

## **WEST DUNBARTONSHIRE COUNCIL**

At the Meeting of West Dunbartonshire Council held in the Council Chambers, Clydebank Town Hall, Dumbarton Road, Clydebank on Wednesday, 28 March 2018 at 2.00 p.m.

**Present:** Provost William Hendrie, Bailie Denis Agnew and Councillors Jim Bollan, Jim Brown, Gail Casey, Karen Conaghan, Ian Dickson, Diane Docherty, Jim Finn, Daniel Lennie, Caroline McAllister, David McBride, Jonathan McColl, Iain McLaren, Marie McNair, John Millar, John Mooney, Lawrence O'Neill, Sally Page, Martin Rooney and Brian Walker

**Attending:** Joyce White, Chief Executive; Angela Wilson, Strategic Director - Transformation & Public Service Reform; Richard Cairns, Strategic Director – Regeneration, Environment & Growth; Beth Culshaw, Chief Officer, West Dunbartonshire Health & Social Care Partnership; Peter Hessem, Strategic Lead – Regulatory; Stephen West, Strategic Lead – Resources; Malcolm Bennie, Strategic Lead – Communications, Culture & Communities; Victoria Rogers, Strategic Lead – People and Technology, Peter Barry, Strategic Lead – Housing & Employability; Ronnie Dinnie, Strategic Lead – Environment & Neighbour, Jim McAloon, Strategic Lead – Regeneration; Pamela Clifford, Planning & Building Standards Manager; Bernard Darroch, Lead Planning Officer; Raymond Walsh, Roads & Transportation Manager; Michael McGuinness, Economic Development Manager; and Christine McCaffary, Senior Democratic Services Officer.

**Apologies:** An apology for absence was intimated on behalf of Councillor Douglas McAllister.

**Provost William Hendrie in the Chair**

### **URGENT ITEM OF BUSINESS TRADES UNION CONVENERS POSTS**

Provost Hendrie advised that he had received a request from Councillor McBride for Council to consider an urgent motion on the delaying of the budget decision on the Trades Union Conveners' posts.

The Provost stated that he did not consider the matter to be urgent as negotiations were ongoing and that the motion would therefore not be considered.

## **VARIATION IN ORDER OF BUSINESS**

After hearing Provost Hendrie it was noted that the order of business was varied as hereinafter recorded.

## **DECLARATIONS OF INTEREST**

Councillors McColl and Bollan declared non pecuniary interests in Item 11 – DC17/140 – Land at Young's Farm, Renton Road, Dumbarton by DFC Community Stadium Company Ltd., stating that they would leave the Council Chamber and take no part in the discussion or decision made.

## **MINUTES OF PREVIOUS MEETING**

The Minutes of Meeting of West Dunbartonshire Council held on 5 March 2018 were submitted and approved as a correct record.

## **MINUTES OF AUDIT COMMITTEE**

The Minutes of Meeting of the Audit Committee held on 21 March 2018 were submitted for information and where necessary ratification.

## **OPEN FORUM**

Provost Hendrie advised that an Open Forum question had been received from Mr Andrew Muir in connection with the Christie Ward, Vale of Leven Hospital.

Mr Muir read out his question:-

The Christie Ward at the Vale of Leven Hospital was open from 1997 to 2010 to care for people with mental health issues. Will the council please ensure that an investigation takes place to determine whether any patients in the Christie Ward suffered inhuman or degrading treatment taking due account of the judgment in the case of Gorobet v Moldova. In that judgment the European Court of Human Rights ruled that forced treatment which had not been shown to be a medical necessity could amount at least to degrading treatment within the meaning of Article 3 of the Convention which prohibits in absolute terms such treatment irrespective of the circumstances and the victims' behaviour.

Councillor McColl provided the following response:-

This would not be a matter for the Council.

I would suggest that you contact the Minister for Mental Health, Maureen Watt MSP who may be able to assist with your query.

I am happy to provide you with contact details should you need them.

As a supplementary question Mr Muir asked:-

I disagree that this is not a Council issue. West Dunbartonshire officers were involved and I ask that an investigation be carried out.

