

Report of the Cabinet Members for City Strategy and Communities and Neighbourhoods.

The Community Stadium: Business Case

Summary

1. This report sets out the business case for the Community Stadium to pre-procurement stage. Cabinet members are asked to recommend to Council to:
 - Approve the business case as presented noting the financial risks and potential resultant liabilities that may arise as a result of proceeding with the scheme.
 - Approve its submission to the Planning Committee in support of the outline planning application submitted by Oakgate Group plc.
 - Approve the inclusion in the Capital Programme of the Community Stadium scheme at the value of £19.2m to be funded from £14.85m of S106 Contribution, £4m of Prudential Borrowing (£200k 11/12 and £3.8m 12/13) and £350k York City FC. Members should note that the funding from York City Football Club could be higher than a £350k contribution and this would result in a reduction of the Councils contribution
 - Approve the release of the balance of the Council's £3.8m Prudential Borrowing as shown in the capital programme in 12/13 in order to progress the Community Stadium project.
 - Approve that as part of the release of the £3.8m capital funding available that £2m to be allocated for the new athletics facility with York University and commit to the delivery of the project. Note the risks outlined in paragraph 50 that if the stadium scheme does not proceed that £2m of CYC Prudential Borrowing will be spent on delivering athletics provision for the City.

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

Background

2. Previous reports to the Council's Executive and Cabinet have provided summaries of the development of the Community Stadium project to date. A review of the project's history is included in the Business Case (Confidential Annex A). The outline stage of the Business Case was first agreed by members in June 2009. It was then further developed to support the decision of the Executive in July 2010 that the stadium would be located at Monks Cross South and would be delivered as part of an enabling development at the centre of a range of community facilities.
3. On 8 December 2011 Council agreed that £200k of the Council's £4m capital allocation for the project should be used to progress the project to the next key stage. Since then officers have undertaken:
 - Cost management reports on all strands of the capital work.
 - Further development of the key stakeholder partnerships for the provision of the community facilities.
 - Financial and due diligence work.
 - Sensitivity analysis on the operation of the leisure facilities.
 - Stage 2 feasibility and survey work at the University Sports Village in order to proceed with the athletics proposals.
 - Architectural and design work to develop the specifications / design guides for the new facilities, prepare schematics, developing the indicative plans provided as part of the outline planning application.
4. The business case has now been developed to the point where members are in a position to sign-off the core principles of the way the stadium and associated community facilities will be delivered, operated and maintained based on projections of the principal costs and income streams supported by a robust evidence base and sensitivity analysis identifying the relevant risks.
5. Following approval of this report, officers will move to:
 - Preparation of the procurement packages.

- Appointment of the council's design / construction / legal / procurement and financial specialists that will work for the council throughout the procurement exercise.
 - Preparation and submission of detailed planning / reserved matters applications for development relating to the community stadium, community sport & dedicated training facilities and the county standard athletics track.
 - Undertake detailed discussions / negotiations with key project stakeholders now Heads of Terms have been secured with all parties.
 - Undertaking further community consultation.
 - Continue to develop the business case as the planning, procurement and design process progress.
6. A planning application has been submitted for the enabling development by Oakgate Group plc. The application includes a S106 agreement which pays £14.85M towards the delivery of the community stadium. This will be the principal funding stream. It is proposed that the Council submit the business case into the planning process in order to demonstrate that the Community Stadium is deliverable and sustainable and will deliver community benefits that justify the enabling development.

The Business Case

7. The business case for the community stadium was first formally submitted to the council in June 2009. Since then it has developed as part of an iterative process. It is now at a stage that provides members with sufficient information to make an informed decision relating to the key issues and risk associated with the delivery of the project.
8. The detailed business case and supporting documents are set out in **Annex A**. Due to the commercially sensitive nature of much of the information the document is confidential. This cabinet report contains a summary of the key issues.
9. The key principles for the project are that it will:
- Be a community focused project that will deliver an exciting range of sports, learning, and health focused services and facilities for the City and region.

- Make the new 6,000 all-seater stadium the focal point of a new community hub that will play a key role in community leisure provision across the City.
- Provide a new high quality county standard athletics facility as part of the York Sports Village at Heslington East Campus.
- Ensure that all the facilities are fully inclusive and owned by the Council for the benefit of the people of York.
- Ensure that all commercial uses / activity will support the community objectives of the project.
- Establish the most efficient and cost effective arrangements for the operation of the facilities.
- Create commercially sustainable facilities.
- Enable the project partners to thrive, with no adverse impact through the delivery of the project.

Proposals and facility mix:

10. The scheme proposes an extensive range of community facilities, these are set out below:

- **Community Stadium:** 6,000 all seat stadium with hospitality & support facilities and capable of extension to 12,000 capacity – shared between rugby league and football. It will also act as a base for the clubs' extensive community activities, provide them with offices, boardroom, administration and high quality hospitality facilities and a top class playing surface. The stadium will host community sports events / finals and be available for occasional events such as concerts.

The stadium and its associated facilities will act as a focal point for community sports activity. This will be a base for the clubs to deliver their community activities, building on their present programmes. This will also give schools, adult education providers and other community groups the chance to use the stadium and sport as means of motivation to encourage educational development and participation. There will be access to the meeting areas and hospitality lounges for community use and the stadium itself to host finals for schools and leagues across the City.

- **3G Floodlit Games Courts:** Linked to the stadium and working with the Football Association (FA), Football Foundation (FF) and

local leagues, to provide a 3G pitch with a youth focus, linked to the development structure of the professional clubs. The facility will also be available for local 5-a-side leagues and training for the professional teams. This would be built with a 'shock pad' allowing rugby to be played, offering considerable opportunity for YCKs to run elements of their community programme and be used as a training facility.

- **Community Sport & Training Pitches:** Three options are provided to deliver a dedicated training and reserve team facility for Rugby League enabling the pitch quality of the community stadium to be maintained. The objective is to also invest into community sports provision across the city in delivering this facility.
- **County standard athletics facility:** 500 capacity grandstand, club and support facilities at the York Sports Village. It will act as a hub for the new regional closed circuit cycle track to be developed with the university and offer scope for other sports such as triathlon. This will be a key part of the City's Olympic legacy and establish York as sporting centre of regional importance. It will provide a sports pitch in the centre of the track (which will replace the pitch ultimately lost at Bootham Crescent, satisfying Sport England's requirements) and the business case for the provision of an additional training pitch adjacent to the facility is being explored.
- **Investment into Leisure Portfolio:** Potential to bring much needed investment into the leisure facilities at Waterworld / Huntington Stadium to secure the facilities' long-term sustainability through the procurement exercise to secure an operator. Feasibility has identified £3M investment requirement. This element of the project is not included in the stadium financial model. However, this will be considered as part of the wider procurement exercise underway as an invest-to-save initiative.
- **Community Hub:** a range of community focused facilities and uses are also proposed. These will be built as part of the Stadium's main stand, incorporated into an iconic atrium, providing a focal point for all the community activity at the Huntington site. It will be designed around a large, high quality cafe and informal communal / reception area.

