

Item: 24

Policy and Resources Committee: 27 November 2018.

Proposed Remediation Works at Lyness.

Report by Executive Director of Development and Infrastructure.

1. Purpose of Report

To consider the Stage 2 Capital Project Appraisal in respect of proposed remediation works at Lyness.

2. Recommendations

The Committee is invited to note:

2.1.

That, in July 2016, a project budget of £100,000, to be met from the Renewables, Redevelopment and Regeneration Fund, was established to support the feasibility, business case and due diligence work and studies in respect of a proposed development at Lyness.

2.2.

That, in October 2017, a further project budget of £150,000, to be met from the Strategic Reserve Fund, was agreed for site investigation and preparation of a remediation strategy in respect of an area of land at Lyness.

2.3.

That, in November 2017, the Council received a grant award of £93,678 from the Scottish Government's Decommissioning Challenge Fund in respect of proposed site works for oilrig decommissioning.

2.4.

Expenditure to date on the business case, due diligence and studies amounting to £183,600, resulting in an underspend of £160,078 remaining unallocated on the overall project budget of £343,678 in respect of developments at Lyness.

2.5.

That, whilst remediation works will not create a new capital asset at Lyness, the Capital Project Appraisal process is being followed to ensure appropriate governance is in place regarding significant expenditure, estimated at £407,000.

2.6.

That, on 30 October 2018, the Harbour Authority Sub-committee recommended:

- That, in order to make a brownfield site available for re-use, the Executive Director of Development and Infrastructure should submit, to the Policy and Resources Committee, a Stage 2 Capital Project Appraisal in respect of proposed remediation works at Lyness, Hoy.
- That the Executive Director of Development and Infrastructure should approach the Ministry of Defence, advising of the Council's commitment to remediation work at Lyness, and seeking a financial contribution towards the cost of undertaking the remediation works, as a result of the site being a former Royal Navy/NATO fuel depot.

2.7.

The Stage 2 Capital Project Appraisal in respect of proposed remediation works at Lyness, Hoy, attached as Appendix 1 to this report.

It is recommended:

2.8.

That remediation works on the brownfield site at Lyness be undertaken, at a total estimated cost of £407,000, to be funded from the Miscellaneous Piers Reserve Fund.

3. Proposed Remediation Works

3.1.

Lyness Harbour Area was acquired by the Council in 1977 from the Ministry of Defence. Subsequently, site investigation works have been undertaken and confirmed the presence of historic oil contamination below part of the site which falls within the Council's ownership. This dates back to the former use of the area as part of the Royal Navy/NATO fuel depot, and a pipe spillage which is known to have taken place at a time when the site was owned and occupied by the Ministry of Defence.

3.2.

In terms of environmental legislation, a causer of pollution or contamination is held responsible by the regulators. However, in the present case, it is likely that the Council will be deemed to have acquired the land, after a period as a lease holder, in the knowledge of contamination (or likely contamination). Accordingly, attempts to persuade the UK Government to agree to address the contamination at this stage are likely to be challenging and there is no guarantee that these would lead to a successful outcome.

3.3.

It is necessary and essential that the contamination is addressed to satisfy the Council's present liability in terms of contamination and its environmental responsibilities and to make the site available for any development proposal that comes forward.

3.4.

On 30 October 2018, the Harbour Authority Sub-committee recommended:

- That, in order to make a brownfield site available for re-use, the Executive Director of Development and Infrastructure should submit, to the Policy and Resources Committee, a Stage 2 Capital Project Appraisal in respect of proposed remediation works at Lyness, Hoy.
- That the Executive Director of Development and Infrastructure should approach the Ministry of Defence, advising of the Council's commitment to remediation work at Lyness, and seeking a financial contribution towards the cost of undertaking the remediation works, as a result of the site being a former Royal Navy/NATO fuel depot.

3.5.

Expenditure on the remediation of the Lyness site will not create a new capital asset however as this project is a necessary step in making a vacant brownfield site available for re-use, it is considered appropriate to progress with this project by following the Capital Project Appraisal process.

3.6.

The Stage 2 Capital Project Appraisal in respect of proposed remediation works at Lyness is attached as Appendix 1 to this report.

4. Corporate Governance

This report relates to the Council complying with its financial processes and procedures and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

5. Financial Implications

5.1.

Funding of £100,000 from the Renewables, Redevelopment and Regeneration Fund, to support the feasibility, business case and due diligence work and studies was agreed in 2016 with a further £150,000 for site investigation and preparation of a remediation strategy from the Strategic Reserve Fund agreed in 2017.

5.2.

In November 2017 a grant of £93,678 was awarded from the Scottish Government Decommissioning Challenge Fund 2017 to 2018 round, to assist with preparing sites for oilrig decommissioning. A further application was made to the Decommissioning Challenge Fund 2018 to 2019 round for £256,000 but this was unsuccessful.

5.3.

Expenditure to date on the business case, due diligence work and studies amounts to £183,600. After allowing for grant funding of £93,678 together with internal funding contributions of £250,000 this left a balance of £160,078 that was not drawn down.

