



REPORT TO: POLICY AND RESOURCES COMMITTEE ON 25th AUGUST 2009

SUBJECT: INTERNAL AUDIT INVESTIGATION – DEANSHAUGH, ELGIN

BY: CHIEF EXECUTIVE

1. REASON FOR REPORT

- 1.1 To report on the findings of an internal audit investigation relating to land remediation works undertaken at Deanshaugh, Elgin.
- 1.2 This report is submitted to Committee in terms of Section A (7) of the Council's Administrative Scheme relating to the monitoring of progress of projects in the approved capital plan.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee considers the findings from the audit investigation.**

3. BACKGROUND

- 3.1 In response to various concerns raised relating to recent works instructed by the Council at Deanshaugh, Elgin, Internal Audit was asked to conduct an independent review of the works and to report thereon.
- 3.2 The investigation has been completed and a copy of the report is given as Appendix 1.

4. SUMMARY OF IMPLICATIONS

(a) Single Outcome Agreement / Service Improvement Plan

No direct implications.

(b) Policy and Legal

No direct implications.

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

No direct implications.

(d) **Consultations**

The Director of Environmental Services, the Principal Contaminated Land Officer, and the Educational Resources Manager were consulted during the investigation.

5. **CONCLUSION**

- 5.1 **The committee is invited to consider the findings arising from the audit investigation relating to the contaminated land works at Deanshaugh in Elgin.**

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Background Papers: Internal Audit file
Ref: as/p&r/250809

Signature: 

Date: 18 August 2009

Designation: Chief Executive

Name: Alastair Keddie

THE MORAY COUNCIL
INTERNAL AUDIT REPORT

APPENDIX 1

DEPARTMENT: ENVIRONMENTAL SERVICES
SUBJECT: DEANSHAUGH – INVESTIGATION
REPORT REF: 10'203

INDEX

	Paragraph
INTRODUCTION	1
SCOPE	2
FINDINGS	3
CONCLUSIONS	4

1 INTRODUCTION

- 1.1 This report gives an independent perspective of the widely reported drainage problems on amenity land in the Deanshaugh area of Elgin.

2 SCOPE

- 2.1 The audit involved an overview of works undertaken at Deanshaugh over the past few years; why it took place; who was involved and how the present situation has been reached. It considers the rationale for undertaking the works, the challenges encountered, and the current situation.

3 FINDINGS

3.1 Background

- 3.1.1 Deanshaugh is an area of open parkland adjacent to the River Lossie in the central area of Elgin. Formerly a landfill site, it has been covered for a number of years and used as recreational space and as a sports playing field.
- 3.1.2 In December 2005, a report was submitted to the Environmental Services Committee advising members that additional funding of £2.15 million had been secured from the Scottish Executive for contaminated land works.
- 3.1.3 The funding had been allocated to three projects in Elgin; a former landfill site at Woodside, Elgin; the site of a former gasworks at Lossie Green, and to Deanshaugh. The site at Deanshaugh was selected on the basis that the capping placed on the site at the time of its closure as a landfill site was insufficient to meet contaminated land requirements. The allocation for Deanshaugh was £600,000, described in the application for funds to the Scottish Executive as 'a conservative estimate' and that 'any additional funding required would be met by the Council'.
- 3.1.4 The report informed Committee that throughout 2005 contaminated land officers had completed a desktop site investigation and consultants had been appointed, by competitive tender, to undertake on-site investigations. These investigations were undertaken to establish the extent of the contamination, and how best remediation could be undertaken. As a result of the investigative work indicative costs of the project increased to £675,000. However, the projected costs of the schemes at Woodside and Lossie Green were lower than estimated and it was reported that the total proposed expenditure on all three schemes would be lower than the amount of funding available.
- 3.1.5 The Lands and Parks Officer was consulted during preparation of the Committee report. His comments were incorporated in the report in the

following terms. 'The implications of these works will involve the site, including playing fields, being unable to be used for up to 30 weeks, perhaps longer for replacement grass to grow and mature sufficiently for high volume football use. Deanshaugh is a high profile, well used site, containing three football pitches in use all year round. It is likely that there will be public objection to the area being out of commission and there is currently no alternative available'.

