

EAST AYRSHIRE COUNCIL

CABINET – 27 JANUARY 2016

KILMARNOCK LEARNING CAMPUS UPDATE

Joint report by the Depute Chief Executive (Strategic Lead: Safer Communities) and Depute Chief Executive and Chief Financial Officer

PURPOSE OF REPORT

1. The purpose of this report is to advise Cabinet of the progress made to date on the East Ayrshire Learning Campus, Kilmarnock DBFM (Design, Build, Finance and Maintain) project and agree the approach to finalise Financial Close.

BACKGROUND

2. Cabinet on 9 December 2015 approved the Stage 2 submission and total construction cost of £45.303m from Hub South West and that final negotiations be taken forward by appropriate officers to reach Financial Close.
3. In addition, Cabinet agreed to grant authority to the Chief Governance Officer as proper officer for the purposes of signing documents as required under Schedule 2 of the Requirements of Writing (Scotland) Act 1995, and as proper officer for the purposes of the issue of certificates under and in terms of the Local Government Contracts Act 1997 and the Local Authorities (Contracts) (Scotland) Regulations 1997), to execute these on behalf of East Ayrshire Council.
4. Cabinet noted that the Council required to seek approval from the Scottish Government to extend the deadline for grant funding beyond the 31 March 2018 prior to reaching Financial Close and noted that ESA10 had been resolved although there remained a number of issues and risks in the timescale for achieving a financial close for the project.
5. Cabinet also authorised the payment of £1.455m to Hub South West in accordance with Option 2 as set out in SFT Guidance Note 01/15 on Revised Payment Provision, subject to confirmation that all appropriate conditions as set out by SFT in their guidance note are discharged to the satisfaction of both the Senior Responsible Officer and the SFT hub Support Director.

UPDATE ON POSITION IN RELATION TO FINANCIAL CLOSE

6. As noted above, ESA10 was resolved following announcement by the Deputy First Minister on 26 November 2015. However it was noted that this meant 12 projects were at the same stage of completion as the Kilmarnock Project and this may impact on the proposed financial close date of 25th January 2016.

7. Following the announcement, Hub South West had targeted completion of the Ayr and Dalbeattie Projects prior to Christmas 2015 providing a full three weeks in January 2016 to complete the Kilmarnock Project by the targeted date. During the final days prior to the scheduled completion of the Ayr and Dalbeattie projects, a number of issues were raised that ultimately resulted in delays to these projects. These issues were reported to Cabinet on 13 January 2016 and related to the confirmation of Equity investment and the requirement of a VEAT Notice. The Ayr project was formally completed on the 8 January with Dalbeattie completing on the 25 January. Hub South West are the only Hub to have completed any projects.
8. This has resulted in further pressure on the advisor resources required to complete the Kilmarnock project and as such, Hub South West have confirmed that the project is anticipated to complete by mid February 2016. Due to the value of this project there also requires to be additional levels of approval within Kier and the funder Nord.
9. As highlighted in the Stage 2 approval report, the impact of a delay to the Financial Close beyond 25 January 2016 raises risks with additional costs to the project and further delays to the programme start with a resultant completion date after March 2018.
10. This was in part mitigated by the commitment to provide an early payment of fees based on the SFT guidance, with the Council receiving this funding back at Financial Close. Due to potential risks identified by the Council's VAT advisor, it was not possible to make this payment under the proposed conditions.
11. It was highlighted that any delay that resulted in a project completion after March 2018 would require approval by the Scottish Government. Concern was also raised that any costs identified by the Contractor would not be funded by the Council and officers would look to discuss any additional costs with SFT.
12. Following notification of the further delay to Financial Close, officers met with SFT to review the project when it was indicated that a completion date beyond March 2018 would not be acceptable and therefore further negotiations were required with Hub South West and Keir.

PROPOSAL TO MEET MARCH 2018 COMPLETION

13. Officers have had detailed discussions with Hub South West, Kier and SFT to ensure the project meets the completion date of March 2018, even with the delay to the Financial Close date. All parties agree to work towards a financial close date by week beginning 15th February 2016 and in addition;
 - Keir will reduce their overall programme from 26 months to 24 months and limit any additional cost pressures to £150,000.
 - SFT will provide the Council with funding to cover the additional £150,000 of Keir's costs associated with the delays to the project.
 - With agreement of SFT, the Council will pay upfront fees of £1.21m with the corresponding value being reduced from the overall project costs and

therefore the annual unitary charge, reducing the overall borrowing within the project, as opposed to having the payment returned at financial close.

