



Moray Council Emergency Cabinet

Wednesday, 12 August 2020

The undernoted report has been added to the agenda for the meeting of **Moray Council Emergency Cabinet** at **09:30**, in terms of Section 50B (4)(b) of the Local Government (Access to Information) Act 1985 by reason of special circumstances on the Chair accepting the report as urgent business.

NOTE REFERRED TO:-

4ci Minute of the Emergency Cabinet meeting of 10 June 2020	3 - 8
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Minute of Meeting of the Moray Council Emergency Cabinet

Wednesday, 10 June 2020

Various locations via video conference,

PRESENT

Councillor George Alexander, Councillor John Divers, Councillor Graham Leadbitter, Councillor Shona Morrison, Councillor Derek Ross

APOLOGIES

Councillor Tim Eagle, Councillor Donald Gatt

IN ATTENDANCE

Chief Executive, Depute Chief Executive (Economy, Environment and Finance), Depute Chief Executive (Education, Communities and Organisational Development), Mr A Gray, Asset Management Co-ordinator, Head of Financial Services, Head of Strategy, Governance and Performance and the Democratic Services Manager as Clerk to the meeting.

1. Chair

The meeting was chaired by Councillor Shona Morrison.

2. Declaration of Group Decisions and Members Interests *

Councillor Ross stated that within the accompanying papers, in relation to Item 4 he noted that they contained in particular a letter of support provided by the Moray Integration Joint Board (MIJB) in relation to the application and questioned whether Councillor Morrison should declare an interest in her capacity as Vice Chair of the MIJB.

In response Councillor Morrison advised that she was unaware of the letter and sought advice from the Head of Strategy, Governance and Performance. Thereafter, following a short adjournment, Councillor Morrison stated again that she was not aware of the letter coming from the IJB, declared that she is a member of the IJB as recorded on her Register of Interests and that she had applied the objective test in terms of Section 60 of the Councillors' Code of Conduct and did not believe this interest was significant enough to prejudice her decision making.

In response to Councillor Morrison referring to Councillor Brown's attendance as a substitute at meetings of the MIJB, Councillor Brown also advised that as he had only attended as a substitute and not a permanent member and had he undertaken the objective test as referred to in Section 60 of the Councillors' Code

of Conduct was of the view that he would come to the conclusion that this did no prejudice his position in regard to this item.

Thereafter, in terms of Standing Order 20 and the Councillor's Code of Conduct, there were no declarations from Group leaders or Spokespersons in regard to any prior decisions taken on how members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

3. Minute of Meeting dated 21 May 2020

The minute of the meeting of the Moray Council Emergency Cabinet dated 21 May 2020 was submitted and approved.

4. Community Asset Transfer Request (2015 Act) Lesser Borough Briggs, Elgin

A report by the Depute Chief Executive (Economy, Environment and Finance) inviting the Emergency Cabinet to consider a community asset transfer request for common good land at Lesser Borough Briggs, Elgin.

Prior to discussion of the item, the Asset Management Co-ordinator advised the meeting that the words "should be agreed" were missing from the last sentence of paragraph 9.1 of the report which should read "If it is considered that the likely benefits of the community trust's proposal are greater than the likely benefits of the alternative proposal set out in section 5 of this report then the asset transfer request should be agreed." This was noted.

Councillor Leadbitter stated that there had been a lot of discussion at public meetings and with Elgin Community Council and that all the representations received had been overwhelmingly positive. He further stated that in his opinion there was a need to protect this green corridor which ran through the middle of the town and was happy to support the recommendation at paragraph 2.1 (1) of the report. He referred to comments made in regard to control by Elgin City Football Club over what Elgin Sports Community Trust (ESCT) are doing but had been given the assurance needed that this was not the case.

Councillor Brown stated that he wished to propose an alternative recommendations that would require him some time to explain and in terms of Standing Order 55 sought the Chair's agreement for additional time. This was agreed.

Thereafter Councillor Brown stated that he did not disagree with the principles and intentions behind the project which he and the two other Elgin Councillors for whom he spoke support, but because there was, in his opinion an alternative site at Deanshaugh, which the council can make available to the trust at virtually no cost.

