

PERTH AND KINROSS COUNCIL

22 June 2022

RODNEY CENTRE: WITHDRAWAL OF GYM AND FITNESS SERVICES BY LIVE ACTIVE LEISURE

Report by Head of Culture & Communities Services
(Report No. 22/139)

1. PURPOSE

- 1.1 Following a Council motion passed on 9 March 2022, Council is asked to determine the future of gym and fitness services currently provided by Live Active Leisure (LAL) at Rodney Centre from 31 August 2022. Under the terms of the Service Level Agreement with LAL, the Council must give formal permission for the services to be provided from an alternative venue. The Council cannot unreasonably withhold such permission and this report summarises legal and wider considerations for elected members.

2. RECOMMENDATIONS

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| 2.1 | <p>It is recommended that Council:</p> <ul style="list-style-type: none">• approves permission for LAL to withdraw these services from 31 August 2022• notes alternative public service uses for Rodney Centre are being explored by officers and that a market valuation of the property is being undertaken <i>and</i>• requests officers to bring options for future use of the building for consideration by Property Sub Committee later in 2022 |
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3. STRUCTURE OF REPORT

- 3.1 This report is structured over the following sections:
- Section 4: Background
 - Section 5: Proposals
 - Section 6: Conclusion
 - Appendices

4. BACKGROUND

- 4.1 Since 2016, the Council has commissioned all culture and sport services, some of which were previously delivered in-house, from three Arm's Length External Organisations (ALEOS). These services are defined as 'Public Service Organisation Services', i.e. services for which the Council is accountable but may decide to contract via an ALEO or other third party to achieve Best Value. The Council's detailed duties with respect to ALEOS are summarised in **4.12**.
- 4.2 ALEOs are a delivery model often used by Councils given significant financial benefits, since as charitable bodies ALEOs do not pay business rates on the properties they occupy. For properties occupied by LAL including the Rodney Centre, this totals £979,000pa¹. Our ALEOs are constituted as sole member limited companies, with the Council as sole member. In practice this means the ALEO is a subsidiary of the Council and we are the underwriter if the ALEO fails. Equally, the ALEO must operate and be seen to operate independently of the Council, otherwise its charitable status and eligibility for business rates relief is compromised.
- 4.3 Rodney Centre is a Council property occupied by LAL and from which it operates gym and group fitness services. Rodney is centrally located in Perth with on-site car parking and 969 square metres footprint. Our most recent condition survey (2019) identified it as Satisfactory, but with £275,000 capital spend requirement mostly for mechanical and electrical upgrades as heating and electrical wiring are nearing end of life. Responsibility for maintenance sits with the Council although LAL has carried out some core maintenance and repairs over the years. Annual property costs are around £40,000pa. Business rates (from which LAL is exempt as stated in **4.2**) are around £26,572 pa.
- 4.4 There have been long standing discussions between LAL and the Council about the PH20 new leisure development at the Perth Leisure Pool/Dewars Centre site. As part of these it has been mutually understood that LAL would withdraw from Rodney in order to consolidate the sport and leisure offer at PH20 and Bell's and enabling economies of scale across the two sites. This is summarised in the Strategic and Outline Business Cases for PH20, as below. Elected members were briefed on the business case for PH20 as it was developed: in September 2019, February 2020, September 2021 and February 2022. Council approved the business case and a £90M capital investment for PH20 in February 2022.

¹ 2022/23 rates valuation

LAL owns and/or operates several key leisure facilities throughout Perth City Centre, principally Bell's Sports Centre, Perth Leisure Pool, Dewars Centre and Rodney Fitness Centre. There has been a long-term vision to consolidate some of these into two facilities: the Bell's Centre providing 'dry' sports activities and a redeveloped leisure facility on the existing Perth Leisure and Dewars Centre sites, providing integrated water, ice, bowling and fitness facilities. ²

- 4.5 Under the terms of the Service Level Agreement (SLA) between the Council and LAL, LAL must formally request permission to withdraw from a property where it is delivering services on behalf of the Council. This is defined in clause 2.3 of the SLA:

The Service Provider [LAL] shall be under an obligation (subject to clauses 8.3, to 8.10³ to supply the PSO⁴ Services from the Service Provider Properties, the Properties and any such properties added to the Property Portfolio and (subject to clauses 8.3 to 8.10) the Service Provider shall not be entitled to terminate the supply of PSO Services from any of such venues without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed).