The primary function of the hub is to provide a commercial revenue stream to support the community stadium's running costs and to

support the clubs in delivering their community sports programmes. However, one of the key objectives of the project has been to maximise the potential community benefits. To this end, extensive work has been undertaken to establish a mix of community facilities and users that will add considerable value to the community stadium with far reaching benefits to the City whilst providing a revenue stream at the same time. Heads of Terms have been agreed for commercial rental agreements to deliver the following:

- **York NHS Hospital Trust Community health / well-being drop-in centre:** Providing a range of clinical uses such as physiotherapy & phlebotomy, health information and services such as sexual health and health inequalities that can use the power of sport and the attraction of the new destination to encourage use, particularly by hard to reach groups.
- **York St John University Community Institute of Sport & Wellbeing:** Linked to the NHS facility offering a range of learning opportunities and placements to provide a unique integrated learning model for sport and health studies, research and development. The work of the sports institute could provide support to the clubs and community health uses, offering access strength and conditioning and physiotherapy services.
- **Independent Living Assessment Centre:** Providing a community 'retail' facility for those with mobility problems. This important service will be given a high profile frontage as part of the new sports / community and retail destination providing excellent accessibility for a use that is currently in an inappropriate and inaccessible location. Scope exists to link this and extend the provision to include services such as stroke rehabilitation etc.
- **Training, development and conference centre:** Using the main hospitality area of the stadium (non-match day use) to deliver a range of seminars, training courses meetings, conferences. Led by York NHS Trust & YSJU and offering use for wider community use. This facility will also be used by the sports clubs to offer high quality match-day hospitality, as well as access for functions and other events in the evenings and at other times.

- **Gateway Explore Library:** Providing a new way of delivering library services, will be integrated into this new multi-agency environment. This would be at the very heart of the hub, being part of the atrium, linking into the cafe / informal areas, providing access to books, IT equipment and a range of other learning activities and spaces.
- **Child's play facility, crèche and day nursery:** Offering a new unique and exciting concept, extending to 800sq m. It will also include a day nursery (providing an excellent location with close access to the park and ride facility) a crèche – offering a new concept for the wider destination of parents wishing to drop off their children to either shop, use the leisure facilities or watch a game.

Facilities provided in other locations

11. A number of the proposed facilities that form part of the wider project are to be delivered in other locations. These relate to the replacement athletics facilities, community sport / dedicated training facilities and interim ground share arrangements.

Athletics

12. It will be essential that replacement athletics facilities are provided before work starts of the new stadium so that there is no gap in provision. This is to protect York City Athletics Club who would otherwise be without facilities in the interim period. It is proposed that the Council provide a £2m grant to the University to fund the construction of a county standard athletic facility, including spectator stand and playable grass pitch in the centre of the track, at York Sports Village.
13. York Sports Village LLP will build this facility on the land owned by the University and will be responsible for its ongoing maintenance and operation.
14. The facility will incorporate a 500 capacity stand which will include changing facilities, toilets, flexible space for meetings, clubroom, kitchen, storage and have scope for offices for the use of the University. This building may also be used by other sports users i.e. those using the potential cycling facilities and users of the grass pitch in the centre of the running track.

15. A legal agreement will secure community use. Draft heads of terms are set out for approval at **Annex8** of the Business Case.
16. Sport England has indicated that they would agree to a maximum of one year gap between the demolition of the stadium and the re-provision of the new facility. This would be a worse case and would have significant impact on the athletics club and community sport in the city. Members should be aware that this may be during or just after the Olympic year. It is therefore recommended that the grant of £2M from the council's capital programme is made to the University in order to secure an early start on the athletics provision without making it conditional on planning permission being secured for the Community Stadium because:
 - The new facilities need to be completed before work can start on the new stadium.
 - The current athletics facilities at Huntington Stadium are nearing the end of their useful life and are unlikely to obtain a further certificate to hold competition events; new facilities are therefore needed in any event.
 - There is limited impact on the continuity of the operation of the athletics club supporting and developing the far reaching community sports work delivered by the club.
 - Should planning permission not be obtained for the Community Stadium the current facilities at Huntington Stadium are unlikely to be sustainable and it will be necessary to relocate the athletics prior to any decision about what to do with the site.

Community Sport / Training Facilities

17. With two clubs using the pitch for matches at the Community Stadium it will not be possible for the pitch to be used for training or reserve matches. Consideration will be given to using a re-enforced pitch at the stadium that has been successfully used at a number of shared stadia across the UK. This may allow for some reserve team and other community based use. However, it is important that a facility is available for both clubs if they were to have a reserve team in the future.
18. The York City Knights currently have a first team and an under 18s extended scholarship team who use Huntington Stadium for games and for training. They had a reserve team up until 2011 but it was disbanded at the end of the season. In the future the Knights plan to revive the reserve team and also hope to have extended scholarship

teams for under 15s and under 16s in the future. They currently have no provision or designated facilities for either.

19. As part of the Community Stadium project it will be necessary to create additional facilities for training and reserve matches. A number of options have been considered. Those that are potentially feasible are set out below. Selection of the best option is subject to further negotiation between site owners / operators, the Council, York City Knights and others.
20. An options paper for the training facilities has been prepared (**Annex 3** of the Business Case). There has been an ongoing dialogue with the two sports clubs. It has also been suggested that another option should be considered as York College have expressed an interest. These facilities would need to be operational prior to the demolition of the new stadium. The main options are:
 - Acorn Amateur Rugby Football League Club
 - York Sports Village
 - York City's Wigginton Road training facilities
 - York College
21. There are a minimum of three options that are deliverable within the identified budget. It is now proposed to enter detailed dialogue with the relevant partners to develop a preferred option and detailed development proposal.

Interim Ground Share Facilities

22. York City FC has agreed to allow York City Knights access to use their ground during the construction of the new stadium. A licence agreement has been prepared. The parties are in discussion regarding this at present. Both parties agree in principle to this as an interim solution. £250k of the training facilities budget (£750K) is allocated to cover any costs associated with implementing these interim arrangements this will be based on open book accounting. The draft licence agreement is provided in **Annex 4** of the Business Case.
23. The entire scheme will result in around £20M investment in the city's community facilities using only £4M of public money (CYC capital). Thus, for every £1 of public money used, £4 of private funds will be invested into the project and the City's future. The range and

extent of community facilities and services provided, with such minimal reliance on public funds will be a first in the UK.

Table 1: Summary of cost / funding

Expenditure (cost)	£19.2M
Total Funding	£19.2M

Community Benefits

24. Using both quantitative and qualitative techniques, an independent Community Impact Assessment has been undertaken by Drivers Jonas Deloitte (DJD). A summary of the benefits are provided in Section 9 of the report setting out the 'Magnitude and Significance' of this positive impact provided by the proposals. DJD's independent report concludes that:

'The impacts from the Community Proposals are numerous, significant and beneficial. The cumulative impact of the development in its entirety will drive the most beneficial impact, with the main thrust of the benefits being assisted by the development of the community hub which will be the beating heart of the Community Proposals. The opportunities for collaboration, knowledge sharing and joined-up thinking around sport, health and community care make this a unique a development proposal of significant beneficial community impact.'

