

The English national stadium project at Wembley



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
HC 699 Session 2002-2003: 6 June 2003

executive summary

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- 1 This report is about the handling of the public money that is being contributed to the project to build a new English national stadium at Wembley. Key facts about the project are shown in **Figure 1**.

1 Key facts about the English national stadium project at Wembley

- The stadium will be used primarily for football and rugby league but will also, after adaptation, be capable of hosting major international athletics events.
- The project is expected to cost £757 million and is scheduled for completion early in 2006.
- The Football Association is contributing £148 million to the project and commercial lenders have provided debt facilities of £433 million.
- The **public sector funders** are providing £161 million (£120 million of lottery money from Sport England, £20 million from the Department for Culture, Media and Sport and £21 million from the London Development Agency) to the project.
- The stadium will be owned and operated by Wembley National Stadium Limited, a wholly owned subsidiary of the Football Association.
- Profits from the operation of the stadium will be used by the Football Association in accordance with its objects for the benefit of football.
- Starting five years after the stadium opens, Wembley National Stadium Limited will donate one per cent of its turnover each year for distribution to sports education and other projects.

Source: National Audit Office

- 2 As the project is being undertaken by a private sector organisation and largely financed by private capital, this report is not a detailed examination of the management or value for money of the project as a whole. Rather it focuses on how the Department for Culture, Media and Sport (the Department) and Sport England sought to safeguard their investment of public money in the project and ensure that the stadium as a whole and the other intended public benefits would be delivered.

The history of the project

- 3 Following the creation of the National Lottery in 1994, Sport England (then the Sports Council for Great Britain) faced the prospect of applications from a number of English cities for lottery funding for major new stadiums. Sport England decided to establish a national stadium competition, with the objective of developing an iconic stadium for three sports - football, rugby league and athletics. As required by the arrangements that apply to lottery grants, the project would be financed by a mix of lottery money and 'partnership funding' from other sources. Any profits generated by the stadium would go to benefit sport.

- 4 In December 1996 Sport England selected Wembley as the preferred site for the new stadium. In November 1998 it awarded the project lottery funding of £120 million, the bulk of which was used to fund the acquisition of the existing Wembley stadium and business in March 1999. The grant was subject to a lottery funding agreement, which set out the conditions under which the money was provided and the public benefits which the project was expected to deliver. For example, Wembley National Stadium Limited would have to make a minimum number of seats available to the general public and would not be allowed to sell naming rights to the stadium or take on an anchor tenant who would use the stadium as its home ground.
- 5 When Wembley National Stadium Limited was unable in December 2000 to raise the commercial financing it needed, there was the possibility that the project would not proceed. In that event, Sport England would have been entitled to recover in full the lottery grant of £120 million it had paid to Wembley National Stadium Limited. Sport England had put in place a number of mechanisms intended to safeguard the public money that had been invested in the project, but recovering the grant in full might not have proved straightforward.



- Wembley National Stadium Limited had limited funds of its own from which to repay the money and the Football Association had not provided a parent company guarantee which would have effectively underwritten the grant as, at the time that the grant was made, the Football Association considered that it was unlikely to have sufficient resources to be able to honour a guarantee.
- Sport England had a legal charge over the assets that had been acquired with the lottery funding and could have forced Wembley National Stadium Limited to sell them. But, once the existing stadium and business closed in October 2000, the value of the assets fell and they might have been worth significantly less than the grant.
- Under a staging agreement (which was one element of the arrangements designed to safeguard the lottery grant), Sport England could have required the Football Association to hold its events at the existing Wembley stadium for 20 years and obtained repayment of the grant from the income generated by these matches. However, closure of the stadium in October 2000 threatened to undermine the business plan underpinning the security of the lottery grant. Sport England therefore secured additional commitments from Wembley National Stadium Limited and the Football Association to hold events at a reinstated Wembley stadium. However, Sport England would not necessarily have enforced this had the project not proceeded, and the longer the stadium remained closed, the less likely it was to be re-opened, not least given the expenditure Wembley National Stadium Limited would have had to incur to put the stadium in a serviceable condition. Nevertheless Sport England considered that the staging agreement, together with the additional commitments agreed when the stadium closed, would have provided it with a legal basis to secure an alternative deal with Wembley National Stadium Limited and the Football Association to repay the grant in the event that the project did not proceed.



- 6 Sport England had provided lottery funding on the basis that the stadium would be capable of hosting major international athletics events via the installation of a temporary platform on which a track would be laid. However, in the light of concerns about the viability of the proposed design, in December 1999 the then Secretary of State for Culture, Media and Sport announced that athletics would be withdrawn from the plans for the new stadium and that in return the Football Association proposed that £20 million of the lottery grant should be repaid to Sport England. Although Sport England had not been party to all the key discussions, the formal decision to remove athletics rested with its Council once the detailed arrangements had been worked out with Wembley National Stadium Limited.
- 7 In December 2000 the Council of Sport England agreed to the request Wembley National Stadium Limited had made to amend the lottery funding agreement to remove athletics. The £20 million was to be repaid in instalments over a five year period beginning in December 2000. However, the first repayment date passed with no money being returned to Sport England as Wembley National Stadium Limited had not signed the revised lottery funding agreement: by this time the Football Association was reviewing the project as a whole, having been unable to secure the commercial financing needed. In the event athletics was restored to the plans for the stadium later in the project (when the Department concluded that improvements in the method of construction meant that the platform solution would be technically acceptable and cost-effective) and the proposal for £20 million to be repaid was superseded.

