

Agenda

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City Executive Board

Date: **Thursday 21 July 2011**

Time: **5.00 pm**

Place: **St Aldate's Room, Town Hall**

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City Executive Board

Membership

Chair	Councillor Bob Price	Corporate Governance and Strategic Partnerships
	Councillor Ed Turner	Finance and Efficiency
	Councillor Antonia Bance	Stronger Communities
	Councillor Colin Cook	City Development
	Councillor Van Coulter	Leisure Services
	Councillor Mark Lygo	Parks and Sports
	Councillor Joe McManners	Housing Needs
	Councillor Val Smith	Regeneration
	Councillor John Tanner	Cleaner, Greener Oxford
	Councillor Bob Timbs	Crime and Community Safety

The quorum for this meeting is three members. Substitutes are not permitted.

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AGENDA

PART ONE PUBLIC BUSINESS

Pages

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Board Members are asked to declare any personal or personal prejudicial interests they may have in any of the following agenda items. Guidance is contained at the end of these agenda pages.

3 PUBLIC QUESTIONS

When the chair agrees, questions from the public for up to 15 minutes – these must be about the items for decision at the meeting (excluding the minutes) and must have been given to the Head of Law and Governance by 9.30am two clear working days before the meeting (email executiveboard@oxford.gov.uk or telephone the person named as staff contact). No supplementary questions or questioning will be permitted. Questions by the public will be taken as read and, when the Chair agrees, be responded to at the meeting.

4 COMPETITION STANDARD SWIMMING POOL

1 - 12

Lead Member: Councillor Coulter

Report of the Head of Leisure and Parks

To recommend the approval of the tender for the construction of a competition standard swimming pool adjoined to Blackbird Leys Leisure Centre.

5 FUTURE ITEMS

This item is included on the agenda to give members the opportunity to raise issues on the Forward Plan or update the Board about future agenda items.

6 MATTERS EXEMPT FROM PUBLICATION

If the Board wishes to exclude the press and the public from the meeting during consideration of any of the items on the exempt from publication part of the agenda, it will be necessary for the Board to pass a resolution in accordance with the provisions of Paragraph 21(1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 on the grounds that their presence could involve the likely disclosure of

exempt information as described in specific paragraphs of Schedule I2A of the Local Government Act 1972.

The Board may maintain the exemption if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

DECLARING INTERESTS

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

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To: City Executive Board

Date: 21 July 2011

Report of: Head of City Leisure & Parks

Title of Report: Award of the contract to construct a new competition standard swimming pool adjoined to Blackbird Leys Leisure Centre.

Summary and Recommendations

Purpose of report: To recommend the approval of the tender for the construction of a competition standard swimming pool adjoined to Blackbird Leys Leisure Centre.

Key decision? Yes

Executive lead member: Councillor Van Coulter

Report approved by:

Finance: Nigel Kennedy
Legal: Jeremy Thomas
Procurement: Jane Lubbock

Policy Framework:

Corporate Plan

- Strong & Active Communities
- An Effective & Efficient Council

Recommendation(s):

1. That the City Executive Board approves the construction of the competition standard swimming pool that will be adjoined to Blackbird Leys Leisure Centre.
2. That delegated authority is awarded to the Executive Director of City Services in consultation with the Head of Law and Governance to award the construction contract to Willmott Dixon.
3. To delegate authority to the Executive Director of City Services to amend the contract with Fusion Lifestyle to include the management of the new competition standard pool, subject to the agreement of satisfactory terms.

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| <p>4. That Officers implement a decommissioning plan for Temple Cowley and Blackbird Leys Pools.</p> |
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1. Background

- 1.1 In May 2009 the Leisure Facilities Review was approved by the City Executive Board. The Board gave project approval for a new pool at Blackbird Leys Leisure Centre which on completion would enable the closure of Temple Cowley Pools and Blackbird Leys Pool.
- 1.2 Following a feasibility study the full business case was subsequently agreed by the City Executive Board in September 2010.
- 1.3 This report updates the position following the tender process and recommends the way forward.