25. Key quantitative benefits and impacts of the Community Proposals

- The Community Proposals have the potential to create up to 90 additional permanent FTE positions.
- The Community Proposals have the potential to create 22 temporary FTE positions during the 24 month construction period.
- The new stadium should generate an increase of between 20% and 40% in visitor numbers, which would equate to up to 8,400 additional visitors per year from outside the City of York and up to £247,500 additional expenditure associated with the stadium.

- Up to £2,000,000 additional expenditure is expected to be created indirectly by the Community Proposals through job creation for York's residents.

26. Key qualitative benefits and impacts of the Community Proposals are set out in table below:

Table 2: Key qualitative benefits

Community focal point	Youth sport opportunities	Strategic policy fit
Targeted recruitment	Improved youth health	Improved male health
Improved skills and education	Delivery of sport programmes	Collaborative working and knowledge sharing
Co-ordinated service provision	York's only FA junior compliant 3G games court facility	Improved standard of healthcare provision
Additional opportunities for football and rugby community engagement	Increased youth participation	Reduction of access and health inequalities
Conferencing and hospitality provision for community	Increased chance of football and rugby team promotion	Community health outreach opportunities
Promotion of independent living	Additional stadium family visits	Visible library location
Free Wi-Fi and internet facilities	Health & education and training	High quality public realm
Community cohesion	Nurturing of talented athletes	Sustainable transport provision
Reduction in anti-social behaviour	High quality playing pitch	Healthy food provision
Reduced pressure on existing NHS facilities	Sport and health professional CPD opportunities	Education and literacy promotion
Support for carers	Raising awareness of ILAC	Increased access to learning
Increased sport-based knowledge for York	Work experience and intern opportunities	Anonymity for service users

Impact on Physical Activity Participation Levels

27. In York our Sport and Physical Activity targets are based around encouraging those who are least active to participate in Physical Activity. Local research shows that 42.1% of the adult population are not achieving at least 150 minutes of physical activity per week in accordance with UK Chief Medical Officer's recommended guidelines on physical activity. Males, those aged 17 to 25, 75+, those with a limiting disability and those in socio economic groups D

and E are least likely to be meeting the physical activity targets. This indicator is one of those included in the new Public Health Outcomes Framework which the city will be measured on by national research.

28. The stadium and associated sports and leisure facilities offer an ideal opportunity to address the imbalances in activity levels. The proposed new and upgraded facilities and extended cycle routes, as well as the fully accessible, off site re-provision of athletics facilities and likely creation of a closed circuit cycling facility will all offer additional opportunities for sports participation.
29. It is not just the facility improvements however that will help to address inactivity, equally important is the opportunity for community participation in activity as a result of the programming and operation of the facilities. Both York City Knights and York City Football Club have community sports / activity development teams who will be based at the stadium. They will run programmes for children and young people, linking local junior leagues with the clubs' own development routes. It is intended that the stadium will also operate programmes like "fit fans" which have been shown to have a significant impact on participant's weight, health and activity rates in other cities. These programmes will be targeted at young and middle aged males from lower socio economic groups who are the least active but the most likely to be regular sports spectators.
30. The 3G pitch will be programmed to attract the highest possible participation rates. After school and holiday periods will be used to attract young people to sports development activities run by the two professional clubs' community sports / activity teams. Sunday morning periods will be made available to local junior leagues for match fixtures; this will be managed through a usage agreement between the local leagues and the stadium management similar to the arrangements that have been made for the 3G pitch shortly to open at the University of York. Evening periods will focus on provision of adult small sided soccer, Back to Rugby / Touch Rugby which is in high demand and targets the 17 to 25 age bracket.
31. The existing gym facilities will be available for open membership but will have the added advantage of having the professional clubs training there too which will allow the "fit fans" participants to train along side the players. The links with York St John University Sports institute on site and the NHS clinical hub will also support and strengthen the ability to address health inequalities brought about by

inactivity. The Council's Sport & Active Leisure team are already working in partnership with the hospital's physiotherapy teams and GP's practices to run a series of community activities designed to address a number of health conditions such as back pain, risk of heart disease and weight management, specifically targeting those who do no physical activity. The co-location of NHS teams with sports/ fitness facilities offers the scope to extend this programme to operate in a new range of facilities and with a new client base.

Market testing

32. Extensive feasibility work has been undertaken to identify the optimum means of procuring and constructing the Community Stadium, operating the facilities along side the Council's existing leisure facilities in order to ensue best value. This work has been supported by a detailed market testing exercise, backed up by specialist legal and commercial advice, which suggests that:
- The proposals set out above are deliverable.
 - There is market interest in the operation of the new stadium and community facilities.
 - The operation of the facilities will be more attractive to the market if the Council's wider leisure facilities are included in the package.
 - There is potential to bring investment to the city's wider leisure facilities to ensure their long-term sustainability by including them in the package.
 - In particular, investment is needed in the facilities at Huntington Stadium (Waterworld, Courtney's and the Stadium) where there has been limited investment over the last 14 years. Should the current lease be surrendered (which could happen any time from November 2012) the Council would potentially be left with a significant capital and revenue budget pressure.
 - A number of different options exist for the management / operation of the Community Stadium, hospitality areas and catering that would be best explored as part of a dialogue process involving the principal stakeholders.
 - It will not be commercially desirable to appoint an extensive, dedicated stadium management company for the operation of the stadium component; the Council's intention is to let a contract for the leisure management of the Community Stadium facilities as a whole, alongside its other facilities.

- The operation of the athletics facility should be excluded from the leisure management contract as arrangements have already been agreed with the University and the City of York Athletics Club.
- Running separate (but dovetailed) procurements for construction and leisure management respectively is most likely to produce a commercially sustainable design for the Community Stadium, ensuring that the future operator has input to the design.

Procurement Strategy

33. The proposed procurement strategy is based around the following key principles:
- In respect of the Community Stadium, adopting a ‘hub and spoke’ operational model that provides a single over-arching management contract for all the facilities, focused around a community hub (shared by all users) and from which all the facilities (or spokes) are accessed. This will offer flexibility and is likely to attract the strongest market interest, with scope to achieve the leanest operational model; the exact number of ‘spokes’ will be finalised at the detailed design stage. It is important that input from stakeholders and potential operators feeds into the design process shaping the final proposals.
 - Developing the community stadium and hub to become the focal point for community sport and well-being for the City, maximising community activity and outputs focused around sport, well-being, learning and play.
 - Facilitating commercial operator input into the design process for the Community Stadium facilities to ensure a commercially sustainable design.
 - Securing essential investment required for the existing leisure facilities at the Huntington site so they continue to be commercially sustainable.
 - Encouraging niche operators to bring forward proposals for the operation of the specific spokes of the community hub that would fit into the hub & spoke model.
 - Delivering savings in operation of the Council’s leisure facilities.
34. Procurement of the operator is already being progressed following a decision taken by the Cabinet Member for Leisure, Culture and Social Inclusion on 10 January.