- 4.6 Since 2019, LAL has been reviewing its wider business model in response to wider changes in the leisure market including increased private sector competition, increased running costs and declining usage/income as its major Perth venues including Perth Leisure Pool, Bell's Sports Centre and Dewars Centre continued to age. As part of this work LAL received funding from the Gannochy Trust for feasibility work on Bell's Sports Centre. Engagement was focused on how access to Bell's for wider community use and enjoyment, particularly by young people, could be enabled. Bell's is used for national events and competitions. These are good for the profile of Perth but they also restrict access to Bell's for the wider community during many weekends of the year. These events are not profitable for LAL and are not guaranteed annual income. In addition to a number of Council services and officers, LAL engaged with 36 stakeholders including:

- All local clubs which use Bell's
- All sports governing bodies for the sports which use Bell's
- Sportscotland
- Scottish Disability Sport
- NHS Tayside and NHS Adult Learning Disability Service
- YMCA
- Fun Young Individuals (care experienced young people)

² PH20 Strategic Outline Case September 2020 p. 15 and PH20 Outline Business Case Feb 2022, p.12

³ These clauses enable LAL to withdraw from a property in exceptional circumstances for example health and safety concerns presenting a danger to the public, staff and other users.

⁴ Public Service Organisation Services means services contracted by the Council to a 3rd party provider but for which the Council remains accountable

- 4.7 During 2020/21, LAL's financial pressures accelerated due to the Covid pandemic and major flood damage to Perth Leisure Pool (PLP). Elected members were briefed on the PLP situation and likely financial impact on LAL in autumn 2020. At this time, the financial position of the two ALEOs which generate significant commercial income, LAL and Horsecross Arts, was precarious. Whilst Horsecross was eligible for significant emergency funding from central government (just under £1M), similar funding for leisure Trusts was not available. LAL's revenue position was therefore closely monitored and reported quarterly to the Council's Strategic Policy & Resources Committee. By August 2021, when venues had re-opened on a restricted basis, LAL's income had fallen to around 30-35% of pre-Covid levels. The LAL Board made emergency provision of £600,000 in its reserves to deal with the ongoing impact of Covid.
- 4.8 On 26 August 2021, the LAL Board approved a recommendation from its officers to repurpose Bell's Sports Centre as its major gym/fitness centre by early 2022 and invest £750,000 for this purpose. In the Board's view, significant action was required to financially stabilise LAL and reposition its offer in light of Covid and growing local competition. It also considered findings from the 2019 feasibility work and the PH20 business case summarised in **4.4**, albeit Council funding for PH20 was not confirmed at that stage.
- 4.9 This decision would entail LAL withdrawing from Rodney by summer 2022 and relocating indoor playing courts from Bell's Coaching Ball to Bell's Arena with the following service changes:
- The LAL gym/fitness offer has been expanded and improved, enabling LAL to grow usage/income in an expanding market for these activities.
 - Indoor playing courts at Bell's will reduce from 23 to 17 and relocated to Bell's Arena with other indoor courts remaining available at North Inch and Glenearn Community Campuses.
 - National events will continue to be hosted at Bell's in the Arena. Where specialist flooring is required, this can be brought in by event organisers (as is already the case for many events).
- 4.10 Council Group Leaders were briefed on the LAL Board decision in November 2021 prior to a wider LAL staff and public announcement. Following the public announcement, LAL carried out further customer engagement to help shape the new gym/fitness offer at Bell's Sports Centre. This attracted just over 900 responses of which 24 were negative responses.
- 4.11 LAL presented the rationale for its plans to the Council's Scrutiny Committee on 28 November 2021. At Scrutiny Committee, LAL also stated its intention to carry out an options appraisal to see if an alternative leisure use for Rodney could be identified. This work was delayed to spring 2022 due to staff shortages in LAL. It is summarised in **5.2** and set out in full in **Appendix 1**. Until LAL had satisfied itself it could not find a viable long-term use for Rodney, it did not submit a formal request to the Council to withdraw services from the venue. This was received by Council officers on 5 May 2022.

