

YORK COLLEGE: REQUEST FOR TEMPORARY VARIATION OF TERMS OF SECTION 106 AGREEMENT, REGARDING PROVISION OF SPORTS FACILITIES

Summary

1. This report presents a request from York College for a temporary variation in the terms of the Section 106 Agreement relating to the College development. The variation sought concerns the availability for the community of the College's new sports facilities. The request is a consequence of the College's response to development opportunities which have the potential to result in significantly enhanced facilities. The report recommends agreement to the request, because of potential benefits for community sports facilities in the long run.

Background

York College – Planning Permissions

2. In January 2004 planning permission was granted for the new York College building, with associated car parking, new vehicle accesses and landscaping (ref. 04/00376/FUL). A Sports Hall and Fitness Suite is included in the development. The accompanying application (ref 04/00757/FUL) to provide the outdoor element of the College facilities, including games pitches, an all-weather pitch and a multi-use games area (MUGA) was approved in March 2005. The Officer's report to Planning Committee for this application is attached at Annex C. The College is now fully open for students to undertake their courses.
3. The Section 106 Agreement, attached to these planning permissions, makes provision for the community to share in the use of these indoor and outdoor sports facilities. This is for an agreed number of hours per week, during term or vacation periods, as specified in the Section 106 agreement, the relevant extract from which is attached at Annex B.

The Sports Facilities

4. The following facilities have been completed and are already being shared in by the community: -
 - The Sports Hall, Fitness Suite, All Weather Pitch.
5. The remaining facilities to be completed are: -
 - The Multi-Use Games Area (MUGA) and 2 grass sports pitches.
6. The College has the funding needed to complete these remaining facilities. It is fully committed to doing so once a lease for the land involved has been agreed with the Council.
7. However, in the meantime an opportunity to provide wider and enhanced facilities for the community has arisen. This would be achieved by putting the College's funding into a partnership scheme. Other potential partners are York City Council, the Football Foundation and All Saint's School. The Foundation has indicated a willingness to fund a significant amount of the development proposals, by up to £800,000. A letter of support for the project from the Principal of York College is attached at Annex A.
8. If brought to fruition, the result would be: -
 - the MUGA and 2 grass pitches, which the College will provide, whatever PLUS
 - 3 additional grass pitches (with pitch drainage and improvements), a multi-team changing facility and teaching room, (subject to the grant of planning permission) a community junior soccer team based at the site, and the potential for extensive community outreach work.

A plan of the areas involved will be made available at the meeting.

Reason for request to vary the Section 106 Agreement

9. However, bringing all this together would mean a delay in providing the MUGA and the 2 grass pitches. In turn these facilities would not be available for the community to use straightaway, as intended, and agreed in the Section 106. It would be up to 2 years (up to September 2009) before they would become available. It is for this reason that the college's request for a variation to the Section 106 Agreement has been made. The following table summarises the effect this would have upon community use of the sports facilities at the College, compared with the use set out in the original Section 106 Agreement:-

FACILITY	AVAILABILITY FOR THE COMMUNITY	
	DURING TERM TIME Min No. hrs per week	DURING VACATION TIMES Min No. hrs per week
Sports Hall	20	30
Fitness Suite	20	30
All Weather Pitches	25	35

(All the above are provided at the same number of hours per week as in current 106 Agreement, and not affected by the proposed variation)

Grass Pitches	NIL to Sept 09, then *	NIL to Sept 09, then *
	25hrs as in current Section 106	35hrs as in current Section 106
MUGA	NIL	NIL to Sept 09 then *
(Multi-Use Games Area)	(NIL in current Section 106 – not affected)	30hrs as in current Section 106

* affected by proposed variation – provision delayed up to September 2009

10. The Section 106 Agreement includes provision to vary the above hours, subject to agreement in writing between the College and the Council. Legal Services advise that any such variation can be agreed by letter between the parties. It is not necessary to prepare an amended Section 106 document.
11. There is a risk that the negotiations for partnership funding may not come to fruition. In that event, the College would still provide the MUGA and 2 pitches as originally required.

