



Report of the Acting Director of City Development

Executive Board

Date: 18 May 2011

Subject: Call-In of Decision on Garforth Squash and Leisure Centre

Electoral Wards Affected:
Garforth and Swillington

yes

Ward Members consulted
(referred to in report)

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)

x

EXECUTIVE SUMMARY

On 30th March 2011 Executive Board considered a report on Garforth Squash and Leisure Centre and resolved to support the principle of a community asset transfer of this site to the Schools Partnership Trust, and to delegate conclusion of the transfer to the Acting Director of City Development in consultation with the Executive Member for Leisure.

The decision was called in to the City Development Scrutiny Board, which decided at its meeting on 20th April 2011 to refer the decision back to Executive Board.

This report recommends that the decision of 30th March be reaffirmed.

1.0 Purpose of this Report

1.1 This report

[a] advises Executive Board that at a meeting on 20th April 2011 the City Development Scrutiny Board agreed to refer back Executive Board's decision of 30th March 2011 on Garforth Squash and Leisure Centre

[b] recommends that the original decision be reaffirmed.

1.2 As this will be a response to the Scrutiny Board's call-in and reference back, it is not eligible for further call-in.

2.0 Background Information

2.1 On 23rd February 2011 Council approved the revenue budget for 2011/12. The City Development section of the budget report included the proposal “to progress a proposal for community asset transfer for Garforth Sport Centre as from summer 2011 with a reduction in opening hours to 31 hours a week from 1st April 2011.”

2.2 On 30th March 2011 Executive Board considered a report on Garforth Squash and Leisure Centre and resolved:

(a) That the proposed method of disposal via direct negotiation with the Schools Partnership Trust, together with the aims of the proposed transfer and the risks and mitigations identified within the submitted report, be noted.

(b) That the principle of a community asset transfer of Garforth Squash and Leisure Centre to the School Partnership Trust at less than best consideration be approved.

(c) That the Acting Director of City Development, in consultation with the Executive Member for Leisure, be authorised to finalise a lease agreement in keeping with the principles and terms outlined within the submitted report and subject to receipt of a suitable and robust business plan to conclude a lease with the School Partnership Trust.

2.3 This decision was called in by the City Development Scrutiny Board which discussed it on 20th April and voted 6:6 on the call-in, which was then decided on the casting vote of the Chair:

“That the decision be referred back to the Executive Board on the grounds that there are concerns that the School Partnership Trust (SPT) has not agreed to take on this facility, that there was no business plan submitted to Executive Board as to how the future service delivery at this facility for community use will be delivered, no reference to repair costs that will have to be incurred by the Council under the proposed Heads of Term before SPT take on the repairing obligation and that only a single organisation has been approached with a view to transferring the Council’s asset.”

2.4 The full record of the call-in meeting is attached at Appendix A.

3.0 Main Issues

3.1 Taking the reasons for referral back one by one,

3.1.1 “there are concerns that the School Partnership Trust (SPT) has not agreed to take on this facility”.

The Executive Board report of 30 March followed in-principle discussions between the Acting Director of City Development and the Chief Executive of the SPT with the Executive Member and other officers in attendance. It was clearly understood that both sides would need to obtain appropriate authority to enter into a lease, and clearly if either side were to decline then the asset transfer would not happen. Indeed, if both sides took the view that they needed agreement from the other before they would agree even in principle, then the whole process would stall. The Chief Executive of the SPT has subsequently confirmed that the Trustees support the CAT in principle (i.e. subject to the same requirement for a satisfactory business plan that Executive Board had agreed). Accordingly, on the 5th May 2011 the SPT

Board formally agreed to the principle of the Community Asset Transfer and the Heads of Terms previously agreed by Executive Board on the 30th March 2011.

- 3.1.2 “there was no business plan submitted to Executive Board as to how the future service delivery at this facility for community use will be delivered”.

This is why the report of 30 March proposed, and Executive Board agreed, that a suitable and robust business plan must be received before a lease would be concluded. The SPT is currently developing a Business Plan in line with the Heads of Terms previously outlined.

- 3.1.3 “ [there was] no reference to repair costs that will have to be incurred by the Council under the proposed Heads of Terms before SPT take on the repairing obligation”.

The proposed Heads of Terms, reported in the Executive Board report, do not commit the Council to incurring any repair costs before transfer, and explicitly allocate responsibility for repairs thereafter to the tenant.

