

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 Contact

58. Council approved in March 2016 the use of the Venture Fund upto 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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Wards Affected:			All	✓
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