

<b>COUNCIL</b> Extraordinary Meeting	AGENDA ITEM No. 3
31 JULY 2013	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Marco Cereste, Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement	
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**BUDGET ALLOCATION FOR LONDON ROAD STADIUM**

R E C O M M E N D A T I O N S	
<b>FROM : Councillor Cereste – Leader of the Council</b>	
<p>Council is recommended to approve the allocation of £1 million in the annual budget to enable the retrofitting or redevelopment of the London Road terrace at the Peterborough United football ground in order to provide an all-seater stadium.</p>	

**1. ORIGIN OF REPORT**

- 1.1 This decision is brought to Council by the Leader of the Council following consultation with Cabinet, the Chief Executive and senior council officers regarding the future development of the Peterborough United football ground.
- 1.2 The football ground is owned by the Council and this decision will allow the Leader to exercise executive powers to improve this Council asset. Copies of the intended Executive Decisions are included as an appendix to this report to enable members to understand all the decisions being taken in relation to this asset and its future development.
- 1.3 It will be necessary to retain one of the papers relating to an Executive Decision as an exempt annex because it contains information on tenders submitted in relation to the building of the new London Road (Moy’s End) stand and Sustainable Skills Centre. The exempt annex is NOT FOR PUBLICATION by reason of paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972. The public interest test has been applied to the exempt information and it is considered that the need to retain the information as exempt at this stage outweighs the public interest in disclosing it. This is because the information is considered to be commercially confidential as the contract has not yet been awarded. Once the contract has been awarded information regarding the successful tenderer can be released into the public domain. We have included details of the successful tenderer in the draft Decision Notice attached at Appendix 3.

**2. PURPOSE AND REASON FOR REPORT**

- 2.1 This report seeks to outline the history of the football ground since the Council purchased it in December 2009. It will set out the reasons for undertaking the purchase and the social, economic, environmental and community benefits that the city has, and can continue to derive, from its ownership of the ground. Details are given of the work undertaken since the purchase, to account for the manner in which it is proposed to use the additional funds requested through this decision, for the greater community benefit that can be provided in future.

**3. TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If Yes, date for relevant Cabinet Meeting	
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3.1 This is not a major policy decision. This decision comes to Council as no allowance is currently made within the Medium Term Financial Strategy for the funds to enable the retrofitting or redevelopment of the London Road terrace. Council is the decision making body for any decisions affecting the Council's budget.

3.2 In order to provide clarity, Council is only being asked to make the decisions relating to the budget for the London Road stadium. Many of the decisions referred to in this report are Executive Decisions, which by law can only be exercised by the Leader or those persons to whom he delegates his powers. The decision regarding the London Road stadium is however part of a wider network of decisions for the improvement of the Council's asset and are included to provide context for this decision.

#### **4. BACKGROUND**

4.1 The Council purchased the London Road stadium and car park from Peterborough United Holdings Limited (PUHL) on 24 December 2009 for £8 million following a decision by Council on 21 December 2009. Taking into account the additional £350,000 purchase costs incurred, mainly through stamp duty and legal fees, the total cost of acquisition was £8.35 million.

4.2 Although Council approved a budget of £8.65 million for the purchase of the ground, the final cost was less because the Council did not pursue an option to purchase a house on Glebe Road from PUHL.

- 4.3 Council decided to purchase the ground for four main reasons. These were as follows:
- Council realised the importance and community benefit of maintaining a football presence in Peterborough;
  - Council saw the opportunity to create a first-class community facility with the new skills centre;
  - Council appreciated the value of the site as a gateway to the proposed South Bank redevelopment;
  - Council saw the potential negative impact that the proposed PUHL residential development to the Moy's End stand could have on the Carbon Challenge scheme.

4.4 Council also recognised the economic and social benefit of having a football club in Peterborough, which has since been evidenced in the Economic Impact Assessment commissioned by Peterborough United Football Club (PUFC), dated 8 March 2013, and considered by Council officers. The Council further recognised the wider benefits of having an enhanced Carbon Challenge scheme with increased New Homes Bonus contributions as well as enhanced business uses which will increase Business Rate contributions.

