



Notice of a public meeting of

Corporate and Scrutiny Management Committee (Calling In)

- To:** Councillors Galvin (Chair), Burton, Fraser, Horton, King, Potter, Runciman (Vice-Chair) and Steward
- Date:** Friday, 26 September 2014
- Time:** 5.00 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

1. **Declarations of Interest**

At this point, Members are asked to declare:

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

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

2. **Public Participation**

It is at this point in the meeting that members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Thursday 25 September 2014**. Members of the public can speak on agenda items or matters within the remit of the committee.

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

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- 3. Minutes** (Pages 1 - 6)
To approve and sign the minutes of the last meeting of the Committee held on 27 August 2014.
- 4. Called-In Item: Community Stadium and Leisure Facilities Update** (Pages 7 - 60)
To consider the decisions made by the Cabinet at their meeting held on 9 September 2014 in relation to the above item, which has been called in by Cllrs Ayre, Cuthbertson and Orrell 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 Corporate and Scrutiny Management Committee (Calling-In) in relation to the call-in, together with the original report and the decisions of Cabinet.
- 5. 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 Democratic Services Officer responsible for servicing this meeting:

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 (01904) 551550

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City of York Council

Committee Minutes

Meeting	Corporate and Scrutiny Management Committee (Calling In)
Date	27 August 2014
Present	Councillors Galvin (Chair), Burton, Horton, King, Potter, Aspden (sub for Cllr Runciman), Healey (sub for Cllr Steward), Hyman (sub for Cllr Jeffries) and Barnes (sub for Cllr Fraser)
In Attendance	Councillors Doughty, Levene, Reid, Steward, Watson, Warters and Wiseman
Apologies	Councillors Fraser and Runciman

5. Declarations of Interest

At this point in the meeting, Members were asked to declare any personal interests not included on the register of interests, any prejudicial interests or any disclosable pecuniary interest which they might have in respect of the business on the agenda. No additional interests were declared.

6. Exclusion of Press and Public

Resolved: That it was agreed to exclude the press and public from the meeting during consideration of Appendix 1 to agenda item 5 (Lendal Bridge and Coppergate Regulation Order) on the grounds that it contained information relating to the financial or business affairs of particular persons (including the authority holding that information). Such information is considered exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

7. Public Participation

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme

which had subsequently been withdrawn and that a Member of the Council had also requested to speak.

Cllr Watson spoke to question the reason for the decision taken by Cabinet in relation to the refund of fines received in connection with the Lendal Bridge Traffic Order. He questioned whether the decision taken to only refund motorists that appealed against their Penalty Charge Notices had been taken as a charge would be made for the release of the names and addresses of those involved.

Officers confirmed that the company employed to undertake this work, on behalf of the Council, did hold the records and refunds would be made to the registered keepers at the time of the issuing of the Penalty Charge Notice. This would then ensure that any repayments were correctly made to the individual who paid the fine. It was also confirmed that the costs depended on the number of applications received.

8. Minutes

Resolved: That the minutes of the last meeting of the Committee held on 14 July 2014 be confirmed as a correct record and be signed by the Chair

9. Called-In Item: Lendal Bridge and Coppergate Traffic Regulation Orders

Members received a report which asked them to consider the decisions made by the Cabinet at their meeting held on 5 August 2014, in relation to the Council's pursuance of its application for a review of the decision to the Traffic Penalty Tribunal Adjudicator in respect of appeals against fines for breach of the Lendal Bridge Traffic Regulation Order.

Details of the Cabinet's decision were attached as Annex A to the report and the original report to the Cabinet meeting attached as Annex B. The decision had firstly been called in by Cllrs Aspden, Cuthbertson and Reid on the grounds that:

- The report and the recommendations put the onus on the motorist fined to contact the council and 'appeal' against their Penalty Charges Notices (PCN's) in order to claim a refund.

- Instead, we believe that the onus should be on the council to contact each motorist who has been fined. Many of them will live outside York (or even the UK) so will not have heard that they are entitled to their money back. So every one of them should automatically be contacted by the council and refunded in full without question.
- The fine income, which has been ring-fenced in reserves, should be used to repay the motorists. The repayment should also come with a formal apology from the council.
- If the fines are not repaid automatically, this risks doing further reputational damage to York through an unclear individual repayment process, where some get their money back but others don't. It will also create the impression that the council is trying to hang on to as much of the fine money as possible to spend elsewhere.

Councillor Reid addressed the meeting on behalf of the Calling In Members. She expanded on the four reasons given for the call in confirming that, whilst having no problem with the Lendal Bridge trial, in accordance with the principles of natural justice all fines should be repaid without the onus being on motorists to appeal. She went on to question a number of points including the number of outstanding PCN's and the use of any outstanding monies.

Subsequently the decision had been called in by Cllrs Steward, Doughty and Wiseman for the following reasons:

The council's decision to refund Lendal Bridge Penalty Charge Notice's only to motorists who make an application for a refund is flawed because not re-paying all of the fines now:

- will increase administration costs;
- will continue the uncertainty over CYC's ultimate financial outlay regarding PCN payments;
- compounds the reputational damage done to York's image as a welcoming tourist destination by selectively favouring local motorists over visitors from other parts

of the country, who are not regular consumers of local media or readers of the council's website and who therefore will not be aware of the council's refund policy;

- is, despite the administration's creation of a 'Fairness Commission', neither honest, professional nor fair.

Councillor Steward spoke on behalf of the second group of calling in members reiterating their reasons for call in, in particular the reputational damage caused to the city and the need for a formal apology. He questioned the time allowed for payment of claims and the administration costs for those motorists that would receive a refund.

Councillor Levene, as Cabinet Member for Transport went through the reasons given for the call in, pointing out that the authority were not obliged to repay motorists. However, in view of the length of time for determination of the outcome of the Adjudicator's review it was not considered in the public interest to continue with the claim and in order to draw a line under the matter to repay all motorists who appealed against their fines. He pointed out that the number of fines had only affected a small percentage of the city's annual visitor numbers and that since the end of the Lendal Bridge trial visitor footfall, measured by the camera in Parliament Street, had increased. He also pointed out that this issue was preventing discussions to address the growing issue of traffic congestion on the city.

Members reiterated the effect they felt the Lendal Bridge trial had had on the city's reputation and for the need to accept the repayment of all fines. They also questioned if the administration costs of repayment could be greater than the fines received and why the Adjudicators ruling was not being pursued.

In answer to questions the Assistant Director, Transport, Highways and Waste confirmed that administration costs in relation to repayment of fines would vary depending on whether all motorists were contacted and that a time limit had not yet been determined for repayments.

The Deputy Head of Legal Services reiterated that legal advice had been received from a QC who had confirmed that the process proposed by the Council was entirely fair and lawful. He

also confirmed that, as the traffic order had been valid, legally any repayments made would be as compromise 'settlement payments' rather than refunds.

Members were then asked to decide whether to confirm the decision made by the Cabinet (Option a) or to refer it back to the Cabinet for re-consideration (Option b).

After a full debate, Cllr Horton moved and Cllr Potter seconded that Option a. be confirmed and the Cabinet decision be confirmed.

Other Members continued to express their concerns around the implementation of the Lendal Bridge trial and requested reconsideration of the proposed repayment scheme, in view of the administration costs.

On being put to the vote five Members voted for Option a to confirm the decision and four voted against and it was

Resolved: That Option a. be approved and that the decision of the Cabinet be confirmed.

Reason: In accordance with the requirements of the Council's Constitution.

Cllr J Galvin, Chair

[The meeting started at 5.00 pm and finished at 6.30 pm].

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**Corporate and Scrutiny Management Committee
(Calling – In)****26 September 2014**

Report of the Assistant Director, Governance and ICT

Called-in Item: Community Stadium and Leisure Facilities Update**Summary**

1. This report sets out the reasons for the call-in of the decisions made by the Cabinet on 9 September 2014 in relation to procurement for the Community Stadium and City Leisure Facilities contract. Following completion of the final stage bid Greenwich Leisure Ltd have been selected as the preferred bidder for the creation of a new leisure destination of regional significance which will include an extensive range of community focused facilities.
2. The call-in decisions however do not include Cabinet's separate recommendation to Council for the approval of £4m Prudential Borrowing for capital investment in replacement leisure facilities. Constitutionally, call-in rules do not apply to matters referred to Council for decision.

