



**Notice of a public meeting of
Executive**

To: Councillors Carr (Chair), Aspden (Vice-Chair), Ayre, Gillies, Lisle, Rawlings, Runciman and Waller

Date: Thursday 27 July 2017

Time: 5.30 pm

Venue: The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

Notice to Members – Post Decision 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 **4:00 pm on Monday 31 July 2017**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Corporate and Scrutiny Management Policy and Scrutiny Committee.

1. Declarations of Interest

At this point, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. **Exclusion of Press and Public**

To consider the exclusion of the press and public from the meeting during consideration of the following:

- Annex B to Agenda Item 6 on the grounds that it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. This information is classed as exempt under paragraph 5 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).
- Annex 3 to Agenda Item 7 on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). This information is classed as exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

3. **Minutes**

(Pages 1 - 12)

To approve and sign the minutes of the Executive meeting held on 29 June 2017.

4. **Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Wednesday 26 July 2017**. Members of the public can speak on agenda items or matters within the remit of the committee.

To register to speak please contact the Executive Support Officer for the meeting, on the details at the foot of the agenda.

Filming, Recording or Webcasting Meetings

“Please note this meeting will be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at

<http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

- 5. Forward Plan** (Pages 13 - 20)
To receive details of those items that are listed on the Forward Plan for the next two Executive meetings.

- 6. Community Stadium & Leisure Facilities Report**
(Pages 21 - 50)

The Deputy Chief Executive/Director of Customer & Corporate Services to present a report which provides an update on the progress of the Community Stadium and Leisure Facilities Project since the last report brought to Executive in March 2017.

- 7. Acquisition of Freehold Interest of Swinegate Court**
(Pages 51 - 132)

The Assistant Director of Regeneration and Asset Management to present a report which presents the due diligence undertaken to support the strategic acquisition of a city centre property portfolio as agreed by Executive on 13 July 2017, and to confirm the location of the asset and the final business case. The budget for the acquisition was recommended to full council on 20 July 2017.

- 8. Urgent Business**
Any other business which the Chair considers urgent under the Local Government Act 1972.

Executive Support Officer:

Name: Carol Tague

Contact details:

- Telephone – (01904) 552094
- E-mail – carol.tague@york.gov.uk

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Executive
Date	29 June 2017
Present	Councillors Carr (Chair), Aspden (Vice-Chair), Ayre, Gillies, Lisle, Rawlings, Runciman and Waller
Other Members participating in the meeting	Councillors D'Agorne and Looker

Part A - Matters Dealt With Under Delegated Powers

1. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. No additional interests were declared.

2. Public Participation

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme in respect of the following item:

Minerals and Waste Joint Plan – Proposed Changes

Kit Bennett spoke about changes proposed to the Joint Minerals and Waste Plan, with particular regard to those related to the oil and gas industry. He expressed concern around the impact that unrestricted development in this sector may have in the region and proposed that the plan should aim to give as much protection against this as possible. He drew Members' attention to PC62, 63, 66, 70, 79 and 80 in particular.

3. Minutes

Resolved: That the minutes of the last Executive meeting held on 18 May 2017 be approved and then signed by the Chair as a correct record.

4. Forward Plan

Members received and noted details of the items that were on the Forward Plan for the next three Executive meetings, at the time the agenda had been published.

5. Public Health Grant Spending Scrutiny Review Final Report

Members considered the final report of the Public Health Grant Spending Scrutiny Review Task Group and recommendations arising from the review. Councillor Doughty, Chair of the Task Group was in attendance to present the report and answer Member questions.

The issue of funding for the smoking cessation scheme was highlighted and Councillor Doughty expressed the wish of the Health, Housing and Adult Social Care Policy & Scrutiny Committee for this to be urgently reviewed.

The Executive Members for Adult Social Care & Health and Education, Children & Young People thanked Members and Officers for their work on this review.

Resolved: That the Executive;

- i. Request that the Director of Public Health undertake a detailed Health Impact Assessment of the anticipated impact on residents with a further report to Scrutiny to help inform the budget setting process for 2018/19 onward.
- ii. Support the recommendation that the Director of Public Health develop a Public Health Strategy for the City that utilises a “Health in All Policies” approach.
- iii. Ask that the CYC Public Health Team strengthen their management of contracts and oversight of delivery of public health services against clearly defined performance and financial targets.

- iv. Ask that the Director Public Health show the impact on residents' lives. It would be useful for a simple summary to show the breakdown of where funding is allocated this year which could be a template for future years along with specific outcome indicators. This would be for analysis to ensure these are delivered and remedial actions available if they are not.

Reason:

- i. So that the Council can make informed decisions about how best to spend the public health grant to deliver improved public health outcomes for residents when the ringfence is removed in 2018/19.
- ii. In recognition of the fact that the Council can only deliver its statutory responsibilities for public health by making the task of improving the public's health everyone's business, at the core of the practice of the wider Council workforce whilst also working proactively with city partners such as education and voluntary sectors and empowering citizens as partners in improving health and wellbeing at the level of the individual, family and community.
- iii. So that the Council can be assured of value for money in the delivery of public health services and that the statutory responsibilities for public health are met.
- iv. To ensure that members are assured about the level of contract management and that contracts are delivered against specific outcome indicators.

6. One Planet York Scrutiny Review Final Report

Members considered the final report of the One Planet York Scrutiny Review Task Group and recommendations arising from the review. Councillor D'Agorne presented the report and answered Member questions.

The Executive Member for Environment highlighted the fact that several of the recommendations were already being implemented, for example the Better Decision Making Tool (BDMT). He also stated that the success of this scheme was dependant on the full support of Members and Officers, and involving key decision makers in the city.

Resolved: That the Executive agree to approve the recommendations arising from the review, as detailed below;

- a) The Council fully utilises the opportunities presented by the One Planet York framework to drive organisational efficiency and effectiveness through the principles of a One Planet Council and further mobilise the wider city towards a more sustainable and resilient One Planet York future.
- b) Communication of the One Planet York framework, vision and 10 principles are sustained across all media platforms and that widespread use of the One Planet York or One Planet Council logos is encouraged to demonstrate a united commitment in the One Planet York principles by City of York Council and our city partners.
- c) That progress towards the One Planet York vision is measured via a new city scorecard and that the One Planet Council objectives are measured via a new council scorecard.
- d) As the city scorecard will be based on the Grant Thornton Vibrant Economy Index, which includes a basket of measures across a range of economic, social and environmental themes, this scorecard is formally reported to CSMC on an annual basis to coincide with the Grant Thornton refresh in November each year.
- e) That the One Planet York Task Group is reconvened in 12 months' time to review the impact of the Council's emerging service plans

within the One Planet Council framework; how Key Performance Indicators align to the One Planet principles and to gauge the efficiency and effectiveness of internal communications.

- f) City of York Council supports the full integration of the Better Decision Making Tool in the key decision making process.
- g) Alongside the full integration of the BDMT, a plan is developed to support officers in the understanding and use of the tool to ensure its effectiveness.
- h) CSMC review progress on embedding and implementing the BDMT in 12 months' time.
- i) A specific heading relating to resilience and sustainability is added to the risks and implications section of CYC report templates.
- j) The Council makes the BDMT available to partner organisations aligned to the One Planet York framework and explores whether a simplified version of the BDMT can be developed to assist ward committees when they consider the allocation of devolved budgets.
- k) One Planet York notice boards, literature and static presentations are made available for ward committees interested in utilising the framework to further mobilise neighbourhoods / communities to get behind the OPY vision and to stimulate new neighbourhood conversations.
- l) An elected member toolkit/resource pack is developed to assist ward committees, and is made available to community and voluntary groups to assist in making informed decisions within the One Planet York framework.
- m) The Council arranges training for ward teams / committees to deliver One Planet York

presentations to spread the One Planet message at local level.

- n) That CSMC request a report on the Urban Living Pilot Project once this work has been completed.

Reason: To conclude the Scrutiny review in line with City of York Council scrutiny procedures and protocols.

7. **Community Flood Resilience Work**

Members considered a report which proposed measures to create greater community resilience in the event of future flooding and other emergencies within York. The Assistant Director Communities and Equalities was in attendance to present the report and answer Member questions.

Members welcomed the report and the work done to capture the views of residents and business owners. During discussion some of the following points were raised:

- During the previous period of flooding there had been a clear gap between senior management within Silver Command and communities on the ground. This needed to be addressed and a clearer structure put in place.
- There needed to be a facility to quickly move to 24 hour switchboard operation, in order to free up emergency services.

