

Notice of meeting of

Scrutiny Management Committee (Calling In)

- To:** Councillors Galvin (Chair), Runciman (Vice-Chair), Barnes, Cunningham-Cross, King, McIlveen, Potter and Steward
- Date:** Monday, 30 January 2012
- Time:** 5.00 pm
- Venue:** Guildhall, York

AGENDA

1. **Declarations of Interest**

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

2. **Public Participation**

At this point in the meeting, members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00 pm on Friday 27 January 2012.**

3. **Minutes**

(Pages 3 - 8)

To approve and sign the minutes of the last meeting of the Committee held on 4 April 2011.

4. Called-in Item: Revision to the Council's Administrative Accommodation Strategy (Pages 9 - 22)

To consider the provisional decisions made by the Cabinet at their meeting held on 10 January 2012 in relation to the above item, which has been called in by Councillors Galvin, Steward and Barton in accordance with the Council's Constitution. A cover report is attached setting out the reasons for the call-in and the remit and powers of the Scrutiny Management Committee (Calling In) in relation to the call-in procedure, together with the original report to and decisions of the Cabinet.

5. Called-in Item: The Community Stadium and Council Leisure Facilities: Procurement of Operator Arrangements (Pages 23 - 42)

To consider the decisions made by the Cabinet Member for Leisure, Culture and Social Inclusion at her Decision Session held on 10 January 2012 in relation to the above item, which has been called in by Councillors Ayre, Reid, Firth and D'Agorne in accordance with the Council's Constitution. A cover report is attached setting out the reasons for the call-in and the remit and powers of the Scrutiny Management Committee (Calling In) in relation to the call-in procedure, together with the original report to and decisions of the Cabinet Member.

6. Urgent Business

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

Democracy Officer:

Name : Jill Pickering

Contact Details:

- Telephone : 01904 552061
- E-mail : jill.pickering@york.gov.uk

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

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

Contact details are set out above.

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The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business from a published Cabinet (or Cabinet Member Decision Session) agenda. The Cabinet will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Cabinet meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	SCRUTINY MANAGEMENT COMMITTEE (CALLING IN)
DATE	4 APRIL 2011
PRESENT	COUNCILLORS ALEXANDER (VICE-CHAIR, IN THE CHAIR), FIRTH, ORRELL, SIMPSON-LAING, TAYLOR, WAUDBY, HORTON (SUBSTITUTE) AND HEALEY (SUBSTITUTE)
APOLOGIES	COUNCILLORS GALVIN AND GUNNELL

35. **DECLARATIONS OF INTEREST**

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

Cllr Alexander declared a personal interest in agenda item 5 (Update on Reablement Service), as a member of the GMB.

Cllr Simpson-Laing declared a personal interest in agenda item 5, as a member of UNISON.

Cllr Taylor declared a personal interest in agenda item 6 (Draft Framework for York Low Emissions Strategy), as a member of the Friends of St Nicholas Fields.

36. **PUBLIC PARTICIPATION / OTHER SPEAKERS**

No members of the public had registered to speak at the meeting under the Council's Public Participation Scheme. One union representative had requested to speak.

Heather McKenzie, of UNISON, spoke in relation to agenda item 5 (Update on Reablement Service). She re-iterated the points that she had made on this item at the Executive meeting on 15 March and added that insufficient time had been allowed to enable staff to submit a tender for the service as suggested in the Executive's resolution (i)(d).

37. MINUTES

RESOLVED: That the minutes of the Scrutiny Management Committee (Calling In) meeting held on 21 March 2011 be approved and signed by the Chair as a correct record.

38. CALLED-IN ITEM: UPDATE ON REABLEMENT SERVICE

Members received a report which asked them to consider the decisions made by the Executive at their meeting on 15 March 2011 in relation to a report providing an update on the opportunities offered by a remodelled reablement service and seeking a decision on the next steps for the service.