This cover report sets out the powers and role of the Corporate and Scrutiny Management Committee in relation to dealing with the call-in.

Background

3. An extract from the Decision Sheet issued after the Cabinet meeting is attached as Annex A to this report. This sets out the decisions taken by the Cabinet on the called-in item. The original report to the Cabinet meeting on the called-in item is attached as Annex B to this report.
4. Cabinet's decisions have been called in by Cllrs Ayre, Cuthbertson and Orrell for review by the Corporate and Scrutiny Management Committee (CSMC) (Calling-In), in accordance with the constitutional requirements for call-in. Although the Members continue to support the building of a Community Stadium, they have a number of concerns and give the following reasons for the call-in:
 - The failure to publish a business plan, an analysis of the four bids or any detail on the commercial land deal

- The failure to consult key groups such as the users of Waterworld or local residents in Huntington
- The lack of any evidence of genuine community input into the proposals or proper cross-party discussion
- The failure to commit to keeping Yearsley Pool open in the long-term
- The concerns raised publicly by the Chairman of York City Knights
- The lack of an assessment of the impact the new proposals will have on the city-centre.

Consultation

5. 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

6. The following options are available to CSMC (Calling-In) Members 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 original decision taken on the item by the Cabinet on 9 September 2014 will be confirmed and will take effect from the date of the CSMC (Calling-In) meeting; or
 - b. To make specific recommendations to the Cabinet on the report, in light of the reasons given for the call-in. If this option is chosen, the matter will be reconsidered by Cabinet at a meeting of Cabinet (Calling-In) to be held on 7 October 2014.

Analysis

7. 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

- 8. There are no direct implications for this call-in in relation to the delivery of the Council Plan and its priorities for 2011-15.

Implications

- 9. 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

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

Recommendations:

- 11. Members are asked to consider all the reasons for calling in this decision and decide whether they wish to confirm the decisions made by the Cabinet or refer the matter back for reconsideration and make specific recommendations on the report to 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:

Dawn Steel
Head of Civic &
Democratic Services
01904 551030

Chief Officer Responsible for the report:

Andrew Docherty
Assistant Director, Governance and
ICT

Report Approved **Date** 12 September 2014

Specialist Implications Officer(s) None

Wards Affected:

All

For further information please contact the author of the report

Annexes

Annex A – Extract from the Decision Sheet produced following the Cabinet meeting on the called-in item.

Annex B – Report of the Cabinet Member for Leisure, Culture and Tourism, 9 September 2014.

Background Papers

None

CABINET**TUESDAY, 9 SEPTEMBER 2014*****Extract from DECISIONS Sheet***

Set out below is a summary of the decisions taken at the Cabinet meeting held on Tuesday, 9 September 2014. 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 11 September 2014.

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

9. COMMUNITY STADIUM AND LEISURE FACILITIES UPDATE

Resolved: That Cabinet agree to:

- (i) Proceed with the procurement on the basis of the proposals set out in the report, to deliver the 'New Stadium Leisure Complex' and the estimated project timetable set out in Table 3.
- (ii) Note that Greenwich Leisure Ltd have been nominated as the Preferred Bidder following the Competitive Dialogue procurement exercise.
- (iii) Note the overall financial position and programme management arrangements as presented noting the financial risks and potential resultant liabilities that may arise as a result of proceeding with the scheme through the detailed planning submission and construction phases.
- (iv) Proceed with the submission of a detailed planning application on behalf of the Council by the preferred bidder seeking

approval for the proposals for the New Stadium Leisure Complex.

- (v) The appropriation of the proposed stadium complex and leisure facilities site to planning purposes under S.122 of the Local Government Act 1972 and Section 226 of the Town and Country Planning Act 1990 on the basis that the appropriation will facilitate the carrying out of development, re-development or improvement works on the land which will contribute to the promotion or improvement of the economic, environmental or social well-being of the Council's area.
- (vi) Work with relevant stakeholders in looking at community management options for Yearsley Pool as set out in paragraph 35 of the report should the operator not take up the option to operate the pool at no additional cost.
- (vii) Note the position of the project partners and the implications of proceeding and any potential delays.
- (viii) Note the progress of the off-site facilities and their associated issues, risks and timetable for financial close.
- (ix) Note, and accept, the risks set out in the risk management section of the report, and the financial implications section.

Reason: To update Members on the procurement of the New Stadium Leisure Complex and in order to progress the scheme to provide a landmark leisure destination for the City.



Cabinet

9 September 2014

Report of Cabinet Member for Leisure, Culture & Tourism

Community Stadium & Leisure Facilities Update

Executive Summary

1. The purpose of this paper is to update Cabinet of the progress of the procurement for the Community Stadium & City Leisure Facilities contract. The scope of the project has expanded considerably with the inclusion of the city's leisure facilities since the approval of the original business case.
2. The final bid stage is now complete and Greenwich Leisure Limited (GLL) have been selected as the Preferred Bidder. GLL propose to create a new leisure destination of regional significance which will include an extensive and exciting range of community focused facilities.
3. This exciting new scheme the 'New Stadium Leisure Complex' (NSLC) proposes:
 - 8000 all-seat community sports stadium to host professional football and rugby league games.
 - New 'state-of-the-art' leisure and sports centre including 3 pools, a competition standard sports hall (meeting a priority need for the City) and a children's extreme / adventure play centre.
 - NHS Training & Development Centre with use within the Community Hub.
 - Community hub housing a range of community uses and partners focused around an atrium containing an Explore Library with a cafe meeting area
 - Commercial retail, digital cinema and restaurants / bars to complement the site creating a unique and exciting leisure destination that will provide the majority of the funding for the new leisure swimming facilities.
4. This scheme provides a major boost for the City's sport and leisure offer with a range of exciting high quality leisure facilities that far exceed those currently available. The total direct cost of the project will be c.£37M, requiring only c.£8M of CYC funds (22% of the total costs). The financial implications and associated risks of proceeding with the project up to

contract award are set out below. Council approval will be required of a revised capital budget.

Background

5. The Business Case and budget for the project were noted at Cabinet on 6th March 2012 and approved at Full Council on 29th March 2012. Outline planning permission was granted on the 5th July, following confirmation from the Secretary of State that the decision should be dealt with locally. The 3 month Judicial Review period ended without challenge on the 6th October 2012.
6. At the January 2012 meeting of the Cabinet Member for Leisure, Culture & Tourism the Procurement Strategy was agreed for the project. An OJEU notice starting the formal procurement activity for the project was posted on the 14th September 2012.
7. The scheme includes the Design, Build, Operation and ongoing Maintenance (DBOM) of the NSLC and the Council's leisure facilities for a 13 year period with the option for an additional 5 years (total 18 years).
8. There was a strong response from the market. The Council short listed four consortia to proceed in the Competitive Dialogue (CD) process. A number of key commercial messages emerged from the process:
 - Waterworld was considered not to be a commercially sustainable leisure concern in its current format and condition. It would require significant reconfiguration and investment to make it commercially sustainable.
 - Options for investment into Yearsley were also considered as part of the procurement. However, it would require considerable investment and better car parking facilities, which to date have not been secured, making it too expensive with a limited leisure offer compared with other options. The cost to the Council of operating Yearsley Pool has been consistently over £250k per annum over the last 5 years and this made it a commercial unattractive option as part of the future leisure management contract for the City.
 - There was considerable scope for the creation of a major leisure destination at the site, if effectively linked to the new Vangarde retail park.
 - The opportunity exists to increase the level of investment and community benefits through some additional commercial development.
 - Scope existed to increase the base capacity of the stadium.
9. To fully explore these issues, the 'outline proposal' stage of the procurement was extended so detailed feasibility work could be undertaken. This has created a delay to the outcome of the procurement

process. The feasibility examined the potential of using commercial development as a means of funding a suitable replacement for Waterworld and the most cost effective means of delivering the optimum master-plan for the site that will maximise community benefits. This has had a dramatic impact on the overall project costs.