35. It is likely the Procurement of the construction contract will follow an “EU Restricted” procedure. The following table shows that stages in the process set next to the process for procurement of the operator:

Table 3: Outline Procurement timetable

Date	Operation & Maintenance (Competitive-Dialogue)	Design & Construction (EU Restricted)
March/ April 2012	Pre-procurement preparation	Pre-procurement preparation
May/ June 2012	Issue OJEU Notice & bidders awareness	Pre-procurement / design & feasibility
July/ Aug 2012	PQQ Process & initial dialogue	Issue OJUE Notice
Sept/ Dec 2012	Targeted dialogue	PQQ / ITT process
Jan/ March 2013	Close dialogue / ITFST	ITT evaluation / Contract award
April/ May 2013	Evaluation	Progress detailed planning submission
June 2013	Preferred Bidder - contract	
Sept 2013	Contract operational	Construction mobilisation
Nov/ Dec 2013		Construction commences
Nov 2014/ March 2015		Facilities operational

Capital Costs

36. The capital costs for this project have developed as part of an ongoing process, from the initial proposals put forward in July 2010. The figures below (for stadium and community facilities) are based on the plans prepared by DLA Architects which form part of the outline planning application, but also include the key requirements of the design brief prepared by Holmes Miller.
37. Gardiner & Theobald (G&T), who specialise in cost and project management for stadiums, have advised the council throughout the feasibility stage. Their report relating to the project’s costs also draws on an informal tender exercise undertaken recently with three leading stadia construction firms. The costs for the indicative proposals set out in the outline planning application are set out in the table below:

Table 4: Summary of capital costs for community stadium proposals

Component	Total (£000s)	Capital Cost (£000s)	Fees (£000s)	Contingency (£000s)	Comment
Stadium	11,000	9,350	1,125	525	As per Gardiner & Theobold Cost Estimate Report.
External works	1,500	1,300	70	130	As per Gardiner & Theobold Cost Estimate Report
Community floor space	3,000	2,550	307	143	As per Gardiner & Theobold Cost Estimate Report
Athletics Facilities	2,000	2,000			Delivered through funding agreement with York University.
3G Floodlit Games Court	200	180	10	10	As per commercial quotation
Community sport facilities	750	650	65	35	To include interim ground sharing / training facilities / costs.
Project Costs	750	750			This figure reflects the preferred procurement routes for the stadium and athletic track facilities.
Total	19,200	16,780	1,577	843	

38. Value engineering options that could be used to lower the overall cost of the construction up to £1M are covered in G&T's report. These will act as a further contingency if necessary.
39. VAT is not included in the above costs. This is consistent with advice provided by the Director of CBSS. Issues relating to VAT are covered in the financial Implications section of this report.
40. There are three key funding sources, these are set out in the table below:

Table 5: Funding sources

Component	Capital Cost (£000s)	Comment
S106 Contribution	14,850	Based on Oakgate development appraisal to form part of S106.
CYC Capital	4,000	CYC approved capital programme
YCFC Capital	350	Contribution following Bootham Crescent disposal
External Funding	-	External funding options exist however none are secured.
Total	19,200	

41. A detailed risk analysis of the funding and capital costs is provided later in this report. The key issues and risk associated with capital are summarised below:

- The capital costs are supported by detailed design and cost management work. Gardiner & Theobald have conducted a detailed review of the proposal which has been backed up by a market testing exercise with leading stadia construction firms.
- Further value engineering options exist to deliver the stadium that will offer a further contingency of up to £1M. Gardiner & Theobald advise that costs savings beyond this are achievable but this would involve the use of temporary stands for the new stadium.
- The majority of the funding will be provided through the S106 which will be secured if planning permission is granted. Subject to the approval of this business case, the council's £4M is also secured and is allocated within the Capital Programme.
- York City Football Club has an historic commitment to pay the Council a £2m contribution towards a new stadium, based on the FSIF loan. FSIF are committed to convert this loan into a grant if a new all-seater stadium with an appropriate safety certificate is delivered in the agreed timeframe.
- The heads of terms agreed with YCFC secure the following:
 - 1) CYC having the final charge on the land for up to £2M
 - 2) Capping the level of YCFC debt up to July 2014 that will release will enable some funds to be acquired from the sale of the land. Any further debt charges will be subject to a review by CYC and YCFC at this stage.
 - 3) YCFC's occupancy of the new stadium.
 - 4) Option of a claw back on any shortfall of the £2M not achieved through the sale of Bootham Crescent. This will form part of the July 2014 review mechanism. It could involve a precept on ticket prices.
- A recent valuation undertaken by Sanderson Weatherall will result in a contribution of c. £800k; however this is subject to changes in land values and planning permission etc. Thus the required contribution to deliver the project of £350K considered to be low

risk. However, if more than £350K is secured the Council will have the option to consider whether to further invest into the stadium or reduce the CYC funding allocation.

- To ensure continuity of the provision and development of athletics in the city, there should be no gap between the opening of the new track and the demolition of the existing stadium the development of the new athletics facility needs to be progressed. Authority is needed to spend the £2M, so the scheme can be progressed through the funding agreement with the university.
- If the stadium project did not progress (due to call-in or other judicial process) the situation could arise that there were two athletics tracks (new and old). With the athletics track and club moved to the new facilities at Heslington East – it would allow the council to consider disposing of Huntington Stadium. Based on a recent valuation undertaken by Sanderson Weatherall would raise considerably more than the £2M committed to deliver the new track. Thus there would be a low long-term financial risk to the council.

Revenue

42. This revenue section is based on following operational model:

- i. For the purposes of this report the financial model assumes all the proposed facilities form part of the community hub. The main profit and loss account is structured with separate leases for the stadium and other community / commercial uses. CYC would own the facilities. They would all be operated by an over-arching leisure management contract.
- ii. The community hub would be the main focal point of the operation (shared by all users) from which all the facilities are accessed.
- iii. The stadium would be one of these spokes operated under lease. The selected contractor may choose to introduce a specialist operator, such as a catering firm or possibly one of the two sports clubs, to operate the stadium component as part of the community hub.