2. Facility Design

- 2.1 The scheme consists of the original eight lane 25 metre competition standard pool, a floating floor enabling flexible programming of sessions, a teaching pool, spectator seating and a toddler fun pool.
- 2.2 Additional elements were added following the pre-planning consultation. They are a poolside sauna, a soft play area, an increased number of individual showers, improved disabled adaptations, increased spectator seating, flexible changing group rooms that can be segregated by gender when required, modesty screening to the poolside, increased parking spaces and local transport infrastructure improvements.

3. Tender Process

- 3.1 The tender process was detailed in the report approved by the City Executive Board on the 9th of March 2011.
- 3.2 In accordance with the City Executive Board report of the 9th March, Willmott Dixon were appointed to undertake certain limited preliminary work on the project, but on the basis that having successfully tendered for the substantive construction contract, they were in place to be appointed to undertake the substantive contract in the event that the Council decided to proceed with the project. The construction contract would, therefore, now be let subject to Willmott Dixon's guaranteed maximum price, reduced by further value engineering, to ensure that costs are held within budget.
- 3.3 The guaranteed maximum construction price excluding fees and contingencies is £7,148,000.

- 3.4 The NEC3¹ form of contract will be used and this will dovetail the NEC3 contract for professional services in place for Mace who are providing the technical professional support and project management support to the project.
- 3.5 The contract will require Willmott Dixon to provide a bond of 10% of the construction value, require full transparency of the sub-contractor pricing for each work package and will commit Willmott Dixon to payment of the sub-contractors in accordance with the Fair Payment Charter.
- 3.6 Where possible, at least one local firm submitted a bid for each package of works. This resulted in 27 local firms receiving the opportunity to bid for various work packages.

4. Management of the New Pool

- 4.1 The leisure contract details that Fusion Lifestyle will be *the preferred operator for the new pool* which enables the integrated operation of the pool alongside the current dryside facilities.
- 4.2 Officers are currently negotiating with Fusion Lifestyle to provide a final contract offer that presents excellent value for money. This will enable a saving of over £300,000 per year on the combined operating costs of Temple Cowley Pools and Blackbird Leys Pool. It is recommended that delegated authority be granted to the Executive Director of City Services to negotiate and agree terms with Fusion Lifestyle. The Corporate Director for Finance and Efficiency will be asked to validate that the negotiated terms provide best value prior to the contract variation being agreed.

5. Options

- 1) Progress with the construction of the new pool and consequently close Temple Cowley Pools and Blackbird Leys Pool.

This option reflects the Leisure Facilities Review (2009-2013) and creates a high quality, sustainable facility for Oxford. The pool would be opened shortly after the 2012 Olympics, which gives Oxford a fantastic legacy and excellent publicity for the opening of the new facility.

- 2) Cancel the development and do not progress the new pool and still close both Temple Cowley Pools and Blackbird Leys Pool.

¹ NEC3 is a family of contracts that facilitates the implementation of sound project management principles and practices as well as defining legal relationships.

While this is the most financially advantageous option it greatly reduces Oxford's leisure offering and does not meet the Council's strategic objectives.

- 3) Cancel the development and keep both Temple Cowley Pools and Blackbird Leys Pool open.

This does not meet the Council's strategic objectives in terms of increasing leisure participation and overall cost effectiveness.

6. Level of Risk

- 6.1 The risks are addressed in the risk register (appendix one).

7. Climate Change/Environmental Impact

- 7.1 The original aim was to achieve a BREEAM² "very good" rating for the new pool. We are very confident that we will achieve at least a "very good" rating and we are close to developing one of the first BREEAM "excellent" pools in the country.
- 7.2 The biomass boiler enables the pool to qualify for the newly launched government funded Renewable Heat Initiative. This means that government funding will be available for up to 20 years substantially reducing the annual running costs.

8. Contract Monitoring Arrangements

- 8.1 The award of contract to Willmott Dixon is through the use of the Improvement and Efficiency South East framework. This framework is used by councils in the south east for major construction projects and is recommended for use by Department for Communities and Local Government. The framework is monitored by Hampshire County Council who has a specialist team in place specifically to support and performance manage the contracts awarded through the framework. The team is in regular contact with each supplier on the framework, monitors their financial health and contract performance through a structured review of each stage of the project.
- 8.2 The monitoring support provided by Hampshire County Council includes;
 - Annual;
 - A review of the suppliers' financial accounts, company report, appraisal of current financial health by the finance team resulting in

² BREEAM (BRE Environmental Assessment Method) is the leading and most widely used environmental assessment method for buildings. "Excellent" is the highest possible rating.

a report.

