



**REPORT TO: SPECIAL EDUCATION, CHILDREN'S AND LEISURE SERVICES
COMMITTEE ON 27 MARCH 2024**

**SUBJECT: LEARNING ESTATE PROGRAMME – FUTURE FORRES
ACADEMY PROJECT UPDATE**

**BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND
ORGANISATIONS DEVELOPMENT)**

1. REASON FOR REPORT

- 1.1 To inform the Committee of the current status of the Future Forres Academy project and seek approval to progress to Full Business Case.
- 1.2 This report is submitted to Committee in terms of Section III (D) (17) of the Council's Scheme of Administration relating to the School Estate to consider and make recommendations on capital and minor works programmes within the remit of the Committee.

2. RECOMMENDATION

2.1 It is recommended that Committee:

- (i) note the evidence to support a New Build project option (para 3.3);**
- (ii) agree that public engagement is undertaken regarding the location of a new school (para 4.1);**
- (iii) agree determination of the preferred site following public engagement will be at the Education, Children's and Leisure Services (ECLS) Committee on 14 May 2024 (para 4.1); and**
- (iv) approve the procurement strategy and associated costs to take the project to Full Business Case (FBC) (Para 4.7-4.10).**

3. BACKGROUND

- 3.1 In October 2023 the Future Forres Academy project was accepted as part of the Scottish Governments Learning Estate Investment Programme (LEIP) Phase 3 programme. In order to access this funding, the Council will require to meet and maintain specific performance levels for the building over a 25 year period, as documented in the Outcome Based Funding Model attached as **Appendix 1**.

- 3.2 At the Education, Children's and Leisure Services Committee (ECLS) on 19 September 2023 (para 16 of minute refers), it was agreed to engage hub North Scotland Limited (HNSL) to undertake a project feasibility/project definition for Future Forres Academy, due to the scale, scope and potential cost risks associated with progressing the design, build and operational assessment of the project.
- 3.3 The feasibility study reviewed several options of how to improve Forres Academy: Do Nothing, Refurbish, and New Build with these options summarised below.

Do Nothing

- 3.4 The current building is assessed as overall condition D – that is life expired and/or in serious risk of imminent failure. The current school was designed for an earlier approach to educational provision and no longer reflects the needs of the community for the integration of education, skills and jobs that will support long-term resilience and sustainability. There is a trend of increasing reactive maintenance spend on the existing building and a rising sum of investment required to make much needed fabric improvements. Considerable sums have already been spent over the last few years, despite which there have been intermittent failures in elements such as drainage which have led to disrupted learning and these interventions have only maintained the low condition ratings and indeed not prevented further deterioration in condition. The continued drain on resources to simply maintain the current school at low condition and suitability standards is unsustainable. In addition, the assessment and discovery of Reinforced Autoclaved Aerated Concrete (RAAC) within the current building has necessitated urgent remediation works and a regular programme of remedial inspections, which have resulted in areas of school no longer being accessible and reduced the overall capacity of the building to meet future needs.

Refurbishment

- 3.5 Several criteria were considered when reviewing this option including: the existing condition, LEIP 3 compliance, and challenges that a refurbishment scenario may present including: functionality and quality issues; whole life carbon; and cost implications. Whilst a refurbishment can meet a number of the LEIP 3 requirements, two issues present significant if not insurmountable challenges; the existing span between the structural floor slabs (which is significantly less than in modern education facilities) would pose a challenge with the mechanical ventilation required to meet LEIP 3 as well as the probable requirements to insulate under the existing ground floor slab. Based on benchmark data the construction cost to refurbish a school is generally around 90% of the cost of a new build however, the additional costs pertaining to Forres Academy, such as temporary accommodation for decant, RAAC which would require to be replaced and concerns over fire engineering requirements would mean the cost for delivering a refurbished school would be likely to exceed the cost for delivering a new build.
- 3.6 Given that one of Moray Council's learning estate strategy aspirations and key drivers is that 'All learners be educated in high quality buildings (minimum level B for condition and suitability)' the financial challenge of simply

maintaining the existing building without ever being able to improve its condition it would not be acceptable to 'Do Nothing' at Forres Academy.

- 3.7 In addition, when consideration is taken of a compromised design solution that may have to be accepted for a refurbished school in comparison to a new build without any cost benefit, it was concluded that a refurbishment solution would not offer good value for money to Moray Council and the end product would unlikely meet the aspirations of the local community. Therefore, the study considered that a New Build is the most prudent and cost effective solution for a Future Forres Academy.

