

**BIRMINGHAM CITY COUNCIL  
PUBLIC REPORT**

**Report to:**

**CABINET**

**Report of:**

**Corporate Director - Place**

**Date of Decision:**

**6 March 2018**

**SUBJECT:**

**MOSELEY ROAD BATHS**

**Key Decision: Yes**

**Relevant Forward Plan Ref: 004893/2018**

**If not in the Forward Plan:  
(please "X" box)**

**Chief Executive approved** ☐

**O&S Chair approved** ☐

**Relevant Cabinet Member(s)**

**Councillor Ian Ward, Leader**

**Relevant O&S Chair:**

**Councillor Zafar Iqbal, Economy, Skills and Transport**

**Wards affected:**

**Sparkbrook**

**1. Purpose of report:**

- 1.1 To inform Cabinet of the progress made on determining the future of Moseley Road Baths following the Cabinet decision made in June 2017 to continue to fund the operation of the Pool until April 2018.
- 1.2 To obtain approval for the Council to enter into a Licence to Operate with a Charitable Incorporated Organisation (CIO) to enable the commencement of a viable community swimming offer at the pool from April 2018.
- 1.3 To advise Cabinet of the need to continue discussions with a coalition of partners including The National Trust, Historic England, the World Monuments Fund, Moseley Road Baths CIO and the Friends of Moseley Road Baths on the future vision, business plan and funding opportunities that will ensure that the Grade II\* listed building can be fully reanimated in a sustainable way and brought back into full community use.

**2. Decision(s) recommended:**

That Cabinet:-

- 2.1 Approves the Council executing a Licence to Operate with Moseley Road Baths CIO for a period of three years commencing 1 April 2018 to ensure the continuation of a community swimming offer. During this term, the Council will retain maintenance responsibility and liability for the Baths.
- 2.2 Notes that a further report will be presented to Cabinet towards the end of the year which will set out clearly the next steps for the Baths. This will include a vision and business plan for the building and how it can be fully reanimated in a sustainable way; an outline of the interventions required and costs; and more detailed summary of potential funders and their initial responses to the project.
- 2.3 Approves the negotiation and settlement of the terms for the occupation of the premises being delegated to the Assistant Director of Property (Interim)

- 2.4 Authorises the City Solicitor then to prepare, negotiate, seal, execute and complete all legal documentation to give effect to the above recommendations.

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### 3. Consultation

#### 3.1 Internal

The Deputy Leader and local Ward Councillors for Sparkbrook and the neighbouring Ward of Moseley & Kings Heath have been kept informed on the issues relating to the Baths and consultation is ongoing.

Officers from Sport, Property, Finance and Conservation have had input into the contents of this report and agree with the decisions recommended.

City Finance, Procurement and Legal and Governance have been involved in the preparation of this report.

#### 3.2 External

The coalition partners – (the National Trust, Historic England, the World Monuments Fund, the Friends of Moseley Road Baths and Moseley Road Baths CIO) have been consulted on the contents of this report and on the future of the building.

### 4. Compliance Issues:

#### 4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

The recommended decisions within this report are aligned with the council's strategic approaches and corporate priorities. The City Council has adopted a Vision which sees a *whole Council focus to make a positive difference every day for citizens of Birmingham*. This is supported by four clear priorities which are linked with key drivers of change for its city and citizens, these being Children, Housing, Jobs & Skills and Health.

The continuing operation of Moseley Road Baths impacts positively on the Council's priorities of Children, Jobs & Skills and Health. It offers community swimming provision in the heart of Balsall Heath and a means of promoting an active lifestyle to local residents and school children. It can remain a credible (and potentially catalytic) component within a wider heritage corridor along the A435, stimulating confidence and allowing time to better explore future economic use. It is intended that the project will provide opportunities for skills development through volunteering, training and apprenticeships. The continued operation and future restoration of this internationally significant building will have a positive impact on the City's profile nationally and internationally with the potential to support the City's growing reputation as tourist destination.

#### 4.2 Financial Implications

##### (Will decisions be carried out within existing finance and Resources?)

- 4.2.1 The net operational costs of Moseley Pool are estimated at £0.4m for a full year (this includes expenditure of £0.5m for employees and operational costs and is offset by income of £0.1m). This facility was expected to be closed following the opening of Sparkhill Pool in June 2017 and one-off funding of £0.4m was allocated from the policy contingency in 2017/18 to enable the completion of an option appraisal for the future operation of the facility.
- 4.2.2 The operation of this facility on a license by a new Charitable Incorporated Organisation (CIO) will avoid the need for continued financial support and reduce the financial pressures on the Council. In order to facilitate the establishment of the new organisation, a sum of £0.1m has been set aside in the budget for 2018/19 to complete operational repairs and maintenance and to facilitate a match funding bid with The World Monuments Fund. Any further financial obligations beyond 2018/19 over the 3 year duration of the license will have to be funded within the Place Directorate or Community Sport approved budgets.
- 4.2.3 The 2018/19 budget will fund statutory and operational maintenance and invest-to-save/ conservation repairs. Of this budget £25k will serve as match funding to unlock a grant from the World Monuments Fund of 100k. Specialist skills and resources will be provided by the National Trust (to the value of 300k) who will lead the development of a conservation-led cyclical maintenance schedule for the building (not including the major capital repair project).
- 4.2.4 The long term financial sustainability of the CIO is a matter for it to manage as part of its on-going operations and Business Plan.
- 4.2.5 The City Council employees that are currently based at Moseley Pool are subject to a service re-organisation and will either be re-deployed elsewhere in the Community Sport service or may be offered the opportunity to leave the Council through voluntary redundancy. As a consequence, there are no TUPE implications or any consideration of future pensions liabilities.
- 4.2.6 In addition, the Council has recently received notification of a successful grant award of £0.659m from Historic England to restore the roof in the Gala Pool, for which match funding of £0.1m will be identified from the Place Directorate or Community Sport approved budgets. This capital project will be directly managed by the Council and may require further bids in the future to complete the project. This will allow this facility to be eventually removed from the Heritage at Risk Register.