5.4.

This report identifies a requirement for funding of up to £407,000 to complete the remediation of the Lyness site.

5.5.

Options for funding the required investment include a further contribution from the Strategic Reserve Fund or a contribution from the Miscellaneous Piers Reserve Fund. With the Renewables, Redevelopment and Regeneration Fund and Strategic Reserve Fund having made combined commitments of £250,000 it is considered appropriate that the service area that would receive any future income from a remediated site should contribute the cost of remediation.

5.6.

The balance on the Miscellaneous Piers Reserve Fund as at 31 March 2018 was £5.913 million and the recommendation is that the cost of remediation be met from this source. All income from the remediated site would accrue to the Miscellaneous Piers and Harbours account.

6. Legal Aspects

Section 95 of the Local Government (Scotland) Act 1973 requires the Council to make arrangements for the proper administration of its financial affairs. As part of this, the Council is expected to have regard to economy, efficiency and effectiveness in its use of resources.

7. Contact Officers

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8. Appendix

Appendix 1 – Stage 2 Capital Project Appraisal – Remediation Works at Lyness.

Stage 2 Capital Project Appraisal

Capital Programme: Miscellaneous Piers and Harbours
Client Service: Development and infrastructure - Marine Services
Project Name: Lyness Remediation

1. Background

Lyness Harbour Area was acquired by the Council in 1977 from the Ministry of Defence. Subsequently, site investigation works have been undertaken and confirmed the presence of historic oil contamination below part of the site which falls within the Council's ownership. This dates back to the former use of the area as part of the Royal Navy/NATO fuel depot, and a pipe spillage which is known to have taken place at a time when the site was owned and occupied by the Ministry of Defence.

In terms of environmental legislation, a causer of pollution or contamination is held responsible by the regulators. However, in the present case, it is likely that the Council will be deemed to have acquired the land, after a period as a lease holder, in the knowledge of contamination (or likely contamination). Accordingly, attempts to persuade the UK Government to agree to address the contamination at this stage are likely to be challenging and there is no guarantee that these would lead to a successful outcome.

It is necessary and essential that the contamination is addressed to satisfy the Council's present liability in terms of contamination and its environmental responsibilities and to make the site available for any development proposal that comes forward.

Following a recommendation by Policy and Resources Committee on 26 September 2017, a budget of £150,000 was approved for carrying out a site investigation and preparing a remediation strategy for the site which has been agreed with the Environmental Health service, who are the regulatory authority.

In November 2017, grant of £93,678 was awarded from the Scottish Government Decommissioning Challenge Fund 2017/18 round which was to assist with preparing sites for oilrig decommissioning.

A further application was made to the Decommissioning Challenge Fund 2018/19 round for £256,000 but this has been unsuccessful.

This Stage 2 CPA identifies a funding requirement for a contract to carry out the remediation work which is estimated to cost up to £407,000.

2. Options Available

Do nothing.

The site will not be available for any development proposal that comes forward.

Progress with the current proposal.

The proposed works are in accordance with a remediation strategy for the site which has been agreed with the Environmental Health service who are the regulatory authority.

3 Land Purchase Requirement

The land is already in the Council's ownership and assigned to the Miscellaneous Piers and Harbours account.

4. Project Appraisal

	Criteria	Response
1.	Protects Existing Statutory Provision	Prior to any development of the site the Council has a statutory responsibility to remediate the site in accordance with a remediation strategy which has to be agreed with the Council's Environmental Health service who are the regulatory authority. They have stated that the land should be remediated and in particular they would not permit any development or use unless and until it is remediated.
2.	Meets Corporate Priority / Community Planning Goal	Target 4.4 of the Council Delivery Plan 2018 to 2023 states "Develop Scapa Flow and other Orkney harbours for oil and gas activity and continue to diversify and grow all marine business activity – stimulate marine and non-marine employment".
3.	Protects Existing Assets	It is necessary and essential that the contamination is addressed to satisfy the Council's present liability in terms of contamination and its environmental responsibilities and to make the site available for any development proposal that comes forward.
4.	Minimises Capital Cost	The Remediation Strategy looked at various remediation methods and the one proposed is the most cost effective to meet the remediation requirement.
5.	Maximises Investment from External Sources	The remediation is a prerequisite to allow future development of the site.
6.	Beneficial Impact on Revenue Expenditure	Making the site available for development allows the potential for future revenue income.
7.	Linked to Other Council Provision	
(a)	Enhances Statutory Provision	n/a
(b)	Protects or Enhances Discretionary Provision	n/a
8.	Re-use of Derelict Land or Building	The remediation will make possible future development of the site.

	Criteria	Response
9.	Promote or Enhance Orkney's Environment	The project removes the Council's present liability in terms of contamination and its environmental responsibilities.
10.	Promote or Enhance Orkney's Heritage	n/a
11.	Economic Prosperity or Sustainable Communities	Proceeding with remediation opens the door to development proposals for Lyness that could contribute to employment and local business opportunities on Hoy and the Mainland which would contribute to the Orkney economy.
12.	Enhances Council operations or Improves Health and Safety	n/a

5. Financial Implications

The financial implications are detailed in the attached excel worksheet.

