

MINUTE
of
EAST RENFREWSHIRE COUNCIL

Minute of Meeting held at 7.00pm in the Council Chamber, Council Headquarters, Giffnock on 28 October 2015.

Provost Alastair Carmichael
Deputy Provost Betty Cunningham
Councillor Danny Devlin
Councillor Jim Fletcher (Leader)
Councillor Charlie Gilbert
Councillor Barbara Grant
Councillor Elaine Green
Councillor Kenny Hay
Councillor Alan Lafferty
Councillor Ian McAlpine

Councillor Gordon McCaskill
Councillor Stewart Miller
Councillor Mary Montague
Councillor Paul O’Kane
Councillor Tommy Reilly
Councillor Ralph Robertson
Councillor Jim Swift
Councillor Gordon Wallace
Councillor Vincent Waters

Provost Carmichael in the Chair

Attending:

Lorraine McMillan, Chief Executive; Caroline Innes, Deputy Chief Executive; Mhairi Shaw, Director of Education; Andy Cahill, Director of Environment; Julie Murray, Chief Officer – Health and Social Care Partnership; Andrew Corry, Head of Environment (Environmental Services and Roads); Margaret McCrossan, Head of Accountancy; Raymond O’Kane, Technical Services Manager; Eamonn Daly, Democratic Services Manager; and Linda Hutchison, Senior Committee Services Officer.

Apology:

Councillor Tony Buchanan.

DECLARATIONS OF INTEREST

1764. Councillor Fletcher, Councillor Lafferty and Councillor McAlpine declared a non-financial interest in respect of Item 1776 on the grounds that they were members of the East Renfrewshire Integration Joint Board

Provost Carmichael, Councillor Hay, Councillor Montague and Councillor Gilbert also declared a non-financial interest in respect of the same item on the grounds that they were members of the East Renfrewshire Culture and Leisure Trust.

MINUTE OF PREVIOUS MEETING

1765. The Council considered and approved the Minute of the meeting held on 16 September 2015 subject to Item 1714 being amended to clarify that the Director of Education and Head of Accountancy were not members of the Board of the Culture and Leisure Trust.

MINUTE OF SPECIAL MEETING

1766. The Council considered and approved the Minute of the special meeting held on 24 September 2015.

MINUTES OF MEETINGS OF COMMITTEES

1767. The Council considered and approved the Minutes of the meetings of the undernoted:-

- (a) Cabinet – 17 September 2015;
- (b) Appointments Committee – 22 September 2015;
- (c) Cabinet (Police and Fire) – 24 September 2015;
- (d) Audit and Scrutiny Committee – 24 September 2015;
- (e) Licensing Committee – 29 September 2015;
- (f) Cabinet – 1 October 2015;
- (g) Appointments Committee – 6 October 2015;
- (h) Local Review Body – 7 October 2015;
- (i) Education Committee – 8 October 2015;
- (j) Appointments Committee – 13 October 2015; and
- (k) Cabinet – 15 October 2015.

GENERAL FUND CAPITAL PROGRAMME 2015/16

1768. Under reference to the Minute of the meeting of the Cabinet of 15 October 2015 (Page 1653, Item 1761 refers), the Council considered a report by the Chief Financial Officer recommending adjustments to the 2015/16 General Fund Capital Programme in light of issues that had arisen since the programme had been approved.

In response to Councillor Robertson, the Director of Environment and Technical Services Manager clarified that work on the roof improvements to Netherlee Primary School had been delayed and remained to be reprogrammed, and that the ventilation improvements project at the school had started in October, work on which was not impacting on the operation of the school.

The Council:-

- (a) approved the movements within the programme;
- (b) noted that the shortfall of £64,000 would be managed and reported on a regular basis; and
- (c) noted that the Technical Services Manager would provide further clarification to Councillor Robertson on when the roof improvements would commence.

HOUSING CAPITAL PROGRAMME 2015/16

1769. Under reference to the Minute of the meeting of the Cabinet of 15 October 2015 (Page 1654, Item 1762 refers), the Council considered a report by the Chief Financial Officer recommending adjustments to the 2015/16 Housing Capital Programme in light of issues that had arisen since the programme had been approved.

In response to Councillor Robertson, the Director of Environment clarified that the total cost of work at the Divernia Way property was sufficient to refurbish it fully to a standard that would enable it to be brought to the market.