43. The estimated financial operating performance of the Community Stadium is set out in detail in Chapter 9 of the Business Case. A detailed and strong evidenced financial model has been created by:

- i. Providing comprehensive benchmark figures to allow stakeholders to have confidence in the financial assumptions used are achievable.
 - ii. Testing specific income streams with commercial operators and commercial agents. Evidence to support this model is sourced from the following specialist advisors:
 - Edwards Symmons – stadia income / cost valuation
 - Gardiner & Theobald – stadia cost consultants,
 - UHY Calvert Smith – accountants
 - Lawrence Hannah – commercial & property agent
 - DJD – economic impact and visitor numbers
 - KPMG – financial due diligence, in addition to the Council's own financial analysis
 - iii. Formalising heads of terms with commercial partners to establish accurate levels of rental income.
 - iv. Undertaking financial and due diligence work.
 - v. Sensitivity and risk analysis on all operational figures.
44. The results of this financial modelling provides a sound base to conclude that the Community Stadium can be commercially sustainable, which neither leaves the sports clubs financially disadvantaged nor exposes the Council to a high risk of being requested to support elements of the scheme on an ongoing revenue basis.
45. It must be noted that this is an illustration of one operating scenario which is deliverable. It is not a final proposal.
46. The summary table below shows the results of the base model, using the cautious financial assumptions and provides a revenue surplus of £83,000 per year. Even if a further allowance were to be prudently applied for an operational contingency fund (£20k per annum) the operating forecasts would still suggest a residual operating profit (before tax and any profit distribution) of £63k (or c. 10% of the overall estimated turnover of £601k across the stadium and community hub facilities).

Table 6: Summary Profit & Loss Account

Component	Surplus / (loss) (£000s)	Comment
Stadium, conference and hospitality areas	14	Assumes base model according to assumptions as set in detailed business case Chapter 9.
Commercial rents from community hub and atrium	266	Assumes commercial rent for 1,815sqm – see breakdown in detailed business case Chapter 9.
Sinking fund & maintenance	(197)	Assumes contribution for all facilities based on advice provided by Gardiner & Theobold. Detail provided in Business Case Chapter 9.
Surplus / (loss)	83	

47. To help understand how the model works and assess the risks a summary of the underlying assumptions relating to the stadium's operating position and that of the two sports clubs is provided.

Stadium

48. This would be operated by lease agreement with the leisure operator or appropriate special purpose vehicle. The stadium profit and loss account based on a number of principles, namely:

- Operated under lease by a third party, but as part of an overarching management contract for the wider community complex.
- Maintenance and sinking fund contributions are included for the wider facility to ensure a high level of on-going investment for all the community facilities. The allocations are based on guidance set out in a report from Gardiner & Theobold.
- Catering and hospitality operation is contracted competitively to a professional catering firm, responsible for all match day and non-match day catering / hospitality.
- Match-day income for the clubs under such an arrangement would be based on a profit share arrangement with the relevant clubs (to be agreed with the clubs).
- York NHS Hospital Trust leases the hospitality facilities on exclusive terms from Monday to Friday 9-5 as a training, development, conference and teaching centre.

- Rental levels, naming rights and other income have been evidenced from a number of specialist commercial agents.
- All costs for running the stadium (staffing, insurance, facilities management, utilities and rates) are based on figures provided by YCFC then tested against leisure operators in the market and other stadia.

Table 6: Estimated Community Stadium Profit & Loss Account

Item	£000
Fixed rental payment – YCFC	125
Fixed rental payment – YCK	25
Non match day income - lease & functions	97
Naming rights	50
Net rental on floodlit 3G artificial grass pitch	28
Telecoms rentals	10
Sub-total: estimated income	335
Pitch staff	(40)
Buildings insurance	(30)
Stadium specific facilities management costs	(101)
Utilities	(90)
Rates	(60)
Sub-total: estimated operating costs	(321)
Surplus / (loss)	14

York City FC & York City Knights RLC

49. A financial review of YCFC and YCKs has been undertaken by Accountants UHY Calvert Smith. The finding of this report provides detailed up to date financial information relating to YCFC. Issues relating to an updated position for YCKs have not yet been concluded, thus the model draws on numbers provided in the previous financial review of the clubs in 2010 for YCKs. Adjustments to the model can be made when this information is finalised.
50. Evidence provided by in an independent report (Edward Symmons) provides a range of rents for clubs occupying Local Authority controlled stadiums. Their assessment is that the rents proposed in this model are as follows: YCFC at the lower end of the average range and YCKs well below the average range.
51. Analysis suggests a substantial £278k improvement in YCFC's operating position, a figure broadly in line with annual losses at currently incurred by the club. This is consistent with the club's objective to break even and put the club on a more sustainable

financial footing as a result of any move. This will result in the football club being in a minority position of operating without a loss. (See KPMG report and evidence).

52. With regards to YCKs an improvement of £50K would be achieved. It must be noted this is based on the previously reviewed 2009/10 accounts and may be subject to change.
53. The rental arrangements set out in this model are an illustration one scenario. They have not been formally agreed with the clubs. These are based with a balance of the club's ability to pay and the market rent. If below average rentals are agreed, it would reflect the recognition of the community work secured and delivered through the occupancy of the stadium. These rates are based on existing average attendances. Any future agreement would include a profit share or uplift mechanism on a risk / reward basis. There would however need to be a fine balance – as the clubs must have a strong incentive to attract crowds to progress, this is one of the underlying principles of the project.

Sensitivity and risk analysis

54. A detailed risk and sensitivity analysis has been undertaken as part of the business case. In addition KPMG has undertaken a review of the project's deliverability and robustness. The key points raised in this report are covered in the financial implications section.
55. The risk analysis considers 28 key risks, ranked high, medium or low. A summary of the risks with the highest ranking likelihood is provided below:

Table 7: Summary of High / Medium Risks

Rating	Risk	Value	Comments / Mitigation measures
Medium	Planning committee defer application and seek reduction in retail floorspace	£14,850M Capital	<p>IMPACT Any material reduction in retail floor space would have a critical impact on the project.</p> <p>MITIGATION There are limited options for mitigation. The scheme is undeliverable if the funding is reduced by a significant level.</p>

Rating	Risk	Value	Comments / Mitigation measures
High	Planning permission refused	£14,850M Capital	<p>IMPACT No other deliverable solution. Significant future impact on future of professional sport in city, the community work undertaken by clubs and the future sustainability of Huntington stadium leisure complex.</p> <p>MITIGATION None</p>
Medium	Not realising rental income on commercial space (including café)	£93k of the £266k total income	<p>IMPACT Not sufficient revenue to ensure all running costs of stadium is fully covered.</p> <p>MITIGATION Heads of Terms have been signed and received from all four potential tenants giving indication of their commitment to the project. A commercial process could be used to find new tenants if any of these dropped out. A report prepared by commercial agent Lawrence Hannah states there would be strong market interest in letting the space to other potential tenants. If all partners dropped out, we would remove this part of the build and invest in Leisure and Health & Fitness, as this has a strong revenue return equal to the amounts generated by the commercial use. (See Annex 10 in business case). Leisure and Health & Fitness would offer a better revenue return, with less community benefits.</p>
Medium	Not realising £2M income from YCFC / FSIF	Up to £2M capital	<p>IMPACT Low impact on the deliverability of the project. Only £350K is required from the sale of Bootham crescent. There high risk of not securing the full to £2M from the sale. Council will have option to reduce their contribution if more than £350K is secured.</p> <p>MITIGATION Result of the procurement testing exercise confirmed several construction companies that could deliver quality stadia for under £10 million. This removes the need for the funding from YCFC, as the project can be financed without this contribution. Based on current valuation, a 'worse case' contribution of c. £800k would be secured. Heads of Terms have been agreed for a legal mechanism to secure the payment of the YCFC funds which includes the option of a claw back mechanism for any shortfall in the £2M commitment made by the club.</p>

