

SCOTTISH BORDERS COUNCIL

JEDBURGH COMMON GOOD FUND SUB-COMMITTEE

MINUTES of Meeting of the JEDBURGH
COMMON GOOD SUB-COMMITTEE held
via Microsoft Teams on Tuesday, 15
December 2020 at 4.30 pm

Present:- Councillors J. Brown, S. Hamilton, S. Scott, Community Councillor
J. Taylor.

In Attendance:- Pension and Investments Manager, Solicitor
(Steven Robertson), Democratic Services Officer (F. Henderson).

Members of the Public:- 1

1.0 APPLICATION FOR FINANCIAL ASSISTANCE

Jedburgh Leisure Facilities Trust

- 1.2 With reference to paragraph 1 of the Minute of 8 December 2020, Legal advice had been sought and circulated to the Sub-Committee together with a letter from the Applicant, Mr Burt. The Legal advice submitted stated that Common Good monies may be used for granting donations to public institutions or charities on condition that such donations must be granted to benefit the interests of the general public of the relevant area. In terms of the specific question as to whether the Jedburgh Common Good Fund Sub-Committee ("the Sub-Committee") was prevented in law from funding the application as a result of the possibility of the survey system that the funds would pay for being open to manipulation?
- 1.3 The advice given was that it would not. The Sub-Committee were entitled to continue to fund the application should they wish to do so and its actions in that respect would not be ultra vires, illegal or contrary to public policy. The purpose of the survey was to assess whether the populace of Jedburgh would be in support of the applicant taking on care of town resources. It was for the Sub-Committee to consider whether it felt that it would be of benefit for the populace of Jedburgh to have such an endeavour funded in the sense of whether the outcome of such a survey would reasonably be seen as being of possible benefit to the town.
- 1.4 Even if for example, some individuals were to vote more than once in the survey, it was not clear that this would be "illegal" in the sense of contravening voter laws such as those which relate to election of public officials or referenda. This was simply a survey being carried out to gauge opinion on a matter of relevance to the town. If it was manipulated then clearly its results would be unreliable but it would not on the face of it be illegal, bar perhaps some nefarious end purpose to the manipulation that would itself be the illegal act. There was no known law on how voluntary public surveys of this nature must be conducted or legal repercussions if that was not the case. It was suggested that the costs of carrying out surveys of this nature in the manner that would be required for the election of public officials or referenda would result in their being unduly onerous and in many cases surveys that could be of utility would not be able to proceed. The Sub-Committee it was suggested would have no legal prohibition on reaching such a view and it would be reasonable to fund a survey of this nature.
- 1.5 The matter simply came down to the judgement of the members of the Sub-Committee as to whether they thought the funding of the survey would be of benefit to the general populace of the town, or whether in the judgement of the Sub-Committee the possibility of the survey being open to manipulation resulted in it no longer being of benefit.

- 1.6 In terms of whether the Jedburgh Common Good Fund Sub-Committee were prevented in law from funding the application as a result of the failure of the applicants to first seek funding from other sources, from the information available at present it did not appear that there was such a formal written policy and this decision making tool would instead appear to represent an informal rule of thumb that was applied by this and indeed all of the Sub-Committees. Should that prove to be the case, there would be no legal impediment on the Sub-Committee granting this application despite the fact that there had been no demonstration on the part of the applicant as to other sources of funding being sought. Were there to be a specific policy that an application can only be funded following receipt of confirmation as to alternative funding sources being exhausted, it was suggested that it was unlikely to be absolute and could be expected to leave some room for deviation if there were a clear and overwhelming case for doing so relating to the benefit of the populace of the town.
- 1.7 In response to questions about how the postcodes of voters would be verified, Mr Burt explained that there would be a random sample taken and independently scrutinised and any postcodes outwith the Jedburgh area would be discounted.

VOTE

Councillor Hamilton, seconded by Councillor Brown moved that while in support of Councillor Scott's concerns and displeased that the application was retrospective, a grant of £1,500 be made to cover the cost of the Jedeye and that the shortfall be found from somewhere else.

Councillor Scott moved as an amendment, that the application be refused. There was no seconder and the amendment fell.

The Motion was accordingly carried.

DECISION

DECIDED that a grant of £1,500 be made to the Jedburgh Legacy Group c/o Jedburgh Leisure Facility to cover the costs incurred for the Jedeye.