
**Cabinet Member for Leisure,
Culture & Social Inclusion**

10 January 2012

Report of the Directors of Communities & Neighbourhoods and City Strategy

The Community Stadium and Council Leisure Facilities: Procurement of Operator Arrangements

Summary

1. This report seeks authority to initiate the procurement process for the operation and maintenance of the Community Stadium and the Council's leisure facilities.

Background

2. Previous reports to the Council's Executive and Cabinet have provided summaries of the development of the Community Stadium project to date. An outline business case for the project was first approved by members in June 2009. It was then further developed to support the decision of the Executive in July 2010 that the stadium would be located at Monks Cross South and would be delivered as part of an enabling development at the centre of a range of community facilities. On 8 December Council agreed that £200k of the Council's £4m capital allocation for the project should be used to progress the project to the next key stage. The project timetable requires that a procurement exercise to seek an operator for the facilities should now be commenced.
3. This project represents one of the country's most exciting and innovative community stadium projects with its extensive and exciting range of community facilities. It will produce high quality facilities that are accessible to all and that benefit all of York's communities. The potential deliverables are as follows:
 - 6,000 all seat stadium - capable of extension to 12,000 - with hospitality & support facilities, to be shared between rugby league and football. It will also act as a base for the clubs' extensive community activities, provide them with offices, boardroom, administration and high quality hospitality facilities

and a top class playing surface. The stadium will host community sports events / finals as well as other events such as occasional concerts.

- New county standard athletics facility with a 500 capacity grandstand, club and support facilities to be located at the York Sports Village. This will act as a hub for the new regional closed circuit cycle track to be developed with York University and offer scope for other sports such as triathlon. It will be a key part of the City's Olympic legacy and establish York as sporting centre of regional importance. It will provide a sports pitch in the centre of the track (which will replace the pitch ultimately to be lost at Bootham Crescent, thus satisfying Sport England's requirements). A business case for the provision of an additional training pitch adjacent to the facility is being explored.
- £3m refurbishment and investment into the leisure facilities at Waterworld / Huntington Stadium to secure their long-term sustainability. As part of a commercial management contract, improvements would include a much needed facelift and improved layout of these tired and disaggregated facilities, and could bring new attractions such as re-opening of the sports hall, a 120 station health and fitness suit or improvements to the swimming area.
- A Community Hub, incorporated into an iconic atrium, providing a focal point for all the community activity at the Huntington site. It will be designed around a large, high quality café and informal communal / reception area. Plans and schematics have been presented to the December Community Stadium Advisory Group meeting. The following community uses (or spokes) will be accessed from the hub:
 - Community health / well-being drop-in centre, run by York NHS Hospital Trust, providing a range of clinical uses such as physiotherapy & phlebotomy , health information and services such as sexual health and health in-equalities that can use the power of sport and the attraction of the new destination to encourage use, particularly by hard to reach groups.
 - York St John University (YSJU) Community Institute of Sport & Wellbeing: Linked to the NHS facility this will offer a range of learning opportunities and placements to provide a unique integrated learning model for sport and health studies, research and development. The work of the sports institute

could provide support to the clubs as well as community health uses, offering access to strength and conditioning and physiotherapy services.

