



Notice of meeting of

Executive

To:	Councillors Steve Galloway (Chair), Sue Galloway, Jamieson-Ball, Macdonald, Orrell, Reid, Runciman, Sunderland and Waller
Date:	Tuesday, 19 December 2006
Time:	2.00 pm
Venue:	Guildhall

AGENDA

Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item on this agenda, notice must be given to Democracy Support Group by:

10:00 am on Monday 18 December, if an item is called in *before* a decision is taken, *or*

4:00 pm on Thursday 21 December, if an item is called in *after* a decision has been taken.

Items called in will be considered by the Scrutiny Management Committee.

1. **Declarations of Interest**

At this point, Members are asked to declare any personal or prejudicial interest they may have in the business on this agenda.

2. Minutes (Pages 1 - 4)

To approve and sign the minutes of the Executive meeting held on 5 December 2006.

3. Public Participation

At this point in the meeting, members of the public who registered their wish to speak regarding an item on the agenda or an issue within the Executive's remit can do so. The deadline for registering is **10:00 am on Monday 18 December 2006**.

4. Executive Forward Plan (Pages 5 - 6)

To receive an update on those items that are currently listed on the Executive Forward Plan.

5. Minutes of Local Development Framework Working Group and Economic Development Partnership Board (Pages 7 - 28)

This report presents the minutes of recent meetings of the Local Development Framework (LDF) Working Group and the Economic Development Partnership Board and asks Members to consider the advice given by the Working Group and the Board in their capacity as advisory bodies to the Executive and Council.

6. York West Swimming Facilities (Pages 29 - 48)

This report asks the Executive to agree a way forward for either refurbishing or replacing Edmund Wilson swimming pool.

[Note:

This item appeared on the Forward Plan as "Leisure Facilities Strategy".

Annex 2 to the report was published on 13 December as a late annex.]

7. Local Government Pension Scheme (LPGS) - Scheme Changes and Local Discretions (Pages 49 - 68)

This report reviews the Council's current arrangements for early retirement and redundancy, in the light of changes to the LGPS and the introduction of age discrimination legislation, and invites the Executive to make recommendations to Council on consequent changes to the Council's early retirement and redundancy policy.

8. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Fiona Young

Contact details:

- Telephone – (01904) 551024
- E-mail – fiona.young@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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City of York Council

Committee Minutes

MEETING	Executive
DATE	5 December 2006
PRESENT	Councillors Steve Galloway (Chair), Sue Galloway, Jamieson-Ball, Macdonald, Reid, Runciman and Waller
APOLOGIES	Councillors Orrell and Sunderland

119. Declarations of Interest

The Chair invited Members to declare at this point any personal or prejudicial interests they might have in the business on the agenda. No interests were declared.

120. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

121. Executive Forward Plan

Members received and noted an updated list of items included on the Executive Forward Plan at the time the agenda for this meeting was published.

122. Minutes

RESOLVED: That the minutes of the Executive meeting held on 21 November 2006 be approved and signed by the Chair as a correct record, subject to the amendment made by full Council to paragraph 3 of Minute 117 (Gambling Act 2005 – Statement of Licensing Policy), so that the second sentence of that paragraph reads as follows:

“These included whether or not to adopt a ‘no casino’ policy for York, whether or not to adopt a statement on permits for unlicensed Family Entertainment Centres and/or permits for prize gaming, and whether or not to adopt more prescriptive definitions of ‘interested parties’ and location of premises.”

123. Minutes of Social Inclusion Working Group and Young People's Working Group

Members considered a report which presented the minutes of recent meetings of the Social Inclusion Working Group (meeting on 20 September 2006) and the Young People's Working Group (meeting on 25 October 2006).

The report drew attention to the following resolutions made by the Groups which the Executive might wish to comment upon:

- Resolutions (i) to (iii) under Minute 10 of the Social Inclusion Working Group (relating to equality monitoring);
- Resolution (v) under Minute 11 of the Young People's Working Group (relating to the setting up of a young people's website).

RESOLVED: That the minutes of the Working Groups be noted.

REASON: To fulfil the requirements of the Council's Constitution relation to the role of Working Groups as advisory bodies to the Executive.

124. Supporting People Update and Complex Cases in Adult Social Services

Members considered a report which provided an update on the current funding position of the Supporting People (SP) Programme, advised of cost pressures arising from new, complex cases in adult social services and sought approval to call off funding from contingency for these cases in 2006/7.

SP was a grant programme enabling the provision of housing related support services to help vulnerable people to live independently. Due to a change in the distribution of grant funding, York would receive 2% less SP funding in 2007/8 than in the current year, equating to a cut of 4.3% in real terms. Furthermore, a review of SP services to ensure they complied with revised government guidance had indicated that some services were no longer eligible for SP grant funding. The most significant impact of this would be on services for people with learning or physical disabilities living in 'care and support' schemes. The full financial implications of these changes would be set out in the budget proposals for 2007/8.

The potential need to seek funding from contingency for additional complex cases had already been flagged up as part of the budget process for 2006/7. So far this year there had been 23 such cases, resulting in a net increase of £411k. Examples to illustrate the complexity of these cases were set out in Annex 1 to the report. The following options were presented:

Option 1 – not to approve the call off from contingency, leaving the £411k as a cost pressure on Adult Social Services;

Option 2 – to approve a call off from contingency of £400k for these cases, thus reducing the projected overspend on the department in the current year.

In commenting on the proposals, Members discussed whether it would be helpful for the Council to write to the Department of Health to highlight the issues faced by the City of York in this area.

RESOLVED: (i) That the funding position relating to Supporting People, and the fact that growth will need to be provided as part of the budget process for 2007/8 to deal with the additional cost pressure to the Council, be noted.

REASON: So that the Executive is briefed on the context of budget pressures before considering the budget requirements for 2007/8.

(ii) That a call off of £400k from contingency be approved, for additional complex cases in adult social services in 2006/7.

REASON: To enable Housing and Adult Social Services to meet the additional costs arising from the increase in complex cases.

S F Galloway, Chair

[The meeting started at 2.00 pm and finished at 2.15 pm].

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Executive Meeting 19 December 2006

EXECUTIVE FORWARD PLAN

Table 1: Items scheduled on the Forward Plan which were due to be submitted to this week's meeting

Report	Author	Current Position	Likely Revised Date
Race Meeting Review	Peter Evely	Deferred to resolve funding issues	16/1/07
Strategic Procurement Programme	Liz Ackroyd	Deferred to allow late changes to report	16/1/07
Park and Ride Service Provision - Options	Tony Clarke	Deferred to enable Officers to consider consultants' report.	30/1/07
Acomb Library / Learning Centre	Philip Callow	Deferred for further consideration of potential options	30/1/07
Thin Client / Competition Strategy	Simon Wiles	Deferred for further discussion with other departments	unknown
Organisational Effectiveness Programme – Progress Update	David Atkinson	Removed from Forward Plan, as progress is now being monitored through Officer OEP Champions group. Annual report to come to Members in April 2007.	N/a

Table 2: Items scheduled on the Forward Plan for the Executive Meeting on 16 January 2006

Report	Author	Current Position	Likely Revised Date
Race Meeting Review	Peter Evely	Deferred from 19/12/06	N/a
Strategic Procurement Programme	Liz Ackroyd	Deferred from 19/12/06	N/a

Child Protection Policy	Pete Dwyer	Previously scheduled for 5/12/06	N/a
Future of the Archives	Charlie Croft	Previously scheduled for 19/12/06	N/a
Second Corporate Performance and Financial Monitor	Janet Lornie	On schedule	N/a
Second Capital Monitor	Tom Wilkinson	On schedule	N/a
Revenue Budget 2007/08-2009/10	Peter Steed	On schedule	N/a
Capital Budget 2007/08-2009/10	Tom Wilkinson	On schedule	N/a
Treasury Management Policy 2007/8 to 2009/10	Tom Wilkinson	On schedule	N/a
Children and Young People's Plan	Patrick Scott	On schedule	N/a

Table 3: Items scheduled on the Forward Plan for the Executive Meeting on 30 January 2007

Report	Author	Current Position	Likely Revised Date
Information Governance Strategy	James Drury	Deferred from 12/9/06 and 19/12/06	N/a
Corporate Asset Management Plan	? (previously John Reid)	Deferred from 26/9/06, 24/10/06 and 5/12/06	N/a
Data Protection Policy	James Drury	Deferred from 10/10/06 and 19/12/06	N/a
Combined City and Parish Council Elections	Elizabeth Ellis	Deferred from 5/12/06	N/a
Park and Ride Service Provision - Options	Tony Clarke	Deferred from 19/12/06	N/a
Acomb Library / Learning Centre	Philip Callow	Deferred from 19/12/06	N/a



Executive

19 December 2006

Report of the Head of Civic, Democratic and Legal Services

Minutes of the Local Development Framework Working Group and Economic Development Partnership Board

Summary

1. This report presents the minutes of recent meetings of the Local Development Framework (LDF) Working Group and the Economic Development Partnership Board and asks Members to consider the advice given by the Working Group and the Board in their capacity as advisory bodies to the Executive and Council.

Background

2. The revised Constitution agreed by Council on 27 April 2006 created a number of Working Groups whose role is to advise the Executive on issues within their particular remits. The Groups are:
 - Social Inclusion Working Group (equalities issues)
 - Young People's Working Group (young people's issues)
 - Local Development Framework (LDF) Working Group (matters relating to the review of the Local Development Framework)

The Constitution also includes a Protocol on Councillor Working Groups, which sets out rules and guidelines for the establishment and operation of Working Groups.

3. To ensure that the Executive is able to consider the advice of the Working Groups, it has been agreed that minutes of the Groups' meetings will be brought to the Executive on a regular basis. The Executive has also agreed to receive minutes of the meetings of the Economic Development Partnership Board, which acts as an advisory body to the Council and to the Local Strategic Partnership.
4. Consideration of the minutes of the above bodies has been scheduled on the Forward Plan for the Executive, as follows:
 - 19 December – LDF Working Group and Economic Development Partnership Board
 - 13 March - Social Inclusion Working Group and Young People's Working Group

- 27 March - LDF Working Group & Economic Development Partnership Board

In accordance with the Forward Plan, this report presents the minutes of the LDF Working Group meetings held on 26 September 2006 (Annex A), 17 October 2006 (Annex B) and 7 November 2006 (Annex C) and the meeting of the Economic Development Partnership Board held on 26 September 2006 (Annex D).

Consultation

5. No consultation has taken place on the attached minutes, which have been referred directly from the relevant bodies. The minutes of the LDF Working Group have all been approved at subsequent meetings of the Group, while those of the Partnership Board are awaiting approval at the Board's next meeting. It is assumed that any relevant consultation on the items considered by the Group and the Board was carried out in advance of the meetings.

Options

6. Options open to the Executive are either to accept or to reject any advice that may be offered by the LDF Working Group and the Economic Development Partnership Board, and / or to comment on the advice.

Analysis

7. Members' attention is drawn in particular to the following recommendations in the minutes of the LDF Working Group meeting held on 26 September:

Minute 13 – Draft Housing Market Assessment

“(ii) That the LDFWG recommended that the Executive:

- authorise the publication of the 2006 draft Housing Market Assessment for use as part of the evidence base for the LDF, until such time as the updated HMA is finalised;
 - use the findings of the HMA regarding the required mix and type of dwellings for development control purposes in the context of policy H3c.”
8. It should be noted that the recommendations to the Executive contained in Minute 21 of the meeting on 7 November have already been dealt with via a direct report to the Executive and subsequent recommendations to full Council on 30 November 2006.

Corporate Priorities

9. The aims in referring these minutes accord with the key principles of improving the Council's organisational efficiency.

Implications

10. There are no known implications in relation to the following in terms of dealing with the specific matter before Members, namely to consider the minutes and determine their response to the advice offered by the Working Group:

- **Finance**
- **Human Resources (HR)**
- **Equalities**
- **Legal**
- **Crime and Disorder**
- **Property**
- **Other**

Risk Management

11. There are no risk management implications associated with the referral of these minutes.

Recommendations

12. Members are asked to consider the minutes attached at Annexes A, B, C and D and to decide whether they wish to respond to any of the advice offered by the LDF Working Group and Economic Development Partnership Board.

Reason:

To fulfil the requirements of the Council's Constitution in relation to the role of Working Groups and the Economic Development Partnership Board.

Contact details:

Author:

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Chief Officer Responsible for the report:

Suzan Hemingway
Head of Civic, Democratic and Legal Services

Report Approved

Date 5/12/2006

Specialist Implications Officer(s) None

Wards Affected:

All

**For further information please contact the author of the report
Annexes**

Annex A – Minutes of the meeting of the LDF Working Group held on 26 September 2006.

Annex B – Minutes of the meeting of the LDF Working Group held on 17 October 2006.

Annex C – Minutes of the meeting of the LDF Working Group held on 7 November 2006.

Annex D – Minutes of the meeting of the Economic Development Partnership Board held on 26 September 2006.

Background Papers

Agendas and associated reports of the above meetings (available on the Council's website).

City of York Council

Minutes

MEETING	LOCAL DEVELOPMENT FRAMEWORK WORKING GROUP
DATE	26 SEPTEMBER 2006
PRESENT	COUNCILLORS REID (CHAIR), D'AGORNE, HORTON, HYMAN, MACDONALD, MERRETT, SIMPSON-LAING, WALLER AND R WATSON

10. DECLARATIONS OF INTEREST

The Chair invited Members to declare at this point any personal or prejudicial interests which they might have in the business on the agenda. No interests were declared.

11. MINUTES

RESOLVED: That the Minutes of the Local Development Framework Working Group meeting held on 24 August 2006 be approved and signed by the Chair as a correct record.

12. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

13. DRAFT HOUSING MARKET ASSESSMENT

Members received a report which provided an update on the issues raised by the Draft Housing Market Assessment (HMA), carried out by Fordham Research in June 2006, and recommended its publication as part of the evidence base for the Local Development Framework (LDF), until such time as the updated HMA was finalised. The report also recommended the use of the findings regarding the required mix and type of dwellings for development control purposes in the context of policy H3c.

The report presented two options for consideration:

- Option 1 – To consider the issues raised by the draft HMA and publish the document as part of the evidence base for the LDF;
- Option 2 – To await the findings of a final HMA, which assess the needs of particular groups and develops policy recommendations through a stakeholder exercise.

Members queried the minimum house price specified in the report. Concern was expressed that the price quoted was for a property which required total refurbishment and that the number of houses in that state would not match

the number required for people looking to buy at that minimum level of cost. It was agreed that the minimum price used in the report should reflect a house priced above the absolute minimum, at a level where the number of houses did match the number required to meet the needs of those people only able to buy at that minimum level of cost.

[Note: the above paragraph was added when the minutes were approved at the meeting held on 17 October 2006]

Members commented on the need to ensure that the figures contained within the final HMA accurately reflect the present housing situation in York and take into account the changing needs of York residents.

Members also noted the growing number of European workers now living in the city and the need for more affordable housing.

- RESOLVED:
- (i) That the issues considered in the report be noted;
 - (ii) That the LDFWG recommended that the Executive:
 - authorise the publication of the 2006 draft Housing Market Assessment for use as part of the evidence base for the LDF, until such time as the updated HMA is finalised;
 - Use the findings of the HMA regarding the required mix and type of dwellings for development control purposes in the context of policy H3c.

- REASON:
- (i) To update the Working Group;
 - (ii) To allow the findings of the HMA to be used to inform the development of the LDF Core Strategy, Development Control Development Plan Document (DPD) and Allocations DPD, and to allow effective negotiations to deliver an appropriate mix and type of housing through the planning process.

COUNCILLOR A REID
Chair

The meeting started at 4.00 pm and finished at 5.00 pm.

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City of York Council

Minutes

MEETING	LOCAL DEVELOPMENT FRAMEWORK WORKING GROUP
DATE	17 OCTOBER 2006
PRESENT	COUNCILLORS REID (CHAIR), D'AGORNE, HORTON, MACDONALD, MERRETT, SIMPSON-LAING, WALLER AND R WATSON
APOLOGIES	COUNCILLOR HYMAN
IN ATTENDANCE	COUNCILLOR VASSIE

14. DECLARATIONS OF INTEREST

The Chair invite Members to declare at this point any personal or prejudicial interests they might have in the business on the agenda. Cllr Merrett declared a personal, non-prejudicial interest in agenda item 4 (Minute 17 applies) in respect of any discussion regarding cycling issues, as an honorary member of the CTC and a member of Cycling England.

15. MINUTES

RESOLVED: That the minutes of the Local Development Framework Working Group meeting held on 26 September 2006 be approved and signed by the Chair as a correct record, subject to the inclusion of certain comments made by Cllr Merrett in respect of the draft Housing Market Assessment (Minute 13 refers), the detail of these comments to be agreed with the Chair prior to the minutes being revised and signed.

16. PUBLIC PARTICIPATION / COMMENTS OF ENERGY CHAMPION

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

With the permission of the Chair, Cllr Vassie commented on agenda item 4 (Draft Supplementary Planning Guidance (SPG): Sustainable Design and Construction), in his capacity as Energy Champion. He welcomed the amendments to the SPG but expressed concern that the proposal to introduce a 5-dwelling threshold might exempt some developments from the SPG requirements altogether and might encourage developers to submit multiple applications. He recommended a phased introduction of the SPG requirements and suggested that the SPG also include a section on sustainable drainage.

17. DRAFT SUPPLEMENTARY PLANNING GUIDANCE: SUSTAINABLE DESIGN AND CONSTRUCTION

Members considered a report which sought their views on the approach taken in the re-drafted Supplementary Planning Guidance (SPG): Sustainable Design and Construction, prior to its referral to the Planning Committee to seek approval for public consultation.

The SPG, attached as Annex A to the report, had been re-drafted to take account of comments received on the earlier draft, considered by the Group on 24 August. In accordance with Members' recommendations, the new draft included minimum standards in relation to Policy GP4a. The report outlined the following options in respect of these standards:

Option A – to adopt the Building Research Establishment's Environmental Assessment Method (BREEAM), the minimum standard to be set at "very good" and applicants to provide clear evidence as to why this could not be met.

Option B – to adopt the BREEAM standards as above but the length, detail and minimum standards required in the sustainability statement submitted under GP4a to be dependent upon the size and type of development.

The draft SPG took the approach set out in Option B, in line with national policy guidance and advice from the BRE. The latter advised that authorities should introduce a threshold when considering how to apply sustainability standards, to avoid placing undue costs on small developments. A threshold of 5 new dwellings or 500 square metres was proposed. Developments below this threshold would not require a BREEAM assessment but must still take account of sustainability issues.

Members discussed the proposals and agreed that the draft SPG should be amended in order to:

- Ensure that the questions to developers were appropriately worded, i.e. expressed as open questions where necessary.
- Exclude extensions from the BREEAM requirements and include more user-friendly information in the SPG for the benefit of the general public
- Clarify that the SPG applies to commercial as well as residential developments.
- Make it clear that, although the BREEAM minimum standard had been set at "very good", developments meeting a higher standard would be welcomed and the Council would remain open to raising the standard in future to take account of technological advancements.
- Reduce the threshold for meeting BREEAM standards to a single dwelling on all items that would not incur significant additional costs.
- Make reference to requirements in respect of sustainable urban drainage.
- Require the optimum use of south facing roofs for solar generation facilities. *[Added at the meeting on 7/11/06.]*

It was also suggested that consideration be given to:

- Revising paragraph 4.34 of the SPG in order to maximise the opportunities for site renewable energy generation;
- Including more detailed requirements in respect of trees;
- Cross-referencing the SPG to the eco footprint targets in the Council's Community Plan.

Officers also undertook to consider comments on the SPG received by e-mail from Barry Otley and circulated to Members before the meeting, and detailed Member comments. *[As amended at the meeting on 7/11/06.]*

RESOLVED: (i) That, subject to the above comments, the SPG be referred to the Planning Committee with a recommendation that it be taken out to public consultation.

REASON: To implement Policy GP4a of the Draft Local Plan incorporating the fourth set of changes.

(ii) That the making of any incidental changes or other changes to the document necessary as a result of the recommendation of this report be delegated to the Director of City Strategy and the Executive Member and Shadow Executive Member for City Strategy.

REASON: So that the report can progress through to Planning Committee.

COUNCILLOR A REID

Chair

The meeting started at 4.30 pm and finished at 5.50 pm.

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City of York Council

Minutes

MEETING	LOCAL DEVELOPMENT FRAMEWORK WORKING GROUP
DATE	7 NOVEMBER 2006
PRESENT	COUNCILLORS REID (CHAIR), D'AGORNE, HORTON, MACDONALD, MERRETT, SIMPSON-LAING, WALLER AND R WATSON
APOLOGIES	COUNCILLOR HYMAN

18. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

Councillor Merrett declared a personal non-prejudicial interest in agenda item 4 (City of York Local Development Framework – Statement of Community Involvement) as a member of some of the interest groups listed as consultees in Annex 1 of the Statement of Community Involvement.

19. MINUTES

RESOLVED: That the minutes of the Local Development Framework Working Group meeting held on 17 October 2006 be approved and signed by the Chair as a correct record, with the following amendments to minute 17 (Draft Supplementary Planning Guidance: Sustainable Design and Construction):

- (i) To add an additional bullet point to the fourth paragraph to read, "Require the optimum use of south facing roofs for solar generation facilities";
- (ii) To rephrase the sixth paragraph to read, "Officers also undertook to consider comments on the SPG received by e-mail from Barry Otley and circulated to Members before the meeting, and detailed Member comments".

20. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

21. CITY OF YORK LOCAL DEVELOPMENT FRAMEWORK - STATEMENT OF COMMUNITY INVOLVEMENT

Members received a report which sought their views on the Local Development Framework Statement of Community Involvement (SCI) prior to taking a report to Executive and Full Council. The intention, subject to Member approval, was for the Statement of Community Involvement to be submitted to the Secretary of State for formal examination.

Consultation had taken place on the draft SCI between 22 February 2006 and 10 April 2006. Annex A of the report set out the comments received during the consultation, officers' responses and suggested amendments to the SCI. The Submission Draft SCI was attached as Annex B of the report.

The main changes made in the redrafted SCI were:

- (i) To divide the SCI into four parts to make it clearer which sections related to the Local Development Framework (LDF) and which related to planning applications;
- (ii) To expand section 4 on Guiding Principles to provide more information on how the principles would shape public involvement in planning matters;
- (iii) To merge the 'who will be involved', 'community profile' and 'hard-to-reach' sections to give a clearer overall picture about who would be involved and to rely on the detail set out in the annex to avoid duplication (section 5 and Annex 1);
- (iv) To amend section 7 on the LDF to draw out more clearly the different types of LDF document and the Council's key commitments for seeking to achieve effective community involvement in the preparation of the LDF;
- (v) To amend the size of development for which the Council would seek more in depth community involvement in planning applications to reflect the statutory definition of 'major' applications (section 8).

Paragraph 14 of the report explained that as part of the submission the Council was required to submit a statement of consultation. The statement would be a factual description of consultation undertaken to date and would include summaries of the issues raised by respondents at each stage and how these had been addressed in subsequent drafts. The main body of the statement would consist of the summaries of comments which had previously been reported to Members for the Issues and Options stage in November 2005, and for the Preferred Options stage at this meeting.

Following further discussions with the Development Control team, an amended version of Part 3 of the SCI and two additional annexes were circulated at the meeting for Members' consideration. Officers reported that there was a further correction to paragraph 10.7 to include reference to the Area Planning Sub-Committees.

Members' detailed comments on the draft SCI are set out in Appendix 1 to these minutes.

RECOMMENDED: That the Executive recommend the following to Full Council:

- (i) That the Statement of Community Involvement, attached at Annex B of the report, as amended by the revised Part 3 and two additional annexes circulated at the meeting and the correction to paragraph 10.7 to include reference to the Area Planning Sub-Committees, be approved for submission to the Secretary of State and for formal consultation, subject to further changes detailed in Appendix 1;
- (ii) That the making of any incidental changes to the document that are necessary as a result of the recommendation (i) above are delegated to the Director of City Strategy and the Executive Member and Opposition Spokesperson for City Strategy;
- (iii) That the statement of consultation, as detailed in paragraph 14 of the report, be drawn up in consultation with the Director of City Strategy and the Executive Member and Opposition Spokesperson for City Strategy.

REASON:

- (i) So that the Statement of Community Involvement can progress through to examination;
- (ii) So that changes recommended as a result of discussions at the meeting can be made and the report can progress through to the Executive;
- (iii) So that the relevant documents needed for submission to the Secretary of State can be produced.

COUNCILLOR A REID

Chair

The meeting started at 5.00 pm and finished at 6.30 pm.

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City of York Council

Minutes

MEETING	ECONOMIC DEVELOPMENT PARTNERSHIP BOARD
DATE	26 SEPTEMBER 2006
PRESENT	COUNCILLORS STEVE GALLOWAY (CHAIR), KIRK (VICE-CHAIR), HOLVEY, MORLEY, MERRETT, D'AGORNE AND FRASER (IN PLACE OF BLANCHARD) MR ANDREW SCOTT (FIRST STOP YORK TOURISM PARTNERSHIP), MR MIKE GALLOWAY (EDUCATION/LIFELONG LEARNING PARTNERSHIP), PROF TONY ROBARDS (UNIVERSITY OF YORK), MR MARK SESSIONS (MANUFACTURING SECTOR) AND JULIE HUTTON (YORKSHIRE FORWARD)
APOLOGIES	COUNCILLORS BLANCHARD AND JAMIESON-BALL, MR BRIAN ANDERSON (TRADES UNIONS), MR LEN CRUDDAS (CHAMBER OF COMMERCE), DON STEWART (YORKSHIRE FORWARD) AND MR KEVIN MOSS (FINANCE SECTOR)

PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS

8. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

The following personal non-prejudicial interests were declared at the meeting:

Cllr Holvey is employed by Leeds City Council.

Cllr Morley is a member of the York Tourism Bureau.

Cllr D'Agorne is employed by York College.

Cllr Merrett is employed in the Rail Industry by Corus Infrastructure Services.

9. MINUTES

Minute 4 - Cllr Fraser commented that the fifth bullet point, regarding the disappearance of the semi skilled sector in the labour market, was important considering the recent job losses in York. These were important jobs to the

economy of York and it should be a priority to find a way to replace them. Cllr Fraser requested that his comments be noted in the minutes.

RESOLVED: That the minutes of the last meeting held on 20 June 2006 be approved and signed as a correct record.

10. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation scheme.

11. YORK'S LOCAL AREA AGREEMENT - FIRST DRAFT

Members considered a report on the first draft of York's Local Area Agreement (LAA) and which sought endorsement of both the Economic Development and Enterprise (EDE) Block text and outcomes framework.

