

FALKIRK COUNCIL

EXECUTIVE

You are invited to a special meeting of the above-named Committee to be held in the **Municipal Buildings, Falkirk** on **Tuesday 6 September 2016** at **9.30 a.m.** (or immediately following the conclusion of the Education Executive, whichever is the later).

Rose Mary Glackin
Chief Governance Officer

29 August 2016

Business

1. Apologies

2. Declarations of interest

Members should declare any financial and non-financial interests they have in any item of business at the meeting, identifying the relevant agenda item and the nature of the interest.

3. Woodlands Games Hall

Report by the Directors of Children's Services and Development Services. **(Pages 3 to 11)**

**(Contact for further information – Brian Pirie, Tel: 01324 506110
Email – brian.pirie@falkirk.gov.uk)**

The background of the slide features a large, light blue coat of arms of the City of Edinburgh. The coat of arms is a shield divided into four quarters. The top-left quarter shows a saltire (X-shaped cross) on a blue field. The top-right quarter shows a red stag's head facing left. The bottom-left quarter shows a three-masted sailing ship on a blue sea. The bottom-right quarter shows a crowned eagle with wings spread. Above the shield is a crown with four fleurs-de-lis. Below the shield is a scroll with the motto 'A'NE FOR A'.

AGENDA ITEM

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Woodlands Games Hall

FALKIRK COUNCIL

Title: Woodlands Games Hall
Meeting: Executive
Date: 06 September 2016
Submitted By: Director of Children's Service/Director of Development Services

1. Purpose of Report

- 1.1 The purpose of this report is to seek approval for proposals to facilitate the transfer of Woodlands Games Hall and pitch to a community enterprise, Woodlands Community Sports Ltd (WCS Ltd), to improve the facility for use by Comely Park Primary School and the local community. The agreement is required to enable the details of the proposal to be confirmed through negotiations with the parties involved and to meet the timescales necessary for delivery of the project within external funding timescales.

2. Recommendations

2.1 The Executive is asked to agree:

- a) subject to the resolution of the risks detailed in paragraph 7.4 to the satisfaction of the Director of Development Services; the proposals for the transfer of Woodlands Games Hall and pitch to WCS Ltd and that the Council enters into agreement with WCS Ltd on the following terms:
- i) to lease Woodlands games hall and pitch to WCS Ltd for a period of 25 years on full repairing and insurance terms at a nominal rent of £1 per annum;
 - ii) to provide a financial contribution to the Landfill Communities Fund of £22,000 to secure the additional external funding of £178,000; and
 - iii) to leaseback or reserve for Comely Park Primary School the facilities required by the School to meet its requirements for physical education and activity and that at a rental sum of £10,000 per annum;
- b) that the Director of Development Services or her nominee be authorised to conduct and finalise negotiations of the outstanding details, generally take all decisions required to take forward the proposal to conclusion and in conjunction with the Chief Governance Officer conclude all necessary legal arrangements, including those required to terminate the lease with Falkirk Community Trust; and

- c) that should any significant changes or issues arise through negotiations or development of the proposals, a further report will be made to the Executive.**

3. Background

- 3.1 In developing its Business Case for 2016/17, Falkirk Community Trust (FCT) proposed ceasing to operate four facilities including Woodlands Games Hall (shaded on the attached plan). FCT's proposal was a result of budgetary constraints, the continued deterioration of the pitch and resultant effects on its ability to generate income. The Council did not agree this course of action, requesting a further overall review of the FCT and Council operational property portfolio.
- 3.2 A Strategic Property Review has been initiated which is seeking to assess the service need for operational property and realign the portfolio to meet these requirements. This work is currently on going.
- 3.3 However, given the publicity around Woodlands Games Hall, three notes of interest were received from parties who saw an opportunity to use the property. Following further enquiries and discussions, one party has come forward with a business case to operate the site on behalf of the community.
- 3.4 The Director of Children's Services has confirmed that the use of the hall by Comely Park Primary School is required to meet the Scottish Government's national target of providing 2 hours of PE to all pupils/week.

4. Proposal

- 4.1 The proposal which has been received has been developed by Comely Park Primary School Parent Council and Falkirk Football Community Foundation, a charitable foundation associated with Falkirk Football Club. It is proposed that they will together form a community enterprise constituted as a company limited by guarantee, WCS Ltd, and thereafter register this company as a charity.
- 4.2 The vision for the WCS Ltd is to create a busy, vibrant and sustainable hub for sports, community activities and local groups.
- 4.3 The proposal received is that the WCS Ltd take a 25 year lease at a peppercorn rent of the premises which will allow them to secure:
- £200,000 of new capital investment, including £178,000 sourced from the Landfill Communities Fund and £22,000 from the Council, to resurface the pitch, replace the perimeter fencing and purchase new goals to bring the pitch back into full use
 - Open the facility 7 days a week for external hires and community use
 - Secure long term availability for use of the facilities by Comely Park Primary School
 - Operate as a financially viable and sustainable social enterprise

- Generate future grant as a company limited by guarantee and also as a registered charity.
 - Provide work experience, employability courses and training.
- 4.4 To trigger the grant funding from the Landfill Communities Fund a third party contribution of £22,000 is required. The funding allocation is currently in the name of Falkirk Football Community Foundation until such time as WSC Ltd is formed.
- 4.5 Agreement of FCT to terminate its lease of the premises to enable this proposal to be effected will also be necessary.
- 4.6 As a means of assisting the delivery of the project the Council is exploring the potential for it to commission and undertake the works. Initial exploratory discussions have been held with Hubco in relation to their capacity to carry out the programme of works for the Council. However should this not prove feasible, the Football Foundation will require to commission the works.