Resolved: That the Executive;

- a) Agree to use of contingency funding of £122.4k to fund the proposals set out in paragraphs 7, 12 and 19.
- b) Agree, in principle, the proposed restructure of the Flood Risk Management function and delegate to the Corporate Director of Economy and Place responsibility to deliver this within existing resources.
- c) Note the *Ready for Anything* programme and encourage relevant wards to take this up where it meets their needs.

Reason: To increase community resilience in the event of future flooding incidents in York.

8. Minerals and Waste Joint Plan – Proposed Changes

Members considered a report updating them on the outcomes of the consultation on the publication of the Draft Minerals and Waste Joint Plan and asking for approval of the proposed changes to the Joint Plan for the purposes of public consultation. The Development Officer (Strategy) and Head of Strategic Planning were in attendance to present the report and answer member questions.

In response to points made under public participation, Officers stated that some definitions would be clearer on the full document and the team would be happy to look at this during the consultation period. They did not feel however, that definitions had been weakened, although caveats had been added. They thanked Mr Bennett for raising a range of important technical points and stated they would be happy to meet with him to discuss his concerns as part of the wider consultation.

Members raised residents' concerns over fracking and about the decommissioning of wells. Officers explained that it was difficult to look at changes made in isolation and that the full document needed to be considered for context.

Resolved: That the Executive;

- i. Note the representations received on the Publication Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park (Annex A).
- ii. Approve the draft Minerals and Waste Joint Plan for York, North Yorkshire and North York Moors National Park Schedule of Proposed Changes (Annex B) for the purposes of consultation.
- iii. Agree that the Director of Economy and Place in consultation with the Executive Member for Transport and Planning be authorised to make non-substantive editorial changes to the Schedule of Proposed Changes (Annex B) and

other supporting documents proposed to be published alongside the Plan.

Reason:

- i. For information and to provide a context to the proposed changes.
- ii. So that an NPPF compliant Joint Waste and Minerals Plan can be progressed.

9. Upper and Nether Poppleton Neighbourhood Plan - Examiner's Report and Decision Statement

Members considered a report which presented them with the Upper and Nether Poppleton Neighbourhood Plan Examiner's Report and asking that they agree the examiner's recommendations to enable the plan to proceed to referendum. The Head of Strategic Planning and Development Officer (Strategy) were in attendance to present the report and answer member questions.

In response to member questions Officers clarified that when a referendum on a plan was held there was no minimum figure for participation and the plan would pass as long as 50% of votes were in favour.

Officers and Members expressed their thanks to volunteers for their hard work in creating this plan.

Resolved: That the Executive;

- i. Agree the Examiner's modifications and the further minor modifications set out at Annex B to the Upper and Nether Poppleton Neighbourhood Plan and that subject to those modifications the Neighbourhood Plan meets the Basic Conditions and other legislative requirements.
- ii. Agree that the Upper and Nether Poppleton Neighbourhood Plan as modified by recommendation i) proceeds to a local referendum based on the geographic boundary of the parishes of Upper and Nether Poppleton as recommend by the Examiner.

- iii. Approve the Decision Statement attached at Annex B to be published on the City of York Council's website.

Reason: To allow the Neighbourhood Plan to progress in line with neighbourhood planning legislation.

10. Treasury Management Annual Report & Review of Prudential Indicators

Members considered a report providing details of the outturn position for treasury activities and highlighting compliance with the Council's policies previously approved by Members. The Director of Customer and Corporate Services presented the report and answered Member questions.

Following discussion it was:-

Resolved: That the Executive note the 2016/17 performance of treasury management activity and prudential indicators outlined in Annex A.

Reason: To ensure the continued performance of the treasury management function can be monitored and to comply with statutory requirements.

11. Finance and Performance Outturn 2016/17

Members considered a report which provided a year end analysis of the overall finance and performance position. The Director of Customer and Corporate Services presented the report and answered Member questions.

In response to Member questions he stated:

- The report showed a positive picture overall, in particular in children's and adult services where there was a very small overspend.
- There were significant pressures on the budget in Economy & Place such as waste services and planning applications however budgets were always prudent. Investment had been made in this area and further savings would be made with the changes to waste collection that were now in place.

During discussion the Executive Member for Housing & Safer Neighbourhoods stated on record the absolute commitment of CYC to updating fire risk assessments and his personal ambition to install smoke detectors in all council properties. The Executive Member for Education, Children & Young People followed this by stating that all schools in the city had been inspected, particularly in respect of cladding.

Resolved: That the Executive;

- 1) Note the year end underspend of £542k (excluding contingency) and approve that this is transferred to reserves.
- 2) Note the further unallocated amount of £549k from the 2016/17 contingency and that this balance be carried forward into 2017/18 and added to the existing contingency for 2017/18.
- 3) Note the financial risks outlined in the report and the need to continue to maintain a prudent contingency and reserves that is reflective of the risks set out in the report.
- 4) Note the continued effective financial management across the Council and the continued delivery of savings.
- 5) Note the performance information set out in paragraph 53 onward.

Reason: To ensure significant financial issues can be appropriately dealt with.

12. Capital Programme Outturn

Members considered a report setting out the capital programme outturn position, including any under or overspends, overall funding of the programme and an update as to the impact on future years of the programme.

Following discussion it was:-

Resolved: That the Executive;

1. Note the 2016/17 capital outturn position of £35.751m and approve the requests for re-profiling totalling £17.196m from the 2016/17 programme to future years.
2. Note the adjustments to schemes increasing expenditure in 2016/17 by a net £519k.
3. Note the adjustments to schemes increasing expenditure in future years totalling £11.339 in 2017/18 and £10.286m in 2018/19.
4. Approve the use of £38k from Capital contingency to fund the purchase of land at Piccadilly in 2017/18 as set out in paragraph 48-50.
5. Approve the use of £150k from Capital contingency to the Mansion House scheme in 2017/18 as set out in paragraph 55-60.

Reason: To enable the effective management and monitoring of the Council's capital programme.

Part B - Matters Referred To Council

13. Capital Programme Outturn

Members considered a report setting out the capital programme outturn position, including any under or overspends, overall funding of the programme and an update as to the impact on future years of the programme.

Following discussion it was:-

Resolved: That the Executive recommend to Full Council the restated 2017/18 to 2021/22 programme of £252.615m as summarised in Table 3 and detailed in Annex A.

Reason: To enable the effective management and monitoring of the Council's capital programme.

Cllr D Carr, Chair

[The meeting started at 5.30 pm and finished at 6.55 pm].

Forward Plan: Executive Meeting: 27 July 2017

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 31 August 2017

Title and Description	Author	Portfolio Holder
<p>Scarborough Bridge – Footbridge Replacement and Upgrade</p> <p>Purpose of Report: The report will outline the proposals to replace and upgrade the existing footbridge spanning the river Ouse adjacent to ‘Scarborough (Railway) Bridge’. The new bridge will be substantially wider to enable shared pedestrian and cycle use and feature ramped access from all sides, providing a continuous traffic-free and step-free route from York Station to the northern embankment of the river, in addition to the city centre itself. Network Rail will be further commissioned to lead on the design and full construction of this asset, to be delivered during 2018.</p> <p>Members will be asked to (i) Approve in principle the replacement and upgrade of the Scarborough Bridge footbridge; (ii) Subject to relevant planning consent being granted, give permission to proceed to construction of the upgraded bridge and associated ramps / structures; and (iii) Grant the Assistant Director for Transport, Highways & Environment delegated powers to make any future required amendments to the scheme as a result of emerging detailed design etc.</p>	Richard Holland	Executive Member for Transport and Planning
<p>Enforcement Policy</p> <p>Purpose of Report: To update Members on enforcement activity over 2015-16 and seek approval of an updated policy.</p> <p>Members will be asked to approve the new policy.</p>	Matthew Boxall	Executive Member for Culture, Leisure & Tourism

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 31 August 2017 (continued)

Title and Description	Author	Portfolio Holder
<p>Consent of Establishment of Transport for the North</p> <p>Purpose of Report: The purpose of this report is for Members to consent to the making of Regulations by the Secretary of State to establish Transport for the North as a Sub – National Transport Body under section 102E of the Local Transport Act 2008. The consent of each Constituent Authority is required to the making of Regulations by the Secretary of State.</p> <p>The Executive will be asked to give the required consent and approve associated changes to arrangements for Rail North.</p>	Tony Clarke	Executive Member for Transport and Planning
<p>Carers Support Services</p> <p>Purpose of Report: To seek agreement to re-commission Carers Support Services for adults and young carers.</p> <p>Executive will be asked to agree to undertake a tender exercise to procure a provider to deliver Carers Support Services.</p>	Adam Gray	Executive Member for Adult Social Care & Health
<p>Commissioning a Day Base for Adults with a Learning Disability at Burnholme Community Centre</p> <p>Purpose of Report: To propose the development of a day base for adults with a learning disability to be situated at Burnholme Community Centre as sighted in previous papers relating to the site.</p> <p>Members are asked to agree to go to tender to procure a provider to deliver support for adults with a learning disability from a Day Base to be located at Burnholme Community Centre.</p>	Gary Brittain	Executive Member for Adult Social Care & Health