The report advised that the LAA was a 3-year agreement (refreshed annually) made up of outcomes, indicators and targets, and was effectively a medium-term delivery plan for an area's community strategy. The outcomes framework was structured around four blocks:

- Children and Young People
- Safer & Stronger Communities
- Healthier Communities & Older People
- Economic Development & Enterprise

The first draft of the Economic Development & Enterprise Block of York's LAA was attached at Annexes A and B. Annex A provided an overview of the key issues facing York in relation to economic development, transport and environmental sustainability. Annex B contained the outcomes framework for the Economic Development & Enterprise block. This matrix detailed outcomes to be achieved during the period 2007-2010, and associated performance indicators, targets, lead partners, and potential sources of funding. The full outcomes framework (covering all four LAA blocks) currently contained 52 outcomes with an average of 4 indicators per outcome (totalling 212 indicators). This met Government Office's expectation that the full LAA would contain 40-60 outcomes.

The full first draft of York's LAA would be agreed at the meeting of the LSP on 28 September and submitted to the Government Office for Yorkshire and the Humber (GOYH) in early October.

An updated version of the LAA was circulated at the meeting. Officers informed members that the Press article regarding the Skills and Inclusion section of the LAA had misunderstood the figures in this section. Officers reported that the article claimed that the percentage of people in York with NVQ level 2 was lower than the regional average. However the figure was

lower because there were more people at levels 3, 4 and 5, and therefore were better qualified.

The following points were made:

- Concern was raised about how well cross cutting issues joined up across the four blocks and that some issues were not as well coordinated as they could be.
- EDE2 lacked some definition and needed more refinement. It was suggested that 'maximised' be replaced by 'optimised'.
- EDE5.9 or EDE8 should contain an indicator relating to the five areas in the city where residential properties were experiencing high air pollution to show progress made on improving air quality in the areas. It was agreed that this would be picked up in the final draft.
- The wording for EDE6.1 should be altered to show that the quality of events rather than quantity was a concern.
- EDE6.3 could be amended to become a more broader measure consisting of figures from all attractions regarding number of visits.
- It was queried whether new European funds had been taken into consideration or if there was any government funding available. Officers reported that the new European funds probably hadn't been taken into account and at the moment there was no government funding proposed for a successful LAA although there could be future funding streams available.

RESOLVED: That the first draft of both the EDE Block text and outcomes framework be endorsed.

REASON: To progress work on the first Local Area Agreement.

12. PROGRESS ON KEY ISSUES

Members considered a report which identified any matters arising from the last meeting of the Board and briefed Board members on issues/progress in other areas of economic development activity.

The report advised that Jez Willard from the Japanese Shop would replace Brian Littlejohn from Marks and Spencer as the retail sector representative on the Board, once this had been approved by full Council.

Annex 3 of this report, marked as to follow on the agenda, was tabled at the meeting. The Annex provided a summary of the state of the economy in York and highlighted that employment had been growing with over 1500 jobs each year and unemployment was lower than the regional and national average.

The following points were made:

- The job losses recently announced were disappointing but the response had been immediate, with a redundancy support group being provided and a strategic review was being set up.
- It was important to understand the trends in York's economy so that the skills gaps could be addressed.
- The job losses would impact on people's standards of living as there would be a loss of income and lower income jobs would be available in the job centres.
- The robustness of York's economy should be given greater publicity.
- It was agreed that a more detailed view of the figures was needed to understand what jobs were being created and where and how these relate to the job losses.
- There were potential opportunities to investigate, such as green technologies and new sites, which could generate new jobs and allow larger companies that wanted to expand to move into.

Minute 14 contained the Part B Minute (Matters referred to Council) relating to this report.

RESOLVED: (i) That the report be noted and endorsed.

REASON: To help shape the effectiveness of future action.

13. SCIENCE CITY YORK: FUTURE GOVERNANCE

Representatives of the key stakeholders in Science City York (SCY), the City Council, the University of York, and Yorkshire Forward, had met to discuss the longer-term future of the partnership. A proposal had emerged from these discussions to expand the range of activities encompassed by the initiative; to establish it as a company limited by guarantee owned by the stakeholders; and to appoint a chief executive. The Executive Leader endorsed these proposals on behalf of the City Council on the 11th September. This report informed the EDPB of the proposals.

It was reported that a lot of the team had already been recruited, pending the arrival of the new chief executive next year. It was noted that there needed to be more discussions regarding changes to the worldwide economy and how York could find and keep an edge on these developments.

RESOLVED: That the report and the Board's comments be noted.

REASON: In order to gain the views of the EDPB on the proposal to expand the range of activities encompassed by the initiative; to establish it as a company limited by guarantee owned by the stakeholders; and to appoint a chief executive as described in the report.

PART B - MATTERS REFERRED TO COUNCIL**14. PROGRESS ON KEY ISSUES**

Members considered a report which identified any matters arising from the last meeting of the Board and briefed Board members on issues/progress in other areas of economic development activity.

The report advised that Jez Willard from the Japanese Shop would replace Brian Littlejohn from Marks and Spencer as the retail sector representative on the Board, once this had been approved by full Council.

Minute 12 contained the Part A Minute (Matters dealt with under delegated powers) relating to this report.

RECOMMENDED:	(ii) That full Council be recommended to approve that Jez Willard from the Japanese Shop be appointed to replace Brian Littlejohn from Marks and Spencer as the retail sector representative on the Economic Development Partnership Board.
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REASON: To help shape the effectiveness of future action.

CLLR STEVE GALLOWAY

CHAIR

The meeting started at 6.00 pm and finished at 7.05 pm.

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Executive

19 December, 2006

Report of the Assistant Director (Lifelong Learning and Culture) and the Head of Property Services

York West Swimming Facilities

Summary

1. This report asks the Executive to agree a way forward for either refurbishing or replacing Edmund Wilson swimming pool.

Background

2. In February this year the Executive agreed a leisure facilities strategy using all of the capital to be received from the sale of the Barbican site to modernise swimming facilities in the city. Indicative sums were allocated for the first phase of investment up to 2012 as follows:

	£m
Edmund Wilson	4.00
Contribution to a partnership with the University to build a 25m competition standard pool	2.00
Repair and improvement at Yearsley Pool	0.50
Procurement costs, etc.	0.33
Total	6.83

The profiling of the spend would be dependent on the speed at which the individual schemes could be brought forward.

3. In respect of the west side of the city the Executive identified the need to maintain a significantly sized tank with learner pool, offering a mix of teaching space, open access, and deep water. Choices identified were:
 - A. A repairing scheme at Edmund Wilson: Costing around £3.1m – to implement the minimum refurbishment / Disability Discrimination Act compliance scheme drawn up in 2003
 - B. A new build on the Oaklands School site: Costing around £4.0m – to build a pool only, assuming other facilities e.g. fitness, would already be available on the site

The Repairing Scheme

4. The repairing scheme for Edmund Wilson was drawn up in 2003 following a major building survey in 2000. It was designed to extend the life of the pool for a further 25 years and included:
 - **Water treatment plant:** Replacing all cast iron pipework, filter pipework and valves, sampling pumps, controls and wiring, flowmeters and recorders and providing transfer pumps
 - **Mechanical Services:** Replacing boilers, heating pumps, pipework and valves, the ventilation system including air handling equipment, heat recovery system and controls
 - **Electrical Services:** Replacing pool hall lighting, emergency lighting battery and extending the system, rewiring CCTV, providing lightning protection, visual alarms, control systems
 - **Structural work:** Renewing the entrance platform, installing a lift contained within a front extension, replacing the pool hall balustrade, returning the fitness gym to the first floor, replacing pool hall tiling and screeds, provision of a new balustrade, renew sealed glazing units
 - **General Fabric work:** Renewing external cladding and roof finishes, making the main entrance suitable for disabled people, providing toilets for disabled people, repairing the concrete canopy, redecoration, refurbish staff accommodation, refurbish metal cladding and refinish aluminium roofing
 - **Changing:** Replacing the current changing rooms with a changing village

The Oaklands Site

5. In order to investigate the feasibility, options and issues associated with building a new pool at Oaklands a study was commissioned by Property Services from Wm. Saunders architects. The study was undertaken between May and September this year.
6. The feasibility study has identified a number of permutations for how a pool could be accommodated on the site. These divide into three categories:

A. An independent pool hall on the former Pupil Referral Unit (PRU) site with no link to the sports centre

This is the option originally envisaged. At a cost of £3.883m it would be affordable within the allocated capital. However, this option is not likely to be acceptable in planning terms. This is because a combined minimum total of 220 parking spaces will be required to operate the site and the PRU site is essential to creating the necessary additional spaces. This issue is compounded by the expansion of the school through the new York High school capital scheme.

B. A pool hall fully integrated into the new sports facilities with a central reception hub through rebuild of sports hall

This option would be ideal from an operational perspective creating fully integrated facilities together with a brand new sports hall with viewing area. However, at £5.596m it is very expensive and has the further drawback that

it would require a closure of the existing sports facilities of at least 6 months during the construction period (costing around £300k in lost income).

C. An independent pool hall constructed against the gable end of the existing sports hall

This compromise option would create integrated swimming and sports facilities capable of being managed by a single staff team. The cost, at £4.854m, is higher than the £4m estimate because it is more expensive to build on to the existing complex. However, the efficiency savings achievable through running an integrated operation would allow the additional cost to be funded (see below).

This option would be less disruptive to existing facilities during its construction. It would allow the required 220 car parking spaces to be created.

Outline drawings of the three options are shown at Annex 1.

7. In light of the findings of the feasibility study it is recommended that Option C is selected as the relevant option for the Oaklands site to be examined in more detail against the Edmund Wilson refurbishment option. (For this reason this option was used in the consultation leaflet).

Issues for a pool at Oaklands

8. The feasibility study was concerned with building the swimming pool. However, the opportunity to integrate the pool into the existing sports facilities throws up a number of other issues that require consideration.

Fitness Facilities:

9. Combining the current gym customer groups from Edmund Wilson and Oaklands would present a capacity issue. The current 30 station gym facility at Oaklands could not accommodate all users. It is therefore proposed that an extension to the gym to create a facility with over 50 stations be included within this option.

Crèche:

10. There is no crèche at Oaklands and it is proposed that one should be created within the new scheme in order to promote inclusion.
11. The cost of these two additions to this option would be approximately £230k.

Running Costs:

12. A new pool at Oaklands would create the following annual revenue savings compared to the cost of running Edmund Wilson:

	£	
Increased swimming income	8,000	From increased usage
Increased catering income	5,000	“ “ “
Staffing savings	110,000	Streamlining management and admin.
Technical savings	7,500	From more efficient plant
Total saving	130,500	

Management of the pool:

13. A pool at Oaklands would remain fully publicly accessible with a similar programme to Edmund Wilson. It would continue to be operated by the Council's Sport & Active Leisure team. Further discussion would be needed on the fit with the school's management of the sports centre.

The York High School Scheme:

14. The new school scheme is currently in the planning and design stage with the major scheme expenditure expected to fall in 2007/08 and 2008/09. Whilst specialist consultants would be used to design the pool it would be essential for the two projects to be managed by a single team to ensure a coherent approach to redeveloping the whole site. The creation of additional parking spaces and other traffic management infrastructure to support both projects would cost an additional £680k and would be shared between the two schemes.

Financing:

15. The cost of the new facility is illustrated in Table 1.

Table 1	£m
Pool Build (para. 6C)	4.854
Gym and Crèche (paras. 9 & 10)	0.230
Share of Infrastructure costs (para. 14)	0.340
Total Capital Cost	5.424

16. The total capital cost of £5.424m would be funded from the £4m allocation from the capital receipt and £1.424m of prudential borrowing funded by the identified revenue savings. The projected revenue savings of £130k per annum could support prudential borrowing of up to £1.530m at current interest rates. The proposed level of borrowing would cost £121k per annum.

Consultation

17. A public consultation has been run up to 5 December the main components of which were:
- ❖ 2 public meetings
 - ❖ Display boards at Oaklands and Edmund Wilson
 - ❖ A meeting with the York City Baths Club
 - ❖ A leaflet delivered to all homes in the 5 wards on the west of the city (see Annex 2)
 - ❖ Opportunities for all citizens to respond to the leaflet via the Council's web site
18. The results of this consultation exercise will be available from 13 December and a summary will be appended to this report at Annex 2.

Analysis

19. The options can be summarised as follows:

A new public pool built on to the new Oaklands sports facilities (Edmund Wilson Pool would then close)

20. This would give us:

- ❖ A new five lane 25m pool and learner pool
- ❖ New gym (equal to the capacity of the two current gyms combined)
- ❖ A building that is fully accessible for people with disabilities
- ❖ New crèche
- ❖ Easy access to the new Oaklands facilities: Dance Studio, climbing wall, all weather pitches, community rooms, sports hall, bar and café.

21. Advantages:

- ❖ Brand new, state-of-the-art, fully accessible facilities
- ❖ Designed to last for at least 50 years
- ❖ A sustainable, environmentally friendly building with lower running costs
- ❖ No gap between Edmund Wilson closing and the new pool opening
- ❖ On-going revenue savings even taking account of prudential borrowing

22. Disadvantages:

- ❖ The new pool will be 1.5m narrower than the current Edmund Wilson pool – there is not enough space on the site to accommodate a six lane pool

Refurbish the existing Edmund Wilson Pool

23. This would give us:

- ❖ A new entrance lobby with a lift up to both floors creating a fully accessible building (essential to meet disability legislation)
- ❖ Refitted changing rooms
- ❖ Essential repairs to the pool's fabric, services, plant and machinery (which will, amongst other things, enable us to control the pool hall temperature)
- ❖ The gym returned to the first floor

24. Advantages:

- ❖ Keeps the facilities largely as they are now
- ❖ The refurbished pool should deliver an ongoing revenue saving of around £37k per annum
- ❖ The existing scheme would cost £3.1m at today's prices

25. Disadvantages:

- ❖ The pool would be closed during the refurbishment for nearly a year leaving only Yearsley Pool and Waterworld available for casual public access in the city. This would cost approximately £115k and would require a relocation budget to be made available

- ❖ Although the scheme is costed at £3.1m the very difficult nature of the building means that there are significant risks of the costs escalating once more detailed design work is undertaken. This risk is increased by recent changes to building regulations
 - ❖ Given the age of the building the investment would only provide a limited life span. Further investment would be needed in the future.
26. Alternatively the council could look for another local site to build a new 25m pool and learner pool. Whilst this option would share the advantages of creating brand new facilities with a 50 year life-span whilst avoiding a gap between Edmund Wilson closing and the new pool opening, there is significant danger of a start being delayed to allow for further detailed studies to establish:
- ❖ if any other site is available in Acomb (there is no guarantee that a site would be found), and
 - ❖ what the cost of the facility would be
27. Furthermore, a pool on a new unserviced site is likely to cost more than the Oaklands pool option (i.e. more than the £4m allocated) and would not generate any revenue savings with which to pay for the additional capital.