5. Considerations

- 5.1 Discussions have been on going around the options for delivery and the terms of the lease for the project. Consistent with the Council's previous approach to similar asset transfers, a 25 year lease on full repairing and insurance terms i.e. the tenant being wholly responsible for all aspects of the property is proposed.
- 5.2 The rent proposed by WSC Ltd is £1 per annum. However, the District Valuer has advised that the open market rental value is £44,000 per annum. Accordingly, the transaction will fall within the scope of s11 of the Local Government in Scotland Act 2003 which amends s74 of the Local Government (Scotland) Act 1973 allowing local authorities to dispose of land for less than best consideration but only in certain circumstances.
- 5.3 The Disposal of Land by Local Authorities (Scotland) Regulations 2010 sets out the procedure. This requires the Council, before deciding in favour of such disposal, to appraise and compare the costs and other benefits and dis-benefits of the proposal. These are set out in the business case as summarised in para 4.3 and the financial implications in para 7.1. It is considered that the proposals in the business case and the lease arrangements are reasonable and by establishing the lease the project is likely to contribute to health benefits, social well-being, regeneration and economic development.
- 5.4 In order to fulfil its statutory obligations it is proposed the Council will pay for the use of the facility by the school through a leaseback or reservation arrangement which will assist WSC Ltd develop a financially sustainable project including the availability of funds to maintain the property. The rent payable will be £10,000 per annum. Clearly, Children's Services and the School will require to be fully satisfied with the extent, form and nature of the use of the facilities agreed upon.
- 5.5 The alternative options are:

- a) a new games hall is built, by the Council, at the school (est cost c £600k)
- b) Children's Services take over the existing hall.

Either of these options would incur costs in addition to the existing budget (of c £22,000p.a.) aligned to FCT due to rates (FCT currently get exemption), which would further increase the property costs by c£29,000 and incur additional borrowing costs in terms of the new build.

The all-weather pitch is currently in poor condition and would also need substantial investment to bring it up to an acceptable level. In the event Children's Services take over the Hall the pitch may have to be closed on health and safety grounds until a decision is made on whether to retain the pitch or such times as investment becomes available. Use of the pitch and hall out with school hours will incur further additional costs to Children's Services.

- c) FCT retain the property and seek funding for the pitch. However, FCT have advised that due to the wider backlog maintenance issues across its portfolio and in light of its current budget constraints, they are unable to consider the requirements of this facility to be an immediate priority.

6. Consultations

- 6.1 The relevant local members as well as the portfolio holder are supportive of the proposals subject to the risks associated with delivery of the project within a tight timescale being addressed.
- 6.2 Initial consultations with FCT and the Growth and Investment Unit regarding WSC Ltd's Business Plan has raised some concerns regarding its robustness and it has been recommended that further discussions on the content take place. An offer from CVS Falkirk to assist the formation of the organisation has also been made and will assist in the establishment of the new body.
- 6.3 Following the Executive agreement it is suggested that the conclusion of the transaction will be subject to the Council, through the Director of Development Services, being satisfied on the detailed terms of the proposal including the formal establishment of WSC Ltd and the submission of a finalised business plan in satisfactory terms.

7. Implications

Financial

- 7.1 On the basis WSC Ltd is awarded charitable status and obtains rates relief, the cost for use of the facility during school hours is estimated at circa £10,000 per annum. The reduction in the service payment due to the FCT lease ending will offset this payment. Any balance is anticipated to form part of FCT's future savings proposals for 2017/18.

An initial contribution of £22,000 from the Council to assist securing grant funding is requested. This will take the form of a third party contribution directly to the funder – the Landfill Communities Fund. It is proposed that this sum be provided by the Council from its Miscellaneous Services budget. This sum is not refundable to the Council.

Agreement has not yet been reached on the following areas and Members are advised these may have a financial consequence for the Council:

- a. Building Condition – the building has c£17,000 worth of repairs identified, none of which are categorised as a high priority. One of the key benefits of transferring property to the community is that it opens opportunities for external funding that does not exist for the Council. It is envisaged that WSC Ltd will pursue this route for any building repairs but despite this a contribution of £10,000 has been requested for repairs to the lift shaft. It has been proposed to WSC Ltd that the Council will review this should it be proven that no funding is available after a reasonable time period.
- b. Rates – due to the pace with which this proposal is progressing WSC Ltd anticipate that there may be a period before they receive charitable status and may incur rates. It has been suggested to WSC Ltd that they make an application for relief of rates through the appropriate Council process but they wish the Council to commit to meeting any rates liability which may be for 6 months at a cost of £14,500. This appears to be a matter of timing and neither party need be exposed to this cost which can be mitigated if the process of obtaining charitable status is concluded timeously.

