

RUBISLAW FIELD COMMITTEE

ABERDEEN, 4 DECEMBER 2012 – Minute of Meeting of the RUBISLAW FIELD COMMITTEE. Present: - Councillor Laing, Chairperson; and Councillors Greig and Thomson; Mr A Hamilton, Mr J Hendry and Mr D McAllister (Aberdeen Grammar School Former Pupils' Club); Mr G Legge and Mr I Stanger (Aberdeen Grammar School); and Ms V Mackie, Sport Aberdeen. In Attendance: Neil Bruce, Service Manager, Culture and Sport, Education, Culture and Sport; Simon Williams, Facilities Manager, Enterprise, Planning and Infrastructure; Fiona Selbie, Senior Solicitor, Legal and Democratic Services; and Vikki Cuthbert and Stephanie Dunsmuir, Legal and Democratic Services.

MINUTE OF PREVIOUS MEETING

1. The Committee had before it the minute of its previous meeting of 11 October 2012.

The Committee resolved:-

to approve the minute as a correct record.

RUBISLAW FIELD AGREEMENT

2. With reference to Article 3 of the minute of its previous meeting, the Chairperson stated that it had been decided that all members would consult with their organisations on the new Agreement. She asked if Aberdeen Grammar School could confirm their position in relation to the new Agreement, and Mr Legge advised that following a couple of minor adjustments which they had conveyed to the Council, the School was content with the new document.

The Chairperson then sought feedback from the Former Pupils' Club. Mr McAllister advised that the majority of changes they had suggested had been accepted, but that the Club representatives had proposed that the new Agreement build on the 1923 document, rather than supersede it. The 1923 Agreement stated that the ground would be in use for all time for Aberdeen Grammar School pupils and the Former Pupils' Club, but this wording did not appear in the new version of the Agreement.

The Chairperson explained that the Council was trying to prepare a new agreement which would reflect the current usage, and would be a moving document which therefore was not intended to convey rights in perpetuity. She sought advice from Mrs Selbie on the implications of including this terminology in a new Agreement.

Mrs Selbie explained that the new Agreement was not intended to be in perpetuity, but was designed to be flexible to set out what usage of the Field was at present, while allowing members to discuss and amend the document in future as usage changed. The 1923 Agreement had not allowed for any such amendments.

Councillor Greig stated that he could understand the concerns of the Former Pupils' Club, as at present, their rights were protected, however they felt there was a loss of this protection in the new Agreement if the rights in perpetuity were removed. The Chairperson pointed out that the current usage went well beyond what was covered in

the 1923 Agreement, and therefore any rights the Former Pupils' Club felt they had at present were not in fact covered by the existing Agreement.

Mr Hendry stated that the Former Pupils' Club felt that they had inherited what they had at present and did not want to see it lost for future generations, as they felt they had a duty to protect the arrangements. The Chairperson reiterated that the current usage arrangements were not reflected in the 1923 document, and therefore if it was agreed to revert to the existing Agreement, the Council would have to look at the current arrangements in more detail.

Councillor Greig asked if it was considered that the new Agreement would cancel out the 1923 version, and Mrs Selbie advised that this would be the case, in the same way that the 1914 Agreement had been revoked and cancelled by the 1923 version. Councillor Greig then enquired if it would be possible to write something in to the new Agreement to reflect the Former Pupils' wish that the rights in perpetuity be retained. Mrs Selbie advised that it would not be in the best interests of the Council to include this in a new Agreement.

The Chairperson explained that a lack of agreement would result in the Council having to revert to the 1923 Agreement, and asked if the Former Pupils' Club could therefore consider going back to renegotiate the matter with their members. Mr McAllister asked if reverting to the 1923 version would mean that only football would be affected, but Mrs Selbie advised that several elements were not included in the 1923 Agreement, such as the new pavilion, the advertising hoardings and the use of the hockey pitches. Mr Bruce advised that it was proposed that the new Agreement would be reviewed in ten years, at which point any changes in circumstances and usage could be considered.

The Chairperson explained that she understood that the Former Pupils' Club was keen to have the current safeguards in place, but stated that the Council had to look at the change in circumstances which now existed, particularly in relation to the change in usage, as well as the current financial situation. She explained that the Council could therefore not agree to an organisation having rights in perpetuity. The Chairperson asked again if it would be possible for the Former Pupils' representatives to go back to their members to discuss the matter further, or if they were content to state that their position was that they could not agree to the terms of the new Agreement. She advised that if no agreement could be reached at the meeting, then officers would prepare a report for the January meeting of the Education, Culture and Sport Committee to enable the Council to take a decision on how to move forward with the situation.

Mr Bruce referred to the wording used in the 1923 Agreement which stated that "the field shall be employed for use as a play field for the pupils and former pupils of Aberdeen Grammar School in all time coming", and asked if this was something which could be incorporated into the new Agreement. Councillor Greig stated that this wording recognised the goodwill and investment by the Former Pupils' Club in the field. The Chairperson asked if the essence of this wording could perhaps be accommodated in the new document to give the Former Pupils' Club some comfort. Mrs Selbie again stated that the wording in the 1923 Agreement would be difficult for the Council in terms of Best Value and any future auditing of the disposal of assets which had been undertaken in perpetuity. Mr Hendry advised that he did not consider that the Former Pupils' Club had ever conceded that they were willing to give up the right to use the field in perpetuity. Mrs Selbie noted that this had not been her understanding from the various meetings which had previously been held. Mr McAllister advised that the new

Agreement would not have the sanction of the Former Pupils' Club members if the rights in perpetuity were not included. Councillor Greig asked if it would be possible to have some consideration of what the term 'in perpetuity' could mean, as perhaps a form of words could be found in relation to the term which would suit both sides. Mrs Selbie advised that if the position of the Former Pupils' Club was that they could not accede to an Agreement which did not refer to rights in perpetuity, then no form of words could be found to resolve the issue, as the Council could not, in terms of Best Value, agree to these rights being retained in perpetuity, as well as the additional rights being proposed under the draft revised Agreement.

The Chairperson concluded the meeting by noting that the discussions appeared to have reached an impasse, and therefore the process outlined earlier whereby officers would prepare a report to the Education, Culture and Sport Committee stating the current position would apply. She thanked all those present for their attendance at the meeting.

The Committee resolved:-

to note that as it had not been possible to reach agreement, that officers would prepare a report for the Education, Culture and Sport Committee in January 2013 to allow the Council to take a decision on how to proceed.

- **JENNIFER LAING, Chairperson**