

Minute

Development and Infrastructure Committee

Tuesday, 6 February 2024, 09:30.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors David Dawson, Gillian Skuse, Graham A Bevan, P Lindsay Hall, Kristopher D Leask, W Leslie Manson, Raymond S Peace, Mellissa-Louise Thomson, Owen Tierney, Duncan A Tullock and Heather N Woodbridge.

Clerk

- Katy Russell-Duff, Committees Officer.

In Attendance

- Hayley Green, Corporate Director for Neighbourhood Services and Infrastructure.
- Gareth Waterson, Corporate Director for Enterprise and Sustainable Regeneration.
- Sweyn Johnston, Head of Enterprise and Economic Growth (for Items 6 to 15).
- Roddy Mackay, Head of Planning and Community Protection (for Items 1 to 7).
- Stuart Allison, Service Manager (Enterprise) (for Items 6 to 15).
- Karen Bevilacqua, Service Manager (Legal Services).
- Laura Cromarty, Service Manager (Transportation) (for Items 6 to 13).
- Hazel Flett, Service Manager (Governance).
- Jamie Macvie, Service Manager (Development Management) (for Items 1 to 4).
- Shonagh Merriman, Service Manager (Corporate Finance).
- Kenny Roy, Service Manager (Roads and Grounds) (for Items 1 and 2).
- Gavin Barr, Economic Development Manager (for Items 6 to 15).
- James Green, Team Manager (Marine Planning) (for Items 1 to 7).
- Derek Manson, Team Manager (Development Planning) (for Items 1 to 7).
- Annabel Bews, Economic Development Officer (for Items 9 to 15).
- Morag Robertson, Economic Development Officer (for Items 6 to 9).

Declarations of Interest

- Councillor Mellissa-Louise Thomson – Item 14.
- Councillor Heather N Woodbridge – Item 14.

Chair

- Councillor David Dawson.

1. Revenue Expenditure Monitoring

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Service Manager (Corporate Finance), the Committee:

Noted:

1.1. The revenue financial summary statement, in respect of service areas for which the Development and Infrastructure Committee was responsible, for the period 1 April to 31 December 2023, attached as Annex 1 to the report by the Head of Finance, indicating a budget overspend position of £1,636,500.

1.2. The revenue financial detail by service area statement, in respect of service areas for which the Development and Infrastructure Committee was responsible, for the period 1 April to 31 December 2023, attached as Annex 2 to the report by the Head of Finance.

The Committee scrutinised:

1.3. The explanations given, and actions proposed in respect of significant budget variances, as outlined in the Budget Action Plan, attached as Annex 3 to the report by the Head of Finance, and obtained assurance that appropriate action was being taken with regard to significant budget variances.

2. Road Asset Replacement Programme – Expenditure Monitoring

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Service Manager (Corporate Finance), the Committee:

Noted:

2.1. The summary position of expenditure incurred, as at 31 December 2023, against the approved Road Asset Replacement Programme, as detailed in section 4.1 of the report by the Head of Finance.

The Committee scrutinised:

2.2. The detailed analysis of expenditure figures and programme updates, attached as Appendix 1 to the report by the Head of Finance, and obtained assurance with regard to significant budget variances and progress being made with delivery of the approved Road Asset Replacement Programme.

3. Planning Performance Framework

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Head of Planning and Community Protection, the Committee:

Noted:

3.1. The Orkney Planning Performance Framework 2022/23, attached as Appendix 1 to the report by the Corporate Director for Neighbourhood Services and Infrastructure, as submitted to the Scottish Government on 31 July 2023.

3.2. The establishment of a post of National Planning Improvement Co-ordinator, based within the Improvement Service, with a remit to support improvement within the Scottish planning system, including monitoring performance, identifying and sharing good practice, and supporting improvement within planning authorities.

3.3. The Scottish Government's feedback report on the Orkney Planning Performance Framework 2022/23, attached as Appendix 2 to the report by the Corporate Director for Neighbourhood Services and Infrastructure, which indicated that, of the 15 national performance markers, 13 were rated as Green, one was rated as Amber, and one was rated Red.

The Committee scrutinised:

3.4. The Scottish Government's feedback report on the Orkney Planning Performance Framework 2022/23, attached as Appendix 2 to the report by the Corporate Director for Neighbourhood Services and Infrastructure, and obtained assurance that performance of the Planning Service was satisfactory.

The Committee resolved to **recommend to the Council:**

3.5. That the Corporate Director for Neighbourhood Services and Infrastructure should make representations to the Scottish Government and the National Planning Improvement Co-ordinator regarding the national performance marker related to the age of the Local Development Plan which was rated Red due to the Plan being more than five years old, in that the reason for the pause in reviewing the current Plan was due to a delay in the publication of the new Development Plan Regulations and associated Guidance which was outwith the control of the Council, and therefore the Red rating was considered to be unfair.

4. Planning Enforcement Charter

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Service Manager (Development Management), the Committee:

Noted:

4.1. That, in terms of section 158A of the Town and Country Planning (Scotland) Act 1997, as amended, the Planning Authority was required to prepare and publish an Enforcement Charter which must be kept under review.