Reference was made at the Scrutiny Board meeting to a condition survey of the building dating from 2007 with a headline repair cost of £348,650, which has been supplied to the SPT. This was the last full condition survey conducted by the Council. It categorised works as “essential”, “desirable” and “long term” with total values of £24,000, £258,350 and £66,300 respectively. The SPT was also supplied with a progress update conducted in October and November 2010, which identified £168,950 of the works as having been implemented (before discussions had begun with the SPT), leaving £179,700 outstanding, divided between £8,500 of essential works, £104,900 of desirable works and £66,300 of long term works.

Officers advised the SPT at an early stage that they did not anticipate implementing repairs (other than normal running repairs) before a transfer, and the SPT has so far agreed this approach. There has been no suggestion in the negotiations with the SPT that there are any significant prior repair requirements, or that the SPT’s business plan will require the Council to implement any. If during the final stages of negotiation the SPT were to take such an approach, the Acting Director would consider the request against what would be required if the building were to remain in Council management, and he would seek further authorisation from Executive Board if the SPT’s requirement was disproportionate compared to what would be required anyway under continuing direct management. Overall, the scale of backlog maintenance, particularly the essential elements, are not considered at this stage to be a substantive reason for not progressing with a CAT.

- 3.1.4 “only a single organisation has been approached with a view to transferring the Council’s asset”.

One of the reasons a report was brought to Executive Board on 30th March, at a comparatively early stage of the discussions with the SPT, before a business plan had been agreed, was to ensure that there was public knowledge and transparency on this. The report informed Executive Board of the approach and gave several reasons which justify why a single negotiation was a reasonable approach in this case. The first part of the resolution explicitly refers to the single negotiation.

- 3.2 The Council does tend to market properties that are being sold for commercial reasons as a means of demonstrating that best consideration has been achieved. However, non-commercial transfers and disposals often progress on a one-to-one basis. Harehills Middle School, Hillside Primary, Otley Court House, Headingley Primary School, Woodhouse Community Centre and the Cardigan Centre have all

progressed through one-to-one negotiations and passed into community use/social enterprise. The question with respect to Garforth is the extent to which the Council's objectives and those of SPT are aligned. The Directorate's view is that the objectives of the two parties are aligned and in view of the benefit to all parties of securing the future of the centre in a timely way, it is felt that on balance a one-to-one transaction outweighs any potential benefits of marketing more widely in this instance. For these reasons and following the analysis in paragraphs 3.1.1 to 3.1.4 above, officers take the view that the reasons given for asking Executive Board to reconsider the original decision do not amount to a strong case for a different outcome, and accordingly believe the original decision should be reaffirmed.

- 3.3 At the Scrutiny Board meeting the view was expressed that the final sign-off of the agreement (following agreement of the business plan) should be by Executive Board, not delegated to the Acting Director. Although this view was not incorporated into the text of the referral back, officers have considered this issue further and believe there are two points that should be taken into account.
- 3.4 The first point is that if there is a serious concern that the requirement for consultation with the Executive Member for Leisure does not give sufficient political control over the finalisation of the agreement, final sign-off could be sought at Executive Board. The Directorate's expectation is that the Acting Director and Executive Member would only agree the lease under this delegation if it was consistent with the principles set out in the report of 30th March. However some members of the Scrutiny Board expressed concern over the approach. If Executive Board now shares this concern, there would be no in-principle problem with amending this part of the process.
- 3.5 However, the report of 30th March included, as one of the reasons for single negotiation with the SPT, that this would achieve the restoration of longer hours in the fastest possible time. The Call-in and associated Stop Order have already had the effect of delaying progress, as officers are currently unable to progress negotiations with the SPT. The Acting Director referred to the delays caused by the Stop Order in his evidence to the Scrutiny Board. One effect of the delay is that it is now extremely unlikely to be feasible to effect a transfer within the ten week period from 1st April during which Area Committee funding is available to top up core funded opening hours. Unless some other funding becomes available, opening hours will therefore drop in mid June from the current 58 hours per week to the core-funded 31 hours per week.
- 3.6 An additional requirement to take a final report back to Executive Board would further delay the process, as normal Executive Board lead-in times would take several weeks after the Acting Director had satisfied himself that the terms and business plan were acceptable. The extent of delay depends on the date of the next available Executive Board after this milestone, but would typically be between five and ten weeks allowing for lead-in times.
- 3.7 Therefore there is a balance to be struck between satisfying any concerns that may exist over the Acting Director (in consultation with the Executive Member for Leisure) agreeing a lease and business plan that would not meet the expectations of Executive Board, and sustaining the public service provided by the leisure centre.

