

ABERDEENSHIRE COUNCIL**WOODHILL HOUSE, ABERDEEN, 28 JUNE, 2018**

Present: Councillors K I Adam, W A Agnew, D Aitchison, A M Allan, P J Argyle, N Baillie, D R Beagrie, L Berry, A A Bews, G Blackett, R E Bruce, A S Buchan, C C Buchan, M A Buchan, S W Calder, G W Carr, R A Cassie, J B Cox, I Davidson, S A Dickinson, A C Duncan, E Durno, M J M Ewenson, A L Fakley, M A Findlater, M A Ford, A C Forsyth, P E Gibb, J N Gifford, V G Harper, F C P Hood, W Howatson, J D Hutchison, M F Ingleby, J Ingram, A E Kloppert, A Kille, S A A Leslie, D-P L G Lonchay, C R McKail, A N McKelvie, D A E Mair, I J Mollison, G L Owen, G E Petrie, C R Pike, G Reid, G D Reynolds, A Ross, M J Roy, A M Simpson, H L Smith, N J Smith, S W Smith, E A Stirling, I Sutherland, I W Taylor, R G Thomson, B A Topping, I M Walker, A Wallace, J M Whyte, L G L Wilson, R S Withey.

Apologies: Councillors A E M Evison, A J Hassan, P K Johnston, J J Latham, H Partridge and D G Robertson.

Officers: Chief Executive, Director of Business Services, Acting Director of Education and Children's Services, Director of Infrastructure Services, Chief Officer (Health and Social Care Partnership), Area Manager (Kincardine and Mearns), Head of Finance, Acting Head of Legal and Governance and Principal Committee Services Officer.

CHAIR

Councillor W Howatson, Provost of the Council, presided.

ANNOUNCEMENTS

Prior to consideration of the business of the meeting, the Provost advised that a number of residents from the North East of Scotland had been honoured in the Queen's Birthday Honours List and congratulated David Rout (QFSM), David Robertson Ramsay BEM, Deborah Mclean BEM, Charlotte Elizabeth Macdonald BEM, Jane Jeanie Jenny Gray BEM, Isabel Ann Grant BEM, Joy Adams BEM, Ewan Gordon Cameron Macpherson MBE, William Grieve Deans MBE, Michael Park OBE, Friends of Stonehaven Open Air Pool Queens Award for Voluntary Service and Voluntary group "The Sound of the Piper" Queens Award for Voluntary Service. He also congratulated the Fraserburgh Storm Under 14 Girls Basketball Team crowned Regional Champions, Monster Ball 3 x 3 Champions and most recently National Champions.

1. DECLARATION OF MEMBERS' INTERESTS

The Provost asked members if they had any interests to declare in terms of the Councillors' Code of Conduct and Councillor Sutherland declared an interest in Item 5, by virtue of his position as Peterhead BID Manager, and advised that he would remain in the meeting and participate during discussion of the item.

2. RESOLUTIONS**(A) PUBLIC SECTOR EQUALITY DUTY**

In making decisions on the following items of business, the Council **agreed**, in terms of Section 149 of the Equality Act, 2010:-

- (1) to have due regard to the need to:-

- (a) eliminate discrimination, harassment and victimisation;
 - (b) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
 - (c) foster good relations between those who share a protected characteristic and persons who do not share it.
- (2) where an Equality Impact Assessment was provided, to consider its contents and take those into account when reaching their decision.

(B) EXEMPT INFORMATION

The Council agreed, in terms of Sections 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, to exclude the public from the meeting during consideration of Item 12 so as to avoid disclosure of exempt information of the classes described in paragraphs 9 and 10 of Part 1 of Schedule 7A of the Act.

3. MINUTE OF MEETING OF ABERDEENSHIRE COUNCIL OF 26 APRIL, 2018

The Minute of Meeting of Aberdeenshire Council of 26 April, 2018, had been circulated, was **approved** as a correct record, and thereafter signed by the Chair.