Details of the Executive's decisions were attached as Annex A to the report and the original report to the Executive was attached as Annex B. The decisions had been called in by Cllrs Alexander, Fraser and Simpson-Laing, on the grounds that:

- *The Executive failed to properly assess the performance of the previously privatised part of the Home Care Service, and analyse the reason for its many failures*
- *Inadequate consultation has taken place with the Council's major partner affected by the performance of the Reablement Service, York Teaching Hospitals Foundation Trust, the Council Leader and Executive Member having only met with the hospital Chief Executive the day prior to the Executive Meeting*
- *No analysis of the reasons for the escalating hospital delayed discharge statistics has taken place*
- *The financial comparisons of the costs of providing the service between the in-house team and the private sector are flawed*
- *The decision runs contrary to previous assurances given to the Council's staff in 2005/6, at the time of the privatisation of the Long-term Care Service.*

Members were asked to decide whether to confirm the decisions (Option A) or to refer them back to the Executive for re-consideration (Option B).

Cllr Fraser addressed the Committee on behalf of the Calling-In Members. He expanded on the reasons given for the call-in and queried in particular why a partnership with the hospital had not

been considered. He echoed the comments made by the union representative concerning the time allowed for staff to submit a tender for the service and urged Members to refer the matter back to the Executive for re-consideration.

Officers responded to the points made, stressing that the quality of the service would not be put at risk by outsourcing, that consultation had been carried out with the hospital, and that staff had been given sufficient opportunity to submit a tender. They noted that the assurances to staff in 2005/6 referred to in the calling-in reasons had included a notification that the service would be reviewed. Current proposals represented the outcome of that review.

After a full debate, Cllr Simpson-Laing moved, and Cllr Horton seconded, that Option B be approved and the matter referred back to the Executive, for the reasons outlined in the calling-in, with a recommendation that they amend their decisions to allow staff sufficient time to work on plans to form a mutual or social enterprise company, or a Local Authority Traded Company. This proposal was then put to the vote. 4 Members voted in favour and 4 against. The Chair then used his casting vote in favour of the proposal and it was

RESOLVED: that Option B be approved and the matter referred back to the Executive for reconsideration, with a recommendation that they amend their decisions to allow staff sufficient time to work on plans to form a mutual or social enterprise company, or a Local Authority Traded Company.

REASON: In accordance with the requirements of the Council's Constitution and for the reasons outlined in the calling-in.

39. CALLED-IN ITEM: DRAFT FRAMEWORK FOR YORK LOW EMISSIONS STRATEGY

Members received a report which asked them to consider the decisions made by the Executive at their meeting on 15 March 2011 in relation to a report presenting a draft framework for the York Low Emission Strategy, to be taken forward for public consultation in 2011.

Details of the Executive's decisions were attached as Annex A to the report and the original report to the Executive was attached as Annex B. The decisions had been called in by Cllrs Gunnell, Merrett and B Watson, on the grounds that:

(The draft LES Framework)

- *is wholly inadequate given the number of premature deaths and ill health that worsening traffic related pollution is causing;*
- *offers no clear target for when health-based limits are to be achieved;*
- *provides no commentary on the effect of the different measures mentioned or on what impact the overall strategy will have;*
- *contains no proper discussion nor makes any positive recommendations for potentially the most effective solution to the emissions problem of a Low Emission Zones (LEZ), as now used in London, Norwich, and 200 cities across Europe;*
- *and leaves the Council vulnerable to potential significant EU fines should the UK Government's current legislative proposal to pass down any EU fines on the UK to individual local authorities covering areas failing to meet the EU legislative requirements.*

Members were asked to decide whether to confirm the decisions (Option A) or to refer them back to the Executive for re-consideration (Option B).

Cllr Merrett addressed the Committee on behalf of the Calling-In Members. He noted that the recommendations made by the SMC on 14 June 2011 following a previous call-in of proposals for a Low Emissions Strategy had not been followed and that the LES Framework did not examine in detail the crucial issue of Low Emission Zones (LEZs). He asked that the matter be referred back to the Executive to ensure the production of an effective strategy within a reasonable time.