In response to Councillor McCaskill who asked what further action was taken to access properties to carry out rewiring work when gaining entry was problematic, the Director of Environment explained that each situation was assessed on its own merits, including in the light of the known age and condition of a property. He clarified that a balanced approach was taken, avoiding the use of powers to force entry whenever possible and unless there was considered to be a risk of not intervening in this way.

In addition, in response to questions from Councillor Swift, the Director of Environment confirmed that he was reasonably confident that the target for the estimated level of capital receipts from right-to-buy sales would be met.

The Council:-

- (a) approved the movements within the programme; and
- (b) noted that the shortfall of £157,000 would be managed and reported on a regular basis.

PROVOST ENGAGEMENTS

1770. The Council considered a report by the Deputy Chief Executive, providing details of civic engagements attended by and civil duties performed by Provost Carmichael since the last meeting.

The Council, having heard the Provost thank his Secretary and Members for their support regarding a recent event for senior citizens, noted the report.

STATEMENTS BY CONVENER

1771. Provost Carmichael intimated that no statements had been received.

STATEMENTS BY REPRESENTATIVES ON JOINT BOARDS/COMMITTEES AND COMMUNITY JUSTICE AUTHORITY

1772. Provost Carmichael intimated that the Convener for Social Work and Health wished to make a statement on the Health and Social Care Partnership Integration Joint Board.

Health and Social Care Partnership (HSCP) Integration Joint Board (IJB)

Councillor Lafferty confirmed that the IJB had taken on full delegation for social work and health care services in East Renfrewshire, commenting that its Strategic Plan clarified

priorities for the forthcoming three years, and referring to the integrated budget and governance arrangements. He also referred to the related Strategic Planning Group, work to build on the care governance arrangements set up under the Community Health and Care Partnership (CHCP), and the establishment of the Performance and Audit Committee.

Having referred to the report to be considered later in the meeting on the Council's audit and scrutiny arrangements in light of the establishment of both the IJB and Community and Leisure Trust, he stated that as Chair of the Performance and Audit Committee he would have a role overseeing performance, best value, risk management and audit. He welcomed that the internal audit service for the IJB was to be provided by the Council's Chief Auditor and her team, clarified that the Accounts Commission was responsible for appointing the external auditors, and reported that Audit Scotland would provide that function for the first year.

FIFTH REVIEW OF ELECTORAL ARRANGEMENTS - LOCAL GOVERNMENT BOUNDARY COMMISSION FOR SCOTLAND

1773. Under reference to the Minute of the special meeting of the Council of 27 May 2015 (Page 1461, Item 1552 refers), when it was agreed to reject the Boundary Commission's proposed re-design of wards; seek to maintain the status quo and reiterate the Council's opposition to councillor numbers being reduced to 18; and note the intention to seek further evidence from the Commission on the use of deprivation as a factor and the possibility of the Council pursuing a legal challenge based on the methodology used and effectiveness of the proposals, the Council considered a report by the Chief Executive seeking homologation of a decision taken to respond to consultation by the required deadline of 22 October 2015 following consultation with a Cross Party Working Group.

The report referred to the previous methodology for determining councillor numbers which would have resulted in the Council retaining the current number, commenting that, if implemented, the Commission's current proposals would result in significant and unnecessary changes to ward design, upheaval for communities and administrative costs. Having clarified that the responses of all Councils to the initial consultation had been analysed, the report referred to related discontent amongst various authorities on the application of the new methodology and reasons for this. It had been concluded that the Commission had taken a flawed and inconsistent approach resulting in less electoral representation in many deprived areas.

Reference having been made to a 12 week public consultation undertaken by the Commission and the proposals consulted upon, it was clarified that in response to a written request for further evidence supporting the use of deprivation as a factor, little evidence justifying the methodology had been provided on the basis of which the concerns raised before remained valid. It was clarified that the outcome of further research by the Commission on the role and workload of councillors to provide further evidence for including deprivation and other factors in boundary reviews would not be available in time for the current review. Reference was made to discussions within the local Cross Party Working Group and the consultation response submitted by the Chief Executive, a copy of which was provided.

In response to Councillor McCaskill, the Chief Executive confirmed that liaison was taking place with as many as possible, and an increasing number of, the 17 Councils that had objected to the Commission's methodology, that none had committed to a legal challenge thus far, but that their support would be sought if the Council opted to do so.