10. In December 2013 two bidders were invited to prepare final submissions. Following in-depth evaluation, GLL have been appointed as the preferred bidder.

Scheme Proposals

11. The outcome of the last 18 months' work is a landmark leisure destination of regional significance with an extensive mix of sports, community, leisure and commercial facilities. Images of the scheme are provided in Annex 2. The new proposals fall into three separate categories: a) the New Stadium Leisure Complex, b) the wider leisure estate, c) off site facilities related to the project.

New Stadium Leisure Complex (NSLC)

12. The scheme proposes the following outputs at the existing Huntington Stadium / Waterworld site:
 - 8000 all-seat sports stadium to host professional football and rugby league games (originally 6,000 seats).
 - A large Community hub (4408 sqm) forming central atrium with cafe meeting area and access to stadium, leisure facilities and community uses which contains:
 - York NHS Hospital Trust facilities including use of the Stadium Hospitality areas for Training & Development and use of Community Hub space.
 - York St John University's 'Community Institute for Sport and Wellbeing team'.
 - Independent Living Assessment Centre retail & support unit which assists residents with information, assessments, and products to aid independent living operated by 'Be Independent' social enterprise.
 - Gateway Explore Library space that will be based in the main atrium area providing a new type of library aimed at accessing new users & groups.
 - Other charitable organisations seeking office & retail space.

- A major new 'state-of-the-art' leisure and sports centre totalling 5113 sqm (this is a new component of the project with a major financial value) containing:
 - 25m swimming pool
 - Teaching pool
 - Leisure fun pool
 - Café and viewing gallery
 - 4 court sports hall (competition standard basketball) with viewing gallery
 - Outdoor high ropes climbing facility
 - Children's Indoor adventure / extreme centre
 - Outdoor 3g sports pitches
 - 100 station gym
 - Spin and dance studio
 - Changing facilities
- The community uses will be supported by and integrated with an exciting range of commercial leisure uses that will add to the attraction of the destination and also provide the majority of the funding for the new leisure facilities, the 2000 additional seats to the stadium and associated project costs and external works. It is proposed to include:
 - Retail units totalling 4245 sq m
 - Two restaurants totalling 110 sq m
 - A digital cinema with bar totalling 1652 sq m

a) Wider City Leisure Facilities:

13. The proposal will involve the operation of the NSL Centre (set out above), Energise and Yearsley swimming pool. Waterworld will close as part of the redevelopment to make way for the new leisure complex. These facilities will be managed as part of an operational contract for 13 years with a 5 year extension clause. The future operation of Yearsley will be subject to a review 6 months before the opening of the NSLC, providing the option for the operator to continue with the management if it can be operated at no additional cost, or the option of exploring other operational structures with the community and stakeholders if the operator does not wish to take up this option. This will be linked to decisions and options that may arise regarding potential investment into the wider Yearsley site.

b) Off-site facilities

14. **Athletics:** The partnership between the University of York and CYC in improving the City's sport provisions has been further developed. The delivery of the County Standard Athletics facilities is now secured through a funding & user agreement with York University. The facilities are under construction. A new sand dressed astro-turf pitch has also been included as an additional project output that will significantly improve the City's sport offer. The capital cost for delivering this project has not changed and will be delivered within the £2M budget. The feasibility and project costs in developing the proposals of the off-site developments and agreements have been charged to the wider project costs budget.
15. **Rugby League Training & Reserve Facilities:** A user agreement has been signed between YSJ & CYC securing the development of a new 3G 'RFL Community Standard' pitch suitable for training and reserve grade matches at Haxby Road Playing Fields. The 20 year agreement secures use for 11 hours per week training and sports development use, reserve matches and the dedicated use of all support facilities including a gymnasium and pavilion. When the YSJ new pavilion proposals are implemented the agreement will allow their ongoing use. These facilities are transferable to the Rugby League team as part of the stadium development. These facilities are being delivered within the budget. Legal and feasibility costs have been charged to the wider project costs budget.

NSLC Site Management

16. GLL will be responsible for the overall management of the site and the direct management of the Community Hub, leisure facilities and associated assets. This will be controlled by an overarching lease and management contract for a 13 year period with a 5 year extension option. As part of the procurement process, GLL have appointed York City Football Club (YCFC) as a sub-contractor to operate the stadium area. YCFC will work with CGC (York Racecourse hospitality company). The proposal will involve changes to the existing parking and access arrangements. This will see the re-routing of Kathryn Avenue around the stadium, creating a pedestrian only and fan zone, strengthening links with the Vangarde retail scheme. The existing Park & Ride site will be extended to ensure the existing capacity remains.
17. GLL will be responsible for the management of all partners and tenants within the stadium & community hub. These relationships will be governed by management agreements between the parties. All community hub tenants will enter into lease agreements with CYC for the use of the facilities. All leases have been set at appropriate commercial rates. Now the final scheme and preferred bidder have been announced, the lease documentation can be finalised.

18. Match Day Agreements (MDAs) have been prepared for the sports clubs' occupation of the Stadium. The MDAs will govern their terms of use rentals and mechanisms for the generation of income.

Update on the Business Case

19. The original business case for the Project was approved in March 2012. This was based on a stadium only solution. The business case was updated at the Cabinet in November 2012. Since then the project scope has changed considerably, with the inclusion of the City leisure facilities and now the proposal to redevelop Waterworld with a new leisure complex. To deliver this exceptionally high quality and extensive regional leisure complex the overall value of the wider proposals have increased from c.£19M (stadium only) to c.£37M. The main drivers for the increase in cost are summarised below:
- Higher specification of the stadium element including an increase of base capacity by 2,000 seats to 8,000.
 - Inclusion of new state-of-art leisure complex for the City including a 25m pool, training & leisure pools, competition sports hall (a key priority for the City's leisure facilities strategy), 100 station gym, adventure / extreme play centre.
 - Increased quality design specification for the community hub, atrium that will also include an additional community tenants (including local charity York Against Cancer).
 - Uplift in project costs & contingencies due to an increase in overall value and complexity in delivery.
 - Improvement in the overall design and efficiency of the proposal to create a commercially sustainable scheme that meets the Council's long term financial objectives for the provision of high quality leisure facilities across the City.
20. The Council's original contribution towards the Community Stadium element of the proposal remains at £4M. The majority of the additional capital cost for the new items included within the scheme set out in the bullet points above. The commercial development proposed will be structured as a land transaction within the overall DBOM contract. The construction costs of the commercial development will be funded by the Developer. The commercial development will also generate £12m capital contribution to the construction of the stadium.

The Council will need to make an additional capital contribution to part-fund the new leisure facilities proposed, to ensure that the facilities maximise the potential of the site, deliver the widest range of community benefits and provide an acceptable balance of commercial and community uses. This additional capital would need to be funded through the Council's

Prudential Borrowing mechanism and is estimated to be c.£4M subject to the final scheme details. Approval is sought as part of this report.

21. The overall increased capital cost has also created a range of new income streams through the new facilities provided. This has the benefit of improving the long term financial sustainability of the complex, ensuring that its operation and maintenance remains within the Council revenue budget of £323K per annum, identified for the contract period.
22. A summary of the Project's progression and the overall capital financial position is provided in the tables below (based on the bid proposals);

Table 1: Comparison of Capital Costs 2012 - 2014

Component	Approved March 2012 (£Ms)	Approved Nov 2012 (£Ms)	Proposed Sept 2014 (£Ms)
Community Stadium	14.2	14.8	16
Leisure Complex	0	0	12
NSLC External works	1.5	1.45	3
NSLC sub total	15.7	15.25	31
Other facilities / Project costs & contingencies	3.5	3.95	6
Total	19.2	19.2	37
<i>Commercial Development Costs (externally funded)</i>	-	-	10
Gross Total Cost	19.2	19.2	47

Table 2: Proposed Project Funding

Overall Project Capital Funding (figures rounded)	Amount (£Ms)
CYC Stadium capital	4
CYC Leisure capital ¹	4
S106 funds ²	15
YCFC / FSIF funds ³	2
Commercial development land deal	12
TOTAL CAPITAL FUNDS	37

NOTES

1 This £4M is an additional funding requirement based on the bidder's proposals and is not yet approved in the Council's capital programme. The associated revenue cost of prudential borrowing will need to be factored into the appropriate revenue budget. Approval is sought as part of this report.