4.0 Implications For Council Policy And Governance

- 4.1 Some implications for Council Governance are explored above, specifically paragraph 3.1.4, and paragraphs 3.3 to 3.7. There is no constitutional requirement and no standard procedure in Community Asset Transfers which would require

either advertisement of a CAT opportunity or final sign-off of an agreement at Executive Board.

- 4.2 The Ward Members for Garforth and Swillington were consulted and expressed support for the reaffirmation of the Executive Board resolution of 30th March.

5.0 Legal and Resource Implications

- 5.1 The operation of the leisure centre at 31 hours a week is funded within the 2011/12 budget. However, as there is to be no ongoing subsidy to the SPT, there will be a revenue saving of £33k in direct subsidy, plus (depending on whatever arrangements are made for the Bodyline gym) additional net income of estimated £84k at Garforth and/or other local sites, total £117k a year, from the date a transfer can be effected; plus additional savings in ongoing maintenance costs.

6.0 Conclusions

- 6.1 This report highlights the issues raised by Scrutiny Board with respect to the report to Executive Board on the 30th March 2011 concerning the Community Asset Transfer of the Leisure Centre to the Schools Partnership Trust. Based on the information provided above, the conclusions of this report are that there remains sufficient justification to progress with the transfer on the principles previously agreed by Executive Board, and that the original judgement of Executive Board in delegating finalisation of the lease to the Acting Director was reasonable. Therefore it is proposed that the delegation should remain, in preference to the risk of reducing a public service further which could result should there be any additional delay.

7.0 Recommendations

- 7.1 Executive Board is recommended to re-affirm the decision taken at its meeting of 30th March 2011.

Appendix A - Record of Scrutiny Board call-in meeting.

8.0 Background Papers

Condition Survey Garforth Squash and Leisure Centre 2007

Update of Condition Survey November 2010.

SCRUTINY BOARD (CITY DEVELOPMENT)

CALL-IN OF EXECUTIVE BOARD DECISION

Reference SSU 2010/11 Minute 205 - 51

1.0 DETAILS OF CALLED IN DECISION

- 1.1 This report relates to a decision of the Executive Board on 30th March 2011 to approve the granting of a long term lease at a peppercorn rent of the Garforth Squash and Leisure Centre to the School Partnership Trust.

2.0 DETAILS OF CALL- IN

- 2.1 The Call-In was requested by Councillors A Lamb, D Schofield, B Anderson, C Fox and P Harrand
- 2.2 The Call-In request was considered by a meeting of the Scrutiny Board (City Development) on 20th April 2011 which was attended by:

Councillor J Procter (Chair)
Councillor B Chasney
Councillor R Pryke
Councillor J Akthar
Councillor B P Atha
Councillor P Grahame for Councillor A D Atkinson
Councillor M Rafique
Councillor G Harper
Councillor J Jarosz
Councillor M Lobley
Councillor M Robinson
Councillor J Elliott
Ms B Woroncow - Co-opted Member (non voting)

3.0 EVIDENCE CONSIDERED

3.1 The Board considered the following written evidence:

Report of the Acting Director of City Development outlining proposals regarding the granting of a lease to the Schools Partnership in respect of Garforth Squash and Leisure Centre from a date to be agreed and seeking approval to delegate the necessary authority to the Acting Director of City development in order to finalise and conclude the lease.

- 3.2 The following Executive Board Member and officers attended the meeting to give evidence to the Board and answer questions:

Mr M Farrington, Acting Director of City Development
Mr R Mond, Chief Recreation Officer
Mr M Allman, Head of Sport and Active
Councillor A Ogilvie

- 3.3 The following signatory of the Call-In attended to present the reasons for the Call In:

Councillors A Lamb
Councillor D Schofield

4.0 CONCLUSIONS AND RECOMMENDATIONS

- 4.1 At the conclusion of the meeting, the following statement was agreed
6 in favour and 6 against the proposal with the Chair using his casting vote :

“That the decision be referred back to the Executive Board on the grounds that there are concerns that the School Partnership Trust (SPT) has not agreed to take on this facility, that there was no business plan submitted to Executive Board as to how the future service delivery at this facility for community use will be delivered, no reference to repair costs that will have to be incurred by the Council under the proposed Heads of Term before SPT take on the repairing obligation and that only a single organisation has been approached with a view to transferring the Council’s asset.”