

## ABERDEENSHIRE COUNCIL

WOODHILL HOUSE, ABERDEEN, 18 JANUARY, 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, C C Buchan, M A Buchan, S W Calder, G W Carr, R A Cassie, J B Cox, I Davidson, S A Dickinson, E Durno, A E M Evison, 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, A J Hassan, F C P Hood, W Howatson, J D Hutchison, M F Ingleby, J Ingram, P K Johnston, A E Kahanov-Kloppert, A P Kille, J J Latham, D-P L G Lonchay, D A E Mair, C R McKail, I J Mollison, G L Owen, G E Petrie, C R Pike, G Reid, G D Reynolds, D G Robertson, 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, B A Topping, A A Wallace, J M Whyte, L G L Wilson and R S Withey.

**Apologies:** Councillors A S Buchan, A C Duncan, S A A Leslie, A N McKelvie, H Partridge, R G Thomson and I M Walker.

**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), Area Manager (Kincardine and Mearns), Head of Finance, Head of Lifelong Learning and Leisure, and Acting Head of Legal and Governance.

### CHAIR

Councillor W Howatson, Provost of the Council, presided.

### ANNOUNCEMENTS

The Provost advised that a number of people from the North-East of Scotland had been honoured in the New Year's Honours List and that he had written to Robert Edwards of Inverurie (OBE), Dr Ian Davies of Stonehaven (MBE), Hamish Dean of Huntly (BEM), Angus McIntosh of Strathdon (MBE), Patrick Gall of Turriff (BEM), Matthew Fyfe of Balmedie (BEM) and John Maclean of Peterhead (BEM), congratulating them on their recognition.

The Provost then expressed sadness, on behalf of the Council, at the recent deaths of former Councillors George Swapp, OBE (Stonehaven and Mearns North Ward), and Jim Anderson (Logie Buchan Ward), and of Sir Angus Farquharson, OBE, KCRVO, the former Lord Lieutenant of Aberdeenshire.

### 1. DECLARATION OF MEMBERS' INTERESTS

No interests were declared by any member, in terms of the Councillors' Code of Conduct.

### 2A. PUBLIC SECTOR EQUALITY DUTY

In taking decisions on the undernoted 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, and
- (2) to consider, where an equality impact assessment has been provided, its contents and take those into consideration when reaching a decision.

## **2B. EXEMPT INFORMATION**

The Council **agreed**, in terms of Sections 50A (4) and (5) of the Local Government (Scotland) Act 1973, to exclude the public from the meeting during consideration of Item 7 below so as to avoid disclosure of exempt information of the classes described in paragraphs 8 and 10 of Part 1 of Schedule 7A to the Act.

### **3. MINUTE OF MEETING OF ABERDEENSHIRE COUNCIL OF 23 NOVEMBER, 2017**

There was circulated and **approved** as a correct record the Minute of Meeting of Aberdeenshire Council of 23 November, 2017.

### **4. PLANNING ENFORCEMENT GYPSY/TRAVELLER SITE AT NORTH ESK, ST CYRUS – ACTION PLAN**

With reference to the Minute of Meeting of Aberdeenshire Council of 23 November, 2017 (Item 7), when (1) members had noted the decisions of Scottish Ministers to refuse planning permission for the retrospective change of use of agricultural land to form a gypsy/traveller site at North Esk, St Cyrus and (2) officers had been instructed to report to the next meeting of Aberdeenshire Council with a detailed action plan for complying with those decisions, there was circulated a report dated 22 December, 2017, by the Director of Infrastructure Services, which (1) outlined steps which required to be taken in order to ensure compliance with the Planning Enforcement Notice by 31 July, 2018 and (2) contained an action plan aimed at ensuring compliance with the Notice, together with a communications strategy to inform occupants of the site and the local settled community of prevailing issues.

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 Mhairi Craig (Shelter Scotland), both of whom spoke in support of the application for the use of the site by gypsies/travellers. Mr Seath and Ms Craig then withdrew to the public benches.

