

SCOTTISH BORDERS COUNCIL EXECUTIVE COMMITTEE

MINUTES of Meeting of the EXECUTIVE COMMITTEE held in the Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Tuesday, 8 March, 2016 at 10.00 am

Present:- Councillors D. Parker (Chairman) (from para 2.2), S Aitchison (from para 2.2), S Bell, C Bhatia, J Brown, M J Cook, V Davidson (from para 2.2), G Edgar, D Moffat, D Paterson, F Renton, R Smith.

Also Present:- Councillors I Gillespie, G. Logan, S Mountford, A Nicol.

Apologies:- Councillor J Mitchell.

In Attendance:- Depute Chief Executive (Place), Chief Financial Officer, Corporate Transformation and Services Director, Clerk to the Council, Democratic Services Officer (F. Walling).

CHAIRMAN

Councillor Parker had sent apologies for his anticipated delay in arrival. For the first two items the meeting was therefore chaired by Councillor Bhatia.

1. ORDER OF BUSINESS

The Chairman varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

2. MINUTE

The Minute of meeting of the Executive Committee of 16 February 2016 had been circulated. It was noted that Councillor Bhatia's apologies should have been recorded on the Minute.

DECISION

APPROVED for signature by the Chairman, subject to the above amendment.

3. EXTRA CARE HOUSING: BUSINESS CASE FOR BERWICKSHIRE

- 3.1 There had been circulated copies of a report by the Service Director Regulatory Services proposing that 2 new extra care housing schemes should be developed in Berwickshire. The report provided a brief overview of the business case for the provision of extra care housing in Berwickshire and the process used to inform the development of that business case which included testing the needs assessment for extra care housing, a separate evaluation of the Dovecote extra care housing in Peebles and an option appraisal. The needs assessment concluded that there was a large projected need for this type of housing model in Berwickshire and findings indicated a requirement for two new extra care housing developments with the first being built in Duns and the subsequent development in Eyemouth. Through an option appraisal approach, the study also concluded that it would be best value if the projects were developed, owned and managed by a Registered Social Landlord, although it was anticipated that as these were high costs projects they were highly likely to require some gap funding from the Council's Affordable Housing Budget. It was envisaged that these developments would provide both housing for social and mid-market rent and shared equity options, all of which were considered as being compliant with the Council's Affordable Housing Policy definitions. Further individual site specific feasibility studies were required to test the financial modelling. The evaluation of Dovecot Court concluded that the Dovecote extra care

housing was meeting this type of need that it was intended to address; and made a number of recommendations for service provision at Dovecot which would also influence future services provided in future new build developments.

- 3.2 Members were content with the direction of travel and conclusions contained within the report but asked questions on the detail of the Extra Care Business Case prepared by an independent consultant, which was presented as an appendix. Questions referred in particular to the analysis of need, demand and supply of Extra Care Housing and Housing with Care and the estimated numbers of Extra Care Housing units required in Berwickshire. Further information was given by the Chief Financial Officer and the Group Manager, Housing Strategy and Services. Members were advised that further detailed reports which lay behind the business case could be provided if required. Reference was made by officers to the demographic time bomb in terms of the care of older people and an independent survey which had shown that in the Borders, by 2018, there would be a shortfall in the provision of Extra Care Housing and Housing with Care of 192 units and 545 units respectively. This was the first stage of a programme to provide this type of housing in all major towns in the Borders. Members were also referred to the Council's Local Housing Strategy 2012-20. Confirmation was given that all the options in the Business Case were negatively funded i.e. some additional funding would be required from the Council and/or its partners over and above Scottish Government grant funding. The proposal was to ring-fence funding from 2nd Homes Council Tax and Developer Contributions to address this funding gap.