Corporate Priorities

28. This project contributes to a number of corporate objectives including:
- Work with others to improve the health, well-being and independence of York residents
 - Work with others to develop opportunities for residents and visitors to experience York as a vibrant and eventful city

Next Steps

Progress with the Barbican Capital Receipt:

29. The scheme is dependent on obtaining the capital receipt from the sale of the Barbican site. It is anticipated that £6.35m will be received in this financial year on completion of the sale of the main site. £765k will be received from Absolute Leisure on fulfilment of all the contract conditions relating to the Auditorium. This is expected to be in July once the refurbishment is complete. A further £1m will be obtained in 2007/8 if planning approval is given for a hotel on the coach park site.

Implementation:

30. The design for either project can commence in January 2007. Extensive discussion would be required between leisure officers and the designers to develop the outline designs for the Oakland's site prior to a planning application. Subject to these discussions a planning application could be submitted in Spring 2007 with construction works commencing late 2007 for completion in late 2008 / early 2009. More information is already available in respect of the scheme for refurbishment of the current pool. However, the information will need to be updated for revisions in legislation and current approved practices. Refurbishment works could commence in Autumn 2007 for completion in late summer 2008.

Financial Implications

Capital:

31. The total capital receipt is now predicted to be £8.115m. A deduction needs to be made from this for costs already incurred totalling £0.605m, leaving a net useable receipt of £7.51m. £4m is allocated from this pot to the west side facilities covered in this paper.
32. If the refurbishment of Edmund Wilson option is taken this allocation should be sufficient. If the Oaklands pool option is taken the total cost of £5.424m would be funded by the £4m allocation together with £1.424m of prudential borrowing funded by the identified revenue savings (see below). The £1.424m could be repaid over 25 years at an annual cost of £121,000 (based on current interest rates).
33. Alternatively the full saving could be used each year to fund the prudential borrowing. This would have the effect of paying off the loan in 16 years.

The Current Edmund Wilson site:

34. A capital receipt would be available from future disposal of the current Edmund Wilson site. However, the value of the site will be limited as the future use of the site will be restricted, there will be significant demolition costs in respect of the pool (estimated at £400k), and there may be ground contamination.

Revenue:

35. The following table summarises the revenue implications of the two options:

Ongoing Revenue Savings	Refurbish Edmund Wilson Pool	New Oaklands Pool
Additional Swimming Income	16,000	16,000
Loss of Swimming Club Income	0	-8,000
Additional Catering Income	5,000	5,000
Total Increase in Income	21,000	13,000
Management & Reception Savings	0	110,000
Technical Savings	7,500	7,500
Total Savings	28,500	130,500
Cost of Prudential Borrowing		121,000
Net Recurring Revenue Saving	28,500	9,500

One-off costs during capital works ¹		15,000
Temporary relocation of existing users ¹	50,000	25,000
One-off costs of closing EWSP ¹	83,000	
Staff redundancy Costs ¹	31,698	19,713
Total Costs during Capital Works	164,698	59,713

¹ These costs, which are not currently budgeted for, will be incurred over the period 2007-9.

36. Both options generate an on-going revenue saving and are therefore affordable within existing budgets. The one-off costs during the construction period (£60k for Oaklands, £165k for Edmund Wilson) would need to be funded from corporate contingency or reserves.

Other Implications

37. **Human Resources (HR)** – Both options have implications for existing staff:
- Edmund Wilson Refurbishment: Because of the protracted closure period all staff will be at risk of redundancy with the exception of the "Site Manager" who will be required to oversee the building programme and plan for the re-opening. Current staffing levels include 21 contracted individuals and over 50 casual employees who will need to be assessed on an individual basis.
 - New Oaklands Pool: The two staff teams would be combined on the closure of the existing pool placing some staff at risk of redundancy. Affected groups would be: Health & Beauty Therapists, receptionists, gym staff, and the two management teams.
38. Once a decision is taken on the option detailed staffing proposals would be drawn up and consulted on. The Council's normal policy with regard to Management of Change would apply. There is a generous lead time available to us in which to seek any necessary redeployment opportunities across the council.
39. There are no equalities, legal, crime and disorder, or Information Technology implications.

Risk Management

40. The key risks are:
- All proposals are subject to planning permission
 - Funding is dependent on receipt of at least the first element, £6.25m of the Barbican capital receipt
 - The Edmund Wilson refurbishment involves work on a very difficult building. The potential for further issues emerging during the design phase leading to additional cost and delay is high
 - The Oaklands option for a 5 lane pool depends for its rationale on a competition standard pool, capable of taking the displaced galas, etc. being completed by the University in partnership with the Council. The University's plans are currently subject to a planning enquiry and the pool requires a full funding package to be put in place

Progress with the University

41. A memorandum of agreement will shortly be completed with the University for the publicly accessible pool to be built on the new campus. A project board to drive the scheme forward will be assembled in the new year.

Yearsley

42. Consulting with Property Services, a draft repair and improvement scheme has been drawn up for Yearsley Pool in line with the £500k allocated. The scheme has focused on high priority areas which have been identified as being critical in terms of health and safety and legislative requirements for the future of the facility. The draft scheme has also had input from Yearsley Action Group through close consultation. The work will involve a significant closure period and will need to be programmed in at a time that will minimise disruption. Should the option be taken to refurbish Edmund Wilson, the work to Yearsley would need to be completed first.

Recommendations

43. The Executive is asked to agree a way forward for either refurbishing or replacing Edmund Wilson swimming pool.

Reason: To create excellent swimming facilities on the west side of York in line with the agreed strategy.

Annexes

1. Site layouts at Oaklands
2. Summary of the consultation findings (to follow on 13 December)

Contact Details

Authors:

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Chief Officers Responsible for the report:

Neil Hindhaugh
Head of Property Services
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Report Approved ✓ **Date** 6 Dec. 2006

Charlie Croft
Assistant Director (Lifelong Learning and Culture)

Specialist Implications Officers

Financial	Human Resources
Richard Hartle	Jo Brighton
Finance Manager	HR Advisor
554225	554366

Wards Affected:

All ✓

For further information please contact the author of the report

Background Papers:

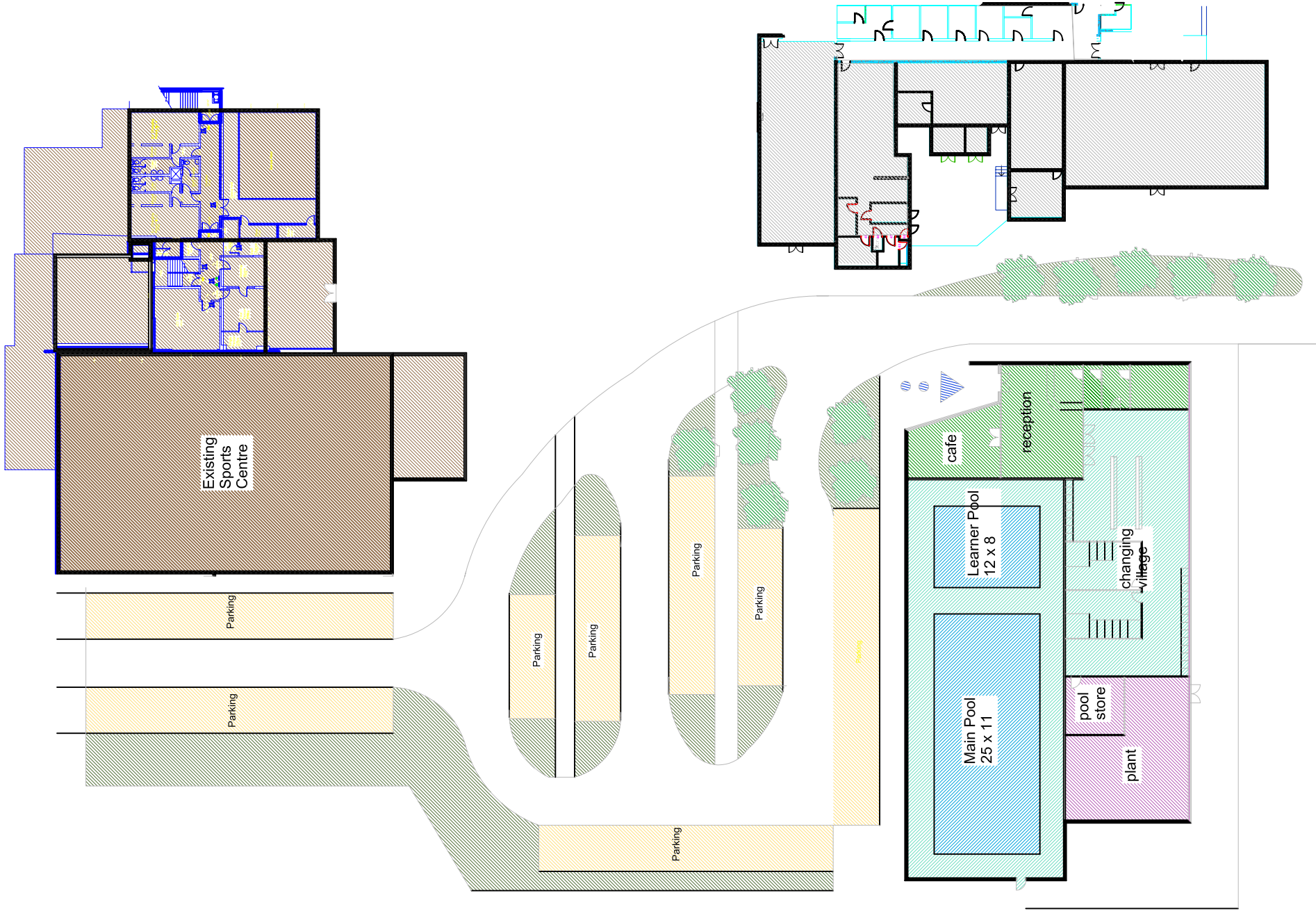
Leisure Facilities Strategy: Report to the Executive, 7 February, 2006

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THE CONTRACTOR IS TO CHECK ALL DRAWING & SITE DIMENSIONS BEFORE COMMENCING WORK

Annex 1A

Rev. Date By



CITY OF YORK COUNCIL
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Property Services

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 Proposed Swimming Pool
 Oaklands
 Annex 1A

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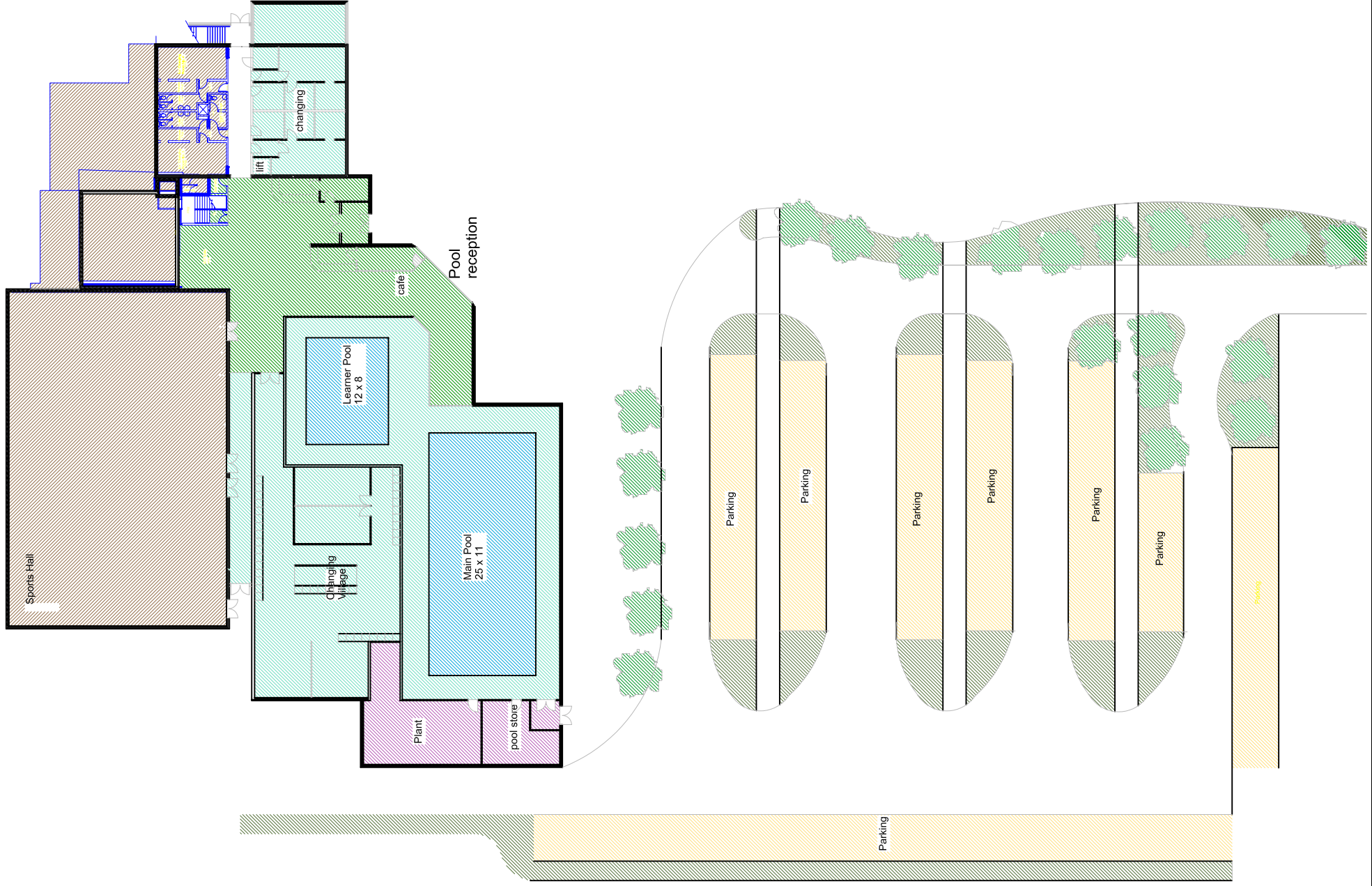
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THE CONTRACTOR IS TO CHECK ALL DRAWING & SITE DIMENSIONS BEFORE COMMENCING WORK

