

**REPORT TO: EDUCATION AND SOCIAL SERVICES COMMITTEE ON
13 FEBRUARY 2008**

SUBJECT: REVISED ELGIN CITY FC SYNTHETIC TURF PITCH PROPOSAL

BY: DIRECTOR OF EDUCATIONAL SERVICES

1. REASON FOR REPORT

- 1.1 The purpose of this report is for Committee to consider a revised proposal from Elgin City Football Club for the development of a synthetic turf pitch at Lesser Borough Briggs. The original proposal was rejected by members at the Educational Services Committee on 4 April 2007 (para. 9 of the minute refers).
- 1.2 This report is submitted to the Education and Social Services Committee in terms of Section D (13) of the Council's Administrative Scheme relating to dealing with the management of indoor and outdoor facilities operated by the Council for recreational, sporting, cultural and social activities.

2. RECOMMENDATION

This report recommends that Committee:-

- (i) **notes the revised proposal from Elgin City FC for the development of a synthetic turf pitch at Lesser Borough Briggs;**
- (ii) **notes the comments made by Officers in this report and considers whether or not to progress the revised proposal by Elgin City Football Club to develop the ground at Lesser Borough Briggs for a synthetic turf football pitch.**

3. BACKGROUND

- 3.1 Committee will recall that at the Educational Services Committee meeting on 4 April 2007, a report was submitted requesting that consideration be given to a proposal by Elgin City Football Club to develop the ground at Lesser Borough Briggs for a synthetic turf football pitch, flood lighting and pitch enclosure fencing.
- 3.2 The proposed facility would primarily be used to assist in the development of youth football teams associated with Elgin City FC and when not used for this purpose would be made available for use by the wider community.
- 3.3 Although Elgin City FC were not requesting a funding contribution from the Council, the report identified that the proposed development would be located on ground that is legally classified as Common Good and would therefore require an application by the Council to the Sheriff Court/Court of Session for a change in the designated use of this site.

- 3.4 The report also identified significant Planning, Contaminated Land and Flood Alleviation issues that could have significant financial implications for the Council.
- 3.5 Of these issues, Committee identified the impact of the proposed development on the flood alleviation scheme for the Lesser Borough Briggs and Cooper Park area as their immediate issue of concern.
- 3.6 Committee was advised that incorporating Elgin City FC's proposals would require adjustment of the flood alleviation scheme proposals that would delay the flood scheme and add cost.
- 3.7 The decision of the Committee at this meeting was therefore that "the proposal by Elgin City Football Club to develop the ground at Lesser Borough Briggs for a synthetic turf football pitch be rejected for the reasons set out within the report; and officers continue to explore with Elgin City Football Club an alternative location for a synthetic turf football pitch in the Elgin area (*para 9(i) and (ii) of the minute refers*). Committee should note that these 'reasons' did not solely refer to flood alleviation.
- 3.8 On the premise that the flood alleviation issue was the principal reason for the Committee rejecting Elgin City FC's proposal, an amended proposal was subsequently submitted by the Club. It is the stated intention that the new proposal would fit within the area protected by the flood scheme and would not therefore conflict with the Flood Prevention Order for Lesser Borough Briggs.
- 3.9 A copy of the revised proposal and location plan, received by Council Officers on 13 June 2007, is attached as **Appendix 1**.
- 3.10 As noted in the letter from Elgin City FC, "The Board of Directors of Elgin City FC are willing to offer 15.5m of land at the eastern extremity of the stadium bordering Lesser Borough Briggs and remove the current toilet facility at that end of the ground. This would give the extra space required to accommodate a pitch meeting FIFA requirements and not conflict with or delay the progress of the flood alleviation proposal". The letter also notes that the new proposal would require that the trees running parallel to Borough Briggs Road would require to be removed to accommodate the pitch. It is proposed that these trees would be replaced by the Club on a 2 for 1 basis.
- 3.11 In light of the amended proposal, Elgin City FC has requested that the Committee reconsiders its decision to reject the development of a synthetic turf pitch at Lesser Borough Briggs.
- 3.12 Since receiving the revised proposal, Council Officers have sought to clarify a number of outstanding issues. Responses have now been received by Elgin City FC and Committee is asked to take into account the following comments made by Officers in relation to the amended proposal. A number of these comments remain unchanged since the original proposal was considered.