Rating	Risk	Value	Comments / Mitigation measures
Medium	Capital cost over-run	Assuming a potential 10% cost over-run	<p>IMPACT Limited impact on the delivery of the project, though VE cost options could see a slight reduction in the quality of the facilities. Potential call on council for more funding.</p> <p>MITIGATION The initial procurement exercise would ensure the stadium contract was let with costs fixed and determined at the outset of the project. This would mitigate any real risk of capital over-run. All the costs have a minimum 5% contingency built into them. Further VE options exist. Strong chance of securing more than £50K funds from Bootham Crescent.</p>
Medium	Sport clubs unable to meet rental commitments	Up to £150K	<p>IMPACT Not sufficient revenue to ensure running costs of stadium is fully covered. May require council subsidy.</p> <p>MITIGATION Heads of Terms have already been agreed with the clubs. Specialist reports suggest rates at low end of market norm. Financial review undertaken suggests that this is affordable and sustainable to the club.</p>
Medium	Planning delayed by Call-in or Judicial Review	Up to £250K extra on project costs c. £300K on BC capital receipt	<p>IMPACT This would add to the project costs. FSIF timelines must be re-negotiated with the FSIF. YCFC financial position would become worse.</p> <p>MITIGATION Limited mitigation options. Position would need to be reported back to members when adjusted timelines known. Risk of abortive costs if project does not proceed.</p>
Medium	Athletics Track delivered but Community Stadium is not built	£2,000,000 Cost for the facilities.	<p>IMPACT Two athletics facilities exist (new and old), £2M CYC capital spent but the stadium project not delivered.</p> <p>MITIGATION The Athletics track will deliver a number of community benefits and secure continuity of provision. Moving the Athletics track enables the disposal of Huntington Stadium. Value considerably higher than £2M committed for the athletics track.</p>

Rating	Risk	Value	Comments / Mitigation measures
Medium	Value engineering proposals can not be realised due to desire for a better spec or greater capacity. Stakeholders put pressure on the Council to underwrite the funding gap rather than take the pain of VE.	Up to £700k Capital	<p>IMPACT</p> <p>If VE cannot be realised then a pressure of between 0 to -£700k is possible. This also has a negative affect on the projects cash flow.</p> <p>MITIGATION</p> <p>The Council may choose to cash flow the shortfall. It is likely more than £350K will be realised from the disposal of Bootham Crescent. The legal mechanism claw back funds from YCFC could also be considered.</p>
Low	Ongoing maintenance costs exceed sinking fund allowance (Life cycle costs versus planned maintenance costs)	Up to £11k per annum	<p>IMPACT</p> <p>Low impact, assuming a potential 20% overrun against sinking fund & maintenance allowance, there is a contingency in the revenue account.</p> <p>MITIGATION</p> <p>In the short term, the fund is unlikely to be needed as there would be little 'improvement' maintenance required. In the longer term, this could be developed as part of the rent reviews of the clubs and a contingency built in for the tenants to contribute. Gardiner & Theobald have evidenced a life cycle cost are correct for this facility. Our research shows that few if any stadiums have lifecycle costs in their budgets, thus it is unlikely to be critical to the business model particularly in the short and mid-term.</p>
Medium	There may be significant abortive costs should the project not build a Community Stadium	<p>Total exposure</p> <p>May12 -57 Nov12 -159 May13 -312 Oct13 -750</p>	<p>IMPACT</p> <p>Development costs being charged against Capital need to be charged against Revenue.</p> <p>The impact in financial terms is dependent on when the project is aborted. Classified as a Medium likelihood but Low impact. Expect to change to Low likelihood but Medium impact after November 12.</p> <p>MITIGATION</p> <p>The risks that could result in cessation of the project are identified elsewhere in the risk register.</p> <p>A report would be taken back to members to advise on the position if there is a call-in / JR.</p>

Rating	Risk	Value	Comments / Mitigation measures
Medium	Potential negative impact of VAT on revenue model	Up to £20,000 per annum	<p>IMPACT Potentially impact the stadium revenue model. A number of options exist relating to VAT treatment. This may have a potential impact on lease structures and abilities of some tenants to fully reclaim VAT.</p> <p>MITIGATION All rental levels in the business case are excluding VAT, however, as part of the feasibility. Further VAT work required and discussion with partner organisations to ensure the VAT liability is mitigated.</p>

56. It is also useful to consider some positive financial scenarios, not least to the extent that it will assist with ongoing negotiations with the sports clubs and firming up a set of mutually acceptable lease terms. A detailed sensitivity analysis has been undertaken that models some potential improvements on the financial position. Two examples are provided below:

57. **Naming rights:** Evidence suggests that the figure of £50K identified in the base case could be improved significantly. However, this is often influenced by local circumstances. A number of smaller clubs have achieved more than £100K per annum. An additional £25K could easily be achieved.

58. **Additional attendances:** Strong evidence suggests that attendances improve at new stadia by between 40-50%. However, the long term retention of these attendances is often then based on future performance. The base case assumes no increase in attendances. The financial impact of 15% and 25% increase has been considered. Working on a fixed rental agreement:

- 15% increase would give an additional annual income to YCFC of £98k and YCKs of £19K.
- 25% increase would give an additional annual income to YCFC of £162K and YCKs of £31K.

59. This arrangement provides no benefit to the stadium's operating vehicle, therefore a profit share arrangement should be considered. The above scenario shows between £117K and £193K per annum additional income would be generated. A prudent estimation would

provide a minimum of c. £50K per annum improvement to the stadium's operating position. The business model provides options of how this could be achieved, however further detailed discussion is required with the clubs.

Options

60. The principal options open to members are to:
- Approve the current business case at its current stage of development as attached to this report.
 - Reject the business case and commission further work on it.

Analysis

61. This is a complex development scheme which requires the business case to be developed in stages as the project progresses. This is an iterative process which continues all the way through the procurement and construction of the project through to delivery. The current stage of development is fit for purpose to give members confidence to sign off of the core principles of the way the stadium and associated community facilities will be delivered, operated and maintained.
62. The business case provides a robust evidence base to demonstrate the following:
- i. There would be extensive and far reaching community, social and economic benefits from the proposed community stadium project. These benefits are set out in an independent report undertaken by DJD.
 - ii. The shared vision for the community stadium at a cost of £19.2M. This is set out in a report by stadium cost specialists Gardnier & Theobold.
 - iii. There is certainty over £18.85M of funding. This leaves a capital shortfall of £350K, which can be secured through the disposal of Bootham Crescent.
 - iv. The revenue model presents a sustainable business plan with an operating surplus of £83K per annum. This is based on current average attendances. It also includes a sinking fund and maintenance programme of £197K.