- An Independent Living Assessment Centre, providing a community 'retail' facility for those with mobility problems. This important service will be given a high profile frontage as part of the new sports / community and retail destination. It will provide excellent accessible facilities in place of those that are currently in an inappropriate and inaccessible location. Scope exists to link this and extend the provision to include services such as stroke rehabilitation etc.
- Training, development and conference centre: Using the main hospitality area of the stadium (non-match day use) this will deliver a range of seminars, training courses meetings, conferences, led by York NHS Trust and YSJU and offering use for wider community use. This facility will also be used by the sports clubs to offer high quality match-day hospitality, as well as access for functions and other events in the evenings and at other times.
- A Gateway Explore Library: This will provide a new way of delivering library services, integrated into this new multi-agency environment. It will be at the very heart of the hub, being part of the atrium and linking into the café / informal areas. It will provide access to books, IT equipment and a range of other learning activities and spaces.
- A child's play facility, offering a new unique and exciting concept, extending to 800 sq m. It will also include a day nursery (providing an excellent location with close access to the park and ride facility) a crèche – offering a new concept for the wider destination of 'drop&play' for those wanting to use the leisure facilities, 'drop&shop' for those wishing to use the adjacent retail park and for match-days 'drop&watch'.
- The stadium and its associated facilities will act as a focal point for community sports activity. This will be a base for the clubs to deliver their community activities, building on their present programmes. It will also give schools, adult education providers and other community groups the chance to use the stadium and sport as means of motivation to encourage educational development and participation. There will be access to the meeting areas and hospitality lounges for community use and the stadium itself to host finals for schools and leagues across the City.

- Potential for investment into a local community sports club to deliver enhanced training and playing facilities, with the option to host professional reserve team matches, and make links between grass roots / community sport and the professional game in the city. There will also be scope to include a new 3G pitch as part of YCFC's Sport in the Community programme, using funding from the Football Foundation / Premier League.
- Retail sports shop for the clubs and other sports uses: There is an option to be explored for a larger retail sports operator if a business case can be developed.

Market Testing & Feasibility

4. Extensive feasibility work has been undertaken to identify the optimum means of procuring and constructing the Community Stadium, operating the facilities along side the Council's existing leisure facilities in order to ensure best value. This work has been supported by a detailed market testing exercise, backed up by specialist legal and commercial advice, which suggests that:
 - The proposals set out above are deliverable.
 - There is market interest in the operation of the new stadium and community facilities.
 - There is a need for an investment strategy for the city's leisure facilities to ensure their long-term sustainability. As reported to members in July 2011, the current income stream to the Council of £160k p.a. for the Waterworld / Huntington Stadium lease will not be retained without significant investment as part of the Community Stadium project.
 - This is particularly the case with the facilities at the Huntington Stadium site (Waterworld, Courtneys and the Stadium) where there has been limited investment over the last 14 years. Should the current lease be surrendered (which could happen any time from November 2012) the Council would potentially be left with a significant capital and revenue budget pressure.
 - A unique opportunity exists to secure this much needed investment by including the operation of the city's leisure facilities (Energise and Yearsley) as part of a community leisure contract, focused around the new community hub at the stadium site.
 - A number of different options exist for the management / operation of the Community Stadium, hospitality areas and

catering that would be best explored as part of a dialogue process involving the principle stakeholders.

- It will not be commercially desirable to appoint an extensive, dedicated stadium management company for the operation of the stadium component; the Council's intention is to let a contract for the leisure management of the Community Stadium facilities as a whole, alongside its other facilities. Under the 'hub and spoke' model, however, (see paragraph 8 below) the selected contractor may choose to introduce a specialist operator, such as a catering firm or possibly one of the two sports clubs, to operate the stadium component within the Community Stadium complex.
- The operation of the athletics facility should be excluded from the leisure management contract as arrangements have already been agreed with the University and the City of York Athletics club; however, the capital design / build could be included provided the timelines did not cause a conflict with planning conditions / restrictions.
- Running separate (but dovetailed) procurements for construction and leisure management respectively is most likely to produce a commercially sustainable design for the Community Stadium, ensuring that the future operator has input to the design.
- There is potential to deliver savings through external management of the Council's leisure facilities.

Options

5. The principal options available to the Cabinet Member are to approve:
 - A. a procurement of the Community Stadium alone.
 - B. a joint procurement exercise including the Council's leisure facilities.

Analysis

6. There are a number of compelling reasons why the procurement of operation of the Community Stadium and the Council's leisure facilities should be linked:
 - Potential exists to reduce the potential management and overhead costs of the Community Stadium.
 - There are potential efficiency savings to be gained for the Council's leisure facilities.

