

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

14th FEBRUARY 2008

REPORT OF CORPORATE
MANAGEMENT TEAM

COUNCIL DECISION/CABINET DECISION/KEY DECISION

Regeneration & Transport - Lead Cabinet Member, Councillor Cook
Arts, Leisure & Culture - Lead Cabinet Member, Councillor Mrs Womphrey

BILLINGHAM FORUM

1. Summary

This report provides an updated position statement regarding Billingham Forum Complex. In particular it highlights the redevelopment options and continuing operational issues affecting Billingham Forum.

2. Recommendations

It is recommended that Members recommend to full Council that they:

1. Proceed with Option 1 – the enhanced refurbishment of Billingham Forum as detailed in **Appendix 4**
2. Authorise the Corporate Director of Development and Neighbourhoods Services in consultation with the Cabinet Member for Regeneration and Transport to enter into an Early Contractor Involvement (ECI) process to establish a target cost for the refurbishment of Billingham Forum and undertake a full evaluation of risks
3. Note that a final target cost will be prepared for Cabinet and Council for approval prior to construction works commencing
4. Approve the funding proposal as detailed within this report and **Appendix 3**
5. Note the ongoing works to underpin the Forum's existing facilities

3. Reasons for the Recommendations/Decision(s)

To enable the progression of proposals to secure funding to facilitate a redevelopment of Billingham Forum.

4. Members Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

COUNCIL DECISION/CABINET DECISION/KEY DECISION

BILLINGHAM FORUM

SUMMARY

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RECOMMENDATIONS

It is recommended that Members recommend to full Council that they:

1. Proceed with Option 1 – the enhanced refurbishment of Billingham Forum as detailed in **Appendix 4**
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DETAIL

1. Billingham Forum provides a range of leisure facilities and is one of the three main leisure centres in the Borough of Stockton-on-Tees. It has a diverse blend of leisure facilities including an ice rink, which attracts people from all over the Tees Valley, Yorkshire and County Durham and is one of only three permanent ice rinks in over a 100 mile radius. Attendance figures show that the ice rink is one of the most popular facilities on offer, with usage figures increasing by nearly 51% (52,000 people) over the past 4 years. The Forum also offers a swimming pool, health and fitness facility, Grade II listed theatre, and indoor bowls; facilities which appeal to a whole range of users from across the Borough and Tees Valley.

2. The Forum Leisure Complex is managed by Tees Active Ltd, a non profit distributing Leisure Trust, established by Stockton Borough Council. Tees Active Ltd operates with a management fee from Stockton Borough Council under a 15 year agreement, which commenced on 1st May 2004. The Forum theatre is managed by Riverside Leisure Ltd (a private sector company) also through a management fee arrangement, whose current contract expires on 30th June 2009.
3. In October 2004, Department for Culture, Media and Sport (DCMS) granted listed building status to the Forum, specifically citing the theatre auditorium, stage and fly tower. Case law suggests that whilst these areas are specifically referenced, the entire internal and external structures of the complex are implicated by listing, thereby restricting options for refurbishment and upgrading. Listed building consent would be required for any improvements to the Forum (refurbishment or redevelopment).
4. As outlined in the February 2005 Cabinet report, Billingham Forum was built in the 1960s with what were then traditional methods and materials. As a result, its condition can best be described as fragile. Given the frailty and condition of the structure, services and fabric of the building, and the desire to keep it fully operational and open for use, extensive monitoring arrangements have been put in place to mitigate Health and Safety concerns.
5. Since 1980 £4.5 million (at current day costs) has been spent on improvements and repairs to the complex. However, given its age and construction type, many components are collectively reaching the end of their natural life. Recent difficulties including electrical problems, issues with the roof, and structural damage, all reflect the increasing difficulty of maintaining the building as a safe and reliable operational venue. The most recent substantial cost occurred in September 2007, as circa £15,000 was urgently required to rectify major problems with the ice rink plant, which resulted in the facility being closed for almost one week.
6. Following an application for PFI credits in 2005, which although unsuccessful received positive feedback, the Council in conjunction with The Billingham Partnership (TBP) prepared a refined 2007 PFI bid for submission. However, given the timescales involved with a PFI scheme and uncertainty regarding the announcement of 2007 PFI credits, Officers investigated contingency options and completed detailed financial appraisals.
7. In total eight options have been identified to demonstrate the range of facilities that could be provided in a redeveloped/refurbished Forum. An overview of these options and their cost, shown against the existing facility mix is summarised in **Appendix 2**. A key is available in **Appendix 1**. Concurrently to the need to identify a preferred facility mix, there is a need to determine the preferred delivery option.
8. Following the 2007 Comprehensive Spending Review, DCMS recently advised that they have not been allocated funding for PFI credits for leisure projects. As the Comprehensive Spending Review provided budget allocations until 2010/11, it can be confirmed that a PFI credit bid is not a feasible redevelopment option as confirmed by DCMS in **Appendix 11**; however, the option has been retained in this report for comparative purposes.

