

**Executive**

**20 November 2007**

**Report of the Corporate Landlord and Director of Learning, Culture and Children's Services**

## **York Racecourse – Application For Lease Extension And Amendments**

### **Purpose of Report**

- 1 The Racecourse is let by virtue of a 99 year ground lease from January 1957. This report is to enable Members to consider a request from the Race Committee to extend the lease to 99 years, from 2008, to include permanent rights to retain the 'Ascot Bend' and make other changes to update the lease.
- 2 The reason for this report coming to members now is because with less than 50 years remaining on the lease it is not financially prudent for the York Race Committee to borrow further funds with which to develop and maintain their facilities to the highest order. An agreement on an extended lease will allow such investment to continue.

### **Background**

- 3 The current position
  - a) The plan at Annex 1 shows the area subject to the 1957 lease by black hatch. The Race Committee have invested significantly in this area, including building the new Ebor, Knavesmire and County stands. As this is a ground lease, the buildings are the tenant's property, to maintain for the period of the lease.
  - b) In addition to this area, the lease permits the Race Committee to;
    - i) Retain and maintain the Racecourse
    - ii) Construct and retain the Totalisator in the public part of the West Enclosure, opposite the main stands.
    - iii) Control admission to the Knavesmire and erect marquees etc during 'Race Weeks', which are defined as being from the Saturday

preceding any week during which racing takes place to the Saturday next following (both days inclusive).

- c) The course was extended in 2005 to form a full circuit for the Royal Ascot meeting, by the addition of about 500m of track beyond the winning post connecting with the straight at Tadcaster Road, the extra section being known as the 'Ascot Bend'. This section is held on licence only, and is shown x – x on the plan.
- d) Rent payable is related to receipts, and is reviewed ten yearly. The rent was last fixed on 1 January 2007. Further details are given in Exempt Annex 2.
- e) 15 Race days are permitted as of right. Others are by agreement with the council at an additional rent. It is current practice for 16 or 17 days racing to be run, although only 15 days are scheduled for 2008 due to the planned drainage improvements in Autumn 2008. The core meetings are:

May Festival - 3 days

June - 2 days

July – John Smiths Cup Meeting – 3 days

August – Ebor Meeting – 3 days

September - 2 days

October - 2 days

- 4 The Traffic Management Plan for Race Meetings has been approved by the Executive (Agenda Item 7 to the meeting of 27 March 2007 in particular) following discussions and negotiations with all relevant parties. The council undertake approved measures within a budget of £30,000 and the Racecourse fixed their agreed works at an estimated cost of £45,000. It is not possible to include this subject within the lease but is part of the wider discussions with the Race Committee.
- 5 The use of the Knavesmire for recreational purposes and the impact on race days upon the local neighbourhood are subjects of great interest to citizens and ward councillors. The proximity of the racecourse to the new Terry's site also presents significant opportunities for economic development. Local ward Councillors have been consulted and their views have helped shape the negotiations, however not all of their concerns can be remedied through the lease.

#### Proposed changes

- 6 The changes requested are:
  - a) To restore the lease length to 99 years, from 2008.

This is because there are now 48 years remaining on the existing lease, and as the remaining length declines, investment is impeded. It is more difficult to raise

finance under a shorter lease, and investment has to be depreciated over a shorter period, affecting the viability and long term view. The extended lease is requested to facilitate continued investment in order that the Racecourse may retain and enhance its position as a leading course, in a modern racing environment.

The current projects being considered (subject to an extended lease being granted and other necessary permissions) are;

- Enhanced facilities and refurbishment of the Melrose Stand,
- Improvements to the parade ring area.
- Integrate the Conference and Exhibition facilities at the Racecourse with the Terry's site development, which includes hotels, to create a year round venue to develop York's Conference and Exhibition business.

These are in addition to the track widening, drainage improvements and inner safety road, already approved.

b) To include the whole of the West Enclosure in the lease.

This is the 3 acre site marked 'W' on the plan at Annex 1. It is in practice heavily used during Race Meetings as of right under the current lease, and the time taken for the turf to recover adversely affects its use for public or other events at other times. It is used however by the Motor Caravan Show in particular. These larger events do simultaneously hire facilities from the Racecourse .

If approved in principle;

- Additional rent would be payable as detailed in Exempt Annex 2
  - The council would save on any future maintenance or investment costs which average about £1,000 pa
  - It does not prevent other events from being held on other parts of the Knavesmire, e.g. Race For Life, Circuses, football
  - The proposal to lease the whole area would need to be advertised in the local press for public comment, as disposal of open space, under S123 of the Local Government Act 1972. All comments received would be considered in consultation with the Executive Member for Corporate Services, and referred to the Executive Member Advisory Panel if he considers them to be substantial.
- c) To increase the number of permitted Race Days under the lease from the present 15 to 20.