- Insurance, accreditation checks.
- Health and Safety review of accidents on sites that fall within the framework.

Ongoing;

- Monitoring and support to each contract awarded within the framework.
- Compliance checking that suppliers are pricing in accordance with the framework.
- The contract will also require Willmott Dixon to report on a number of key performance indicators which will also be reported to the project board. These indicators include environmental and economic targets as well as project targets relating to time and cost.
- The Service Head for Corporate Assets will act as the client agent overseeing the supervision of the contractor and the professional team.

8.3 In addition to this, the project manager and procurement team will carry out monthly checks on Willmott Dixon to ensure:

- There has been no deterioration in their financial standing.
- That lead sub-contractors are being paid in accordance with the contract.
- That any change to the Willmott Dixon supply chain is notified to the Council.

This information will be provided in highlight reports to the project board.

9. Equalities Impact

9.1 The current facilities at Temple Cowley Pools and Blackbird Leys Pool do not meet modern disabled access standards. The new facility will be fully accessible.

10. Financial Implications

10.1 The tender result identifies a total cost for the pool, including fees and surveys and additional dryside works of £8,173,000. It is regarded as prudent despite there being a fixed price for there to be a contingency of 7%, equating to £707,000.

10.2 The project is funded from the approved £8.5 million capital programme allocation, plus £140,000 of repairs revenue and developer contributions of £380,000 (detailed in appendix two). The developer contributions of £240,000 are additional to the budget with £140,000 already being assumed in the £8,500,000. The gross cost of the project with contingencies is £8,880,000. The project will aim to minimise the use of contingencies. This position is shown in appendix three.

11. Legal Implications

11.1 The contract with Fusion Lifestyle foresaw the option of adding a new facility to the leisure management contract with a specified price, subject to changes in service requirements.

11.2 The procurement of building works have been carried out in accordance with the Council's Procurement, Commissioning and Contract Management Strategy using a national framework which is compliant with European Union Procurement Regulations.

11.3 Planning permission has been approved, subject to conditions, for the agreed design of the competition standard pool adjoined to Blackbird Leys Leisure Centre.

11.4 Members will be aware that recent reports in the media have suggested that there is a possible town green application in respect of Blackbird Leys Park. The Council has not, to date, been served with notice of any such application by the registration authority, but advice has been taken on the matter from leading counsel. The Council is confident that in the event that a valid town green application is made, a robust and authoritative defence can be raised to defeat any such application. The outcome of these issues can never be certain, however, it looks likely that the main impact could be a delay to the start of the construction.

12. Conclusion

12.1 The proposed facility meets the requirement on the May 2009 Leisure Facilities Review, is fully compliant with the design specification and can be achieved within the agreed budget envelope.

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List of background papers:

CEB Report – *Leisure Facilities Review* (Item 10, 20th May 2009)

CEB Report - *New build competition pool* (Item 6, 13th January 2010)

CEB Report - *Provision of swimming in the south of the city* (Item 13, 1st September 2010).

CEB report - *Procurement of the contractor for the new competition standard pool at Blackbird Leys* (Item 18, 9th of March 2011).

Version number: CEB FV

Appendix One - Risk Register

Risk ID	Risk						Corporate Objective	Gross Risk		Residual Risk		Current Risk		Owner	Date Risk Reviewed
Category-000-Service Area Code	Risk Title	Opportunity/Threat	Risk Description	Risk Cause	Consequence	Date raised	1 to 6	I	P	I	P	I	P		
CEB-001-CSP	Construction company risk	T	Main construction company go into administration	Economic environment	Delay to the project and increased cost to the project will arise. Supply chain may also go into administration	2.4.11	6	3	2	3	2	3	2	IB	1.7.2011
CEB-002-CSP	Construction company risk	T	Key Subcontractors go into administration	Economic environment	Delay to the project and costs	2.4.11	6	2	3	2	3	2	3	IB	1.7.2011
CEB-003-CSP	Changes made to the pool specification	T	Problems found with design resulting in a need to make changes to the construction	Build problems	Delay to project and additional costs	2.4.11	6	2	3	2	3	2	2	IB	1.7.2011
CEB-004-CSP	Construction risk	T	Ground condition problems	Unknowns not identified in surveys / ground conditions worse than expected	Delay to the project, costs become excessive	2.4.11	6	4	3	2	2	4	3	IB	1.7.2011
CEB-005-CSP	Reputation	T	The pool does not complete on time	Delays in the process / construction	Reputational damage	2.4.11	6	2	4	2	3	2	4	IB	1.7.2011