Officers responded to the points made, noting that York currently met all health-based objectives in respect of air quality. The issue of most concern in the City was NO₂, the health effects of which were less clear cut than those of particulates. Further information on current emissions was required before predicting future emissions and the best way to tackle them. More research into the effectiveness of LEZs was also needed,

hence the reason for including an LEZ feasibility study in the LES Framework.

After a full debate, Cllr Horton moved, and Cllr Simpson-Laing seconded, that Option B be approved and the matter referred back to the Executive for reconsideration, for the reasons outlined in the calling-in, with a recommendation that they give the matter more positive and detailed consideration. This proposal was then put to the vote. 4 Members voted in favour and 4 against. The Chair then used his casting vote in favour of the proposal and it was

RESOLVED: That Option B be approved and the matter referred back to the Executive for reconsideration, with a recommendation that they give the matter more positive and detailed consideration.

REASON: In accordance with the requirements of the Council's Constitution and for the reasons outlined in the calling-in.

J Alexander, Chair

[The meeting started at 5.00 pm and finished at 6.15 pm].

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**Scrutiny Management Committee
(Calling – In)**

30 January 2012

Report of the Assistant Director, Legal, Governance and ICT

**Called-in Item: Revision to the Council’s Administrative
Accommodation Strategy**

Summary

1. This report sets out the reasons for the pre-decision call-in of the above item, which appeared as item 7 on the agenda for the Cabinet meeting held on 10 January 2012. The report sought members’ approval to revise the current approved administrative accommodation strategy in the light of ongoing work for space planning in relation to the move to the new Council headquarters at West Offices. This cover report sets out the powers and role of the Scrutiny Management Committee in relation to dealing with the call-in.

Background

2. An extract from the decision list published after the Cabinet meeting is attached at Annex A to this report. This sets out the provisional decisions taken by Cabinet on the called-in item. The original report to the Cabinet on the called-in item is attached as Annex B to this report.
3. Cllrs Galvin, Steward and Barton have called the matter in for review by the Scrutiny Management Committee (SMC) (Calling-In) in accordance with the constitutional requirements for pre-decision call-in. The reasons given for the call-in are that:

1. *Not enough options are to be considered*

2. *The issue of the future use of the Guildhall was registered as a Scrutiny topic last year and has yet to report or even consider the item*
3. *Because of it's important historical part in the governance of the City all members should be consulted and any decision must be taken by full Council*
4. *The report is very one sided with no consideration of member's wishes*

Consultation

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the Call-In meeting, as appropriate.

Options

5. The following options are available to SMC (Calling-In) in relation to dealing with this call-in, in accordance with the constitutional and legal requirements under the Local Government Act 2000:
 - (a) To decide that there are no grounds to make specific recommendations to the Cabinet in respect of the report. If this option is chosen, the provisional decisions taken on the item by Cabinet at their meeting held on 10 January 2012 will be confirmed and will take effect from the date of the SMC (Calling-In) meeting.
 - (b) To make specific recommendations to the Cabinet on the report. If this option is chosen, the matter will be re-considered by the Cabinet at a meeting of Cabinet (Calling-In) to be held on 14 February 2012.

Analysis

6. Members need to consider the reasons for call-in and the report to the Cabinet and form a view on whether there is a basis to make specific recommendations to the Cabinet in respect of the report.

Council Plan

7. This report will contribute to a number of the Council's priorities, particularly regarding jobs and growth and the protection of the environment. It will also contribute to developing the Council as a confident, collaborative organisation, focused on its priorities.

Implications

8. There are no known Financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to the following in terms of dealing with the specific matter before Members; namely, to determine and handle the call-in.

Risk Management

9. There are no risk management implications associated with the call in of this matter.

Recommendations:

10. Members are asked to consider the call-in and reasons for it and decide whether or not they wish to make specific recommendations on the report to the Cabinet.