- An opportunity exists to establish the community stadium as the heart of the city's community leisure operations.
- There is potential for investment into the existing leisure facilities as part of this community led project.
- Management of the existing leisure facilities and the Community Stadium may be awarded as part of a long-term management contract to an experienced and high quality operator who will be able to bring investment and improve the services on offer to users. There is potential for this to be a social enterprise operator whose objectives include reinvesting into community sport and active leisure.

7. For these reasons option B is recommended.

Procurement Strategy

8. Taking account of the issues set out above the proposed procurement strategy is based around the following key principles:

- In respect of the Community Stadium, adopting a 'hub and spoke' operational model that provides a single over-arching management contract for all the facilities, focused around a community hub (shared by all users) and from which all the facilities (or spokes) are accessed. This will offer flexibility and is likely to attract the strongest market interest, with scope to achieve the leanest operational model; however, it is not a final proposal as a number of the 'spokes' are not finalised and the design of the facilities is not yet at detailed stage. It is important that input from stakeholders and potential operators feeds into the design process shaping the final proposals.
- Developing the community stadium and hub to become the focal point for community sport and well-being for the City.
- Maximising community activity and outputs focused around sport, well-being, learning and play.
- Facilitating commercial operator input into the design process for the Community Stadium facilities to ensure a commercially sustainable design.
- Securing essential investment required for the existing leisure facilities at the Huntington site so they continue to be commercially sustainable.
- Meeting the specific needs of each of the three components: The Community Stadium, Energise and Yearsley, allowing for

separate contracts and tailoring the specification requirements for each to reflect their particular circumstances.

- Reflecting the position of Energise whereby the governors of York High will be the body that enters into any contract in respect of Energise as a result of this procurement exercise.
- Encouraging niche operators to bring forward proposals for the operation of the specific spokes of the community hub that would fit into the hub & spoke model.
- Achieving a revenue position that meets the needs of the Community Stadium business plan (to be agreed by the Cabinet in March 2012).
- Delivering savings in operation of the Council's leisure facilities.

9. This procurement will fall under EU procurement regulations. The procurement route to be followed will be the "competitive dialogue procedure" as this is appropriate in the award of complex contracts where there is a need to discuss all aspects of the proposed contract with bidders in order to identify and define solutions to meet the contracting authority's needs and requirements (in a way that is not allowed under the open or restricted procedures). The process will involve the following stages:

- Publication of an OJEU notice setting out the authority's needs and requirements and award criteria.
- A pre-qualification process which will assess the track record and experience of bidders to ensure that only those with a demonstrable track record in terms of service delivery, customer satisfaction, employment and staff development, equalities and re-investment, and who are sufficiently financially robust to carry through their proposals, are invited to participate.
- An invitation to dialogue in order to identify and define solutions to meet the Council's requirements through discussion with the Council giving equal opportunity to each of the bidders.
- Potential elimination, early in the dialogue process, of some of the outline proposals on the basis of the award criteria set out in the contract notice.
- Close of dialogue with no more than three (and possibly only two) bidders at the point when the Council is satisfied that all commercial issues have been resolved through the dialogue process.

- Submission of final tenders by the remaining participants on the basis of the solutions presented and discussed during the dialogue.
 - Tenders evaluated against the award criteria in order to identify the “most economically advantageous tender”.
 - Post tender clarification where required.
 - Selection of Preferred Bidder.
 - Contract Award.
10. Detailed award criteria will be developed to fit with the specification. They will reflect the following over-arching objectives:
- Maximises capital investment into the facilities.
 - Influence the business plan and design of the facilities to enable a commercially sustainable and deliverable package.
 - Creating a coherent and integrated sport and active leisure provision for the city.
 - Increases opportunities for community involvement and activities.
 - Financial impact on the Council:
 - Improves the Council’s current revenue position.
 - Transfers risks away from the Council.
 - Contributes community benefits in terms of health and well-being, sport and learning, using sport and community to increase participation especially amongst groups least likely to participate.
11. A project timetable is set out below which summarises the actions required. For information it also shows the relationship to the procurement of the Community Stadium construction contract (to be approved by the Cabinet in March, subject to planning).