5. PROPOSALS

- 5.1 The Council has two key statutory duties with regard to ALEOs. First, it must 'Follow the Public Pound' (FPP) and ensure what the ALEO delivers is aligned to the Council's wider strategic objectives; that customer insight and views are considered in service planning and delivery; and that financial sustainability and potential risks are properly managed. Second, the Council must achieve Best Value by ensuring the ALEO model is the most efficient, effective and economic way to deliver the services and that the ALEO is transparent and accountable in how it operates.
- 5.2 The Council uses the SLA to define the services and performance/quality standards it expects, and to meet its FPP and Best Value duties. Detailed service delivery and contract compliance is monitored by officers on a quarterly basis, by the Council's observer role on ALEO Boards and via attendance at Scrutiny and Performance Committee/other Council Committees as appropriate.
- 5.3 Under clause 2.3 of the SLA, LAL must formally request permission from the Council to withdraw a service/services from any property listed in the SLA, including Rodney. The SLA does not specify which services must be delivered from which venues. This is an operational matter for the ALEO.
- 5.4 The Council cannot:
- Direct LAL operationally. This risks losing LAL's charitable status and therefore business rates relief and other key benefits.
 - Within the terms of the SLA as summarised in **4.5**, unreasonably withhold or delay permission for LAL to withdraw services from a venue.
- 5.5 The redeveloped Bell's Sports Centre is on track for completion and due to open in mid-July 2022. LAL cannot afford to sustain gym/fitness services at both Bell's and Rodney long-term, and, in further discussion with Council officers, would wish to withdraw from Rodney by 31 August 2022. Its new operating model is predicated on economies of scale and business growth, to be achieved by consolidating and expanding gym/fitness under one roof, in line with the PH20 business case.
- 5.6 As stated in para **4.11**, LAL completed an options appraisal to try to find an alternative viable use for Rodney Centre This has been provided to the Council and is attached as **Appendix A**. In summary:
- 6 options were examined by LAL: a dedicated gymnastics centre, a bowls venue, providing Sports Hall overspill provision from Bell's Sports Centre, a soft play centre, a health/wellbeing venue and a martial arts centre.
 - Space constraints mean Rodney is unsuitable for gymnastics and bowls: particularly gymnastics which would reduce current provision by 25% if relocated to Rodney.
 - Sports halls provision is possible but limited also due to space constraints.

- A soft play centre would require upfront capital investment of around £300,000 which is unlikely to be recouped through income within a realistic timeframe given LAL's wider financial pressures.
- Centralising LAL's current health and wellbeing services at Rodney is unlikely to suit clients who need support in their own homes or residential care settings.
- Martial arts provision is possible but current demand is limited and met by 14 hours pw provision at North Inch Community Campus. It could potentially detract from small local private providers in the city centre.
- None of the options examined would grow LAL usage/income in any significant way (estimated maximum net income is around £4,500 pa) and one-off costs of between £1.5-£20,000 would be required.

5.7 The key business drivers for LAL are the need to achieve economies of scale and grow income in a challenging financial context. In assessing LAL's request to cease delivering a service from Rodney under clause 2.3 of the SLA the following considerations apply:

- LAL is not proposing to cease the service (gym/fitness) it delivers at Rodney. It will expand and continue to deliver gym and fitness services in Perth by relocating them to another city centre venue.
- Indoor court provision has been reduced at Bell's but remains at an adequate level alongside the many other services LAL is required to deliver under the SLA.
- As summarised in **4.6** LAL has engaged with a range of stakeholders including **Sportscotland** and relevant sports governing bodies which have raised no objections.
- LAL's withdrawal from Rodney has been discussed between the Council and LAL over a number of years with mutual understanding that LAL's withdrawal would be required in order to invest in PH20 and create strong consolidated sports facilities at PH20 and Bell's.
- Under the terms of the SLA, the Council cannot unreasonably withhold or delay permission for an ALEO to stop delivering a service from a venue listed in the SLA.

6. CONCLUSION

6.1 Council officers consider this request is reasonable under the terms of the SLA and there is no basis for rejecting the request. If approved, LAL will fully relocate its staff and equipment to Bell's by 31 August and liaise with PKC Property Services on handover.