4.5 As a result of the decision by Council, two leases for the football ground are in place with PUFC, both of which expire in June 2014. Details of these are as follows:

- **Lease 1**

The original lease transferred to the council from PUHL. It sets out a rent of £280,000 and includes:

- Four stands
- Pitch
- Ground floor retail units

The obligation to keep the stadium in good repair under this lease falls to PUFC.

- **Lease 2**

A brand new lease agreed by PCC and PUFC setting out a rent of £220,000 and includes:

- Car park
- Approach roads
- Former crèche
- Probation offices
- Some conference areas

The rent per annum was therefore set for both leases at £500,000 per annum.

- 4.6 In 2011 plans were unveiled at a public exhibition for the first stage of the community stadium project. The current Moy's End would be replaced by a 2,500 all-seater stand which would also include a skills centre. Funding for the £9.5million scheme has been secured from an award of Targeted Capital Funding from Government of £5.5million, £2million from the Council's own funds for the Moy's End stand and a further £2million from our own funds for the skills centre which is supported by a short term interest-free £1.74 million loan from the Local Enterprise Partnership.
- 4.7 In 2012 it became clear that PUFC considered the rent arrangements to be commercially unviable and in excess of the true value of the lease and asked the Council to review this. In particular the rental streams under lease two had fallen short of what was expected. PUFC also expressed through its chairman the desire to acquire the freehold of the ground.
- 4.8 Discussions took place with PUFC and this led to the Heads of Terms (Appendix 1) being agreed by both parties on 6 September 2012 to provide agreement for the Council and football club to progress negotiations around a redevelopment of the ground and conclude these without further delay. The Heads of Terms included:
- An agreement that the Council will develop the Moy's End stand and skills centre at no cost to the club;
  - An agreement on a rent abatement period to the club during the development period of the Moy's End stand for PUFC's loss of revenue;
  - An agreement on a new long-term lease with rent based on an independent valuation to be carried out by expert property advisors;
  - That the Council and PUFC would work together on the redevelopment of the London Road stand options;
  - That PUFC would clear any rent arrears; and
  - That there would be provision made for PUFC to acquire the freehold of the ground.

## **5. THE CURRENT POSITION**

- 5.1 Since the Heads of Terms were entered into in September 2012, lengthy and detailed discussions have taken place to secure a long term lease of the land on commercially acceptable terms in light of the current economic climate. Securing a long term tenant is in the best interests of the Council, its taxpayers, PUFC and the city as a whole. New Heads of Terms dated 18 July 2013 to reflect those discussions are attached at Appendix 2 and the decisions required to implement those Heads of Terms are set out in paragraph 5.2 below.
- 5.2 As stated above, the decisions to effect this deal are partly within the remit of full Council and some are Executive Decisions. Summarised below are each of those decisions and the basis for them. Further details of the Executive Decisions can be found in the draft Cabinet Member Decision Notice at Appendix 3 and at paragraph 7 of this report.

### **a) Rent under current leases (Executive Decision)**

Under the Heads of Terms set out above an independent valuation of rental values was undertaken by expert property advisors Lambert Smith Hampton. This valuation demonstrated that rent under the current lease should be £300,000pa. Therefore the

negotiations concentrated on how we could agree rental values for the stadium, both undeveloped and developed, which were in line with that independent valuation. Until the rent position could be established PUFC was not pursued to pay rent. Once the Executive Decision is taken to settle the annual rent based on the valuation, PUFC is expected to pay, in full, the revaluated rent owed since June 2012.

**b) Grant of new lease and rent under new lease (Executive Decision)**

When the works to the Moy's End stand and skills centre are completed the new rent will be £380,000pa, rising to £430,000pa when the London Road terrace retrofit is completed. These rental values are in line with the independent rental valuation undertaken by Lambert Smith Hampton. There will be an interim lease for the period between June 2014 and September 2014 which sets out a rental value of £300,000pa whilst the redevelopment of the Moy's End is completed.

The rental figures agreed under the new 25 year lease will be in line with the independent rental valuation. The new lease will only cover the football elements of the ground and will not include the skills centre, Moy's End car park and access.

**c) Surrender of part of the leases to enable construction of Moy's End (Executive Decision)**

In order to begin construction works parts of both leases need to be surrendered by PUFC to the Council to enable the Council to have access to the site for the works.

