

Report of the Corporate Landlord and the Director of Learning Culture and Childrens Services

York Racecourse – Application for Lease Extension and Amendments – Report Back on the Results of Further Negotiations

Purpose of Report

- 1 This is the report back to Executive on the results of further negotiations with the Racecourse and discussions with consultees following the initial report dated the 20 November 2007 to consider the request by the Racecourse to extend their lease. Following comments by the Shadow Executive on 14 November and Scrutiny Management Committee on the 26 November, Executive resolved on the 27 November to refer the matter back to officers for further negotiations in order to cover the following additional topics:
 - The provision of off-site toilets
 - Off site Policing costs
 - Local traffic management
 - Benefits for residents
 - If the above matters cannot be dealt with under the terms of the lease, to consider setting aside income from the lease to address the issues
 - Access and car parking from the southern side of the site.

This report is to advise Members of the results of the further negotiations and discussions.

Background

2 Full details of the lease and reasons for the proposed amendments were contained in the initial report of the 20 November 2007, but are summarised here for ease of reference:

- The property exclusively let to the Racecourse is that shown hatched black on the plan at Annex 1.
- The current lease term is 99 years from January 1957. Rent is reviewed 10 yearly on a receipts based formula, summarised in Exempt Annex 2, and last fixed in January 2007.
- Use and maintenance of the racetrack is included together with the right to control admission to the Knavesmire during “race weeks” which are currently the Saturday preceding a race meeting to the Saturday next following.
- There are 15 days racing per annum as of right, with additional race days by Council consent. In practice there are usually around race days 17 at present.
- The lease includes part of the West Enclosure together with the totalisator stand in the Council’s retained part.
- All maintenance and management is undertaken by the Racecourse at no cost to the Council.

The new inner safety road is part of the racing circuit and the Racecourse have permission to retain it following the grant of planning permission.

3 The changes requested by the Racecourse are summarised as follows:

- a) To restore the lease length to 99 years from 2008 to facilitate new investment.
- b) To include the whole of the West Enclosure in the lease. The additional area requested is shown by W on the plan at Annex 1. An additional rent would be payable – see Exempt Annex 2. This proposed extension to the lease area will need to be advertised under the provisions of Section 123 of the Local Government Act 1972, as it is Open Space at present
- c) To increase the number of race days permitted as of right to 20.
- d) To extend the definition of the racetrack to include the “Ascot Bend” marked X-X on the plan, and return to the Knavesmire part of the existing straight marked A-B.
- e) To extend the definition of Race Weeks to allow up to 10 days setting up and 4 days taking down time before and after Race Meetings, to cater for the increased number of hospitality marquees, but only in defined areas on either side of the stands.

4 The specific benefits to the Council in any new lease would include the following measures: -

- 5 yearly rent reviews after 2017.

- Additional rent payable for additional Race Days and for the balance of the West Enclosure.
- The return of the land between points A-B from the existing track, which permits improved access from the crossing at Tadcaster Road on the walking route to Millthorpe School, and also giving more room for events at Knavesmire Gates.
- The new safety road can double up as a cycle track – the Council need to extend it along Cherry Lane to Tadcaster Road, and to Knavesmire Road.

UPDATE ON MATTERS REFERRED BACK FOR FURTHER NEGOTIATION

5 Those issues mentioned in paragraph 1 which were referred back for further negotiation have been discussed in particular with representatives of the Racecourse, North Yorkshire Police Neighbourhood Unit, Licensing and Highways Network Management Officers of the Council, and representatives of Doncaster and Chester Councils (for comparison). As a result of this, responses on the various issues are set out below under each heading, together with all options which seem to be available.

6 Provision of Temporary Off Site Toilets on Race Days

Temporary toilets were provided between the Racecourse and the City Centre during Ascot week in 2005. They were provided by the Council using funding from Yorkshire Forward which was available on that occasion only, due to the large number of extra visitors. The Racecourse makes provision for toilets on their own site in excess of industry recommended standards, many of which are located at the exits and on car parks, and this provision is acceptable to the Council as licensing authority. An approach was made to reopen the former toilets at Knavesmire Gates for race days, but this was not acceptable to Hamilton Panthers FC, who are now tenants of this building.