2 Contributions for transport mitigation and other technical issues relating to the retail aspect of the outline consent are not included in this figure and remain in a ring fenced S106 fund. A breakdown of the S106 funds is provided in Annex 4.

3 The legal agreement controlling the YCFC capital contribution through the sale of Bootham Crescent and FSIF grant is currently being finalised. The overall value will be dependent on a complex funding formula that will secure £2m over the life of the contract that will be used to support project costs, site enabling works and act as a project contingency.

Project Costs

23. The project costs have increased considerably from the original business case, yet remain within the overall budget parameters. This is a reflection of the significant increase in scope and complexity of the project. The decision to include the City's Leisure facilities and use Competitive Dialogue for a Design Build Operate & Maintain (DBOM) contract has added great complexity to the management of the project, particularly in relation to legal costs, commercial advice and ongoing risk management. The timescale through to financial close has also extended, compared to that originally envisaged. The increase in specification and inclusion of a new leisure complex has significantly increased the professional fees, feasibility, survey and site enabling works required.
24. The inclusion of the commercial proposals has introduced a new level of complexity which has required specialist commercial and legal advice. The cumulative effect of these additional aspects also required a better resourced CYC Project Team to ensure continuity and risk management for the Council as part of the delivery of this highly complex multi-partnership programme. These resources will need to be in place through to financial close which is estimated to be 2016/17 at the earliest.

Leisure Revenue Budget for the Contract

25. At the time the original business case was approved, considerable work was undertaken, on potential operational models for the stadium that were supported by estimated profit & loss accounts (P&Ls). As the scheme has

been developed through the procurement process more certainty has been provided regarding the model that will be used, and the flow of cost and income.

26. The detailed workings of the operation of the stadium and leisure contract will be transferred to the contractor for the management of the facilities; therefore further detailed analysis is not necessary. Detailed due diligence of the bid proposals has been undertaken. The Council will still retain some ongoing risks relating to the overall operation of the stadium and leisure contract. A summary of these risks is provided in the risk section of this report. A full risk assessment of the development and ongoing contractual risks will be provided as part of a future paper before the point of contract award, when all of the outstanding contractual issues have been resolved through the next stage of the procurement process.
27. The increased capital expenditure has not only created a significant improved range of community facilities, but it also enables the generation of new income streams and better quality facilities that are sustainable in the long term. These income streams will be contained within the DBOM contract, that also include lifecycle and maintenance programmes for all facilities for 25 years. All of these costs are contained within the budget set by the Council, and will be maintained over the life of this 18 year contract, minimising the ongoing financial risk to the Council.
28. The bid submission is within the Council's affordability target of £323K per annum (agreed CYC budget) for the ongoing management of the stadium and leisure facilities contract. Due diligence and risk assessment work suggests that there is sufficient scope through the 'Preferred Bidder' stage to deliver the contract within the budget set by the Council.
29. Consideration is given as part of this report to the cost of Prudential Borrowing an additional £4M for the new leisure facilities. This would be approximately £360K per annum and would take effect from 2016/17. Council would need to approve the borrowing and make a commitment to the future revenue costs. Further commentary is provided in the financial implications section below.

Sports clubs

30. Detailed commercial negotiations have been underway with York City Knights Rugby League Club (YCKs) and YCFC, since the approval of the business case in March 2012. This has resulted in the finalisation of MDAs which contain all terms for the occupation of the stadium.
31. These negotiations have required a careful balance to achieve a commercially viable solution that demonstrates best value for the Council, whilst providing a sound and affordable starting position for the City's professional football and rugby league clubs, using the new community stadium as their home. The outcome of these negotiations is set out in a suite of legal agreements, based around the MDA for each club.

32. With regards to York City FC, a number of associated agreements have been prepared that will secure the terms of the FSIF grant payment relating to the sale of Bootham Crescent.
33. With regards to York City Knights, separate agreements have been signed between the Council and:
- a) **YCFC**; to secure use of Bootham Crescent for up to two seasons for first team rugby league matches whilst the new stadium is built. A user agreement has been prepared between CYC and YCKs transferring those rights for the use of Bootham Crescent.
 - b) **York St John University**; for access to the YSJ Haxby Road Sports Village. This agreement secures the provision of a new purpose built 3G RFL 'Community' standard floodlit pitch and access to other facilities at the sports village. It secures 11 hours training use per week and access for reserve games, as well as access to the gym, classroom and other facilities. A user agreement has been prepared between CYC and YCKs transferring those rights for the use of the facilities to YCKs for up to a 20 year period.

Timescale

34. The estimated completion date of the project is July 2016. The key milestones are set out below. There remains a risk that during the final stage of the procurement process complications may delay the progress of the project, particularly in relation to resolving detailed contractual issues and the progress of the planning application. The key dates moving forward would be:

Table 3: Estimated Project Timetable

Date	Action / Milestone
December 2014	Waterworld closes
Nov / Dec 2014	Planning Submission
December 2014	Archaeological dig and intrusive / structural survey work
Feb / March 2015	Planning Approval
March 2015	Site mobilisation
April 2015	Contract live (GLL operation of Energise and Waterworld)
April 2015	Construction begins
July / August 2016	Construction complete / facilities operational

Implications & Risks

35. **Yearsley:** The pool will be operated under the contract until the NSLC opens. A review point is proposed to be completed 6 months prior to the opening of the NSLC. The contract provides the option for Yearsley Pool's ongoing operation, providing this is at no additional cost to the Council. It is proposed to now fully explore the potential for alternative options for Yearsley's ongoing operation outside the leisure contract once the NSLC is open should the operator not be able to operate it at no additional cost. There is a long lead-in time to the review date, providing a good opportunity to consider all potential options with the community and relevant stakeholders regarding future operational models.
36. **Waterworld:** Proposals for the NSLC provide an impressive range of additional leisure and community benefits compared with those currently offered at the site. The new swimming offer includes leisure water space and features. However, the closure of Waterworld will cause disruption to the swimming and gym provision in the City. It is proposed to close Waterworld just prior to Christmas 2014.
37. The closure will be managed to ensure residents and users (including swim lesson customers and gym members) are relocated to existing leisure provision in the city. Upon closure the site will be returned to CYC control and the site will be made secure until the construction programme commences.
38. **Planning:** Outline planning permission exists for the community stadium & retail development. The retail (enabling) element of this consent has now been implemented and the retail units (John Lewis, Marks & Spencer and Next) are all operational and reported to be trading well. The outline consent covered a 6,000 all-seat stadium & community hub only. This consent has been implemented through the reserved matters submission for the retail scheme. The stadium element has taken longer to bring forward due to the requirement to follow EU procurement regulations to procure its design, construction and operation. A decision was taken to follow a Competitive Dialogue process for a DBOM contract, to ensure that all development opportunities could be fully explored so that the community benefits of the scheme could be maximised.
39. The proposals include c.6000sq m of commercial development to support the delivery of the additional 2000 seats to the stadium and the new leisure complex. The retail element of the proposals will focus on sports and outdoor related retail uses that will contribute to the creation of a unique leisure and retail destination of regional significance. The commercial uses proposed are essential components of the scheme, providing the majority of the funding for the new leisure complex and the additional 2,000 seats in

the stadium. Although, city centre footfall numbers have risen since the opening of the Vanguard Retail Park, the proposals seek to minimise any negative impact on existing city centre business.

40. As with all major planning applications there remains a risk of delay or complication in the pre-application and submission stages. This could result in a change in format of the proposals. The planning submission being prepared will include specialist retail & commercial impact studies.
41. **FSIF / YCFC Funding:** Heads of Terms have been agreed with YCFC and the FSIF. Detailed legal documents are being finalised to secure YCFC's financial contribution to the Project. Until the legal documentation is executed there remains a risk that the funding will not be secured, which could create a financial pressure at project close.

