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# Review of the Newbury Sports Hub Development

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<b>Committee considering report:</b>	Executive
<b>Date of Committee:</b>	2 November 2023
<b>Portfolio Member:</b>	Councillor Janine Lewis
<b>Date Portfolio Member agreed report:</b>	12 October 2023
<b>Report Author:</b>	April Peberdy / Paul Martindill / Jude Thomas
<b>Forward Plan Ref:</b>	EX4449

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## 1 Purpose of the Report

- 1.1 On 23 March 2023, the Executive approved a report to allocate £3.878m to complete the development of Newbury Sports Hub and to give approval to sign the Development Management Agreement with Alliance Leisure Services. The report was, subsequently, called in and considered by the Scrutiny Commission on 23 June 2023. A number of questions were raised, principally around the costs to date, potential costs of not progressing the project, and the impact on the Leisure Contract and Playing Pitch Strategy. This report addresses these questions, in order that the Executive can review the decision of 23 March.

## 2 Recommendations

- 2.1 To consider the evidence provided in answer to the questions of the Scrutiny Commission.
- 2.2 To note the financial implications associated with progressing or not progressing the project, with particular reference to the impact on the revenue account.
- 2.3 To note that it is proposed that a new annual Stage E review of the Playing Pitch Strategy (PPS) will be undertaken imminently, and this will provide up-to-date data, with regard to the supply and demand of playing pitches in West Berkshire. This review will inform the refresh of the PPS Action Plan.
- 2.4 In line with the Council Strategy, created by the new administration, and the changing financial environment, it is recommended that the Sports Hub project is closed, in its current proposed form. Pitch provision at the identified site could remain under consideration as part of the refresh of the PPS Action Plan, following the Stage E Review, and the findings of the review will be used to inform the future provision of playing pitches in West Berkshire.

### 3 Implications and Impact Assessment

Implication	Commentary										
<p><b>Financial:</b></p>	<p>The Newbury Sports Hub has a budget allocation of £3.87m with delegated authority to the Executive Director for a further £250,000. This was the budget position in March 2023. As of Q1 £2.325m has been reprofiled to FY24/25, leaving £1.8m in the budget during 23/24.</p> <p>If the Sports Hub is to progress, a further review of costs in the light of inflationary pressure, and the intervening time, would be required.</p> <p>If the scheme does not progress, the capital budget allocation for the scheme can be allocated to other priorities within the PPS or withdrawn entirely. There would be a cost to the revenue budget of any abortive costs incurred on the project.</p> <p>Costs to date, where quantifiable, are detailed in the table below:</p> <table border="1" data-bbox="558 1041 1439 1953"> <tbody> <tr> <td data-bbox="558 1041 1109 1144">Pre-construction costs</td> <td data-bbox="1109 1041 1439 1144" style="text-align: right;">£126,585.00</td> </tr> <tr> <td data-bbox="558 1144 1109 1283">Legal fees, in respect of the land transaction documentation and DMA</td> <td data-bbox="1109 1144 1439 1283" style="text-align: right;">£46,802.90</td> </tr> <tr> <td data-bbox="558 1283 1109 1608">                     Legal fees in respect of Planning, including the Judicial Review:                       Planning advice:       £ 3,401.50                      Judicial review:       £33,748.50  <b>Sub-Total:               £37,150.00</b>                      Less recovered costs                      (Judicial Review):     £11,000.00                 </td> <td data-bbox="1109 1283 1439 1608" style="text-align: right; vertical-align: top;">£26,150.00</td> </tr> <tr> <td data-bbox="558 1608 1109 1783">Additional estimated legal costs of decoupling the Sports Hub from the contract</td> <td data-bbox="1109 1608 1439 1783" style="text-align: right;">£5,000-£10,000</td> </tr> <tr> <td data-bbox="558 1783 1109 1953">Adjustment in management fee to EA, should Sports Hub be removed from contract (not yet confirmed)</td> <td data-bbox="1109 1783 1439 1953" style="text-align: right;">£0</td> </tr> </tbody> </table>	Pre-construction costs	£126,585.00	Legal fees, in respect of the land transaction documentation and DMA	£46,802.90	Legal fees in respect of Planning, including the Judicial Review:  Planning advice:       £ 3,401.50 Judicial review:       £33,748.50 <b>Sub-Total:               £37,150.00</b> Less recovered costs (Judicial Review):     £11,000.00	£26,150.00	Additional estimated legal costs of decoupling the Sports Hub from the contract	£5,000-£10,000	Adjustment in management fee to EA, should Sports Hub be removed from contract (not yet confirmed)	£0
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	NRC’s legal costs – due	£10,000
	Total	<b>£214,537.90-</b> <b>£219,537.90</b>
	<p>The cost of the Interim Consultant has been met through capital cost centres.</p> <p>Revenue budget of £30k was allocated to the service to cover six months of running costs of the provision; this will be available for other costs/savings in future financial years.</p>	
<b>Human Resource:</b>	<p>The management of the Newbury Sports Hub is included in the new leisure management contract. Posts assigned to manage the Sports Hub by the new leisure operator, Everyone Active, include a full-time football/sports development officer and 0.5 post for an apprentice. Other part time staff included cleaners.</p> <p>A volunteer programme was also proposed to train volunteers to support local clubs manage match days.</p>	
<b>Legal:</b>	<p>Alliance Leisure Services (ALS) was appointed, under the UK Leisure Framework, to oversee the design and construction of the Sports Hub project and appoint designers and contractors accordingly. A pre-construction agreement has been signed and the works undertaken and as such the pre-construction costs (£126,500) have been incurred.</p> <p>Heads of Terms and an Agreement for Lease (AFL) - see below in ‘Property’ section - were negotiated with Newbury Rugby Club (NRC) and a Development Management Agreement (DMA) negotiated with ALS in respect of the main works to be undertaken. These Agreements have not been signed. As such the Council is not contractually committed to enter into the lease, undertake the works, or make the payments envisaged under the AFL or DMA.</p> <p>The Council and NRC agreed in the Heads of Terms that, in the event that the parties do not enter into the lease and the transaction was aborted by the Council, then the Council would pay the NRC aborted legal fees. These fees are set out in the body of this report.</p> <p>The Sports Hub facility is included as a facility to be managed in the leisure management contract with Sports and Leisure Management Limited (trading as Everyone Active) which</p>	