**d) Rent abatement during construction of Moy's End (Executive Decision)**

We have agreed rent abatement during the course of construction of £296,000 in line with the loss of income that PUFC will incur. This figure includes the loss of ticket sales, additional stewarding due to part of the site being a building site, additional policing within North Stand where away fans will be housed and loss of catering and advertising revenue from the Moy's End.

**e) Letting of contract to construct Moy's End (Executive Decision)**

The Council will need to award the contract for the works to Kier Construction Eastern in line with the tendering process.

**f) Terms for the sale and pre-emption rights under new lease (Executive Decision)**

The new 25-year lease will include an option for PUFC to purchase the stadium, excluding the skills centre, at any time during the first ten years of the new lease.

It will also allow PUFC first refusal if the Council chose to sell its freehold interest in the stadium within the first ten years of the new lease. In return, the Council will have a similar right of first refusal in the event that PUFC acquires the ground but then chooses to sell it or grant a long-term lease.

**g) Approval of £1million to retrofit London Road terrace (Council Decision)**

The additional £1million being requested is to retrofit the London Road stand to all-seater. This investment in the Council's stadium will increase the overall value of its asset and ultimately attract a higher rental value. It will also provide some wider economic benefits and enhance the amenity of the area. It will also future proof the use of the stadium and ensure the football club can play matches in the Championship if they are promoted. In the coming season (2013/14) PUFC will be playing in League 1 and therefore under league rules is not required to play matches in an all-seater stadium. However, if and when the club returns to the Championship, under league rules, matches must be played in a stadium which is all-seater.

- 5.3 In the time it has taken to secure the above agreements, the football club and the Council have worked together to invest in facilities in the city, including those at Nene Park Academy where an academy programme is run in partnership with the school. In preparation for the development of the Moy's End stand, the Council has also carried out various works including the relocation of the Airwave radio equipment from the Moy's End tower to the London Road lighting tower, relocation of the stadium generator and upgrading of some of the electrical systems. Replacement of the lighting will enable the Moy's lighting tower to be taken down as part of the demolition works on Moy's End. The replacement lighting system already installed and in use last season brought the ground's lighting up to Championship standard.
- 5.4 The specific and wider benefits of the decisions being made by Council and through Executive Decisions now are set out below in paragraph 6 and are consistent with and build upon the reasons Council decided to purchase the ground in 2009.

## **6. THE VISION FOR A SUSTAINABLE FUTURE**

- 6.1 Council's decision will provide the essential funding to unlock the development potential of an important Council asset. The wider benefits which will arise from the development of the site are explained in further detail below.

### **6.2 Sustainable Skills Centre**

- 6.2.1 The Council maintained from the start that it wanted to create a community stadium as part of the wider regeneration of the South Bank area. Integral to this is providing an educational facility which supports the Council's aims of giving every young person the best start in life and to up-skill the city's workforce.
- 6.2.2 The Sustainable Skills Centre will provide vocational training for young people aged 14 to 16 in areas such as electronics, plumbing and the installation of energy generators including solar panels. In the post 16 sector it will be a training centre to support the industry in the above areas through apprenticeship training and short courses. From a higher education perspective the centre will be the base for the delivery of undergraduate and postgraduate courses focussing on the sustainable environment.
- 6.2.3 Through skills training and research in one building next to the football ground, young people will be encouraged to engage with the training and innovation offered at the skills centre, which in turn will substantially increase their chances of gaining employment. The skills centre will be the skills engine which will drive Peterborough's economic aspirations to grow inward investment from the environment/sustainability manufacturing sector.
- 6.2.4 If Council approves the recommendation in this report, it will be the trigger for securing vacant possession of the site, currently let to the football club, on which the new Sustainable Skills Centre will be built.
- 6.2.5 In 2009 the Council was awarded a Targeted Capital Funded grant from the Government. Of this, £5.5million was set aside to develop a specialist city centre based education facility.
- 6.2.6 The Council proposes to spend £2million from its own funds to supplement the grant for the skills centre. It is anticipated that there will be some financial benefits for the Council arising from its operation which would help offset some of the costs of developing it.
- 6.2.7 The Council has also secured a £1.74million short-term interest-free loan, repayable over three years from the Local Enterprise Partnership (LEP), which will assist with the fit-out and start-up costs of the skills centre. This will mean that the Council does not have to borrow the full £2million required to deliver the skills centre upfront, but can phase this over the three years that the LEP funding is available.

