

EAST RENFREWSHIRE COUNCIL

17 December 2014

Report by Director of Environment

REPLACEMENT BARRHEAD HIGH

PURPOSE OF REPORT

1. To update the Council regarding the proposed replacement Barrhead High project and seek approval for an appropriate course of action.

RECOMMENDATIONS

2. It is recommended that the Council:
- (a) Notes the current position with the proposed replacement Barrhead High School project;
 - (b) Approves the proposal to relocate the replacement school to the “Johnny Kelly” site;
 - (c) Agrees to abandon legal appeal proceedings;
 - (d) Approve the additional £3.5m capital funding needed to deliver the project;
 - (e) Notes that the additional cost of the project will be factored into the updated and/or rephased 8 year Capital Plan, which will be considered by the Council in February 2014; and
 - (f) Delegates to the Director of Environment, in consultation with the Director or Education and Chief Officer (Legal and Procurement) to progress the project through planning and construction to its completion.

BACKGROUND

3. In 2012, the Council made a submission to the Scottish Futures Trust (SFT) “Scotland’s Schools for the Future Phase 3” funding programme. This submission proposed that a replacement Barrhead High be located in Cowan Park adjacent to the existing bandstand. The decision to select this particular site was based upon a number of factors but particularly:

- This was the site of the current Barrhead High School so this site was a logical choice for its replacement;
- That no other more suitable site within the ownership of the Council existed which could accommodate the school.
- That the site location offered an opportunity to provide new and improved infrastructure and facilities within Cowan Park

4. In September 2012, the Council was advised that its submission to the programme had been successful. Officers then worked to progress the replacement Barrhead High School. Design work was completed and planning permission was subsequently granted.

5. In October 2013 the Cabinet noted that Council Officers were progressing legal action through the Court of Session. This action was undertaken in response to the Court of Session Inner House decision in the “Portobello” case in late 2012 which overturned the court’s previous ruling and established that local authorities could not use inalienable common good sites for other public uses. The decision was particularly relevant given that the factual circumstances of the case closely reflected those faced by this Council. In light of publicity surrounding the case, the increased risk of challenge arising from the decision and to provide comfort to project funders, legal action was commenced to ensure that the Council had the necessary authority to construct the replacement school on the site proposed.

6. After a lengthy legal process the relevant court issued its opinion in respect of the Petition sought by the Council in August 2014. The consequence of this decision meant that the Council was unable to progress the proposed replacement Barrhead High school project within the proposed (“bandstand”) site in Cowan Park.

REPORT

7. Since this decision was issued in August 2014 Council Officers from within Education, Environment and Legal Services (supported by external legal and technical advisors) have been working together to consider the options available. The main options are summarised as follows:

(i) Appeal the decision to the Inner House

This option could allow the school to be built upon the preferred site. However, it brings with it an element of uncertainty regarding both the length of time before a decision will be made by the Court and indeed the outcome. This process is likely to take at least 6 months to progress, and a negative decision would mean that the Council is back at “square one”. In addition, the uncertainty and timescale attached to this option mean that it is unlikely that SFT funding would continue to be made available. Accordingly, it is proposed that this option is no longer pursued.

(ii) Pursue a Private Act of Parliament

This was the course of action taken by Edinburgh City Council regarding Portobello. The timescale however is estimated to be a minimum of 12 to 18 months with no guarantee regarding a positive outcome. This timescale would mean that this course of action would fall outwith the window during which SFT funding would continue to be made available. It is recommended therefore that this option be pursued no further.

(iii) Identify an Alternative Site

A detailed exercise has been undertaken to consider alternative sites for the replacement school. Having considered the range of possible sites, 5 main site options were identified. These were:

(a) Shanks Park

This site was ruled out as it is not entirely within the ownership of the Council. In addition, the site has been identified for alternative uses, is on the outer edge of the school catchment area, would require an Education statutory consultation and there would be significant potential costs associated with ground conditions/contamination. For all these reasons, Shanks Park was ruled out.

(b) Nestle, Glasgow Road

This site has been identified within the proposed Local Development Plan for employment generating uses. In addition, the site would be too expensive to develop in view of the ground conditions/contamination. It is not an ideal site for a replacement school (it is out of town) and would require an Education statutory consultation exercise to be undertaken. This site was therefore dismissed.

(c) Springfield Road

This site is on the outer edge of the catchment area. It is near to St Lukes and would require an Education statutory consultation. It is a very exposed site and has ground condition/topography challenges and potential traffic management and other infrastructure issues which all make the site unsuitable.