He outlined the concerns they shared which related to, in his opinion, significant risks and flaws in the business case as set out which cast doubt on ESCT's capacity to deliver this project on budget and on time; the refusal by the Council in April 2019 to an earlier request by ESCT to transfer the land to them for the purpose of developing an all-weather multi-purpose playing surface and referred to the decision that the council should consult on putting the site up for sale on the

open market and a report on the definitive proposals for its use be brought back for consideration. He stated that this would have seen an alternative proposal as part of the economic regeneration of Elgin and Moray driven by the Moray Growth Deal for the use of the site being presented to the Policy and Resources Committee but due to legislation this application had taken precedence over that proposal.

In referring to the Business Case, which he stated was constructed prior to the Covid 19 pandemic, it relies on two partners to deliver the project, ESCT and Elgin City Football Club to lease additional land. As the facility would occupy land from two sources, Elgin Common Good and Elgin City Football Club this does, in his opinion, raise potential problems dependent upon lease conditions the council would in effect be entering into an arrangement with both the ESCT and Elgin Football Club.

In addition as Elgin City Football Club is an essential partner to the project the risks identified in the report as stated by the chairman of ECFC of going bankrupt are a further potential risk to the success of this project.

However, he further stated that he and his colleagues were supportive of providing ESCT land at Deanshaugh, land that is not subject to the same legal hurdles as the land at LBB. In response to suggestions raised that there are legal and environmental issues with the site at Deanshaugh, he stated that he had consulted with both relevant heads of service and was assured there were no such impediments to development. The land at Deanshaugh can also be provided at virtually no cost to the ESCT.

He further stated that the location of the land at Lesser Borough Briggs has been identified as an area suitable to play a part in the regeneration of Elgin as an element in the cultural quarter stream in the Moray Growth Deal. It was, in his opinion, due to the impact of COVID-19 on the economy, the time, to take steps to energise and invest in the Moray economy, stating that the retail development envisaged by the Moray Growth deal will generate demand for jobs in construction, tourism and manufacturing, all three of these industry's most at risk.

In conclusion he moved that:

- i) That cabinet rejects the application by ESCT for a Community Asset Transfer at Lesser Borough Briggs on the grounds that the risks of failure to progress and complete the project are too great and that approval of this application would prevent the council delivering an alternative economic regeneration plan for the site
- ii) That officers as a priority, bring back to council plans for the economic development of the site as part of the Moray Growth deal as previously decided by P& R in April 2019
- iii) That council offer land at Deanshaugh to ESCT to develop the all-weather pitch and associated facilities envisaged in their application and that officers give priority to such a project to facilitate the timescale set out in the application.

Councillor M McLean seconded the motion.

In response to Councillor Brown's motion, Councillor Leadbitter moved as an amendment the recommendation at paragraph 2.1 (1) of the report and questioned the use of the land at Deanshaugh which he believed had been placed in trust in response to a request from Fields in Trust Scotland which restricts the power of the Council to sell or otherwise dispose of any part of a designated area without the agreement of Fields in Trust and sought clarification of this from the Head of Strategy, Governance and Performance and following a short adjournment to clarify the matter raised, this was confirmed to be the case.

Councillor Divers seconded the Amendment.

In response Councillor Brown stated that he would be happy to amend part 3 of his motion to read "That council enter into negotiations with both Fields In Trust and Elgin Sports Community Trust to develop an all-weather pitch at Deanshaugh as part of the development of sporting facilities in Elgin and that some priority is given to this action by officers."

In response to the terms of the motion the Depute Chief Executive (Economy, Environment and Finance) expressed concern that, not having had sight of the motion prior to the meeting, the meeting had no idea what the thoughts of officers within the Sports Development Section would be in this regard and in relation to officers bringing back to council plans for the economic development of the site as part of the Moray Growth deal as previously decided by P& R in April 2019, the Depute Chief Executive (Economy, Environment and Finance) advised that the Growth Deal was subject to constraints issue regarding timescales and whilst the Cultural Quarter was looking at hotel development sites this would require a feasibility study and market research into interest in the site and it was not clear what the alternative proposal for the site would be. She further expressed concern that should the motion be carried forward, this would incur a considerable amount of work.