6.2.8 As well as working with a range of educational providers who could operate the skills centre in partnership with the Council, there are also discussions taking place with some national companies who have an interest in the skills centre.

### **6.3 A sustainable asset**

6.3.1 The Council has obtained planning permission for the demolition of the Moy's End terrace. The new skills centre has been designed to achieve BREEAM (the UK recognised standard for environmentally sustainable buildings) Excellent standard, which is highly energy efficient and contributes towards the Council's aspiration of becoming the UK's Environment Capital.

6.3.2 The Council has also completed the design and specification for a retrofitted all-seater London Road terrace. Having an all-seater stadium is necessary for the club to use all four stands whilst playing in the Football League Championship.

6.3.3 A redevelopment of the stadium will also produce an up-lift in the value of the land and asset owned by the council.

### **6.4 Maintaining a football presence**

6.4.1 Maintaining a footballing presence in the city was one of the key reasons Council committed to purchasing the football ground.

6.4.2 The economic and social benefits of having a football club in Peterborough are apparent. The club employs in the region of 300 staff, uses the services of local suppliers and attracts large numbers of visitors to the city from other areas of the country for matches. The football club also delivers community benefits, including work with a range of schools and youth groups and there are thousands of fans of the club in the city who benefit from their association.

6.4.3 In negotiating the new lease the Council has been able to ensure that PUFC can remain at the London Road stadium after its leases expire in June 2014, subject to entering into a new long term lease with the Council. This is commercially beneficial for the Council as landlord of the site.

6.4.4 A new all-seater stadium of superior quality will also provide a significant visitor attraction for the city.

### **6.5 South Bank Opportunity Area and Carbon Challenge Site**

6.5.1 Another key reason for purchasing the football ground was its location. The football stadium sits within the South Bank Opportunity Area which is a gateway to this vitally important area for future regeneration.

6.5.2 Purchasing the football ground also allowed the Council to overcome a number of challenges around the Carbon Challenge residential scheme, known as Vista, which also sits within the South Bank Opportunity Area. The purchase enabled the adjacent land set aside for the Vista development to proceed without legal challenge from the previous owners PUHL.

6.5.3 In addition, a former proposal for a high density development of flats proposed by PUHL, which could have been a potential obstacle to achieving the ideal design and layout of the Vista development, was removed as a result of the Council buying the ground.

6.5.4 Since completing its purchase of the stadium, the Council has been able to resolve the issues outlined above, helping significantly in the delivery of the Vista development, one of only two projects out of an original 14 national projects in the Government's Carbon Challenge programme.

- 6.5.5 Vitally important is that the Council's original purchase of the stadium has helped increase the size of the Vista development from an original scheme of approximately 145 units accessed via Glebe Road to a much larger 295 dwelling scheme predominantly accessed from London Road. The increased scale of the Vista development will help the Council generate significant revenues in the form of New Homes Bonus funding over six years and additional Council Tax over the same period. This could amount to an approximately £900,000 in New Homes Bonus and a similar amount over the same six year period in Council Tax.

## **7. DECISIONS REQUIRED UNDER EXECUTIVE POWERS**

- 7.1 If Council approves the funding outlined in the recommendation to Council, a number of Executive Decisions will realise the benefit of the additional investment (see attached CMDN). These decisions are summarised here and broadly fall into three areas:

### **a) Letting a contract for the construction of Moy's End stand and Sustainable Skills Centre**

The Executive Decision required is for the award of contract for the demolition and reconstruction of the Moy's End stand and its replacement with a combined stand and Sustainable Skills Centre to Kier Construction Eastern, the recommended contractor following the tender of the contract in accordance with the OJEU procedure. The value of this contract is up to £7.569 million.

### **b) Surrender of the current lease with PUFC**

In order to be able to construct the new Moy's End stand and skills centre, PUFC will have to surrender part of the existing leases to the Council and the Council will need to accept the part surrender of these leases.