Reason: To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

Contact details:

Author:

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Chief Officer Responsible for the report:

Andrew Docherty
Assistant Director, Legal, Governance
and ITT

**Report
Approved**



Date 19/01/12

Specialist Implications Officer(s) None

Wards Affected: Guildhall

All

For further information please contact the author of the report

Annexes

Annex A – Provisional decisions of the Cabinet on 10 January 2012
(extract from the decision list)

Annex B – Report to Cabinet meeting on 10 January 2012

Background Papers

Provisional decisions of the Cabinet on the called in item (published on the Council's website after the meeting on 11 January 2012)

CABINET**TUESDAY, 10 JANUARY 2012*****Extract from the DECISIONS***

Set out below is a summary of the decisions taken at the meeting of the Cabinet held on Tuesday, 10 January 2012. The wording used does not necessarily reflect the actual wording that will appear in the minutes.

Members are reminded that, should they wish to call in a decision, notice must be given to Democracy Support Group no later than **4.00pm on Thursday 12 January 2012**.

If you have any queries about any matters referred to in this decision sheet please contact Jill Pickering 01904 552061.

7. REVISION TO THE COUNCIL'S ADMINISTRATIVE ACCOMMODATION STRATEGY

RESOLVED: That the Cabinet make the following in principle decisions, pending consideration by the Scrutiny Management (Calling In) Committee on 30 January 2012:

- i) That the status of the Guildhall and St Anthonys House in relation to the Administrative Accommodation Strategy is revised in line with this report.
- ii) That further work is progressed to develop future use and development options in relation to the Guildhall site in line with the finalised Conservation and Heritage Plan for the site, bearing in mind the requirement for continued use of the Council Chamber.
- iii) That work is undertaken to assess the requirements of the political groups in

relation to space and accommodation needs in West Offices.

- iv) That the Director of City Strategy be authorised to commence initial discussions with third parties regarding possible property options to support the long term use, custodianship or ownership, viability and maintenance of both the Guildhall and St Anthonys House

REASON: To manage the Council's property assets in an economic and efficient manner in line with corporate objectives.



Cabinet**10 January 2012**

Report of the Cabinet Member for Corporate Services

Revision to the Council's Administrative Accommodation Strategy**Summary**

1. This report seeks member approval to revise the current approved administrative accommodation strategy in the light of ongoing work for space planning in relation to the move to the new Council headquarters at West Offices.
2. Members are also asked to approve a number of actions arising from the revision to this strategy, as outlined in the report below.

Background

3. The current approved strategy for the rationalisation of existing administrative accommodation has been to move from 16 buildings located around the city to 4 buildings (plus the Eco Depot), with the focus of council services being provided from a single office located in the city centre, including an effective and efficient single customer contact centre. The four locations previously approved were West Offices; the Guildhall complex; St Anthonys House; and 50 York Road, Acomb.
4. When approved in December 2005, the administrative accommodation strategy envisaged that the Guildhall would continue to be the centre of democratic activity. The council chamber would continue to be used and the new building design would not include provision of a new chamber. It was also expected that other formal member meetings (Cabinet Member Decision Sessions, Advisory Panels, Scrutiny and Planning) would continue to take place within the existing committee rooms within the Guildhall complex. Political group rooms would also remain on the Guildhall complex. At that time it was agreed that democracy services might have to remain at the Guildhall to

support these functions. The issue of staff moving to and from the new central office to and from the Guildhall was acknowledged as a disadvantage that may have to be lived with.

