



Agenda Item:

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Appendix 1 is confidential/exempt under Access to Information Procedure Rule 10.4.3 'Information relating to the financial or business affairs of any particular person (including the authority holding that information)'. It contains information which if disclosed to the public would, or would be likely to prejudice the commercial interests of the Council.

Report of the Director of City Development

Report to Executive Board

Date: 13 June 2007

**Subject: Swimming and Diving Centre, John Charles Centre for Sport
Capital Scheme Number: 02794 / 000 / 000**

Electoral Wards Affected:

Middleton Park, Beeston and Holbeck,
City and Hunslet

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In
(Details contained in the report)

EXECUTIVE SUMMARY

The report advises the Executive Board of the anticipated final budget shortfall as detailed in Appendix 1 of the report, which is confidential under Access to Information Procedure Rule 10.4.3. It details a number of work areas that have contributed to the budget shortfall, the reasons and the actions that have been, and are being, undertaken to try and reduce the anticipated final budget shortfall.

The report advises that funding for the scheme has been obtained from Sport England. Additional external funding has previously been sought from both Sport England and Yorkshire Forward but such approaches have been rejected and these were reported to Executive Board in December 2006. In addition the report outlines a number of measures undertaken at various stages of the project to try and reduce costs.

The report recommends that the Council authorise incurring additional expenditure as detailed in Appendix 1, to meet the anticipated final budget shortfall.

1.0 PURPOSE OF THIS REPORT

- 1.1 The purpose of this report is to update Members on the development of the new Swimming and Diving Centre and to authorise an injection of funding into Capital Scheme 02794 as detailed in the recommendations contained in appendix 1 of the report, which is confidential under Access to Information Procedure Rule 10.4.3.

2.0 BACKGROUND INFORMATION

- 2.1 The new Swimming and Diving Centre which will replace the current Leeds International Pool (LIP) is being built at the John Charles Centre for Sport. The new centre includes a 10 lane 50m pool which can be subdivided into three areas to offer maximum flexibility of use, diving tank with boards up to 10m high, dryland training gymnasium, seating for 800 spectators, dance studio, wet and dry area changing rooms, meeting room, café and kitchen area. The diving tank and part of the swimming pool also incorporate adjustable height floors again to offer maximum flexibility of use. It also includes a new 370 space car park and Phase 1 of the new link road connecting Middleton Grove to Old Run Road in Belle Isle.

- 2.2 The funding profile for the scheme as approved at Executive Board in January 2005, post tender but prior to the project starting on site, can be summarised as follows:

Sport England	£ 4,761,000
Leeds City Council (part receipt from LIP)	£11,469,700
Total (excluding link road phase 1)	£16,230,700

- 2.3 In March 2005, following a competitive tender exercise where cost and quality was evaluated by Officers from Learning and Leisure, Corporate Procurement Unit and Development, Sir Robert McAlpine Ltd were appointed to build the new Swimming and Diving Centre. The contractors commenced work on site in April 2005 with a programmed completion date of 28 February 2007. The car park and phase 1 of the Link Road are now complete. The remainder of the project is approximately 90% complete with most of the external fabric of the building now in place, all the internal spaces formed and the finishes and services work well underway. It is envisaged that the remaining works will be complete in August 2007 and the building open in October 2007.
- 2.4 In December 2006 Executive Board approved additional funding to cover the funding deficit known at that time, details of which are contained in Appendix 1 of the report. Members should note that the report to Executive Board in December 2006 was presented as an interim position setting out the budget position on the project with (at that time) 7 months of the construction programme remaining and that a further report would be presented to Executive Board once there was more certainty as to the anticipated estimated final cost of the project.

3.0 MAIN ISSUES

- 3.1 The Design Team has undertaken a detailed review of the project to date in order to estimate the anticipated final cost and this is identified in Appendix 1 which is confidential under Access to Information Procedure Rule 10.4.3 for the reasons identified in paragraph 6.1 below.
- 3.2 The main reasons for the scheme being over budget are outlined below. A breakdown of the projected costs is shown in Appendix 1, which is confidential under category 10.4.3 due to some of the costs still being subject to final agreement or negotiation with the contractor and consultants.