#### 4.3 Legal Implications

Under section 19 of the Local Government Act (Miscellaneous Provisions) 1976, the Council has the power to provide such recreational facilities as it thinks fit in its area and under Section 111 of the Local Government Act 1972, the Council may do anything which is incidental to the discharge of any of its functions.

The requirements of the Data Protection Act 1998 and Human Rights Act 1998 have been taken into consideration in terms of the processing, management and sharing of data involved in these proposals.

The General Power of Competence under the Localism Act 2011, sections 1 to 8 also gives local authorities, “the power to do anything that individuals generally may do” as long as they do not break other laws.

#### 4.4 Public Sector Equality Duty

A copy of the Equality Act 2010 – Public Sector Duty statement and equality assessment screening including Moseley Road Pool can be found within the Leisure Transformation’s Cabinet Report of 16<sup>th</sup> December 2013.

### **5. Relevant background/chronology of key events:**

- 5.1 The Sports Transformation Plan Cabinet Report approved in December 2013 confirmed the closure of Moseley Road Pool when the new Sparkhill Pool opened. Sparkhill Pool opened to the public on 16<sup>th</sup> June 2017.
- 5.2 A further report to Cabinet in June 2017 approved the continued Council operation of the Pool until April 2018 at a cost of £0.4m funded from the Corporate Policy Contingency Budget. Of this, £0.1m was used as match funding to secure grant funding from Historic England for the repair of the Gala Pool roof which is due to begin in Spring.
- 5.3 Significant progress has been made since the previous Cabinet report (June 2017) and the resources being contributed by the coalition partners (see appendix 1) that act as ‘match’ for the Council’s ongoing commitment and support of the developing plans for the Baths, the principle being that at key stages during the project, coalition partners ‘jump together’ and commit resource to the next stage of work, setting up a strong principle of co-investment and collaboration which will be crucial in terms of leveraging the next stage of large funding amount as the project develops.
- 5.4 BCC Officers will continue to work closely with the National Trust and Historic England to develop a phased capital maintenance programme to ensure that the next phase of building and maintenance work can be undertaken efficiently and with a conservation-led approach where necessary. The procurement strategy for any professional services or subsequent works will be subject to further reporting in accordance with the Council’s Standing Orders and Procurement Governance Arrangements.

5.5 Extending the BCC-run swimming operation was to allow time for a 'coalition of the willing' (The Friends of MRB, MRB CIO, Historic England and the World Monuments Fund, led by the National Trust) to work together with Birmingham City council to develop an alternative future for the Baths, and for community organisations to form a Charitable Incorporated Company (CIO) backed by a business plan that would allow a swimming offer to be maintained at the Pool. The key touchstones of the project identified by the Coalition are:

- **Swimming** is the beating heart of MRB and will continue in at least one of the pools.
- **The cost of mothballing** the pool has been estimated at £5m. Any expenditure on the Baths needs to be judged against this 'default' expenditure which would deliver very little benefit.
- Full conservation restoration of the Baths would cost in excess of £30m, which is judged an unrealisable figure. Proposals for capital investment in the building should work on approx. half that figure and will thus require creative thinking and compromise. To guide this, a '**philosophy of repair**' will be developed, whereby some areas are just stabilised and others fully restored – but all within an overarching architectural vision developed in consultation with statutory agencies.
- Given the state of the building and the urgency around saving it all elements of this complex project have involved a '**twin-tracking**' **approach** combining urgent immediate actions (eg enabling the continuation of swimming in Pool 2) alongside a long term approach (developing a long term sustainable model for the whole building).
- Define and carry out **emergency triage** works to the building to begin to reverse the damage caused by previous work and to stabilise the building. This includes the creation of a building operating maintenance plan; a programme of conservation-led cyclical repairs; sourcing new contractors. Repairs to the Gala Pool roof will be the first major element, with architects appointed in February.
- **Bring spaces back into use as soon as possible** – even without full repair. Curate a programme of enterprise and activity to build a vibrant and sustainable business model for the whole building that will meet the needs of Balsall Heath and the city.
- **Work with people and in partnership** – local people, organisations, businesses, groups and swimmers. It is intended that volunteering and apprenticeships are an important part of the mix across all aspects of the projects, supporting **skills development** and engagement in the future of the Baths.
- Work with BCC to support a '**precinct**' **approach** to the A435 corridor, with the Baths acting as a 'trail blazer' for the area as the next zone beyond the HS2 Curzon / Digbeth zone.
- **Think creatively** to develop an economically sustainable business proposition, that delivers **public benefit** through the provision of swimming and conservation of the building itself, but that is not reliant on substantial, continual subsidy. Consider which organisation / vehicle is the best mode for the long term operation or 'stage management' of the building. Look at funding models and develop a **fundraising strategy** that includes grants, crowdfunding, philanthropy, social finance.