Discussions are on going on these points in order to finalise the agreement.

Resources

- 7.2 Any potential implications of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) on existing staff at Woodlands will need to be considered as details of WSC Ltd's proposals are developed. FCT has offered to work with WSC on the point.

Legal

- 7.3 The proposals will be subject to the successful conclusion of all necessary lease agreements in accordance with the timescales necessary for delivery. Details of the Memorandum and Articles of Association of WSC Ltd (including its relationship with the Comely Park Primary School Parent Council) will require to be supplied to the Council. It will need to be established that the involvement and role of the Parent Council will be compliant with the Scottish Schools (Parental Involvement) Act 2006 which created the framework for Parent Councils and Parent Forums

In terms of the current lease with FCT this will have to be terminated and the appropriate notices will be required to be served to allow the FCT Board to consider the proposals.

Risks

- 7.4 WSC Ltd has not yet been formed and there is a significant risk if it is not created in time and does not have appropriate charitable status. The company has no track record, however, Falkirk Foundation has been operating in its own right for 6 years and will bring its experience to the partnership. There is, a risk associated with any new venture particularly where there is no finance available other than from the Council's contribution. As noted at paragraph 7.3, it will need to be demonstrated that the involvement and role of the Parent Council will be compliant with the Scottish Schools (Parental Involvement) Act 2006.

The key on going risk is the financial sustainability of WSC Ltd and whether the Council will require to contribute further to the proposal or that the property is returned in the future should the income anticipated by WSC Ltd fail to materialise.

To mitigate this risk the current business plan is being considered as part of this process and this will need to address key issues, for example, of income generation and availability of funding to ensure obligations such as maintenance and repairs can be met. There is also a need to confirm that the arrangements for use of the property by the school continue to be safeguarded in the business plan for operation of the site and associated missives.

The grant funding for this project has to be spent within the next 6 months and confirmation that the appropriate approvals, legal and procurement arrangements will be in place for this is required imminently.

It is therefore suggested that Falkirk Council will require to be satisfied on the following points to mitigate risks associated with the project:

Delivery

- Finalised and agreed terms of lease to be established by 15 September 2016
- Programme of works to be finalised and agreed to confirm completion by 31 March 2017

Legal

- Draft Memorandum and Articles of Association together with confirmation of the make up of the Board by 15 September 2016
- Confirmation of company set up by end September 2016
- Charitable status to be obtained prior to date of entry
- Contracts to be established for works and access to site
- Missives to be concluded on satisfactory terms
- Confirmation of there being no unacceptable TUPE implications.
- Demonstration that the involvement of the Parent Council in the final company structure and arrangement is compliant with the Scottish Schools (Parental Involvement) Act 2006.

- Confirmation that the grant allocation and procurement routes are compliant.

Finance

- Confirmation of the procurement route (including to address any VAT implications)
- Agreed business plan by end September 2016
- Confirmation that there are no additional funding requirements from the Council
- Agreement to provide an annual statement of community benefits

Equalities

- 7.5 The proposal maintains or enhances opportunities to the community and sports groups, therefore, a full assessment is not required.

Sustainability/Environmental Impact

- 7.6 None.

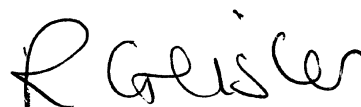
8. Conclusions

- 8.1 On the basis of the financial pressures facing the Council and FCT, it is anticipated that FCT are likely to continue to recommend that it withdraw from operating Woodlands Games Hall. A solution to ensure ongoing availability of the facility for use by Comely Park Primary School is needed.
- 8.2 In principle the proposal to establish WSC Ltd and progress the transfer of the facility to this new body will meet this need and will give the opportunity for the community to actively engage in operating the hall and pitch for the benefit of the local area.
- 8.3 WSC Ltd (via Falkirk Football Community Foundation) will attract funding of £200,000 to upgrade the pitch and the community, social, educational, economic and regeneration benefits are considered sufficient to substantiate the proposed lease arrangements which will facilitate delivery of the proposals.
- 8.4 Subject to final agreement on the terms and programme for delivery as set out above, this solution provides sports facilities to meet the educational needs of the school and will allow the community to participate in the development of the site as a community sports hub.

- 8.5 Agreement, in principle, is intended to enable terms to be established with WSC Ltd to enable the details to be finalised and the venture to proceed.
- 8.6 FCT will be engaged in both an advisory capacity and to consider the Council's proposals to bring its lease to an end.



Director of Children's Services



Director of Development Services

Authors – Craig Isdale, Interim Asset Manager – 01324 504811,
craig.isdale@falkirk.gov.uk

Date: 23 August 2016

APPENDICES

Appendix 1 – Plan of Woodlands Games Hall and Pitch

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

- Development Services Property Files
- Children's Services Files