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	<p>began on 1 July 2023. In the event that the project does not progress the leisure management contract will require a formal variation in order to remove the facility from the scope of the contract. Everyone Active (EA) has the right under the contract to negotiate an amendment to the Annual Fee payable under the leisure management contract to reflect this change. In addition, legal costs will be incurred to document the amendment.</p>			
<p><b>Risk Management:</b></p>	<p>Risk is low in relation to a decision not to progress with the project. A total of £126.5k has been spent on progressing design and planning applications for the Sports Hub. No contractual obligations exist in relation to the construction phase of the project.</p> <p>The Sports Hub was included within the scope of the new leisure management contract but is considered close to cost neutral when income with expenditure are calculated. In light of this, the leisure operator (Everyone Active) has advised, to date, that the management of the Sports Hub can be removed from the contract without an adjustment to the Annual Fee payable by the Council under the leisure management contract. This is yet to be confirmed and would be subject to legal agreement between the Everyone Active and the Council.</p>			
<p><b>Property:</b></p>	<p>Heads of Terms, an Agreement for Lease (AFL) and other associated documents (such as the form of lease, joint use agreement and memorandum of understanding) were negotiated between Newbury Rugby Club and West Berkshire Council to enable the Council to take a lease for the area required to create the Newbury Sports Hub. The Heads of Terms were agreed but the AFL remains unsigned and the Council is, therefore, not bound by the AFL terms.</p>			
<p><b>Policy:</b></p>	<p>The Newbury Sports Hub project was developed to address the need to increase the provision of artificial grass pitches as detailed in the Playing Pitch Strategy. If the project progresses it will be delivered in accordance the National Planning Policy Framework.</p>			
	<p><b>Positive</b></p>	<p><b>Neutral</b></p>	<p><b>Negative</b></p>	<p><b>Commentary</b></p>

