

**Minutes of a Meeting of the Town Council held at the Town Hall, Rye on
Wednesday 30 October 2024**

PRESENT Councillors David Bookless, Mike Boyd, Cheryl Creaser, Willy Everett, Bernardine Fiddimore, Rebekah Gilbert, Vagn Hansen, Chris Hoggart (**Deputy Mayor**), Pat Hughes, Sue Learoyd Smith, Shaun Rogers, Andy Stuart (**Mayor**), Sophie Thorpe

IN ATTENDANCE Richard Farhall - Town Clerk; Peter Connock – *Rye News*

The meeting commenced at 6.30pm.

103 APOLOGIES

Apologies for absence – and the reasons as lodged with the Clerk – were accepted from Jo Kirkham and Andi Rivett.

It was noted that Cllr Glazer had given his apologies but wished Members to know that he would be supporting the proposed community transfer of the Leisure Centre when the Lead Member considers giving approval on 1 November.

104 CODE OF CONDUCT

It was noted that Cllrs Gilbert and Hansen had dispensations to speak – but not vote – on item 106.

The disclosures of interests following were made:

Cllr Creaser 106 RDC currently holds the lease.

RESOLVED To suspend the Standing Orders requiring Members to stand when speaking – and not to speak more than once (unless proposing a resolution).

105 COUNCIL MINUTES

It was noted that the Draft Minutes of the meeting held on 14 October 2024 (C11) were not available.

106 RYE LEISURE CENTRE: PROPOSED LEASE

Council was asked to confirm whether or not it is content for responsibility for the c£140k Sport England grant - awarded to RDC towards the installation of photovoltaic panels - to be 'novated' to RTC at the same time as the proposed new lease between ESCC and RTC.

The Clerk spoke to his Briefing Note (see **APPENDIX**).

Comments included:

- (Subject to obtaining borrowing approval) Parish councils can borrow for (usually) capital expenditure only.
- Some potential users of the Centre have said that the current charges are too high.
- The potential lease liabilities might deter people from standing for the Town Council.
- Lease terms can be renegotiated.

- The CIO trustees need to make provision for future risks/liabilities – and so it is unlikely the CIO would fail abruptly.
- The response from the Sport England solicitor suggests that, in the event of the CIO/RTC getting into difficulties, it would respond reasonably.
- There would be no clawback liability after February 2027.
- If the CIO failed, given that it will be more energy efficient - and will have been refurbished – the Centre would be more of an attractive proposition for one of the bigger leisure sector operators – such as Greenwich Leisure.
- Charges may need to be reduced/subsidised to encourage take-up.
- Once the CIO has been trading for a while it will be in a much stronger position to attract grant funding.
- A considerable amount of work has gone into getting to this point.
- In order to encourage public attendance, RTC could hold meetings at the Centre.
- The Centre acoustics are very poor.
- Current Centre staff should be kept informed.
- This stage would not have been reached without Barry Nealon's involvement. RDC – Deborah Kenneally, in particular, has been very supportive.

RESOLVED (unanimous – with Cllrs Gilbert and Hansen abstaining) **At the point at which the lease is effective, to accept responsibility for the £140,531 Sport England grant.** Clerk

The meeting ended at 6.54pm

Date Chairman

106 RYE LEISURE CENTRE: PROPOSED LEASE

The purpose of this agenda item is to update Members on the risks to RTC of proceeding with a lease on the Rye Leisure Centre – especially in relation to the £140,531 Sport England grant, awarded to RDC, to install photo-voltaic panels.

Members are reminded that the intention is that RTC will enter into a (head) lease with ESCC – effective from 1 April 2025 – and will sub-lease the facility to the Rye Recreation & Wellbeing CIO for a concurrent term (20 years).

The head lease would incorporate a rolling 6-month break clause; however, to assist the CIO in securing grant funding, the sub-lease would contain no break clause.

As advised a number of times previously, this would mean that, if the CIO failed abruptly, potentially RTC would be liable for up to 6 months' of business rates, utilities, core maintenance and site security costs, estimated (currently) at c£48,000 – before the premises were handed back to the freeholder (ESCC).

Sport England Grant

In addition to the £48,000 (see above), Sport England (SE) has advised that it would not accept RDC novating responsibility for its £140,531 grant to the CIO – but would agree to a novation agreement with RTC (as well as a grant adherence agreement between RTC and the CIO).

Novation is a serious matter. It would mean that RTC would have a contractual responsibility to abide by RDC's original grant conditions – and would be liable for any of RDC's omissions, errors or performance defects prior to novation. This responsibility would expire at the end of the grant term – 26 February 2027.