Risk Action Plan

Risk ID	Risk Title	Action Owner	Accept, Contingency, Transfer, Reduce or Avoid	Details of Action	Key Milestone	Milestone Delivery Date	Date Reviewed
CEB-001-CL	Main construction company go into administration	JL	Reduce	IESE and Council closely monitors the lead supplier and any company changes that might affect their ability to deliver the pool. Willmott Dixon will pay their sub-contractors within 30 days.	Constant	n/a	Fortnightly
CEB-002-CL	Subcontractors go into administration	JL	Reduce	Project Manager and Willmott Dixon to keep in regular contact with supply chain	Constant	n/a	Fortnightly
CEB-003-CL	Change made to the pool specification	JB	Reduce	Mace hold relevant PI insurance. All professional team have experience of building competition standard pools	Tenders received	June 2011	June 2011
CEB-004-CL	Ground condition problems	JB	Reduce	Pre-work surveys undertaken. A prudent provisional sum has been included.	Pre start testing / works commence	July 2011	July 2011
CEB-005-CL	The pool does not complete on time	IB	Reduce	Robust project management	Facility opens	September 2012	Fortnightly
CEB-006-CL	Town Green application for Blackbird Leys Park	IB	Reduce	Counsel's opinion and preparatory work to defend any such application underway.	Receipt/dismissal of application.	n/a	Fortnightly

Appendix Two: Developer Contributions

Within the Capital program

CAPITAL PROGRAMME REF NO.	SITE	LEGAL AGREEMENT	DEVELOPER
F6002	TA Centre, Slade Barracks, Mascall Avenue, Headington	07/02261/FUL	Berkeley Homes
	12-27 Salesian Gardens	07/2808/FUL	Cherwell Housing Trust
F7003	231 and 233 Cowley Road	09/1261/FUL	Mr Singh
	239 Iffley Road	09/1372/FUL:	Exeter College, University of Oxford
	379 Cowley Road	09/1864/FUL	Mr Clive Smith
	379 Cowley Road	09/1863/FUL	Mr Clive Smith
	145-146 Magdalen Road	09/01843/FUL	Vanderbilt Homes Ltd
	Cardinal House, Cardinal Close	09/01502/CT3	Oxford City Council - Housing
	Lambourn Road	09/01499/CT	OCC (Housing)
	TA Centre, Mascall Avenue	09/1205/FUL	Berkley Homes
	Highfield Adolescent Unit, Warneford	09/02309/FUL	Ox & Bucks Mental Health NHS Trust
A1161	Brake Hill & Fry's Hill BBL	712/95	Willmott Dixon Ltd
Unallocated			
	258-262 Cowley Road	10/03110/FUL	Mr P Patel
	381 Cowley Road	10/03135/FUL	Greenings (Oxford) Ltd

Appendix three – Financials

FINANCIAL STATEMENT - COMPETITION POOL

	£000's	£000's
COUNCIL BUDGET		
Capital Programme		8.500
Revenue repairs		0.140
Section 106 (not assumed in the £8.5m)		0.240
TOTAL BUDGET		<u><u>8.880</u></u>

EXPENDITURE

Pool Build Cost		7.008
Dryside Works		0.140
	Total works	<u>7.148</u>
Fees		0.859
Survey		0.166
	Total fees and surveys	<u>1.025</u>
Contingencies		
Dewatering		0.200
General		0.507
	Total contingencies	<u>0.707</u>
7.1% of works		0.707
TOTAL EXPENDITURE		<u><u>8.880</u></u>

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