Facility Mix Options

10. A non-financial options appraisal of all the facilities concluded that with the exception of the climbing wall (which is not considered to be well used or have the necessary demand) and sauna/solarium, the existing facility mix in addition to a dance studio, play barn & /or crèche, and 80 station health and fitness studio would be desirable. An

8 lane x 25m pool was also considered to be desirable in order to provide good competition facilities, whilst the creation of exhibition space to display art works was considered to be essential. Refer to **Appendix 1** for an overview of the non-financial options appraisal and a key of the symbols used for the other facilities.

11. Using this information Council Officers have produced robust financial and facility option appraisals for the Forum. **Appendix 2** summarises the 8 facility mix options for the Forum, all of which are new build options with different procurement routes with the exception of Option 1 (refurbishment) which would retain the existing building structure. The initial capital costs of each option are set out in **Appendix 2** and a more detailed cost analysis showing a breakdown of the costs and the associated ancillary costs in **Appendix 3**.
12. The costs presented in **Appendix 3** are indicative using expert advice and knowledge of the Forum. They are based on prices from quarter 4 of the 2006/07 (Jan07 – March 07) financial year. Further detailed financial calculations would be undertaken during the detailed design and procurement period.
13. Indicative life cycle costs to maintain the Forum for the next 25 years are also shown. In addition the available resource contribution from Tees Active Ltd and the Council to fund each option are presented in **Appendix 3**.
14. The appendices listed below provide a more detailed overview of the various options. It should be noted that a core facility mix refers to a pool, gym, sports hall, dance studio & multi-purpose hall:
 - **Appendix 4** provides an overview of the £14.4m Council led enhanced refurbishment option which retains a full facility mix (Option 1). Indicative refurbishment images are detailed within **Appendix 4a**.
 - **Appendix 5** provides an overview of the £26.2m PFI credit scheme (Option 2), for comparative purposes only.
 - **Appendix 6** provides an overview of £26.6m & £25.6m Options 3 and 4 respectively for providing a new build enhanced facility.
 - **Appendix 7** provides an overview of the £14.6m new build core facility mix option (Option 7), and the options to provide the core facility plus the theatre (Option 6) for £17.3m and core facility plus ice and theatre (Option 5) for £21.7m.
 - **Appendix 8** provides an overview of a new build, low cost basic sports centre for circa £8.4m (Option 8) which would be provided and operated by the private sector.
15. To summarise, if a new build route is preferred, in basic terms the following 'enhanced / additional' facilities would cost:
 - An additional £1m for an 8 lane pool, as opposed to a 6 lane pool
 - An additional £3.9m for a 3 lane indoor bowling rink, 2 squash courts, café and crèche/play barn
 - An additional £4.4m for an ice rink – a 'unique selling point'
 - £2.7m to retain the theatre and carry out structural improvements only
16. In comparison all these facilities (with the exception of an 8 lane pool) could be provided at considerably less cost if the refurbishment option is pursued. This would be an enhanced refurbishment providing additional facilities to the existing offer, and a new

appearance and layout. **Appendix 3** confirms that it provides the best value for money, and is the most affordable option, with the exception of a basic sports centre using the private sector.