- Keir will initiate the necessary design, procurement and site preliminaries week commencing 25 January 2016 to ensure a site start in early March 2016.
- The Council are asked to provide a letter of comfort through the Chief Governance Officer to Hub South West/Keir on the basis that if the project does not reach financial close at all, the Council will underwrite the additional development costs of £276,000.
- The Council are asked to fast track building control submissions and agree a schedule of staged approval with Keir, which is in line with the existing building control arrangements for major developments.
- The Council are asked to accept a slight adjustment to the requirements of the project schedule with an additional allowance of the two weeks of the school holidays in April 2018 for some soft furnishings to remain to be laid out. However all furniture will still require to be in the building by the completion date of 30 March 2018.

SYNTHETIC SPORTS PITCH

14 Cabinet agreed on the 9th December that to support the Council's commitment to Rugby the planned synthetic pitch be changed from a Hockey/Football to a pitch which can also accommodate rugby. Following more detailed analysis and consultation with the builder and hard FM provider, it has been confirmed that in addition to the previously advised initial capital cost of £30,000 there will also be a requirement to replace the pitch twice during the life of the contract which adds £60,000 and additional total maintenance costs of £43,885 over the 25 years. This would be the Council's only artificial grass pitch specified for Rugby however and would provide a facility not currently available. It would be possible however to offer the full requirements of rugby on a grass pitch if members were minded not to proceed with the additional cost. The standard synthetic hockey/football synthetic pitch would provide the required variety of curriculum options.

FINANCIAL IMPLICATIONS

15 The proposal set out in paragraph 13 above will make no change to the Council's financial position in relation to the project. The ability to pay an upfront payment will reduce the Public Sector costs in relation to the proposed funding provided by the Scottish Government and reduce the overall revenue payments by the Council. As noted above, the additional project costs of £150,000 will be funded by the Scottish Government.

16 Funding of £979,000 has been allocated by the Scottish Government for the inclusion of the Gaelic provision within the Campus. The Scottish Government has confirmed that this sum should be used as a contribution to the Hub costs of £1.21m to ensure that the grant funding is fully utilised in financial year 2015-16.

LEGAL IMPLICATIONS

17 The letter of comfort will be drafted by the Council's legal team in conjunction with Kier and Hub South West. As the Council are committing further funding to the development of the detailed design, this will form part of the completed design that the Council will own in the event the project does not reach financial close.

HUMAN RESOURCE IMPLICATIONS

18 There would be no implications for Human Resources. There will be no requirement to TUPE transfer any existing Council staff.

POLICY IMPLICATIONS

19 This project supports the School Estate Management Plan and is aimed at significantly improving the accommodation for 2059 pupils learning environment to support educational attainment.

RISK MANAGEMENT

20 It is anticipated that the risks associated with the potential financial close of the project not happening are minimised through the proposed agreement outlined in this report.

21 Failure to approve the recommendations may further delay the project and affect the Government funding associated with the project.

COMMUNITY PLANNING IMPLICATIONS

22 The East Ayrshire Council vision for its school estate is consistent with the vision articulated in the East Ayrshire Community Plan in that they both seek to provide choice, high quality services, maximise opportunity and promote inclusion.

23 The development of the new East Ayrshire Learning Campus, Kilmarnock will specifically contribute to achieving the Strategic Priorities and Local Outcomes of East Ayrshire Community Plan and associated Single Outcome Agreements under all of the main priority themes.

RECOMMENDATIONS

24 It is recommended that Cabinet:

- i. Agree to the immediate payment of £1.21m of fees relating to the project with the reduction of the equivalent amount from the project agreement and the annual unitary charge.
- ii. Agree to the council providing a letter of comfort and a commitment to underwrite the £276,000 of additional costs incurred by Kier, in the event the project does not reach financial close.
- iii. Confirm the amendment to the project to include the upgraded synthetic pitch to support Rugby with the associated capital and operational costs.

- iv. Due to the timescale to allow financial close and early site start the decisions at (i), (ii) and (iii) above be implemented prior to any consideration by the Governance and Scrutiny Committee under the call-in process, as to delay the decisions could mean there is a further delay to the project and it may jeopardise the project funding.
- v. Otherwise note the content of the report

Alex McPhee
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26 January 2016

BACKGROUND PAPERS

Cabinet 5 March 2014 – Update on New 3 – 18 Campus in Kilmarnock
Cabinet 4 June 2014 – High Level Project Plan for New 3 – 18 Campus, Kilmarnock
Cabinet 10 December 2014 – Transformation Strategy
Cabinet 17 June 2015 – East Ayrshire Performs
Cabinet 11 November 2015 – Amendment to South West Hubco Agreement
Cabinet 9 December 2015 – Stage 2 Approval
Cabinet 13 January – Equity Stake

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Management**

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