4. PLANNING ENFORCEMENT GYPSY/TRAVELLER SITE AT NORTH ESK, ST CYRUS – UPDATE REPORT

With reference to the Minute of Meeting of Council of 18 January 2018 (Item 4) when arrangements for the management of planning enforcement action in respect of the gypsy/traveller site at North Esk, St Cyrus had been agreed, there had been circulated a report dated 28 May 2018 by the Director of Infrastructure Services providing an update on progress and advising (1) that officers had completed an initial exploration of what needed to be done should direct action be required, (b) that a series of meetings had been held between officers and representatives of North Esk, St Cyrus and their planning consultant, from which two strands of work had been followed up on the possibility of a new planning application being submitted and the possibility of identifying and moving to an alternative site, (3) that Council officers had attended a meeting with the Scottish Environment Protection Agency (SEPA) and residents' representatives of North Esk, St Cyrus to explore the differences between the North Esk Flood Risk Assessment and SEPA's assessment of same during which SEPA had given a commitment to work with the hydrologist representing North Esk to further consider any differences and to see whether a technical solution could be found, albeit the SEPA objection in principle would remain, (4) in terms of the communication plan, that several information bulletins had been issued and Council officers had visited the site and met with residents, (5) that despite significant progress being made, a resolution whereby the residents could relocate to an alternative site was unlikely to be reached by the Enforcement Notice compliance date of 31 July 2018 and that action was being taken by officers to ensure that the Enforcement Order remained valid and robust in terms of its intent, content and timescale for compliance, so that the ultimate aim of the site being vacated and reinstated could still be achieved if necessary, (6) that a flood resilience group had been formed and supported with input from Council officers and other agencies with a flood resilience plan now adopted for the whole of the North Esk area, which included the North Esk Park and other properties in the area at risk from flooding, (7) on Education and Health Services being provided to North Esk residents, and (8) notwithstanding the enforcement deadline, proposing that further time be allocated for a solution to be found.

Thereafter, the Provost explained that a request to address the Council meeting had been received, which members **agreed** to hear. Accordingly, the meeting heard from a deputation comprising Alan Seath, the applicant's agent, and Ian Walton, both of whom spoke of the

actions and good work which the residents and the consultancy team had undertaken since the January Council meeting, flood risk modelling and appropriate mitigation measures, and requested an extension to the 31 July 2018 deadline to allow that work to continue. Mr Seath and Mr Walton then withdrew to the public benches.

Having heard from the Director of Infrastructure Services who also responded to questions from Members on the number of buildings on site, potential for homeless applications, educational services provided, SEPA views on the evacuation plan and planned future action, the Council **agreed** to:-

- (1) note the progress made towards (a) the submission of a potential new planning application for the Gypsy/Traveller site at North Esk, St Cyrus, and (b) the identification and promotion of a suitable alternative site to which current residents of the site at North Esk, St Cyrus could move; and
- (2) approve an additional 6 months of engagement and dialogue in the pursuit of an acceptable solution with a further update report to the meeting of Aberdeenshire Council on 17 January 2019.

5. FINANCIAL YEAR END POSITION 2017/18

A report by the Director of Business Services had been circulated (1) setting out the financial position of the Council's revenue budget as at 31 March, 2018, shown in detail in Appendix 1 of the report, (2) proposing a number of virements within the budget, and (3) detailing the balances of the General Fund, HRA and other Statutory and Usable Reserves. The report requested that the Council consider proposals for (a) the transfer of funds currently held in the City Region Deal reserve to the General Fund Balance, (b) the City Region Deal being funded entirely from the Capital Plan; and (c) a wider review of reserves being undertaken and reported back to Council in November 2018.

The Head of Finance advised that the Council's unaudited accounts were complete and would be considered by the Audit Committee at its next meeting; on action taken by officers to reduce the Council's forecast over budget position; on major variances relating to expenditure funded from borrowing, capital financing charges and the revenue support grant; on action taken to manage the over budget position of the Integration Joint Board and proposals for allocation of additional funding in that respect; and on the agreed Reserves strategy and proposed use.

At this stage in the proceedings and in terms of Standing Order 5.1.9, the Provost, having first warned Councillor Alan Buchan that his behaviour in the meeting was unacceptable and subsequently instructed Councillor Buchan not to speak during the remainder of the debate on the item under discussion, moved that Councillor Buchan be suspended for the remainder of the meeting. The motion, having been seconded by Councillor Gifford, was carried and the Provost instructed Councillor Buchan to leave the meeting immediately.