3.2.1 Design variations

These are items that were only discovered once the contractor started work onsite and relate to any changes that have had to be made to the design. The cost of and extent of most of these variations is yet to be finally agreed between the Contractor and the Design team. Some of the examples are detailed below:

- (i) Additional steel required for structural frame
- (ii) Amendments to the mechanical and electrical services design for the floating floor and boom walls in swimming pool, timing equipment and kitchen.
- (iii) Amendments to existing escape ramp from existing Stadium building in order for it to operate safely during the construction of the project
- (iv) Alterations to quantity of internal glazed screens including upgrading fire protection of one screen to reduce extent of fire protection required elsewhere.

3.2.2 Tender variations and omissions

These are items that were either not included, or inadequate provision made, within the tender documentation or are in dispute with the contractor. The agreement on the cost of, and extent of, most of these variations is under negotiation between the Contractor and the Design Team, the details of which if disclosed may prejudice the Council's position in dealing with potential claims and future negotiations with the contractor. Examples of such variations include extent of fire boarding to structural steelwork, steel reinforcement, handrails and balustrading, damp proofing to basement and tree pits to car park.

3.2.3 Contractor qualifications to tender

This is due to the contractor stating in their tender that it was subject to the following alterations or qualifications, which are:

- (i) Piling and Statutory services

All tenderers stated in their tender submissions that they were not willing to provide a fixed price as requested for the piled foundations and that the piling would be subject to remeasuring once the work was complete. The tenderers adopted such a position due to the magnitude of the risk in that the integrity of the rock and the ultimate depth of the piles could not reasonably be forecast until the post tender test piling had been carried out. The design team reviewed these tender qualifications and advised that going back out to tender for the project in order to secure a fixed price for the piled foundations was likely to result in new tenders that would be higher than the cost of accepting the contractor's qualifications.

- (ii) Omission of responsibility for alterations of incoming services to the site.

3.2.4 Health and Safety works and statutory requirements

This includes any work that was identified after the contractor submitted their tender that was required to be amended for health and safety reasons or due to planning or building regulation requirements, but have still to be finally agreed. They include:

- (i) Amendments to the fall arrest system from the roof to comply with current safety regulations
- (ii) Fire resistant external cladding to comply with Building Regulation requirement
- (iii) Additional guard railing to diving platforms to comply with current safety recommendations.

3.2.5 Additional unforeseen works

These are areas of work which could not have been reasonably foreseen at tender stage and include:

- (i) Excavated earth which was originally planned to be used for the link road having to be taken offsite to a licensed tip due to contamination. The site investigation undertaken did not reveal this contamination.
- (ii) Drainage alterations and service alterations within the car park.

3.2.6 Client changes

These relate to relatively minor changes made by the Client in the post tender period and include:

- (i) Provision of security hut and services to car park to improve security within the car park
- (ii) Changes to drainage within the car park as the car park was completed in phases in order for areas of it to remain open for public use
- (iii) Minor additions and changes to the fixtures and fittings within the building
- (iv) Minor revisions to diving facility to comply with up to date requirements from the Amateur Swimming Association (ASA).

3.2.7 Contractor claims

This relates to claims from the contractor for extensions of time and loss and expense, the details of which if disclosed may prejudice the Councils position in dealing with potential claims and future negotiations with the contractor.

3.2.8 Additional consultant's fees

This relates to claims from the Design Team for additional fees, mainly due to the prolongation of their service, the details of which if disclosed would prejudice the Councils position in dealing with potential claims and future negotiations with the Design Team.

3.2.9 Client Contingency

This is to cover any other unforeseen costs that may occur during the final months of the project prior to practical completion and the determination of the contractors claims, the details of which if disclosed would prejudice the Council's negotiating position.

- 3.3 The increased cost of the Leeds swimming pool has been benchmarked to a number of other similar newly built or proposed 50m swimming pools. The revised cost of the Leeds pool is similar to most of the benchmarked pools. The cost of these benchmarked pools are included in the confidential appendix because a number of the pools are being, or proposed to be, built and the sponsors have requested that the costs remain confidential.