The Council, having heard Councillor Miller commend the letter prepared by the Chief Executive, agreed to homologate the decision made by the Chief Executive in consultation with the Cross Party Working Group to:-

- (a) respond to the consultation by the required deadline:-
 - (i) reiterating to the Local Government Boundary Commission the Council's fundamental opposition to the ward redesign proposals which were the result of the application of a flawed methodology; and
 - (ii) under the terms of Section 19(1) of the Local Government (Scotland) Act 1976, calling on the Commission to hold a local inquiry into the impact on East Renfrewshire of the Review of Electoral Arrangements; and
- (b) communicate with Scottish Ministers over the Council's concerns with the proposed methodology for the Fifth Review of Electoral arrangements.

REVISIONS TO PROCUREMENT ARRANGEMENTS FOR CAPITAL PROJECTS

1774. The Council considered a report by the Chief Executive on changes to the structure for procuring and delivering capital projects through the hub Design, Build, Finance and Maintain (DBFM) model as a result of the introduction of new European System of Accounts 2010 (ESA10) rules.

Reference was made to the Council's participation in and the operation of the West hub territory known as hubco and two projects being pursued through the hub, these being the Eastwood Health and Care Centre which was under construction and due to open in spring/early summer 2016; and Barrhead High School which was scheduled to reach financial close in the forthcoming months then proceed to construction.

Linked to the provisions of the new ESA10 regulations that came into force in September 2014 which reinforced rules for classifying DBFM projects to the private sector for national accounting purposes, Scottish Ministers had proposed a new delivery structure for all hub DBFM projects signed since 1 September 2014 which had been submitted to the Office for National Statistics for consideration. On approval, all hub participants would require to approve changes to their local Territory Partnership and Shareholder Agreements. Reasons for the changes were specified in an Appendix attached to the report.

It was clarified that the new rules applied to both of the above projects but would not impact on any other services or Design and Build Development Agreement contracts progressed through the hub. The report summarised the position on related matters, including in terms of the shareholders of hubco; the separation of the special purpose company (SPV) set up to deliver projects from the corporate hub structure; and how owners of the SPV would now include a new private sector charity (the Hub Community Foundation) the role and purpose of which were outlined. The impact on East Renfrewshire was summarised including in terms of new schemes; action required before financial close could be reached on the Barrhead High School project which it was anticipated would delay completion of this until Spring 2017 and possibly beyond; and the Heath and Care Centre project in respect of which the shareholding and subordinated debt investments required to be restructured. Further reports would be submitted when further clarification was received.

In reply to Councillor McCaskill and Councillor Swift respectively, the Chief Officer (HSCP) advised that it was still anticipated that the Health and Care Centre would be completed around April 2016 with services moving there around June; and the Head of Accountancy commented on the Council's sub-debt investment in the project, related clarification that was still required, and why Public Works Loan Board funds could not be used for revenue funded projects. Also in response to Councillor Swift, Councillor Fletcher outlined where savings could be realised through the Scottish Futures Trust model such as by building more schools to a standard model, adding that reference to such savings was included in a related annual report and that the conclusion on this was supported by the London School of Economics and others.

The Council agreed:-

- (a) that the required amendments to the hub West Scotland Territory Partnership Agreement and Shareholders Agreement be approved; and
- (b) to note the potential impact on the Council's ongoing Eastwood Health and Care Centre and Barrhead High School projects and that further reports would be submitted for consideration once the position had been clarified.

GENERAL FUND CAPITAL PROGRAMME - CONTRACT INFLATION

1775. The Council considered a report by the Director of Environment explaining that increases in construction inflation had accelerated to a much greater degree than predicted by the Building Cost Information Service of the Royal Institute of Chartered Surveyors, and seeking approval to proceed to tender for the proposed Faith Schools Joint Campus project.

The report commented that the said inflation rate was predicted to rise further in 2016 and 2017, and on the significant impact on major Capital Programme building projects. Work was underway to recalculate potential costs, it having been concluded that it was likely that the financial provision allocated to at least some was insufficient. The Council was due to review its Capital Programme in December 2015 when these matters would be addressed. In the interim, given a pressing need for both additional (Catholic) denominational primary places locally by August 2017 and pre-5 provision to meet local demand and that linked to increased entitlement of flexibility for 3 and 4 year olds, it was proposed that the Faith School Joint Campus project proceed to tender by the end of October 2015.

