

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO CABINET**

Cabinet
08 September 2021

Report Title: Jubilee2 Update

Submitted by: Executive Director – Commercial Development and Economic Growth

Portfolios: Leisure, Culture & Heritage

Ward(s) affected: All Wards

Purpose of the Report

This report is aimed at providing an overview of the work undertaken by officers to develop and sustain the Council's Jubilee2 leisure facility, highlighting the formal governance arrangements during the construction process and the significant building issues faced post construction.

- 1. Since 2012 there have been a number long standing and or significant building defects that have had an adverse impact on the reputation of Jubilee2. It is therefore noted that since 2017 significant progress has been made to resolve some long standing building issues at Jubilee2**
- 2. That Officers of the Borough Council alongside Morgan Sindall complete the intrusive Building survey to identify any other unknown building defects that may cause future failures of the fabric of the building or failure of fixed electrical and mechanical plant or equipment prior to their normal life expectancy.**
- 3. Officers of the Borough Council alongside Morgan Sindall having completed the above survey establish and agree appropriate corrective actions where building defects are identified.**

Reasons

The Council made a significant capital investment in providing Jubilee2. Maintaining the facilities in a good condition protects this investment for the benefit of the health and wellbeing of residents of the Borough and is essential to support the commercial operation of Jubilee2 as well as the Council's cross-cutting objectives for its communities.

1. Background

- 1.1 Governance Arrangements:** The general project management of Jubilee2 was supported by the following tiered Structure between August 2009 and January 2012.
 - Tier 1 - Project Board: The project board was chaired by the leader of the Council and met on a quarterly basis. This group comprised of the Councils Executive management Team, Cabinet, Key Officers, who made key project decisions in relation to finances, design, significant variations to the project and the project time frame etc.
 - Tier 2 - Project Steering Group: This Group was chaired by the then Executive Director for Regeneration and Planning as the project director and met on a monthly basis. It

incorporated Senior Officers of the Council with the responsibility to drive the project forward. This group was supported by the external Project Manager GMG Associates who provided advice and guidance on key elements of the project to ensure that it was delivered on time and within budget, and supported recommendations made by the group to the project board.

- Tier 3 - Working Groups: Smaller working groups to focus on key areas of the project such as procurement, communications and funding applications, and making recommendations to the steering group.

1.2 **Design & Supporting Professional Services:** To support the design and development of Jubilee2 the following expert practices were engaged in accordance with the Council procurement procedures:

- William Saunders Architects: principal designer (Subsequently novated to Morgan Sindall);
- Furness Partnership: Structural Engineers (Subsequently Novated to Morgan Sindall);
- Silcock Dawson: Mechanical and Electrical Engineers;
- Sheerwater Consultancy: appointed as Pool Consultants;
- GMG Associates: appointed as Project Manager and Employers Agent;
- GMG Associates: appointed as Quantity Surveyor;
- Silcock Dawson: appointed as BREEAM Bespoke Consultants;
- RFS Consultancy: appointed as CDM Coordinator;
- Staffordshire County Council: delivered Section 278 Highways Works;
- Stoke-on-Trent City Council: delivered Building Control Services;

1.3 **Procurement of the Main Contractor:** Following a three stage OJEU compliant tender process (with the support of a number of the above professional services) Morgan Sindall (Construction) Limited were appointed to construct the Jubilee2 leisure facility in the summer of 2010 with an anticipated build programme of 18 months at a fee of circa £7,436,982. It should be noted that Morgan Sindall were appointed on a design and build contract and they assumed design responsibility for the construction of Jubilee2. A performance bond was agreed in November 2010 to a value of £743,000 (the final part of the bond/retention being repaid in February 2016 on the advice of the Council's Facilities Manager at that time). In essence it has been recognised that this was a poor decision and the retention monies should have been retained given the on-going problems with the building.

1.4 **Clerk of Works:** A clerk of works oversees the quality and safety of work on a construction site, making sure that building plans and specifications are being followed correctly. Duties include: performing regular inspections of the work on site and comparing completed work with drawings and specifications. It was recommended by the Council Officers that a Clerk of Works was not required in connection with the construction works, given that the Council's Facilities Manager (at the time) could undertake this role and liaise with GMG Associates as the Council's Employers Agent to address any issues that arose during the construction phases and these were to be addressed as part of the regular site meetings. GMG Associates were also responsible for verifying all contractors' invoices in their role as a Quantity Surveyor.

1.5 **Variations during Construction:** Any Variations to the J2 building works were administered by GMG Associates following liaison with specialist advisors and the Council as their client, these variations went through due process in accordance with the governance / contract requirements. Some examples of variations made to the original contract for Jubilee2 were the inclusion of a changing places room, the addition of solar panels on the roof, additional drainage in the aqua sauna and the addition of underfloor heating in the aqua sauna etc.