3.12.1 Flood Alleviation

In response to the revised proposal, the Consultancy Manager advises that the design for the proposed synthetic turf pitch would conflict with the flood alleviation scheme as it stands but it may be that the proposals could be adjusted and a compromise reached. As yet there are no sufficiently detailed plans or cross section drawings (**See Appendix 2**). The raised level of the pitch and its proximity to the flood embankment are aspects of the design that are of particular interest. Costs of fitting the proposals to the Elgin Flood Alleviation Scheme would have to be borne by Elgin City FC.

3.12.2 Education and PPP Initiative

Elgin City FC has indicated that substantial community access to the proposed pitch would be afforded to the wider community (**See Appendix 3**). Members will therefore appreciate the significant community benefits that this project could bring to Elgin and the surrounding area. However, Members should also be aware that it would not be feasible for the proposed pitch to be accessed as a regular part of the PE curriculum by either Elgin High School or Elgin Academy due to the time involved in travelling to the site from each school. Members should also be aware that the costs for synthetic turf pitches at Elgin High School and Elgin Academy will be presented for approval as part of the Council's Capital Plan for 2012/2013 and PPP project, respectively. Both of these pitches will be made available to the wider community as well as for school use. The proposed development of a further synthetic turf pitch by Elgin City FC would not therefore be considered a strategic priority for the Council.

3.12.3 Planning (Development Control)

The Committee was previously advised (4 April 2007) that in September 2006, the Council's Development Control Service replied to a preliminary enquiry from Elgin City Football Club concerning an enclosed synthetic turf pitch on land to the north of the existing football ground. The Club was advised that the proposal would depart from the current development plan, detract from the amenity and appearance of the locality and would be premature and prejudice to other development proposals for the area, including flooding and central area redevelopment interests (para 3.7.7 of the report refers). Although no preliminary enquiry or formal application for planning permission has been sought or obtained for the latest proposal to the east of the existing football ground, advice and comment similar to the earlier enquiry is likely. These comments are without prejudice to any formal application being submitted for consideration.

3.12.4 Planning (Planning and Development)

As previously reported to the Educational Services Committee on 4 April 2007; at the Environmental Services Committee on 24 May 2006 (para 20 (i) of minute refers), Council agreed, in principle, to commission a feasibility study with HIE Moray as a part implementation of Moray 2020. The study will explore the potential for a re-development of a sizeable area of central Elgin (designated as TC in the Local Plan) for commercial and civic purposes. The abstraction of a site at Lesser Borough Briggs for a synthetic turf pitch development will prejudice the options of this study.

3.12.5 Estates

As previously reported to the Educational Services Committee on 4 April 2006; the proposed site for the synthetic turf pitch lies within the area designated as 'Elgin Town Centre' in the Moray Local Plan (finalised version September 2006) where retail type purposes would in principle be permitted. If the site were to be protected by the Elgin Flood Alleviation Scheme, it may have the potential for development for a variety of valuable uses. Retaining the site for sports use would not provide the best financial return to the Elgin Common Good.

3.12.6 Contaminated Land

Given the site's past use as a refuse tip, a significant risk from contamination cannot be ruled out. As part of the revised proposal, Elgin City FC has proposed to meet the costs of undertaking further investigation and remediation measures specifically in relation to the east side of the site (**See Appendix 1**). Although some site investigation works have previously been undertaken, a full assessment of the potential risks and the implementation of remediation measures, if necessary, will be required. Presently, it is not possible to ascertain the severity or the extent of the contamination at Lesser Borough Briggs nor the cost of any remediation measures required.

- 3.13 Members will be aware that the Education and Social Services Committee does not have delegated authority to deal with matters affecting common good assets. If, therefore, the Committee supports the Elgin City FC proposal, a report will be required to be submitted to Full Council to consider the common good implications associated with such support and then make a decision accordingly.

4. **SUMMARY OF IMPLICATIONS**

(a) **Corporate Development Plan/Community Plan/Service Improvement Plan**

- 4.1.1 The Physical Activity, Sport & Health Strategy for Moray (2007-2012) identifies as a priority the need to develop improved leisure facilities. The Moray Community Planning Partnership Natural Grass and Synthetic Turf Pitches Strategy (2007-2012) has also identified as an objective to assist Elgin City FC in developing a synthetic turf pitch.