Via RDC, I have sought to establish the extent of RTC's liability, should the CIO fail between 1 April 2025 and 26 February 2027. As anticipated, it has not been possible to obtain a definitive answer, however, the correspondence (*below*) with SE's in-house solicitor is helpful.

From: Emma Marston, Sport England In-house solicitor

Sent: 28 October 2024 11:36

To: Elize Manning

Cc: Richard Farhall <richard.farhall@ryetowncouncil.gov.uk>

Subject: RE: Rye Swimming Pool (Solar) - urgent response please

Hi Elize

Apologies that you did not receive a reply to this whilst I was off.

1. *The calculation of clawback is on a case by case basis to be determined when and if any clawback is required. Examples of this are if the facility was sold, we may request all of the funding back or none depending on the nature of the sale, ie. If the facility was sold to be demolished for sale to a commercial developer for housing, we may request all of the funds, but if the facility was sold to continue as a community facility we would be unlikely to require any repayment. In some cases we do pro rata amounts based on time left of the grant term. We would always act reasonably and work with the applicant to determine a solution if there were difficulties in continuing to run a facility.*

2. Yes Sport England would work with RTC to identify a new operator if this was the case and assist with solutions for keeping the facility running during the grant term.

I hope that assists.

Kind regards

Emma Marston *In House Solicitor*

From: Elize Manning

Sent: 18 October 2024 16:57

To: Emma Marston

Subject: FW: Rye Swimming Pool (Solar)

Could you please comment on the following questions that have been posed by Rye Town Council:

1. *Clause 14.1 of the award Agreement indicates that the amount of any clawback will be 'reasonably determined'. Have we any idea of how this might be calculated (perhaps pro rata over the 3-year term?) – or are there no known examples of clawback to reference?*
2. *Should the CIO fail before February 2027 - and RTC is not in a position to run the Centre itself - is it reasonable to assume that Sport England might take into any consideration any demonstrable effort on our part to identify another operator of the pool/(Centre)?*

Obviously they are keen to better understand the financial risks of taking on the grant agreement, so any further clarity would be helpful.

Kind regards,

Elize Manning *(she/her/hers)*

Levelling Up Funding

In addition to the Sport England grant, RDC is holding also £650,000 of Levelling Up funding for refurbishment of the Leisure Centre. As with the Chamber of Commerce's £25k – unless the Government extends the deadline, RDC has to spend/commit/ defray this by 31 March 2025. RDC has advised that it is able – and intends – to defray the £650,000 to the CIO directly.

Risks for RTC

If it proceeds with the proposed head and sub-leases, RTC exposes itself to the estimated potential (maximum) financial risks following if the CIO fails:

- | | |
|---|------------------------------|
| 1 Leisure Centre being closed for a maximum of 6 months | £48,000 |
| 2 (If before 26.2.27) Partial clawback of Sport England grant | |
| | <i>up to</i> <u>£140,531</u> |
| | £188,531 |

1 Is based on 2024-25 actual and estimated figures – and so could be closer to £50k from April 2025.

Considerations:

- RTC's auditors would expect to see RTC making some level of provision (ringfencing funds) and/or having a contingency plan in place to cover these risks.
- RTC's General (unallocated or committed) Reserve as at 31 March 2024 was £42,331.

- It would not be possible to obtain formal borrowing approval to fund **1** or **2** – however, RDC might be prepared to lend to RTC to ‘tide it over’ until the next precepting opportunity.
- If no replacement Leisure Centre operator could be found, SE might agree to a staged clawback repayment plan.
- There is no guarantee that parish councils will remain exempt from the (Excessive) Council Tax Regulations (which, effectively, caps the Council Tax demands of principal authorities). There is currently no limit on how much a parish council can raise via its (annual) precept. If this was removed RTC could have difficulty servicing additional debts.
- If RTC wishes to keep the Strand Quay and Gungarden toilets open 2025-26 (regardless of whether RDC contributes CIL funding for capital works) it is likely that the precept will need to increase. (As a guide to the likely cost: RTC will have spent £33,000 of its £42,000 Devolved Services budget keeping both open July 2024-March 2025.)
- If RTC is unable/unwilling to service additional debts via the precept it would be necessary to consider reducing staffing/services.
- If a significant precept increase is envisaged, it is considered best practice to consult with local tax payers.
- RTC is a small town council with a small tax base, hampered by limited opportunities for development within the Parish (which generates Council Tax and CIL receipts).
- *Note* If £188,531 was added to RTC’s precept, the additional cost to a Band D taxpayer would be £98.39.

Conclusion

Members should be prepared to increase the precept (possibly over a number of years) to protect RTC in the event of the CIO failing.

Given the above, Members are asked to confirm that they are happy to proceed with the lease and sub-lease proposed.

RF 29.10.24