- Create an offer that meets the needs of the local community (particularly in relation to **health and wellbeing**) and appeals to a wider market across the city, and to the growing 'aquatic heritage tourism' market so that the Pool is a local, national and international **destination of choice**.
- Ensure the Baths are a star player in the cultural programme for Birmingham's **2022 Commonwealth Games** bid.

- 5.6 Moseley Road Baths CIO was formed in December 2017 and a business plan developed for the viable continuation of a community swimming programme at Moseley Road Pool, is attached at Appendix 2. In order for this to be achieved it is proposed that the Council enters into a License To Operate with Moseley Road Baths CIO.
- 5.7 Moseley Road Baths Charitable Incorporated Organisation is registered as Charity no. 1176432 since 21 Dec 2017 with the declared Charitable Objects 1) to promote community participation in healthy recreation by the provision of facilities for swimming and other aquatic sports. 2) such charitable purposes for the public benefit as are exclusively charitable according to the laws of England and Wales as the trustees may from time to time determine. It is taking over the operation of Moseley Road Baths on 1st April 2018 and will be responsible for the operation of the Baths for the provision of swimming and other activities.
- 5.8 A License To Operate is used in these circumstances to document the legal apparatus in which the Council and CIO want to operate, but in a form which is not a tenancy or a lease. It specifically grants the right to occupy and to operate a business but the right to occupy is not exclusive possession and will not provide security of tenure.

## **6. Evaluation of alternative option(s):**

- 6.1 The evaluation of alternative options were detailed in the Cabinet Report of June 2017 and included:
- 6.2 **Close & Make Safe** – This would be the cheapest option with £30k required for scaffold erection and ongoing annual costs of £25k for inspections to the scaffolding. However, just by boarding the building up with no guarantee of a future disposal will see the continued deterioration of the building and its historic features, increased risk of vandalism, detrimental impact on physical appearance of Moseley Road / Balsall Heath and the risk of creating a long term void given the complexity of the building and further escalating costs of bringing the building back into operation or back to a substantially restored state. This approach carries a significant reputational risk, as well as loss of support from the national and international conservation organisations involved in the coalition. The building would remain on Historic England's Heritage At Risk Register. Lost opportunity around the chance to change the future of this building and its potential as a catalyst for the local area.

- 6.3 **Mothball** – Whilst mothballing the pool decreases the speed of deterioration of the building the cost of this option is likely to be in excess of £5m (Rodney Melville & Partners Report 2012). This would include emergency repairs to the fabric of the building including structural repairs in order to delay deterioration, the erection of a semi-permanent roof structure and preparatory interventions. Under this option significant, vulnerable and fragile elements of the building could be protected, However, the risk of vandalism remains as does the detrimental impact on the physical appearance and regeneration of the area, and probability of finding new uses for the building. The building risks losing one of its key heritage and community significances – swimming. This approach would carry reputational risk and a significant lost opportunity to find a new way of turning a complex heritage problem into new opportunities by working in partnership.
- 6.4 **BCC continues to operate** – The Council would need to continue to fund the operation of the pool (circa £300K per annum) for which there is no budget agreed, and it would do little if anything to address and reverse the current poor condition of the building..

**7. Reasons for Decision(s):**

- 7.1 To seek authority to enter into a License to Operate to safeguard the continued swimming offer at Moseley Road Baths for the community of Balsall Heath.
- 7.2 The Council, as owner of Moseley Road Baths, has a duty of care to protect a Grade II\* listed building and the only Grade II\* pool still in operation as a public pool in the UK.
- 7.3. To allow further discussions between relevant partners to establish a long term viable plan for the future restoration and community use of the pool and pool building.

**Signatures**

**Date**

Cabinet Member

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Cllr Ian Ward, Leader

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Chief Officer

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Jacqui Kennedy, Corporate Director - Place

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**List of Background Documents used to compile this Report:**

Cabinet Report 27<sup>th</sup> June 2017, Options For The Future Of Moseley Road Pool  
National Trust Options Appraisal Final Report – Moseley Road Baths – September 2016

**List of Appendices accompanying this Report (if any):**

1. Diving in: A future for Moseley Road Baths
2. Moseley Road Baths CIO Business Plan
3. Moseley Road Baths Business Plan Executive Summary
4. Councillors Consultation

**Report Version**

**Dated**