- 3.1.6 The Committee report explained why the works were necessary as part of the Council's statutory duties in terms of the Environmental Protection Act 1990, noting that 'the current capping (cover materials) across the site is very poor and this, combined with the continued settlement of the landfilled material, has the potential to lead to future site users being exposed to contamination. The report continued 'it is therefore considered appropriate to close the site temporarily to facilitate remediation works, which will secure its long-term future'.
- 3.1.7 A further consultee to the report was the Flood Alleviation Consultancy Manager who highlighted the risk of schemes of work going over budget and stressed the importance of allowing a sufficient 'client risk pot' to cater for risks and uncertainties.
- 3.1.8 Educational Services, with responsibility for sport and leisure facilities, was not a consultee to the report, which reflects that, at this time, the focus of the works was on the remediation of contaminated land.
- 3.1.9 Following consideration of the report, the Committee agreed that the further investigations and remediation works be undertaken at the earliest opportunity.

3.2 **Development of scheme and determination of associated costs**

- 3.2.1 In early 2006, the appointed consultants developed a scheme for remediation and restoration of the Deanshaugh site and prepared a tender specification for issue to potential contractors. 11 contractors expressed an interest in tendering and after evaluation the consultants recommended five firms for inclusion in the tender list with a further three held in reserve. The consultant's recommendations, contained in a report dated July 2006, were accepted and tenders were sought accordingly.
- 3.2.2 Meantime, at a meeting of the Educational Services Committee on 31 May 2006, members were advised of a number of requests from local football clubs to develop football pitches in the area. This was mainly to meet the requirements of the Scottish Junior Football Association. The proposals to secure ground improvements at Deanshaugh for Bishopmill United Football Club were noted in the report as being complicated by its identification as an area of contaminated land.

- 3.2.3 This report stated that substantial amounts of soil would be 'brought in to cap the site and this should increase the area suitable for football' and that 'the football club had perceived the works as being an ideal time period during which to lay services (drains, power lines) associated with their proposals'. But it was acknowledged this would be at the Club's risk and that whilst the site was heavily used for football, any development would require careful consideration to ensure it did not preclude use by other groups, reduce the number of pitches, or impede maintenance.
- 3.2.4 The Educational Services Committee agreed to support in principle the proposals to develop land for the purpose of football at Deanshaugh, but without prejudice upon the outcome of Legal, Planning, Contaminated Land and Flood Alleviation and any other relevant investigation at no cost to the Council.
- 3.2.5 During the summer of 2006, and prior to the selection of a contractor or commencement of works, there was extensive communication between officers of the Council and the consultants on the subject of pitch drainage with particular concerns being raised by the Lands and Parks Officer. The consultants offered up various technical solutions but these were met with some scepticism. At the end of a series of e-mail exchanges the consultant reported 'our base aim is to facilitate the capping solution whilst not making the playing fields any worse than they currently are, i.e. maintain their suitability for use. The aspiration is to achieve an improvement on the existing playing field specification.' The consultant continued, 'I understand your concerns with respect to the possibility of waterlogging on pitches and can assure you that these issues are being considered in the detailed design.'
- 3.2.6 In August 2006, the consultant reported to officers of the Council a pre-tender estimate for the contracted works of £645,000, (excluding costs of consultancy of some £62,000) taking the total projected costs to £707,000. However this sum excluded the cost of preliminary site investigations, of any soils to be imported on to site (but not the costs of transport thereof) and a contingencies and day-works allowance of some £86,000. In practical terms therefore indicative costs by this stage were approaching, if not in excess of, the £800,000 mark.
- 3.2.7 Given this increased cost projection, the consultants noted in correspondence that 'the estimated cost of landscaping and the provision of football pitches is significant at some £137,520. Significant savings could be made by reducing the number or specification of the pitches to mirror the status quo at the site. You may wish to consider that, pending return of the tenders, the landscaping specification be reduced to three football pitches (as opposed to five). This will greatly increase the likelihood of achieving the specified budget. The consultant also reported that 'the construction market is buoyant..... so we do not anticipate achieving significant savings through the tender process'.