7 The Racecourse believe that there are management and insurance liability difficulties associated with temporary toilets and that their location can cause disturbance to residents close to them. Racecourse Stewards have no jurisdiction off site. The Racecourse does not believe that it is their responsibility to provide such facilities. No precedent can be found, at Doncaster, Chester or elsewhere, where a sporting event has paid for the provision of off site toilets in this way.

8 The Neighbourhood Policing Team believe that the provision of toilets may prevent some anti-social behaviour and would support further experimental provision, in the Albemarle Road and Knavesmire Crescent area, and close to Scarcroft Green. They do, however, recommend that the toilets are removed after each day's racing to prevent them being the focus of any anti-social behaviour or other nuisance to residents on an evening. The costs would therefore need to be funded by the Council. The hire charges are £35 per unit per day giving a total cost of possibly £ 525 per day (15 units). There is no current budget provision for this cost.

9 Policing

Under the provisions of the Safety of Sports Grounds Certificate, up to 50 police officers are on duty on a race day, and up to 250 site security staff are employed by the Racecourse. There is good liaison with the Neighbourhood Policing Unit and the numbers, methods of working etc of the stewards are acceptable to the Neighbourhood Policing Unit. They have an information sharing protocol to identify troublemakers and the police are satisfied that persons drunk and disorderly are not

served alcohol, and on general site control. As a result of this process, the police and Racecourse have already agreed to issue banning orders against those convicted of an offence on the course.

- 10 For 2008, the police have stepped up their presence between the Racecourse and the City Centre. Permission has been granted to site a mobile police office close to Knavesmire Gates in a position which is prominent and visible to those leaving the course. Approximately 20 officers, mainly Community Support Officers, are going to be deployed on each race day to help control crowds at the start and end of the day. They would patrol on foot and on cycle.
- 11 The police now accept that they cannot recover the cost of off site policing from an event organiser, following the case of Wigan AFC against Greater Manchester Police, which sets a precedent. The full costs of policing within the course are recovered and there are no disputes concerning this cost or level of provision. No examples can be traced of other major sporting events funding off site policing, including again at Doncaster and Chester. The activities of stewards do extend to points of entry and exit under police supervision as necessary but this is the limit of the event's responsibilities.
- 12 The police's acceptance of the legal position and decision to deploy more officers, together with the mobile police office, is a positive step forward for 2008 onwards. It is in response to the concerns expressed by Ward Members, residents and others to the need to reduce anti-social behaviour in the hours after a race meeting. The Racecourse do liaise with the police and have a nominated officer for this purpose. They have also introduced mitigation measures, such as the after race entertainment, to reduce the impact of the crowds leaving all at once.
- 13 Local Traffic Management/Access from the southern side of the Racecourse

A temporary car park at the southern end of the Racecourse, between the cycleway and Sim Balk Lane, was in use during the Ascot meeting in the area marked "Y" on the plan at Annex 1. The consultees do, however, remain of the opinion that this car park is not practical except for use as an overflow if significantly more than the usual maximum crowds of 30-40,000 are to be encountered. The land concerned is in different private ownerships and currently in arable use. Possible terms of lease have been discussed with the agent for the owners and are summarised in Exempt Annex 3. The reasons why the south car park is not recommended for regular use are summarised as follows:

- a) The Council would need to operate any such car park itself, which would be costly and require extra manpower.
- b) There would need to be traffic restrictions on Sim Balk Lane which would inconvenience people from Bishopthorpe. Also, because the access road along the cycleway/footway is narrow and awkward to negotiate, traffic speeds would be quite low. This would result in traffic quickly backing up along Sim Balk Lane and adversely affecting the operation of the Tadcaster Road junction.
- c) The surface of the car park would be unsuitable in wet weather.
- d) It is 1½ miles from the car park to the main grandstand and a bus shuttle service would be needed to take customers to and from the car park. The

distance from the Racecourse did, we are advised, receive some criticism during Ascot week. It should be noted that for Royal Ascot at York, the Racecourse enclosures were significantly extended south towards this car park.