4.0 ACTIONS TAKEN TO REDUCE PROJECT OVERSPEND

- 4.1 It was reported to Executive Board in December 2006 that additional funding had been sought from both Sport England and Yorkshire Forward to reduce the deficit but the requests were unsuccessful.
- 4.2 It was reported to the December 2006 Executive Board that the Project Board had requested that the design team look at the potential of reducing specifications/omitting areas of work from the project in order to contain the project in budget. The Project Board concluded that there was little real opportunity to reduce the scope of works/specification given that there had already been extensive value engineering exercises undertaken to identify cost savings and that given the stage in the construction programme considerable abortive costs would be incurred, minimizing any savings that may be achieved. The Project Board had looked at omitting the first floor containing the dance studio and dry changing rooms but when consulted Sport England informed the Council that if this was done they would reduce their grant accordingly due to the reduction in sporting outcomes.
- 4.3 At this late stage in the project, with only a few months left until completion, it is the view of the Project Board that it would be counter productive to try and omit or reduce elements of work from the scheme as the vast majority of components have already been procured. Therefore, to change or omit items in the specification now would incur abortive costs rather than savings.
- 4.4 At Executive Board in December 2006 it was reported that the following independent reports, which are confidential under Access to Information Procedure Rule 10.4.3, had been procured to advise what actions needed to be taken to try and reduce the budget overspend.
- (i) Advice on potential claims
 - (ii) Audit of how the design team, contractor and client have performed with actions to be undertaken to improve organisational arrangements of the project
- 4.5 The independent reports recognise that the issues referred to are causing a strain on the relationship between the Contractor with the Design Team. The actions implemented by the Project Board following receipt of the reports recommendations are included in Appendix 1.
- 4.6 It was reported to the December 2006 Executive Board that the Project Manager from Lend Lease had been replaced. The new project manager, with active support from his Regional Director, has brought a greater cohesion to the design team and introduced a site based team to deal with the contractual situation onsite. Although costs have risen it is believed that the action of bringing in a new Project Manger has improved the difficult contractual situation and reduced the likely final cost had this action not been taken.

5.0 CONSULTATION

- 5.1 A wide range of consultation was undertaken in the preparation of the scheme design. The organisations consulted included Sport England, Amateur Swimming Association, local aquatic organisations, local community as well as statutory undertakers.

6.0 LEGAL AND RESOURCE IMPLICATIONS

- 6.1 The Appendix to this report contains information which if disclosed to the public would, or would be likely to, prejudice the commercial interests of the Council. The Appendix contains costs and details about the relationships between the parties and if disclosed may prejudice the Council's position in dealing with potential claims and future negotiations. By keeping the commercial information confidential at this time it protects the Council's negotiating position and prevents potential wasteful public expenditure.
- 6.2 In January 2005 Executive Board approved total funding for the scheme of £16,230,700. This consisted of £4,761,000 Sport England Lottery Grant and a Council contribution of £11,469,700 from the sale of the Leeds International Pool site (LIP). This funding package excluded the cost of the Link Road Phase 1 scheme which was funded from a budget provided from within the Development Department
- 6.3 In December 2006 Executive Board approved additional funding to cover the overspend known at that time. This is confidential and is detailed in Appendix 1.
- 6.4 Members of Executive Board should note that a condition within the Sport England Grant award stated that if the difference between the total project cost and the final sale figure achieved for the LIP site, excluding the adjacent car park, is less than £5m, then the award will be reduced accordingly. As the difference between the estimated final cost of the facility and the estimated sale of the LIP is now more than £5m then the grant will be maximised at £5m.
- 6.5 In March 2007 the Council approved funding for the installation of a Combined Heat and Power Unit for the onsite generation of both heat and electricity. This will enable considerable energy savings to be made. The capital funding of £102,051 will be funded by an interest free energy loan and it is estimated that savings of £50,000 per year will be achieved.

7.0 RISK ASSESSMENT

- 7.1 There remains a risk that other unforeseen costs will arise that will further contribute to the anticipated budget shortfall. Whilst the risk cannot be eliminated completely, as at the date of report preparation, the project is approximately 3 months away from practical completion. Therefore, any additional costs that may be incurred would relate to fitting out works, fixtures and fittings and future claims that may be submitted by the contractor that are justifiable but at present not known. In recognition that a risk remains an additional client contingency allowance has been included into the forecast anticipated final cost for the project.
- 7.2 The remaining risks are included with Appendix 1 as they are confidential under Access to Information Procedure Rule 10.4.3

8.0 COMPLIANCE WITH COUNCIL POLICIES

- 8.1 The Councils Corporate Plan identifies the need to:
- (i) Make the most of people. This scheme will increase swimming participation with subsequent health benefits.
 - (ii) Looking after the environment. It has a number of energy saving initiatives including a combined heat and power unit

9.0 RECOMMENDATIONS

- 9.1 Executive Board is requested to approve the recommendations detailed within Appendix 1 to meet the anticipated budget shortfall on the Swimming and Diving Centre, the details of which are confidential under Access to Information Procedure Rule 10.4.3.