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 31 August 2017 (continued)

Title and Description	Author	Portfolio Holder
<p>Short Break Service for Adults with a Learning Disability based at Flaxman Aven</p> <p>Purpose of Report: To seek agreement to re-commission the Short Breaks Service for adults with a learning disability based at Flaxman Avenue.</p> <p>Members will be asked to agree to undertake a tender exercise to procure a provider to deliver the Short Breaks Service for adults with a learning disability based at Flaxman Avenue.</p>	<p>Gary Brittain</p>	<p>Executive Member for Adult Social Care and Health</p>
<p>A Further Phase of the Older Persons' Accommodation Programme Deciding the Future of Woolnough House Older Persons' Home</p> <p>Purpose of Report: To provide Members with the results of the consultation undertaken with the residents, relatives and staff of Woolnough House residential care home to explore the option to close the home with current residents moving to alternative accommodation, and for Members to make a decision about whether to close Woolnough House. The context for this decision is that the Older Persons' Accommodation Programme aims to meet people's changing needs for accommodation with care, and in-particular the needs of those with dementia and the demographic challenges faced by the city, through delivering additional Extra Care accommodation and new, good quality, residential and nursing care accommodation.</p> <p>Members are asked to make a decision about whether to close Woolnough House residential care home and, if a decision is made to close it, require that residents' moves to their new homes are carefully planned and managed in line with the Moving Homes Safely protocol. The report will also seek sanction to consult on the option to close a further two homes.</p>	<p>Roy Wallington</p>	<p>Executive Member for Adult Social Care and Health</p>

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 31 August 2017 (continued)

Title and Description	Author	Portfolio Holder
<p>Investment in new Extra Care Accommodation for older people at Marjorie Waite Court following the closure of Burton Stone Lane Community Centre</p> <p>Purpose of the report: Executive will receive information on the outcome of public consultation concerning the future of Burton Stone Lane Community Centre and will be asked to confirm its closure and approve investment into the provision of new Extra Care accommodation for older people and new community facilities in its place.</p> <p>Executive will be asked to agree to invest in new Extra Care accommodation for older people and new community facilities as an extension to Marjorie Waite Court following the closure of Burton Stone Lane Community Centre.</p>	Roy Wallington	Executive Member for Adult Social Care and Health
<p>Q1 Finance & Performance Monitor</p> <p>Purpose of Report: To provide members with an update on finance and performance information.</p> <p>Members are asked to note the issues.</p>	Ian Cunningham	Executive Leader (incorporating Finance & Performance)
<p>Q1 Capital Programme Monitor</p> <p>Purpose of Report: To provide members with an update on the capital programme</p> <p>Members are asked to note the issues, recommend to full Council any changes as appropriate.</p>	Emma Audrain	Executive Leader (incorporating Finance & Performance)

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 31 August 2017 (continued)

Title and Description	Author	Portfolio Holder
<p>North Yorkshire Fire & Rescue Service Future Governance Options</p> <p>The Police and Fire Commissioner has launched a public consultation on proposals to merge the North Yorkshire functions of the Fire and Rescue Authority with those of the PCC.</p> <p>The Executive are asked to consider a formal Council response on the business case before the consultation ends in September.</p>	<p>Mary Weastell</p>	<p>Executive Leader (incorporating Finance & Performance)</p>

Table 2: Items scheduled on the Forward Plan for the Executive Meeting on 28 September 2017

Title and Description	Author	Portfolio Holder
<p>Refresh of Housing Revenue Account Business Plan</p> <p>Purpose of the report: This is an annual refresh of the 30 year business plan.</p> <p>The Executive will be asked to agree the amended plan and finances.</p>	Denis Southall	Executive Member for Housing & Safer Neighbourhoods
<p>Events Strategy</p> <p>Purpose of Report: The report proposes an approach to developing key events in the city.</p> <p>Executive will be asked to approve the strategy and use of appropriate business rates pool funding to support it.</p>	Charlie Croft	Executive Member for Culture, Leisure & Tourism

Table 3: Items Slipped on the Forward Plan

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage
<p>Events Strategy</p> <p>Purpose of Report: The report proposes an approach to developing key events in the city.</p> <p>Executive will be asked to approve the strategy and use of appropriate business rates pool funding to support it.</p>	Charlie Croft	Executive Member for Culture, Leisure & Tourism	18/05/17	28/09/17	To allow further time to develop the strategy in light of the current scrutiny review of the Council's role in culture.
<p>CYC Adults Transport Policy / Roll-out of a Personalised Approach</p> <p>To present an update on the Community Stadium Project and seek Member approval to move forward to financial close.</p>	Adam Gray	Executive Member for Adult Social Care & Health	31/08/17	28/09/17	To take into account additional financial and legal input into the report.
<p>Future Management of Allotments</p> <p>Purpose of Report: Report on the future management of allotments by way of a Charitable Incorporated Organisation, which will take on the letting and management of 1,250 allotment plots spread over 18 sites.</p> <p>Executive will be asked to approve the letting of 18 allotment sites to the Trustees of the Charitable Incorporated Organisation.</p>	Tim Bradley / Dave Meigh	Executive Member for Culture, Leisure & Tourism	29/06/17 13/07/17 31/08/17	19/10/17	The proposed charitable incorporated organisation is awaiting approval from the Charity Commissioners

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Executive

27 July 2017

Report of the Deputy Chief Executive/Director of Customer and Corporate Services

Portfolio of the Executive Member for Culture, Leisure & Tourism

Community Stadium & Leisure Facilities Report**Report Summary**

1. The purpose of this report is to update the Executive on the progress of the Community Stadium and Leisure Facilities Project (“Project”) since the last report brought to Executive in March 2017.
2. In doing so this report recommends that the Council is now able to move forward with the construction of the New Stadium Leisure Complex (“NSLC”) to deliver a scheme that will bring considerable enhanced facilities to the city, improve the leisure offer, provide a home for both the local professional football and rugby clubs, create jobs, and provide a range of community use within the development.
3. This represents a major step forward in the Project, and will see construction of the NSLC commence after the summer period. The recent re-tender exercise under taken by Greenwich Leisure Ltd (“GLL”) to appoint a new Building Contractor, alongside a change of Investment Fund for the Commercial Development element of the Project, has resulted in the scheme being able to proceed within the approved budgetary parameters that Council agreed in March 2016.

Report Recommendations

4. The Executive are asked to:
 - a) Approve that the operation of Yearsley Swimming Pool (“YSP”) by GLL under the Design, Build, Operate and Maintain Contract (“DBOM Contract”) be included for the full Contract Period, as per the details set out at paragraphs 26 – 30 of this report;

- b) Agree that the Project proceeds to Financial Close to enable construction of the NSLC scheme to commence and operation by GLL of the NSLC and the city's wider leisure facilities;
- c) Agree that the Deputy Chief Executive, in conjunction with the Leader and Executive Member for Culture, Leisure & Tourism be authorised to complete all final negotiations and arrange execution of all legal documents relating to the Project at Financial Close, providing the Project remains within the overall budget;
- d) Agree that the Deputy Chief Executive, in consultation with the Leader and the Executive Member for Culture, Leisure & Tourism be authorised to agree to underwrite the cost of required Building Contractor early construction design work and sub-contractor orders ahead of Financial Close to achieve the Project timetable, estimated at a value of £0.5m. These costs form part of the NSLC Construction Cost and are payable post Financial Close already but would be payable should Financial Close not be achieved, as per the details set out under table 5 of this report;
- e) Note the financial position of the Project and that the Project can proceed within the approved capital budget parameters that Council agreed in March 2016;
- f) Note as set out at paragraphs 55 – 58 of this report that the project is forecast to be within approved revenue budget set out in the March 2016 Executive Report;
- g) Note the latest position of the Project Community Partners, as set out at paragraphs 31 – 39 of this report;
- h) Note the current indicative Project timetable for delivery of the NSLC, as set out at table 5 of this report;
- i) Note the updated areas of Project risk at paragraphs 70 to 76 of this report, alongside the update on the legal implications since the March 2016 Executive Report that are detailed at confidential Annex B to this report.