(b) **Policy and Legal**

4.2.1 Policy

The provision of high quality sport and recreation provision is an integral part of the Council's strategy for the development of sport and recreation facilities and is also a national priority in relation to sportscotland's Reaching

Higher:Building On The Success of Sport 21. For reasons noted under paragraph 3.12.2 of this report, the development of the proposed facility would not be considered a Council priority.

4.2.2 Legal

The ground proposed for enclosure is currently available for general recreational community use and would therefore be classified by the legal definition as being 'common good'. If Committee agrees to provide the Club with security of tenure, by way of a lease, it will be necessary to submit an application to the Sheriff Court/Court of Session for the site to be removed from Elgin Common Good. The Sheriff/Court of Session will require to be satisfied that the interests of the community of Elgin are better served by Elgin City FC's project than by retaining the ground for the existing use. Whilst the proposed use may have some community benefit by way of football development it may well attract objections from other recreational users of the site. At this stage, the costs associated with such a court petition cannot be estimated accurately, since these costs will depend on the number and type of objections received. If the petition was unopposed, the costs are estimated at £4,000. If there was a substantial body of objection, then these costs could be around £30,000. A community consultation exercise, prior to any court proceedings, may give some indication of the likely number of supporters/objectors to the proposal and the complexity and likely cost of the petition.

(c) Resources (Financial, Risks, Staffing and Property)

4.3 Financial

- 4.3.1 Elgin City FC have informed Council Officers that they have received a formal estimate of £420,000 to construct the synthetic turf pitch including flood lighting and fencing (**See Appendix 1**). It is not known what allowance has been made in this estimate for any contaminated land remediation works (see para 3.12.6 of this report) or the legal fees involved in pursuing an application to the Sheriff Court/Court of Session (see para 4.2.2 of this report).
- 4.3.2 If Committee agrees to this development, it is proposed that Elgin City Football Club will meet the legal costs incurred in submitting an application to the Sheriff Court/Court of Session and any ground remediation costs required. It is not proposed that the Council will contribute towards the pitch installation capital costs.
- 4.3.3 Elgin City FC have stated that they have just over 50 per cent of the £420,000 capital costs for this project. In the previous report submitted to the Education Committee on 4 April 2007, it was noted that the Club would attempt to secure the remaining funding through external funding applications (para 4.3 of the report refers). A representative of Elgin City FC has subsequently informed Council Officers that they have been advised that an application to **sportscotland** is unlikely to be eligible for support. The Club therefore intends to secure the remaining funding through a bank loan, share options and/or

through individual donations (**See Appendix 2**). A more detailed funding profile for this project is not available.

4.4 Risks

4.4.1 In light of the potential funding shortfall, including the unknown costs of ground remediation work and the legal fees involved in pursuing an application to the Sheriff Court/Court of Session, Officers remain uncertain if this project is financially viable. Furthermore, the pitch may not comply with planning regulations and conflicts with flood alleviation defences proposed for the Lesser Borough Briggs area.

4.4.2 For these reasons, it is considered by Officers that there is a high risk that the project will fail to be realised and should the ground be leased to Elgin City FC, the Elgin Common Good would lose a significant community asset. As noted under paragraph 3.12.4 and 3.12.5 of this report, Members are reminded that the ground in question could also be developed for a range of other valuable uses.

4.5 Staffing

4.5.1 The Leisure and Healthy Living Project Officer will continue to require support from other Officers, in particular significant input from the Legal Services, in relation to the Common Good Fund.

(d) Property

4.6 Members will note that there are no property issues directly arising which have not already been commented on under the relevant sections of this report.

(e) Consultations

4.7 In preparing this report, consultations have been undertaken with the Chief Financial Officer, Principal Planning Officers, Head of Estates Service, Lands and Parks Officer, Contaminated Land Officer, Consultancy Manager, Senior Solicitor, Educational Services Senior Management Team. All are in agreement with the comments stated in this report.

5. CONCLUSION

5.1 In light of the comments made by Officers, Committee is asked to consider whether or not to progress the revised proposal by Elgin City Football Club to develop the ground at Lesser Borough Briggs for a synthetic turf football pitch.

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Background Papers: Contained with Education Services File (Leisure and Healthy Living)

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Elgin City FC Synthetic Turf Pitch Proposal

ITEM: 7

PAGE: 7