6.2 If the Council does not approve this request there is a risk of:

- Dispute between LAL and the Council. This carries reputational and financial risk for both parties. Given the longevity of discussions about Rodney in the context of PH20 and given the challenging financial context for LAL, the reasonableness of the Council withholding permission arises.

- There are financial risks for LAL, and by extension the Council as sole member and underwriter, if LAL's plans to achieve efficiencies and grow usage/income are constrained by a decision of the Council.
- Council intervention in a business decision taken by the LAL Board may risk LAL's independent charitable status. This is because it may be viewed by the Office of the Scottish Charities Regulator (OSCR) as unreasonable intervention or direction to LAL. Loss of charitable status could incur loss of business rates relief/other key benefits associated with the ALEO model.

6.3 Rodney is potentially suitable for a number of other public service purposes and is likely to be attractive to various commercial parties if marketed, with a number of enquiries already being handled by Council officers.

6.4 Taking the considerations summarised in **5.1** and **5.3** into account, it is therefore recommended that the Council grants permission for LAL to withdraw services from Rodney by 31 August 2022. Alternative uses and marketing potential of the venue are now being examined. A report with options for alternative use for consideration by Property Sub Committee will be submitted later in 2022.

Author

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Approved

Name	Designation	Date
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APPENDICES

- Appendix 1 - options appraisal by Live Active Leisure on alternative leisure uses for Rodney Centre.

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan	
Corporate Plan	Y
Resource Implications	
Financial	Y
Workforce	
Asset Management (land, property, IST)	Y
Assessments	
Equality Impact Assessment	N
Strategic Environmental Assessment	N
Sustainability (community, economic, environmental)	N
Legal and Governance	Y
Risk	Y
Consultation	
Internal	Y
External	Y
Communication	
Communications Plan	N

1. Strategic Implications

Community Plan

1.1 This report contributes to the following objectives in the Community Plan:

- (iv) Supporting people to lead independent, healthy and active lives; and
- (v) Creating a safe and sustainable place for future generations.

Corporate Plan

1.2 This report contributes to the following objectives in the Corporate Plan:

- (iv) Supporting people to lead independent, healthy and active lives; and
- (v) Creating a safe and sustainable place for future generations.

2. Resource Implications

Financial

2.1 The Head of Corporate Finance has been consulted on this report with regard to 1) financial implications for Live Active Leisure and 2) business rates, maintenance and repair costs that would require to be met by the Council if the property is maintained long-term by the Council. Work is however

underway to assess the suitability of the property for alternative use by the Council or another public sector partner, and/or potential disposal.

Workforce

- 2.2 There are no workforce implications arising from this report.

Asset Management (land, property, IT)

- 2.3 The Executive Director (Communities), Head of Property Services and the Estates team have been consulted on this report and market appraisal/further options appraisal will be prepared for consideration by Property Sub Committee.

3. Assessments

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.

- 3.2 This section should reflect that the proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:

- (i) Assessed as **not relevant** for the purposes of EqIA

Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.4 No action is required as the Act does not apply to the matters presented in this report. This is because the Committee are requested to note the contents of the report only and the Committee are not being requested to approve, adopt or agree to an action or to set the framework for future decisions.

Sustainability

- 3.5 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. These proposals have been considered and assessed as not relevant to the Council's sustainability objectives.

Legal and Governance

- 3.6 The Head of Legal Services has been consulted on this report in respect of Council statutory duties relating to Following the Public Pound, Best Value and Arms Length External Organisations.

Risk

- 3.7 There are operational and financial risks to LAL if its plans to consolidate the sport/leisure offer in Perth city are not able to proceed on the basis of discussions to date with the Council and as summarised in the business case for PH20. There are reputational risks for the Council if a decision by the Council impacts LAL's ability to secure its financial sustainability. There are wider financial and reputational risks for the Council and LAL if the Council is seen to direct LAL in ways which affect its independent charitable status including business rates relief benefits of £979,000 pa.

4. Consultation

Internal

- 4.1 Internal consultation on this report is set out above.

External

- 4.2 The Chief Executive, Live Active Leisure has been consulted in the preparation of this report.

2. BACKGROUND PAPERS

- 2.1 There are no background papers to this report.