Having heard the Director of Infrastructure Services and the Chief Executive speak to the report, members discussed the matter at length, highlighting a range of considerations, including potential human rights issues, cost factors, the timing of any enforcement action to be undertaken by Council officers, efforts to identify a suitable alternative site within the area for those who might be displaced, legal obligations upon the Council to progress the Enforcement Notice, potential issues of homelessness and the need for all elected members to seek to identify prospective sites for gypsies/travellers within their own wards.

Thereafter, the Council:-

- (1) **instructed** officers (a) to continue to liaise closely with the planning agent and the residents of North Esk, St Cyrus, incorporating early work seeking to identify a suitable alternative site for gypsies/travellers, and (b) to implement the action plan attached to the report, in order to ensure compliance with the Planning Enforcement Notice issued as a result of the decision of Scottish Ministers,
- (2) **noted and approved** the process map and action plan attached as appendices to the report, including the associated risks and financial implications identified,

- (3) **approved** the communications strategy appended to the report,
- (4) **instructed** officers to submit periodic update reports to the Gypsy/Traveller Sub-Committee, the Infrastructure Services Committee, and Kincardine and Mearns Area Committee, as appropriate, and
- (5) **instructed** officers to submit an overall update report on the matter to the meeting of Aberdeenshire Council on 28 June, 2018.

## **5. LEGISLATIVE CHANGE TO ABERDEENSHIRE INTEGRATION JOINT BOARD INTEGRATION SCHEME**

With reference to the Minute of Meeting of Aberdeenshire Council of 12 March, 2015 (Item 7, Page 1540), a Health and Social Care Integration Scheme for Aberdeenshire had been recommended for Scottish Government approval, there was circulated a report by the Director of Business Services, which (1) explained the background to the establishment of an Integration Scheme, setting out local governance arrangements for adult community health and social care services, (2) advised that, as a consequence of the provisions of the Carers (Scotland) Act 2016, the Aberdeenshire Integration Scheme required to be amended and thereafter submitted to the Scottish Government and (3) detailed the specific adjustments which required to be made to the existing Scheme and the consequent necessary amendments to the Council's Scheme of Governance.

Thereafter, the Council, subject to corresponding approval by NHS Grampian Health Board:-

- (1) **approved** the amendment to the Health and Social Care Integration Scheme for Aberdeenshire, as detailed within an appendix to the report,
- (2) **agreed** to submit the amended Scheme to the Scottish Government for approval,
- (3) **agreed** that any subsequent minor amendments to the Scheme, as proposed by the Scottish Government after consideration, should be approved by the Chief Officer of the Aberdeenshire Health and Social Care Partnership, following consultation with the Chair and Vice-Chair of the Integration Joint Board, and that further approval of the Scheme by the Board and Aberdeenshire Council would be required only if additional changes were of a significant nature, and
- (4) **agreed** to suspend Standing Orders 7.2.1 and 9.1, in order to allow an amendment to the Scheme of Governance to take effect from 1 April, 2018, as specified within an appendix to the report.

## **6. LICENSING (SCOTLAND) ACT 2005 – REVIEW OF LOCAL LICENSING FORUMS**

Consideration was given to a circulated report dated 12 December, 2017, by the Director of Business Services, which (1) explained that the Council currently had three established divisional licensing boards within Aberdeenshire, with the responsibility for setting licensing policy, and administering and issuing licences, together with three corresponding licensing forums designed to oversee the implementation of the Licensing (Scotland) Act 2005 in the relevant area and to ensure that the corresponding board exercised its functions appropriately, (2) advised that, in complying with legislative requirements, the Council was entitled to continue with the three existing divisional forums or to replace them with one new forum for the whole Aberdeenshire area, (3) provided information on the necessary composition of a forum and its statutory role and (4) suggested that a single Aberdeenshire-wide licensing forum should be established, with effect from 1 April, 2018, with relevant representation,

training arrangements and constitutional adjustments, all as detailed within appendices to the report.