However it is unlikely that these variations led any of the significant building issues that were encountered at Jubilee2.

- 1.6 Throughout the construction period regular meeting took place with Morgan Sindall and the Borough Council, supported by their professional advisers.
- 1.7 Completion of Works: In December 2011 Jubilee2 reached practical completion with the Building being signed off in a satisfactory condition by GMG Associates acting in their Project Management / Employers Agent Role/s and in consultation with the Council's Facilities Management team.

2. Issues

- 2.1 **Building Defects:** Since 2012 Jubilee2 has been plagued by a number of significant one off or long standing building defects. In accordance with the JCT building contract Officers attempted to resolve these defects with Morgan Sindall. However it should be noted that until 2017, little progress was made to resolve some of these long standing defects and or work undertaken to identify any future building risks which may have an adverse impact on service delivery.
- 2.2 **Building Maintenance:** Following the handover of the Building to the Council in December 2011, the Council assumed responsibility for the up keep and maintenance of Jubilee2. This role became the responsibility of the Councils Facilities Management team under the direction of the then Executive Director for Regeneration and Planning. There were two aspects of this a) to ensure that planned preventative maintenance contracts were put in place and b) to identify any defects/latent defects post completion whilst the was still under warranty until December 2023 under the terms of the JCT contract. Where defects were identified these were to be addressed with Morgan Sindall as the main contractor to investigate and or rectify. Unfortunately Jubilee2 has encountered a number of significant building defects which have occurred since it opened and these are summarised in points 2.2 – 2.6.
- 2.3 **Roof Leak:** The roof leaks at Jubilee2 materialised in 2012 within twelve months after practical completion. Morgan Sindall made unsuccessful attempts at repair the roof, which at times appeared to resolve this issue but unfortunately this issue has continued to reoccur. These continued leaks have had a negative impact on the reputation of Jubilee2 as buckets were routinely placed in the stairwell of the building to collect rainwater, an action which does little to portray an image of a professional and high quality facility. In 2018 the Council put Morgan Sindall on notice to repair the roof leak above the main stairwell, studios, and the perspective gallery. Since then Morgan Sindall have undertaken extensive roof surveys and remediation works at their costs to try and rectify these leaks. Whilst this has been a challenging exercise Officers now believe that the issues have been resolved, following the roof being independently reviewed, a report submitted and signed off. Officers are currently reviewing the findings of this report and they are now in discussions with Morgan Sindall about an extended warranty period for the roof structure.
- 2.4 **Gym Floor:** In 2013 significant issues were identified with the Gym floor as it was becoming evident that the vinyl covering was becoming uneven and or lifting. This was investigated by Morgan Sindall and it was identified that the cause of this was due to incorrect packers being used to support the flooring system. As a result Morgan Sindall at their cost replaced the entire flooring system in two phases in order to allow users still to maintain access to the gym albeit capacity within the gym area was significantly reduced.
- 2.5 **Hydraulic System in the Training Pool:** In 2015 there was a significant failure of the hydraulic system in the training pool which led to oil residues entering the pool. This led to a

shutdown of the training pool for approximately two months whilst remediation works were carried out. The Council absorbed the cost of these works at a significant cost with a view to recovering monies from Morgan Sindall. Expert independent third party advice was obtained from a hydraulics engineer who indicated that the design of the fixing of the hydraulics was flawed. However, legal advice was sought in regards to this failure and Counsel advised that the cost of litigation would be higher than the costs towards repair or any consequential losses and therefore this avenue was not explored further on the advice of the Executive Management Team.

2.6 Aqua Sauna: Since 2016 leaks started to appear into the changing village which was located directly beneath the aqua sauna. In March 2019 following ongoing concerns water ingress to the fabric of the building and the damage being caused to the changing Village below (ceiling tiles and lockers etc) the decision was taken to close this facility. The Council undertook its own investigations with the support of a third party specialist at a cost of circa £3,000 to ascertain the cause of the leaks. Subsequently it was identified that the root cause was inadequate tanking allowing water to seep through the fabric of the building. As a result the Chief Executive Officer of the Council contacted Morgan Sindall with a view to re-engaging with the Council to discuss this particular issue and the longstanding problems with the roof leakages. To support this work legal advice was sought (external legal experts Weightmans solicitors were appointed to help with negotiation and possible litigation, to do this Keith Millers from Byron Clark Roberts limited were instructed, expert witnesses in architecture, building surveying and structural engineering who attended site visits). As a result of this engagement Morgan Sindall agreed to:

- Contribute a significant financial contribution towards the reinstatement of the area into a useable space;
- Commit to undertaking an independent roof survey and correct/fix both current and any longer term problems identified;
- Work with the Council to undertake an intrusive survey of Jubilee2 to identify any additional potential significant risk which could impact on the operation of Jubilee2 in the future;
- Work constructively with the Council to address any potential future latent defects in a proactive and collaborative manner.