Reason for recommendations: To progress with the Project and enter into all necessary legal agreements at Financial Close to deliver the NSLC and operation by GLL of the NSLC and the city's wider leisure facilities.

Project Background

5. The March 2016 Executive and subsequent Council approval represented a significant milestone for the Project with approval given to proceed in entering into the DBOM Contract with GLL for the delivery of the NSLC scheme and long term operation of both the NSLC and the City's existing leisure facilities.
6. As the last key Council decision point on the Project, the March 2016 Executive Report should be referred to where applicable alongside this report presented at July 2017.
7. Annex A to this report sets out in detail the background and key decision points of the Project to this date.

DBOM Contract with GLL

8. The last Project report presented to the Executive in March 2017 advised that GLL were in the process of conducting a re-tender exercise to appoint a new Building Contractor to their consortium team, this following their previous construction partner (ISG) withdrawing from GLL's consortium in February 2017.
9. It should be noted that the Council through the structure of the DBOM Contract will only be entering into contract with GLL and will have no contractual relationship with the Building Contractor. It is therefore GLL's responsibility to conduct the re-tender exercise, appoint the Building Contractor as its sub-contractor and then manage the Building Contractor to ensure that GLL can deliver its legal obligations to the Council under the DBOM Contract.
10. GLL under their Building Contractor re-tender exercise have now received final submissions and is concluding its evaluation and due diligence process. Council Officers and appointed external technical advisors have been fully consulted as part of this exercise and have reviewed all aspects of the proposed Building Contractor's capital costs and technical submissions.
11. GLL is close to formally appointing its preferred new Building Contractor and an announcement regarding this will be made by GLL when final due diligence has been completed.

12. Following the Building Contractor re-tender exercise a revised NSLC Construction Cost was formally received by the Council from GLL on 7th July 2017 taking into account the capital costs submitted by GLL's proposed preferred Building Contractor. This NSLC Construction Cost is £34m and represents a reduction of £2.7m from the NSLC Construction Costs reported to the Executive in March 2016. This allows for the council to provide for a slightly enhanced contingency sum.
13. This NSLC Construction Cost has been competitively tendered in the external market and aligns to the exact final NSLC scheme and the indicative timetable for delivery set out in this report.
14. This NSLC Construction Cost is a fixed price and is held by GLL for a period up to 1 month beyond the current anticipated date of Financial Close for the Project of the end of August 2017. Should Financial Close not have occurred by these timescales it should be noted that the cost could be subject to change.
15. Once GLL has completed its due diligence process and formally appointed its new Building Contractor the Council can then finalise the DBOM Contract and associated legal agreements and move forward to Financial Close.

NSLC Commercial Development

16. The Commercial Development outputs proposed at the NSLC site, which are being brought forward by Wrenbridge Sport (the "Developer"), remain in principle the same as those detailed in the March 2016 Executive Report. To summarise the Commercial Development proposed at the NSLC site will see the delivery of:
 - I. A cinema – 13 screen Cinema, VIP lounge and bar, includes the city's first state of the art digital IMAX screen. This is part of the Southern Block.
 - II. 5 Restaurant Units – 3 Restaurant Units in the Stadium East Stand, with a further two Restaurant Units within the south east location of the Southern Block (adjacent to the Cinema entrance).
 - III. Upto 3 Retail Units – These will be in the Southern Block and will have access to dedicated car parking. It could be that an

end tenant takes more than one Retail Unit to offer an enhanced retail offer, reducing the number of different Retail Units but not altering the approved retail floor space.

- IV. Leisure Unit - Leisure space on the first floor of the Southern Block (adjacent to the Cinema). As previously approved by the Executive in March 2016, the Council will take a 15 year lease of this space for future onward letting.
17. With regards the cinema offer within the Commercial Development it is now confirmed that legal contracts have been put in place by the Developer with the national cinema provider Cineworld. Cineworld propose to bring an exciting new Cinema experience, including the city's first state of the art digital IMAX screen.
 18. As part of concluding legal contracts with Cineworld, the Council in June 2017 entered into a car parking concession agreement that will allow the cinema operator customers to park within the Monks Cross Park and Ride on an evening outside of the Park and Ride's normal operational hours, only on non Match Days evenings at the Stadium.
 19. Since the March 2016 Executive Report there has been a combination of factors, including the s73 planning Judicial Review Claim in relation to the Project, the unexpected Brexit outcome of the EU referendum, and the calling of a General Election, each of which have impacted in some way on this proposed scheme and both the occupational markets and the investment sector. GLL and Wrenbridge Sport, have nonetheless continued to progress all aspects of the Commercial Development to obtain the most favourable outcome for the Project.
 20. This work has led to a change in the Investment Fund who will ultimately acquire the Commercial Development. The new Investment Fund is Legal and General. The terms and deal structure between the Investment Fund, the Developer and Council remains the same as set out in the March 2016 Executive Report and previously approved by the Executive. However the Capital Land Receipt to be received by the Council in relation to the sale of the Southern Block and the grant of the long lease of the East Stand Restaurant Units has reduced as a result of a change in market conditions.
 21. Throughout the progression of the Commercial Development the Council has received independent market expert advice from Savills

UK Ltd (“Savills”) on the value for money of the Commercial Development proposals.

22. In July 2017, Savills provided the Council with a commercially confidential review of the latest development appraisal on the Commercial Development deal proposed by the Investment Fund. This referenced previous formal advice to the Council set out in a report in March 2016. This review set out the following:
- Savills March 2016 formal RICS valuation report on the Commercial Development deal proposed by the Investment Fund at that time highlighted to the Council that the overall approach and methodology set out in relation to the key components of the Commercial Development appraisals, including the finance costs, were reflective of an appropriate approach in market conditions conditions prevalent at that time. It noted however, that it must be appreciated that land values for a mixed use development project of this nature are notoriously volatile.
 - Savills acknowledge that there has been an impact on both occupational markets and investment markets related to the economic uncertainty created by the various unexpected political events since March 2016.
 - Given a review of the position now at July 2017, although the revised outcome to the Council in the form of the Capital Land Receipt is reduced from the anticipated outcome in March 2016, it is a reasonable reflection of the changes in the market place during the course of the last 12 to 15 months.
 - It should be noted however, until the conditions have been met to facilitate the commitment (forward funding & forward commitment) from the Investment Fund on an unconditional basis, the outcome remains fluid and the income shown to the Council can not be deemed fixed.
 - Overall, it is Savills opinion that from the Council’s perspective the ongoing efforts by the Developer continue to work towards delivering the Council with a favourable outcome from this scheme within the context of the current occupational and investment market conditions.

23. The Council will now receive in total £10.76m from the Commercial Development. From the £10.76m, £8.7m will be paid as a Capital Land Receipt shown as funding to the Project in table 2 of this report (this being a reduction of £2.6m from the March 2016 Executive Report). A further £2.06m will be received from the Commercial Development through contributions to the Stadium works, these reflected as a reduction in the NSLC Construction Cost.
24. Legal agreements between the Council and the Investment Fund are in the process of being finalised. It should be noted however that execution of an agreement between the Council and the Investment Fund is still conditional upon the following Fund requirements being in place:
 - I. The Developer securing three restaurateurs to the units proposed within the scheme;
 - II. exchange on a 15 year agreement for lease with the Council for commercial space within the Southern Block;
 - III. confirmation of a fixed price building contract for the Commercial Development.
25. Until these conditions are achieved the Commercial Development legal agreements can not be executed, this being a requirement for Financial Close of the Project to take place. A risk therefore remains that if the Investment Funds conditions above are not achieved by the scheduled Financial Close date on the Project, as set out at table 5 of this report, then this could affect the Project timetable.

Yearsley Swimming Pool

26. The last Project report presented to the Executive in March 2017 concerning Yearsley Swimming Pool ("YSP") approved that GLL continue to operate YSP under the DBOM Contract until 2024/25 using additional funding through the New Homes Bonus that had been previously approved by the Executive for the continued operation of YSP up to 2024/25, approximately the first 7 years operation of the DBOM Contract. At the point of the NSLC opening YSP would operate for 91 hours per week as agreed in March 2017.
27. The March 2017 report also highlighted that a decision on the continued operation by GLL of YSP for the full term of the DBOM

Contract and the funding considerations for YSP from 2024/25 onwards could only be made at the point of considering the overall financial position of the DBOM Contract considering the Project as a whole.