- v. Heads of terms have been secured exist with York University for a funding agreement to deliver the new athletic facilities with minimal risk to the council. This is reliant on providing the commitment of £2M funding so the procurement process can begin and the facilities are in place prior to the demolition of the stadium.
- vi. Heads of Terms have been secured with all the potential stakeholders proposing to occupy the new community hub. This provides financial security for the business plan, but adds significant weight to the cumulative social and economic benefits arising from the scheme.
- vii. Specialist commercial evidence provided by Edward Symmons and Lawrence Hannah supports the rental levels proposed financial arrangements set out in the business plan. Strong evidence also exists to demonstrate there would be considerable market interest if some of the proposed tenants were to withdraw their interest.
- viii. A fall back option exists if the proposed community hub proved undeliverable. The £3M investment into a new health and fitness suite would deliver a better return on the capital investment. However, the community benefits would be significantly less.
- ix. Based on the information provided, the operating model would have either a neutral or positive impact on both sports clubs. If attendances increase with the new stadium, for which there is strong evidence to support, the operating position of clubs would further improve.

Impact of project not proceeding

- 63. The council must also consider the impact of this scheme not progressing. As set out in the Report to the Cabinet Member for Leisure, Culture and Social Inclusion, 10 January 2012 the current operator of the leisure facilities at the Huntington Stadium complex has a lease that could be terminated as early as November 2012.
- 64. The council currently receives an income of £160K per annum from the facilities. Greenwich Leisure Limited (GLL) has written to the council stating that they are making considerable losses running the existing facilities. If the project does not proceed and the prospect of investment into the wider site is removed, it is probable they will

not be able to not continue with the operation. This would have considerable and immediate financial impact on the council and sports clubs.

65. Recent feasibility work has established that in its current format the facilities would cost an additional c. £300k to operate, with c. £78K costs relating to the stadium. If a contract were to be let for long term operation the annual costs would likely be higher accounting for lifecycle and maintenance costs.
66. YCFC have written to the Council setting out the impact of the project not proceeding. They would not be able to remain as a full time professional club and their community programme and youth investment would be severely reduced.
67. YCK and the athletic club currently have no long-term security of tenure at the stadium. Their rents do not cover the true costs of running the stadium. There would be considerable uncertainty for both clubs as the council would need to consider how to address the significant financial pressure that would exist.

Conclusion

68. The nature of such a complex project which involves multiple sites, partners and funding streams, inherently has a large number of risks. The main emphasis relates to the ongoing operation.
69. Many of these operational risks are manageable in isolation. Members need to be aware that the cumulative impact of some of these risks may be harder to mitigate. Although there is a reasonable operating contingency and there are potential upsides with many of the income streams. The council would be ultimately responsible for the asset and operation of the facility if there was considerable under-performance in a number of areas. This would ultimately mean the council being called upon to underwrite the ongoing operation of the facility.
70. The business case demonstrates that the proposed facilities are deliverable and sustainable and deliver community benefit. However, the benefits of the proposal do need to be carefully balanced against the potential risks.
71. On balance it is recommended to endorse the progression of the business case to the next stage and approve it as a capital project

and to be submitted as a supporting document for the outline planning application.

Next Steps

72. Officers will undertake the following actions:

- If approved, submit the business case as a supporting document for the outline planning application currently being determined.
- Begin detailed discussions with relevant stakeholders regarding 1) the design of the stadium, athletics facilities and community facilities as part of the preparations for the procurement exercise and 2) finalise the options for the community sport and training facilities and identify a preferred option within the identified budget and time constraints.
- Finalise the funding agreement with the university and agree the terms of the delivery of the new athletics track.
- Recruit a project team to assist the council in designing, developing and delivering the proposed facilities.
- Continue with the preparations for the procurement exercise for the wider operation of the council's leisure facilities to include the delivery of the community stadium. There is an estimated £3M investment need into these facilities and additional revenue pressure that is not covered in this paper.

Council Plan

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

Implications

74. **Financial:** To date revenue funding of £500k has been made available by the Council to support this project to this stage. This is now fully committed. In December 2011 Council approved drawing down of £200k of the £4m capital funding approved in the programme for the project. This report recommends drawing on the

£3.8m balance of the £4m capital budget. It should be noted that as with the £200k certain costs incurred and funded from the £4m should the scheme not progress successfully will result in abortive costs that would ultimately need to be funded from revenue resources.

75. The capital costs are set out in sections 36-41 and are summarised below, along with sources of finance. Any additional costs in excess of the budget would potentially need to be met by the Council, and would require additional borrowing.

Table 8 Capital Summary Table

Expenditure Component	£,000s
Stadium	11,000
External works	1,500
Community floor space	3,000
Athletics Facilities	2,000
Floodlit 3G Artificial Grass Pitch	200
Community sport facilities	750
Project Costs	750
Total	19,200
Funding Sources	
S106 Contribution	14,850
CYC Capital	4,000
YCFC Capital	350
Total Funding	19,200

76. Both the revenue and capital costs have risks which are set out in paragraph 55.
77. Further advice has been sought from KPMG with regard to the financial assumptions, including capital and revenue costs, in order to provide further financial analysis to support the Councils internal financial assessment. The KPMG report concludes that the key underlying financial assumptions for the project and the Stadium as set out in the Business Plan are in general reasonable and wherever possible have been substantiated by external advice. The opinion concluded that overall the Profit and Loss account appears to have been prepared on a prudent basis and it is largely based on third party evidence.

78. The projected annual operating position of the stadium management company is set out in paragraphs 42-48 and is summarised below:

Table 9: Summary Profit & Loss Account

Component	Surplus / (loss) (£000s)
Stadium, conference and hospitality areas	14
Commercial rents from community hub and atrium	266
Sinking fund & maintenance	(197)
Surplus / (loss)	83

79. As part of developing the Business case the Council has taken advice from KPMG with regard to VAT. A number of options have been considered and the impact on CYC and stadium operation model been assessed. The recommended approach from the Director of CBSS is that the Council opts to tax on the Community Stadium project, to ensure the Councils partial exemption on VAT is not lost. The effect of this is to make all rents payable under the leases subject to VAT and all input tax incurred on the construction would be recoverable. All capital costs are stated net of VAT on the basis that the chosen procurement method will enable full recovery of input VAT.
80. The Profit and Loss account has been prepared on the basis that there is no VAT leakage on the various leases. It is assumed that the lessee will be able to recover the input VAT in full.
81. It should be noted that the ability to mitigate risks is much more difficult when a combination of risks such as a capital cost overrun and the non achievement of a certain stream of capital funding combine. In such cases the combined impact of this would naturally be more significant than one individual risk.
82. Members should note the risks associated with the capital and revenue costs, and consider these in the overall decision making process.
83. Members need to fully accept that these financial risks bring with them potential liabilities for the Council in the form of additional capital contributions, or ongoing revenue costs. Whilst the business case sets out a prudent assessment of planned capital and revenue assumptions, and sets out mitigation to manage risk, there remain risks

that could have potentially significant financial implications for the Council.