Annex 1B

Rev. Date By



CITY OF YORK COUNCIL
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City Finance Centre, PO Box 31, Library Square, York YO1 7DU
 Proposed Swimming Pool
 Oaklands
 Annex 1B

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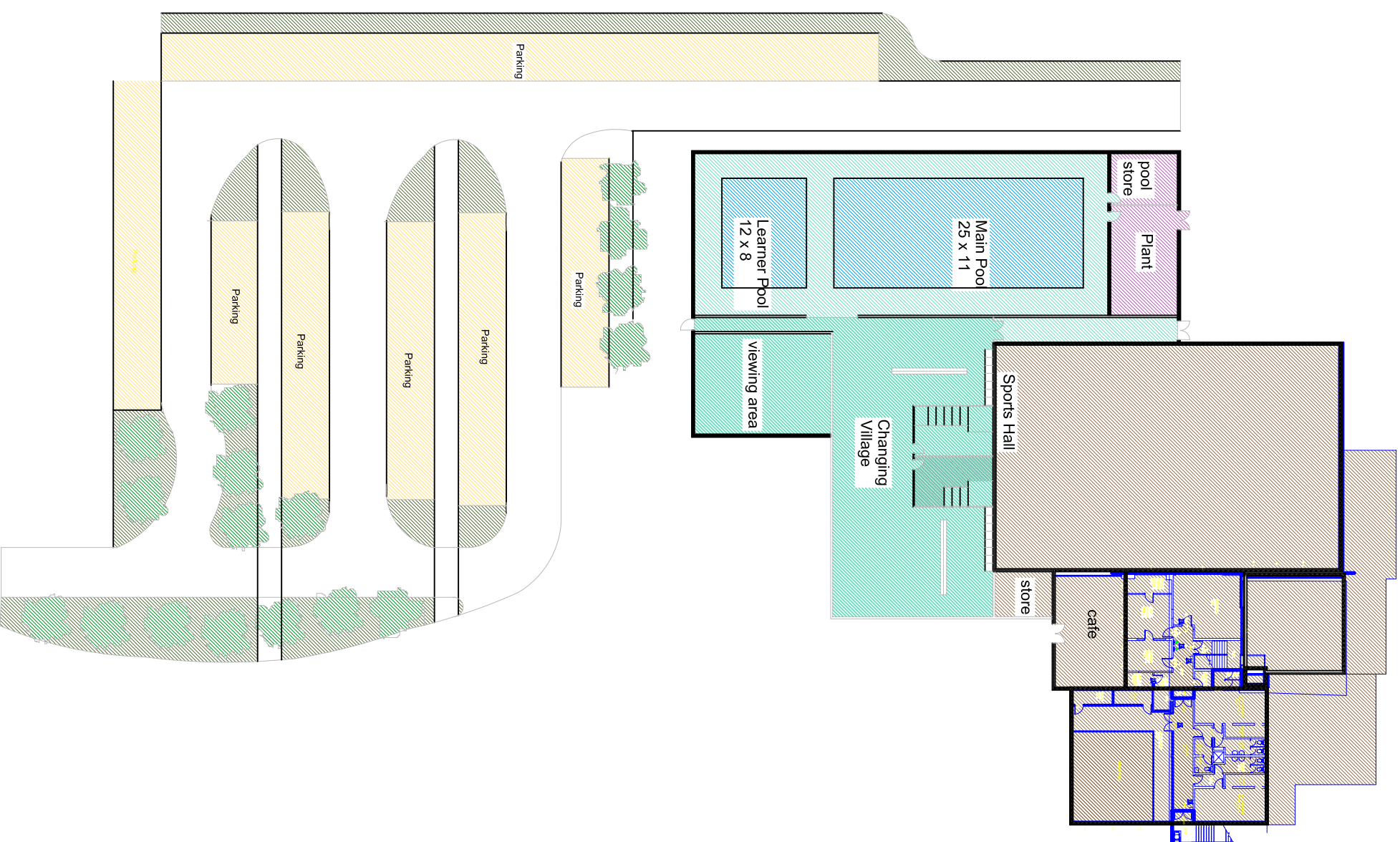
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Annex 1C

Rev. Date

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Annex 1C

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York West Swimming Facilities

1.0 Background and methodology

From 13 November to 5 December 2006, residents were invited to express their views about proposals to radically improve swimming facilities in West York. Residents were asked how they would prefer the council to spend the £4 million which will be generated from the sale of the Barbican site. The respondents were asked to rank three possible options:

1. Build a new five lane 25m pool and learner pool onto the new Oaklands sports centre. Edmund Wilson Pool would then close.
2. The refurbishment of Edmund Wilson Pool. The improvements would include a new entrance lobby and lift, refitted changing rooms, essential repairs to the pool's fabric, returning the gym to the first floor.
3. The council should consider investing the capital in another local site to build a new five lane 25m pool and learner pool.

Around 30,000 residents in Acomb, Holgate, Rural West York, Dringhouses and Woodthorpe, and Westfield were asked to complete a postal questionnaire and return using a free post address. Residents in these wards received a postal questionnaire as they would be the most affected by the proposals. The talkabout panellists were also invited to submit their views in the talkabout 27 questionnaire. The panel consists of over 2,000 residents and is broadly representative of the city in terms of age, gender, socio-economic group and area. All other residents from across the city were invited to take part in an online survey accessed from the council's website. Two public meetings were also held on 28 November 2006 so residents could obtain more information about the options and discuss the proposals in more detail.

The responses from all three research methods were cross referenced to ensure the same resident could not submit their views more than once.

2.0 The sample profile

A total of 1,907 residents participated in the consultation; over half had completed the postal questionnaire:

Method	% of sample
Postal questionnaire delivered to residents in West York (1045)	55%
talkabout 27 survey (731)	38%
Online survey (131)	7%

With a sample size of 1,907, results are accurate +/- 2.24% at a 95% confidence interval.

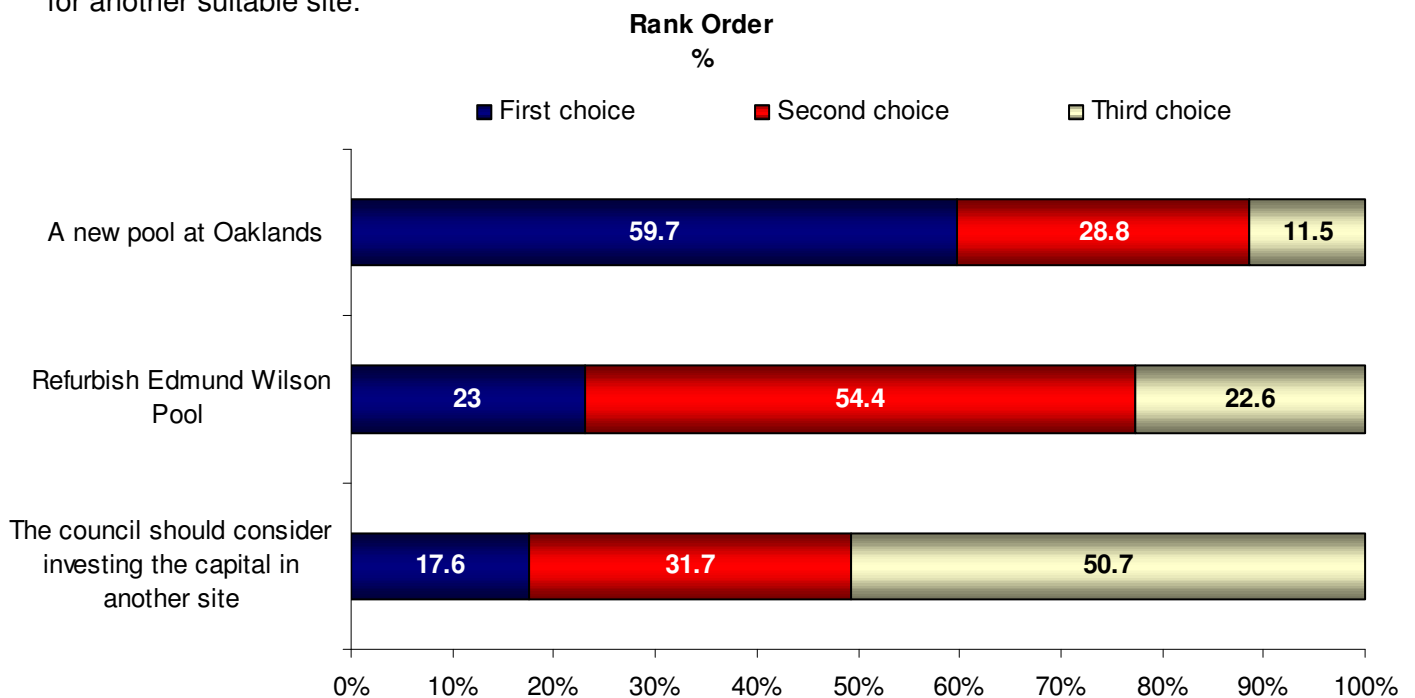
The table below illustrates the proportion of the sample in each ward area. Over two-thirds (68%) of the sample live in West York (Acomb, Holgate, Rural West York, Dringhouses and Woodthorpe, and Westfield.)

Ward Area	% of sample
Holgate	15
Rural West York	14
Dringhouses and Woodthorpe	14
Westfield	13
Acomb	12
Micklegate	4
Huntington & New Earswick	3
Bishopthorpe	3
Skelton, Rawcliffe & Clifton Without	3
Haxby & Wiggington	3
Strensall	2
Clifton	2
Heworth	2
Fishergate	2
Hull Road	1
Heworth Without	1
Derwent	1
Fulford	1
Wheldrake	1
Osbalwick	1
Bishopthorpe	1
Guildhall	1
Other/don't know	1

3.0 Results from the quantitative consultation

3.1 Total response

A new pool built at Oaklands was the preferred option for three-fifths of the total sample, almost one-quarter (23%) favour refurbishing Edmund Wilson Pool whilst just 18% want the council to look for another suitable site:



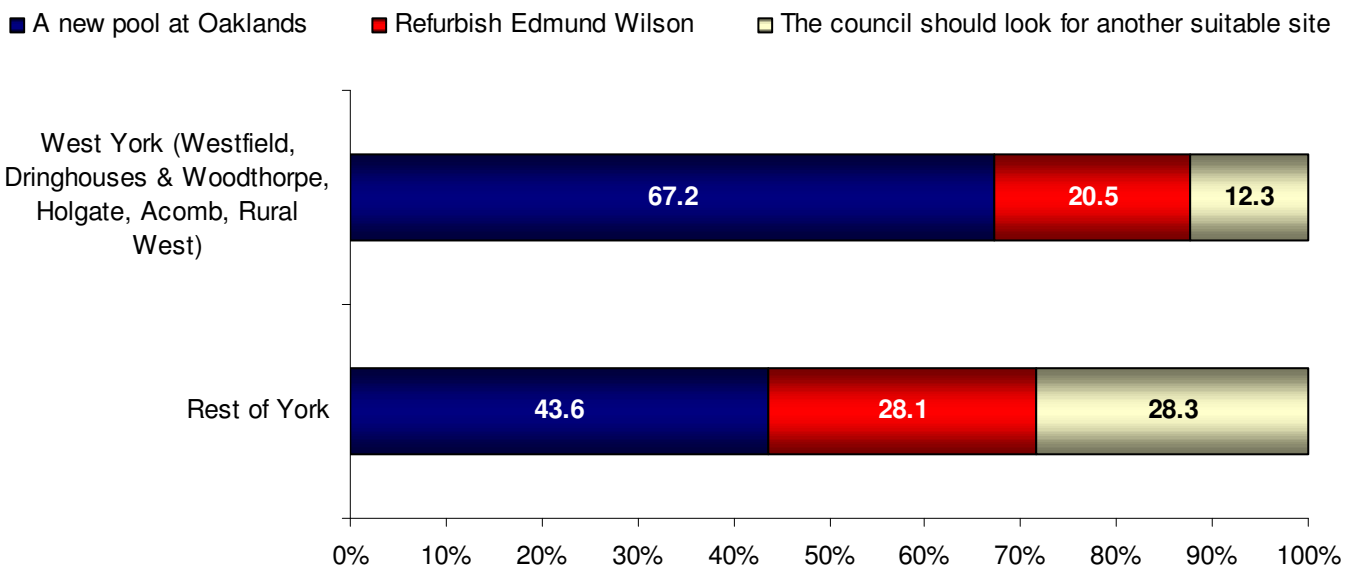
3.2 Response by area

The chart below shows the proportion of the sample in West York and the proportion of the sample in the rest of the city identifying each option as their first choice.