DECISION

AGREED:-

- (a) that officers initiate discussions with RSL partner organisations to establish and agree the most appropriate partner who was financially viable, experienced and capable of delivering projects of this scale;**
- (b) that officers continue to liaise with Scottish Government to trail the intention to develop these projects via the Strategic Housing Investment Plan and established processes;**
- (c) in principle to assist the development of these two proposed affordable housing projects by using the Council's 2nd Homes Council Tax budget to compensate the 10-year Capital Investment Programme on the basis of affordable housing valuation for the sites; and**
- (d) in principle to use 2nd Homes Council Tax and Developer Contributions to address the funding gap associated with this type of development potentially above affordable housing benchmark eligible grants.**

MEMBERS

Councillors Aitchison, Davidson and Parker joined the meeting during consideration of the above item.

CHAIRMAN

Councillor Parker chaired the meeting for the remaining items of business.

4. SCRUTINY COMMITTEE RECOMMENDATION

There had been circulated copies of a Minute extract from the Scrutiny Committee meeting of 28 January 2016. This related to a request submitted to the Committee by Ettrick and Yarrow Community Council: *To review the extent to which the Scottish Borders Council's (SBC) budget for road repairs and maintenance was sufficient to meet need and the not unreasonable expectation that roads would be maintained in a safe condition. Within this context, to particularly examine how the allocation of budget for rural roads was arrived at and whether more should be allocated.* After consideration of a

report by the Service Director Neighbourhood Services and subsequent discussion Members of the Scrutiny Committee agreed 'to recommend that the Executive Committee continued to consider ways of further increasing investment in roads and related infrastructure'. The Chairman of the Scrutiny Committee, Councillor Logan, gave some background to the recommendation but indicated that this had been made prior to the decision to allocate additional money in the budget to roads and prior to the roads review. In discussing the recommendation Members maintained that the agreed amendment to the Administration's proposed budget, to increase roads spending by £500,000 per year over the next five years, showed that all Members were in agreement that investment in roads should be prioritised. It was noted that although the Grant Aided Expenditure (GAE) for roads was calculated by the Scottish Government on a needs basis it was up to Members as policy makers to look at competing areas of the budget and to make decisions as to how the budget should be allocated. The Chief Financial Officer agreed to provide Members with a briefing on GAE and information on roads spending in particular. Members agreed that the recommendation from the Scrutiny Committee highlighted the issue of investment in roads and as such was supportive and useful. Members also referred to Scrutiny's proposal to consider the budget implications of the re-trunking of the A72 and A7. Discussion continued on the damage inflicted on roads by timber haulage vehicles and the years of apparently ineffective representations by the Council to the timber haulage industry about responsibility for the costs of repair. It was suggested the Council should take a more investigatory proactive approach and to isolate roads used purely by timber haulage in order to clearly identify responsibility and claim reimbursement from the industry for the damage. Officers were also asked to look into enforcing the legal obligation of landowners to maintain field drainage and prevent the water run-off onto adjoining roads that led to surface damage.

DECISION

AGREED:-

- (a) to accept the recommendation from the Scrutiny Committee to 'consider ways of further increasing investment in roads and related infrastructure' and to thank the Committee for the work carried out;**
- (b) to request that the Chief Financial officer provide a briefing note for Members on GAE funding/calculations and roads spending; and**
- (c) to request that the Chief Officer Roads investigate further any action that the Council could take in respect of:**
 - (i) damage to roads by timber haulage vehicles; and**
 - (ii) the legal obligation for landowners to maintain field drainage and prevent water run-off onto adjoining roads.**

5. CAPITAL PROGRAMME 2016/17 - BLOCK ALLOCATIONS

With regard to paragraph 8 of the Council Minute of 11 February 2016, there had been circulated copies of a report by the Chief Financial Officer seeking approval for the proposed individual projects and programmes within the various block allocations in the 2016/17 Capital Financial Plan. Appendices A – Z to the report contained proposals for various projects to be allocated resources from the block allocations within the 2016/17 Capital Financial Plan. The report explained that not all projects had been fully identified. As and when this information was available this would be brought to the Executive for consideration. The Chairman referred systematically to each of the appendices to give Members an opportunity to comment and ask questions. Where the information requested was unavailable the Chief Financial Officer and/or Executive Members agreed to provide this following the meeting. Members welcomed the proposed investment to improve and refurbish parts of the School Estate and asked that details of the investment

be publicised and included in the information available as part of the pre-consultation exercise prior to the School Estate review.

