

ABERDEENSHIRE COUNCIL**WOODHILL HOUSE, ABERDEEN, 26 OCTOBER, 2016**

Present: Councillors D R Aitchison, Amanda J Allan, Anne M Allan, P J Argyle, P W Bellarby, A A Bews, G Blackett, C C Buchan, G W Carr, R A Cassie, R J Christie, G J Clark, L Clark, R Cowling, J B Cox, A J C Cullinane, I Davidson, A C Duncan, A Evison, K A Farquhar, M A Findlater, M A Ford, J N Gifford, A S Grant, A Hendry, F C P Hood, M F Ingleby, J Ingram, P K Johnston, J J Latham, S M Lonchay, C R McKail, F McRae, R J Merson, I J Mollison, C H Nelson, G L Owen, G E Petrie, L Pirie, S W Pratt, E A Robertson, W A C Shand, N J Smith, S W Smith, D Stewart, M M Stewart, B H Stuart, I S Tait, R G Thomson, B A Topping, H W Vernal and I M Walker.

Apologies: Councillors W A Agnew, A S Buchan, E H Chapman, K L Clark, J B Dick, A Gardiner, W Howatson, T Malone, A K Norrie, P Oddie, H Partridge, M J Roy, M Watt and J Webster.

Officers: Chief Executive, Director of Business Services, Director of Education and Children's Services, Director of Infrastructure Services, Chief Officer (Health and Social Care Partnership), Head of Finance, Head of Legal and Governance, Head of Roads, Landscape Services and Waste Management, Energy from Waste Project Director.

CHAIR

Councillor H W Vernal, Provost of the Council, presided.

1. DECLARATION OF MEMBERS' INTERESTS

The Provost asked members if they had any interests to declare in terms of the Councillors' Code of Conduct. Interests were expressed as follows:-

Item 3 Councillor Johnston declared an interest as a Director of Community Resources Network Scotland. He did not consider the interest to be clear and substantial and remained in the room during discussion of the item.

Item 4 Councillors Carr and Gifford declared an interest and advised that they would leave the room during discussion of the item.

Item 5 Councillors C C Buchan, Cassie, Findlater and Topping declared an interest as members of the Banff and Buchan Area Committee and advised that they would leave the room during discussion of the item.

Councillor Duncan declared a financial interest which he considered to be clear and substantial and advised that he would leave the room during discussion of the item.

Councillors Cox and Tait did not consider that they had an interest to declare but advised that they would leave the room 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 Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, to exclude the public from the meeting during consideration of the items specified below so as to avoid disclosure of exempt information of the classes described in the undernoted paragraphs of Part 1 of Schedule 7A of the Act..

Item No	Paragraph No of Schedule 7A
5	1, 3 and 12
6	8

3. MANAGING RESIDUAL WASTE - ENERGY FROM WASTE

With reference to the Minute of Meeting of 30 June, 2016 (Item 7, Page 9), a report by the Director of Infrastructure Services had been circulated providing an update on the progress of the Joint Authority Energy from Waste (EfW) Project between Aberdeen City, Aberdeenshire and the Moray Councils, and seeking approval to enter into a second stage Inter-Authority Agreement (IAA2) in relation to undertaking a procurement exercise. The report stated that the Waste (Scotland) Regulations 2012 placed a ban on organic waste going to landfill post 2020 and, as such, the Council would need to find an alternative waste treatment facility for its waste after this date. The Council on 30 June, 2016, had agreed that future management of residual waste required to be based upon a “recovery” option, at least in the medium term.

The report advised that, of the practical solutions available, local and regional interests would best be served by collaboration on a joint EfW facility, to be built in Aberdeen. Proposals were now sufficiently advanced that the project was well defined in terms of Council collaboration and technical solution and it was now at the stage of undertaking a procurement exercise to seek a contractor. The agreement to undertake a procurement exercise was not agreement to award a contract, and further approval would be required which would be set out in a further formal, binding inter-authority agreement (IAA3).

The report detailed the progress to date, set out the project outline and commented on the governance of the project, management of risk and the financial cost model.

