

REPORT TO: THE MORAY COUNCIL ON 4 NOVEMBER 2009

SUBJECT: MORAY HYDROTHERAPY POOL AT FORRES

BY: DIRECTOR OF EDUCATIONAL SERVICES

1. REASON FOR REPORT

1.1 For the Council to consider whether or not to support the provision of a hydrotherapy pool and treatment service by Moray Hydrotherapy Pool Ltd at Forres Swimming Pool.

1.2 This report is submitted to Council in terms of Section (1) (4) of the Council's Administrative Scheme in respect of a matter relating to dealing with the management of indoor and outdoor facilities operated by the Council for recreational, sporting, cultural and social activities.

2. RECOMMENDATION

2.1 It is recommended that Council:-

- (i) consider the siting of the Hydrotherapy Pool adjacent to Forres Swimming Pool and the granting of the ground lease to Moray Hydrotherapy Pool Limited at a rental of £325.00 p.a. - Subject to confirmation from Moray Hydrotherapy Pool Limited on Buildings and Public Liability Insurance.**

Should Council agree the above, it is further recommended that Council:-

- (ii) agree to the proposed Operational Plan to be implemented by the Moray Council Sport and Leisure Staff for daily operation of the building;**
- (iii) agree to the proposed Management Fee submitted by Moray Council to the Moray Hydrotherapy Pool Limited;**
- (iv) consider the request from Moray Hydrotherapy Pool Limited for financial support covering:-**
 - a) on-going revenue costs for the building;**
 - b) the cost for the appointment of a Clerk of Works to act on the Council's behalf during the construction phase.**

3. BACKGROUND

3.1 At the Educational Services Committee meeting on 5 April 2006 (para 8 of the minutes refers), Committee agreed in principle to the hydrotherapy pool which will be developed and managed by Moray Hydrotherapy Pool Limited, adjacent to the existing Forres Swimming Pool and Fitness Centre."

- 3.2 At this meeting, Committee also agreed (para 8 of the minute refers), “that the Hydrotherapy Trust be informed that the Council will be unable to make any further commitment to the project until the Business Plan is fully developed, that there is evidence of secure and adequate revenue funding and that any support is without prejudice to thorough investigation of all planning and other issues associated with the proposal.”
- 3.3 Moray Hydrotherapy Trust are now subsumed within Moray Hydrotherapy Pool Limited and this organisation submitted a business plan and appendices to officers at the end of April 2007. The purpose of the business plan was to secure a further commitment from the Council, specifically in relation to securing a long-term lease for the site of the proposed hydrotherapy pool and to finalise a management agreement.
- 3.4 The construction costs of the project were outlined in the 2007 Business Plan as £412,500 (including plant and equipment). Springfield Properties Ltd committed £204,800 towards the project as a charitable donation and agreed to meet any increase in costs due to inflation resulting in a delay to the project.
- 3.5 On 27 February 2009 planning consent was granted for the erection of the hydrotherapy pool as an extension to Forres Swimming Pool at Burdsyard Road, Forres, Moray. A Building Warrant Application is currently registered with Building Standards for consideration.
- 3.6 On 27 April 2009 Educational Services received a Consultation Pack from Moray Hydrotherapy Pool Limited. This pack contains some impressions of the proposed pool together with plans and notes about the design features. **(A copy of the Consultation Pack is available in the Members’ Library)**.
- 3.7 NHS Grampian has committed to an annual contribution of £5,000 to the project. The aim will be to deliver a service to patients under the supervision of NHS physiotherapists. A Service Level Agreement would be compiled between Moray Hydrotherapy Pool and NHS Grampian.

4. CURRENT STATUS

- 4.1 The project is currently at the stage for management arrangements to be finalised and agreed between the Moray Council and Moray Hydrotherapy Pool Limited. The management arrangements address the proposed daily operation of the facility in the form of an Operational Manual and also the financial implications in the form of a Management Fee.
- 4.2 The Sport and Leisure Manager has provided Moray Hydrotherapy Pool Limited with a proposed Operational Manual. **(A copy of the Operational Manual is available in the Member’s Library)**. The manual outlines the proposed daily operation of the building.
- 4.3 The Management Fee has been calculated upon the estimated running costs for the building. These include costs such as staffing, daily pool maintenance,

cleaning and other daily costs (**Further detail is contained within Appendix A**). The Management Fee excludes heat, power and water as these will be metered separately from Forres Swimming Pool and Moray Hydrotherapy Pool Limited will meet these ongoing costs directly with the utility supplier. The Management Fee excludes the annual rent for the Building Agreement as this will be managed separately.

4.4 It has been provisionally agreed that the Council would grant Moray Hydrotherapy Pool a Building Agreement at £325 per annum. Moray Hydrotherapy Pool Limited propose to submit an application for a 100% rental grant and this will be considered in accordance with the Council's policy/procedures.