3.3 Contractors' Tender Returns

- 3.3.1 In September 2006, four priced tenders were received, the lowest tender sum being £799,535.55. The second lowest tender was approximately £80,000 higher, and the remaining two prices exceeded a sum of £1 million. So the total project cost (consultant plus contractor), excluding any allowance for contingencies was now estimated at £860,000, significantly in excess of the budget of £675,000 reported at paragraph 3.1.4 above.
- 3.3.2 Later in September, following a meeting of the Principal Contaminated Land Officer with the consultant, the consultant reported by e-mail that 'a substantial portion of the cost of the Deanshaugh project.....relates to the provision of drainage and enhanced soil thicknesses in the areas of the proposed football pitches, thus bringing them to a standard far higher than the current situation where no artificial drainage and only thin soils are present. The e-mail continues 'obviously while this could be considered an ideal situation, given the necessity of reducing the overall costs of the project this added value may not be feasible.
- 3.3.3 As a consequence of the advice given by the consultant, and to remain broadly within budget, the contract specification was amended such that landscaping and drainage works scheduled for completion by the contractor were severely curtailed. Elements of the landscaping work were then undertaken by the Council's Lands and Parks Service.
- 3.3.4 Notwithstanding the decision to curtail expenditure on drainage of the area, a letter dated November 2006 from the Department of Environmental Services was issued to householders in the area informing them of the works taking place. The letter noted, 'although these works will cause short term disruption to the playing field, not only will they secure environmental improvement and the long term future of Deanshaugh playing fields, they will also provide for four full sized football pitches and one 7 aside pitch, compared with the three pitches currently on the site.

3.4 Project Costs

- 3.4.1 As at the end of financial year 2008/09, capital costs incurred on the Deanshaugh project amount to £686,080 as follows:

Contractor's fees	£ 531,784
Consultancy fees	87,333
Purchase of Turf/Fertiliser	35,103
Lands and Parks Costs	30,084
Other	1,776
Total	£ 686,080

3.4.2 This amount, although in excess of the original £600,000 earmarked for the scheme, is within the projected overall total funding of £2.15 million made available from the Scottish Executive for contaminated land remediation projects at three sites within Elgin.

3.4.3 It will be noted that the payment to the contractor of £531,784 is significantly reduced from the original tender sum of £799,535. The reduction reflects the significant curtailment of the drainage and landscaping works on site (originally priced at £184,000 but reduced to works costing just £6,500). This was a material change to the contract.

3.5 Audit Observations

3.5.1 The early stages of the project leading up to the report to Environmental Services Committee on 14th December 2005 were very much in line with established procedures. The offer of specific funding from the then Scottish Executive, identification of suitable projects, consulting on these projects and then seeking Committee approval were generally in line with expected practice.

3.5.2 A notable omission from the list of consultees on the committee report was an officer from Educational Services and this perhaps gives an early indication that this was not seen as a corporate project but one to address land contamination. The report was not to Policy and Resources Committee or to the Full Council, but to the Environmental Services Committee, and its focus was very much on the Council's responsibilities for Environmental Health.

3.5.3 Elected members were advised that the Deanshaugh site was well used as an all year round football play area and its temporary closure was likely to be of concern to members of the public. But the report's emphasis was on the risk to future site users of exposure to potentially high risk contaminants. This was affirmed in the decision reached by Committee which agreed the recommendation 'that further investigations and remediation works are undertaken at the earliest opportunity'.

3.5.4 It was apparent before the contract was let that the costs to deliver the project were likely to exceed budget. This was confirmed beyond doubt when the tenders were returned.