Thereafter, following discussion and having heard from the Chief Officer of the Health and Social Care Partnership on the plans for future management of the Integration Joint Board budget, the Council **agreed**:-

- (1) to note the financial year end position for 2017/18 set out in Appendix 1 of the report;
- (2) to approve the virements set out in Appendix 3 of the report;
- (3) the balances of the Council Reserves as set out in Appendix 4 of the report;
- (4) to approve the payment of £1,479,000 to the Aberdeenshire Integration Joint Board (IJB) from the Council's General Fund Balance;

- (5) that funds currently held in the City Region Deal reserve be transferred to the General Fund Balance to ensure the minimum agreed level is maintained;
- (6) that the City Region Deal be funded entirely from the Capital Plan; and
- (7) that the wider review of reserves recommended at February's Council meeting be reported back to Council in November 2018.

6. NON HRA CAPITAL BUDGET 2017/2018 FINAL MONITORING REPORT

The Council had before it a joint report dated 31 May 2018 by the Directors of Business Services and Infrastructure Services (1) setting out the financial position of the Council's non Housing Revenue Account (HRA) capital budget for 2017/2018, (2) highlighting the variance between budgeted and forecast expenditure, (3) detailing the position for each Strategic Priority, and (4) reporting on the effect of the proposed changes on the 2018/19 budget in terms of expenditure, financing and borrowing.

Having heard from the Head of Finance, the Council **agreed**:-

- (1) the unaudited outturn position for 2017/18 referred to at paragraph 2.1 in the report giving totals for expenditure and income of £105,178,000 and £58,760,000 respectively; and
- (2) the proposed changes to the capital budget for 2018/19 as referred to at paragraph 2.6. in the report.

7. EDINBURGH SCHOOLS STRUCTURAL ISSUES – ABERDEENSHIRE COUNCIL UPDATE

With reference to the Minute of Meeting of Council of 29 June 2017 (Item 9), there had been circulated a joint report dated 25 May 2018 by the Director of Business Services and the Acting Director of Education and Children's Services providing an update on progress in response to the recommendations of the Cole Report on Edinburgh Schools Construction, details of remediation works completed to date and the proposed programme and methodology for condition and suitability assessment of the Council's Property Assets.

Having heard from the Director of Business Services, the Council **agreed** to:-

- (1) note progress on the Aberdeenshire Action Plan in response to the recommendations of the Cole Report as provided at Appendix A in the report;
- (2) note the remediation works completed in respect of the structural issues identified at the schools built under the Private Finance Initiative (PFI) and Private Public Partnership (PPP) Contracts as detailed at paragraph 2.15 in the report; and
- (3) note the programme and methodology for condition and suitability assessment of the Council's Property Assets, as detailed in the report.

8. COMPOSITION OF COMMITTEES

There had been circulated a report dated 27 May 2018 by the Director of Business Services (1) on a change in political group affiliation in respect of Councillor Leslie who was now part of the Aligned Independents Group on the Council, (2) explaining that the overall group proportionality on the Council remained unchanged as a result and consequently no change was required to the membership of committees, sub-committees, joint committees and

working groups, (3) on the resignation of Councillor Evison as one of the Partnership Group substantive members to the Aberdeenshire Community Planning Board, and (d) proposing that the reported vacancy and any further changes to named appointments to the Aberdeenshire Community Planning Board during the current Council term be made by the political parties in line with the proportionality agreed by Full Council.

The Council **agreed** to:-

- (1) note the change in political group affiliation for Councillor Leslie, following notification to the Chief Executive, to the effect that: the Conservative, Liberal Democrat and Aligned Independents Group had 43 members (comprising Conservatives (22 – previously 23), Liberal Democrats (14) and Aligned Independents (7 – previously 6)), the Partnership had 23 members (comprising SNP (21) and the Aberdeenshire Labour and Communities Alliance (2)) and the remaining members comprised – the Democratic Independent Green Group (2) and unaligned independents (2);
- (2) note that the political proportionality for the current standard model for 14 member, 8 member and 5 member committees and for sub-committees, joint committees and working groups as approved by Full Council on 18 May 2017 did not require amendment as a result of the notification outlined in the report;
- (3) approve the appointment of a substantive member to the Aberdeenshire Community Planning Board by the Partnership Group, following the resignation of Councillor Evison, and that any further changes to named appointments to the Board during the current Council term be made by the political parties in line with the proportionality agreed previously by Full Council; and
- (4) note the Partnership Group appointment of Councillor Reynolds as a substantive member of the Aberdeenshire Community Planning Board.