The need for additional public money and the associated review process

- 8 In June 2001, in the light of the Football Association's request for further public funding for the project, the Secretary of State commissioned Mr Patrick Carter to examine whether the project could be funded and managed at Wembley. In his interim report in December 2001, Mr Carter advised the Department that, subject to resolution of some outstanding issues, there was the prospect of delivering a national stadium at Wembley. But for the project to succeed, Mr Carter considered that the Government and Sport England had to be seen to support the project both in principle and in terms of a financial commitment.
- 9 In November 2001, shortly before Mr Carter reported, the Department became aware of concerns about aspects of the management and oversight of the project by Wembley National Stadium Limited, in particular in relation to the procurement process for the main contract to build the stadium. Wembley National Stadium Limited commissioned Mr David James CBE to look into the matter. His investigation found no evidence of criminal intent or impropriety. But it did confirm the existence of serious concerns relating to the tendering process and the resulting contractual arrangements.
- 10 In the light of the concerns, in December 2001 the Secretary of State announced that any further financial support for the project would be conditional on the Football Association and Wembley National Stadium Limited addressing four tests (see Figure 6 on page 23). In September 2002 the Department concluded that the tests had been met and the project was worthy of further support. The Department committed £20 million of government funding to the project for non-stadium infrastructure costs and made it clear that it would provide no further financial support for the project in the future.

- 11 In reaching its decision on whether to provide further public funding for the project, the Department took account of Mr Carter's review of the project, which incorporated an assessment of whether the Secretary of State's tests had been met. During the review process which lasted 15 months in total, the Department, working closely with Sport England, also took assurance from the Office of Government Commerce's review of the project and from other external experts (including quantity surveyors and project management consultants) to inform its judgement on whether:
- the project was deliverable (ie the stadium could be built on time and within budget) and viable (ie the stadium could operate profitably once it had been completed);
 - the stadium would be suitable for staging athletics;
 - the project would comply with public sector standards of doing business.
- 12 A key decision for the Department was whether, in the light of the concerns about the procurement process confirmed by Mr James, any further support it provided for the project should be conditional on Wembley National Stadium Limited re-tendering the main contract for the construction of the new stadium. In the light of advice received from Mr James, together with assurance gained during the review process, the Department decided not to require re-tendering, which it concluded would lead to no financial benefit for the public sector and to delay and increased risk for the project.



- 13** In taking the decision to provide additional public funding, the Department took account of the risks that the project would face which had been identified during the review process, and assessed the mechanisms that had been put in place to address these risks.
- One area that the Department had to consider was that building the stadium might take longer or cost more than expected, potentially leading to a funding gap. To address this risk, the main contractor, Multiplex, has incentives to deliver on time and within budget, and work to review the construction contract concluded that most of the circumstances in which Multiplex would be entitled to claim extra costs or time lay within Wembley National Stadium Limited's control. In the event that it fails to deliver as planned, Multiplex has a performance bond in place to fund completion of the stadium and Wembley National Stadium Limited will retain part of the fee due to Multiplex until completion has been certified. There is also a contingency provision to cover unanticipated costs.
 - Another area that the Department considered was that the revenue generated by the stadium might fall short of projections, undermining the project's viability and Wembley National Stadium Limited's ability to meet its repayments to the bank. To address this risk, responsibility for selling the premium seats (on which the financial success of the project predominantly relies) has been contracted to IMG, which will have incentives to maximise returns. Part of the revenue expected to be generated by advance sales of premium seats is underwritten in the event that there is a significant shortfall. The Football Association has provided Wembley National Stadium Limited with an annual income guarantee, which includes a commitment to stage its flagship events at the stadium.
- 14** The Department concluded that successful delivery of the project would be heavily dependent on Wembley National Stadium Limited having a strong executive team to manage the project and effective corporate governance to oversee the executive management. The public sector funders have established arrangements to allow them to monitor the progress of the project and to provide them with assurance about the use of the public money involved. The Football Association and Wembley National Stadium Limited have agreed to the continuing involvement of the Office of Government Commerce as the project proceeds.

Looking ahead

- 15** In addition to Sport England's lottery grant of £120 million and the Department's contribution of £20 million of taxpayers' money, the London Development Agency is providing funding of £21 million in recognition of the importance of the project to the overall regeneration of the Wembley area. This brings the total public sector contribution to £161 million, 21 per cent of the total funding for the project.
- 16** In many respects the interests of the public sector funders coincide with those of Wembley National Stadium Limited and the commercial investors in that their protection ultimately depends on the delivery of a viable stadium. If the project is successful, the provision of public money will have made possible the delivery of a new national stadium for football, rugby league and athletics. The stadium will be suitable for holding flagship events, make available a specified minimum number of seats to the general public, and be financially viable in its own right without the need for ongoing public subsidy.