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<p><b>Equalities Impact:</b></p>			<p>A review of demand and supply for sports pitches has shown an increase of 38 teams in West Berkshire between 2018 and 2022, whilst the supply of sports pitches has remained largely static. The number of women's teams has grown by seven, and the number of adult teams by 14.</p> <p>There has been an increase in the number of teams that are traveling to access sports pitches outside of West Berkshire with this figure now reaching 59 teams.</p>
<p>Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?</p>			<p>Removing the Sports Hub completely would mean the loss of the opportunity to provide a 3G artificial pitch and stadium that was to be developed to meet the FA ground grading Step 4 standard.</p> <p>A 3G pitch could provide 70-80 hours of use for football training and matches each week, compared to a grass pitch which typically accommodates 6-8 hours per week. Therefore, removing the opportunity to develop an additional 3G pitch reduces the potential capacity for football training and matches substantially for the Newbury area.</p> <p>A key objective of developing the Newbury Sports Hub to the Step 4 standard was to enable local teams to progress through the football league hierarchy when they achieved promotion.</p>
<p><b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?</p>			<p>No</p>

<p><b>Environmental Impact:</b></p>			<p>Planning conditions attached to the Sports Hub addressed environmental impacts of the development. Mitigation included the expansion of perimeter hedgerows, creation of a wildflower meadow, tree planting (via the Queen’s canopy already undertaken) and creation of a bee bank. The Pavilion was also required to achieve an excellent BREEAM rating for energy management.</p> <p>There have been concerns raised around the use of micro-plastics in the manufacture of 3G pitches. Sport England have advised that there are limited green alternatives to 3G.</p>
<p><b>Health Impact:</b></p>			<p>A 3G pitch would increase opportunities for children to be active and includes the provision of school holiday programmes. It would enable more teams to train at least once per week on a sports pitch. Specific health initiatives can be programmed to address mental health and older adults can participate in initiatives such as ‘walking football.’</p>
<p><b>ICT Impact:</b></p>			<p>N/A</p>
<p><b>Digital Services Impact:</b></p>			<p>N/A</p>
<p><b>Council Strategy Priorities:</b></p>			<ul style="list-style-type: none"> <li>• A fairer West Berkshire with opportunities for all</li> <li>• Thriving communities with a strong local voice.</li> </ul>
<p><b>Core Business:</b></p>			<p>The management of the Sports Hub is included in the new leisure management contract that commenced on 1 July 2023.</p> <p>In the event that the Sports Hub project proceeds, the commencement of the management of the Sports Hub will begin when the project is completed and</p>

				<p>continue for the term of the leisure management contract.</p> <p>In the event that the Sports Hub project does not proceed, the leisure management contract will need to be amended in order to remove the facility from the scope of the contract. As set out above the leisure operator’s initial view is that this will not require an adjustment to the Annual Fee due under the leisure contract, but it should be noted that this is subject to agreement and finalisation of documentation to affect this amendment.</p> <p>The impact of having a reduced facility at the Monks Lane site would require further discussion regarding any impact on the Leisure contract.</p>
<b>Data Impact:</b>				N/A
<b>Consultation and Engagement:</b>	<p>Public consultation was undertaken in 2020 to test public support for the proposed location of the Sports Hub at Newbury Rugby club and the results are referenced in the report.</p> <p>Consultation on the Stage E review of the PPS will be undertaken with sports clubs via their respective National Governing Bodies (NGBs) and not directly with the public.</p>			

## 4 Executive Summary

- 4.1 A report was presented to the Executive in March 2023 regarding revised costs and seeking approval to progress with the signing of the Development Management Agreement (DMA) with Alliance Leisure Services (ALS) to progress the development of the Sports Hub at Newbury Rugby Club. The report is attached as Appendix A.
- 4.2 The Executive resolved to approve the costs presented and delegate authority to enter into the relevant agreements to progress the project on the basis that a judicial review challenge was finally determined.
- 4.3 The Executive decision was called in and subsequently considered by the Scrutiny Commission.
- 4.4 The Scrutiny Commission met on 23 June 2023 and resolved that the decision should be returned to the Executive for reconsideration.
- 4.5 This report sets out further information as requested by the Scrutiny Commission:

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- (a) What are the legal costs incurred by the Council?
- The total legal costs incurred by the Council to date are £72,952.90 plus approximately £5 -10k to remove the Sports Hub from the Leisure Management Contract, should it not proceed.
- (b) What are the costs incurred by Newbury Rugby Club?
- Newbury Rugby Club has advised that their abortive legal costs in preparing the draft AFL, the proposed lease and the Heads of Terms is just under £10k (excluding VAT).
- (c) Are there any penalty fees associated with not proceeding with the project?
- No. A total of £126.5k has been spent on progressing design and planning applications for the Sports Hub, however no contractual agreements have been signed in relation to the construction phase of the project.
- (d) What are the implications of not progressing with the development of the Newbury Sports Hub in relation to the new leisure management contract?
- The management of the Newbury Sports Hub is included in the new leisure management contract which commenced on 1 July 2023. The Leisure Operator, Everyone Active, has initially advised that should the Sports Hub development not proceed, they will work co-operatively to undertake the legal work with the Council to remove the Sports Hub from the leisure this will not result in an adjustment to the Annual Fee, albeit there is a contractual right for EA to request such an adjustment.
- (e) Is there a need to revisit the Playing Pitch Strategy?
- There is not a need to revisit the Playing Pitch Strategy itself, as it is considered to be robust and fit for purpose. It would, however, be timely to undertake a new annual Stage E Review which will inform a refresh of the Action Plan. Whilst the Sports Hub, in its current proposed form, would need to be removed from the Action Plan, if the Executive decide not to proceed with the project, pitch provision on the Monks Lane site could be considered, in the prioritisation of projects within the Action Plan, if all parties were in agreement.
- 4.6 More detailed answers are provided in Section 7.
- 4.7 In light of the information provided within the report, a decision will be required by the Executive, with regard to the future of the Sports Hub project.
- 4.8 If, following the Stage E review, there is justification for developing a new pitch on the current proposed site, this will need the agreement of all parties.



## 5 Introduction

- 5.1 The report is providing information for consideration regarding the approved funding of £3.87M (plus additional £250k contingency) for the development of the Newbury Sports Hub.

## 6 Background

- 6.1 In February 2020, West Berkshire Council approved the implementation of a Playing Pitch Strategy (PPS). The PPS is created in partnership with Sport England and the four National Governing Bodies of Sport for football, rugby, cricket and hockey. The purpose of the PPS is to assess the demand and supply of sports pitches throughout West Berkshire and to identify priority projects that will address the needs of local clubs and the wider community. The PPS is attached as Appendix B.
- 6.2 A report, 'Newbury Sports Ground – Joint Land Deal' was presented to Executive in April 2021, detailing the results of a public consultation with 349 responses, of which 53.1% were supportive and 35.4% not supportive of the proposal for a new sports ground at Newbury Rugby Club. The report's appendices also included details of a Joint Use Agreement and the proposed procurement strategy utilising the UK Leisure Framework Agreement.
- 6.3 On 16 December 2021 the Executive agreed a budget of £3.351m and the appointment of Alliance Leisure Services to construct the Newbury Sports Hub to achieve a Step 4 FA ground grading standard with the 3G pitch meeting FIFA and world rugby regulation standards.
- 6.4 The scheme was delayed due to a judicial review and revised costs, of £3.878m (plus additional £250k contingency), were presented to, and approved by, the Executive on 23 March 2023.
- 6.5 This report was subsequently called in and presented to the Scrutiny Commission on 23 June 2023 and it was resolved that the decision should be returned to the Executive for reconsideration, in light of specific information as detailed below.

## 7 Information Requested by the Scrutiny Commission

- 7.1 What are the legal costs incurred by the Council?

7.1.1 The total legal costs incurred by the Council to date:

- In respect of the land transaction documentation and DMA are £46,802.70.
- In respect of Planning, including the Judicial Review are £26,150.

7.1.2 If the Sports Hub project does not proceed and it is necessary to remove the Sports Hub from the leisure management contract, additional legal costs in the region of £5k to £10k are likely to be incurred.

7.1.3 The costs above relate to legal costs alone, in accordance with the Scrutiny commission request. However, significant resource, across services within the

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Council, has also been expended in preparing the design and proposals, including in the negotiation, which formed part of the procurement process for the leisure management contract. This cannot be quantified and is not included

### 7.2 What are the costs incurred by Newbury Rugby Club?

7.2.1 Newbury Rugby club has advised that their abortive legal costs in preparing the draft AFL, the proposed lease and the Heads of Terms are just under £10k (excluding VAT). The club advised that it has spent considerable time dealing with other aspects of this project, but this work has been undertaken by volunteers.

### 7.3 Are there any penalty fees associated with not proceeding with the project?

7.3.1 No. A total of £126.5k has been spent on progressing design and planning applications for the Sports Hub, however no contractual agreements have been signed in relation to the construction phase of the project.