Councillor Alexander, stated his concerns regarding the various uncertainties which had been raised and sought clarification regarding the timescale for a decision on the application and in response the Asset Management Co-ordinator advised that should the Council not make a decision by the deadline of 19 June 2020, the applicant could then request a review in which case the council would have to issue a decision within 6 months of that review request.

Thereafter Councillor Alexander moved, as a further amendment, that the meeting delay the decision in order that the council investigate all of the uncertainties stated including the future of Elgin City Football Club which he hoped was not in any doubt. Councillor Ross seconded the amendment.

Following further discussion a further short recess was granted to clarify points raised regarding time constraints and the issue relating to part 2 of the Motion in regard to the Moray Growth deal and the capacity of staff resources. It was noted that advice had been sought from the Head of Economic Growth and Development who advised that the use of the Lesser Borough Briggs site for a cultural quarter was not considered a good site for an hotel in relation to an escape route for flooding and that market analysis was needed which would be delayed due to COVID-19 and that the market was currently depressed.

Thereafter, Councillor Alexander withdrew his amendment.

Following further discussion, during which the Depute Chief Executive (Economy, Environment and Finance) reiterated her concerns in regard to part 2 of the motion as to the degree of priority officers could give to this.

For clarification the terms of the motion were confirmed as follows:

- i) That cabinet rejects the application by ESCT for a Community Asset Transfer at Lesser Borough Briggs on the grounds that the risks of failure to progress and complete the project are too great and that approval of this application would prevent the council delivering an alternative economic regeneration plan for the site
- ii) That officers as a priority, bring back to council plans for the economic development of the site as part of the Moray Growth deal as previously decided by P& R in April 2019.
- iii) That council enter into negotiations with both Fields in Trust and Elgin Sports Community Trust to develop an all-weather pitch at Deanshaugh as part of the development of sporting facilities in Elgin and that some priority is given to this action by officers.

Thereafter, on a division there voted:

For the Motion (2) Councillors Brown and M McLean

For the Amendment (5) Councillors Leadbitter, Divers, Alexander, Morrison and Ross

Abstentions (0)

Accordingly the Amendment became the finding of the meeting and the Emergency Cabinet agreed to approve the request to grant a 99-year ground lease over the site identified in Appendix 1 to Elgin Sports Community Trust on the main terms and conditions set out in section 7 of this report and authorises the Legal Services Manager to apply to the Sheriff Court for consent to dispose of the site.

5. Question Time ***

Councillor Ross asked if information could be provided to the Council meeting on 17 June 2020 regarding the preparedness for the resumption of schools on 11 August 2020 in terms of health and safety and as he had previously asked, what percentage of young people are engaging with schools under the current arrangements

In response the Depute Chief Executive (Education, Communities and Organisational Development) advised that due to the time constraints it would not be possible to bring forward those papers to the meeting on the 17 June 2020. She further advised that as previously advised to members, work in terms of the recovery for schools is ongoing but officers do not yet have the details in a format suitable for reporting but will bring that forward as soon as possible.

She further apologised to Councillor Ross in regard to not getting back to him regarding his second question and advised that she would get back to him in that regard as soon as possible.

In response Councillor Ross asked whether a verbal update on the preparedness could be provided to the council meeting on the 17 June 2020?

In response the Head of Strategy, Governance and Performance advised that due to the timescale involved and in terms of Standing Orders, an option would be to submit a written question in these terms or alternatively a written brief could be circulated to all members and there would be an opportunity at question time for an elected member to raise any question on that.

Councillor Alexander asked whether there were any plans to increase the range of vehicles allowed access at the waste transfer stations, i.e. cars with trailers?

In response the Depute Chief Executive (Economy, Environment and Finance) advised that she did not have information available although she was aware that this was something currently being considered but would investigate and circulate information to all members.