Delivery Options

17. If a new build option is preferred, there are several different delivery options, which could be pursued using a combination of the private and public sector. These delivery options and their main advantages and disadvantages are detailed in **Appendix 9**:
 - Design Build Operate Maintain - DBOM (Private Leisure Developer)
 - Design Build Operate Maintain – DBOM (Tees Active Ltd)
 - Design & Build (Private Leisure Developer) and Operate Maintain (Tees Active Ltd)
18. Officers have also investigated the option of the Council demolishing the Forum (including and excluding the theatre) and granting the freehold of a cleared site to a private sector operator at no cost, on the condition that they procure a leisure centre. However, this option would present no significant cost savings as the Council would still be required to fund the development and pay the contractor a management fee to operate the building.
19. It should be noted that Officers have focused upon an enhanced refurbishment option following various best practice analysis which focuses on improved community and ancillary facilities in addition to enhanced sports facilities. It is anticipated that this will increase the income generated and therefore the financial contribution from Tees Active Ltd, whilst also encouraging more people to use the new and improved facilities the Forum would have to offer.
20. If the refurbishment option is selected a detailed procurement strategy would be produced in order to ensure associated risk management issues would be fully addressed. The next stage of the design process would focus heavily on 'value engineering' and 'cost effective procurement'.

Summary

19. Presented with the different delivery options, a Council led refurbishment or a DBOM contract with a private sector leisure developer are considered to be the favoured options. However, although a new build DBOM facility would provide a number of key advantages, the Council would need to raise the initial capital cost. Although the private sector developer would be expected to contribute to this cost, this contribution is expected to be significantly lower than Tees Active Ltd is able to commit. Consequently, unless a basic sports centre mix is pursued, a DBOM approach is not an affordable option.
20. The refurbishment option is therefore considered to offer the best value for money; providing the existing facility mix plus additional enhancements for substantially less capital cost. Of further importance is the Council's retention of control, and the continued involvement of Tees Active Ltd as the operator and a key advisor in the design.

Funding Opportunities

21. There is an opportunity to secure grants from external bodies. Early discussions with national funding bodies have indicated that the Council may be able to access up to £500,000 capital.

Conclusion

22. All the options relating to the redevelopment of Billingham Forum have been analysed and appraised since Officers last reported to Cabinet in January 2007. This exercise was undertaken initially to identify contingency options lest a further round of PFI credits was not announced; a bid was unsuccessful; or any available credits were insufficient to fund the required improvements. Given the fragility of the existing building and the recent announcement that there will not be a further round of PFI credits, it is now imperative that a contingency option is pursued.
23. It is understood that the refurbishment option offers value for money and provides an expedient solution to the structural problems. In particular the refurbishment option would retain all of the present facilities, including the unique regional attraction of the ice rink and would enhance the Forum's facilities, appearance and layout to attract new customers.
24. Furthermore, the use of prudential borrowing to fund a Council led refurbishment is considered to be favourable to a DBOM approach as the Council could retain control of the end facility and Tees Active Ltd would remain as the operator in line with the Council's strategic aims.
25. Although the timescale is slightly longer for the refurbishment option than a DBOM approach, it would allow the building to remain partially open whilst works were being carried out. This is considered to be important for continuation of service, and in order to minimise the impact on Tees Active Ltd and Riverside Leisure Ltd. Furthermore, given the current state of the building any major repairs that would need to be carried out before the works start (such as the recent works to the ice rink plant) could be factored into the refurbishment. In contrast any monies spent on essential maintenance works before a DBOM approach commenced would essentially be non-recoverable.
26. English Heritage has agreed in principle to a refurbishment option, although detailed discussions regarding structural improvements to the theatre would need to be held.

FINANCIAL IMPLICATIONS

27. The costs presented in **Appendix 3** are indicative using expert advice and knowledge of the Forum. They are based on prices from quarter 4 of the 2006/07 (Jan 07 – March 07) financial year. Prices are based upon the work progressing 2008/09 (subject to ongoing review of price indices). Further detailed financial calculations would be undertaken during the detailed design and procurement period.
28. Based on current interest rates the Council would have to pay back prudential borrowing estimated at £1,093,659 per annum over a 25 year period. The Council has set aside an annual contribution of £523,000 per annum and in addition Tees Active Ltd has committed an allocation of £450,000 per annum. If the Council successfully secures further external funding of £500,000 capital, there would be a requirement of £121,000 per annum to be secured from Council MTFP (Headroom) review.
29. The total refurbishment cost of £17million includes £2.7million replacement lifecycle costs. This makes an allowance for replacing assets at the end of their lifespan within the 25 year period, for example replacement of toilets required after 10 years. Although the cost of replacing these assets is included within the overall capital cost, there would be some financial implications beyond the 25 year lifespan of the building.