After hearing the Director of Business Services speak to his report, the Council:-

- (1) **agreed** to establish a single new licensing forum for the Aberdeenshire area, with effect from 1 April, 2018,
- (2) **agreed** that the membership of the new forum should be set at a maximum of 21 members, comprising a representative of the Chief Constable of Police Scotland, a Licensing Standards officer from Aberdeenshire Council and a representative of Grampian Health Board, together with the successful applicants for the remaining vacant places from across Aberdeenshire composed of, wherever possible, premises licenceholders, personal licenceholders, persons having functions relating to health, education or social work, young people, and Aberdeenshire residents,
- (3) **agreed** to delegate authority to determine any initial applications submitted for membership of the forum to the Director of Business Services, following consultation with the Chair and Vice-Chair of the Business Services Committee and the principal opposition spokesperson, with the new forum thereafter to appoint its own members, and
- (4) **approved** the terms of the revised constitution for the new Aberdeenshire Licensing Forum, as contained within the report, and **noted** the content of the application form for membership.

#### **6A. ABERDEENSHIRE CULTURE AND SPORT TRUST - UPDATE**

With reference to the Minute of Meeting of Aberdeenshire Council of 23 November, 2017 (Item 15), when consideration had been given to a report on the business case for the delivery of culture and sports services through a company limited by guarantee, with Aberdeenshire Council as its sole member and having charitable status, based on the statutory and regulatory framework in place at the time, and which advised that, if the forecast net financial benefit to the Council changed by more than £100,000, a further report would require to be submitted to a meeting of the Council, there was circulated a report dated 10 January, 2018, by the Director of Education and Children's Services, which (1) explained the background to consideration of the creation of Aberdeenshire Culture and Sport Trust, (2) advised that the Cabinet Secretary for Finance and Constitution had subsequently announced that he would be making no changes to the legal framework for non-domestic rates relief for Scottish charities but would act to remove the financial benefits to local authorities of developing new arm's length external organisations (ALEOs) and (3) explained that, as a consequence, the VAT benefit arising from the creation of a trust had been removed from Councils.

Having heard the Director of Education and Children's Services speak to her report, members thereafter:-

- (1) **noted** that the forecast net financial benefit of the creation of an Aberdeenshire Culture and Sport Trust had changed by more than £100,000, compared to the position set out to members at the meeting of Aberdeenshire Council on 23 November, 2017,
- (2) **agreed** therefore to take no further action in respect of the creation of an Aberdeenshire Culture and Sport Trust, and
- (3) **noted** the intention of officers, as specified within the report, to bring forward a report on a future date, with further information on the potential establishment of a Culture and Sport Business Unit within Aberdeenshire Council.

## 7. INVERURIE COMMUNITY CAMPUS – GATEWAY 3 AND FINANCIAL CLOSE

With reference to the Minutes of Meetings of (1) the Policy and Resources Committee of (a) 5 March, 2015 (Item 26) and (b) 17 November, 2016 (Item 30), when approval had been given to the updated project scope, financial structure and profile for the delivery of a replacement Inverurie Community Campus and officers had been instructed to collaborate with the Scottish Government via the Scottish Futures Trust and Hub North Scotland to determine the funding levels available and to deliver the project, with a report back in due course and (2) the Education and Children's Services Committee of (a) 23 March, 2017 (Item 10), when approval had been given to the design of the Campus and (b) 14 June, 2017 (Item 13), when it had been agreed to relocate St Andrews School within the new Campus, there was circulated a report dated 28 September, 2017, by the Director of Education and Children's Services and the Director of Business Services, which (1) explained the background to the construction of a replacement Inverurie Community Campus, (2) detailed the timeline for the various stages of the project, together with the specification for the premises and the financial implications associated with each aspect of the venture and (3) highlighted other issues relating to the delivery of the facility.

Thereafter, the Council:-

- (1) **approved** the project budget of £59,776,000 for the construction of a new Inverurie Community Campus,
- (2) **approved** the revenue implications within the project business case, as set out within an appendix to the report,
- (3) **approved** the delegations and approvals contained within the minute of agreement for the project, as contained within an appendix to the report, and
- (4) **agreed** that the Council should enter into a Letter of Intent for the performance of enabling construction works, up to a maximum value of £3,450,000.