- e) The Racecourse own car parks at Bustardthorpe and on Campleshon Road, adjoining the former Terry's factory, and they have the right to prefer these over and above a more distant car park. The right to use Knavesmire Gates as a car park is in the existing lease.
- f) There would be potential conflict between cyclists and motorists on Sim Balk Lane, and more of the existing cycleway would need to be closed.
- g) The car parking receipts at Knavesmire Gates contribute towards the rent payable. If use of this car park is stopped, the rent is likely to reduce.
- h) If customers perceive the car park as inconvenient, unauthorised parking in South Bank, Dringhouses and Fulford (via the Millennium Bridge) could increase.
- i) Taking customers further from the City Centre would lesson the likelihood of them supporting local business on race days / weeks.

Officers cannot, therefore, recommend the establishment of a car park from Sim Balk Lane to serve race meetings. However, since these negotiations commenced, "in principle" funding has been allocated to the council for the enlargement of the Askham Bar Park & Ride site, and this may provide opportunities to accommodate more race traffic in the future.

- 14 A further issue concerned pedestrian routes from the Racecourse to the City Centre. The Racecourse has agreed to provide and fund additional signage directing people along Knavesmire Road and up the Mount, and along Campleshon Road and Bishopthorpe Road, and the council has already implemented this initiative for the 2008 season.. This has helped to prevent excessive use of streets in South Bank. The council's alley gating scheme in this area will also help to prevent misuse of back streets. A reasonable balance does however, have to be maintained so that local businesses can benefit from increased custom on race days.

Benefits to Residents

- 15 Many residents of York do attend race days, and the admissions programme of the Racecourse reflects this. There are promotions in The Press, early bird discounts and prices down to £4 in the Course enclosure, £2 for over 65's. Children under 16 are admitted free with a fee-paying adult as are carers of the disabled. For 2008, there were discounted tickets for local residents on Friday 30th May. After discussions with the Racecourse, the introduction of a York Card discount would only be considered if funded through a rent allowance, or separately. No such discounts are offered at the Theatre, York City FC or York City Knights.

16 Summary

Should Members accept the above position and agree with the matters referred to in paragraphs 5-9 above from 2009 onwards, it is recommended that the Head of Legal and Democratic Services be authorised to grant a new lease to the Race Committee on the terms of the existing as amended by paragraph 2 above and any other

measures to bring the lease documentation up to date as agreed between the parties solicitors. The inclusion of the whole of the West Enclosure under the lease would be subject to public advertisement and any material objections received in the opinion of the Executive Member for Corporate Services would be considered by a future Corporate Services EMAP.

Consultation

17 a) Ward Members:

No direct issues raised by Ward Members for Dringhouses/Woodthorpe, or Bishopthorpe.

Members for Micklegate Ward have met, and comment that they are disappointed at the incredibly limited and unsympathetic response to the concerns raised on behalf of local residents. On the various issues, comments are:

Toilets – as the police say, some specific off site provision , at least on the big race days may prevent some anti-social behaviour and support further experimental provision. The report outlines the Racecourse's resistance and says that there is no council budget provision, ignoring the significant additional rent the council is now receiving. Members ask that some of the extra income is allocated to providing off site toilets, starting from the John Smiths and Ebor meetings this year, not next, seeking a virement from the income or a supplementary estimate as necessary.

Policing – The comments are noted about the court case and the police's increased presence this year in response to local resident's requests and neighbourhood policing prioritisation. However, this requires other neighbourhood policing teams to lend resources to Micklegate, and it has been made very clear that they cannot be guaranteed to continue, or even be guaranteed at all for the rest of this year's race events. Again, a commitment in principle to fund extra resources is required for specific race events out of the council's increased rental income.

Traffic – This is perhaps the most seriously unbalanced part of the report. There is no mention of the major disruption and congestion caused by the current traffic arrangements to the whole of south west York, against which to balance suggestions for alternatives, and considering the success of the Ascot arrangements the approach should not be dismissed – at least for the major race fixtures. It is considered that some of the qualifications for the southern approach are by no means insurmountable if there was any will to tackle them, and the investment required could be funded by a couple of years sacrifice of the increased racecourse lease income. There would be a big benefit to local business and residents from substantially eliminating the current major raceday disruption and congestion.

b) Director of City Strategy (Network Management):

The contents of the report are supported, especially with reference to paragraph 13b , inserted by network management.