New Build

- 3.8 The feasibility study initially considered eight sites to support a new school build option. An assessment of the viability of these eight sites identified that only three potential development sites for a new build would meet the project need: Grantown Road, Lochy hills and Applegrove Playing Fields/Roysvale Park. With each of these sites a number of assessments were undertaken which included: visioning and strategic definition, existing information analysis, development of educational briefing, lessons learnt analysis, desktop appraisal of site options.
- 3.9 To assist in determining the most appropriate site for building the new school, a scored options appraisal exercise was undertaken by the design team which looked at fourteen factors pertaining to the three sites: context, place, sustainability, landscape and ecology, planning considerations, transport, flood risk, utility infrastructure, underground risks, construction, orientation massing and shading, ground conditions, drainage, future expansion. These criteria were weighted with respect to current Council policies and placed the highest weightings on 'context' and 'place'. This was in line with local living and 20 minute neighbourhood intent to encourage, promote and facilitate the application of the place principle (as set out in the National Planning Framework) and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.
- 3.10 A summary of the three site options is provided below with the full scoring matrix detailed in **Appendix 2** and a site map and boundary locations in **Appendix 3**:

A Grantown Road

This site would see only a new build secondary school constructed with associated 3G pitch and car park. The current school would be demolished but the swimming pool and hydrotherapy pool would remain.

This site would provide minimal design constraints and meets most of the education strategic objectives. However, this does not meet with the place principle set out in National Planning Framework (Policy 14), would remove easy access to swimming facilities for educational benefit and most likely would increase traffic to the site. There is no current consideration of safer routes to schools and there would likely be a requirement for road improvements to provide access. The

Council does not own the land and therefore this would require to be purchased from the current landowners. In addition, it is outside the settlement boundary, the land is not currently allocated under the current Local Development Plan and therefore, the site would never be part of the wider context, meaning the school would remain remote from other facilities within the town. The site is also adjacent to a high pressure gas main which may preclude future expansion.

B *Lochyhill*

This site would see only a new build secondary school constructed with an associated 3G pitch and car park. The current school would be demolished but the swimming pool and hydrotherapy pool would remain.

This site would provide minimal design constraints and meets the majority of the education strategic objectives. However, there is no existing primary school to enable a full 5-18 campus, it does not meet with the place based policy, would remove easy access to swimming facilities for educational benefit and potentially would increase traffic to the site. There is no current consideration of safer routes to schools and there may be the possible requirement for a new roundabout on the A96 to provide access. - Although there is a site safeguarded for a Primary School at Lochyhill in the Local Development Plan it could not be used for the secondary school as this is an existing need and not one arising through any future development at Lochyhill. Therefore the Council does not own the site and therefore this would require to be purchased from the current landowners. If this was the chosen site, there is a risk that the proposed surrounding housing development never materialises and the school would remain remote from the town. The site does allow for future expansion, although further land would need to be purchased to facilitate this.

C *Applegrove Playing Fields/Roysvale Park*

This site would provide a new build school constructed adjacent to Applegrove Primary School (Council-owned land), retaining the pavilion and grass pitch on Roysvale Park with the addition of a bus drop off on Sanquhar Road. The current swimming pool and hydrotherapy pool would remain, with the rest of the current school being demolished and the site redeveloped with a 3G pitch and car park, which would serve both the school and the wider community sports facilities. The car park would be accessed from the existing opening on Sanquhar Road.

This site offers the opportunity to develop a 5-18 campus, the building is located away from the common good land and provides a pedestrian priority campus with a dedicated bus/coach drop off which would avoid road congestion (edge of Roysvale site). Although the car park and 3G pitch are located on a split site they provide a dual purpose serving both the school, swimming pool and community events. This site provides a central location for the school with a good opportunity for a united civic presence with Applegrove Primary School. It provides links to other existing green/health and wellbeing spaces providing both educational and community benefit. It meets the educational strategic objectives and place-based policy and would be using and improving

on the current safe routes to school. This site would provide good opportunities for educational links during construction and maintain the economic benefits to the surrounding businesses. The overarching issue with this site is that the Roysvale Park element of the site is designated as common good land.

The change in common good land use would be restricted to a bus drop off on Sanguhar Road. The development of the site would maintain the majority of the common good as green space and the development would likely see an improvement to the current surface water drainage issue.