Tees Active Ltd Management Subsidy

30. Tees Active Ltd currently receives a subsidy from the Council of circa £500,000 to operate the Forum; part of which enables Tees Active Ltd to offer subsidised fees for targeted groups to ensure that sport is accessible for all. Tees Active Ltd also works to address national health targets and priorities and deliver projects with the aim of raising levels of physical activity in the community. Tees Active Ltd have committed to contributing any savings that they have made to lever prudential borrowing for the Forum, and it should be noted that Tees Active Ltd have also committed to significant investments to improve leisure provision at Thornaby Pavilion and Splash.
31. The increased revenue that would be expected from an improved facility, possible creation of new commercial opportunities and revenue savings from a more energy efficient building will essentially be the means by which Tees Active Ltd can reduce its operating costs to create the £450,000 annual contribution towards prudential borrowing.
32. Future opportunities to negotiate a reduction of Tees Active Ltd's subsidy would also be explored.

Riverside Leisure Ltd Management Subsidy

33. Riverside Leisure Ltd receives a management subsidy of £246,000 which the 'Review of Theatre Subsidy' Scrutiny Report (November 2007) has concluded represents value for money and compares favourably with other similar theatres elsewhere in the region. If the theatre was subject to closure before the existing contract with Riverside Leisure Ltd expires on 30th June 2009, the Council must continue to pay the management fee for a 3 – 6 month period, depending on the length of the existing contract.
34. Following completion of the refurbishment works the Council would explore the potential for theatre operators and an investment contribution from the successful operator would be sought to improve the internal appearance and offer of the theatre, in consultation with English Heritage.

Energy Efficiency

35. As detailed in **Appendix 4** the refurbishment option incorporates a wide range of environmental and energy saving measures. In addition the improved energy systems should have a positive impact on operating costs. These costs would be monitored in order to allow for an adjustment of subsidy levels if appropriate.

LEGAL IMPLICATIONS

Tees Active Ltd Contract

36. Tees Active Ltd is a 'non profit distributing organisation'; any profits are re-invested in the service. Twelve months notice would need to be given if the Council wishes to close the facility, terminate the operating contract with Tees Active Ltd or undertake a phased refurbishment of the building. However, if the refurbishment option is pursued the Council would look to negotiate this notice period, given the condition of the building. Six months notice would have to be provided if the Council wished to redevelop the facility.

Riverside Leisure Ltd Contract

37. The Council is only able to close the Theatre when this is considered reasonably necessary due to damage to the building or failure of plant, equipment or services. In these circumstances no notice is required. The Council does not have the right under the contract to close the Theatre to facilitate refurbishment work, however, this could be negotiated with Riverside Leisure Ltd. In order to minimise the impact of closing the facility for both Riverside Leisure Ltd and the public, consideration would need to be given to the existing programme. The seasonal pantomimes are the main income generator and it is anticipated that arrangements would already have been put in place for the December 2008 pantomime.
38. As previously stated, on completion of the enhanced refurbishment, the Council would explore the potential for theatre operators and seek an investment contribution from the successful contractor. Recommendations outlined in the 'Review of Theatre Subsidy' Scrutiny Report (November 2007) for a contractor to collect more detailed customer and attendances information to allow greater audience analysis, to inform the theatre's marketing strategy would also be sought, in addition for the successful contractor to produce a strategy for programme and audience development. The relationship between the contractor, the Council and Tees Active Ltd would also be clarified.