28. Officers have now been able to consider the overall financial position of the Project and recommend to the Executive that YSP continues to be operated by GLL under the DBOM for the full Contract Period (a minimum 13 year period, with the option of a 5 year extension). This change will result in an additional cost to the Council on the overall DBOM of approximately C.£340k per annum for each year from 2024/25 which GLL operates YSP.
29. However, funding to meet the costs of continuing to operate YSP under the DBOM Contract from 2024/25 would be subject to further approval by the Council administration on or before 2024/25. As set out later in the report at table 4, there is the potential for a revenue surplus in later years (as compared to the current approved budget) and this could be utilised, but will need to be subject to review closer to 2024/25.
30. If funding for YSP is not available from 2024/2025, or the funding available is less than the amount required to meet the costs of GLL continuing to operate YSP under the DBOM Contract, the Council will need to invoke the change mechanism in the DBOM Contract in order to remove YSP from the contract or to agree reduced service requirements to meet the available budget at that time. The financial implications of removing YSP from the DBOM Contract or reducing the service at YSP would therefore be assessed at that time, within the framework of the change mechanism.

Community Partners

York Teaching Hospital NHS Foundation Trust (“NHS”)

31. As outlined in detail within the March 2016 Executive Report, York Teaching Hospital NHS Foundation Trust (“NHS”) will occupy space within the Community Hub where it will deliver a range of specialist outpatient services in high quality modern accessible premises. The NHS will also have use of the Stadium hospitality areas for staff training and development activities.

32. The Agreements for Lease between the Council and the NHS relating to these areas are now agreed in principle and are in the process of being finalised. This includes agreement in principle with the NHS of a lease premium in relation to costs of the construction and fit out of their outpatient service areas within the Stadium's Community Hub. This lease premium paid by the NHS is shown in the capital cost as a reduction in the capital cost to the Council.
33. When finalised, the NHS are scheduled to gain approval to enter into the Agreements for Lease at an NHS Board of Directors meeting taking place on Wednesday 26th July. A verbal update to the outcome of this meeting will be provided by Officers at the 27th July Executive meeting itself.
34. Following such approval being received from the NHS Board of Directors the execution of the Agreements for Lease will take place ahead of and conditional on or at the same time as the Council's Financial Close for the DBOM Contract.

York Against Cancer

35. York Against Cancer have also agreed in principle to take space within the Community Hub in the form of a retail unit, office and meeting space. Agreements for Lease between the Council and York Against Cancer are also agreed in principle and are in the process of being finalised. When finalised the Agreements for Lease will be formally executed ahead of and conditional on or at the same time as the Council's Financial Close for the DBOM Contract

York Gateway Explore Libraries

36. Final detailed design requirements of the York Gateway Explore Libraries ("Explore Libraries") have now all been confirmed by GLL as achievable within the existing NSLC design.
37. The March 2016 Executive Report set out that Explore Libraries would enter into a formal lease agreement with GLL to take up their presence within the Community Hub. However, in view of the fact that the current library service operator contract expires in March 2019, it is the Council's intention to initiate a library operator re-procurement exercise in 2018. The outcome of that re-procurement exercise will be known around the time that the Community Hub is fully operational. It is therefore no longer appropriate for the Council to enter into a formal lease agreement with the current library operator, Explore Libraries.

38. The presence of a new type of library offer aimed at accessing new users & groups, allowing users to access books, IT equipment, free Wi-Fi and a range of learning activities remains a firm commitment of the Council and the NSLC Scheme. As such this operational requirement will be a core requirement of the library re-procurement to be undertaken, so that the library operator must operate this library facility as part of the library service to be provided.
39. It is now therefore proposed that the Council takes a lease back of this area from GLL at a peppercorn rent for the full term of the 13 year DBOM Contract. The Council will also be responsible for the service charge in this area of £2.1k per year. The Council will however sub-lease the space to the library operator following the re-procurement exercise and when this area within the Community Hub is ready for operation, from which point the library operator will be responsible for the service charges. The risk of the Council being liable for the service charge in relation to this space is therefore low.

Project Financials Update

40. Ahead of Financial Close the Project's capital costs remain within the approved budgetary parameters that the Council agreed in March 2016.
41. Following the Building Contractor re-tender exercise undertaken by GLL the revised NSLC Construction Cost is £34m and represents a reduction of £2.7m from the NSLC Construction Costs reported to the Executive in March 2016.
42. However, as highlighted at paragraph 23, the Capital Land Receipt coming into the Project through the Commercial Development has fallen by £2.6m since the position detailed in the March 2016 Executive Report.
43. This Capital Land Receipt reduction is offset by the reduced NSLC Construction Cost. The lower NSLC Construction Cost also allows for the Project to move forward to Financial Close with the provision of a slightly enhanced contingency sum, whilst still remaining within the current approved budget.

Capital Costs

44. Table 1 below sets out the NSLC Construction Cost and wider Project costs to present an overall capital outturn position for the Project at July 2017, this shown alongside the position last presented in the March 2016 Executive Report.
45. *Table 1 - Project Capital Costs:*

Overall Project Capital Cost Summary	March 2016 Executive (£'000)	July 2017 Executive (£'000)	Difference (£'000)
NSLC Construction Cost *1 *2	36,700	34,000	-2,700
Other Project costs *3	7,500	7,600	+100
Capital Cost Subtotal	44,200	41,600	-2,600

Table 1 Notes -

**1) Includes the Early Works Agreement Costs, including the park & ride expansion. Excludes the Commercial Development construction costs for the Southern Block which are part of a separate agreement between the Building Contractor and GLL's developer, Wrenbridge Sport.*

**2) Excludes capital costs under the DBOM Contract that relate to, and that are to be funded through contributions from, the NHS Trust and the Commercial Development.*

**3) Project costs adjusted to account for budget pressures through the Project's delayed extension and provide sufficient contingency through to Project close. Project costs also include the Athletics track reprovsn, York City Knights (YCK) interim first team arrangements at Bootham Crescent, YCK long term reserve team and training agreement at York St John University, Project team and advisor costs.*

Funding

46. As set out in detail in the March 2016 Executive Report, the NSLC is proposed to be funded by a mix of Council capital funding (borrowing), s106 funds (from the Vangarde Retail Park development), a contribution from York City Football Club (YCFC) and funds arising from the Commercial Development.

47. The only funding change from that set out in the March 2016 Executive Report relates to the Commercial Development Capital Land Receipt, as detailed at paragraph 23 earlier in the report.
48. *Table 2 - Funding Budget position:*

Overall Funding Summary	March 2016 Executive (£'000)	July 2017 Executive (£'000)	Variance (£'000)
CYC prudential borrowing	13,400	13,400	0
CYC Venture Fund	1,000	1,000	0
Stadium s106	15,300	15,300	0
FSIF / YCFC	2,000	2,000	0
Commercial Capital Land Receipt	11,300	8,700	-2,600
s106 highways contribution to P&R	1,200	1,200	0
Funding Subtotal	44,200	41,600	-2,600

49. The overall reduction in the capital cost of the Project by £2.6m, which includes enhanced contingency provisions, alongside the reduction in funding by £2.6m through the Commercial Capital Land Receipt together still result in the overall Project remaining within the approved budgetary parameters that Council agreed in March 2016. With the increased contingency provision the overall position is an improvement on that presented at March 2016.
50. It should be noted that as the funding subtotal has reduced from that approved by Council in March 2016 in due course under normal capital monitoring there will need to be an amendment made to the breakdown of the capital budgets shown in the Council capital programme. However this does not change the Councils overall budgetary parameters for this Project, in particular the amount or Council borrowing, or use of the Venture Fund. As set out in the report the NSLC scheme can be delivered within the budget already approved by Council in March 2016.
51. The Council also continues to have responsibility to cash flow the development ahead of contributions from FSIF/YCFC as well as the contribution to the Stadium works and fit out costs from the Commercial Development and NHS that will only be received at practical completion of the Stadium works.

Revenue Leisure Budget

52. The ongoing revenue element of the Project relates to the running costs payable to GLL over the life of the DBOM Contract and the income streams coming direct to the Council from the two Sports Clubs (YCFC & YCK) and the Stadium Naming Rights Sponsorship.
53. The Project's base revenue budget approved within the March 2016 Executive totalled £5.6m over the 13 years of the DBOM Contract. The Project's base budget at July 2017 now totals £7.1m, accounting for the additional £1.5m funding towards the ongoing operation of YSP up until 2024/25 which was ratified as part of the recommendations of the Yearsley Review report presented to the Executive in March 2017.
54. As detailed at paragraphs 26 – 30 of this report, ahead of Financial Close and now with more certainty to the capital costs of the Project consideration has been able to be given to the overall financial position of the Project should YSP remain in the DBOM Contract for the full 13 year Contract Period.
55. Table 3 below details the Councils revenue budget alongside the total Revenue costs under both the DBOM Contract including the operation of YSP until 2024/25 only (column A) and for the full Contract Period (column B).