- c) Director of Neighbourhood Services (Licensing):

The council regulates various activities at the Racecourse through licences and permits. The general safety of spectators is regulated through the Safety at Sports Act 1975, the sale of alcohol and provision of ancillary entertainment through the Licensing Act 2003, and the gambling activities through the Gambling Act 2005. The controls related to these pieces of legislation are specific to those activities and do not extend beyond the boundaries of the racecourse.

- c) North Yorkshire Police Neighbourhood Policing Unit:

No further comments. The report was written after consultation.

Options

- 18 Members have the option to either:-

- a) agree to the new 99 year lease incorporating the changes summarised in paragraph 2 or
- b) decline to extend the lease or
- c) agree a new lease but subject to different conditions to be determined at the meeting.

Analysis

- 19 **Option A – Agree the lease extension.**

Advantages – To encourage investment in the Racecourse and the link with the former Terry's factory development in order to enhance the Racecourse's position as one of the leading ones in the country, and help facilitate an all year round conference and exhibition facility. The declining lease length would otherwise act increasingly as a barrier to investment

There are also financial advantages resulting from the 5 year review pattern after 2017 and from any extra race days.

Disadvantages – The terms of the lease will be fixed for a further 99 years, save for changes by agreement, which may be seen as more inflexible.

Option B – To decline to extend the lease

Advantages - to retain future options, albeit not until 2056 or at some time in the future when both parties wish to review the position.

Disadvantages – Not to support the investment in improved and new facilities which may adversely affect the local economy.

Option C – To approve the lease extension conditionally:

Advantages – To balance between Options A and B if thought appropriate at the meeting.

Disadvantages – The Racecourse may not accept a conditional agreement.

Corporate Strategy

20 The Council in general seek to provide strong leadership and to act in an enabling role with partners to facilitate appropriate development initiatives etc. In particular, the proposed new lease and investment will contribute to:

- Increase the use of environmentally friendly transport – by the shared use of the new cycleway.
- To improve economic prosperity – through promoting the new integrated conference facility and investment.
- To improve health and life styles by facilitating leisure based development.
- To improve the actual and perceived condition of the city's streets – through investment in the Racecourse linked to the former Terry's factory as a tourist and business venue.

Implications

- 21
- a) Financial – There are no significant financial implications in the report. There will be an improved rent and cash flow from 2017 onwards, but it is proposed that any funding of temporary toilets be subject to a growth bid in 2009 - 10
 - b) Human Resources, Equalities and IT – There are no implications in these areas.
 - c) Crime and Disorder – Fundamentally the report highlights the initiatives being undertaken by North Yorkshire Police to deal with these matters outside the course, and by the police and site security staff to continue to deal with these matters within the course. Improved liaison between the Racecourse, Police and council will assist.
 - d) Legal – There will be some legal work in a new lease, but some costs would be recoverable from the Racecourse Committee.
 - e) Property – There are no fundamental changes to allocation of the Council's property or policy relating thereto. The investment value may increase with a longer lease.
 - f) Other – There are no new licensing or other implications identified.

Risk Management

22 There are limited risks to the Council arising from the options in the report. If the recommendations do not proceed, the existing lease will continue to run. There may

be risks in the provision of temporary toilets as these can be the subject of nuisance activity etc but these risks are not significant having regard to the Council's overall position on public liability, and the position can be reviewed after each race meeting.

Recommendation

- 23 A) Members are asked to consider the approval of Option A being the surrender of the existing lease for the Racecourse in favour of a new 99 year lease from the end of the current season based on the changes summarised in paragraph 2 above.

Reason

To ensure that York Racecourse and facilities connected therewith retain and enhance their position both nationally and for the benefit of the local economy whilst at the same time making some provision to mitigate the effects of high visitor numbers on local residents.

B) That the Director of Learning, Leisure and Children's Services should submit a growth bid for the provision of temporary toilets on Race Days on an experimental basis starting from 2009, in the 2009 – 10 budget round.

Reason

So that Members can consider allocating funding for this purpose balanced against other spending priorities in next year's budget.

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Wards Affected:

All

Micklegate, Bishopthorpe and Dringhouses/Woodthorpe

For further information please contact the author of the report

Background Papers

The report to Executive on 20 November 2007.

- Annexes - Annex 1 - Site Plan
- Annex 2 - Exempt Financial Analysis
- Annex 3 - Exempt Analysis regarding land owners south of the Racecourse