
Newbury Sports Hub - revised costs and seeking permission to sign Development Management Agreement

Committee considering report:	Executive
Date of Committee:	23 March 2023
Portfolio Member:	Howard Woollaston
Date Portfolio Member agreed report:	15 March 2023
Report Author:	Paul Martindill
Forward Plan ref:	EX4332

1 Purpose of the Report

To update on the revised capital costs for the Newbury Sports Hub, following the Judicial Review, which can be delivered at cost certainty for £3.878M and progress into a Delivery Agreement with Alliance Leisure Services to complete the scheme.

2 Recommendation

- 2.1 To approve the allocation of £3.878M to complete the development of Newbury Sports Hub and thereby achieve the delivery of the number one priority in the Playing Pitch Strategy and to give approval, subject to planning permission, for the signing of the Development Management Agreement with Alliance Leisure Services.
- 2.2 In consultation with the Portfolio Member for Finance and Economic Development, the Executive Director of Resources is given delegated authority to approve additional costs arising in relation to this development up to a maximum of £250k above £3.878M.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	The award of the contract to build Newbury Sports Hub was agreed by the Executive on 16 December 2021. An allocation of £3.351M was also approved. This was based on a cost plan formulated on 22 October 2021 with a projected 26 week construction commencement programme starting in January

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	<p>2022.</p> <p>A further £250k was allocated for Executive Director approval to cover the costs of expected planning conditions, which were unknown at the time of the report.</p> <p>Alliance Leisure Services (ALS) have subsequently costed the 29 planning conditions and reviewed inflationary pressures and provided a revised cost fee of £3.696M. The revised costs represented an increase of £345K which remained valid until 13 May 2022.</p> <p>WBC has not signed the Development Management Agreement (DMA) due to the claim for Judicial Review, which has delayed the commencement of the construction programme.</p> <p>On 3rd February 2023, the High Court dismissed the Judicial Review and ALS have now submitted further revised costs of £3.878 million for Executive approval prior to signing the Development Management Agreement for the Newbury Sports Hub.</p> <p>The Council has been informed that the claimant is intending to pursue a further appeal to the court of appeal. Any appeal would result in further delays to the process, with potential financial implications arising due to inflationary pressures.</p>
<p>Human Resource:</p>	<p>None</p>
<p>Legal:</p>	<p>A claim for Judicial Review (JR) was issued on the 26th April 2022, and by an order dated 3rd February 2023, the claim was dismissed by the High Court. The claimant's application for leave to appeal to the Court of Appeal was also rejected by the High Court. The claimant has informed the Council of their intention to appeal the decision to the Court of Appeal. However, no valid application has been served on the Council.</p> <p>Completion of both the Agreement for Lease (see below) and the DMA would commit the Council to the costs of the project but works cannot commence until final determination of planning (including the JR or any appeal). The Council will not complete the Agreement for Lease or DMA until planning is in place.</p>
<p>Risk Management:</p>	<p>Risk was minimised by stopping the development of the Sport Hub whilst the High Court considered the claim for Judicial</p>

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	<p>Review. If the appeal is granted and the JR claim is accepted by the High Court, this may subsequently result, amongst other factors, in the voiding of the planning decision.</p> <p>The delay has had inevitable financial implications due to cost inflation but, at the point of approval to delay, this was believed to be less than the cost of commencing the scheme and then pausing works or reinstating works. This risk would remain whilst any appeal remained pending.</p>			
Property:	<p>The development has been subject to a land deal and lease with Newbury Rugby Club. These agreements have not been signed due to the risks associated with the JR claim but are ready to be signed, subject to the conclusion of the determination of the claim.</p>			
Policy:	<p>The project will be delivered in accordance the National Planning Policy Framework. Specifically it addresses the need to increase the provision of artificial grass pitches as detailed in the Playing Pitch Strategy.</p>			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?	X			<p>Future demand and supply analysis shows a significant deficit for all pitch typologies across West Berkshire. The provision of the Artificial Grass Pitch will assist in meeting latent demand and facilitate growth for participation for adults and children in football and rugby.</p>