5. The development of the new Council Headquarters at West Offices means that this building will now offer a range and quantity of secure and accessible meeting rooms able to be used in a flexible way, to a high standard, that would readily support a major part of those political meeting needs outlined above. It is also now clear that the introduction of new ways of working could provide the space required to house all of the democracy staff and political group rooms. This development away from the original thinking for the Guildhall would provide significant benefits of close working between members and officers, and additionally with the public through the customer contact centre.
6. The outcome of the initial space planning work for West Offices has indicated that the new HQ together with the Eco Depot would provide sufficient administrative accommodation to meet the needs of the Council and potentially a number of partners. Members will be aware that a decision was made by Cabinet in October 2011 to exercise the break clause in the lease of 50 York Road, Acomb. Following the recently completed space planning work for locating staff in West Offices, it is appropriate to now review the future of the Guildhall complex and St Anthony's House within the Council's Accommodation Strategy.
7. There are many issues that will influence decisions on the future use and development of the Guildhall complex, including:
 - a. The historic and civic nature of the buildings and those constraints imposed by listed status. The preparation of a Heritage and Conservation plan will provide guidance and understanding on the future potential uses of the building. There are exciting possibilities for its re-use, if it is not substantially required by the Council. In addition, there is the opportunity to examine the Guildhall complex as part of a wider regeneration which would impact on enhancing the vitality and viability of the City Centre as well as improving the river frontage.
 - b. The wish to retain a civic presence at the Guildhall, even if limited to use of the Council Chamber. In addition, the Guildhall is part of the offer in association with the use of

- the Mansion House for weddings, being required on an occasional basis as a catering venue.
- c. Understanding the potential of the Guildhall complex for future use and development and its place within the City. The Guildhall currently forms a venue for a range of community based activities.
 - d. The financial commitment that the council would need to make to conserve, maintain and improve the complex, in an environment where financial resources are at a premium.
8. Current information suggests that there is a need to spend circa £800k on repairs (and not including refurbishment) over the 3-5 years on the Guildhall complex, and similar amounts every five years beyond. This summary is based upon a full survey undertaken in 2007 and covers outstanding planned maintenance works and works necessary to facilitate DDA and operational improvements (the costs reflect 2010 prices). It is important to determine the degree to which the building should be accessible depends upon its future use. If it, and particularly the Council Chamber, remain as the focus of democracy within which open public meetings occur, investment in modern forms of access will be needed. To implement such work within an historic building will be challenging and expensive. A further £200k of work has been undertaken since the report was written in 2007. There is no specific budget for any improvement, alterations or refurbishment to the Guildhall. This needs to be considered alongside other priorities for maintenance and repairs.
9. As part of the space planning work, more detailed assessments are taking place regarding the location of services currently based at St. Anthony's House in either West Offices or the Eco Depot.

Consultation

10. This report has been written in consultation with Council Management Team.

Options

11. Approve or reject the recommendations.

Analysis of Options

12. Taking account of these issues, the Council Management Team would recommend that we seek to limit the utilisation of the Guildhall by the Council as much as possible and review the approved administrative accommodation strategy in order that member and democratic activity is based at West Offices. This would make most effective use of available space whilst offering the best opportunity for member engagement with Council staff and customers.
13. In doing so, it is recommended that the Council retains the use of the Council Chamber in the Guildhall for holding of Council meetings. The largest meeting room at West Offices has the capacity to hold Council meetings but not in the current format of a debating chamber. As part of the space planning work for West Offices it is proposed to undertake further work with the political parties to determine their space requirements for the new HQ. As the intention is not to fully utilise the building, then there is now the opportunity to discuss with other organisations the future custodianship of the Guildhall in order to ensure its future use and long term viability and maintenance. In doing so, it is recognised that there is a need to assure the people of York that the council is committed to preserving and conserving its historic buildings.
14. Regarding St Anthonys House, it is intended that staff currently based there can be relocated to either West Offices or the Eco Depot. On this basis, it would be appropriate for the Director of City Strategy to be given authority to consider and implement options for the disposal of this site.

Council Plan

15. This report will contribute to a number of the Council's priorities, particularly regarding jobs and growth and the protection of the environment. It will also contribute to developing the Council as a confident, collaborative organisation, focused on its priorities.

Implications

Finance

16. The sale of St. Anthony's House would realise a capital receipt to the council. This level of receipt is unquantified at this time however would be the subject of a further report. The capital programme doesn't currently assume this sale so would be an additional receipt. There would also be revenue savings from the council no longer operating services from the premises. In a full year these savings equate to £19.3k per annum. This potentially increases the savings arising from the Admin Accommodation Project by £627k over 25 years.
There would also be savings arising from the council moving out of the Guildhall. The direct running costs at the Guildhall (National Non-Domestic Rates, energy etc) total approximately £100k. Further work regarding use and custodianship of the building needs to be undertaken to finalise the level of operational savings that could be made from relocating services to the new Headquarters.