- 17 Wembley National Stadium Limited's financial projections show that in certain circumstances the new stadium could generate substantial profits. There is also the prospect of Wembley National Stadium Limited being able to pay increased returns to the Football Association as a result of refinancing (ie negotiating improved financing terms) once construction of the stadium has been completed and the associated risk eliminated. There is no scope for the Department or Sport England to share directly in any financial gains generated by the project or to be involved in decisions about how such gains should be used. The gains will be used by the Football Association in accordance with its objects for the benefit of football.
- 18 The Department engaged Partnerships UK to take the lead on the public sector funders' behalf in the negotiations about the contractual arrangements for the project. During the negotiations the public sector funders had at times to balance protecting the public interest with allowing a deal that would be acceptable to the commercial investors. The public sector funders accepted that their interests would be largely subordinated to those of the senior bank since it was providing over half the funding for the project, compared with their 21 per cent. But in some areas where they saw particular risks to the public interest in the project, the public sector funders secured specific protections.
- The public sector funders were concerned to protect the public interest by preventing the Football Association from appearing to profiteer, or destabilising the project, by taking windfall gains. This could leave the Football Association with no long-term capital commitment to the project and increase the risk of Wembley National Stadium Limited being left with insufficient funds to sustain the project. The public sector funders secured a number of protections to address this risk, including requiring the Football Association to retain an investment of at least £100 million in the project throughout the stadium's expected life of 50 years.
 - The public sector funders also secured a range of contractual provisions to protect the public interest in the event of Wembley National Stadium Limited breaching the funding conditions. The rights of the public sector funders depend on the nature and timing of the breach concerned and, for the benefit of the project, in some situations Wembley National Stadium Limited has to be given time to remedy the breach. In certain circumstances though, the public sector funders have the right to withhold outstanding funding or to recover funds that have already been paid.
 - In the event of the project getting into serious financial difficulty and Wembley National Stadium Limited being unable to meet its agreed repayments, the senior bank could demand immediate repayment of its loan in full. A plan for recovery of the project may be proposed by Wembley National Stadium Limited, on which the public sector funders would have to be consulted. Ultimately, however, the bank would have discretion whether to accept the plan or take control of the project itself to maximise its chances of recovering its investment. The options open to the bank could have a variety of implications for the public sector funders in terms of the likelihood of their recovering their grants or securing the intended public benefits from the project.



The Comptroller and Auditor General's conclusions

19 The Comptroller and Auditor General's conclusions on the project are as follows.

- The early funding difficulties of the English national stadium project, combined with concerns about propriety, were a catalyst prompting the Department to reappraise the project and its viability. In taking the decision to provide additional public funds, the Department, working closely with Sport England, put the project through a thorough review process, in what is an example of well managed risk taking.
- The project is complex, not least because of the number of both public and private sector organisations involved. Before committing further public money, the Department made sure that the accountabilities and responsibilities of the public bodies involved in the project were clear.
- Looking back, the temporary removal of athletics from the plans for the stadium was not handled well. The involvement of the Department in the decision that athletics should be withdrawn and that £20 million of the lottery funding should be repaid did not comply with the proper processes that were in place for handling lottery money.
- Had the project not proceeded, there is a risk that the original £120 million of lottery funding would not have been recovered in full. The Football Association had not underwritten the grant with a formal guarantee so Sport England would have relied on the staging agreement and the additional commitments secured when the stadium closed as the basis for a deal with the Football Association and Wembley National Stadium Limited. Since it was uncertain that the existing stadium would re-open once it had closed, it is unclear how effective these arrangements would have been in enabling recovery of the grant.
- Looking forward, the public sector funders have largely subordinated their interests to those of the senior bank, reflecting the commercial reality of a deal where the bank is providing the majority of the funding for the project. In the worst case, the bank would have first call on the project's assets in the event of the project getting into serious financial difficulty.
- For other circumstances, the public sector funders have secured contractual provisions which protect the public interest. The provisions are proportionate in that they vary according to the seriousness of the funding condition breached and, except in the most extreme circumstances, should be enforceable without compromising the viability of the project.
- The project monitoring arrangements put in place by the public sector funders should ensure that they stay in close touch with the progress of the project and that they become aware of any difficulties that arise early on. Ultimately protection of the public sector investment, represented by both lottery funds and taxpayer's money, will depend on the project as a whole being a success.
- While the principal aim of the project is to deliver a new national stadium the public sector funders are expecting other benefits. The loss or diminution of any of these benefits (for example, any further reduction in the minimum number of public access seats, the sale of naming rights or the relaxation of the conditions relating to anchor tenancy) in the event of financial difficulty would amount to further public support but without involving additional public funding.
- In the event that the project is financially successful, any profits will be used for the benefit of football, in ways to be decided by the Football Association. There is no scope for the public sector to share directly in any financial benefits generated by the project or to be involved in deciding how the funds should be used.