Table 3 - Revenue Summary (through DBOM Contract Period):

Revenue Summary	Total Budget (£'000)	A. YSP in the DBOM Contract until 2024/25 only		B. YSP in the DBOM Contract for the full Contact Period	
		Total Cost (£'000)	Variance (£'000)	Total Cost (£'000)	Variance (£'000)
GLL DBOM Contract ^{*1}	7,100	4,900	-2,200	7,100	-
Other Project Revenues ^{*2}	0	-1,200	-1,200	-1,200	-1,200
Total Revenues ^{*3}	7,100	3,700	-3,400	5,900	-1,200

Table 3 Notes -

- *1) The March 2016 Executive Report recommended that the shortfalls in individual DBOM Contract years payable to GLL against the available revenue budget should be smoothed by using the Venture Fund up to a maximum of £0.3m. This principle still remains.*
- *2) As outlined in the March 2016 Executive Report, the rents from both Sports Clubs and the proposed Stadium Naming Rights Sponsorship agreements, and Council commercial units within the NSLC scheme for future onward letting are managed directly by the Council and provide further funding to the Project*
- *3) The total revenue cost to the Council accounts for GLL's DBOM Contract total fee, less all other Project related income and expenditure (e.g. Sport Club rents, Stadium Naming Rights Sponsorship and income from Council rental commercial units).*

56. Considering the above revenue position Officers recommend to the Executive that YSP continues to be operated by GLL under the DBOM for the full Contract Period.
57. Table 3 above illustrates that the GLL DBOM Contract cost with YSP operated only to 2024/25 would produce savings against the Council's leisure budget and that these savings could be used to continue to fund the ongoing operation of YSP through until the end of the Contract Period. However, the assumption behind other Project revenues outside of GLL's DBOM Contract Cost remain an ongoing risk to the Council until legal agreements are in place for Stadium Naming Rights Sponsorship and Council rental units. It is therefore prudent not to assume these revenues as guaranteed. It is therefore recommended funding to meet the costs of continuing to operate YSP under the DBOM Contract from 2024/25 will have to be subject to further approval by the Council administration at or before 2024/25.

Revenue cash flow impact over the 13 year DBOM Contract

58. Council approved in March 2016 the use of the Venture Fund up to a total value of £1.3m, £1m to support the overall capital programme and the use of an additional £0.3m to smooth cash flow over the early years of the DBOM Contract.
59. Council also noted as part of the budget in February 2017 the creation of a Yearsley Pool reserve whereby New Homes Bonus

funds are set aside to meet the £1.5m commitment. A sum of £456k has been set aside in 2017/18 with further planned contributions over the next few years from the £1.5m reserve. The timing of the release of this funding will assist with the overall cash flow of the project as shown in the table below.

60. *Table 4 – Modelled revenue cash flow impact during the DBOM Contract (based on funding approved for YSP until 2024/25 only)*

Overall cash flow impact on Project over 13 year DBOM Contract period	Revenue shortfall / (surplus) (£'000)	Use of NHB Reserve	In Year Balance	Cumulative
2017 / 18 (6 months)	100	(460)	(360)	(360)
2018 / 19	200	(240)	(40)	(400)
2019 / 20	500	(410)	90	(310)
2020 / 21	400	(390)	10	(300)
2021 / 22	200		200	(100)
2022 / 23	(100)		(100)	(200)
2023 / 24	(200)		(200)	(400)
2024 / 25	(400)		(400)	(800)
2025 / 26	(400)		(400)	(1,200)
2026 / 27	(500)		(500)	(1,700)
2027 / 28	(400)		(400)	(2,100)
2028 / 29	(500)		(500)	(2,600)
2029 / 30	(500)		(500)	(3,100)
2030 / 31 (6 months)	(300)		(300)	(3,400)
Total	(1,900)	(1,500)	(3,400)	

61. Table 4 above shows, as per table 3, that with the inclusion of the YSP until 2024, there is an overall revenue surplus (compared with existing budget) of £3.4m. From this £1m will be required to repay the Venture Fund that is to be used to fund the capital cost of the Project.
62. If YSP is included for the full DBOM Contract Period the revenue surplus reduces to £1.2m. However as set out elsewhere, consideration will be required by Council around 2024 in terms of the ongoing funding for the YSP, and the overall financial position of the Project at that time.
63. Table 4 above shows that there is no further need for Venture Fund support for the revenue budget. The surplus on the account reduces to a balance of £100k however it is prudent to retain the flexibility of

being able to use the Venture Fund should the early years result in deficits.

64. Table 4 above shows that the £1m capital funding from the Venture Fund is modelled to be repaid by 2025/26.

Other Project Revenues

65. The Project continues to be supported by revenues from the Sports Clubs, Stadium Naming Rights Sponsorship, revenues from Community Partners and Council commercial units within the NSLC scheme for future onward letting.
66. The March 2016 Executive Report outlined that draft terms had been agreed with a potential Stadium Naming Rights Sponsor, with approval received at that point to proceed with these negotiations through to a final agreement.
67. Unfortunately the potential Stadium Naming Rights Sponsor has now withdrawn from negotiations with the Council.
68. Previous external advice provided around the Stadium Naming Rights Sponsorship highlighted that sponsorship packages such as the naming rights of a stadium are far more marketable once actual stadium construction is in progress and a firm completion dates can be given to prospective sponsors. It is therefore proposed that the Council now secures a new Stadium Naming Rights Sponsor following Financial Close.
69. The revenue budget approved within the March 2016 Executive Report assumed a certain level of annual income from a Stadium Naming Rights Sponsorship for the duration of the DBOM Contract. This level of income was based on the Stadium Naming Rights Sponsor offer made at that time.
70. With no Stadium Naming Rights Sponsor offer currently secured, a revised prudent view has been taken within the updated revenue budget position detailed at table 3 of this report.
71. The Stadium Naming Rights Sponsorship income assumed under the updated revenue budget for the Project has been calculated both on the principles of the previous deal that was very well progressed and close to execution, along with taking in to account all previous external advice received on this matter from 2012, 2014, 2016. It also

allows for certain start up and ongoing costs likely of any final Stadium Naming Rights Sponsorship deal.

72. Until a Stadium Naming Rights Sponsor is secured this assumed income therefore remains a risk to the Project.

Project Timetable for NSLC Delivery

73. The current scheduled operational date for the delivery of the New Leisure Facility is Spring 2019, with the Stadium operational by Summer 2019, the key indicative milestones for the Project are set out in table 5 below.
74. Until Financial Close is reached the exact start on site date for construction works to commence is not fixed. Until this point there is therefore a risk further delays could be incurred.

75. Table 5 - Current indicative Project timetable:

Date	Indicative Milestone
27 th July 2017	July Executive - Project report presented ahead of Financial Close.
August 2017	Finalisation of legal and technical documentation - All legal agreements finalised ahead of execution at Financial Close
Late August 2017	Financial Close - DBOM Contract, Commercial Development Agreements and ancillary legal documents signed
Sept - Oct 2017	Construction site mobilisation - New Building Contractor requires a 7 week ^{*1} period following Financial Close to mobilise the NSLC site and complete required construction design work before full construction works commence.
1 st October 2017	DBOM Contract live - GLL operation of Energise and Yearsley commences.
Late October 2017	NSLC full construction works commence - Full works to commence following site mobilisation period. New Building Contractor has outlined a 16 month (68 week) construction period.
Dec 2018 - March 2019	NSLC construction complete - practical completion of NSLC facilities will be phased, with the Stadiums completion date (due to pitch growth periods) slightly later than the build completion of the New Leisure Facility. - At the point of the Building Contractor reaching practical completion on the facilities they will not be operational and will require further GLL and Stadium Operator fit out before use by the public and the Sport Clubs.
Spring / Summer 2019	NSLC facilities operational - NSLC facilities operational following all required GLL and Stadium Operator fit out. - Community Hub & New Leisure Facility open = From March '19 - Stadium operational for Sport Clubs = From June '19

Table 5 Notes –

**1) In order to maintain Project progress and achieve the delivery timetable set out in table 5 above, early construction design work and sub-contractor orders are proposed by the new Building Contractor early in August 2017 ahead of Financial Close. This is proposed by the Building Contractor to help minimise the construction site mobilisation period to only 7 weeks (minimum 11 weeks otherwise) and enables the main construction works to start sooner on site once Financial Close is met, helping to ensure the delivery of the construction programme in the most efficient time possible. The cost of these early works form part of the NSLC Construction Cost detailed in this report and will be payable after Financial Close.*

However, should the Project not reach Financial Close the Council would be liable to underwrite and pay these specific early construction design work and sub-contractor order costs to GLL, estimated value of £0.5m. Officers recommend (recommendation D) that this option be taken forward in order to ensure an efficient delivery timetable.