- 3.11 The outcome of the design team option appraisal was that Grantown Road would be discounted with the Lochyhill scoring slightly lower than Applegrove/Roysvale Park. In addition to the scored option appraisal, high level cost models were developed with the differential in cost between Lochyhill and Roysvale Park being estimated at £3.9M, with Lochyhill the more expensive option due to additional project costs associated with procurement of land, roads, pathways and utility service upgrades.
- 3.12 Whilst there are risks associated with developing either of these sites, it was noted that only Applegrove/Roysvale Park is under ownership of the Council, whilst Lochyhill would require the Council to formally acquire the land in question. The main risk with developing the Applegrove/Roysvale site lies with the fact that a major part of the developable site is classed as 'Common Good', although the main school building is not planned on this site but rather the Council-owned land adjacent to Applegrove Primary School and currently used as grass playing fields by them

4. NEXT STEPS

- 4.1 While consultation is not a requirement at this stage, given the extent of local interest, it is proposed that the next step is to engage with the community on the two remaining site options: B - Lochyhill and C – Applegrove/Roysvale Park. To ensure that project delay is minimised the engagement would be undertaken during and after the school Easter holidays over a period of 3 weeks and would take the format of an information sharing on line, online and document survey and a public drop in session during week 3 of the engagement. The feedback would be analysed and presented to this Committee on 14 May 2024 for the preferred development site to be determined. This would allow the project to move to the development of the Full Business Case (FBC) which will provide a detailed design and an option for a fixed price cost for the project to deliver an operational school in 2028.
- 4.2 The next step following the decision at Committee in May 2024 is dependent on the preferred site selected. It would be to either:

B - Lochyhill: consult regarding the relocation of the school in accordance with the Schools (Consultation)(Scotland) Act 2010 or;

C - Applegrove/Roysvale - consult the public regarding the Common Good use to support school construction for the duration of the project and for permanent development of bus drop off areas.

- 4.3 With Option C – Applegrove/Roysvale, due to the land being categorised as inalienable Common Good, the Council would require to obtain consent of the Sheriff Court in terms of the Section 75(2) Local Government (Scotland) Act to appropriate the land. Section 222(2) of the Local Government (Scotland) Act 1973 requires the Council to have regard to the interests of the inhabitants of the former Burgh of Forres when administrating Common Good land.
- 4.4 In addition, Section 104 of the Community Empowerment (Scotland) Act 2015, which came into force on 27 June 2018, requires that before taking any decision to appropriate a Common Good asset, the Council must publish details about the proposed disposal. In publishing these details, the Council must also:
- (i) notify the relevant community council and any community body that is known to have an interest in the property; and
 - (ii) invite those bodies to make representations in respect of the proposals.
- 4.5 In deciding whether or not to appropriate the land, the Council must have regard to any representations made, whether by those invited or by some other relevant party. The proposal, along with the summary of any representations received, would then form the basis of a further report to this Committee to allow it to make a decision regarding the appropriation of the site and submission for court approval.
- 4.6 With Option B – Lochyhill a statutory consultation would be undertaken in accordance with Schools (Consultation)(Scotland) Act 2010, which is triggered by the move to a new location.
- 4.7 Further to the decision of site selection, given the complexity and potential cost risk associated with progressing design, build and operational asset management of this project, it is proposed to engage HNSL to undertake the detailed design works which will inform the FBC. HNSL have undertaken the feasibility study, were successful in supporting the Moray Council LEIP 3 Scottish Government submissions, are working with other local authorities within the Northern Territory Partnership on similar work and have acted on behalf of Moray Council to deliver recent projects of similar scale, Lossiemouth High School and Elgin High School and are considered the preferred design and build partner to progress the project.
- 4.8 HNSL is one of the five public-private partnership companies set up across Scotland. Developed as a Scotland-wide initiative, led by Scottish Futures Trust (an executive non-department public body of the Scottish Government), to support new community infrastructure delivery. The establishment of the HNSL Framework was procured in compliance with Official Journal of the European Union (OJEU) requirements and establishes the structure and agreements for collaborative working underpinned by our Shareholder Agreement and Territory Partnering Agreement.
- 4.9 Through a Hub approach, a lengthy World Trade Organisation's Government Procurement Agreement process – utilising the Find a Tender Service - is avoided along with the time consuming and expensive competitive dialogue

that this entails. The advantages of the Council Procurement Strategy for this project adopting the Hub approach include:

- Increase cost and programme certainty
- Early involvement of advisers and contractors
- More assured partnership working and innovation
- More effective risk management
- Transparent procurement
- A minimum of 80% of packages (by value) market tested
- A qualified and experienced supply chain working to capped rates
- Opportunity with economies of scale with HNSL already appointed to support other planned major capital projects (Elgin High School Extension) and potentially others in the future (Buckie High School).

4.10 The benchmarked project fees for taking the project to FBC, with a detailed design and build proposition is £1.569M, with the spend being across financial years 24/25 and 25/26, with the view to start construction in August 2025.

5. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

This report supports the LOIP outcomes:

Building a better future for children and young people in Moray:

- Healthier Children: children get the healthiest start in life and are supported to achieve the best possible mental health and wellbeing and there is equity for vulnerable groups.

And the aims of the Corporate Plan to:

- Build thriving, resilient, empowered communities, managing the financial and resourcing pressures of our learning estate

As Roysvale Park is a Common Good asset the interests of the inhabitants of former Burgh take precedence over the Councils Corporate Plan and 10 Year Plan (LOIP).