Fifteen race days will remain the core for the calculation of the rent based on the existing rental formula. Outside the core 15 days, additional rent would be payable (which is calculated on the same formula). An additional meeting, often in July, is now the norm, and this is permitted by consent. As the course at York improves, with the safety road and better drainage etc, more Race Days can be bid for in the future to the Racing Authorities, and this would give the Race Committee the ability to do so.

d) To add the 'Ascot Bend' to the track on a permanent basis.

Planning consent has been obtained for the permanent retention of the track with public crossing points reserved (January 2006). There are safety benefits in keeping the 'run off' area separate from the public, and longer races can be attracted in the future. In return for this being added, part of the former straight adjoining Tadcaster Road, between A and B on the plan, would be removed from the track and lease, and returned to full public use.

e) To extend the definition of 'Race Weeks'.

The current definition, being the Saturday before a meeting to the Saturday afterwards inclusive, can allow only 2-3 days to erect and take down marquees. This is often impractical in the time available, especially with more marquees and hospitality around events currently. Up to 10 days before a meeting and 4 days afterwards is requested for marquees, but only in defined areas at Bustardthorpe and adjoining the Parade Ring, and not the Knavesmire as a whole. Marquees cannot be retained for more than 28 consecutive days without planning consent.

8. Based on the terms provisionally negotiated, the council would obtain the following direct benefits from the proposed changes.

a) The rent be reviewed 5 yearly, not 10 yearly, beginning from the next review in 2017. This would smooth out the council's income from the Race Course and aid budget planning. An analysis of this is at Exempt Annex 2.

b) That the events budget for the Arts and Culture Service within Learning, Culture and Children's Services be reimbursed for the events which currently pay to use the balance of the West Enclosure proposed to be included in the lease. The details are in Exempt Annex 2.

c) Additional rent is payable for additional race days.

d) That the new track safety road be used as a cycle track and footpath, excluding Race Days. The council would be responsible for connections to Tadcaster Road via Cherry Lane, and to Campleshon Road.

## **Consultation**

9 Ward Members have made 5 suggestions for consideration, listed a) to e), with officer's response below;

- a) Proper policing of events funded by the course.

Response; This is covered by the Safety of Sports Grounds Certificate. Up to 50 police are on duty, and up to 250 site security staff employed. The control of possible offences by those who have left a sports event is not the legal responsibility of the event organiser.

- b) Fuller funding of traffic management arrangements, or providing parking off Sim Balk Lane (as for the Ascot meeting) rather than Knavesmire Gates.

Response; The Traffic Management Plan for Race Meetings has been approved by the Executive in March 2007. This is a recently agreed solution and renegotiation is not reasonably possible so soon after conclusion.

The temporary 'Ascot' car park on the Knavesmire side of Sim Balk Lane is costly to establish. The arable land concerned is in private ownership. Access is along the cycle way, and there is a long walk to the course. It is regarded as an overflow option only, and that vehicles on Sim Balk Lane can quickly get to the Bustardthorpe car park in any case. Race goers may not use a car park so far from the course and may then cause congestion by parking elsewhere.

- c) Funding temporary toilets on walking routes into town after meetings.

Response; Some toilets were provided during the Ascot meeting by the Council, but were funded on a 'one off' basis by Yorkshire Forward. There is no obligation for the Race Committee to provide any toilets off site e.g. through the safety of sports grounds and liquor licences. They do however provide additional toilets within the course. As the location for other toilets would be outside of the lease area, the Race Committee will not fund or manage such a facility. This issue is discussed later in paragraph 11.

- d) Providing proper stiles/gates where they cross recognised walking routes, e.g. Tyburn to Albermarle Road.

Response; This can be achieved by returning part of the straight opposite Tadcaster Road to full public use, as referred to in paragraph 3(c). A fixed crossing point causes wear and tear on the track hence the Race Committee move access points from time to time.

- e) Connecting paths to the new safety road

Response; It is agreed that the safety road will be useable for pedestrians and cyclists and investigations are underway to provide and sign such links e.g. from Tadcaster Road via Cherry Lane.