The Provost advised that a request to address the Council had been received from the Secretary of Torry Community Council objecting to the proposal on behalf of Cove and Altens, Kincorth and Leggart, Nigg and Torry Community Councils, and the Council agreed to hear the deputation.

Mr D Fryer and Mr R Clark addressed the Council in objecting to the proposal and showed a video illustrating the likely emissions from the proposed incinerator. This showed that the emissions were not local and would travel well beyond the Aberdeen City boundaries to the west and north. These emissions would include harmful gases and put at risk clean air. This would affect the quality of life in the area and the incinerator was situated in the vicinity of a primary school. Small, invisible and odourless gases were a product of incineration. There were alternatives which had not been pursued. No ordinary waste should be burned and waste should be recycled. The very people who were affected by fuel poverty did not want this incinerator. Questions had been asked on numerous occasions about the capital expenditure on the project which had not been answered. There had been no viability study of the district heating scheme. This was a huge scheme which had huge implications for the three Councils and needed very detailed consideration.

Following questions from members on the financial risk to the Councils and the viability of the district heating scheme, Mr Fryer and Mr Clark withdrew to the public benches.

During a full discussion, members asked a number of questions about various aspects of the proposal including allocation of financial costs between the three Councils, whether the absence of a district heating scheme would become a deal breaker, whether the Council would continue to work towards its recycling targets, whether low energy waste would be topped up with commercial waste, what contingency plans the Council had if the scheme did not go forward, the proximity of the incinerator to a primary school, what safeguards were in place in relation to emissions from the incinerator and whether approving the report exposed the Council to unlimited liability.

Thereafter, Councillor Merson, seconded by Councillor Argyle, moved that the Council:-

- (1) approve the terms of the Stage 2 Inter Authority Agreement (IAA) included at Appendix 1 of the report and authorise the Head of Legal and Governance to enter into this Agreement on behalf of the Council,
- (2) approve:-
 - (a) the continued role of the Head of Finance as the Council's Appointed Representative on the Project Board ("Council's Representative"), and
 - (b) in the absence of the Head of Finance, that the Head of Roads, Landscape Services and Waste Management acts as the Council's Representative,
- (3) approve the continued role of representatives on the Project Team and the Joint Members Energy from Waste Engagement Group as detailed in paragraph 2.9 of the report,
- (4) approve the Council's contribution of £2,457,000 for Stage 2 of the IAA to be included in the Council's Capital Plan,
- (5) acknowledge the business case and the indicative project value and that the project was now considered through the Council's Gateway Review Process, and
- (6) note that a similar paper had been reported to Aberdeen City Council on 24 October, 2016, and the Moray Council on 25 October, 2016.

As an amendment, Councillor Johnston, seconded by Councillor Ford, moved that the Council:-

- (1) notes the report and the proposed agreement,
- (2) resolves not to adopt this agreement or to proceed to the Inter Authority Agreement (IAA) stage 2 due to unacceptable levels of financial and environmental risk,
- (3) resolves to bring to the earliest possible meeting, a report on steps to minimise the materials to incineration as part of any interim measure and plan to phase out the landfill and incineration of BMW in line with zero waste targets,
- (4) notes the existing and future overcapacity of incineration facilities for refuse derived fuel in Scotland, UK and Europe, and
- (5) seeks agreement with Aberdeen City and Moray to maximise the recovery of valuable material from Biodegradable Municipal Waste (BMW) by use of Energy from Waste (EfW) through Anaerobic Digestion (AD) and through the use of composting and bio digestion to achieve zero waste objectives for biodegradable materials.