(b) Policy and Legal

Lochyhill is outside the current school boundary and therefore consultation regarding the relocation of the school in accordance with the Schools (Consultation) (Scotland) Act 2010 would require to be undertaken.

Roysvale Park is inalienable Common Good and its appropriation will require Court Consent in terms of Section 75(2) of the Local Government (Scotland) Act 1973. Section 222(2) of the 1973 Act requires the Council to have regard to the views of the inhabitants of the former burgh and any appropriation would also require the consent of court.

(c) Financial implications

The Future Forres Academy project is within the agreed 2024-2034 ten year current plan.

The overall project costs are currently as per the LEIP 3 bid and within agreed 10 year capital plan but a review of the costs due to inflation and any other factors will be undertaken and reported in due course.

The LEIP 3 funding model is revenue based, with revenue payments made by the Scottish Government over the 25 year life of the proposed facility. Funding is to be released on a phased basis on achievement of agreed outcomes as documented in **Appendix 1**.

The benchmarked project fees for taking the project to the next stage of a detailed design and build proposition, together with a FBC is £1.569M. This is within the 2024/25 financial year capital plan allowance approved by Council on 28 January 2024.

(d) Risk Implications

The following risks are already identified and should be noted:

- i. For any LEIP funded project the Council carry the full risk of capital funding, with revenue budget support only provided once the school is operational and at different stages in the building lifecycle, dependent on the achievement of outcomes set out in the Financial implications above.
- ii. There is risk that the area metric proposed by the Scottish Government to value a LEIP 3 project will not correspond to the actual market rate experienced at the time of construction. The consequence is that the maximum 50% of qualifying project value provided by the Scottish Government could be significantly less than that (with the Council therefore bearing a significantly higher proportion of the overall costs of the project).
- iii. The Outcome Based Funding Model requires a consistent level of investment through the life of the facility to ensure funding targets can be achieved and maintained over the 25 year period, which impacts on the building whole life costs. As noted above, failure to meet these funding targets throughout the 25 year funding period could put the ongoing Scottish Government contribution to funding at risk.

Indicative costs take account of current market uncertainty and inflationary forecast. There is a risk of continuing market uncertainty through the life of the project, with a consequential impact on costs.

The cost of purchasing land is a high level estimate, may increase and would also require legal negotiations to be undertaken with the current land owner.

The common good land transaction would require the consent of the Sheriff Court following a Public Consultation. Moray Council would require to incur the costs of the Public Consultation, Court Action and Legal Notices etc. which are estimated at between £3-£5K. Any objection may affect the outcome of the application to the Court. If the Court was to reject the application the Council would be unable to recover the expenses incurred and would require to purchase an alternative piece of land, which would increase the project delivery timescales. Currently an allowance of 6 months (January 2025) has been incorporated into the project plan timeline

(e) Staffing Implications

There are no staffing issues arising from this report.

(f) Property

The property implications are set out in the body of the report.

(g) Equalities/Socio Economic Impact

The quality of the learning environment can impact on learning and attainment by as much as 16%. The condition and suitability of our learning estate, and capacity challenges associated with both growth and population decline in some areas, give rise to unequal opportunity across Moray.

This proposal supports the Learning Estate Strategy requirement that all Learning Estate buildings meet minimum standards and are fit for purpose.

(h) Climate Change and Biodiversity Impacts

The proposal will have a climate change impact with embodied carbon impacts during construction and whole life operational carbon. The scale of this overall impact will be assessed in detail as the project progresses to FBC and this will be balanced against the current operational carbon budgets. The LEIP 3 standards for both operational carbon (energy efficiency) and embodied carbon require the new build design to minimise carbon.

(i) Consultations

Head of Legal and Democratic Services, Chief Financial Officer, Head of Education (Chief Education Officer), Head of Housing and Property, Head of Economic Growth and Development, Legal Services Manager, Assistant Manager Procurement, Equal Opportunities Officer, Caroline O'Connor, Committee Services Officer and members of the Learning Estate Programme Board and Asset Management Working Group have been consulted and the comments received have been incorporated into the report.

6. CONCLUSION

6.1 The Committee is asked to confirm it is in agreement that public engagement is undertaken on the location of the new build, with the final decision on the new build school location being determined at this

Committee on 14 May 2024. Thereafter, the statutory consultation route, associated with each option, will commence.

6.2 It is recommended that Committee approve the procurement of HNSL to progress the FBC, which will look to provide a fixed cost permanent solution to the capacity issues, and the £1.569M cost associated with this.

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Background Papers:

Ref: SPMAN-9425411-342 / SPMAN-9425411-341 /
SPMAN-9425411-349