2.7 Pool Leak: In August 2020 the main swimming pool was closed due to a significant water loss. The Council's retained pool specialist Sterling Hydrotech were asked to visit to investigate / ascertain the cause of the leak, and over a period of fifteen(15) weeks and significant investigatory work it was concluded that the loss of water was due to a fractured in let pipe (the probable cause being un-supported piping). Prior to recommissioning the pool it was identified that there was a strong likelihood that additional pipes had fractured and therefore the Council, following consultation handed over the responsibility of these repairs and costs to Morgan Sindall who took on full responsibility for the failure.

2.8 Having assumed the responsibility for the remediation works for the leaks to the main pool at the request of the Council, Morgan Sindall undertook further investigative works in relation to the cause of the fractured pipework and identified that the pipe work had failed due to:

- a) Pipe hangers being omitted from the original design and
- b) Inadequate backfill material being used to fill the voids below the pool surround ultimately leading to poor ground conditions.

2.9 In essence both of these issue posed a real concern for the Council in that there would be a (strong) likelihood that other sections of the pipe work would fail in the near future. At Morgan Sindall's cost they have now rectified the faults (linked to both pools) and stabilised the grounds with an injected resin system which has a 10 year warranty and retiled the pool

surrounds where appropriate to do so. Both swimming pools reopened to the public in April 2021 following the easing of Covid-19 restrictions.

2.10 Building Survey: On the 14 October 2020 Cabinet received an officer report concerning the ongoing building issues at Jubilee2 and recommended that the Council in conjunction with Morgan Sindall undertook an intrusive building survey to identify any significant risks ensuring that these can/will be addressed prior to the latent defects period ending. Following positive dialogue Officers have now received a number of proposals from Morgan Sindall which are now being reviewed to ensure that the scope of works identified meets industry best practice. It is therefore envisaged that this survey will now commence in September 2021, and officers should be in receipt of a draft report six to eight weeks later.

2.11 Lessons Learned: Taking into account the ongoing building issues that Jubilee2 has encountered since 2012 officers have concluded that the building issues could have been dealt with better if:

- An external clerk of works had been appointed to oversee the construction of Jubilee2, who would have identified that there was inadequate tanking for example in the construction of the aqua sauna etc.
- That Greater pressure was applied to Morgan Sindall to resolve the significant building issues in a timely manner. One significant factor that reduced Officers ability to exert a greater influence over Morgan Sindall to address the building issues was the release of the retention payment in February 2016 when there were known ongoing issues with the building. That said it should be noted that due to a significant change in Morgan Sindall's after care team in 2019 a positive working relationship materialised which allowed Officers to close out some of these long standing issues, with Morgan Sindall showing a real commitment and intent to resolve these building issues at their expense.
- Cabinet had been provided with regular updates concerning the significant building issues in order to keep them fully informed about the progress being made and the impact that these were having on the delivery of services, customer retention and the reputation of Jubilee2. Since December 2017 Cabinet has requested and has been receiving these updates on a regular basis.

2.12 Covid 19: The Covid 19 pandemic has been a testing time for Jubilee2 over the past 18 months due national lockdowns and the delivery of services being restricted by the social distancing measures introduced at the time. However since the reopening of Jubilee2 in April 2021 Jubille2 has seen some positive growth in gym membership's form 1650 In April 2021 to 1999 at the end of July 2021, and officers now working towards a pre-Covid membership target of circa 2,900 members by the end of this financial year.

2.13 In addition to the above Jubilee2 has received very positive feedback from some of their members and an example of this is shown below:

"Myself and my fiancé went swimming on Wednesday evening at Jubilee2 and before going in to the main reason I wanted to write a note of appreciation, I thought it would be worth mentioning how smooth, safe and efficient the process was with lockers, changing rooms and swimming numbers. We both really enjoyed the experience and thought that the process was being handled as professionally and safe as possible. The main reason for my wanting to write to you came about after swimming though when we were both signing up to become members. From initial sign up with Jeanette, to Rob offering to give us a tour of the gym and Hayley joining him in doing so, we couldn't have been made to feel more welcomed and appreciated. The level of detail everybody was willing to go into to help us was up there with some of the best customer service experience I've ever received. To highlight this, I've never felt the need to, or ever written, a note of appreciation

before, but I felt the experience we received on Wednesday went so far above even good customer service that it warranted me writing this. Please pass on my/our thanks.”