Over two-thirds of those in West York favour a new pool at Oaklands. This was particularly popular amongst those in Holgate, Acomb and Westfield with seven out of ten in these wards⁰ saying a new pool at Oaklands is their preferred option.

Although a new pool at Oaklands was also the most popular choice amongst residents from other areas of the city, less than half (43.6%) point to this as their favourite option.

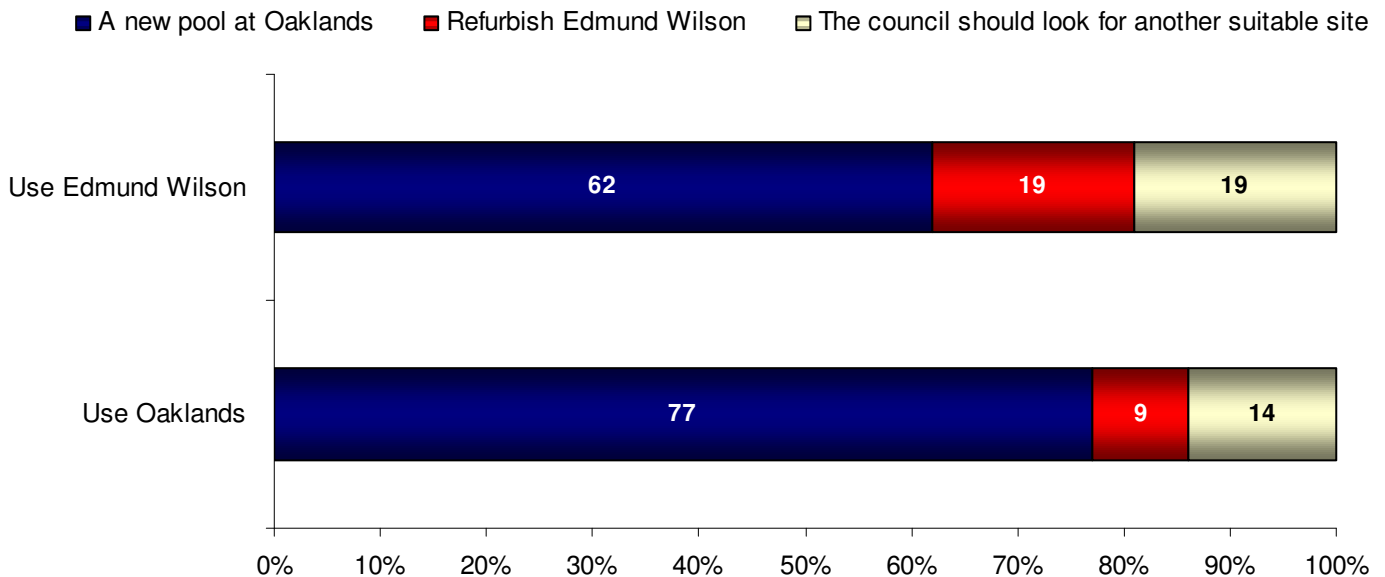
Respondents Identifying each option as their first choice
%



3.3 Response by facility use

The chart below shows the opinions of those respondents who currently use Oaklands and the Edmund Wilson Pool:

Respondents identifying each option as their first choice
%



A new pool at Oaklands was the preferred proposal amongst users of Edmund Wilson and Oaklands; however, the Oaklands users were more likely identify this as their favourite option (+15%).

4.0 Additional comments

Respondents were also asked if there was anything else they would like to say about the swimming facilities in York. The results from this question will be available 20 December 2006.

5.0 Qualitative Consultation Meetings

5.1 Public meetings

Two public meetings were held on 28 November at Oaklands sports centre attended by a total of 25 people. The clear balance of opinion expressed at both meetings was that users did not want to lose Edmund Wilson for it to be replaced by a pool with a lower specification (and especially of only 5 lanes) when the proposed competition pool to be built in partnership with the University is subject to planning approvals and a funding package being put together.

The meetings were therefore of the view that the Council should defer any decision at this time. In the meanwhile the Council should also investigate further the potential to provide a new 6 lane pool on an alternative local site close to the current pool.

Specific concerns were also expressed about a pool at Oaklands in terms of traffic, parking and access.

5.2 York City Baths Club

A consultation meeting with York City Baths Club was held to understand the impact of the two options proposed. A summary will follow.



Public Executive**19 December 2006**

Report of the Director of Resources

LOCAL GOVERNMENT PENSION SCHEME – SCHEME CHANGES AND LOCAL DISCRETIONS**Summary**

1. Under the rules of the Local Government Pension Scheme (LGPS) the Council, as the employer, has the discretion to adopt a number of local policies dictating how it will implement certain regulations of the Scheme. The Council must have a written policy statement for some of these discretions, which is lodged with the North Yorkshire Pension Fund (NYPF).
2. This written policy statement was last updated in December 2002, after the major review of the Council's early retirement and redundancy arrangements which resulted in a new, uniform policy across the Council. This policy was approved by Urgency Committee on 22 August 2002.
3. The purpose of this report is to review the Council's current arrangements for early retirement and redundancy in the light of changes to the LGPS introduced by government between April and October 2006 and the introduction of age discrimination legislation on 1 October 2006. Details of the current policy are given in Paras 5 – 11 and the changes to the LGPS are discussed in Para 12.
4. This report invites the Executive to make recommendations to Council on changes to the Council's early retirement and redundancy policy which are detailed in Paras 17 – 25 and Para 31, to recommend new policies discussed in Paras 24 - 30 as a result of new options within the LGPS and a review of existing Council practice, and to agree to give the Director of Resources, in consultation with Corporate HR, the delegated authority to approve the written statement of local discretions which must be lodged with the NYPF.

Background**The Council's Current Policy - Background/reasons for review**

5. The framework for the Council's current policy on early retirement and redundancy was set by the outcome of a review of previous practice

undertaken by Management Team between 2000 – 2002. Key issues considered were: -

- a) the funding position of the NYPF. In addition to contributing to the pension benefits of current employees, York also has to fund a deficit in the Fund. This deficit is the result of a number of factors:-
 - i) adverse investment conditions and the abolition of tax credits on dividend income
 - ii) the “funding holiday” taken in the early 1990’s to alleviate the cost of Poll Tax, which resulted in lower employer contributions
 - iii) York’s past practice in terms of the number of early retirements, which exceeded the actuarial assumptions on which the employer’s contributions were based
 - iv) the historic practice of awarding added years on early retirement which were not funded at the time
- b) the Audit Commission report “*Retiring Nature*”, which criticised the way in which many councils used early retirement as a means to resolve management issues
- c) the Council’s inconsistent treatment of different sections of its workforce, primarily a distinction between teaching and non-teaching staff and those made redundant before and after age 50.

Redundancy Pay Policy

6. Redundancy pay is calculated using a formula which calculates a number of weeks paid compensation based on an employee’s age and length of service and the value of their weekly pay. Weekly pay can either be either actual weekly pay or a statutory earnings limit set annually by the government, which is currently £290 (2006/07).
7. The Employment Rights Act (1996) sets out the regulations for statutory redundancy payments, based on a maximum of 20 year service and 30 weeks redundancy pay. A revised, mandatory scheme was introduced for Local Government Reorganisation which allowed redundancy payments to be based on up to 66 weeks of pay.
8. The Council adopted one uniform policy for all of its staff in August 2002. Redundancy payments are currently based on actual weekly pay with a maximum of 30 weeks compensation, calculated using Statutory Redundancy Tables. Employees aged between 40 – 49 receive an additional 5 weeks of pay (subject to statutory maximums). This is to reflect that it is often harder for this age group to find alternative employment and that they are not entitled to draw their pension benefits.

Early Retirement

9. The Normal Retirement Age in the LGPS is age 65 but Scheme members are entitled to retire from age 60, without requiring their employer's permission. The Normal Retirement Age in the TPS is age 60, but Scheme members are entitled to retire from age 55, without requiring their employer's permission. Both Schemes allow early retirement before the Normal Retirement Age in certain circumstances. The 2002 review addressed the Council's practice in the following circumstances:

- a) **Early retirement due to redundancy** – Employees who are members of the NYPF have an automatic right to receive unreduced pension benefits if they are made redundant at age 50 or more. Members of the Teachers' Pension Scheme (TPS) are not automatically entitled to receive their pension benefits on redundancy.

There is a cost to the Council from such early retirements because unreduced pension benefits are being paid out early and for a longer period. The Council must pay a one-off lump sum payment to the NYPF, whilst the costs for teachers' redundancy retirements is paid by a proportionate annual split between the Council and the TPS. This is paid monthly, via payroll, to the pensioner for the duration of the pension. The level of the costs is influenced by the value of the pension benefits and the number of years to the employee's normal retirement date. The earlier the retirement the higher the cost.

In order to ensure equality across the workforce, the Council adopted a policy entitling all employees to access unreduced pension benefits from age 50 on redundancy. The historic cost of this is detailed below:-

£000's	Non-Teachers	Teachers	Total
2003/04	237.5	65.6	303.1
2004/05	75.1	91.6	166.7
2005/06	84.5	84.1	168.6

- b) **Early retirement in the efficiency of service** – This type of early retirement is likely to be either for compassionate reasons or where a redundancy situation does not exist but it is deemed in the Council's best interests for an employee to vacate an established post. This is an expensive option since pension benefits are paid on an unreduced basis so the Council must bear the cost and no savings are made because the established post remains and must be filled.

Although it was not used extensively the Council had approved a number of cases since 1996. However, it was felt that the introduction of employment policies designed to address issues related to the individual, such as absence management, capability and redeployment, placed a greater emphasis on preventative processes and lessened the need to use the pension fund as a management tool.

The Council's current policy is that it will not normally consider retirement on the grounds of efficiency or service. However, it retained its discretion to allow exceptions to this policy, with individual cases being considered and approved by Members. There have been 3 such early retirements since August 2002.

- c) **Voluntary early retirement** – Previously the Council had no specific provisions for voluntary early retirement. Although the normal retirement age in the LGPS is age 65, members of the NYPF can voluntarily retire from age 60, but their pension benefits are actuarially reduced if they do not meet the 85 year rule. The 85 year rule allows pension benefits to be paid on an unreduced basis when the age of an employee plus their pensionable service add up to 85 or more. NYPF members aged 50 – 59 require their employer's permission to retire and, again, pension benefits will be reduced if the 85 year rule is not met.

Teachers can voluntarily elect to retire from age 55 (their normal retirement age is 60) but their pension benefits will be actuarially reduced because the 85 year rule does not exist within the TPS. The employer has the discretion to waive this reduction.

When considering the introduction of a voluntary early retirement policy the Council had to consider not only the potential cost (since the cost of an early retirement of a non-teaching employee meeting the 85 year rule has to be borne by the employer) but also uniform criteria to ensure fairness and equality for all employees. Therefore, it was decided that rather than having a range of criteria under which requests for voluntary retirement could be considered a scheme would be put in place allowed individual employees to make the decision within a defined framework.

The policy adopted allows both teaching and non-teaching staff to elect to retire from age 58 provided their age plus pensionable service add up to 85 or more (and they have 5 years current continuous service with York). Employees in the NYPF automatically receive unreduced pension benefits and the Council waives the actuarial reduction for employees in the TPS. Employees can give up to 6 months, or 2 terms, notice of their intention to retire in this way.

The historic cost of this policy is detailed below:-

£000's	Non-Teachers	Teachers	Total
2003/04	43.0	18.9	61.9
2004/05	23.8	28.5	52.3
2005/06	13.5	63.3	77.1

The cost of an early retirement in the LGPS is paid in the year of retirement, whilst the cost of a teacher's early retirement is paid for annually over the remaining lifespan.

Added Years / Augmentation

10. Under the rules of both pension schemes, employers can award employees added years of pension benefits on early retirement due to redundancy or efficiency. This is an expensive way in which to enhance an employee's pension benefits since the pension must be funded in full at the time of the award. York's current policy is to not normally award added years at retirement. Any exception to this policy must be approved by Members and the costs will be borne by the sponsoring department. Since 2002 there has only been one exception to this policy which resulted in the award of 1 added year for operational reasons.
11. The LGPS allows the augmentation of an employee's pensionable service. This is effectively the same as awarding added years but it is not triggered by a redundancy situation. The Council will not normally grant additional pensionable service through augmentation and any exceptions require the approval of Members. There have been no instances of augmentation since the policy was introduced.

2006 Changes to the Local Government Pension Scheme

12. The government introduced new legislation effective from 1 April 2006 which resulted in a number of changes to the provisions of the LGPS. The context for these changes is the government's ongoing "stocktake" of the LGPS, which arose from the December 2002 green paper "*Simplicity, security and choice: working and saving for retirement*", new Inland Revenue tax rules, effective from 4 April 2006 and the advent of the new age discrimination legislation in October 2006. These changes are detailed below:

a) The Removal of the 85 Year Rule

The Normal Retirement Age in the Scheme is age 65, i.e. that is the age at which accrued pension benefits will normally be paid on an unreduced basis. However, all members of the Scheme have the option to access their pension benefits from age 60, but these benefits will be reduced (using actuarial reduction factors which reflect the fact that benefits are being paid early) if they are taken before age 65.

Prior to 1 October 2006 certain Scheme members were entitled to retire between age 60 and 65 with unreduced pension benefits because they met the 85 year rule. The 85 year rule was calculated by adding a Scheme member's age plus length of pensionable service. Where this equalled 85 or more the member qualified for early retirement on unreduced benefits.

