

This option will also provide an investment fund worth £1m over the 5 years of the contract to drive growth, make the business more sustainable and improve the offer to the public. Driving growth and tighter management of costs will help to ease the pressure on the Council's budget and at the same time reduce the council tax burden of this discretionary service.

This option provides a saving on the management fee against the current budget of £319k and has been built up using the principles described in Appendix B. The detailed financial model is presented in Appendix C.

Option 3: Agree a five-year extension of the Contract with Celtic Leisure from 1st April 2025 with additional funding to facilitate the revised staff terms and conditions as per the request from Trade Unions should the Celtic Leisure board be minded to agree.

This option does not provide the VAT efficiency of Option 1 but does reduce the Non Domestic Rates bill. However, it would still incur the pension costs, potentially up to the full amount for all eligible staff, whilst saving the weekend working and harmonisation costs of option 1. Option 3 would still increase the Council's costs by £959k which will need to be funded by cuts either from within the service or from across the rest of the Council.

Investment

A fundamental part of all the options presented is the creation of an investment fund, which would be used to improve the offer, drive income up and reduce costs. It is proposed the new CEO would present to the Council an investment/ business plan for the use of this fund within six months. It is vital for the sustainability of trading services that they benefit from regular investment and therefore an annual investment fund of £200k would be created to ensure the facilities are kept in good condition and can compete commercially.

Integrated Impact Assessment:

An integrated Impact Assessment (IIA) has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (no1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016. This is attached as Appendix D to this report. Members are advised to review this report and consider the same as part of decision making.

Valleys Communities Impacts:

There are no valley community impacts over and above any impacts to all indoor leisure provision in Neath Port Talbot.

Workforce Impacts:

There are no direct impacts to Council employees because of the recommendations included in this report.

It should be noted that any decision in respect of the terms and conditions of Celtic Leisure staff is not a decision for this Council and will be a decision of the board of Celtic Leisure. Any harmonisation of conditions is not something within the gift of the Council, even if financial resources were made available, it would be a determination of the Celtic Leisure board to determine how to utilise any funds.

Legal Impacts:

Pursuant to the Contract between the Council and Celtic Leisure and further to the provisions of paragraph 1.18 of Schedule 6, the Council may (in its sole discretion) serve a notice on Celtic Leisure at any time after 30th September 2023 and before 31st March 2024 seeking an extension of the Contract Period (as defined in the Contract) by no more than five years and such notice shall indicate the proposed length of the contract extension and the terms.

A decision was made by Cabinet on the 18th March 2024 to serve this notice. The notice indicated that, subject to contract, that a contract extension of no more than five years (from the 1st April 2025) be offered on the basis of the extension and termination provisions included in the conditions of contract. The proposed terms being the same terms of contract as per the current Contract with a tapering subsidy as costs reduce and income continues to improve.

The notice was not a commitment that the Council would enter into an extension but merely preserved the option of continuing the current arrangement with Celtic Leisure (permissible under the Contract) should the financial conditions be such that members determine that this is an option they wish to consider.

Pursuant to paragraph 1.19 of Schedule 6, Celtic Leisure had three months from the date of such notice to inform the Council by way of a counter notice whether it was interested in principle in agreeing to an extension and whether it agreed to the Council's proposed terms and shall so respond within such period. A notification of interest was received on 16th May 2024.

Following ongoing discussions, Celtic Leisure subsequently confirmed on 5th September 2024 on a without prejudice and subject to agreement that that they would be content to proceed with the proposed offer.

To achieve an extension to the Contract, a formal extension agreement and variation agreement will be required to be entered into. Such arrangements however will continue

to be in compliance with the Public Contract Regulations 2015 and the Procurement Act 2023.

Risk Management Impacts:

The financial risks of each option are clearly set out in other sections of this report. The greatest risks are to the Celtic Leisure and Council staff where cuts may be necessary should the additional costs of insourcing be incurred.

The proposed contract changes will help avoid the situation whereby Celtic Leisure get into financial difficulty but there is a risk the Council may have to shoulder a greater financial burden as the contract progresses, particularly if there is a repeat of the cost of living crisis. However, this is partly mitigated by the investment principles and the ambition to drive growth.

With the current Contract coming to an end there is no longer enough time to test the market and procure the services externally so there is a risk value of money is not fully demonstrated.

Over the past few years, particularly since the start of the pandemic the Councils efforts have focussed on ensuring Celtic Leisure remains trading and that the indoor leisure facilities remain open and available for the local residents and in doing so the contract requirements for regular performance monitoring have been paused. This will be reset if the option of a 5 year extension is agreed and the CEO will be required to bring forward regular performance updates.

Consultation:

There is no requirement for formal consultation for this report however the report references the ongoing discussions that have taken place between the Council, Celtic Leisure and Trade Union colleagues.

Scrutiny Observations:

This report and the recommendations thereof were scrutinised by committee on 12th September.

Members asked a number of questions around how the working group analysed the costs of insourcing and whether all options for financial efficiencies in relation to Option 1 have been pursued. Members also asked for clarity on the robustness of Celtic Leisure from both a senior management and board perspective and were keen to understand the financial position of the company. Some questions were asked about the proposed management fee and how that has been put together and points made on how that could change over the life of the proposed extension.

One member requested that the recommendations in the report are adjusted to include the Leader within the delegations.

The recommendation to agree to pursue Option 2 as presented in the report was supported by way of a majority vote of the committee.

Recommendations:

It is recommended that having due regard to the integrated impact assessment that:

- (a) Neath Port Talbot County Borough Council resolve to exercise the provisions of the contract between the Neath Port Talbot County Borough Council and Celtic Leisure Limited dated 16th April 2016 to extend the said contract for a period of five calendar years on the basis of the terms and conditions identified in option 2 of this report;
- (b) Delegated authority be granted to the Director of Education, Leisure and Lifelong Learning in consultation with the Leader and Cabinet Member for Nature, Tourism and Wellbeing to enter into an extension and variation to contract between the Neath Port Talbot County Borough Council and Celtic Leisure Limited dated 16th April 2016 to extend the said contract for a period of five calendar years on the basis of the terms and conditions identified in option 2 of this report;
- (c) Delegated authority be granted to the Director of Education, Leisure and Lifelong Learning in consultation with the Leader and Cabinet Member for Nature, Tourism and Wellbeing to enter into any documentation necessary to achieve the recommendations in paragraph (a) and (b); and
- (d) Delegated authority be granted to the Director of Environment and Regeneration in consultation with the Leader and Cabinet Member for Climate Change and Economic Growth to enter into an extension agreement and associated with the recommendation set out in paragraph (a).

Reasons for Proposed Decision:

To ensure the ongoing provision of indoor leisure services in accordance with the terms of the Contract and ensure that value for money to the Council.

Implementation of Decision:

This decision will be implemented following the conclusion of the three-day call in.

Appendices

Appendix A Summary of proposed principles of an extension

Appendix B Financial Summary (Exempt)

Appendix C Celtic Leisure management fee proposal (Exempt)
Appendix D Integrated Impact Screening Assessment

List of Background Papers:

18 March 2024 Cabinet report to seek authority for the formal contract notice to Celtic leisure.

1st February 2022 Cabinet report on the Future provision of Indoor Leisure services.

4 November 2021 Cabinet – Future delivery of Leisure Services

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