Consultation

12. The Council's Sport and Active Recreation Department support the proposed variation to the Section 106 Agreement, subject to September 2009 being the latest date by which the MUGA and 2 pitches shall be made available. They consider that the delay to September 2009 of these facilities would cause very limited inconvenience for community sport. This is because (i) there are already several grass pitches in the locality of the College that can be used by the community (ii) the astro-turf all-weather pitch is already available to the community (iii) community access to the MUGA is only assured (in the Section 106 Agreement) during vacation periods, when other school facilities are also extensively available.
13. Wider public consultations have not taken place.

Options

Option 1

14. To decline the College's request for a temporary variation to the Section 106 Agreement, and require the MUGA and 2 pitches to be made available for shared College and Community use as soon as practicable.

Option 2

15. To agree to the College's request for a temporary variation to the Section 106 Agreement, as set out in the table at paragraph 9 of this report: that is to delay community access to the MUGA and the 2 pitches until September 2009 at the latest, to allow negotiations to continue for enhanced sports facilities.

Analysis

Option 1

16. With the MUGA and 2 pitches provided at the earliest opportunity the range of sports facilities as approved in the College development, would be available for shared College and Community use. This would be as originally set out in the Section 106 Agreement. The sports hall, fitness suite and all-weather pitch are already being used, or are about to be used, by 17 community groups. However the opportunity for partnership funding to provide significantly enhanced sports facilities through substantial external funding for the community would be lost, at least for the foreseeable future.

Option 2

17. Provision of the MUGA and 2 pitches would be delayed by up to two years, to September 2009, denying community use of them for this time. In that respect, the provisions of the Section 106 Agreement as originally intended, would not be fulfilled. However, Sport and Active Recreation consider that, for the sake of a delay of up to two years, the chance to provide much enhanced facilities should not be lost; including 3 extra community pitches, school changing facilities, community clubs based on the site and outreach work (through potentially up to £800,000 of funding from the Football Foundation).

Corporate Priorities

18. Providing the widest and most accessible range of high quality sports and recreation facilities for the City is essential for the enjoyment and well-being of the community. Section 106 Agreements are important in ensuring that facilities are delivered in relation to specific development projects.

Implications

Legal

19. The Head of Legal Services is satisfied that a variation to the Section 106 Agreement, regarding hours of use of the facilities, can be made, in writing between the parties, if the Council so wishes.

Financial

20. There would be no direct financial losses to the council, whichever option is chosen. However Option 2 offers the opportunity to secure partnership funding, to enhance overall community sports provision in the City.

Human Resources

21. There are no HR implications.

Equalities

22. There are no equality implications.

Crime and Disorder

23. There are no direct implications. Although it is difficult to quantify without considerable research in relation to Options 1 and 2, community sports facilities generally are important in any strategy to contain crime and social disorder problems.

Information Technology (IT)

24. There are no IT implications.

Property

25. City Council land is to be leased to the College to provide the sports facilities, in either Options 1 or 2.

Other

26. There are no other implications.

Risk Management

27. There are no risks in the long-run to the Council. There is a risk that the partnership negotiations in Option 2 will not come to fruition. However, the College would still provide the MUGA and 2 grass pitches as originally agreed in the Section 106 Agreement.

Recommendations

28. Members are requested to agree the College's proposed variation to the Section 106 Agreement.

29. Reasons

- (a) To enable the negotiations for a partnership scheme, which would bring in extensive sports funding, to be completed. If successful, a significantly wider and enhanced range of sports facilities would be created for the community, over and above the facilities originally envisaged in relation to

the College development.

- (b) It is believed that the delay to September 2009 in providing the MUGA and 2 grass pitches would cause only limited inconvenience for community sport, bearing in mind the potential benefits to be gained; including 3 extra pitches, changing facilities, a soccer team based at the site and community outreach work.

Contact Details

Author:

Chris Newsome
Planning Officer
Directorate of City Strategy
01904 551673

Chief Officer Responsible for the report:

Bill Woolley
Director of City Strategy

Report Approved
Date: 13 November 2007

Specialist Implications Officer(s)

Legal – Colin Langford Interim Head of Civic Legal and Democratic Services
Financial, Crime & Disorder, Property -Report Author

Wards Affected

All



For further information please contact the author of the report

Background Papers:

None.

Annexes

- A. Letter from the Principal of York College 6 November 2007
- B. Extract from Section 106 Agreement dated 4 March 2005
- C. Planning Officer's Report to Planning Committee 24 June 2004
(Ref: 04/00757/FUL).