When the removal of the 85-year rule was first proposed there was considerable opposition from trade unions, representing the employees, since it meant that all employees would have to remain in employment till age 65 or take an actuarially reduced pension (subject to the protections detailed below). This resulted in a one-day strike and a delay in

implementation from 1 April 2005 to 1 October 2006. The unions also instigated a judicial review, challenging the government's argument that the 85 year rule was incompatible with age discrimination legislation. This review failed in September 2006 but the government did agree to extend the transitional arrangements put in place to protect existing members of the Scheme:-

- (i) All existing Scheme members at 30 September 2006 are protected up to 31 March 2008. This means that all pensionable service up to 31 March 2008 will accrue unreduced pension benefits if a Scheme member would have met the 85 year rule before age 65 and chooses to retire. All service accrued after 31 March 2008 will attract reduced pension benefits if paid out before age 65.
- (ii) Full protection of benefits is given to all existing Scheme members at 30 September 2006 who will be age 60 or over by 31 March 2016, i.e. all of the accrued pension benefits will be paid on an unreduced basis if the member meets the 85 year rule at retirement. This fully protects the pension benefits of all Scheme members who were age 50 by 31 March 2006.
- (iii) A new level of tapered transitional protection has been added for existing members at 30 September 2006. Where a Scheme member will be age 60 or over and would have met the 85 year rule between 1 April 2016 and 31 March 2020, full protection will be given to service accrued up to 31 March 2008 and tapered protection (using tapered reduction factors) will be given on service up to 31 March 2020.
- (iv) Scheme members joining on or after 1 October 2006 will receive no protection and their Normal Retirement Age will be age 65.

b) No Limit on the Length of Pensionable Service

Prior to the 2006 changes the maximum amount of pensionable service that a Scheme member could accrue was 40 years. Because each year of service accrues 1/80th of final salary as pension, the maximum amount of pension payable was 40/80th, or 50%, of final salary. This limit has now been removed.

c) Increase in the age at which employees can join and remain in the Scheme

Previously, employees could not join the Scheme after age 64, nor remain in it after age 65. This has now changed to allow membership to continue until the day before their 75th birthday. Should a Scheme member decide to defer drawing their pension benefits beyond age 65, these benefits will be actuarially increased to reflect the fact that they will be in payment for a shorter period of time.

d) Increase in the annual level of employees' pension contributions

Previously, there was a maximum limit to the amount of annual employee pension contributions attracting tax relief of 15% of salary. This has been removed and replaced with a maximum of 100% of pensionable pay. Scheme members currently pay 6% of salary towards their LGPS pension benefits (with some manual workers still protected under a previous scheme paying 5%) and they can opt to enhance their benefits through the purchase of Added Years, or Additional Voluntary Contributions (AVC's).

The ability to increase annual contributions above 15% with regard to AVC's may be an attractive option for some Scheme members because, at the moment, the full value of the AVC fund can be taken as a tax-free lump sum on retirement, rather than being used to buy an additional annuity.

The maximum number of added years available has been reduced from 10 to 6 2/3rd years. An employee opting to purchase the maximum number of added years at the beginning of their local government service, assuming a reasonably young age, would not have hit the 15% maximum limit, but this change does allow older employees to maximise their pensionable service, whereas previously they may have been hit by the 15% limit. This is because the purchase of added years is more expensive the closer the member is to retirement.

e) Commutation of pension into tax-free lump sum

Previously, a Scheme member would receive a tax-free lump sum on retirement of 3 times their annual pension, which is roughly equivalent to 15% of the capital value¹ of the total benefits. This remains the case but members now have the option to "commute" (i.e. swap) some of their annual pension benefit into an additional tax-free lump sum. Up to 25% of the capital value of benefits can be taken as a lump sum based on a swap ratio of £1 of annual pension benefits foregone earning an additional £12 of lump sum.

f) Lifetime Allowance

Previously there was a limit on the salary on which an employee could pay pension contributions on and on which pension benefits could be calculated. This was called the "earnings cap" and was set at £105,600 in 2005/06. This was abolished with effect from 1 April 2006 and replaced with the lifetime allowance.

The lifetime allowance is the total value of all of the pension benefits an employee can have (excluding state pension benefits) without triggering an excess benefit tax charge. The lifetime allowance for 2006/07 is £1.5 million. The lifetime allowance is calculated by multiplying the annual pension by 20 and adding on the lump sum (this is the same as the capital value of the pension pot). For example, an employee earning £120,000 pa with 40 year service would receive pension benefits of £60,000 (i.e. 40/80

¹ The Capital Value of benefits is calculated by multiplying annual pension benefits by 20 and adding the value of the lump sum payment.

= 50%) and a lump sum of £180,000. The capital value of this pension equals £1.38 million and so falls under the lifetime allowance.

g) Flexible Retirement

As an aid towards addressing the transition between working and retirement the Scheme now allows employees to access their pension benefits from age 50 whilst still remaining in employment. This will only be permitted if there is a reduction in grade or hours worked *and* with the agreement of the employer. The employer has the option to waive, in whole or part, any actuarial reduction which may apply to the early payment of pension benefits. However, where the member's benefits are protected by the transitional protections given under the removal of the 85 year rule, there may be a cost to the employer because these protected benefits cannot be paid on a reduced basis and the employer must pay this cost to the pension fund.

Under the rules of the LGPS the Council must have a policy under which it can exercise its discretion in the granting of flexible retirement. This is discussed in more detail in Paras 27 - 29.

Proposed Changes to the Scheme from April 2008

13. The government completed a further consultation on changes to the LGPS in September 2006, with the intention of introducing further changes to the structure of the Scheme from 1 April 2008. Draft legislation is expected in December 2006 and the government have indicated that the following changes will be made, although full details are not available at the time of writing:-
 - a) a continuation of the final salary scheme (as opposed to a move to a career-average scheme). This will be based on an accrual rate of $1/60^{\text{th}}$, i.e. for each year of service a scheme member will accrue $1/60^{\text{th}}$ of their final salary as annual pension. There will be no automatic right to a tax-free lump sum but members will be able to commute (swap) £1 of annual pension for £12 of tax-free lump sum, up to a maximum of 25% of the capital value of their pension.
 - b) the introduction of partners' pensions for cohabittees. The Scheme already provides pension benefits for married partners and those in a Civil Partnership.
 - c) an increase in the lump sum death benefit from 2 to 3 times salary.
 - d) the introduction of two-tier ill-health benefits. Currently, a Scheme member must be certified as being permanently unable to do their current job, or any comparable job with their employer, in order to receive ill-health retirement benefits. The two-tier system is designed to reflect different levels of ill-health and permanence.

- e) the introduction of tiered contribution rates for employees, based on 5.5% of salary on the first £12,000 of salary and 7.5% on earnings from £12,001.
- f) the confirmation of the removal of the 85-year rule, with the Normal Pension Age being 65.
- g) further extensions to flexible retirement.
- h) the facility to purchase up to £5,000 of added pension benefits.
- i) augmentation (i.e. increase) of membership on an objectively justified basis. This is an employer discretion.
- j) actuarial enhancement of benefits for those employees working beyond age 65 and not accessing their pension benefits at that point.
- k) the earliest retirement age for *new* members from 1 April 2008 will be age 55, excluding ill-health retirements.

Full details of the consultation are available in the report to Corporate Services EMAP, *"2008 Pension Reforms – Government Proposals for Changes to the Local Government Pension Scheme"*, on 12 September 2006.

Further Changes to the Scheme

- 14. The government is committed to raising the earliest retirement age within the public sector from age 50 to 55 by 2010 (excluding ill-health retirements) and in all occupational schemes by 2020. The first draft of the 2006 changes included this proposal but it was dropped in the final legislation. The 2008 consultation simply states that the earliest retirement age for current members will be increased to age 55 by 2010, with the exception of ill-health retirements.
- 15. This will affect Scheme members who are made redundant in future because they are currently entitled to the payment of unreduced pension benefits on redundancy from age 50. It is not known whether existing members will be given any transitional protections.

Consultation

- 16. The recommendations made in this report are a result of discussion and consultation between the Pensions Officer, Director of Resources, Corporate Human Resources and Legal Services. The proposals have been made with regard to both the Human Resources and cost implications and the legal framework set out by the LGPS regulations.

Consultations with the trades unions took place during November and they were invited to comment on the proposals made in this report. The GMB have commented that they broadly support all the main proposals. However, they

do maintain that pensions are exempt from age discrimination legislation and therefore early retirement using the 85-year rule as a criteria as a local discretion might be allowable. This position is clearly contrary to the advice the Council has received on the outcome of the judicial review of the 85-year rule. The GMB have also accepted the need for a formula for dealing equally with individual requests to retire.

Consultation with the Teachers' Panel was positive and they accepted that the early retirement option at age 58 would have to be removed. They clearly stated a preference for a transitional arrangement allowing all employees who are age 57 at 31 December 2006 to retire early up to 31 August 2009 if they meet the 85 year rule by that date, since this would possibly prevent a more rapid exodus of skilled teachers if a shorter transition was chosen.

The local representative of "Aspect" (the trade union for senior professionals in education and Children's Trusts) support all of the Council's proposals apart from the revocation of the 85-year rule.

No response from Unison or other unions who were sent the proposals for change had been received at the time of writing.

Options and Analysis

Redundancy Pay

17. The Council's current policy of awarding an additional 5 weeks of redundancy pay (subject to statutory maximums) to all employees between age 40 – 49 falls foul of the new age discrimination legislation and must therefore be discontinued. Options for replacement policy could include:-
 - a) award all employees an additional number of weeks redundancy pay (subject to the 30 week maximum). For example, this could be in the range of 1 – 4 weeks.
 - b) calculate redundancy pay using the statutory tables, with a 30 week maximum.
18. Analysis shows that the majority of redundancies since 2002 fall outside of the age bracket 40 – 49 so, whilst an attractive benefit, this policy has been little used. The award of additional weeks of compensation for all employees would clearly add to the strain on the early retirement and redundancy budget and so it is recommended that future redundancy pay is calculated using the statutory tables with a 30 week maximum.
19. Any change to the Council's policies must be communicated to staff and so it is suggested that any new policy is introduced from 1 April 2007. It is also recommended that any employee who is formally at risk and has been given an enhanced redundancy quote under the previous scheme but will be made redundant after 1 April 2007 receives a redundancy payment equal to the original quote.

Early Retirement under the 85 year rule

20. Because the Council's current policy is based on age and length of service it is not compatible with the new age discrimination legislation. To continue with the existing policy may leave the Council open to legal challenge in the future and the Council must therefore revisit its early retirement policy. There are various options to replace the current policy:-
- a) allow all employees the option to elect to retire early and receive actuarially reduced pension benefits. Members of the NYPF can elect to this from age 50, whilst members of the TPS can retire this way from age 55. However, there would be drawbacks to such an approach:-
 - i) members of the NYPF have been given various protections under the removal of the 85 year rule. This means that if they would have met the 85 year rule on retirement then some or all of their pension benefits may be paid on an unreduced basis. The cost of this early payment would be charged to the Council. The main driver of these costs is the age of the retiree – the closer to age 50, the more expensive the retirement.
 - ii) a blanket permission to retire at will could be detrimental to the needs of the Council as it could disrupt service areas, increase staff turnover and reduce experience and skills, and potentially create recruitment problems.
 - b) adopt a range of formal criteria under which requests for early retirement could be considered. Any such criteria would probably have to exclude age or length of service but could include factors such as "compassionate" grounds, financial hardship and cost to the Council. The problem with such an approach is achieving objectivity to ensure that all employees are treated fairly. It could also open the Council to challenge under the LGPS Internal Dispute Resolution Procedures where requests are refused. Once again, there would be a cost to the Council when an employee meets the 85 year rule.
 - c) remove the option allowing employees to retire at age 58, since this is now discriminatory, and align the Council's early retirement policy with the provisions of the NYPF and the TPS. This would enable members of the NYPF to voluntarily elect to retire from age 60. Pension benefits would be paid on a reduced basis unless the 85 year rule would have been met. If so, benefits would be paid in line with the protections described in Para 12a). Teachers would be entitled to retire from age 55 on reduced pension benefits. This would create a budget saving since the Council is not charged for early retirements from age 60.
21. It is recommended that the Council removes the automatic right given to employees aged over 58 to retire early when the 85 year rule is met since this

is now deemed discriminatory. It is also recommended that the Council take the opportunity to realign its policy with the regulations contained within the NYPF and TPS. This would allow non-teaching staff to retire from age 60 and teachers from age 55.

22. The Council would retain its legal discretion to allow exceptions to this, but such exceptions would require a business case to be presented and, if there was a cost due to pension benefits being paid on an unreduced basis, this cost would be borne by the sponsoring department. It is recommended that Council give delegated authority to an Appeals Board consisting of the Pensions Officer, Head of Human Resources, Director of Resources and a senior representative from the sponsoring directorate (or suitable delegates).
23. If the option detailed in Para 21 is approved, the Council will need to adopt some transitional arrangement because employees are currently allowed to give either 6 months or 2 terms notice of their intention to retire early. Obviously, we would need to honour early retirements where notice has already been given and permission granted. However, there is likely to be a body of employees who have already made decisions on the expectation of early retirement at some point in the future. In addition, the Council has an obligation to inform its employees about the change to its policy before it becomes effective. A number of options are available for transitional arrangements:-
 - a) one option would be to remove the current early retirement policy with effect from 1 March 2007, which would allow time for staff communication, whilst permitting those who had already given notice to go on their given date.
 - b) an alternative would be to have a longer transition rather than such an abrupt cut-off and to allow early retirements up to 31 August 2007, for example, which falls at the end of the school year and would give employees an additional 6 months of protection.
 - c) the problem of an abrupt cut-off is that it could lead to a flood of early retirements in the first half of 2007 if employees who may have waited a year or more to retire saw the opportunity to do so vanishing. This would perhaps be a particular problem in schools where the numbers of senior and experienced teachers in their late 50's is quite high. A way around this would be to have a longer transitional period which would allow for more orderly manpower planning. For example,
 - i) all employees who are age 57 at 31 August 2006 would be entitled to elect to retire early should they reach the 85 year rule by 31 August 2009, at which point they would be 60 anyway and so could retire, or
 - ii) all employees who are age 57 at 31 August 2006 would be entitled to elect to retire early should they reach the 85 year rule by 31 August 2008. This is a shorter transition period but would allow some spread in early retirements.