In response to Councillor McCaskill, the Technical Services Manager clarified that at the mid-construction phase of the above project in 2016, and subject to verification, construction inflation was forecast to be around 22% over a 3 year period equating to just over 7% per annum, and that this would impact on the Barrhead High School project for which the current tender had lapsed. In response to Councillor Swift who referred to unemployment levels in Europe and a drop in the price of raw materials, the Technical Services Manager undertook to confirm to him the basis for the forecasted inflation rate.

Councillor McApline referred to the pressing need for the Joint Campus and pre-5 provision, commenting that control of the inflation rate referred to was not in the Council's hands.

The Council:-

- (a) noted the sharp increase in construction inflation and the potential impact on the Capital Programme; and
- (b) agreed that tenders be sought for the Faith Schools Joint Campus project.

SCRUTINY AND PERFORMANCE MONITORING OF PARTNERSHIP ORGANISATIONS

1776. Under reference to the Minute of the meeting of the Audit and Scrutiny Committee of 20 August (Page 1567, Item 1674 refers), when it was agreed to seek clarification on the committee's locus in various matters following the establishment of the Culture and Leisure Trust (ERCL) and Health and Social Care Partnership (HSCP), the Council considered a report by the Deputy Chief Executive on the arrangements for operational and financial performance monitoring and risk management in both, and operations of those bodies that may still be the subject of scrutiny by the Council's Audit and Scrutiny Committee.

The report made reference to the establishment of and services provided through the ERCL and HSCP and related implications and consequences, clarifying that monitoring and performance responsibilities, both operational and financial, had also transferred to the new bodies. Reference was made to the establishment of a Finance, Audit and Risk Committee by the ERCL, its remit and reporting arrangements, following which clarification was provided on the extent to which monitoring of quality and standards of service, financial, equality and complaints information would be reported to and monitored by the Community Planning Partnership (CPP). Related obligations and responsibilities were summarised. It was also explained that the HSCP Integration Joint Board (IJB) had established a Performance and Audit Committee with extensive terms of reference covering operational, financial, risk management and governance issues some of which were specified. The position on related issues was outlined.

It was explained that the Council's scrutiny committee still had a role in some key areas. Regarding this, reference was made to reports to be made by both bodies to the Council on their contribution to the delivery of outcomes in the CPP's Single Outcome Agreement (SOA) and the Council's Outcome Delivery Plan (ODP) in six monthly performance monitoring reports to the Cabinet which could be subject to call-in, and the extent to which the Committee could compel officers to attend. Examples were provided of the limited number of areas in respect of which it was likely that the Committee could perform a scrutiny function in terms of risk management.

Having commented that this clarification had been requested some time ago, Councillor Wallace referred to the extent of the financial resources over which the Council's ability to scrutinise had been lost, and the fact that Trust officers could not be compelled to attend the Council's Audit and Scrutiny Committee because the Trust was a separate legal entity from the Council. Having reiterated a comment made by the Head of Accountancy at the Audit and Scrutiny Committee meeting that an absolute guarantee could never be provided that the situations that had arisen on payments to providers would not arise again, he cited various conclusions and recommendations within the Internal Audit report on the issue, expressing concern regarding the lack of authority the Committee he chaired had to call officers to account in future. On behalf of residents, he asked Councillor Lafferty to comment on his intentions, in his new role as chair of the IJB's Performance and Audit Committee, to advise the Board immediately if such an issue arose in future.

Councillor Lafferty referred to the full extent to which funds referred to in the Internal Audit report had been recovered, the role of the new Chief Financial Officer, the associated governance arrangements, and his confidence in the mechanisms put in place to manage the HSCP and monitor issues. The Chief Officer HSCP confirmed that the action plan prepared in response to the Internal Audit report in question was to be submitted to the IJB's Performance and Audit Committee in December, clarifying that many actions had been or were being progressed.

In reply to Councillor McCaskill who commented on the thoroughness of the audit work done on payments to providers, but added that service providers could not be compelled by the Council to audit their practices, the Chief Officer HSCP explained that many meetings and discussions with providers had taken place on the reconciliations, that there was no suggestion of fraud, and that she was confident that good systems were being put in place moving forward. The Head of Accountancy referred to delays on the part of the Council in terms of reconciliations, adding that service providers had contacted the authority about this.

Councillor Grant outlined her concerns adding that she took her scrutiny responsibilities very seriously, following which Councillor O’Kane added that he regarded his responsibilities in the same way. Regarding the ERCL, he highlighted that the Director of Education would be required to attend meetings of the Council’s Audit and Scrutiny Committee if considered necessary.