### 7.4 What are the implications of not progressing with the development of the Newbury Sports Hub in relation to the new leisure management contract?

7.4.1 The management of the Newbury Sports Hub is included in the new leisure management contract which commenced on 1 July 2023. Management of the Newbury Sports Hub includes: staffing, marketing, maintenance, bookings and sports programme development. Income generated is held by the leisure operator, Everyone Active, to balance these costs and has been taken into account when calculating the Annual Fee for the leisure management contract as a whole. Everyone Active has initially advised that should the Sports Hub development not proceed, they will work co-operatively to undertake the legal work with the Council to remove the Sports Hub from the leisure contract. Nonetheless, legal resources will be required in negotiating and effecting the removal of the Sports Hub from the leisure management contract by way of a deed of variation for which additional legal costs in the region of the sum set out in paragraph 7.1.2 are likely to be incurred. Everyone Active has advised that its initial view is that the removal of the Sports Hub as a facility to be managed under the leisure management contract will not result in an adjustment to the Annual Fee, albeit there is a contractual right for EA to request such an adjustment.

### 7.5 Is there a need to revisit the Playing Pitch Strategy?

7.5.1 To ensure the PPS remains up to date (and recognised by Sport England), it is a requirement that the data underpinning the PPS is regularly refreshed through a Stage E review. The NGBs hold the databases for all clubs that are registered to play in their leagues and have accurate data for the number of clubs and teams existing within West Berkshire for each sport and where they currently play. This data is refreshed annually at the start of the respective seasons.

7.5.2 Between January and July 2022, a Stage E review, including a comprehensive assessment of the demand and supply for sports pitches across West Berkshire, was undertaken in consultation with Sport England and the National

Governing Bodies of Sport (NGBs). This data, whilst not currently out of date, shortly will be.

- 7.5.3 It would, therefore, be timely to undertake a new Stage E review to ensure that the most up to date data, and the strategic priorities of the new administration, are reflected in a new Action Plan.
- 7.5.4 Newbury Sports Hub is the principal priority within the current Action Plan. The impact of completely stopping the Newbury Sports Hub project is that an opportunity to increase the capacity for training and matches in the Newbury and Thatcham area is lost. A 3G pitch can provide 70-80 hours of use for football training and matches each week, compared to a grass pitch which typically accommodates 6-8 hours per week. Therefore, completely removing the opportunity of a 3G pitch reduces the capacity for football training and matches substantially for the Newbury and Thatcham sub area.
- 7.5.5 A key objective of developing the Newbury Sports Hub to the Step 4 standard was to enable local teams to progress through the football league hierarchy when they achieved promotion. If the project is not progressed in its current form, this opportunity, on this site, will not exist.
- 7.5.6 In summary, there is not a need to revisit the Playing Pitch Strategy, and any decision not to continue with the Sports Hub development, in its current form, does not, necessitate a Stage E review. That said, the fact that, shortly, new demand data will be available, and the current Stage E data out of date, undertaking a new Stage E review would be a timely opportunity to reflect the strategic priorities of the new administration.

## 8 Conclusion

- 8.1 Following Executive approval of a report to allocate £3.878m to complete the development of Newbury Sports Hub and to give approval to sign the Development Management Agreement with Alliance Leisure Services, on 23 March 2023, the report was called in and considered by the Scrutiny Commission on 23 June 2023. A number of questions were raised, principally around the costs to date, potential costs of not progressing the project, and the impact on the Leisure Contract and Playing Pitch Strategy and these questions have been addressed in this report, in order that the Executive can review the decision of 23 March.
- 8.2 Noting the financial implications associated with progressing, and not progressing, the development of the Sports Hub, the opportunity to undertake an annual Stage E review of the Playing Pitch Strategy, and the clear political strategic direction of the new administration, it is recommended that the project is not progressed in its current proposed form, and that a Stage E review of the PPS is undertaken and the findings, are used to inform the future provision of playing pitches in West Berkshire. Pitch provision at the Monks Lane site could remain under consideration as part of the refresh of the PPS Action Plan, following the Stage E Review.

## 9 Appendices

Appendix A – Executive Report – 23 March 2023 - Newbury Sports Hub - revised costs and seeking permission to sign the Development Management Agreement

Appendix B – Playing Pitch Strategy

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### Subject to Call-In:

Yes:  No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Scrutiny Commission or associated Committees, Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

### Wards affected:

### Officer details:

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