- iii) all employees who are age 57 at 31 December 2006 would be entitled to elect to retire should they reach the 85-year rule by 31 August 2009. This would allow a slightly longer transition in the sense that the qualifying period would increase by 4 months from August to December 2006, but the final cut-off would not be extended beyond August 2009.
24. Although all of the transitional arrangements discussed in Para 23 c) above involve a qualification based on age and length of service it is anticipated that this will be allowable in the pursuit of fairness. Whilst we are aware that the policy must be removed an abrupt cut-off will penalise those employees who already qualify or soon will do so and who may have already made decisions in the expectation of retiring early. Analysis of the options shows that even by extending the cut-off to 31 December 2006 and the final date of retirement to 31 August to 31 August 2009 only an additional 15 employees qualify for early retirement and there is obviously no certainty that each would leave.
25. It is recommended that the Council adopts Para 23 c) iii) as a transitional arrangement , i.e. all employees who are age 57 at 31 December 2006 would be entitled to elect to retire should they reach the 85-year rule by 31 August 2009. This would seem to be the fairest option for both those employees who currently qualify to leave and for those who are fast approaching qualification.

III-Health Retirements

26. Under the rules of both schemes, employees are entitled to retire on grounds of ill-health and receive enhanced pension benefits when they are certified as being permanently incapable of doing their job or any comparable job with their employer. The Council employs an independent medical practitioner who examines each case and issues a certificate of ill-health if appropriate. Referral to the medical practitioner is usually instigated by the Council and there is a charge for this which the Council pays.
27. Under the schemes' rules, deferred members (i.e. pension fund members who have left the Council's employ but have not retired) are also entitled to apply for ill-health retirement benefits. In such cases, the former employee contacts the Council and requests a referral to the independent medical practitioner – the Council does not have the right to refuse. Previously the Council has had no policy/procedure for dealing with multiple requests from one employee over time, nor has it had experience of such. However, it is felt that it would be prudent to adopt a formal policy so that the Council can act consistently in such circumstances.
28. It is recommended that the Council adopt a policy whereby the Council will pay for the cost of the first referral, whilst the former employee will pay for any subsequent referral unless it proves successful.

Flexible Retirement

29. Flexible retirement was introduced into the LGPS with effect from 1 April 2006. It is designed to allow employees to take a structured step-down from employment towards retirement whilst avoiding the cliff-edge which exists for many. Put simply, flexible retirement allows an employee to remain in employment whilst accessing their pension benefits. The regulations are incredibly vague as to what constitutes flexible retirement, simply stating that it will be permitted if there is a reduction in grade or hours worked and the agreement of the employer. There are no guidelines from government as to the necessary level of reduction, it is simply a matter for the discretion of the employer. Under the rules of the LGPS the Council, as the employer, is obliged to have a policy under which it can exercise its discretion in this area. Flexible retirement is not yet available to teachers.
30. In general the Council should be supportive of flexible retirement since it could prove a valuable tool in managing workforce expectations and could allow the retention of valuable skills and experience whilst at the same time allowing staff to reduce the level of either their responsibility or workload. However, there are a number of issues to consider:-
- a) *Does the Council have to offer flexible retirement?* – No, under the rules of the LGPS it is simply a discretion which the Council may or may not decide to use.
 - b) *What is meant by a reduction in either grade or hours?* - The government has made no attempt to define what is acceptable, it is up to the individual employer to decide. NYCC use the phrase “significant and permanent” but have not defined what this means. In any case, permanency cannot be enforced. A considerable amount of thought would need to go into deciding how to define this and what to allow/disallow.
 - c) *What will it cost? And who will pay?* – The assumption is that employees applying for flexible retirement will receive actuarially reduced pensions because they are being paid early. However, all existing members of the LGPS as at 30 September 2006 have some element of protection under the removal of the 85 year rule. Therefore, any employee applying for flexible retirement who would have met the 85 year rule will cost the Council. The Council would need to decide whether this cost would be met from individual directorates or from a corporate cost.
 - d) *Where should control rest?* – Should the Council allow individual directorates the discretion to allow flexible retirements or should there be an element of central control to ensure that any policy is applied consistently across all directorates?
31. Because of the complexities surrounding the introduction of any flexible retirement scheme it is suggested that, in the short term, the Council does not adopt a flexible retirement scheme, although it would reserve its discretion to act outside this policy. It is suggested that the whole issue of flexible retirement is reviewed in line with the attendance management initiative

currently be worked on by Human Resources. This is looking at work life balance and flexible working issues.

Added Years / Augmentation

32. Previously, employers were permitted to award employees up to 10 added years of pensionable service on retirement. York's current policy is that it will not normally award added years, with exceptions requiring the approval of the Executive. This was allowed under discretionary compensation regulations. This discretion was revoked on 1 October 2006. In its place, employers now have the discretion to award a one-off lump sum payment of up to 104 weeks of pay (i.e. 2 years) . It is recommended that the Council adopt a similar policy in that this compensatory award will not normally be given and exceptions will require the approval of the Appeals Board. Consideration will need to be given on identifying criteria to set the level of any such award made.
33. Augmentation, i.e. the award of extra service to an employee who is still in employment, is still available under the Scheme and the Council's policy remains that this is not normally used.

Corporate Priorities

34. This report has no impact on the Council's corporate priorities.

Implications

35.

- **Financial**

Any early retirement and redundancy policy review must take place in the wider context of the Council's overall pension fund liabilities. An interim valuation of the NYPF as a whole, undertaken as at 31 March 2006, showed an overall deficit of £523m, giving the Fund a 69% funding level (i.e. only 69% of future liabilities can be paid for). Although a specific calculation of CYC's liabilities was not undertaken it is estimated that, as at 31 March 2006, the liabilities were about £100m. The Council is currently paying 17.6% of non-teaching pensionable payroll per annum in the expectation that this deficit can be recovered over the next 20 years or so.

The Council's 2006/07 budget for redundancy pay and early retirement is £1.2 million and it is currently forecast that there will be an overspend in the region of £300 – £350k. £100k of contingency has already been earmarked to cover this. It is obviously essential that the Council balances the need to treat its employees in a fair and equitable manner with the financial constraints under which it operates. The Council will face continuing costs if it decides to maintain a policy under which employees can retire before age 60. This cost would be likely to be higher than at

present because employees would be allowed to retire at an earlier age, which costs more.

Further cost pressures could arise dependent on if, and how, the Council adopts a policy on flexible retirement. Because of the protections afforded under the removal of the 85 year rule the Council could face a considerable financial charge.

- **Human Resources (HR)**

There are significant HR implications associated with the options are contained in this report. Whilst the need for the Council to review it's local discretions undeniable, it is essential the Council retains the ability to use its local discretions to effectively and efficiently manage within the organisation. This does not mean using the pensions discretions inappropriately, rather ensuring they are available to facilitate and manage change in appropriate situations. As such the development of a range of discretions, operating under a corporate policy framework is supported, as this would give the benefit of maximum choice for the employee whilst also providing the Council with the ability to manage the cost of change.

Any discretions the Council uses should operate under a corporate framework to ensure equality and to reduce the chance of claims of unfairness in their application. It is recognised that any increase in the employer discretions also increases the potential for employer costs and as such each case should be supported by a business case and should be considered on its merits under the corporate framework.

As has already been demonstrated, any changes to the way the Council operates its pension arrangements may be met with some hostility by staff and trade unions who remain fundamentally opposed to any detrimental changes to Local Government pension arrangements. However, the results of the local consultation show that in the main the unions accept the reasons for change. It is understood that the trade unions are currently preparing to ballot their members on further action against the changes already made to the LGPS and it is therefore essential that the Council avoids replicating the national issues and dispute at a local level. Any proposed changes should therefore be subject to full, timely and meaningful consultation with the rationale for any changes being fully explored.

Given the planning horizon associated with changes to pensions it is also critical that the Council agrees transitional implementation arrangements which are both lawful and understandable to employees. It is therefore proposed that a communication strategy is adopted and implemented to support this issue.

- **Equalities** –The Council's early retirement and redundancy payment policies have been developed to ensure that the policies are employed fairly and equally across all of the Council's employees. The 85-year rule has been confirmed by judicial review as being incompatible with age

discrimination legislation and has been removed. The Council must remove similar provisions from its local provisions to comply with the law.

The proposed transitional arrangements are therefore key to successful implementation in a potentially difficult employee relations climate. These arrangements may be open to possible legal challenge as they maintain an element of differentiation according to age but it is believed this can be objectively justified in the meaning of the statutory definition on workforce planning grounds.

- **Legal –**

Redundancy Pay – The current Council practice of awarding 5 additional weeks redundancy pay for employees aged between 40 and 49 is a clear breach of the age discrimination regulations. The benefit is directly related to age and is not available to either younger or older employees. Although justification of breaches of the regulations is possible, it is likely that this practice would be hard to justify objectively and may leave the Council at risk of challenge from employees who do not receive the additional 5 weeks pay. Both proposals put forward in paragraph 17 of the report would remedy this breach.

Transitional Arrangements for the 85-year rule - As stated in the body of the report, the 85-year rule is regarded by the Government as discriminatory as its benefits are directly dependent on age and on length of service (which is also associated with age). The Employment Equality (Age) Regulations 2006 are therefore breached by the continued operation of this rule. Such discrimination has been unlawful since 1 October 2006. Removing the right to retire at 58 under the 85-year rule from the local discretions, as recommended in paragraph 21, would remedy this breach.

The proposal to exercise local discretions to allow employees to retire early if the 85 year rule is satisfied up to 31 August 2009 would mean that the Council continued to be in breach of the age discrimination regulations until that date. However, the risk associated with this breach is likely to be low. The reasons put forward in the report for a transitional period are likely to make the transitional policy lawful on the grounds that the discriminatory impact is justified by the legitimate objective of avoiding hardship for those employees who have taken decisions or are very close to qualifying now and have a legitimate expectation that the rule will apply to them. Additionally, the small number of employees affected makes the likelihood of legal challenge more remote.

- **Crime and Disorder** – There are no implications
- **Information Technology (IT)** - There are no implications
- **Property** - There are no implications
- **Other** - There are no implications

Risk Management

36. There are no implications.

Recommendations

37. The Executive are asked to recommend to Council the following:

- 1) A revised policy for redundancy payments, based on the award of up to 30 weeks of actual pay calculated using the Statutory Redundancy tables (Para 18).

Reason: The current policy of awarding 5 additional weeks of compensation to those aged 40 – 49 fall foul of age discrimination legislation.

- 2) That the new policy for redundancy payments become effective from 1 April 2007 and that any enhanced quotes given under the current policy be honoured for redundancies occurring after 1 April 2007 (Para 19).

Reason: The current policy of awarding 5 additional weeks of compensation to those aged 40 – 49 falls foul of age discrimination legislation.

- 3) a) The removal of the current policy allowing any employee aged 58 or more to retire before age 60 when their age and service totalled 85 or more (Para 21). This will realign employee's early retirement options with the provisions of their Schemes: - age 60 for members of the LGPS and age 55 for members of the TPS.

b) The adoption of transitional arrangements which will allow all those employees who are age 57 by 31 December 2006 and would have met the "85-year" rule by 31st August 2009 to retire early on unreduced pension benefits in the period up to 31st August 2009 (Para 23c)iii).

- c) Exceptions to this policy will be considered by an Appeals Board consisting of the Pensions Officer, Head of Human resources, Director of Resources and relevant directorate representative (or suitable delegates).

Reason: The 85 year rule has been deemed to be age discriminatory and has been removed from the LGPS.

- 4) The introduction of a formal policy for processing ill-health retirement requests from deferred members (i.e. ex-employees) limiting the number of occupational health referrals paid for by the Council (Para 26).

Reason: the Council has no formal policy in this area.

- 5) That flexible retirement, offered under the terms of the LGPS, be refused in the short-term, whilst further research and analysis is undertaken as part of the review of work-life balance to be undertaken by Corporate Human Resources. The Council would reserve its discretion to act outside this policy, with exceptions being considered by the Appeals Board.

Reason: under the terms of the LGPS the Council is obliged to have a policy under which it can exercise its discretion in this area, even if its discretion will be used to not adopt a policy. Flexible retirement is a complex area and considerable work will need to be undertaken before further proposals can be put before Council.

- 6) That the Council will not normally give a compensatory award of up to 104 weeks pay on retirement and exceptions must be considered by the Appeals Board. Any costs arising from an exception will be borne by the sponsoring department.

Reason: The award of compensatory added years has been replaced by the discretion to award up to 104 weeks of pay.

- 7) That the Council gives the Director of Resources, in consultation with Corporate Human Resources and the Pensions Officer, the delegated authority to approve the written statement of local discretions which must be lodged with the North Yorkshire Pension Fund.

Reason: The Council is required to have a written statement of how it will exercise certain discretions under the rules of the Local Government Pension Scheme.

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Director of Resources

Report Approved *tick* Date 7 December 2006

Simon Wiles
Director of Resources

Report Approved *tick* Date 7 December 2006

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Wards Affected:

All *tick*

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