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B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?	X			<p>The new pavilion and grounds will be fully accessible.</p> <p>The Sports Hub has been incorporated into the new leisure management contract and market testing is in progress to ensure the future programme benefits all sections of the West Berkshire community.</p> <p>Officers are also working in partnership with the Football Association to explore development partnerships for football.</p>
Environmental Impact:	X			<p>This has been addressed through the planning conditions. Multiple measures are in place including the expansion of hedgerows, creation of a wildflower meadow, tree planting (via the Queen's canopy already undertaken) and a bee bank. The Pavilion will achieve an excellent BREEAM rating for energy management.</p>
Health Impact:	X			<p>The new 3G pitch will increase opportunities for children to be active and can provide a variety of football programmes, for adults such as "walking football," enabling less active and older people to continue to participate in sport.</p>
ICT Impact:		X		None
Digital Services Impact:		X		None
Council Strategy Priorities:	X			<p>The Sports Hub delivers a key priority within the Playing Pitch Strategy.</p>
Core Business:	X			<p>The Newbury Sports Hub will enhance the sports infrastructure within West Berkshire. The operational management of the service is included in new leisure management contract that is currently out to tender. The sports hub will have a</p>

				positive impact on increasing levels of physical activity for adults and children.
Data Impact:		X		None
Consultation and Engagement:	Consultation and engagement was undertaken and reported to Executive in April 2021.			

4 Executive Summary

- 4.1 The Council received a claim for Judicial Review (JR) in relation to the planning permission which had been granted for the Sports Hub. The Judicial Review and any subsequent appeal have implications for both the timeline for the completion of the Sports Hub, and the associated costs of development.
- 4.2 Following the hearing of the claim for Judicial Review that took place on 19 January 2023, the High Court dismissed the claim and refused to grant the claimant leave to appeal against that decision. The Council has recently been informed that the applicant has applied for leave to appeal directly to the Court of Appeal, but it has not been served with the appellants notice. Any request for leave to appeal is therefore out of time, and could only proceed if a request for an extension of time were allowed by the Court of Appeal. On the basis of the information known by the Council, there is no basis upon which the Court could reasonably grant an application for an extension of time in the circumstances.
- 4.3 To progress the project, revised costs have been established and require member approval prior to signing the DMA with Alliance Leisure Services Limited.
- 4.4 Following the completion of the signed agreement, mobilisation will commence with an estimated lead-in time of 16 weeks to supply energy to the work site and a 26 week construction period, thereafter.
- 4.5 The Sports Hub has been included within the new Leisure Management Contract and operation of the site can commence on completion of the capital works.

5 Supporting Information

Introduction

- 5.1 The Judicial Review brought against West Berkshire Council was rejected by the High Court following a number of hearings (the latest being 19 January 2023). The claimant has since indicated that a further appeal to the Court of Appeal is intended to be pursued.
- 5.2 To date the Newbury Sports Hub project has been delayed for 14 months during the course of this action.

Background

- 5.3 The Executive agreed a land deal with Newbury Rugby Club for the site of the Newbury Sports Hub on 24 April 2021
- 5.4 An Executive decision was taken to build the Newbury Sports Hub on 16 December 2021, with an agreed budget of £3.351 million, with Executive Director approval to add a further £250k as the scheme was developed to cost certainty and for the discharge of any planning conditions.
- 5.5 Planning permission was granted for the development of Newbury Sports Hub on 16 March 2022 with 29 planning conditions.

Scope of the Project

- 5.6 The scope of the Sports Hub has not changed during the past 14 months. The Sports Hub will deliver a new sports stadium to meet the standards of a Step 4 ground, enabling local football teams to play their home matches at the venue. The Step 4 ground grading will enable local teams like Newbury FC, who have maintained their commitment to relocate to these facilities, to achieve promotions without the need to change their home ground.
- 5.7 The Sports Hub significantly increases the capacity for both football and rugby and it is projected that more than 2,000 bookings will take place each year, when the site reaches operational maturity.
- 5.8 The full details of the project are listed below:
- (a) A pavilion with 400 square metres of internal space containing:
- Four team changing rooms, officials changing room and medical room
 - Club/committee meeting room
 - Function room/social area
 - Kitchen/Servery
 - Staff office
 - Toilets for visitors and spectators
- (b) A 3G Artificial Grass Pitch (AGP) with dimensions of 106m x 70m
- Fully accessible spectator stand
 - Six sports lighting pillars
 - Equipment storage containers and equipment including goals
 - Essential maintenance equipment including pitch roller
 - 4.5m high fencing around the pitch and double turnstile access for spectators.
 - The 3G AGP pitch will be marked for both football and rugby and delivered to FIFA and World Rugby Regulation 22 standards
- (c) A new car park encompassing 52 spaces including two disabled bays, electric charging points and bike racks.