Human Resources (HR)

76. Council employees at Energise and Yearsley will TUPE transfer to GLL who will manage the Existing Leisure Facilities once the DBOM Contract is signed and operational. The TUPE transfer will be implemented in accordance with current legislation and in line with the Council's Supporting Transformation (Managing Change) policies and guidelines.
77. Individual and collective consultation with employees and trade union representatives has been regularly taking place with both CYC and GLL and will remain on going throughout the TUPE process up to the actual transfer date provisionally, 1st October 2017.

Pensions

78. GLL is applying for Admitted Body Status, so employees will be able to continue to contribute to the North Yorkshire Pension Fund. It is proposed that the Council continues to fund the pension deficit in relation to the pool of employees transferring to GLL that has arisen

up to the point of transfer, consistent with other similar staff transfers. An actuarial review is currently assessing the future pension contribution rates for leisure services employees. Following an initial valuation undertaken in 2015 GLL will pay an indicative contribution rate of 13.4%. This contribution rate will be reviewed as part of ongoing valuations and so GLL's contribution may increase in the future. Any increase in the contribution rate up to 5% above the initial rate will be the responsibility of GLL. Any increase in excess of the 5% cap will be funded by the council. Any decreases in the contribution rate greater than 5% will be reimbursed to the council.

79. Under this arrangement the Council will build up a provision to deal with any pension liabilities on termination of the contract by retaining the difference between the current contribution rate and the final capped rate (indicative 18.4%) that has been included in the tender price. An amount of £60k per annum has been set aside from the leisure budget to fund any potential pension liabilities that arise through the DBOM Contract.

Equalities

80. There are no equalities issues relating directly to this report.
81. A full Equality Impact Assessment has been completed for the Project and reported previously in the March 2016 Executive Report.

Council Plan

82. This report is linked to the Focus on Frontline Services, A Council That Listens to Residents and a Prosperous City For All elements of the Council Plan 2015-19.
83. In particular the proposed NSLC scheme delivers significantly enhanced leisure facilities for residents, including securing the continued operation of YSP. The major investment in facilities also creates jobs, significant community use, creates wider economic benefits for the city, and sees a significant uplift in business rates income.

Risk Management

84. A detailed risk assessment for the Project was set out in the March 2016 Executive Report. This update report at July 2017 has provided updates on these risks throughout the report as appropriate and/or where changes have occurred.

Financial Implications

85. The financial implications of this report have been set out under the Project Financial Update section of this report, paragraphs 40 - 73.

Legal Implications

86. The Council has been advised on the Project by external law firm Bond Dickinson LLP.
87. As is usual in projects of the nature of the one being proposed, certain normal contractual risks are shared between the private and public sector.
88. The March 2016 Executive Report set out that in addition to the normal contractual risks that the Council would be exposed to as part of a DBOM Contract there are a number of risks that the Council would be required to take as a result of the commercial elements of this scheme which would not typically be included in a Design, Build, Operate and Maintain (DBOM) project. Due to commercial sensitivity related to these arrangements prior to DBOM Financial Close and the timing of concluding such arrangements, these details were contained in confidential Annex B - Legal Risks and Implications of the March 2016 Report. For the same reasons an updated confidential Annex B - Legal Risks and Implications is attached to this Report.

Report Annexes and Information

Annexes

- Annex A – Project Background
- Annex B – *Confidential* – Legal Risks and Implications

Defined Glossary of Terms

Definition	Meaning
Building Contractor	GLL's building contractor who will construct the NSLC
Capital Land Receipt	£8.7m in respect of the land transactions for the Commercial Development, as set out in paragraph 23 of this report
Commercial Development	the commercial development comprising a state of the art Multiplex Cinema and a number of restaurants and retail units, as set out in paragraphs 16 to 18 of this report
Community Hub	the community hub to be present within the NSLC, as set out in in the March 2016 Executive Report at detail at paragraphs 8-10 of the summary and paragraph 13(III) of the main report
Community Partners	NHS, York Against Cancer and York Gateway Explore Library as more fully detailed at paragraph 13 (III) of the March 2016 Executive Report
Construction Cost	the construction costs for the NSLC under the DBOM Contract
Contract Period	a minimum 13 year period, with the option of a 5 year extension
DBOM	Design, Build, Operate and Maintain
DBOM Contract	the Design, Build, Operate and Maintain contract
Developer	Wrenbridge Sport
East Stand Restaurant Units	3 Restaurant Units in the Stadium East Stand, of which will form part of the Commercial Development
Existing Leisure Facilities	Yearsley Swimming Pool and Energise Leisure Centre
Final Executive Report	This report to the Executive on 27 th July 2017
Financial Close	the date of signature of the DBOM Contract and all associated legal agreements to the Project
FSIF	Football Stadia Improvement Fund
GLL	Greenwich Leisure Limited
Investment Fund	Entity purchasing the rights of the Commercial Development
ISG	GLL's building contractor within their consortium team up until 13 th February 2017

March 2016 Executive Report	The Project report presented at the Executive meeting on the 17 th March 2016
Members	City of York Council elected members
New Leisure Facility	the new leisure and sports centre proposed within the NSLC scheme, as more fully set out in the March 2016 Executive report at paragraph 7 (II) of the summary and paragraph 13 (II) of the main report.
NHS	York Teaching hospital NHS Foundation Trust
NSLC	New Stadium Leisure Complex
Officers	City of York Council employed staff
Procurement	OJEU Competitive Dialogue Procurement undertaken from September 2012
Project	The Community Stadium & Leisure Facilities Project
Southern Block	the land adjacent to the proposed South Stand of the NSLC forming part of the Commercial Development and identified on Plan B of Annex A of the March 2016 report
Sport Clubs	York City Football Club and York City Knights RLFC
Stadium	an 8,000 all seat community sports stadium to host professional football and rugby league games
Stadium Naming Rights Sponsorship	the sale of the naming rights for the Stadium as more fully explained in paragraphs 66 to 73 of the main report
TUPE	Transfer of Undertakings (Protection of Employment)
Venture Fund	The Council Venture Fund. The Venture Fund makes monies available for Council projects that have the ability to generate expenditure savings or increased income
YAC	York Against Cancer
YCFC	York City Football Club
YCK	York City Knights RFLC
Yearsley Review	the review of different potential operating models for the future management of Yearsley Swimming Pool
YSP	Yearsley Swimming Pool

Report contact details

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Paul Forrest <i>Stadium Project Officer</i>	Report Approved	√	Date	18.07.2017
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Wards Affected:			All	✓
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Executive

27 July 2017

Report of the Deputy Chief Executive/Director of Customer and Corporate Services
Portfolio of the Executive Member for Culture, Leisure & Tourism

Community Stadium & Leisure Facilities Report**ANNEX A – Project Background**

1. This Annex A sets out the background and key decision points in the Project over recent years;
2. February 2009 – Budget Council approved a £4m investment into the Community Stadium Project subject to a detailed business case report being taken back to Executive (brought back in March 2012).
3. January 2012 – Approval received at decision session for the Executive Member for Leisure, Culture & Social Inclusion to develop the procurement framework for a competitive dialogue procurement which would include the design, build, operation, and long term maintenance (“DBOM”) of a stadium and the city’s wider leisure facilities.
4. March 2012 - Original business case approved by Full Council for the Stadium Project.
5. July 2012 – Outline planning consent granted for the Vangarde Retail Park, providing for a minimum 6000 all seat community stadium.
6. September 2012 – Competitive dialogue procurement commenced.
7. September 2014 – Executive report approves GLL as preferred bidder from procurement process along with the NLSC scheme details. This report also seeks Council approval for additional £4m prudential borrowing for the capital investment in the replacement leisure facilities at NSLC, including a new swimming pool.
8. October 2014 – Council approve additional £4m prudential borrowing for the capital investment in the replacement leisure facilities.
9. March 2015 – Detailed planning approval granted for the NSLC scheme.
10. August 2015 – Executive report receives approval to proceed in entering an early works agreement with GLL to commence early site works in preparation of the main DBOM Contract. This work included the demolition of the existing site stadium/leisure facilities, the expansion of the adjacent park & ride facility and progressing design work.