Legal

17. None.

Property

18. All implications are included in this report, except that St Anthony's House is the location of a hub for the Council's dark fibre network which would be required to be relocated elsewhere.

Human Resources

19. None

Risk Management

20. There are no known risks with the recommendation.

Recommendations

21. That the status of the Guildhall and St Anthonys House in relation to the Administrative Accommodation Strategy is revised in line with this report.
22. That further work is progressed to develop future use and development options in relation to the Guildhall site in line with the finalised Conservation and Heritage Plan for the site, bearing in mind the requirement for continued use of the Council Chamber.
23. That work is undertaken to assess the requirements of the political groups in relation to space and accommodation needs in West Offices.
24. That the Director of City Strategy is authorised to commence initial discussions with third parties regarding possible property options to support the long term use, custodianship or ownership, viability and maintenance of both the Guildhall and St Anthonys House.

Reason: To manage the Council's property assets in an economic and efficient manner in line with corporate objectives.

Contact Details

Author:

**Roger Ranson
Assistant Director
Economy and Asset
Management**

**Chief Officer Responsible for the
report:**

**Bill Woolley
Director of City Strategy**

**Cabinet Member
Responsible for the
Report:**

**Report
Approved**



Date 23 December 2011

Specialist Implications Officer(s) *List information for all*

Implication : Financial

Name Patrick Looker

Title Finance Manager

Tel No. 551633

Ward Affected:

Guildhall

All

For further information please contact the author of the report

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**Scrutiny Management Committee
(Calling – In)**

30 January 2012

Report of the Assistant Director, Governance and ICT

**Called-in Item: The Community Stadium and Council Leisure
Facilities: Procurement of Operator Arrangements**

Summary

1. This report sets out the reasons for the post-decision call-in of the decisions made by the Cabinet Member at her Decision Session for Leisure, Culture and Social Inclusion held on 10 January 2012. The report sought authority from the Cabinet Member to initiate the procurement process for the operation and maintenance of the Community Stadium and the Council's leisure facilities. This cover report sets out the powers and role of the Scrutiny Management Committee in relation to dealing with the call-in.

Background

2. An extract from the decision list published after the Cabinet Member Decision Session is attached at Annex A to this report. This sets out the decisions taken by Cabinet Member on the called-in item. The original report to the Cabinet Member on the called-in item is attached as Annex B to this report.
3. Cllrs. Ayre, Reid, Firth and D'Agorne have called the matter in for review by the Scrutiny Management Committee (SMC) (Calling-In) in accordance with the constitutional requirements for post-decision call-in. The reasons given for the call-in are that:

- *The procurement criteria will be crucial in shaping what kind of organisation is successful at the tendering stage and the facilities that will be provided at the stadium. The report considered by the Cabinet Member did not contain adequate details of the proposed tendering criteria or the weighting of each criteria and therefore the public have not been given a chance to scrutinise and comment on the proposals.*
- *It is not acceptable for such a major decision to be taken in private by the Cabinet Member or officers. The decision on the criteria should only be taken on the basis of a full report to Cabinet outlining the proposed criteria.*

Consultation

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the Call-In meeting, as appropriate.

Options

5. The following options are available to SMC (Calling-In) in relation to dealing with this call-in, in accordance with the constitutional and legal requirements under the Local Government Act 2000:
 - (a) To confirm the decisions of the Cabinet Member, on the grounds that the SMC (Calling-In) does not believe there is any basis for reconsideration. If this option is chosen, the decisions will be confirmed and will take effect from the date of the SMC (Calling-In) meeting.
 - (b) To refer the matter back to the Cabinet Member, for her to reconsider her original decisions. The reference back may include specific recommendations to the Cabinet Member. If this option is chosen, the matter will be re-considered at a meeting of the Cabinet (Calling-In) to be held on 14 February 2012.