In addition, during the build period, expected to be from September 2013 to September 2014, the Council will have to agree a variation in the rent in relation to the current leases to take into account the loss of revenue to the club as a result of the loss of stand during the playing season. This will take the form of rent abatement during the construction period for Moy's End from September 2013 to June 2014 when the current leases expire. From June 2014 to the end of the period of construction, an interim lease will be entered into, excluding the Moy's End stand, when a new lease will begin. The rent for that lease will be £300,000pa.

All rental sums during these periods have been agreed based on the independent valuation of the ground and its assets by Lambert Smith Hampton. Any sums abated during this period are based on evidence provided to the Council by PUFC on its loss of income which has been examined by officers.

### **c) New lease**

Before a new lease is granted on completion of the Moy's End stand, the Council will enter into an agreement for a lease with PUFC. This agreement will obligate the Council to carry out the works to Moy's End and on completion will obligate PUFC to take a new long-term lease. Once the works are completed, the new lease will be entered into for 25 years at a rent of £380,000pa to represent the increase in value to PUFC of the new stand and the new concessions in the stand. The lease will exclude the skills centre which will be leased separately to the operator of the facility. Once the retrofitting of London Road is completed the rent will increase to £430,000pa. All rental values are based on the independent valuation completed by Lambert Smith Hampton.

The lease will have provisions to:

- grant an option to PUFC, in its capacity as tenant, to purchase the London Road stadium at any time during the first 10 years of the new lease. If PUFC exercises

this option the decision to sell and the price will be subject to the Council's decision making processes;

- grant a pre-emption right for PUFC which will allow it first refusal if the Council chose to sell its freehold interest in the ground within the first 10 years of the new lease. In return the Council will have a similar pre-emption right, which has no end date, if PUFC acquires the ground but chooses to dispose of its interest. The decisions in any of these cases on sale and price will be subject to the Council's decision making processes; and
- allow the Council to take from PUFC a 150-year lease at a peppercorn rent for the skills centre, if PUFC acquires the freehold interest.

## **8. REASONS FOR RECOMMENDATIONS**

Therefore, in conclusion, this decision will begin a series of further decisions to provide a first class community stadium and skills centre which will bring about wider benefits to the South Bank area and the city as a whole. The decisions will:

- Allow the Council to progress its aspiration to create a Sustainable Skills Centre which will support the aim of giving every young person the best start in life and to up-skill the city's workforce;
- Allow the Council to use its £5.5million Government grant to provide a new form of educational facility for the city;
- Allow the Council to progress its aspiration to create an all-seater community stadium;
- Allow the Council to enter into a new long-term lease with the football club which will provide a rental income for the Council over the next 25 years;
- Allow the football club the right to buy-back the football ground in time will allow the Council to recoup its investment in the stadium in whole or part in the future;
- Ensure a footballing presence can continue in the city;
- Ensure that Championship level football can be played in the city with a ground that is compliant with Championship rules;
- Through a rental settlement, allow the Council and the football club to agree on a rental value that is consistent with an independent valuation. It also ensures a new contract is in place for a 25 year period which will include annual rental for the Council;
- Create a community stadium which will form a key part of the wider South Bank Opportunity Area, helping to regenerate this key area of the city;
- Demonstrate a clear economic and social benefit of having a football club in Peterborough, which was evidenced in the Economic Impact Assessment commissioned by Peterborough United; and
- Ensure the Council will not need to secure an alternative site on which to construct the Sustainable Skills Centre.

## **9. ALTERNATIVE OPTIONS CONSIDERED**

If the Council did not allocate funding for the London Road terrace, this would lead to a complete renegotiation of the Heads of Terms and the likelihood that the skills centre would have to be delivered on an alternative site. In the event that the football club returned to the Championship, the London Road terrace would have to be closed as it is not all seating. Consequently the club's ability to pay rent to the Council would be

significantly impacted. It could also jeopardise the Council's stated aim of creating a quality community stadium as part of a wider regeneration of the South Bank Opportunity Area.

## 10. FINANCIAL IMPLICATIONS

- 10.1 It is currently expected that the costs of retrofitting the London Road stand would not exceed £1million. Assuming that this work is completed during the 2014/15 financial year, this would mean that the Council incurs the following revenue borrowing costs:

	2014/15	2015/16	2016/17	2017/18	2018/19
	£k	£k	£k	£k	£k
London Road - borrowing costs on £1m	20	64	64	64	64

These costs will need to be built into the next Medium Term Financial Strategy.