As a second amendment, Councillor B H Stuart, seconded by Councillor Cox, moved that the recommendations be amended as follows:-

- (1) delete paragraph 1.1, and replace it with the following:
- (2) defer this report for further consideration consequent to the following actions:
 - (a) instructs the Chief Executive to write to the Chief Executive of SEPA, the Chief Executive of Grampian NHS and the Chief Executive Health Protection Scotland seeking their professional opinion on the Energy from Waste Plant with regard to health and/or environmental issues and for a copy of the Chief Executive's letter and the responses received to be presented in a further report to Full Council,
 - (b) awaits the preparation of a business case, and confirmation of the funding to install it, for a district heating scheme or acceptable heat use to be developed that will be sufficient in capacity to fulfil the thermal energy use requirements necessary to obtain a SEPA license to operate the plant,
 - (c) instructs officers to prepare a draft clause for any future agreement or arrangement entered into by the Council relating to any commitment in respect of any Guaranteed Minimum Tonnage for further consideration that does not conflict with the principles of the Council's established zero waste policy, and
 - (d) agrees to fund its share of costs at 48% up to January 2017 when an OJEU notice should be ready for publication.

On a vote between the two amendments, the members of the Council voted:-

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| for Cllr Johnston's amendment | (7) | Councillors C C Buchan, Ford, Johnston, McRae, D Stewart, Tait and Topping. |
| for Cllr Stuart's amendment | (13) | Councillors Bellarby, Cassie, G J Clark, L Clark, Cox, Duncan, Grant, Hendry, Ingram, Merson, Shand, B H Stuart and Vernal. |

declined to vote (32) Councillors Aitchison, A J Allan, A M Allan, Argyle, Bews, Blackett, Carr, Christie, Cowling, Cullinane, Davidson, Evison, Farquhar, Findlater, Gifford, Hood, Ingleby, Latham, Lonchay, McKail, Mollison, Nelson, Owen, Petrie, Pirie, Pratt, Robertson, N J Smith, S W Smith, M M Stewart, Thomson and Walker.

Councillor Stuart's **amendment was carried**.

On a vote between the motion and Councillor Stuart's amendment, the members of the Council voted:-

for the motion (41) Councillors Aitchison, A J Allan, A M Allan, Argyle, Bellarby, Bews, Blackett, Carr, Cassie, Christie, Cowling, Cullinane, Duncan, Evison, Farquhar, Findlater, Gifford, Grant, Hendry, Hood, Ingleby, Ingram, Latham, Lonchay, McKail, McRae, Merson, Mollison, Nelson, Owen, Petrie, Pirie, Pratt, Robertson, Shand, N J Smith, S W Smith, M M Stewart, Thomson, Vernal and Walker.

for the amendment (10) Councillors C C Buchan, G J Clark, L Clark, Cox, Ford, Johnston, D Stewart, B H Stuart, Tait and Topping.

declined to vote (1) Councillor Davidson.

The **motion was carried** and the Council **agreed**:-

- (1) to approve the terms of the Stage 2 Inter Authority Agreement (IAA) included at Appendix 1 of the report and authorise the Head of Legal and Governance to enter into this Agreement on behalf of the Council,
- (2) to approve:-
 - (a) the continued role of the Head of Finance as the Council's Appointed Representative on the Project Board ("Council's Representative"), and
 - (b) in the absence of the Head of Finance, that the Head of Roads, Landscape Services and Waste Management acts as the Council's Representative,
- (3) to approve the continued role of representatives on the Project Team and the Joint Members Energy from Waste Engagement Group as detailed in paragraph 2.9 of the report,
- (4) to approve the Council's contribution of £2,457,000 for Stage 2 of the IAA to be included in the Council's Capital Plan,
- (5) to acknowledge the business case and the indicative project value and that the project was now considered through the Council's Gateway Review Process, and
- (6) to note that a similar paper had been reported to Aberdeen City Council on 24 October, 2016, and the Moray Council on 25 October, 2016.

4. MID DEESIDE COMMUNITY COUNCIL

With reference to the Minute of Meeting of the Marr Area Committee of 27 September, 2016 (Item 4), a report dated 4 October, 2016, by the Director of Business Services had been circulated requesting the Council to consider whether to approve the decision of the Marr Area Committee made on 27 September, 2016, to dissolve Mid Deeside Community Council on the grounds of insufficiency of members. The report stated that Mid Deeside Community Council had an insufficiency of members and had been given two opportunities to recruit new members with support from the Council.

The Provost advised that a request to address the Council had been received from the Chair of Mid Deeside Community Council before it deliberates the proposed dissolution, and the Council agreed to hear the deputation.