6. Risk Assessment

Not proceeding would put the Council at risk of an improvement notice from Environmental Health.

As the remediation strategy has an implementation period between six and twelve months not proceeding now would put at risk any development proposal for Lyness that might be forthcoming.

7. Conclusion

It is necessary and essential that the contamination is addressed to satisfy the Council's present liability in terms of contamination and its environmental responsibilities and to make the site available for any development proposal that comes forward.

8. Recommendations

That the Council proceeds with a contract to carry out the remediation work which is estimated to cost up to £407,000.

9. Accountable Officer

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10. Annexes

Annex 1 – Capital Expenditure Analysis

Annex 2 – Revenue Expenditure Analysis

STAGE 2 - CAPITAL PROJECT APPRAISAL
FINANCIAL ASSESSMENT OF ASSOCIATED CAPITAL EXPENDITURE IMPLICATIONS

Capital Programme: **Miscellaneous Piers and Harbours**

Client Service: **Development and Infrastructure - Marine Services**

Project Name: **Lyness Remediation**

		1	2	3	4	5		
CAPITAL COSTS	Total £ 000	2018/19 £ 000	2019/20 £ 000	2020/21 £ 000	2021/22 £ 000	2022/23 £ 000	Onwards £ 000	Notes
1. Initial Costs (at inflated prices)								
Land or Property Purchase	-	-	-	-	-	-	-	
Other Site Costs (including Fees)	-	-	-	-	-	-	-	
Construction or Improvements	-	-	-	-	-	-	-	
Information Technology Costs	-	-	-	-	-	-	-	
Plant, Vehicles & Equipment	-	-	-	-	-	-	-	
Professional Fees - Consultancy	-	-	-	-	-	-	-	
- In-house	-	-	-	-	-	-	-	
Gross Capital Expenditure	-	-	-	-	-	-	-	1
2. Initial Funding (at inflated prices)								
Government Grants	-	-	-	-	-	-	-	
Other Grants	-	-	-	-	-	-	-	
Other Financial Assistance	-	-	-	-	-	-	-	
Total Grants Recievable, etc.	-	-	-	-	-	-	-	
Net Capital Cost of Project	-	-	-	-	-	-	-	
Net Present Value	-	-	-	-	-	-	-	
Cost of Capital		5%	5%	5%	5%	5%	5%	
Year		0	1	2	3	4	5	

Notes

1. The proposed works are not considered to be capital in nature, therefore the expenditure would be chargeable in full to the Miscellaneous Piers and Harbours revenue budget.

STAGE 2 - CAPITAL PROJECT APPRAISAL
FINANCIAL ASSESSMENT OF ASSOCIATED REVENUE BUDGET IMPLICATIONS

Capital Programme: **Miscellaneous Piers and Harbours**

Client Service: **Development and Infrastructure - Marine Services**

Project Name: **Lyness Remediation**

		1	2	3	4	5	Onwards	Notes
REVENUE COSTS / (SAVINGS)	Total £ 000	2018/19 £ 000	2019/20 £ 000	2020/21 £ 000	2021/22 £ 000	2022/23 £ 000	£ 000	
1. Operating Costs (at inflated prices)								
Staff Costs	-	-	-	-	-	-	-	
Other Staff Costs (incl. recruitment, etc.)	-	-	-	-	-	-	-	
Property Costs	-	-	-	-	-	-	-	
Supplies and Services	-	-	-	-	-	-	-	
Transport, Vessel and Plant Costs	-	-	-	-	-	-	-	
Administration Costs	-	-	-	-	-	-	-	
Apportioned Costs	-	-	-	-	-	-	-	
Third Party Payments	-	-	-	-	-	-	-	
Finance and Loan Charges	-	-	-	-	-	-	-	
Miscellaneous Expenditure	407	5	330	60	12	-	-	1
Gross Revenue Expenditure/(Saving)	407	5	330	60	12	-	-	
2. Operating Income (at inflated prices)								
Government Grants	-	-	-	-	-	-	-	
Other Grants	-	-	-	-	-	-	-	
Rents and Lettings	-	-	-	-	-	-	-	
Sales	-	-	-	-	-	-	-	
Fees and Charges	-	-	-	-	-	-	-	
Miscellaneous Income	-	-	-	-	-	-	-	
Gross Revenue Income	-	-	-	-	-	-	-	
Net Expenditure/(Saving) of Project	407	5	330	60	12	-	-	
Net Present Value	393	5	320	57	11	-	-	
Cost of Revenue		3%	3%	3%	3%	3%	3%	
Year		0	1	2	3	4	5	

Notes

1. The consultant's estimated cost of carrying out remediation works is £256,000, within a range of £179,200 and £384,000. For budget purposes, the higher figure plus management overheads is being used, with a total estimated cost of £407,000.