- 3.5.5 At this stage discussions took place to establish if additional funding could be identified within other Council budgets. A meeting was held involving the Director of Environmental Services, Principal Contaminated Land Officer, Educational Resources Manager, and Lands and Parks Officer. It is understood that informal approaches were also made to senior councillors in the Administration but no additional funding was identified. In the circumstances, and to avoid exceeding the agreed budget, the Director agreed to curtail the drainage works undertaken by the contractor and to arrange for the landscaping works to be undertaken by the Lands and Parks service. Records of these discussions or minutes of the meeting are not available.
- 3.5.6 Whilst officers in Educational Services had kept the Educational Services Committee informed of expectations in relation to pitch requirements for junior football they had no direct involvement in the remediation project, and they had not been involved in the funding of the project. Ultimately this led to virtually all of the available funding being used to deal with contaminants, which of course the grant funding was provided for, and only a residual amount of expenditure was allocated to landscaping the area.
- 3.5.7 The roles of the consultants and the contractors in the management and delivery of the project have been considered, however in view of the material change to the contract instructed by council officers which effectively eliminated the scheduled drainage works, internal audit's view based on all the information available is that both external parties delivered what was requested of them within the restricted budget available.

3.6 **Site Visits**

- 3.6.1 A visit to the site in April 2009 confirmed the poor drainage of the ground. Even after a period of relatively low rainfall, surface water was evident in patches and the area was clearly unsuitable as a playing surface for sports. Sand slitting works had been undertaken in an attempt to remedy surface water drainage problems but this had been impeded given that the membrane cover sealing the contaminated land has only minimal soil cover in some areas. Indeed in parts the membrane had been damaged and needed to be repaired at additional cost.
- 3.6.2 A further site visit in early July 2009 found the site dry with no surface water present. This was after a lengthy spell of hot and dry weather. The membrane repair has been effected but the whole area has not been mown for some time, consequently it remains unavailable even for informal amenity purposes. Officers within Environmental Services believe the situation is improving but that recovery will be a long term process.

3.6.3 Whether or not the surface drainage improves, the future use of the site will always have to be considered in the light of the need to maintain effective contamination measures. The need to maintain the membrane intact makes it difficult, for example, to see how football goalposts could be re-erected on the site without further investment to increase the soil cover while consistent use as football pitches would require further investment in drainage.

4. CONCLUSIONS

4.1 An opportunity to conduct contaminated land remediation at three sites in Elgin presented itself back in 2004/05 when the Scottish Executive made available additional funding of £2.15 million. Works were undertaken and, in terms of contaminated land obligations placed on the Council, the project as approved by Councillors has been a success.

4.2 The works will also facilitate the construction of the Flood Alleviation Scheme planned for the town and having been fully funded by the Scottish Executive will reduce the burden on local taxpayers who are meeting the balance of expenditure on the flood scheme.

4.3 The council had a budget of £675,000 and was faced with costs of £860,000. Decisions were taken by officers to reduce expenditure on drainage and cover material. Internal Audit is not in a position to comment on what the outcome might have been if the Council had been asked to approve additional funding of £185,000. However, a consequential effect of the works that were undertaken at Deanshaugh has been the loss, at least for an extended period, of an area that was widely used by the community for sports and recreation purposes. This significant use and the technical risks of the project were highlighted early on in the project by the Lands and Parks Officer, as were the cost risks by the Flood Alleviation Consultancy Manager. Had the Council given these risks fuller consideration, further work could have established if alternative solutions were feasible.

4.4 It is a particular concern that the wider community were led to believe that by foregoing their facility for a limited period of time they would secure something much better at the conclusion of the project. This contrasts with it being apparent very early on that the project could not be delivered with the funding available.

4.5 It is difficult to see how the site can be made suitable for use as formal sports pitches without significant further expenditure being incurred. The Council will have to consider if best value would be achieved by spending more on this site or whether

investment elsewhere in the development of sports pitches would represent a better alternative.

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