Mr K Bennett, Chair of Mid Deeside Community Council, addressed the Council in objecting to the proposed dissolution and stated that the effect of removing a Community Council from Schedule 1 of the Community Council Scheme of Establishment would be to change the Scheme of Establishment, and this could only be done by means of a process which included a period of public notice. He advised that, since the announcement in the press that the Community Council was proposed to be dissolved, three more members of the public had volunteered to join and had been co-opted onto the Community Council, thus bringing the membership up to 11. He also stated that there was a problem if a number of members all resigned at the same time and there was an option to apply to the Council for their constitution to be changed so that their minimum membership could be reduced. Mid Deeside Community Council had applied to the Council for a reduction in their membership several months ago and it had not been progressed.

Following questions from members about whether a by-election was more appropriate than co-option, the number of members who could be co-opted, when the numbers on the Community Council had dropped to 8, whether a reduced number of members would be a fair representation from the community, and the status and attendance record of the current members of the Community Council, Mr Bennett withdrew to the public benches.

Councillor Argyle, seconded by Councillor Blackett, moved that the Council approve the decision of Marr Area Committee to dissolve Mid Deeside Community Council and that the Council thereafter work with the community in a very proactive way in order to bring about a situation where fresh elections could be held as soon as practicably possible, ideally within six months.

As an amendment, Councillor Tait, seconded by Councillor Johnston, moved that the Council leave Mid Deeside Community Council as it is and that officers bring forward a report about the issue of minimum membership numbers as soon as possible.

The members of the Council voted:-

for the motion	(42)	Councillors Aitchison, A J Allan, A M Allan, Argyle, Bellarby, Bews, Blackett, C C Buchan, Cassie, Christie, G J Clark, L Clark, Cowling, Cox, Cullinane, Davidson, Evison, Farquhar, Ford, Grant, Hendry, Hood, Ingleby, Ingram, Latham, McKail, McRae, Merson, Mollison, Nelson, Owen, Petrie, Pirie, Pratt, Robertson, Shand, N J Smith, S W Smith, M M Stewart, Thomson, Topping and Vernal.
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for the amendment	(2)	Councillors Johnston and Tait.
declined to vote	(2)	Councillors D Stewart and Walker.
absent from the vote	(6)	Councillors Carr, Duncan, Findlater, Gifford, Lonchay and B H Stuart.

The **motion was carried** and the Council **agreed** to approve the decision of Marr Area Committee to dissolve Mid Deeside Community Council and that the Council thereafter work with the community in a very proactive way in order to bring about a situation where fresh elections could be held as soon as practicably possible, ideally within six months.

Councillor Tait requested that his dissent be recorded.

5. BEECHWOOD PLANNING APPLICATION

With reference to the Minute of Meeting of the Banff and Buchan Area Committee of 6 September, 2016 (Item 9A), a joint report dated 17 October, 2016, by the Directors of Infrastructure Services and Business Services had been circulated referring to the Area Committee's decision on planning application APP/2013/2779 for full planning permission for the erection of 1 wind turbine (hub height 32 metres, total height 45.5 metres), siting of an equipment cabinet and formation of a vehicular access at Beechwood, Burnend, Forglen, Turriff. The report detailed the circumstances which had led officers to the view that there was a new material consideration requiring the Area Committee's decision to be reconsidered.

After a full discussion, the Council **agreed**:-

- (1) to note that planning application APP/2013/2779 had been considered by the Banff and Buchan Area Committee on 6 September, 2016, with a decision to approve,
- (2) that there was a new material planning consideration which required that the planning application be reconsidered,
- (3) that the decision of the Banff and Buchan Area Committee on 6 September, 2016, could not be implemented due to the new material planning consideration, and, accordingly, that the application should be reconsidered at a special meeting of the Infrastructure Services Committee excluding any councillors who had already been involved in the decision, and
- (4) that the Council had considered the ethical standards issues arising out of the report and were satisfied that they were being taken care of elsewhere.

6. MANAGING RESIDUAL WASTE - ENERGY FROM WASTE - APPENDIX 2 BUSINESS CASE

This paper was considered as part of the discussion of Item 3 above.