Financial

42. The scope of the project has grown considerably from the approval of the March 2012 business case, including a new leisure complex and management of the wider leisure estate.
43. The bid submission suggests that the Project is deliverable from a financial perspective in both a capital and revenue terms. However, as is to be expected of a project of this scale and complexity the precise cost and annual budget cannot yet be finalised. Accordingly, further work needs to be programmed up to the preparation of a planning submission and through the mobilisation and construction phases to ensure that the financial impact of the final design phase is managed and mitigated were possible. Revisions to the financial submission, including capital costs, will be required as part of the planning and site mobilisation stages and these will be reported back where changes are necessary for appropriate approvals prior to contract award.
44. Initial due diligence suggests there is sufficient scope to deliver the Project as set out on the assumption the Council provide an additional £4m of capital investment to contribute toward the leisure facility, such a commitment would allow the on going operation of the facility as a whole to be contained within existing revenue budget provision. However, it should be noted that a number of the agreements and funding proposals still remain at risk until legally binding. Thus, careful risk and financial management of the project is required as it progresses through its final procurement and design phases.
45. The revenue implications an additional £4M council capital contribution towards the new leisure facilities is not included in the Project revenue budget of £323k per annum. The revenue cost of Prudential Borrowing this additional capital investment is c£360K per annum.
46. The new development will result in a change to the business rates (NNDR) position compared to the existing facility. It is estimated to yield an additional net improvement to the Council from the proposed commercial

development of approximately £400K per annum. This financial gain would offset the additional borrowing requirement of £360K per annum.

47. As set out in the Project Costs section above, considerable resources will be required to progress the Project through the final stages of the procurement and construction.

Public Health / Leisure / Play

48. The proposals will make a major contribution to the City's health improvement priorities. The site brings together a wide range of partners many with related health objectives; around mobility, physical activity health improvement and prolonged independence, focused around a new and exciting leisure destination. The co-location of health and leisure services offers unique opportunities for both to reach new audiences and to deliver their services collaboratively, this could include health information services, condition specific exercise sessions and combined appointments for users of multiple services.
49. Active York's 2014 Built Sports Facilities Strategy which is an adopted evidence base for York's emerging Local Plan, which identifies that the City has a shortage of 'open access' indoor sports space, and in particular York has no sports halls with spectator facilities, which could host competitions or showcase indoor sports. The need to address these two shortages is highlighted as key actions in the strategy. The stadium proposal will provide both casual and bookable sports hall space and a competition venue. This facility will be a major addition to the City's facility portfolio and will be welcomed by community clubs and sports governing bodies.
50. Analysis undertaken by Sport England and Active York indicates that York has a higher level of swimming pool provision per 1,000 in the population than comparable local authorities, the region or nationally. This analysis also highlights the need for modernisation of Waterworld and the need to expand the leisure offer to make Yearsley financially sustainable. The new pool at the stadium will provide a modern facility which caters for the full breadth of swimming activities, and will offer facilities which support the work of the community partners on site.
51. The City's play strategy "Taking Play Forward" 2013-2016, sets priorities for the development of high quality play provision, these include 'Support risk and challenge in all play activities; and allow children to test boundaries and assess risk for themselves.' The indoor and outdoor high ropes, climbing and adventurous play facilities will encourage risky play and provide challenge whilst enabling independence in the assessment of risk. We also welcome the additional provision of 3G football facilities which will encourage participation in physical activity and will enhance the

offer for young people in partnership with the community activities offered by the professional clubs.

Ecology

52. As part of the survey and site enabling process ecological mitigation is required to deliver the NSLC proposals, particularly relating to the expansion of the P&R car park. A number of options for mitigation are open to the Council that require the consent of English Nature. The potential for delay / complication in this process is possible. This issue & risk is constantly being managed and mitigations options being developed.

Risk Management

53. A paper was taken to the Council's Audit & Governance Committee (December 2013) regarding the Risk Process for the Stadium project. A robust risk management process is in place to control the projects risks and issues. The risk and issue registers are commercially sensitive and must remain confidential, however a summary of some of the key risks is provided in Annex 1.
54. It must be emphasised that these summaries are presented as potential risks i.e. issues or events that may arise or are yet to be resolved and may require mitigating action. They are not predictions or statements of actions that will occur or have occurred.

Legal

55. Section 122 of the Local Government Act 1972 enables the Council to 'appropriate' to another purpose/use any land owned by the Council which the Council no longer needs for the purpose for which the land was originally acquired by the Council. Where land has been appropriated for planning purposes Section 237 of the Town and Country Planning Act 1990 enables the carrying out of any development/building works authorised by planning permission where those works interfere with any easement or covenant benefiting a third party subject to payment of compensation to such third part(y/ies).
56. It is reasonable for the Council to use its powers in this case to appropriate the land for planning purposes as the appropriation will facilitate the carrying out of development, re-development or improvement works on the land and this which will contribute to the promotion of the economic, environmental or social well-being of the City.
57. Additionally the Council can only appropriate to another use any land comprising open space unless they have first advertised notice of their intention in at least two consecutive editions of a local newspaper and duly considered any objections/comments received from the local community.

Property issues

58. The land comprising the proposed stadium complex/leisure facilities site was originally acquired by Ryedale Council for leisure purposes.
59. It is considered that appropriation of the land to planning purposes will facilitate the carrying out of development, re-development or improvement works on the land which will contribute to the promotion or improvement of the economic, environmental or social well-being of its area

Human Resources (HR)

60. There has been regular briefing and consultation with Council staff and trade union representatives on the progress and development of the proposals for Leisure services.
61. Council staff employed at Energise and Yearsley will ultimately transfer to the new provider who will manage Leisure services. 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.
62. It is anticipated the new provider will have discussions with the North Yorkshire Pensions provider regarding application for Admitted Body Status.
63. There are no Council staff employed at Waterworld which is currently managed by Greenwich Leisure Limited (GLL).
64. Individual and collective consultation with staff and trade union representatives will be on going throughout the process, including consultation around time scales and likely date of transfer.

Equalities

65. An initial impact assessment and consultation events were held and completed in 2011 and 2012. Further consultation is planned for September and October 2014 including an event at York City FC on 1 September 2014. An updated Community Impact Assessment is being completed and will be submitted for sign off in September 2014 focusing on the changes to the leisure provision on site which were not originally included in the scheme.
66. The outcomes and impacts of these changes are all positive with the exception of a break in provision of 18 months during construction of the new facilities. However, this impact will be mitigated by the provision of alternative facilities and programmes at alternative leisure facilities in the City and the transition of customers to these venues in the short term.
67. Consultation and update has not been possible during the procurement exercise due to the commercial and legal restrictions of the process and so

will start immediately from the 01 September 2014 onwards. The original Equalities Impact Assessment form is included here in Annex 3.

Recommendations

68. Members are asked to:

- i. Proceed with the procurement on the basis of the proposals set out above, to deliver the 'New Stadium Leisure Complex' (NSLC) and the estimated project timetable set out in Table 3.
- ii. Note that GLL have been nominated as the Preferred Bidder following the Competitive Dialogue procurement exercise.
- iii. Recommend to Council the approval of £4m Prudential Borrowing for the capital investment in the replacement leisure facilities (as shown in the above tables). The associated revenue costs of the borrowing will be c£360k per annum and will be shown as growth in the treasury management budget from 2016/17.
- iv. Note the overall financial position and programme management arrangements as presented noting the financial risks and potential resultant liabilities that may arise as a result of proceeding with the scheme through the detailed planning submission and construction phases.
- v. Proceed with the submission of a detailed planning application on behalf of the Council by the preferred bidder seeking approval for the proposals for the NSLC.
- vi. Agree to the appropriation of the proposed stadium complex and leisure facilities site to planning purposes under S.122 of the Local Government Act 1972 and Section 226 of the Town and Country Planning Act 1990 on the basis that the appropriation will facilitate the carrying out of development, re-development or improvement works on the land which will contribute to the promotion or improvement of the economic, environmental or social well-being of the Council's area.
- vii. Work with relevant stakeholders in looking at community management options for Yearsley Pool as set out in para 35 of this report should the operator not take up the option to operate the pool at no additional cost.
- viii. Note the position of the project partners and the implications of proceeding and any potential delays.
- ix. Note the progress of the off-site facilities and their associated issues, risks and timetable for financial close.

- x. Note, and accept, the risks set out in the risk management section of this report, and the financial implications section.