Councillor McColl advised that he would provide Mr Muir with a reply to his supplementary question in due course.

**Note:-** Councillors McColl and Bolland left the meeting at this point.

**DC17/140: MIXED USE DE DC17/140: MIXED USE DEVELOPMENT  
INCORPORATING FOOTBALL STADIUM AND ASSOCIATED USES (INCLUDING  
RESTAURANT, HOSPITALITY AND FUNCTION SUITES), RESIDENTIAL  
DEVELOPMENT, COMMERCIAL AND TOURISM DEVELOPMENT, FLOODLIT  
SPORTS PITCHES, ACCESS, PARKING, AND LANDSCAPING ON LAND AT  
YOUNG'S FARM, RENTON ROAD, DUMBARTON BY DFC COMMUNITY STADIUM  
COMPANY LTD**

A report was submitted by the Strategic Lead – Regulatory informing Council of the outcome and recommendation of the Planning Committee on 21 March 2018.

A presentation was given by the Planning & Building Standards Manager, who was then heard in answer to Members' questions.

Responses to Members' questions were also provided by the Lead Planning Officer and the Roads & Transportation Manager.

Councillor Finn, seconded by Bailie Agnew moved:-

That Council agree the recommendation in the report that Council refuse planning permission for the reasons set out in Section 9 of the report submitted to the Planning Committee on 21 March 2018, and shown as an appendix to these minutes.

As an amendment Councillor O'Neill, seconded by Councillor Mooney moved:-

That Council agree to grant planning permission in principle, with the condition that the application for full planning permission be considered at a future meeting of the Planning Committee.

At the request of Councillor O'Neill the Council proceeded by way of a roll call vote.

On a vote being taken 9 members, namely Councillors Conaghan, Dickson, Lennie, Caroline McAllister, McBride, Millar, Mooney, O'Neill and Rooney voted for the amendment and 10 Members, namely Provost Hendrie, Bailie Agnew and Councillors Brown, Casey, Docherty, Finn, McLaren, McNair, Page and Walker voted for the motion which was accordingly declared carried.

**Note:-** Councillors McColl and Bollan returned to the meeting at this point.

## **ADJOURNMENT**

The Provost adjourned the meeting for a period of 5 minutes, reconvening at 3.28 p.m. with all Members noted in the sederunt present.

## **CASUAL AND SUPPLY WORKERS**

A report was submitted by the Strategic Lead – People and Technology providing information in response to the motion agreed by Council on 20 December 2017.

Councillor Dickson moved the recommendations of the report, namely:-

That Council agrees:-

(1) that the use of casual and supply workers continues in the manner described in Section 4 of the report, ensuring that alternatives are properly explored and utilised where more appropriate; and

(2) to note the following in relation to the motion:

the Council already exceeds its statutory obligations in terms of casual/supply workers engaged by the organisation;

there is an existing process in place to ensure that casual/supply workers are offered temporary or fixed-term contracts in circumstances where they have been engaged continuously for more than one month and there is an ongoing requirement thereafter. Full employment rights would then apply (note, until this point, these workers do not have employee status);

a complaints procedure for this group of workers has been developed and discussed with the trades unions. This procedure is based on the ACAS recommended process and includes a right of appeal.

there are provisions which apply only to employees, and, if extended to 'workers'; would potentially give rise to an unnecessary 'employment relationship', thereby removing flexibility for both parties and introducing unnecessary complexities. In considering access to occupational annual leave entitlement (beyond the statutory provision), occupational maternity/paternity/parental leave additional costs have been assumed at the level incurred for employees (where possible); and

any casual/supply workers engaged for a Council role in HSCP and all those engaged within WDLT are already/would be covered by our

existing policies. Council would have no locus to expect NHS Scotland to adopt a policy set by a different employer.

As an amendment Councillor Mooney moved:-

That Council agrees that any decisions are subject to negotiations with Trades Unions and that a subsequent report be brought back to Council.

At this point in the meeting, Councillor Dickson's motion was seconded by Councillor McColl and Councillor Mooney's amendment was seconded by Councillor Casey.