4.2. That the existing Enforcement Charter, approved by Council in March 2022, was still current with respect to legislation and only minor changes were proposed regarding prioritisation of new cases, timescales for initial investigation, and the provision of updates to complainants, as described in section 5 of the report by the Corporate Director for Neighbourhood Services and Infrastructure.

The Committee resolved to **recommend to the Council:**

4.3. That the Enforcement Charter, attached as Appendix 1 to this Minute, be approved.

5. K4 (Kirkwall) – Development Brief

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Head of Planning and Community Protection, the Committee:

Noted:

5.1. That, on 5 September 2023, the Development and Infrastructure Committee recommended:

- That the K4 (Kirkwall) Development Brief – Consultation Draft be endorsed for the purpose of public consultation.
- That the Corporate Director for Neighbourhood Services and Infrastructure should submit a report, to the meeting of the Development and Infrastructure Committee in February 2024, detailing the outcome of the public consultation, together with a revised Development Brief for approval.

5.2. That public consultation had been undertaken in respect of the K4 (Kirkwall) Development Brief – Consultation Draft, with the outcome summarised in section 4 of the report by the Corporate Director for Neighbourhood Services and Infrastructure.

5.3. That the revised K4 (Kirkwall) Development Brief, attached as Appendix 2 to the report by the Corporate Director for Neighbourhood Services and Infrastructure, had been amended to respond to material planning matters raised through the consultation process.

5.4. That, once approved, the K4 (Kirkwall) Development Brief would have status as a material consideration for the approval of planning applications at the location covered by the Development Brief.

The Committee resolved to **recommend to the Council**:

5.5. That the K4 (Kirkwall) Development Brief, attached as Appendix 2 to this Minute, be approved.

6. Development Management Guidance – Housing in the Countryside

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Head of Planning and Community Protection, the Committee:

Noted:

6.1. That Development Management Guidance provided advice on technical issues and the interpretation of given policies where a need arose, thus ensuring a consistency of approach in the determination of planning applications.

6.2. That, as a result of the publication of National Planning Framework 4 (NPF4), Development Management Guidance in respect of Housing in the Countryside had been prepared which provided additional clarification when assessing planning applications for housing in the countryside in the context of Policy 17 Rural Homes of NPF4, highlighting where there was alignment and incompatibility.

The Committee resolved to **recommend to the Council:**

6.3. That consideration of the Development Management Guidance – Housing in the Countryside following publication of National Planning Framework 4 (NPF4) be deferred, to enable the Corporate Director for Neighbourhood Services and Infrastructure to undertake discussions with the North of Scotland Development Plans Forum, as well as any other relevant local authority, regarding how they were dealing with the potential incompatibility between the NPF4 Rural Homes Policy and any Housing in the Countryside Policy contained in their Local Development Plans which supported single house in-fill development within existing building groups in the countryside.

7. Offshore Wind Power Limited – West of Orkney Wind Farm

Applications for Electricity Act Section 36 Consent and Marine Licence

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Team Manager (Marine Planning), the Committee:

Noted:

7.1. That Offshore Wind Power Limited had submitted applications for consent under Section 36 of the Electricity Act 1989 and marine licences for the construction and operation of the proposed West of Orkney Wind Farm.

7.2. That the West of Orkney Wind Farm was proposed to be located 28 kilometres from the west coast of Hoy and 23 kilometres from the north coast of Scotland.

7.3. That the applications for Section 36 consent and marine licences, referred to at paragraph 7.1 above, were determined by Scottish Ministers/Marine Directorate of the Scottish Government.

7.4. That the proposed development consisted of both onshore and offshore components to generate and export power from the proposed offshore windfarm to a new onshore substation at Spittal, Caithness.

7.5. That the consent applications to the Scottish Government, detailed at paragraph 7.1 above, were for the offshore elements of the proposed development.

7.6. That the Council was a statutory consultee for the West of Orkney Wind Farm Section 36 consent and the marine licence applications.

The Committee resolved to **recommend to the Council:**

7.7. That the consultation response, attached as Appendix 3 to this Minute, in relation to the applications for consent under Section 36 of the Electricity Act 1989 and marine licences for the construction and operation of the proposed West of Orkney Wind Farm, be approved.

8. Harbour Authority Sub-committee

After consideration of the draft Minute of the Meeting of the Harbour Authority Sub-committee held on 23 January 2024, copies of which had been circulated, the Committee:

Resolved, on the motion of Councillor David Dawson, seconded by Councillor Gillian Skuse, to approve the Minute of the Meeting of the Harbour Authority Sub-committee held on 23 January 2024, attached as Appendix 4 to this Minute, as a true record.

9. Archaeological Investigations

After consideration of a report by the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, and after hearing a report from Morag Robertson, Economic Development Officer, the Committee:

Noted:

9.1. That six applications for financial assistance had been received in respect of archaeological investigation projects to be undertaken during the 2024 season, comprising four mainland-based projects and two island-based projects, with total project costs of £527,929.