2.14 Sport England: In March 2021 Jubilee2 secured funding to be part of Sport England’s National Leisure Recovery Fund and use of the Moving Communities project to measure impact. This offers to develop a greater understanding of Jubilee2’s impact on the Borough’s residents using qualitative and quantitative data, and a summary of this information for the first quarter of this financial year can be seen below:

- The net promoter score was 55.81% and this being the percentage of customers who would actively promote Jubilee2 to family and friends.
- 76.74% of customers felt totally confident in returning to Jubilee2.
- 94.29% of customers thought the standards of cleanliness were high.
- 86% of customers identified that they would prefer to exercise in a leisure facility as opposed to an informal setting.
- 85% of customers identified that they intend to exercise in a leisure facility at least once a week.
- The social value for the Jubilee2 was £349,494 for the past twelve months broken down into the following areas (but it should be noted that Jubilee2 was closed for most of this period due to the Covid-19 pandemic):
 - £64,690 improved health i.e. what it saves the NHS;
 - £278,099 improved sense of wellbeing;
 - £6,591 increased educational attainment in 11-18 year olds;
 - £115 reduced crime.

3. **Proposal**

3.1 Since 2012 there have been a number long standing and or significant building defects that have had an adverse impact on the reputation of Jubilee2. It is therefore noted that since 2019 significant progress has been made to resolve some long standing building issues at Jubilee2.

3.2 That Officers of the Borough Council alongside Morgan Sindall complete the intrusive Building survey to identify any other unknown building defects that may cause future failures of the fabric of the building or failure of fixed electrical and mechanical plant or equipment prior to their normal life expectancy.

3.3 Officers of the Borough Council alongside Morgan Sindall having completed the above survey establish and agree appropriate corrective actions and delivery plan where building defects are identified.

4. **Reasons for Proposed Solution**

4.1 The Council made a significant capital investment in providing Jubilee2. Maintaining the facilities in a good condition protects this investment for the benefit of the health and wellbeing of residents of the Borough and is essential to support the commercial operation of Jubilee2 as well as the Council’s cross-cutting objectives for its communities.

5. **Options Considered**

- 5.1 To do nothing is not an option for the Council to follow. It is imperative that the Council understands whether or not there are likely to be significant building defects in the future prior to the end of the latent defects period in December 2023, so that these can be addressed with Morgan Sindall in a timely manner.
- 5.2 To engage with Morgan Sindall in undertaking an intrusive building survey to identify any other unknown building defects that may cause future failures of the structure and establish corrective actions to address any existing/future defects that would impact on the ongoing operation of the facility and impact on the customer and member experience.

6. **Legal and Statutory Implications**

- 6.1 Whilst completion and handover of the facility took place in December 2011 and whilst a defects liability period was established (the time period specified in the contract during which a contractor is legally required to return to a construction site to repair any defects which have appeared in that contractor's work since the date of construction) officers have been constructively working with the contractor to identify issues and shortfalls and address these to the satisfaction of both parties, prior to the end of the latent defects period.

7. **Equality Impact Assessment**

- 7.1 It is not envisaged that the intrusive survey will have an adverse impact of the users of Jubilee2 and therefore an equality impact survey is not required at this moment in time.

8. **Financial and Resource Implications**

- 8.1 There is no doubt that these significant building issues have hindered the ability for Jubilee2 to achieve the financial targets set out in the original business case.
- 8.2 It is anticipated that the Councils contribution towards the intrusive building survey will be in the region of £5,000 - £10,000 with Morgan Sindall contributing the same value towards the survey.
- 8.3 Consideration should be given to the potential future repair costs of Jubilee2 should potential building failures go unnoticed as a result of not completing the building survey at this time.

9. **Major Risks**

- 9.1 The company undertaking the building survey will be expected to produce and provide their risk assessments and method statement/s for officer's approval prior to undertaking any work.

10. **UN Sustainable Development Goals and Climate Change Implications**

- 10.1 The ongoing maintenance and improvements to the health and fitness offer at Jubilee2 contribute to the UNSG and Climate Change objectives in a number of ways. Principally, through partnership working, improving health and wellbeing and supporting, infrastructure and skills, the following UNSGs are supported.



11. **Key Decision Information**

11.1 The content of this report looks to advise on subsequent impacts and outcomes as a result of shortfalls during the construction of J2 leisure facility, this being a key decision at the time of award of contract.

11.2 Under clause 13.2(b) of the Borough Council's Constitution the content of the report may "be significant in terms of its effects on communities living or working in an area comprising two or more electoral wards in the Borough".

12. **Earlier Cabinet/Committee Resolutions**

12.1 10th July 2019

12.2 14th October 2020

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 Jubilee2 project management documents, Cabinet Reports Identifying key decisions prior to the opening of Jubilee2.

14.2 Sport England's Moving Communities Platform