9. REVIEW OF THE SCHEME OF GOVERNANCE

With reference to the Minute of Meeting of the Council of 24 November 2016 (Item 7, page 655) when the new Scheme of Governance had been approved for implementation on 27 January 2017 with a requirement to review its operation in June 2018, there had been circulated a report dated 14 June 2018 by the Director of Business Services (1) explaining the review process undertaken which had commenced in November 2017, (2) detailing matters considered by the Procedures Committee over the course of the review, (3) specifying proposed amendments to the Scheme of Governance, (4) containing a recommendation reviewing the number of meetings to be scheduled for the Business Services Committee, and (5) outlining further work proposed to be undertaken by the Procedures Committee relating to the procurement approval process and on the governance and procedures relating to grants, grant applications and loans.

The Acting Head of Legal and Governance outlined the proposed changes and highlighted additional non material changes proposed which had been identified following the Procedures Committee meeting in May 2018 and advised that all proposed changes would be reported to Full Council in September 2018 for approval.

Following discussion, the Council **agreed**:-

- (1) to note the proposed amendments to the Scheme of Governance as detailed in Appendices A and B to the report;

- (2) to note that a further report would be presented to the next meeting of Full Council on 27th September 2018 seeking approval of the amendments and implementation from 28th September 2018; and
- (3) that in 2019, there would be six meetings of the Business Services Committee scheduled and that two of those meetings would only take place in the event that urgent business required to be considered.

10. CHIEF SOCIAL WORK OFFICER

There had been circulated at report dated 11 June 2018 by the Chief Executive, on the proposed interim appointment of Iain Ramsay, Partnership Manager (Health and Social Care Partnership) as the Council's Chief Social Work Officer with effect from 17 July 2018. The report explained the statutory requirement to appoint a Chief Social Work Officer and the roles and responsibilities of the post holder and outlined the proposed reporting, protocols and funding arrangements.

At this stage in the proceedings, the Provost adjourned the meeting for 10 minutes to provide a further opportunity for Members to consider the contents of the report.

The meeting reconvened and the Council heard from the Chief Executive on the detail of the proposed arrangements.

Thereafter, Councillor Stirling moved, seconded by Councillor Owen, that the Council approve the recommendations contained in the report.

As an amendment, Councillor Thomson, seconded by Councillor Petrie, moved that the Council –

- (1) note the statutory requirement for Aberdeenshire Council to appoint a Chief Social Work Officer;
- (2) agree the appointment of Iain Ramsay, Partnership Manager, as Chief Social Work Officer, on an interim basis;
- (3) agree to the virement of the monies associated with the role of Chief Social Work Officer from Education & Children's Services to the Integration Joint Board effective from 17th July 2018;
- (4) agree to delegate the formal deputising arrangements to the Chief Social Work Officer, or in his absence, for delegation arrangements to be agreed by the Chief Executive; and
- (5) instruct officers to bring forward a paper to the next meeting of Full Council with a view to making a permanent appointment to the position of Chief Social Work Officer

The members of the Council voted:-

for the motion	(39)	Councillors Agnew, Argyle, Beagrie, Berry, Bruce, M Buchan, Carr, Cox, Davidson, Dickinson, Ewenson, Fakley, Findlater, Gibb, Gifford, Hood, Howatson, Hutchison, Ingleby, Kille, Leslie, Mair, McKail, McKelvie, Mollison, Owen, Pike, Ross, Roy, Simpson, H Smith, N Smith, Stirling, Sutherland, Taylor, Walker, Wallace, Whyte and Withey.
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- for the amendment (24) Councillors Adam, Aitchison, Allan, Baillie, Bews, Blackett, C Buchan, Calder, Cassie, Duncan, Durno, Ford, Forsyth, Harper, Ingram, Kloppert, Lonchay, Petrie, Reid, Reynolds, S Smith, Topping, Thomson and Wilson.
- absent from the vote (1) Councillor A S Buchan

The **motion** was carried and the Council **agreed** –

- (1) to note the statutory requirement for Aberdeenshire Council to appoint a Chief Social Work Officer;
- (2) the appointment of Iain Ramsay, Partnership Manager, as Chief Social Work Officer;
- (3) to the virement of the monies associated with the role of Chief Social Work Officer from Education & Children's Services to the Integration Joint Board effective from 17th July 2018; and
- (4) to delegate the formal deputising arrangements to the Chief Social Work Officer, or in his absence, for delegation arrangements to be agreed by the Chief Executive.