Analysis

6. Members need to consider the reasons for call-in and the report to the Cabinet Member and form a view on whether there is a basis to

make specific recommendations to the Cabinet in respect of the report.

Council Plan

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

Implications

8. There are no known Financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to the following in terms of dealing with the specific matter before Members; namely, to determine and handle the call-in.

Risk Management

9. There are no risk management implications associated with the call in of this matter.

Recommendations:

10. Members are asked to consider the call-in and reasons for it and decide whether or not they wish to make specific recommendations on the report to the Cabinet.

Reason: To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

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Chief Officer Responsible for the report:

Andrew Docherty
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ITT

**Report
Approved**



Date 19/01/12

Specialist Implications Officer(s) None

Wards Affected:

All

For further information please contact the author of the report

Annexes

Annex A –Decision of the Cabinet Member on the called in item (copy of the decision list published on 10 January 2012)

Annex B – Report to the Cabinet Member Decision Session for Leisure, Culture and Social Inclusion on 10 January 2012

Background Papers

Agenda relating to the above meeting (published on the Council's website).

**DECISION SESSION - CABINET MEMBER FOR LEISURE,
CULTURE & SOCIAL INCLUSION**

TUESDAY, 10 JANUARY 2012

DECISION

Set out below is a summary of the decision taken at the meeting of the Decision Session Cabinet Member for Leisure, Culture and Social Inclusion held on Tuesday, 10 January 2012. The wording used does not necessarily reflect the actual wording that will appear in the minutes.

Members are reminded that, should they wish to call in a key decision, notice must be given to Democracy Support Group no later than 4pm on the second working day after this meeting.

If you have any queries about any matters referred to in this decision sheet please contact Judith Betts.

**4. THE COMMUNITY STADIUM AND
COUNCIL LEISURE FACILITIES:
PROCUREMENT OF OPERATOR
ARRANGEMENTS**

[Appendix C](#)

- RESOLVED:
- (i) That the report be noted.
 - (ii) That the Cabinet Member delegate to the Director of Communities and Neighbourhoods and the Director of City Strategy the authority to;
 - Develop the procurement framework as set out in the report including establishing the final evaluation criteria and headline weightings to be used in assessing bids for the project.
 - Implement the procurement exercise to identify the preferred bidder.

- Bring back a report to the Cabinet once a preferred bidder has been identified with a view to award of contract.

REASON:

To enable future plans for the Community Stadium project to be developed and progressed.



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

10 January 2012

Report of the Directors of Communities & Neighbourhoods and City Strategy

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

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

Background

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

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

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

health uses, offering access to strength and conditioning and physiotherapy services.

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

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

Market Testing & Feasibility

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

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

Options

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

Analysis

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

- There is potential for investment into the existing leisure facilities as part of this community led project.
 - Management of the existing leisure facilities and the Community Stadium may be awarded as part of a long-term management contract to an experienced and high quality operator who will be able to bring investment and improve the services on offer to users. There is potential for this to be a social enterprise operator whose objectives include reinvesting into community sport and active leisure.
7. For these reasons option B is recommended.

Procurement Strategy

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

- Reflecting the position of Energise whereby the governors of York High will be the body that enters into any contract in respect of Energise as a result of this procurement exercise.
 - Encouraging niche operators to bring forward proposals for the operation of the specific spokes of the community hub that would fit into the hub & spoke model.
 - Achieving a revenue position that meets the needs of the Community Stadium business plan (to be agreed by the Cabinet in March 2012).
 - Delivering savings in operation of the Council's leisure facilities.
9. This procurement will fall under EU procurement regulations. The procurement route to be followed will be the "competitive dialogue procedure" as this is appropriate in the award of complex contracts where there is a need to discuss all aspects of the proposed contract with bidders in order to identify and define solutions to meet the contracting authority's needs and requirements (in a way that is not allowed under the open or restricted procedures). The process will involve the following stages:
- Publication of an OJEU notice setting out the authority's needs and requirements and award criteria.
 - A pre-qualification process which will assess the track record and experience of bidders to ensure that only those with a demonstrable track record in terms of service delivery, customer satisfaction, employment and staff development, equalities and re-investment, and who are sufficiently financially robust to carry through their proposals, are invited to participate.
 - An invitation to dialogue in order to identify and define solutions to meet the Council's requirements through discussion with the Council giving equal opportunity to each of the bidders.
 - Potential elimination, early in the dialogue process, of some of the outline proposals on the basis of the award criteria set out in the contract notice.
 - Close of dialogue with no more than three (and possibly only two) bidders at the point when the Council is satisfied that all commercial issues have been resolved through the dialogue process.
 - Submission of final tenders by the remaining participants on the basis of the solutions presented and discussed during the dialogue.