Reason: To update Members on the procurement of the New Stadium Leisure Complex and in order to progress the scheme to provide a landmark leisure destination for the City.

Contact details

Authors:	Cabinet Member and Chief Officer Responsible for the report:		
Tim Atkins Community Stadium Project Manager ext: 1421	Cllr Sonja Crisp, Cabinet Member for Leisure, Culture & Tourism		
	Sarah Tanburn Interim Director City & Environmental Services		
	Sally Burns Director Communities & Neighbourhoods		
	Report Approved	√	Date 15 August 2014
Wards Affected: All			
For further information please contact the authors of the report			

Annexes

- **Annex 1:** Project Risk Register – High level summary of key project risks
- **Annex 2:** Images of the scheme
- **Annex 3:** Original Equality Impact Assessment Form
- **Annex 4:** S106 funds from Outline Planning Consent for stadium & retail scheme July 2012

Background papers

- Cabinet Paper 6th March 2012: Community Stadium Business Case.
 - Decision Session of the Cabinet Member for Leisure, Culture & Tourism of 10th January 2012: The Community Stadium and Council Leisure Facilities: Procurement of Operator Arrangements.
 - Cabinet Paper 6th November 2012: Community Stadium Update.

Glossary of Terms

GLL	Greenwich Leisure Limited
NSLC	New Stadium Leisure Complex
NHS	National Health Service
CYC	City of York Council
OJEU	Ordinary Journal of the European Union
DBOM	Design, Build, Operate, Maintain
CD	Competitive Dialogue
UoY	University of York
YSJ	York St John
RFL	Rugby Football League
YCFC	York City Football Club
CGC	Company Name
MDA	Match Day Agreement
S106	Section 106
FSIF	Football Stadia Improvement Fund
P & L	Profit and Loss
YCK	York City Knights
EU	European Union
NNDR	National Non Domestic Rates
3G	Third Generation Astroturf pitch
P & R	Park and Ride
HR	Human Resources
TUPE	Transfer of Undertakings (Protection of Employment)

ANNEX 1

Community Stadium & Leisure Contract

Risk Register High level Summary

1. **Risk 4 Capital Overspend:** This remains a medium risk as the design details of the scheme are finalised through the planning process. Construction inflation is rising and any changes to the specification will have a financial implication. Furthermore, the delivery of the commercial element of the proposal is essential to provide funding for the leisure complex. A range of contingencies and mitigations exist as options if costs to increase or funding reduces. This will be carefully managed through to contract award.
2. **Risk 60 Commercial proposals:** The delivery of the leisure complex and additional 2,000 seats in the stadium are reliant on the delivery of the commercial element of the proposals. There remains a planning and commercial risk that the amount of floorspace and estimated value may not be achieved. This will have a direct impact on the funding mechanism. Scope exists to consider alternative options including, reduction in specification of the build, additional CYC funding (not approved), and the consideration of restructuring the commercial proposals. This is a high risk due to the financial impact.
3. **RISK 76: Planning consent being delayed:** there is a risk that preparation and determination of this application will be delayed. The application will also need to be referred to the Secretary of State, which could lead to a Call-in. As with all planning applications there will be a small risk of a judicial review.
4. **Risk 28 Not Realising rental income from sports clubs:** Until the legal agreements are executed for the occupation of the stadium, the council will underwrite any loss of income if the stadium is not occupied by either of the sports clubs. The ongoing financial impact of this relating to YCFC paying their rental will be considerably reduced once the agreements are signed with the FSIF & YCFC. The rental risk presented by YCKs is significantly less, as their rental is relatively small based on their current operation.

5. **Risk 36 Failure to achieve vacant possession of the site by December 2014: This might impact on the start date of intrusive** surveys and archaeological dig. Delay to the scheme would then be inevitable. The necessary legal processes are in place to achieve vacant possession of the stadium by 1st January 2015. This risk will be continually monitored.
6. **Risk 51 Planning risk of achieving 8000 capacity stadium:** Detailed transport assessments have been undertaken as part of the pre application work with the Local Planning Authority. The impact is deemed to be low, but will be continually monitored.
7. **Risk 72 Parking requirements of the overall scheme:** Parking requirements of the commercial units in the proposals will need a dedicated car park. This will require the reconfiguration and expansion of the park and ride. This would be part of the planning and transportation submission.
8. **Risk 75 Not Achieving BREEAM Very good:** This remains a low risk as it is a requirement of the procurement contract. The scheme proposes a Combined Heat and Power unit that will be reasonable for addressing most of the energy issues.

ANNEXE 2:

Images of the proposed New Stadium Leisure Complex



ANNEXE 2:

Images of the proposed New Stadium Leisure Complex



ANNEXE 2:

Images of the proposed New Stadium Leisure Complex



ANNEXE 2:
Images of the proposed New Stadium Leisure Complex



ANNEXE 2:

Images of the proposed New Stadium Leisure Complex



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Images of the proposed New Stadium Leisure Complex



ANNEXE 2:

Images of the proposed New Stadium Leisure Complex



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Equality Impact Assessment Form

The Equality Act 2010 came into force on the 1st October 2010. Under the Act there is a legal obligation to undertake Equality Impact Assessments (EIAs) as stated in the Public Sector Equality Duty. This duty comes into effect on 6 April 2011 and states that as a public organisation we must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

EIAs **assess the impact** of the council's actions on people from the protected characteristics identified in the Act. In addition they should show how our policies and practices would further or have furthered the above aims. Demonstration of the **engagement** you have undertaken when doing the assessment is a key part of this process. Engagement covers a range of different activities, from formal public consultations to direct engagement with people from protected groups. The level of engagement you undertake will depend on the scale of project/activity you are developing or updating.

To comply with the essence of legislation EIAs should be a comprehensive, formal and structured process and the results should be published. These factors enable us to demonstrate to all stakeholders and regulatory/ enforcement bodies (like the Equality and Human Rights Commission) that we have fully addressed equality and diversity within the council.

An Equality Impact Assessment must be done at the **development stage** of any policy, review, project, service change etc, **before any decision is taken.**

1	Name and Job Title of person completing assessment	Katie Hunter Community Stadium Assistant
2	Name of service, policy, function or criteria being assessed	Commissioning the building of the community stadium and satellite buildings.

3	What are the main objectives or aims of the service/policy/function/criteria?	To provide a new home for football and rugby activities as well as community buildings that encourages and support people to do sport and active leisure.
4	Date	06/05/11

Stage 1: Initial Screening				
5	What evidence is available to suggest that the proposed service/policy/function/criteria could have an adverse impact on quality of life outcomes ¹ for people (both staff and customers) with protected characteristics? Document the source of evidence, (e.g. past experience; anecdotal; research, including national or sectoral; results of engagement/consultation; monitoring data etc) and assess relevance of impact as: Not relevant / Low / Medium / High.			
Protected Characteristic	Impact		Source of evidence that there is or is likely to be adverse impact	
	Staff	Customers /Public	Staff	Customers/Public
Race	H	H	Equalities Human rights commission	Equalities Human Rights Commission Consultation with the Equalities advisory Group July 18 th 2011

¹ See appendix 1

Religion / Spirituality /Belief	H	H		<p>The main sources of information on current and future residents of the district which helped identify the profile of users were the City of York Council Equality Profile 2010. In addition it draws on information from City of York Cultural Awareness guide.</p> <p>Consultation on this strand was carried out in 2009 at the Equality Impact Assessment fair, and 18th July 2011 at the Equalities advisory Group.</p>
Gender	H	H		<p>Draws on information from the Sex discrimination Act 1945 In addition consultation on this strand carried out in 2009 at the Equality Impact assessment fair, and 18th July 2011 at the Equalities advisory groups.</p>
Disability	H	H		<p>Draws information from the Community Stadium Project Design and Access statement, and the Sports England Accessible Sports Facilities document.</p> <p>Alongside these documents was consultation with York Independent Living Network, the Equalities impact Assessment fair 2009 and 18th July 2011 Equalities advisory Group.</p> <p>Further consultation was undertaken with an Officer from the Federation of Disability Sport and detailed talks with a disabled representative.</p>
Sexual Orientation	L	L		<p>Draws on information from Homophobia in Sports</p> <p>Further consultation was undertaken at the Equalities advisory group with a group representative</p>