11. November 2015 – Early works commence for the demolition of the existing site stadium/leisure facilities and the expansion of the adjacent park & ride facility.
12. March 2016 – Executive and Council report approves Project to proceed, with revised capital and revenue budgets, in entering into the DBOM Contract with GLL for the delivery of the NSLC scheme and long term operation of the NSLC and the city’s existing leisure facilities.
13. June 2016 – A s73 planning amendment application for the NSLC scheme (original full application March 2015) was approved by the Local Planning Authority (“LPA”).
14. August 2016 – JR Claim received on the s73 planning amendment from VUE Cinemas.
15. December 2016 – Executive report approved continued financial support to York City Knights RLFC first team arrangements for the coming Rugby League seasons.
16. January 2016 – JR Claim relating to the s73 planning amendment resolved in the High Court in the favour of the Council.
17. February 2017 – GLL’s previous construction partner, ISG, withdraw from the GLL’s consortium.
18. March 2017 – Executive report approved that GLL continue to operate YSP for 91 hours per week under DBOM Contract until 2024/25 using additional funding through the New Holmes Bonus that had been previously approved by the Executive for the continued operation of YSP up to 2024/25.
19. March 2017 to June 2017– GLL commence a re-tendering exercise to appoint a new Building Contractor to their Consortium.
20. July 2017 – Final Executive Report ahead of Financial Close presented to the Executive outlining the updated costs of the Project and timetable for the construction delivery.

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Executive

27 July 2017

Report of the Director of Economy and Place

Portfolio of the Executive Member for Finance and Performance

Acquisition of Freehold Interest of Swinegate Court

Summary

1. An opportunity has arisen for the council to acquire the freehold interest in a portfolio of properties Swinegate Court in the city centre that will ensure the ongoing maintenance of the buildings, support the economic vibrancy of the city centre and generate significant additional income to contribute to the increased budget income target set for the council's commercial portfolio. In July, Executive and full council established a budget for the acquisition which enabled an offer to be made for the property. The council offer was accepted and this report provides due diligence prior to the completion of the contract.

Recommendation

2. Executive is asked :
 - (i) subject to Full Council having approved on 20 July 2017 a capital budget of £15 million to make a strategic acquisition of a mixed commercial portfolio in York city centre;
 - (ii) to delegate to the Director of Customer and Corporate Services authority to complete the acquisition of the freehold of Swinegate Court provided that the findings of the due diligence process do not undermine the purpose of the acquisition; and
 - (iii) to authorise the funding of the acquisition of the asset referred to in (ii) above and all related costs from the capital budget referred to in (i) above.

Reason: To ensure the ongoing economic vibrancy of the city centre and increase the income from the council's commercial property portfolio in order to achieve budget targets.

Background

3. The council has for many years operated a significant commercial portfolio in order to generate a revenue income stream to support the council's revenue budget. In the last two years, additional income targets have been agreed as part of the annual budget. Significant work has already been undertaken to deliver additional income including the acquisition of property in Hospital Fields Road.
4. The budget report for 2017/18 set out an approach to a 4 year budget and identified the need to consider further property investment opportunities in order to continue this good progress over future years. Given that interest rates are low, property acquisitions perform well when compared to other forms of investment and are capable of delivering higher yields.
5. A report was approved 13th July by Executive setting aside a budget of £15 million to make a strategic acquisition of a mixed commercial portfolio in York city centre and is subject to approval by Full Council at a meeting on the 20th July 2017.
6. At the time of the report the details of the property were treated as confidential, since the council had to bid in a competitive market for the property. The council has now been advised that, following an offer for the property, it has been chosen as preferred bidder. The offer was within that budget set aside and approved by Executive and Full Council.
7. The property bid for is known as Swinegate Court (see photographs in Annex 1) and has a strong rent roll, a respectable yield and represents a good commercial investment.
8. Swinegate Court comprises of two, three storey buildings, known as Swinegate Court East and Swinegate Court West. Swinegate Court East comprises 9 retail units, 2 leisure units and 7 office suites at 1st and 2nd floor level. Swinegate Court West comprises 6 retail units, 1 leisure unit and 5 office suites at 1st and 2nd floor level. The offices have been refurbished recently. All units are occupied or under offer. The total rent generated from the asset provides for £813,000 per annum.
9. Under the terms of existing agreements between the current owner (landlord) and occupiers (tenants), the tenants are responsible for the upkeep of their own units, whilst the landlord is responsible for the maintenance of common areas, such as the structure, roof and services. The landlord is able to recharge the cost of these items of expenditure back to the tenants through a service charge, along with the management costs associated with such. Should the council proceed with the purchase it will become the landlord of the current tenants and be subject and benefit from the repair and maintenance arrangements in place.

10. The council has appointed joint national and York based agents to represent it through the bid negotiation process, utilising their respective national and local knowledge of the property market. Prior to bidding a pre acquisition report detailing the opportunity was commissioned, this is contained as confidential Annex 2. As part of a due diligence exercise, a further report confirming that the agreed purchase price is representative of Market Value has been commissioned and this is contained as confidential Annex 3.
11. Further due diligence has been undertaken through the council's legal services team examining the legal title to the property as well as looking through the various leases which are in place and will remain so should the council proceed. No legal issues of concern have been reported. An initial survey of the property by the council's buildings and mechanical and engineering teams has raised no issues of concern. A more comprehensive survey is being undertaken and this work will be concluded in full before contract completion.

Funding

12. The purchase has been agreed within the allocated overall capital budget of £15m set aside to fund the acquisition and which was approved previously by Executive and is subject to approval by Full Council. Details of the exact price paid are confidential at this stage given the matter has not been completed and hence this is contained within the confidential Annex 4.
13. The funding will be provided by borrowing from the Public Works Loan Board (PWLB) and will be repaid from rental income. The capital receipts from the future disposal of vacant council assets will be used to reduce the borrowing requirement over time. This will be reported as part of future capital monitor reports, where Executive/Council would be asked to consider the application of surplus future capital receipts to this acquisition.
14. An outline business case was provided in the previous report and is now amended within this report to reflect the actual price paid and contained with the confidential Annex 4. This information is still confidential until completion of contracts. Prudent assumptions have been made to provide for potential voids, the staff costs of operating an enlarged commercial estate and a prediction of the potential increase in income over the next 5 years to indicate how the revenue stream will increase whilst repayment of the capital will stay steady and eventually fall away. The business case is based upon borrowing over 50 years. The assets' life is considered in excess of this duration as confirmed by the council's agents and there is provision to recharge costs to tenants for maintenance of the property which will extend the life of such in any event.

15. Given current low interest rates, even with making full provision for repayment of the costs of purchase the rental income will provide an additional source of annual revenue, net of borrowing costs. In addition the value of the asset is likely to increase over time.
16. The investment therefore represents a good opportunity to increase the commercial portfolio rental stream and support city centre economic prosperity.

The Council Plan

17. The acquisition will support the following priorities;

- The creation of a Prosperous City for All,
- Be a Council that listens to residents particularly by ensuring that :
- Everyone who lives in the city can enjoy its unique heritage and range of activities.
- Visitors, businesses and residents are impressed with the quality of our city.
- Local businesses can thrive.
- We are entrepreneurial, by making the most of commercial activities.

Implications

18.

Financial – These are covered in the report and in confidential annex 4.

Human Resources (HR) – If the acquisition goes ahead additional resource will be needed to manage the expanded commercial portfolio. This will be funded from additional income.

Equalities – n/a

Legal – Under part 1 of the Local Government Act 2003 a local authority may borrow money or invest for any purpose relevant to its statutory functions or for the prudent management of its financial affairs.

The powers of General Competence enable the council to operate a commercial portfolio ..

The Local Government Act 1972 gives the Council powers to acquire any property or rights which facilitate, or is conducive or incidental to, the discharge of any of its functions.

The Council will need to ensure that in exercising its investment and borrowing functions to expand its commercial portfolio, that any actions are reasonable and proportionate. Investment decisions need to be taken mindful at all times of the Council's fiduciary duties to ensure the sound management of the public finances.

Information Technology (IT) - There are no IT implications.

Crime and Disorder – n/a

Property – All property implications are covered in the report.

Risk Management

19. As with all property acquisitions there is a risk that the value of the property may decrease over time. There is also a risk that there may be a level of empty properties or voids. The business case makes provision for that risk.
20. The overall investment represents a relatively prudent level of commercial investment in comparison with the Council's overall budget, and income sources.

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19 July 2017

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Background Papers:

Annexes

Annex 1	Photographs of Property
Confidential Annex 2	Buyers Pre Acquisition Report
Confidential Annex 3	Valuation Report
Confidential Annex 4	Financial Business Case

List of Abbreviations

None



Swinegate East & West

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