



# Northumberland

## County Council

### FAMILY AND CHILDREN'S OVERVIEW AND SCRUTINY COMMITTEE

6<sup>TH</sup> OCTOBER 2022

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#### **Post Cabinet Decision Update: RDA Relocation from Tranwell (Pegasus Centre) to Kirkley Hall Campus (Northumberland College)**

Report of: Audrey Kingham, Service Director Education and Joint Interim Director of Children's Services

Cabinet Member: Guy Renner Thompson – Portfolio holder for Children's Services.

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#### **Purpose of Report**

During the Cabinet meeting of Northumberland County Council held Tuesday 8<sup>th</sup> March 2022 the recommendations set out below were approved unanimously by the Leader and Members.

This report sets out the progress made in preparing to deliver the capital project since approval being granted 8<sup>th</sup> March 2022.

#### **Recommendations**

The Committee is recommended:

1. To review and acknowledge progress to date in delivering the transition of the RDA and capital project to prepare Kirkley Hall equestrian area in readiness to continue the function of Morpeth Group RDA at Kirkley Hall.

#### **Links to Corporate Plan**

The proposal to support relocation of the Morpeth Group RDA is in strong accordance with the **Living & Learning, Enjoying & Connecting** and **How** priorities of NCC Corporate Plan 2021-24 as well as the overarching theme '**Tackling inequalities within our communities, supporting our residents to be healthier and happier**'.

## Key Issues

1. Northumberland County Council and Active Northumberland have been supporting the operation of the Morpeth Group RDA for several years. This support has been predominantly via funding the lease, staff and non-staff costs as well as providing Active Northumberland staff resource to operate the service and associated back-office functions.
2. The RDA has also diminished in its capacity to deliver disabled riding therapy owing to inability to make medium to long term development plans under the operation of Active Northumberland.
3. NCC, Active Northumberland and the RDA have explored potential for a more sustainable future arrangement for the RDA including delivering savings for Northumberland County Council and Active Northumberland whilst sustaining the social value that Morpeth Group RDA deliver and unlocking potential for growth.
4. Northumberland College declared strong interest in accommodating the RDA on a cost-free basis, acknowledging they would need to increase staffing levels to cover equine care and delivery of disabled riding sessions as well as cover consumable costs. College would retain all proceeds from disabled riding sessions to cover these staffing costs and consumable costs as well as receiving a small grant funded contribution from the RDA, a similar model to that between RDA and Active Northumberland. College infrastructure and facilities will offer significant efficiency advantages however given the historic finance data of the RDA and Active Northumberland, and acknowledging high costs of equine care, it is assumed the RDA operation will never be profit making and is likely to be loss making initially. Northumberland College are comfortable with this non-profit arrangement based upon the delivery of social value and their wider SEND strategy.
5. Northumberland College have been developing a working relationship with the RDA directly, working toward a break even operating model, allowing NCC and Active to move away from the arrangement following facilitating transition, however on that basis College would not contribute to any capital investment to prepare the site.
6. For one off capital investment of circa **£171,366** Kirkley Hall equine site can be upgraded to accept the RDA to a specification suitable for the delivery of disabled riding.
7. Capacity to fund the **£171,366** has been identified in the 'Contingency for Grant Funded Projects' 21/22' which is included in the current Capital MTFP.
8. Morpeth Group RDA are very supportive of this proposal.

## **Background**

### **Progress made with relocation and capital works between Tuesday 8<sup>th</sup> March Cabinet meeting and September 2022.**

#### **8<sup>th</sup> March 2022**

During the Cabinet meeting of Northumberland County Council held Tuesday 8th March 2022 the following recommendations were approved unanimously by the Leader and Members:

1. To agree a capital project to value of **£171,366** to prepare Kirkley Hall equestrian area in readiness to accept Morpeth Group RDA as a base for their ongoing operation, providing sustainability to the RDA operation.
2. To approve this funding from surplus within the 'Contingency for Grant Funded Projects' 21/22' which forms part of the Capital Medium Term Financial Plan.

#### **March 2022**

- During March 2022 Cabinet approval was granted to proceed with the capital project which would allow transfer of Morpeth Group RDA from Tranwell to a more sustainable future at Kirkley Hall. College were informed shortly after and NCC and College agreed that the works should be managed and delivered by NCC.
- Site meetings at Kirkley Hall took place, NCC instruct College to issue a works license and works commissioning proceeds with Property Services including the appointment of an NCC project manager.
- NCC, RDA and College meet at Kirkley Hall to commence more formal planning and contractual arrangements.
- College indicate they will use their own staff resource to run the RDA operation - Active Northumberland and NCC HR suggest existing Active staff would need to be offered a settlement package and that NCC & Active were prepared to proceed in this way.

#### **April 2022**

- Site survey visits by NCC undertaken and preparation of design consultant tender package.
- First draft of contract between College and RDA is completed for review.
- NCC advises college that it should be aware that College will be responsible for TUPE liabilities following transfer of service.
- College are unable to decide best way forward and senior intervention by NCC and Active is required owing to lease expiring imminently.
- Decision reached that TUPE transferring Active staff to college is the Colleges preferred way forward.
- Active staff are notified of TUPE transfer arrangements.
- NCC notify the landlord of Pegasus Centre that NCC will not be extending the lease and intend to vacate site by 11th May.