As a second amendment Councillor Bollan, seconded by Councillor O'Neill moved:-

Because of the conclusions in the report in front of us:

Council agrees from 1.5.2018 to define all workers who have worked for at least 4 weeks for the Council on any type of zero hours contract including Casual Workers, Sessional Workers or Temp Workers as Employees giving them in so far as the law and any national agreements permit the same legal protection and employment rights as permanent contracted employees.

Council further agrees that every newly classed employee from 1.5.2018 will have a minimum number of hours per week stated in their contract, after agreement with the employing department.

From 1.5.2018 all the newly classed employees must receive pro rata sick pay and have access to the full grievance procedures not the watered-down ACAS version.

Any additional costs for 2018/19 to be taken from reserves.

On a vote being taken between the first amendment (Councillor Mooney) and the second amendment (Councillor Bollan), 1 Member voted for the second amendment and 7 for the first amendment.

On a further vote being taken between the first amendment (Councillor Mooney) and the motion (Councillor Dickson), 9 Members voted for the amendment and 12 for the motion, which was accordingly declared carried.

## **SHARED SERVICES IMPLEMENTATION – ROADS AND TRANSPORTATION**

A report was submitted by the Strategic Director - Transformation & Public Service Reform on the above.

Councillor McColl, seconded by Bailie Agnew moved:-

That the Council agrees:-

- (1) to note the Detailed Business Case in Appendix 1 to the report in respect of Inverclyde and West Dunbartonshire Councils and its recommendations to progress a shared service for Roads and Transportation Services on a Lead (Host) authority model;
- (2) the implementation of a formal shared Roads and Transportation service commencing on 1 April 2018 between Inverclyde Council and West Dunbartonshire Council with Inverclyde as Lead Authority;
- (3) to note the appointment of a lead officer by Inverclyde Council through a recruitment panel process supported by both Councils; and
- (4) to note that the Shared Services Joint Committee will be updated on the agreement between Inverclyde and West Dunbartonshire and advised of any governance arrangements necessary in consequence.

As an amendment Councillor O'Neill, seconded by Councillor Bolla moved:-

That the Council agrees to continue consideration of the report until full and final agreement with the Trades Unions has been reached and information on East Dunbartonshire Council's position is known.

At the request of Councillor O'Neill the Council proceeded by way of a roll call vote.

On a vote being taken 8 members, namely Councillors Bolla, Casey, Lennie, McBride, Millar, Mooney, O'Neill and Rooney voted for the amendment and 13 Members, namely Provost Hendrie, Bailie Agnew and Councillors Brown, Conaghan, Dickson, Docherty, Finn, Caroline McAllister, McColl, McLaren, McNair, Page and Walker voted for the motion which was accordingly declared carried.

### **GENERAL SERVICES – BUDGETARY CONTROL REPORT PERIOD 11**

A report was submitted by the Strategic Lead – Resources on the above.

The Council agreed:-

- (1) to note that the revenue account currently shows a projected annual favourable variance of £0.267m (0.13% of the total budget); and
- (2) to note that the capital account shows a projected annual favourable variance of £42.546m (45.38% of the budget) and a projected project life adverse variance of £2.557m (0.82% of project life budget).

### **HOUSING REVENUE ACCOUNT – BUDGETARY CONTROL REPORT – PERIOD 11**

A report was submitted by the Strategic Lead – Housing & Employability on the above.

After discussion and having heard the Strategic Lead in answer to Members' questions, the Council agreed:-

- (1) to note the projected favourable revenue variance of £0.200m (0.5%); and
- (2) to note the position advised in relation to the capital budget which is currently projecting an in-year favourable variance of £11.144m (36.4%), of which £11.626m (38.0%) relates to project re-phasing and an in-year overspend of £0.482m (1.6%).

### **REVISING THE INTEGRATION SCHEME**

A report was submitted by the Interim Head of Strategy, Planning and Health Improvement on new duties to support the implementation of the Carers (Scotland) Act 2016.