84. **Legal:** Under Section 1 of the Localism Act 2011, the Authority has a general power of competence. This part of the Act came into force on 18th February 2012 and replaces the general well-being powers contained in Section 2 of the Local Government Act 2000. This new Act gives local authorities the power to do anything that individuals may do, whether or not for the benefit of the Authority, its area or people resident or present in its area. This power is wide ranging and would cover the proposed capital contribution to the Community Stadium Project.
85. Where a public authority provides financial support to a private body this may constitute State Aid under Article 87 of the EC Treaty. In order for there to be a State Aid, all components of the State Aid test in Article 87(1) must apply namely:
- i. The measure is granted through state resources;
 - ii. It confers an economic advantage to an undertaking;
 - iii. The aid is selective and favours a particular undertaking or category of undertaking; and
 - iv. The aid has the potential to distort competition and affect trade between Member States.
86. State Aid might potentially arise in relation to the proposed £4 million capital contribution to the development costs; in connection with the benefit of the new stadium to the commercial users, principally the Sports Clubs; or the financial contribution to the interim training budget.
87. In regard to the contribution to the development costs, provided this is given as part of an open and competitive procurement process to select a developer, this should not amount to State Aid, as the aid is not selective and would not distort competition between Member States. In relation to the benefit to the Clubs, provided they use the Stadium under a commercial arrangement with the Authority, no economic advantage would be gained and there would therefore be no distortion of competition and no State Aid. As regards contributing to the temporary training facilities, this is unlikely to amount to State Aid as the clubs are small local clubs and any aid granted to them would not distort competition between Member States.
88. The Authority also has a common law fiduciary duty to act for the benefit of taxpayers within its area. This places a duty on the Council to ensure that it is spending public money prudently, and for the overall

benefit of taxpayers. This duty does not, however, mean that financial considerations must outweigh all others. It is a matter of balancing competing interests and making sure that the fiduciary obligation is given proper consideration and significance.

89. With regard to the £2 million contribution from York City Football Club, this is to be secured by way of a legal charge over Bootham Crescent. This will be a third charge and will only become payable if and when the ground is sold and if there is sufficient monies left over after discharging the first and second charges. An agreed consent from the first and second charge holders would also be required before creating a charge in favour of the Council. The Council would also need to formalise the arrangements contained in the Heads of Terms with the Football Club to ensure it has a binding agreement to secure any outstanding monies due.
90. The Section 106 contribution is dependant upon obtaining planning permission from the Planning Authority. The timing of the payment will be subject to negotiations between the Council and the Applicant Developer, and be decided by the Planning Committee.
91. Legal advice will be provided in relation to the procurement and appointment of the Design and Build contractor, the Developer and the Operator of the facilities, and all commercial agreements.
92. **Property:** The structure of the various property related leases and agreements between the Council as freeholders of the asset, the various stakeholders and users of the facility and the operating company will be determined as part of the procurement exercise. The overriding outcome, from a property asset viewpoint, should be that community use is ensured and future costs, both revenue and capital, to the Council are minimised.
93. **Equalities:** An Equalities Impact Assessment (EIA) has been drafted which reflects the research, consultation and engagement undertaken by the Community Stadium Project Team including:
 - Discussions regarding equalities with other stadia in the UK.
 - Taking initial community stadium concepts to the Social Working Inclusion Group (in December 2009) for ideas, issues and discussion.
 - Taking the project vision and proposals to the Equalities Advisory Group (18 July and 10 October 2011) for ideas, issues and discussion.

- Engagement and consultation with individuals and groups from protected equalities characteristics as a follow up to attending the Equalities Advisory Group: York Independent Living Network, North Yorkshire Sport Disability Officer, City of York Council Disability Officer and York Youth Council.
94. The EIA is continually developing and further work will be undertaken in the New Year if planning permission for the stadium is granted. This will include a community consultation which will explain and raise the profile of the community elements of the project.
95. The EIA will be used in the procurement of the stadium. It will be submitted as a 'user specification' to potential bidders so they understand the vision that the Council, its partners and residents have for the Community Stadium.
96. There is no Crime and Disorder, Human Resources, or Information Technology implications.

Risk Management

97. A detailed report regarding the project's risks was presented to the Audit and Governance Committee on both 6 December 2010 and 19 April 2011. Risks are addressed, reviewed, analysed and updated regularly through the fortnightly Community Stadium Officer Team meetings.
98. An in depth risk analysis has been undertaken as part of the Business Case in **Annex A**.
99. KPMG's risk report is included in **Annex B**.

Recommendations

100. The Cabinet is asked to recommend to Council to:
- Approve the business case as presented noting the financial risks and potential resultant liabilities that may arise as a result of proceeding with the scheme.
 - Approve its submission to the Planning Committee in support of the outline planning application submitted by Oakgate Group plc.
 - Approve the inclusion in the Capital Programme of the Community Stadium scheme at the value of £19.2m to be

funded from £14.85m of S106 Contribution, £4m of Prudential Borrowing (£200k 11/12 and £3.8m 12/13) and £350k York City FC. Members should note that the funding from York City Football Club could be higher than a £350k contribution and this would result in a reduction of the Councils contribution

- Approve the release of the balance of the Council's £3.8m Prudential Borrowing as shown in the capital programme in 12/13 in order to progress the Community Stadium project.
- Approve that as part of the release of the £3.8m capital funding available that £2m to be allocated for the new athletics facility with York University and commit to the delivery of the project. Note the risks outlined in paragraph 50 that if the stadium scheme does not proceed that £2m of CYC Prudential Borrowing will be spent on delivering athletics provision for the City.
- To note, and accept, the risks set out in the risk management section of this report, and the financial implications section.

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

Annexes:

- A. Business Case (including Annexes 1-12 please note Annex 2 to follow) (Confidential)
- B. KPMG Letter (Confidential)

Contact Details

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	Report Approved	✓	Date	24.02.12
Specialist Implications Officer(s)				
Ross Brown Principal Accountant	Philip Callow Head of Asset and Property Management			
Glen McCusker Legal Services	Zara Carter Procurement			
Wards Affected:			All	✓
For further information please contact the author of the report				

Background Papers:

- Community Stadium Report to Staffing and Urgency Committee 21st May 2008
- Staffing and Urgency Committee Minutes 21st May 2008
- Deloitte report on community stadium for CYC 20th June 2008
- Active York's Sport and Leisure Strategy
- Executive Reports of 15th July 2008, 9th September 2008, 20th January 2009, 23rd June 2009, July 6th 2010, October 19th 2010, 6 December 2011
- Report to the Cabinet Member for Leisure, Culture and Social Inclusion, 10 January 2012