At this point, Members of the Council paid tribute to Mr Bob Driscoll, Head of Children's Services and Chief Social Work Officer, who was retiring from his post and paid tribute to the long and valuable service he had provided to the Authority and wished him a healthy and happy retirement.

11. WRITTEN QUESTION

A written question determined by the Provost to be admissible had been received in terms of Standing Order 4.3. The question and answer thereto are listed below.

From Councillor M A Ford

- (1) To the Chief Executive - 'What are the relevant provisions in planning legislation regarding a council accepting a renewed application for a proposal that has recently been refused planning permission?'
- (A) Section 39 of the Town and Country Planning (Scotland) Act 1997 (amended in 2006) gives the Council as planning authority powers to decline to determine an application for planning permission. In particular section 39(1) contains discretionary powers for planning authorities to decline to determine repeat planning applications in any of the following circumstances:-
 - (a) in the period of two years ending with the date on which the current application is received, the Scottish Ministers have refused permission on a similar application either on call-in or on appeal and in the opinion of the Council there has not been any significant change in the development plan (so far as material to the current application) or in any other material consideration;
 - (b) in the period of two years ending with the date on which the current application is received, the Council as planning authority has refused more than one similar application and there has been no appeal to the Scottish Ministers against any of the refusals and in the opinion of the Council there has not since the most recent of the

refusals been any significant change in the development plan (so far as material to the current application) or in any other material consideration.

(c) in the period of two years ending with the date on which the current application is received the Council as planning authority have refused more than one similar application and there has been an appeal to the Scottish Ministers against any of the refusals but as at the time the current application is received the appeal has not yet been determined and in the opinion of the Council there has not, since the most recent of the refusals, been any significant change in the development plan (so far as material to the current application) or in any other material consideration.

(d) in the period of two years ending with the date on which the current application is received, an appeal under section 47(2) (where the planning authority has not given the required notice) has been made to the Scottish Ministers in respect of more than one similar application but as at the time the current application is received no such appeal has yet been determined and in the opinion of the authority there has not, since the most recent of the appeals was made, been any significant change in the development plan (so far as material to the current application) or in any other material consideration.

(e) if in the period of two years ending on the date on which the current application is received two similar applications have been made to the planning authority and the planning authority have refused one of those applications and there has been an appeal under section 47(2) in respect of the other but as at the time the current application is received the appeal has yet to be determined as has the appeal (if any) against the refusal and in the opinion of the authority there has not, since the refusal or since the appeal was made (whichever was the more recent), been any significant change in the development plan (so far as material to the current application) or in any other material consideration.

An application for planning permission shall be taken to be similar to a later application only if the development and the land to which the applications relate are in the opinion of the planning authority the same or substantially the same (section 39(2)).

It is important to note that the above powers to decline determination of a repeat planning application are discretionary. In contrast, section 39(1A) of the Act imposes a requirement on planning authorities to decline to determine a major planning application to which the pre-application consultation requirements apply where the applicant has not complied with those requirements.

12. BALLATER STATION REINSTATEMENT

With reference to the Minute of Meeting of Council of 9 March 2017 (Item 14) when the final funding strategy for the reinstatement of Ballater Station had been agreed, there was circulated a report dated 24 May 2018 by the Director of Business Services on the current programme status and project progress, approved costs and additional expenditure required to complete the works.

The Council unanimously **agreed** to suspend Standing Order 2.1.2 to allow the meeting to continue beyond 1pm.

Having heard from the Director of Business Services on the increased contribution from Historic Scotland and on the review of the project commissioned by the Chief Executive, the Council **agreed** to:-

- (1) accommodate the forecasted additional expenditure required to complete the works, as described in the report;
- (2) approve the revised funding streams, as described in the report;
- (3) welcome the review being conducted by the Chief Executive and requested a report back to Council at the earliest opportunity; and
- (4) instruct officers to ensure that all possible income streams associated with the project are utilised to their fullest extent.

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