Listed Building Consent

39. Regardless of which redevelopment / refurbishment option is pursued, listed building consent would need to be obtained prior to any works being undertaken. As the listed building is in the ownership of the Local Authority, any proposals would need to be referred to Government Office for determination; a process which can take up to 8 weeks in addition to the usual 13 week determination period associated with a major planning application.
40. Pre-planning application discussions would need to be held with English Heritage and the Theatres Trust. As the listing specifically states that the rest of the building is not of interest (i.e. everything except the Theatre) the refurbishment option is likely to be considered most favourably by English Heritage; providing there was no adverse impact on the character of the listed building.
41. If any works proposed to the Theatre affect its character or appearance, detailed discussions would need to be held with English Heritage in order for them to judge the impact on the listed building. Any works to secure the buildings future would be welcomed but this would be subject to what was proposed; some structural solutions can be very invasive and a sympathetic conservation led solution would be required.

RISK ASSESSMENT

42. Pure Risk. A risk involving the probability or possibility of loss with no chance for gain. A pure risk is generally insurable. This is a high risk due to the known poor condition and frailty of the complex, however, the risk has to date been mitigated through the extensive monitoring and inspection regimes that are in place. This has also minimised the risk of catastrophic failure of plant or structure. The phased refurbishment of the building would also enable the most urgent structural repairs to be dealt with first. However, the cost of this maintenance and inspection has the potential to escalate further depending on environmental conditions. Further funds will be required to be drawn down from the Billingham Masterplan budget to support these ongoing costs until such time as a refurbishment or redevelopment option has been implemented.

43. Speculative Risk. A risk for which it is uncertain as to whether the final outcome will be a gain or loss. Generally, speculative risks cannot be insured. There are significant commercial risks involved in the refurbishment as the contribution calculated by Tees Active Ltd is based on maximising the commercial opportunities a refurbished Forum would bring. These include attracting increased footfall (increased use of new and existing facilities) and increased spend within the Forum (increased use of catering and retail facilities). The Councils Resource Directorate has analysed Tees Active Ltd's Business Plan and financial projections to ensure their projected contributions are prudent, achievable and robust. Failure to meet the commercial aspirations of the refurbished Forum could have financial implications for Tees Active Ltd's operations throughout the Borough.
44. The costs could increase as a result of inflation and changes in the economy. It is essential that a contractor can be appointed as early as possible in order to reduce the amount by which the costs will increase. External grants are subject to successful applications, whilst similarly any venue sponsorship would be dependent on the ability to attract local businesses to invest.

COMMUNITY STRATEGY IMPLICATIONS

45. Revitalise Billingham Town Centre, which will impact positively on the further regeneration of the Borough.
46. Stockton Renaissance Community Strategy 2005-08:
 - Economic regeneration and transport - revitalise the Borough's town centres
 - Improve the health of the local community
47. Stockton Renaissance Regeneration Strategy 2004-08 – Action Area 2, Image and Environment.
48. Billingham Town Centre – implementation of master plan for regeneration

COROPORATE PARENTING

49. The enhanced refurbishment would incorporate a new play barn &/or crèche in the Forum which would enable parents to use the facilities whilst their children are being cared for. The facilities on offer at the Forum would continue to cater for and attract children and young people to participate, contributing towards the reduction in obesity and healthy lifestyle agenda's. In addition the new café's would promote a healthy food agenda. All children cared for by the Local Authority would continue to receive free leisure passes to the Forum.

CONSULTATION INCLUDING WARD/COUNCILLORS

50. Previously there has been extensive consultation with all stakeholders in developing the 2007 refined PFI bid, including Billingham Ward Councillors, Cabinet Portfolio holders, The Billingham Partnership and Tees Active Ltd. Further consultation with Cabinet Members, Billingham Ward Councillors, The Billingham Partnership and Billingham Town Council has taken place preceding this Cabinet report.

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Background Papers

Report to Cabinet – February 2005
PFI Bid to DCMS – March 2005
Report to Cabinet – December 2005
PFI Bid preparation – November 2006
Report to Cabinet – January 2007

Ward(s) and Ward Councillors:

Billingham Central – Cllr Mrs McCoy and Cllr Woodhouse
Billingham East – Cllr Cunningham and Cllr Stoker
Billingham North – Cllr Leckonby, Cllr Mrs Aggio and Cllr Mrs Apedaile
Billingham South – Cllr Smith and Cllr Mrs O'Donnell
Billingham West – Cllr Womphrey and Cllr Mrs Womphrey

Property Implications

Relate directly to the Billingham Forum Complex