## **May 2022**

- NCC publishes and concludes tender for design works – Crawford Higgins are appointed.
- College legal representative shares the licence agreement for NCC to perform capital works at Kirkley Hall.
- NCC respond to College informing that whilst the licence agreement is somewhat elaborate for minor works there is little to cause concern within the terms. But also, that there are a small number of omissions in the agreement, for example relevant law relating to subsidy control and funding clawback.
- Ponies are transferred to Kirkley Hall 8th May 2022.
- College report that owing to NCC not yet signing works licence (owing to it not yet being fit for purpose), that TUPE should not proceed to plan.
- NCC question how relevant and reasonable this action is with College CEO who proposes a formal letter of reassurance on availability of capital works funding – letter issued same day.
- NCC respond to College legal representative with a redrafted works license agreement.
- College COO requests further assurances within the letter, it is reissued same day.
- College confirm satisfaction with the letter of reassurance.
- Active Northumberland staff TUPE transfer to College 11th May 2022.
- Lease expires at Tranwell 12th May 2022.
- Legal representatives on both sides continue to work on the works license.

## **June 2022.**

- NCC are due to commence some initial works with internal NCC resource w/c 7th June in order to meet tight timeframes that college require – College block this work at the last minute, however.
- RDA explain that riding will not commence until Mid-September owing to DBS clearance and request financial support from NCC with interim livery arrangements while ponies are non-income generating.
- Legal representatives on both sides continue to work on the works license.

## **July 2022**

- Crawford Higgins issue design drawings for the scheme.
- Design drawings are provided to College for approval and to append to works license.
- NCC confirms that £1500 Ex VAT will be offered to support interim livery while ponies are non-income generating, this will be provided by Active Northumberland.
- College has been unable to agree the terms of the works license that NCC deem essential (clawback, subsidy control, RDA contract).

## **August 2022**

- NCC have prepared the tender package in full for the physical works which will be published immediately when the works license is signed.

- College indicate that riding will not commence until October owing to delays in the DBS process of the RDA volunteer community.
- College has been unable to agree the terms of the works license that NCC deem essential to provide security of the investment.

### **September 2022**

- College confirm acceptance of outstanding terms of the works license including terms around funding clawback, RDA contract being in place and subsidy control. NCC have insisted on these terms to provide security for the investment, but College was reticent to accept them until now.
- The works license proposes works completion by end of January 2023.
- College and Morpeth Group RDA agreed the terms of their contract, it is shared with RDA National for final approval.

### **Next steps**

- NCC and College to sign works license.
- NCC to publish the physical works tender.
- NCC to appoint the preferred contractor and commence works – estimated to commence on site mid-October.
- College to continue DBS checks to allow commencement of riding lessons in October.

## Implications

<b>Policy</b>	Indirectly related to Northumberland County Council SEND Strategic Action Plan.
<b>Finance and value for money</b>	Creation of a capital project to value of <b>£171,366</b> funded from 'Contingency for Grant Funded Projects' 21/22' which is included in the current Capital MTFP.
<b>Legal</b>	<p>Legal advice was taken for fixed term contract staff, two factors being significant:</p> <ol style="list-style-type: none"> <li>1. It was believed some of the activities conducted at Kirkley Hall would be similar to those conducted at the Pegasus Centre under Active Northumberland.</li> <li>2. A number of fixed term contract employees had more than 2 years' service so needed to be treated as if they are permanent.</li> </ol> <p>On the basis of these significant factors, it was recommended to proceed as if TUPE does apply and transfer staff to Northumberland college</p> <p>The staff have now been TUPE transferred to Northumberland College and continue to perform their roll at Kirkley Hall. This is complete in full.</p>
<b>Procurement</b>	Capital works will require tendering via NEPO portal or similar.
<b>Human Resources</b>	<p>One permanent Active Northumberland admin staff member was redeployed and continues to work elsewhere in Active. This is complete in full.</p> <p>Active Northumberland TUPE transferred staff to Northumberland College with HR support – this is complete in full.</p>
<b>Property</b>	Property services support required during specification and tender of capital works and to resolve dilapidations.
<b>Equalities</b> (Impact Assessment attached)  Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Embedded as appendix 02.
<b>Risk Assessment</b>	None.

<b>Crime &amp; Disorder</b>	This report has considered Section 17 (CDA) and the duty it imposes and there are no implications arising from it.
<b>Customer Consideration</b>	The proposal set out in this report is based upon creating a more sustainable operation for the RDA, ensuring the function is available for residents with disabilities who benefit from the provision.
<b>Carbon reduction</b>	It is not envisaged that this proposal would have any positive or negative impact on carbon reduction.
<b>Health and Wellbeing</b>	Health impacts (physical & mental) are delivered to users of the RDA provision.
<b>Wards</b>	Morpeth/Ponteland and surrounding catchment area.

## **Background Papers**

Appendix 01 - RDA Relocation - Equalities Impact Assessment.pdf



Appendix 01 - RDA  
Relocation - Equalities

## **Report Sign Off**

Monitoring Officer/Legal	Suki Binjal
Executive Director of Finance & S151 Officer	Jan Willis
Relevant Executive Director	Audrey Kingham
Chief Executive	Rick O'Farrell
Portfolio Holder(s)	Guy Renner-Thompson

## **Author and Contact Details**

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