Age	H	H		<p>Draws on information from 1989 Children's act Collected information from The Equalities Impact Assessment fair 2009 and 18th July 2011 Equalities advisory Group.</p> <p>In addition there were consultations with specific groups who identified additional issues to address, such as the City of York Youth Council in September 2011.</p>
Pregnancy/maternity	H	H		<p>Draws on information from Equality legislation: Equality Act 2010 and the breastfeeding rights.</p>
Gender Reassignment	H	H		<p>It draws on information from Stonewall and Gender shift. Alongside these documents was consultation at the Equalities advisory Group with a group representative</p>
Marriage and Civil Partnership	N R	NR		N/A
Carers of older and disabled people	H	H		<p>Draws on information discussed in the City of York Council Carers strategy 2009-2011 and the Home Government Equalities Office</p> <p>Alongside a consultation on the 18th July Equalities Advisory Group.</p>

If you assess the service/policy/function as **not relevant across ALL the characteristics**, please proceed to section 11.
If you assess the service/policy/function as **relevant for ANY of the characteristics**, continue to Stage 2, Full Equality Impact Assessment.

Stage 2: Full Equality Impact Assessment

Are there any concerns that the proposed or reviewed service/policy/function/criteria may be discriminatory, or have an adverse impact on members of the public, customers or staff with protected characteristics? If so record them here (expand the boxes to take up as much room as you need). See the [2 EIA Guidance documents](#) on Colin for help as to what the issues may be.

Race :
Customers

The EIA fair 2009 raised the concern that there could be a communication barriers to some communities ; lack of information in different languages- so people don't know enough about what is on offer'. This is especially true when English is not the first language spoken. If alternative languages and format is not provided, it could reduce the accessibility of the facility to certain groups. Measures will be put in to place for all information and signs to be available in alternative languages to make sure the community stadium effectively communicate with all potential users.

Statistics from York Equality profile 2006 identified that there is 9.12 % BME within the York district. The social mix in York illustrates the need for multicultural activities and diversity within the community stadium. Whilst it is not known the diverse users who potentially would use the community stadium, the evidence from equality profile shows the need to acknowledge and accommodate for different users. The community stadium must actively coordinate activities, courses and classes to suit all users of the facility.

Through the consultation process, an Equalities advisory Group (EAG) representative emphasised the positive impact the Community Stadium could bring to York and the surrounding areas. There are spaces within the proposed Community Stadium building which could potentially be used as religious meeting points. An example given at the meeting was the opportunity for proposed spaces in the Community Building to be used for different meeting points.

potential amenities that the community stadium had to offer all users, which could have a positive impact; for example there is a potential for hosting 'Disabled sports/Olympics – opportunities locally, nationally, internationally. Disabled Games'.

However during the consultation numerous issues were raised which need to be addressed to reduce any negative effects. The community stadium project will be a positive impact on disabled users if action is carried out to prevent potential adverse impacts.

Design

A number of responses received commented on issues of design of the facility for example ensuring that the any new facilities were DDA compliant and offered a good visitor experience for disabled people.

Disabled people are reliant on easy movement throughout the stadium. The Equalities Advisory Group raised the concern that without easy movement throughout the stadium, it would discourage disabled people from using the stadium. The main issues raised at the consultation are outlined below;

Some disabled people have difficulties reading information, and signage. Information of leaflets signs and need to be available to all, otherwise they will less likely to be able use the facility.

Alternative formats will be in easy read and Braille format, following the Royal National of Institute of Blind People (RNIB) and City of York Council Guidelines for communications. Whilst the City of York Council will not be managing the stadium after construction, they will carry on working in partnership – to encourage the stadium management to adopt City of York Council guidelines for accessible information.

The Sport England Accessible stadium document together with the Equalities advisory Group Consultation acknowledged that many stadium and leisure are designed with little thought for the different heights to allow everyone to use all the facilities easy – for examples ticket desk and the

use of a drop down counter. To ensure easy access, the Community stadium will be designed to the standard height according to RNIB guidelines.

A disability officer expressed concern over the lack of provision for visually impaired and hearing impaired users of other stadiums (Bootham Crescent and Huntington Stadium). The stadium needs to put in hearing loops according to the RNIB guidelines to make sure all disabled users can access the Stadium.

The design and access statement identified the use of different tiers within the stand. Steps and different levelled floors can present challenges to disabled people. There needs to be accessible for everyone by lifts. A group representative stated that fire exits accessible for disabled people will need to be incorporated within the design process.

Many have also expressed concern that minimum requirements will be fulfilled for spectating but not the same level for participating. The facility will be complaint to the Equality Act 2010: All lifts will be accessible, tactile surfaces, low level lighting, the contrasts of colours, design of the doors and entrance will allow for an inclusive stadium.

In addition the consultation raised the issue of design of the stadium, and how facilities in the past have been designed poorly in reference to accessibility. The Equalities Advisory Group consultation stated that the Stadium design need to give full consideration to where seating for disabled people would be in respect to other facilities in the stadium – for example fire exits, lifts and entrances. Facilities need to be placed in close proximity to disability seating to allow easy access.

Accessibility

Disabled people along with other strands are reliant on public transport. An identified risk of the York Independent living centre, as well as other facilities moving from a central location, to further out of town as part of the Community Stadium Project has the potential for an adverse impact on disabled people. Firstly it may be harder for disabled people to get to and from the stadium (same for elderly and women with prams). If facilities were to be based at the stadium it will be important that there

was good public transport available. However it was raised at the Equalities advisory group that many buses only allow one wheelchair user at a time, which may cause considerable problems to getting to and from the city centre. This needs to be taken into consideration. It may affect how people are able to get the Independent Living centre, and this may affect the benefits they get.

In addition an Equalities Advisory Group representative was concerned that many sporting opportunities for the public and disabled people are segregated, and as a direct result makes disabled people feel unwelcome. This issue is important to address to give the opportunity for everyone to take part in courses, events and games.

Alongside the consultation, to gain additional issues and concerns there was talks with a group representative of disabled people. The representative stated the facilities which are considered before visiting a facility are the parking facilities and whether their personal assistant get in for free or at concession. This needs to be considered at both the Community Stadium and perhaps information provided on the facilities at away games Stadiums.

Whilst outlining all the issues that have been detailed above the representative emphasised the need for adequate transport to and from the Community Stadium. Another issue with transport is the Park and Ride bus stop is a long distance away from the Community Stadium. The proposals have outlined an additional bus stop placed at the entrance to the Community Stadium. However if this does not occur, provision needs to be provided such as benches to support the distance from the Community Stadium to the Park and ride.

In addition the buses in York are not suitable for transport for regular use because of the lack of space within the buses.

A suggestion by the representative was a disabled forum which will help the Stadium management assess the potential number of disabled people using the Community Stadium – could include questions of the facilities and provision needed to make it accessible.

<p><u>Staff:</u></p>	<p>There is a need staff/management for example stewards who will monitor and manage the provision of service to disabled guests.</p> <p>Other suggestions to make the Community Stadium more accessible are having section for blind people with live commentary, TV screens.</p> <p>Overall the Community stadium should be a positive outcome for all strands; however the issues identified in this section need to be adhered to and focused on to get a positive result during the design stage.</p> <p>Potential adverse impact on disabled people due to the possibility of Inadequate access at or to the workplace which can limit the employment opportunities available to disabled people. There will Inadequate transport options to and from the Community stadium project will limit employment opportunities.</p> <p>Young/disabled people can be prevented from getting to employment opportunities due to inadequate or expensive public transport alternatives.</p>
<p><u>Age:</u> <u>Customers:</u></p>	<p>Younger People:</p> <p>Through the consultation process, including direct engagement with the Youth Council, younger people were given the opportunity to express their views on the Community Stadium Project. In particular, where they were supportive of the project, younger people expressed their views on the types of facilities they would like to see provided, for example a youth area and the opportunity it may bring to the area.</p> <p>The main issues which were raised by the Youth Council were transport and accessibility. They focused on how they would travel to and from the Community Stadium Site – including cycling, buses and cars. Most responses focused on cycling and the need for bike storage and increase bike racks at the site. Included in this, the Youth Council reported that the cycle paths to and from are good; however increased safety may be needed on these routes with better signage outlining the right of way.</p>

Alongside cycling, another form of transport younger people use regularly are buses. One respondent expressed their concern that buses were both expensive, infrequent and intimidating which resulted in worries about safety and security. They suggested that the Community stadium would need to increase and expand the bus links to the Community Stadium site, and suggested shuttle buses could be a way in which this could be done. The community stadium bus links may have another bus stop being placed outside the Community Stadium on Kathryn Avenue, and bus links are every 10 minutes from the city centre.