- 10.2 The council, as landlord, has a requirement under the lease to ensure that all four stands are available to the tenant. If the work was not completed, and the stand was unavailable as a result, then the tenant would have potential grounds to seek compensation from the rental sum for loss of income.
- 10.3 The independent valuation undertaken by Lambert Smith Hampton outlined that the rental would increase by £50,000 from £380,000 to £430,000 (these total figures assume Moy's End and London Road works are also completed).
- 10.4 There are no immediate financial implications from the option available to the club to purchase the ground in the future. Any such proposal would be subject to the Council's decision making process, and the relevant financial implications would be outlined at that stage.
- 10.5 The financial implications arising from the Cabinet Member Decision Notice are outlined within that decision notice.

## 11. LEGAL IMPLICATIONS

### 11.1 Constitutional issues

- 11.1.1 The Council's ability to deal with land arises from sections 120 to 123 of the Local Government Act 1972. These powers are executive powers, however as no provision currently exists within the budget for the development of the London Road stand, this financial decision falls to Council (Schedule 4 Local Authorities (Functions and Responsibilities) Regulations 2000).
- 11.1.2 As this is a decision of Council on a matter concerning the budget it is not subject to call in by the Scrutiny Committee. The decision of Council takes effect at the time it is made. Any executive decisions made subsequent to this budget decision will be subject to the Council's scrutiny process.

### 11.2 Property Implications

- 11.2.1 The retrofit of the London Road stand will be carried out by the Council under a Licence for Alterations with PUFC. The Licence for Alterations will be agreed at the same time as the documentation for the Agreement for Lease and Lease referred to in the draft CMDN.

### 11.3 State aid

- 11.3.1 Members are reminded that state aid is the unlawful practice of offering financial support to one party so that they have an advantage over others. This leads to competition in the commercial market being distorted.

11.3.2 To be clear no state aid issues arise in deciding whether to make this budget allocation for the works at the London Road stand. The state aid issues will arise predominantly in making the executive decisions, however members are advised that the allocation of funds for the retro-fit would not amount to state aid if it can be shown that a private investor would have provided the same funding to cover the costs of the improvements to the grounds under the same terms and conditions and would have agreed an equivalent rental income under the same terms and conditions.

11.3.3 In order to demonstrate this, all financial decisions are being made subject to independent valuation. Lambert Smith Hampton has already undertaken an independent valuation of the rental income for the ground in its current condition and expert property advisors GVA Grimley has been commissioned to verify the Council's position regarding the interim lease and in particular the rent abatement.

## **12. PROCUREMENT IMPLICATIONS**

The contract for the demolition and re-construction of Moy's End to provide an integrated skills centre and football stand has been procured through a fully compliant Official Journal of the European Union (OJEU) process. London Road terrace works will be subject to a further compliant tender process and formal decision making by the Council.

## **13. CONSULTATION**

13.1 Consultation has been held with Cabinet Members and the Leader of the Council in relation to the decisions that are required. A special briefing for Ward Councillors is being arranged before the Council meeting on 31 July 2013. The football club is separately consulting with supporters' groups and Trust on the proposed investment in the stadium.

13.2 It is considered that all necessary consultations have now been undertaken.

## **14. APPENDICES**

Appendix 1 Heads of Terms 6 September 2012

Appendix 2 Heads of Terms 18 July 2013

Appendix 3 Draft Cabinet Member Decision Notice

## **15. BACKGROUND DOCUMENTS**

Peterborough United Football Club Economic Impact Assessment dated 8 March 2013.  
Council report dated December 2009.

## **16. ANTICIPATED OUTCOMES**

If Council agrees to the recommendation before it and the Executive Decisions are made thereafter it will allow the Council to make a planning application for the works to the London Road terrace and begin a procurement exercise for the London Road terrace. It will also produce an up-lift in the value of the land and asset owned by the Council, an all-seater stadium and Sustainable Skills Centre and make the stadium attractive to a tenant who has aspirations to move to higher league football through the granting of a long-term lease. Finally, it will make the stadium attractive to visitors and users of the stadium through the Council's investment in facilities.