DECISION

APPROVED the block allocation breakdowns contained in appendices A – Z to the report.

6. AFFORDABLE HOUSING POLICY DEVELOPER CONTRIBUTIONS GOVERNANCE

With reference to paragraph 5 of the Executive Minute of 4 March 2007, there had been circulated copies of a report by the Service Director Regulatory Services proposing that the Chief Financial Officer be given delegated powers to allocate Affordable Housing Policy developer contributions to assist delivery of affordable housing projects. The report referred to the decision of Executive on 4 March 2007 to operate an investment framework regarding the allocation of Affordable Housing Policy developer contributions to assist delivery of affordable housing. It had been identified that the Scheme of Delegation required to be amended to reflect the management arrangements to deal with the allocation of these developer contributions.

DECISION

- * **AGREED to RECOMMEND** that the following addition to the powers delegated to the Chief Financial Officer be incorporated in the Scheme of Delegation “To authorise the allocation of Affordable Housing Policy funding collected by the Council to assist delivery of individual projects”.

7. ROADS REVIEW OPTIONS APPRAISAL

With reference to paragraph 10 of the Minute of 12 May 2015, there had been circulated copies of a report by the Chief Officer Roads seeking approval for the preferred operation model for the Council’s Roads Services and agreement to proceed to the next stage, which was development of a full business case for the preferred model. The Depute Chief Executive (Place) gave a presentation which summarised the report and Option Appraisal which was appended to the report. It was explained that on 12 May 2015 the Executive Committee agreed that a review be carried out of the operating model of the Council’s wider roads service to ensure maximisation of services to the Borders and continued ability to operate in the external market place; and that any model should be capable of interfacing with the Edinburgh, Lothians, Borders and Fife (ELBF) proposal. Given the tight timescales for arriving at the most advantageous operating model the focus was placed on evaluating the options of internal restructure or Limited Liability Partnership (LLP). A series of workshops were held between October and mid November 2015 with Senior Managers from across the Roads Services, HR, Finance, Business Transformation and Trade Union representatives. The key drivers for change centred around legal, financial, customer, governance and flexibility issues. The preferred redesigned service arrangement was a Client/Provider set-up. This applied to both of the options. It was also emphasised that, with regard to governance, the Council would retain 100% control as an internal service and with an LLP the Council would retain 100% ownership and exercise control through the new governance structure. The differences between the Internal Restructure and the LLP options were largely around their capacity to generate external income. The internal restructure was limited by legislation in the amount of external income that it could generate, with limited tender opportunities. The LLP would be free to trade commercially. It would therefore not be limited in the amount of external income that it could generate and could take full advantage of any tender opportunities. When both options were scored against the key drivers for change the internal restructure scored 280 and the LLP scored 407. Members discussed the report and were supportive of the proposal to develop a full business case for the LLP model as a means to ensure that the Council’s road service would remain effective whilst also having the opportunity to operate in the private market and deliver additional benefit. Members welcomed the emphasis on the customer service approach considered within the report. It was agreed that in respect of the competitive nature of the Council’s road operations in relation to local businesses

the Council needed to be transparent, throughout the process, with those competitors who worked alongside.