Table 1 Procurement Timetable

Date	Operation & Maintenance (Competitive-Dialogue)	Design & Construction (EU Restricted)
November 2011	Pre-procurement preparation	Pre-procurement preparation
Jan / Feb 2012	Issue OJEU Notice & bidders awareness	Pre-procurement / design & feasibility

March / April 2012	PQQ Process & initial dialogue	Issue OJUE Notice
May / July 2012	Targeted dialogue	PQQ / ITT process
Aug / Oct 2012	Close dialogue / ITFST	ITT evaluation / Contract award
Nov / Dec 2012	Evaluation	Progress detailed planning submission
Jan 2013	Preferred Bidder – contract	
April 2013	Contract operational	Construction mobilisation
June / July		Construction commences
June / October 2014		Facilities operational

12. Table 2 shows how the procurement of operator arrangements fits within the wider project timetable.

Table 2 Indicative Project Timetable

	2011	2012				2013				2014			
	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Pre-procurement preparation	■	■											
Outline Planning Application Determined		■											
Call-in / JR period		■	■										
Operation & maintenance Competitive Dialogue Procurement		■	■	■	■	■	■	■					
Design / Build procurement			■	■	■	■	■	■					
Construction of Athletics facility						■	■	■	■				
Operation and Maintenance Contract Operational							■	■	■	■	■	■	■
Construction of main facilities							■	■	■	■	■	■	■
FSIF Loan to be repaid								■	■	■	■	■	■
Athletics facilities operational								■	■	■	■	■	■
Stadium Facilities Operational											■	■	■

13. To meet this timetable provisions must be made to begin the procurement for the operation, design and construction of all

aspects of the project. The timetable identifies that this work needs to start in the first quarter of 2012.

Next Steps

14. Officers will undertake the following actions:
 - Develop detailed tender documentation including evaluation criteria in consultation with key stakeholders, including York High School Governing body and other equity partners
 - Undertake a community consultation exercise as part of the equalities impact assessment work already undertaken
 - Report to the Cabinet in March 2012 regarding the business case for the construction of the stadium
 - Follow the project plan as set out earlier in this report culminating in a report to Cabinet identifying the preferred bidder and proposing award of contract
 - Ensure that both operator and design and build procurements are co-ordinated to maximise benefits to the council and its partners

Council Plan

15. The intention to deliver the Community Stadium is set out in the Council Plan 2011-2015 in order to help deliver 'an improved community infrastructure'. This in turn supports one of the key 5 priorities, 'Build Stronger Communities'. In addition the Council has signed up to the Co-operative Councils initiative as part of its core capabilities. This procurement exercise has the potential to deliver a social enterprise operator.

Implications

16. **Financial:** The current cost of the three facilities is shown in the following table:

	2011/12 Revenue Costs £,000
Waterworld & Huntington Stadium	-160
Energise	291
Yearsley	364
Total	495

17. The cost of the competitive dialogue process will be funded from the £200k allocation made by Council up the point when Council approves the full business case in March 2012.
18. **Human Resources:** In the event of the Council's services transferring to a new operator TUPE regulations will apply to the transfer of staff. The Council currently employs approximately 100 FTEs across Energise and Yearsley Pool. Informal discussions have taken place with staff and unions about the proposal, but a full consultation plan will be draw up as part of this procurement project under the Council's change management procedures.
19. **Legal:** Legal implications are as set out in the report.
20. **Property:** Property implications are as contained in the report.
21. **Equalities:** An Equalities Impact Assessment (EIA) has been drafted which reflects the research, consultation and engagement undertaken by the Community Stadium Project Team including:
 - Discussions regarding equalities with other stadia in the UK.
 - Taking initial community stadium concepts to the Social Working Inclusion Group (in December 2009) for ideas, issues and discussion.
 - Taking the project vision and proposals to the Equalities Advisory Group (18 July and 10 October 2011) for ideas, issues and discussion.
 - Engagement and consultation with individuals and groups from protected equalities characteristics as a follow up to attending the Equalities Advisory Group: York Independent Living Network, North Yorkshire Sport Disability Officer, City of York Council Disability Officer and York Youth Council.
22. The EIA is continually developing and further work will be undertaken in the New Year if planning permission for the stadium is granted. This will include a community consultation which will explain and raise the profile of the community elements of the project.
23. The EIA will be used in the procurement of the stadium. It will be submitted as a 'user specification' to potential bidders so they understand the vision that the Council, its partners and residents have for the Community Stadium.