In reply to Councillor Swift who questioned the appointment of the Vice-Chair of the IJB as Chair of its Performance and Audit Committee which he considered a conflict of interest, Councillor Lafferty said he disagreed. He acknowledged the concerns expressed regarding the loss of a useful role by the Audit and Scrutiny Committee, referred to similar arrangements established elsewhere in Scotland, and highlighted the obligation to adhere to legislation pertaining to the HSCP. The Democratic Services Manager clarified that no impediment existed to the appointment in question, that the IJB had been set up as prescribed, and that the full Council had approved the proposals regarding the IJB.

Councillor Robertson suggested that the arrangements established were flawed because there was no Opposition member on the IJB, such as the Chair of the Council’s Audit and Scrutiny Committee. Councillor Wallace highlighted that the IJB proposals had been considered by the Council before it had been advised what the audit and scrutiny arrangements would be, adding that Councillor Robertson was right to be concerned in view of the issues that had emerged over payments to providers in the last 6 months and that he thought residents would want assurances on the safeguarding of funds. In reply, Councillor O’Kane commented that all elected Members wished to secure Best Value for local taxpayers and referred to issues that had not transferred to the Trust, such as responsibility for buildings. Councillor Wallace clarified that he was not challenging the commitment of elected Members.

The Council noted that the establishment of the ERCL and HSCP had removed certain scrutiny and performance monitoring responsibilities from the Council’s Audit and Scrutiny Committee, but that it would still have a role in a number of areas.

THE EAST RENFREWSHIRE COUNCIL (NEWTON AVENUE, BARRHEAD)(ONE-WAY) ORDER 2015

1777. The Council considered a report by the Director of Environment seeking approval to make and confirm The East Renfrewshire Council (Newton Avenue, Barrhead) (One Way) Order 2015 which would have the effect of making Newton Avenue one-way with the direction of traffic limited to north-east and then south-east, from the extended eastern kerbline of Larchwood Terrace to the extended northern kerbline of Oakbank Drive.

The report commented on the alignment of the road, demand for parking, vehicular and pedestrian conflict, and related concerns about the safe flow of vehicles along the section of the avenue in question. Reference was also made to related consultation in respect of which it was clarified that one formal objection had not been maintained when further

explanation was provided. It was explained that approval of the proposal would address road safety issues by promoting safe travel and contributing to a reduction in potential accident casualties in line with the Council's Local Transport Strategy.

The Council agreed to approve the making and confirmation of The East Renfrewshire Council (Newton Avenue, Barrhead) (One Way) Order 2015 and delegated to the Director of Environment authority to implement the Order in accordance with the associated statutory procedures.

THE EAST RENFREWSHIRE COUNCIL (BARRHEAD AREA)(ON-STREET)(WAITING AND LOADING) ORDER 2015

1778. The Council considered a report by the Director of Environment seeking approval to make and confirm The East Renfrewshire Council (Barrhead Area)(On-Street)(Waiting and Loading) Order 2015.

Having explained that the Council had introduced decriminalised parking enforcement in April 2013 and become the parking authority for East Renfrewshire, the report made reference to a review of the current restrictions to assess demands on the transport network, increased volumes of vehicular and pedestrian traffic and associated road safety issues as a pre-cursor to formal consultation on the new Order. Reference was made to consultation undertaken prior to the making of the proposed Order, related legislation and issues, and the outcome regarding which it was clarified that none of the maintained objections required the Council to hold a Hearing by an independent Reporter. It was clarified that the financial implications, which were summarised, would be met from the Parking Account.

In reply to Councillor Devlin who expressed concern regarding the proposals, the Director of Environment and Democratic Services Manager confirmed various elements of the proposed restrictions, how they differed from existing ones and how no change was proposed in respect of others, reiterating that related consultation had taken place. Councillor Montague referred to parallels between some of the proposed restrictions and some already in place in Thornliebank which worked well, following which Councillor Cunningham commented on the impact of some restrictions on shop deliveries. Councillor Miller and Councillor Swift commented on the potential impact of restrictions on local businesses.

The Council approved the making and confirmation of The East Renfrewshire Council (Barrhead)(On-Street)(Waiting and Loading) Order 2015 and delegated authority to the Director of Environment to implement the Order in accordance with the associated statutory procedures.

PROVOST