Accessibility by public transport is particularly important for younger and older people. The EIA fair 2009 illustrated the concerns of *'travel price and poor transport facilities in the area of York'*. Mobility should not be an issue in the accessibility of the community stadium and its travel links.

Other issues which arose were the access within the Community Stadium, clear and visible signage of information. They suggested Stewards in the Community Stadium on match days to help with the flow of people.

In terms of facilities, the Youth Council were asked to provide any suggestions they had for the community stadium in relation to facilities. Main suggestions were the possibility of a Youth Area, a site for concerts and an Explore library. The provisions of these facilities have not at this stage been identified as facilities to be provided as part of the project but further work may identify these as a possibility and necessary.

Older People:

Responses were received from representatives of older people on the proposals.

A high concern is the communication barrier and how the Community Stadium will communicate information to the users and also the booking process for use of the facilities. The EIA fair 2009 identified the use of technologies as a worry for many people and the need for ease of online and telephone booking for facilities. Without appropriate and alternative ways of communicating information i.e. telephone, internet, face to face older people (along with other strands) may not be

<p>Staff:</p>	<p>able to access and use the facilities. There is a need to promote diverse and alternative ways to book or find different to prevent inaccessible information. In addition safety in and around the community stadium is crucial to allow and encourage all age groups to use the facilities.</p> <p>As acknowledged earlier Younger and older people are more likely to rely on public transport to get to and from the circuit which may be infrequent or with alternative expensive options they may be disadvantaged in accessing the facility and employment opportunities. However the Community stadium has regular bus routes going to and from so this impact will be significantly reduced.</p>
<p><u>Pregnancy / Maternity</u> Customers:</p> <p>Staff:</p>	<p>The Equality Act 2010 and previous legislation have outlined the steps service providers and employers (discussed in more detail below) must take to eliminate unlawful discrimination, harassment and victimisation.</p> <p>The Equality Act 2010 has outlined that every parent has the right to breastfeed in public. The Community Stadium and employers will be made aware of the policy of breastfeeding. Regarding breastfeeding the legislation says either freely allowed to do them or provide a place. There is a need for appropriate training in equality issues so no unnecessary discrimination occurs.</p> <p>In addition the Community Stadium need to provide baby changing rooms which are non-gendered.</p> <p>Employees (both men and women) may need flexible with working times. Key legislation in the Equality Act 2010 has come into force - maternity rights.</p>
<p><u>Gender Reassignment</u> Customers:</p>	<p>The Community Stadium aim is to promote sporting opportunities along with others for all users. At the Equality Advisory group 2011, a group representative stated there is a need for provision for all users, including transgender. There is a need for access for all facilities (changing rooms and toilets). This could be in the form of communal changing rooms. It is unlawful for them to long term use of</p>

<p><u>Staff:</u></p>	<p>single sex facilities or disabled toilets. There needs to be consideration on the provision provided for the areas, these include individual toilets and cubicles.</p> <p>Gender reassignment should not be discriminated against within any aspects of employment. Discrimination in the workplace is unlawful in all aspects of employment, including the recruitment process, status, training, promotion and transfer opportunities, redundancy, dismissal and even post-employment. There should be suitable provision for all, which include access for all facilities as discussed above.</p>
<p><u>Sexual Orientation</u> <u>Customers:</u></p>	<p>During consultation a group representative raised the concern of homophobia within Sport especially football. There is a potential that the fear of homophobia to adversely affect people participating or spectating in events. Therefore arrangements must be in place to tackle any issues of homophobia in sport, both spectating and participating.</p>
<p><u>Carers of Older and Disabled people</u> <u>Customers:</u></p> <p><u>Staff:</u></p>	<p>By association the carers of older people and disabled people have protected characteristics and there is a concern that the Community stadium may adversely affect these carers. Informed by the City of York Council carers strategy 2009-2011, key concerns are access to services and support particularly in leisure and transport. The community Stadium does have the potential to promote sporting and leisure opportunities to all.</p> <p>The consultation at the Equalities Advisory Group commented on the price of admission for Carers. During the design stage, this will be discussed and considered.</p> <p>Another issue raised was the lack of seats for Carers to sit next to disabled people or elderly in many Stadiums, especially at the York City Football Club stadium at Bootham Crescent. This has been taken into consideration and Carers of older and disabled people will have the opportunity to sit next to one and another.</p> <p>Key barriers for employment are the need for someone to look after the person they usually care for. This will be looked into and taken into consideration.</p>

N	<p>Can the adverse impact be justified? For example:</p> <ul style="list-style-type: none"> ▪ improving community cohesion ▪ complying with other legislation or enforcement duties ▪ taking positive action to address imbalances or under-representation ▪ Needing to target a particular community or group e.g. older people. <p>NB. Lack of financial resources alone is NOT justification!</p>
<p>No, there should not be an adverse impact which can be justified. The community stadium needs to be a holistic approach which promotes equality and participation of all irrespective of age, gender, disability and pregnancy etc.</p>	
8	<p>What changes will you make to the service/policy/function/criteria as result of information in parts 5&6 above?</p>
<p>Invitation to tender process will mention these risks and will invite developers to address them. Developers will be scored out of 10 (10 be it the highest mark) depending on their approach. We shall involve community representatives from EAG when we select a developer.</p>	
9	<p>What arrangements will you put in place to monitor impact of the proposed service/policy/function/criteria on individuals from the protected characteristics?</p>
<p>The project board and then the company board (stadium management company)</p>	
10	<p>List below actions you will take to address any unjustified impact and promote equality of outcome (as in appendix 1) for staff, customers and the public from the protected characteristics. The action could relate to:</p> <ul style="list-style-type: none"> ▪ Procedures

<ul style="list-style-type: none"> ▪ Service delivery ▪ Training ▪ Improvement projects 		
Action	Lead	When by?
<ul style="list-style-type: none"> • Stadium manager will work with EAG during stages 1 &2 in the commissioning process (i.e. preparation of business case and pre-tender activities to find workable and reasonable solutions to the issues identified above) • Reasonable adaptations that we shall agree will become part of the contract conditions before we sign the contract. 	<p>Tim Atkins</p> <p>Tim Atkins and Legal Services</p>	<p>December 2011</p> <p>Dec 2011</p>
1	Date EIA completed	
1		
<p>Author:</p> <p>Position:</p> <p>Date:</p>		
12	Signed off by	By director

I am satisfied that this service/policy/function has been successfully equality impact assessed.

Name:

Position:

Date:

Please send the completed assessment for feedback to evie.chandler@york.gov.uk and heather.johnson@york.gov.uk

Once your EIA has been completed we shall also add it to the corporate register of EIAs. We use the register to publish an annual EIA report on the council's site.

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ANNEX 4: S106 – Outline Planning Consent July 2012

The S106 funding contributions are broken down as below:

£13,750,000	Stadium Contribution
£ 2,342,000	Travel Plan / Highway Mitigation
£ 1,000,000	Professional Fees
£ 312,000	Games Court
£ 300,000	Hopgrove Mitigation
£ 100,000	Stadium Sports Officer
£ 20,244	Air Quality Monitoring
£ 17,824,244	TOTAL

The £15,062,000 proposed for the stadium is made up from the following:

£ 1,000,000	Professional Fees
£ 312,000	Games Court
£13,750,000	Stadium Contribution
£15,062,000	TOTAL

£15,000,000 has been allocated as part of the procurement exercise and now forms part of the funding structure. The remaining £62,000 will be drawn down as part of the CYC overall project costs.

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