After discussion and having heard the Chief Officer, West Dunbartonshire Health & Social Care Partnership, the Council agreed:-

- (1) to note the implementation of the Carers (Scotland) Act 2016 and its impact on the functions delegated to Integrated Joint Boards outlined in the Integration Scheme. Integration schemes are the legal documents which outline the functions and duties delegated to the Joint Boards from the NHS Boards and Local Authorities;
- (2) to approve the joint working between the Health Board and local authorities to prepare the revised Integration Schemes to reflect the statutory changes outlined and to submit these to the Scottish ministers by 2 March 2018;
- (3) to jointly approve with NHS Greater Glasgow and Clyde the attached amendments to the listed Integration Schemes in accordance with The Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No.2) Regulations 2017 with six local authorities listed. (Paragraph 3.4 in the paper); and
- (4) to jointly approve with NHS Greater Glasgow and Clyde the attached amendments to the listed Integration Schemes in accordance with The Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Amendment Regulations 2017 with the five local authorities in NHS Greater Glasgow and Clyde area.

### **NOTICES OF MOTION**

- (a) **Motion by Councillor Jim Bollan – Our Lady & St. Patrick's High School – 4G Pitch**

Councillor Bollan seconded by Councillor O'Neill moved:-

A report with costs for the undernoted proposals should be brought to the next cycle of appropriate Committees for consideration.

Council is minded to provide free access to the OLSP 4G football pitch in Bellsmyre and to all other Council owned synthetic football pitches for all local school children who are not members of organised Clubs.

The OLSP facility should be available Mon - Fri from 7pm to 10pm, which is after school hours use, subject to Club bookings of the facility. Access times and conditions for all other synthetic football pitches should be the same as OLSP, unless different local arrangements are agreed on a case for case basis. This facility is state of the art and use of it should be maximised to ensure positive activities for local school children in terms of healthy exercise and sports development. Council requests the Leisure Trust to provide the same free access and arrangements for all synthetic football pitches they manage for WDC.

As an amendment Councillor McLaren, seconded by Councillor McColl moved that no action be taken.

On a vote being taken 11 Members voted for the amendment and 10 for the motion. The amendment was accordingly declared carried.

**(b) Motion by Councillor Jonathan McColl – Communications, Museums & Cultural Development Committee**

Councillor McColl moved:-

Council agrees that the Communications, Museums and Cultural Development Committee will be renamed the Cultural Committee.

The Council approved the motion.

The meeting closed at 4.52 p.m.



**DC17/140: Mixed use development incorporating a football stadium and associated uses (including restaurant, hospitality and function suites), residential development, commercial and tourism development, floodlit sports pitches, access, parking, and landscaping on land at Young's Farm, Renton Road, Dumbarton by DFC Community Stadium Company Ltd.**

9. REASONS FOR REFUSAL

1. The site is in the green belt and the development is not in accordance with Policy 14 and Box 2 of Diagram 10 in Clydeplan as no further sites are required to be allocated in order to fulfil the housing land supply targets within West Dunbartonshire.
2. The site is in the green belt and remote from the existing urban area. It is an inappropriate location for housing development and the proposal is therefore contrary to the principles of Scottish Planning Policy.
3. The site is remote from the existing urban area and is contrary to policies GB1, RD1, H2 GD1, R3, E9, T1 and T4 of the adopted West Dunbartonshire Local Plan 2010 in terms of being housing in the green belt. It is an inappropriate location and would set an unacceptable precedent for the release of further housing land within the green belt.
4. There is no requirement for additional green belt land to be identified to meet the strategic housing requirement. The proposal is therefore contrary to policies DS2, DS3, BC1, BC2 and GN4 of the West Dunbartonshire Local Development Plan (Proposed Plan) in terms of housing development in the green belt which is an inappropriate location and would set an unacceptable precedent for the release of further housing land within the green belt.
5. The proposal is not in accordance with the specific requirements of the relevant 'Changing Place' section contained within the West Dunbartonshire Local Development Plan (Proposed Plan).
6. The development site is remote and is not easily accessible by active travel or sustainable means of transport and insufficient information has been submitted to demonstrate that the existing road network can accommodate the development. The proposal is therefore contrary to policies T1 and T4 of the adopted West Dunbartonshire Local Plan 2010 and policy DS3 of the West Dunbartonshire Local Development Plan (Proposed Plan).