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

Table 1 Procurement Timetable

Date	Operation & Maintenance (Competitive-Dialogue)	Design & Construction (EU Restricted)
November 2011	Pre-procurement preparation	Pre-procurement preparation
Jan / Feb 2012	Issue OJEU Notice & bidders awareness	Pre-procurement / design & feasibility
March / April 2012	PQQ Process & initial dialogue	Issue OJUE Notice
May / July 2012	Targeted dialogue	PQQ / ITT process

Aug / Oct 2012	Close dialogue / ITFST	ITT evaluation / Contract award
Nov / Dec 2012	Evaluation	Progress detailed planning submission
Jan 2013	Preferred Bidder – contract	
April 2013	Contract operational	Construction mobilisation
June / July		Construction commences
June / October 2014		Facilities operational

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

Table 2 Indicative Project Timetable

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

13. To meet this timetable provisions must be made to begin the procurement for the operation, design and construction of all aspects of the project. The timetable identifies that this work needs to start in the first quarter of 2012.

Next Steps

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

Council Plan

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

Implications

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

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

17. The cost of the competitive dialogue process will be funded from the £200k allocation made by Council up the point when Council approves the full business case in March 2012.

18. **Human Resources:** In the event of the Council's services transferring to a new operator TUPE regulations will apply to the transfer of staff. The Council currently employs approximately 100 FTEs across Energise and Yearsley Pool. Informal discussions have taken place with staff and unions about the proposal, but a full consultation plan will be drawn up as part of this procurement project under the Council's change management procedures.
19. **Legal:** Legal implications are as set out in the report.
20. **Property:** Property implications are as contained in the report.
21. **Equalities:** An Equalities Impact Assessment (EIA) has been drafted which reflects the research, consultation and engagement undertaken by the Community Stadium Project Team including:
 - Discussions regarding equalities with other stadia in the UK.
 - Taking initial community stadium concepts to the Social Working Inclusion Group (in December 2009) for ideas, issues and discussion.
 - Taking the project vision and proposals to the Equalities Advisory Group (18 July and 10 October 2011) for ideas, issues and discussion.
 - Engagement and consultation with individuals and groups from protected equalities characteristics as a follow up to attending the Equalities Advisory Group: York Independent Living Network, North Yorkshire Sport Disability Officer, City of York Council Disability Officer and York Youth Council.
22. The EIA is continually developing and further work will be undertaken in the New Year if planning permission for the stadium is granted. This will include a community consultation which will explain and raise the profile of the community elements of the project.
23. The EIA will be used in the procurement of the stadium. It will be submitted as a 'user specification' to potential bidders so they understand the vision that the Council, its partners and residents have for the Community Stadium.
24. There are no Crime and Disorder, or Information Technology implications.

Risk Management

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

Table 3: Risk Matrix

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

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

Recommendations

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

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

Contact Details

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		Report Approved	<input checked="" type="checkbox"/> Date 30.12.11
Specialist Implications Officer(s)			
Patrick Looker Finance Manager	Philip Callow Head of Asset and Property Management		
Glen McCusker Legal Services	Janet Neeve Human Resources		
Wards Affected:			All <input checked="" type="checkbox"/>
For further information please contact the author of the report			

Background Papers:

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