24. There are no Crime and Disorder, or Information Technology implications.

Risk Management

25. A detailed report regarding the project's risks was presented to the Audit and Governance Committee on both 6 December 2010 and 19 April 2011. Risks are addressed, reviewed, analysed and updated regularly through the fortnightly Community Stadium Officer Team meetings.
26. The specific risks relating to this report are shown in Table 3.

Table 3: Risk Matrix

Risk	Mitigation / Action
<p>The project does not progress if either:</p> <p>1) Business case not approved by Cabinet / Full Council in March 2012 and / or</p> <p>2) Outline Planning Application scheduled for determination in early 2012 is refused.</p>	<p>To minimise the risk of abortive project costs and potential claims from bidders the procurement exercise will be structured to have gateway review points. This will ensure that all costs and risks are assessed before proceeding to the next stage.</p> <p>Project documentation will ensure bidders are aware of the liability relating to costs and risk.</p> <p>All costs attributed to the development of this project will be charged against the project budget. If it does not progress, these will have to be funded from revenue not capital.</p>
<p>The planning decision is delayed.</p>	<p>As set out above, the procurement will be structured with review points and tender documents will clearly set out responsibilities and liabilities relating to costs and risks to mitigate impact on the Council.</p>
<p>There is limited market interest.</p>	<p>Competitive Dialogue facilitates a bidder open days, in which initial expressions of interest and market appetite can be gauged. At this stage the scope etc can be changed before too many resources</p>

	have been committed.
Insufficient skills / resources are available to support the delivery of the exercise.	The Council meeting of 10 December 2011 agreed to allocate £200K to the development of the project and business case. An internal project team will be established for the delivery of the procurement that will draw on specialist support where necessary. The Council has recent experience in successfully delivering this type of procurement project (Barbican and HQ projects).
Input into the design and build process result in scope creep and the project costs escalate.	A strict project management protocol is to be established to drive the project forward. Controls will be put in place to ensure that each strand of the project cannot proceed until they have been approved at the relevant gateway.

Recommendations

27. The Cabinet Member is asked to delegate to the Director of Communities and Neighbourhoods and the Director of City Strategy in consultation with the Cabinet Member for Leisure, Culture and Social Inclusion authority to:
- Develop the procurement framework as set out in this report including establishing the final evaluation criteria and headline weightings to be used in assessing bids for the project
 - Implement the procurement exercise to identify the preferred bidder
 - Bring back a report to the Cabinet once a preferred bidder has been identified with a view to award of contract

Reason: To enable future plans for the community stadium project to be developed and progressed.

Contact Details

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Report Approved	✓	Date	30.12.11
Specialist Implications Officer(s)			
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Wards Affected:			All ✓
For further information please contact the author of the report			

Background Papers:

- Community Stadium Report to Staffing and Urgency Committee 21st May 2008
- Staffing and Urgency Committee Minutes 21st May 2008
- Deloitte report on community stadium for CYC 20th June 2008
- Active York's Sport and Leisure Strategy
- Executive Report 15th July 2008
- Executive Report 9th September 2008
- Executive Report 20th January 2009
- Executive Report 23rd June 2009
- Executive Report July 6th 2010
- Executive Report October 19th 2010