(d) Cowan Park (existing school site)

A number of options were considered to establish whether it would be possible to construct a replacement school upon the existing school site, which falls outwith any Common Good land title. However, these were all ruled out in view of the logistical/technical/cost implications and the significant impact upon the quality of education provision through the construction works. Decanting pupils during the construction would have considerable cost implications and the technical challenges would mean that the design of the school and facilities offered would all need to be compromised. The construction period would be extended adding construction inflation costs over and above the costs associated with the technical solutions required

(e) Cowan Park (Johnny Kelly Pavilion site)

Having considered the options available, the site in and around the existing Johnny Kelly pavilion is considered to be the best alternative site for the replacement school. This site, shown in Appendix 1 to this report, is outwith any "common good" title and has the advantage of allowing the original design of the replacement school to be largely preserved, meaning that few design compromises would be necessary. Whilst this site would require flood mitigation measures to be undertaken and for the Johnny Kelly pavilion, skate park and proposed cricket wicket all to be relocated, it is considered that these are all possible to achieve. Indeed, they would all result in an improvement to the setting and use of the wider park facility, albeit not to the extent as originally envisaged at the previous (bandstand) site.

8. In the event of the Council agreeing to progress the replacement Barrhead High on the Johnny Kelly site, the planning and other processes will commence immediately with a view to completing the school by December 2016. In particular early engagement with SEPA would be sought regarding their likely objection on flooding grounds, as this could impact negatively upon a December 2016 completion.

9. It is intended that the existing facilities be relocated to allow the replacement school to be constructed in and around the existing Johnny Kelly site. Once the school is constructed and occupied steps will then be taken to demolish the current Barrhead High and the current school site will then be used to accommodate the proposed 3G sports pitch, running track, parking and other potential facilities.

10. It is important for the Council to note that taking account of factors including the land required for the new school land held under the Cowan Park common good title and the increased costs associated with the new site, there will now be limited opportunity to provide additional park facilities and improve the wider park infrastructure in the manner which was conceived under the plans for the former "bandstand" site.

FINANCE AND EFFICIENCY

11. In order to facilitate the construction of the new school at the Johnny Kelly site it will be necessary to build a replacement pavilion and to relocate the skate park and Barrhead Youth Football Club's existing containers. The proposed cricket wicket will also need to be relocated. In addition, flood mitigation measures (which would not have been necessary at the former site) will be necessary. Given the delays associated with this project, construction costs have increased and this will have an impact upon the cost to construct the new school. Taking account of all these factors, it is anticipated that an additional capital contribution of around £3.5m will need to be committed by the Council to deliver the replacement Barrhead High at the alternative Johnny Kelly site. This is only a provisional estimate at this point in time.

12. Subject to Council agreement regarding the proposed alternative site the additional capital contribution necessary will be factored into the revised 8 year Capital Plan which will be brought before the Council in February 2015.

CONSULTATION AND PARTNERSHIP WORKING

13. This project to date has involved significant partnership working between representatives from within Environment, Education, Legal Services and Finance. This has been supported by external project partners including SFT. In accordance with national guidance in relation to the delivery of planning policy, good co-operation and partnership working will be necessary with the range of partners as this project progresses and in particular SEPA.

14. The planning application process will involve statutory consultation and this consultation process will include workshops involving relevant stakeholders.

IMPLICATIONS OF THE PROPOSALS

15. There will continue to be significant staffing resources required across Departments to deliver the replacement school and related infrastructure and facilities. There are no IT, sustainability or equalities implications associated with this report.

16. Further detail of the site options considered and the SWOT analysis undertaken can be made available should any Elected Member require.

CONCLUSIONS

17. The proposal to construct the replacement Barrhead High School in and around the Johnny Kelly site is considered by officers within Environment/Education and the Council's external advisors to be the best option available, taking account of factors including:

- The availability of sites within the Council's ownership
- The shortening window which exists to get access to the SFT funding
- The risks associated with legal challenge
- The continuing impact of construction inflation should the project be delayed any further
- The SWOT analysis undertaken in relation the available sites

RECOMMENDATIONS

18. It is recommended that the Council:

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- (b) Approves the proposal to relocate the replacement school to the "Johnny Kelly" site;
- (c) Agrees to abandon legal appeal proceedings;
- (d) Approve the additional £3.5m capital funding needed to deliver the project;
- (e) Notes that the additional cost of the project will be factored into the updated and/or rephased 8 year Capital Plan, which will be considered by the Council in February 2014; and
- (f) Delegates to the Director of Environment, in consultation with the Director or Education and Chief Officer (Legal and Procurement) to progress the project through planning and construction to its completion.

Director of Environment

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Appendix 1

Cowan Park (Johnny Kelly Pavilion site)



MAP REFERENCE: NS5159SW

DATE: 28/11/2014

SCALE: 1:3000