DECISION

AGREED that:-

- (a) the Client/Provider arrangement was the best set up for a redesigned Roads service;**
- (b) Limited Liability Partnership (LLP) was the best model for the redesigned services;**
- (c) a full business case be developed for the LLP model within the next three months; and**
- (d) the Chief Officer Roads bring a further report on the Council's Roads Services for consideration by the Council in June 2015.**

8. PERFORMANCE MANAGEMENT FRAMEWORK FOR THE INTEGRATED SPORT AND CULTURE TRUST

8.1 With reference to paragraph 5 of the Council Minute of 7 October 2016, there had been circulated copies of a report by the Corporate Transformation and Services Director proposing a Performance Management Framework for the integrated Sport and Culture Trust. This would allow Scottish Borders Council's Executive Committee to oversee the work of the Integrated Trust and ensure that the required outcomes were being achieved. The Corporate Transformation and Services Director referred to the agreement of Scottish Borders Council to the formation of an integrated Sport and Culture Trust and that the necessary work be done to facilitate the successful transfer to the Trust of the agreed services, facilities and staff with an anticipated go-live date of 1 April 2016. As part of the transfer to Trust, it was recommended that a Performance Management Framework (PMF) be developed and brought back to the Executive Committee for approval in March 2016 and that the Executive Committee then received regular performance reports thereafter. Attached as an appendix to the report was a draft PMF developed in conjunction with Cultural Services, Borders Sport and Leisure Trust (BSLT) and the Scottish Borders Council Member Officer Working Group. This allowed for regular performance monitoring and oversight against agreed outcomes, for both elected Members and Council officers. The Corporate Performance and Information Manager gave a presentation outlining how the framework was developed; the six outcomes that Scottish Borders Council required the Trust to work towards; and the proposed monitoring and reporting arrangements to ensure delivery of the outcomes specified within the Service Provision Agreement. In addition to the regular meetings and reporting outlined it was proposed that a Member-Trustee Liaison Group met three times a year to discuss strategic direction, future priorities and commissioning as well as raising any concerns about service delivery and/or the partnership. The report recommended that the membership of this group included the Executive Member for Culture, Sport, Youth and Communities and the Executive Member for HR and Corporate Performance.

8.2 Members discussed the draft PMF at length, particularly in respect of the monitoring and reporting arrangements, the relationship between Scottish Borders Council and the Trust in the context of performance management and the proposed membership of the Member-Trustee Liaison Group. The Executive Member for Culture, Sport, Youth and Communities recognised the hard work carried out by officers in preparing the Framework. In a wider context she referred to accountability and the fact that statutory responsibility for delivery of services remained with the Council. She expressed her disappointment that in setting up the Integrated Trust the opportunity had not been taken in terms of the legal agreement to keep elected Members clearly responsible. With regard to outcomes the Director advised that these had been worded in a way as to achieve

consistency with the Corporate Plan and the Trust's charitable objectives. In response to questions about the inclusion in the Trust of other external groups to which the Council provided financial assistance, such as the Eastgate Theatre, it was confirmed that as far as possible the Council would ensure consistency in its relationship with these external organisations. With regard to the proposed membership of the Member-Trustee Liaison Group, discussion continued about the issues faced by Members who had a number of overlaid relationships through being members of related bodies such as this group and having separate obligations in respect of each. To ensure objectivity there was discomfort expressed about Executive Members being part of the Member-Trustee Liaison group. It was agreed that a decision on the membership of the Member-Trustee Liaison Group be postponed to the next meeting of the Executive Committee. This would enable discussions to take place with the Chief Executive of Border Sport and Leisure Trust and the Council's Chief Legal Officer with a view to bringing back a report for consideration which specifically addressed the issues and conflicts referred to.

DECISION

AGREED:-

- (a) **the Framework presented at appendix 1 to the report subject to the membership of the Member-Trustee Liaison Group being confirmed at a future date;**
- (b) **to accept performance reports from the Trust twice yearly; and**
- (c) **that a report on membership of the Member-Trustee Liaison Group be brought back to the meeting of the Executive Committee of 22 March 2016.**

9. **PRIVATE BUSINESS**

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this minute on the grounds that it involved the likely disclosure of exempt information as defined in the relevant paragraphs of part 1 of schedule 7A to the Act.

10. **MINUTE**

The Committee approved the private Minute of 16 February 2016.

The meeting concluded at 12.25 pm