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- (d) The development also includes ground works to meet the planning condition of a 10% increase in bio diversity on the site. This is achieved by:
- Planting of the Queen's tree canopy.
 - Doubling the width of more than 300m of hedgerow on the borders of the site
 - Planting wildflower meadows on two banks of the site
 - Introducing a bee bank

Mobilisation

5.9 The lead-in time for securing energy to the site is 16 weeks and the construction will be completed over a 26 week period.

5.10 In order for clubs to use the Sports Hub as their home venue, registration with local leagues is required in March of each year. If works commence in April 2023 the Sports Hub should be ready for registration with local leagues in March 2024, enabling teams to play their home matches at the Sports Hub from September 2024.

Updated costs

5.11 The revised costs are shown in the table below:

Cost Certainty Summary at 21.2.23	Phoenix & S& C Slatter	Phoenix and Velocity Sports
3G Artificial Pitch with perimeter fencing, floodlighting, macadam hard-standing areas, storage container, spectator stands and associated features	£1,475,575	£1,329,972
Single Story Sports Pavilion building, car park and external works	£2,083,429	£2,083,429
BREEAM consultant fee	£2,250	£2,250
Provisional sum. External signage and Fixture, fittings & Equipment	£25,000	£25,000
Provisional sum, performance bond	£7,850	£7,850
Project Management Fees, Delivery Fees and UKLF Charge	£145,628	£137,064

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Project Costs	£3,739,731	£3,585,565
Client Held contingency – Pitch	£186,987	£179,278
Client Held contingency – Club House	£113,208	£112,780
Overall cost and contingency (excl. VAT)	£4,039,926	£3,877,623

5.12 The Velocity submission aligns more closely to the specification, however, S&C Slatter have put forward an innovative proposal using an organic infill. SSL have flagged risks with this option and would not warrant the performance, although S&C Slatter would provide a performance warranty. The proposal put forward by S&C Slatter is unproven at this point in time and, given the requirement of the pitch to meet and retain FIFA and World Rugby Regulation 22 standards, it would appear prudent to proceed as per the specification and consideration could be given to looking at the innovative proposal when the pitch requires replacement in the future.

5.13 Therefore, the budget figure for the project will be £3.878 million. This assumes entering into contract by mid-April with a practical completion date of December 2023. Any delays in entering into contract will require a review of the ongoing inflationary impact on costs.

5.14 The current budget requirement reflects an increase of £527,000 as a result of the Judicial Review application and subsequent appeals.

Project Timeline

5.15 Assuming the DMA can be signed at the end of March the current project timeline is summarised as follows:

Executed DMA and JCT	Design Work & Mobilisation of Supply Chain.	Collation Info to Assist Discharge & Discharge Time frames	Commence Work on Site / Practical Completion
24.3.23	Design Work (8 wks) 27.3.23 – 28.5.23	Collation info (3 wks) 24.3.23 – 13.4.23	Commence on Site: PPS 22.6.23 Velocity 23.6.23
	Mobilisation of Supply Chain (8 wks) 14.4.23 – 8.6.23	Discharge Timeframe (8 wks) 28.4.23 – 22.6.23	Practical Completion: PPS 21.12.23 Velocity 23.11.23

6 Other options considered

6.1 The other substantive option is not to progress with the scheme. If the Council determined not to progress, it should be noted that, whilst there are some options to develop more artificial grass pitches, no site has been identified, to date, that has sufficient space to develop a ground to a Step 4 standard. The development of the Sports Hub will deliver against the Council's ambition as detailed in the Playing Pitch Strategy and not progressing with the scheme is not recommended as an option.

7 Conclusion

7.1 Demand for football has continued to grow across West Berkshire and the success of the national women's football team has acted as a catalyst to significantly increase demand for playing football for women and girls. The latest data in the Stage E review of the Playing Pitch Strategy showed that more than 50 teams are having to travel outside of West Berkshire to access pitches.

7.2 This information is supporting the case for the development of new facilities within West Berkshire as part of the Playing Pitch Strategy Action Plan and the creation of the Newbury Sports Hub, alongside further artificial grass pitches, will play a significant role in addressing this demand.

8 Appendices

None

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 Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

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