- 10 In summary two suggestions have been included within the proposed changes (d) and (e), two are not believed practical under the lease (a) and (b), and one (c) is examined further in paragraph 11.
- 11 As has been discussed above the provision of toilets in the Scarcroft Hill area is not something which Race Committee are willing to do. The estimated cost for the providing and servicing toilets for the main meetings (May to August) is £8,000. There is no budget for such provision.
- 12 The Director of City Strategy has been consulted and his comments are incorporated into the report.

### **Options**

- 13 Members have the option to either;
  - A) Agree the new 99 year lease incorporating the changes in paragraph 6, or
  - B) Decline to extend the lease, or
  - C) Agree a new lease but subject to conditions

### **Analysis**

- 14 Option A – Agree the lease extension

Advantages - York Racecourse is operated on a not for profit basis. Income from meetings is reinvested to improve the facilities and racing. Extending the lease would provide greater financial security for the Racecourse to continue to invest, and to retain and enhance York's position as one of the country's leading courses. This is particularly important now to also link the Racecourse's conference and sporting facilities with the Terry's development and proposed hotels. This option is consistent with the council's role as an enabling authority, to encourage investment in the city. The declining lease length would otherwise act increasingly as a barrier to future investment.

Disadvantages - The terms of the lease would be fixed for 99 years, save for changes by agreement. This may be seen as more inflexible.

- 15 Option B – Decline to extend the lease.

Advantages - To retain future options to amend the lease terms, albeit not until 2056 or at some time in the future when both parties wish to review the situation.

Disadvantages - Not to support the track improvements, future investment in the stands and to link with Terry's for an integrated Conference and Exhibition facility which could be seen as detrimental to the long term prosperity of the City.

16 Option C

Advantages - A balance between options A and B and accept some of the changes requested in paragraph 6, and not others.

Disadvantages - It is doubtful if York Race Committee would accept a partial agreement.

### **Corporate Priorities**

17 The proposed new lease will enable the following corporate priorities as set out in the Council's 2007/08 Best Value Performance Plan to be enhanced;

- a) Increase the use of environmentally friendly transport. The proposals include joint use of the new track safety road as a cycle way and footpath.
- b) Increase the actual and perceived condition and appearance of the city's streets and open spaces. Through the ongoing investment in the facilities and continued involvement in Yorkshire In Bloom.
- c) Improve Economic Prosperity. The Race Meetings and the developing conference business will contribute.
- d) Working with partners to deliver better services i.e. working with the racecourse to enhance the venue for the provision of leisure and business facilities.

### **Implications**

- 18
- a) Financial – there are no significant financial implications in the short term. In the longer term, the income to the council will increase due to these proposals as referred to in Annex 2 (Exempt). Loss of opportunity for the use of the West Enclosure is compensated by a guaranteed payment from the Race Committee.
  - b) Human Resources, Equalities, Crime and Disorder and IT. There are no implications in these areas.
  - c) Legal – a new lease will require many hours of work and this may have to be externalised. Legal costs will be recoverable from the Racecourse Committee.
  - d) Property – as contained in the report. The land use is established.
  - e) Other – there are no new licensing or other implications.

## **Risk Management**

- 19 There are limited risks to the council arising from the options in this report. If the negotiations do not proceed the existing lease will continue to run for a further 48 years and the Council will continue to receive the annual income.

## **Recommendation**

- 20 Members are asked to consider;
- a) The approval of Option A being;
    - i) The surrender of the existing lease for the Racecourse in favour of a new 99 year lease, from 2008
    - ii) The inclusion of the remaining 3 acres of the West Enclosure in the lease, subject to the results of advertising under S123 of the Local Government Act 1972
    - iii) To increase the number of permitted Race Days as of right to 20, with any others to be subject to approval of the Head of Parks and Open Spaces in consultation with officers in City Strategy
    - iv) To add the 'Ascot Bend' to the race track, in exchange for land on the Tadcaster Road straight
    - v) To allow up to 10 days for the erection of hospitality marquees and 4 days for removal, instead of the current 'Race Week', to be subject to approval of the Head of Parks and Open Spaces.
  - b) Giving guidance on the possible provision of temporary toilets as set out in paragraph 11.
  - c) Reason  

To ensure that York Racecourse maintains its position amongst the top courses in the country whilst at the same time continuing to be a valued local amenity that plays a valuable role in the economic development of the city and brings benefits in a manner that is acceptable to the residents of York.

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**Wards Affected: Micklegate, Report Approved  
Dringhouses and Woodthorpe**



**Date** *25<sup>th</sup> October  
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**For further information please contact the author of the report**

### **Background Papers – Lease Documents (Confidential)**

Annexes      1 – Site Plan  
                  2 – Exempt Financial Analysis