4.5 During the currency of the Building Agreement the tenant would be obliged to build the Hydrotherapy Pool facility to an agreed design and specification. Upon satisfactory completion of the development, the Council would grant the tenant a 60 year ground lease and the operating agreement would commence. The provisionally agreed main terms of lease are detailed below:-

a) Lease Length	60 years
b) Date of entry	to be agreed
b) Repairs & Insurance	tenant's responsibility
c) Rent	£325 p.a.
d) Rent Reviews	5 yearly
e) Review Basis	Rent Review – the rent to be reviewed to a level representing the existing rent multiplied by the increase in the General Building Cost Index as published by the Royal Institution of Chartered Surveyors Building Cost Information Service (BCIS) from the date of entry or previous review date, whichever is the later, to the relevant review date.
f) Access Right	Access Right – the tenant is to have shared use of reception, changing rooms, showers, toilets and connecting corridors within Swimming Pool area as well as shared use of car park. Access to the Hydrotherapy Pool is to be limited to the opening hours of the adjacent Swimming Pool/Leisure Facility which shall be determined at the Councils sole discretion.
g) Other	Such other terms as deemed appropriate by the Principal Solicitor (Commercial and Conveyancing)

4.6 Moray Hydrotherapy Pool Limited recently reviewed their 2007 Business Plan and submitted a revised document on 11 August 2009. (**A copy of the 2009 Business Plan is available in the Member's Library**). This plan provides financial projections for the first three years of operation only. The plan identifies a potential operating shortfall of £20,000 per annum and proposes

that for the first three years at least this would be met through the organisations existing funds. (Through public donations and fund raising activities, Moray Hydrotherapy Pool Limited have generated funds of £260,000. The organisation propose that £200,000 will be used to support the capital build with the balance of £60,000 being used to support ongoing revenue costs). Moray Hydrotherapy Pool Ltd anticipate that continuing fundraising and marketing of the facility would assist in meeting this deficit and possibly cover it.

- 4.7 In a covering note which accompanied the revised business plan (**see Appendix B**) and subsequent correspondence with directors of Moray Hydrotherapy Pool Limited (**see Appendix C**), there have been requests for the Council to support the projected revenue deficit to a value of £10,000 per annum. This earlier request (**ref Appendix B**) is limited to the first three years of operation whilst the subsequent request is open ended. In both cases, Moray Hydrotherapy Pool plan to continue with fundraising and seek alternative income to account for any remaining deficit.
- 4.8 In relation to the most recent correspondence from Moray Hydrotherapy Pool Ltd (**Appendix C**), some points require clarification. Firstly, that the Management Fee of £20,086 does represent actual costs to the Council, as described in paragraph 4.3 above. Secondly, that in order to adhere to accounting requirements, any support for Moray Hydrotherapy Pool Ltd would have to be in the form of a grant and not an artificially reduced management fee. Thirdly, that the Council subsidises the operation of its existing pools as these help meet its statutory obligation to provide a recreation service. The Hydrotherapy Pool is primarily a health treatment service.
- 4.9 The final paragraph of the most recent correspondence refers to the Directors of Moray Hydrotherapy Pool Limited. They have confirmed that, if approval for the project is not received by the end of this calendar year, then it is their intention to wind the project up.
- 4.10 It has been recommended that a Clerk Of Works be appointed to represent the Council throughout the construction phase. The estimated cost for this would be 1.65% of the overall construction costs (approximately £6,798). Members are requested to consider whether this additional cost is to be met by the Council or Moray Hydrotherapy Pool Limited.

5. SUMMARY OF IMPLICATIONS

(a) Single Outcome Agreement/Service Improvement Plan

The local key priority(s) within the Single Outcome Agreement:

- (i) Health – Improving the health and well being of the population

Service Improvement Plan:

- (ii) Dimension 5 – Work in partnerships with other agencies and the community
Dimension 9 – Promote well-being and respect

Dimension 11 – Provide high quality environments for learning and leisure

(b) Policy and Legal

The legal implications arising from this report are in the terms of the lease and management fee as detailed in section 4 of this report.

The provision of hydrotherapy treatment is not a statutory obligation for the Council.

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

Financial

The ground will be leased at £325.00 per annum and managed by Estates. Moray Hydrotherapy Pool Limited will be eligible for a 100% grant from the Council towards the annual rent.

The proposed management fee set at £20,086 per annum plus VAT has been estimated on running costs in order to manage the operation of the building on behalf of Moray Hydrotherapy Pool Limited.

The Council is being asked to financially support the provision of a non statutory service at a time of considerable financial pressure.

Risks

The future operation of the Hydrotherapy Pool will be reliant upon continued fundraising. It is unknown how sustainable such long term fundraising is. Should the project require additional support, there is likely to be an expectation that this will be provided by the Council

The Business Case provided by Moray Hydrotherapy Pool Limited is based upon current opening times at Forres Swimming Pool. Should these change in the future as a result of financial pressures on the Council, there would be significant implications for the operation of the Hydrotherapy Pool.

Staffing

Moray Council Sport and Leisure staff would manage the facility on a day to day basis and take responsibility for any decisions made on an operational basis. The Council's Public Liability Insurance and Employer's Insurance will cover operational issues. In the event of non-operational issues, the responsibility would remain with Moray Hydrotherapy Pool Limited.

Property

Notification will be required by Moray Hydrotherapy Pool Limited for a proposed start date for the construction phase. It is proposed that a Clerk of Works be appointed to represent the Council throughout the construction phase.

(d) Consultations

In preparing this report, consultations have been undertaken with the Chief Financial Officer, Senior Solicitor, Senior Payments Officer, Sports and Leisure Facilities Manager, Head of Estates Services, Principal Planning Officer, Principal Building Standards Officer, Property Manager, Business Manager for NHS Grampian, Educational Services Senior Management Team and the Chief Executive. Where comments have been received, these have been included within the report.

There has also been considerable and ongoing consultation with the Directors of Moray Hydrotherapy Pool Ltd.

6. CONCLUSION

- 6.1 The project has reached a critical stage and members are required to make a decision on the outstanding issues raised within this report. One of the main issues is for the Council to agree on financially supporting the project, and if so how long this support should last.

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Background Papers: Contained within Educational Services File

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