9.2. That the six applications requested assistance totalling £96,935, which exceeded the available budget of £40,000 by approximately 142%.

9.3. The proposed offers of grant for the 2024 season, as detailed in Annex A to the report by the Corporate Director for Enterprise and Sustainable Regeneration.

9.4. That, in advance of the Council's budget setting process for 2024/25 being concluded, any decision on the award of grant funding towards archaeological investigations for the 2024 season was subject to an adequate service revenue budget being established.

The Committee resolved, in terms of delegated powers:

9.5. That, subject to an adequate service revenue budget for 2024/25 being established, a sum of up to £40,000 be allocated within the Economic Development Grants budget in respect of archaeological investigations.

9.6. That, subject to the annual budget for Economic Development Grants for 2024/25 being confirmed, offers of grant, as detailed in Appendix 5 to this Minute, should be made in respect of archaeological investigations for the 2024 season.

10. Economic Development Grants and Cost of Living Crisis Business Support Schemes

Budget Monitoring Statement and Delegated Approvals

After consideration of a report by the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, and after hearing a report from the Service Manager (Enterprise), the Committee:

Noted:

10.1. That, for financial year 2023/24, the approved budget in respect of Economic Development Grants amounted to £306,300.

10.2. Spending to 31 December 2023, in relation to Economic Development Grants, totalling £157,694 of which £135,387 related to grant commitments made in previous financial years and £22,307 to current year commitments.

10.3. That, as at 31 December 2023, the budget available for approval from the Economic Development Grants budget, amounted to £117,557, as detailed in Annex A to the report by the Corporate Director for Enterprise and Sustainable Regeneration.

10.4. Grant approvals made in the period 1 April to 31 December 2023, totalling £188,743 including grants approved under delegated schemes for the same period, totalling £91,943, as detailed in Annex B to the report by the Corporate Director for Enterprise and Sustainable Regeneration.

10.5. That, on 21 February 2023, the Policy and Resources Committee recommended that Cost of Living Crisis Business Support Schemes should operate for a period of two years to 28 February 2025, funded from the unassigned remaining balance of the Coronavirus Response Fund, estimated at £1.3 million, and reported to the Development and Infrastructure Committee in addition to standard reporting of Economic Development Grants budget monitoring.

10.6. Approvals made in the period to 31 December 2023, totalling £20,000, in respect of Cost of Living Crisis Business Support Schemes, as summarised in Annex C to the report by the Corporate Director for Enterprise and Sustainable Regeneration.

11. Exclusion of Public

On the motion of Councillor David Dawson, seconded by Councillor Gillian Skuse, the Committee resolved that the public be excluded from the remainder of the meeting, as the business to be discussed involved the disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

12. Harbour Authority Sub-committee

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 9 of Part 1 of Schedule 7A of the Act.

After consideration of the draft Minute of the Adjourned Meeting of the Harbour Authority Sub-committee held on 30 January 2024, copies of which had been circulated, the Committee:

Resolved:

12.1. On the motion of Councillor David Dawson, seconded by Councillor Gillian Skuse, to approve the Minute of the Adjourned Meeting of the Harbour Authority Sub-committee held on 30 January 2024 as a true record.

The Committee resolved to **recommend to the Council**:

12.2 That the recommendation at paragraph 3.4 of the Minute of the Adjourned Meeting of the Harbour Authority Sub-committee held on 30 January 2024, attached as Appendix 6 to this Minute, be approved.

13. Sustainable and Green Transport Fund

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 4 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, and after hearing a report from the Service Manager (Transportation), the Committee:

Noted:

13.1. That, when establishing the Sustainable and Green Transport Fund, the Council agreed that the Corporate Director for Enterprise and Sustainable Regeneration should submit a report to the Development and Infrastructure Committee, on an annual basis, outlining the investments made from the Sustainable and Green Transport Fund, together with proposed projects for subsequent years.

13.2. The projects funded from the Sustainable and Green Transport Fund during 2023/24, as outlined in section 4 of the report by the Corporate Director for Enterprise and Sustainable Regeneration.

13.3. The proposed breakdown of funding from the Sustainable and Green Transport Fund for 2024/25, detailed in Appendix 3 to the report by the Corporate Director for Enterprise and Sustainable Regeneration.

The Committee resolved to **recommend to the Council**:

13.4. That powers be delegated to the Corporate Director for Enterprise and Sustainable Regeneration to determine the award of individual grants in respect of proposed projects, detailed in Appendix 7 to this Minute, to be funded from the Sustainable and Green Transport Fund for 2024/25.

13.5. That powers be delegated to the Corporate Director for Enterprise and Sustainable Regeneration, in consultation with the Head of Legal and Governance, to conclude Agreements, on the Council's standard terms and conditions, with the various recipients of funding referred to at paragraph 13.4 above.

14. Requests for Financial Assistance

Councillor Mellissa-Louise Thomson declared an interest in this item, and was not present during discussion thereof.

Councillor Heather N Woodbridge declared an interest in this item, and was not present during discussion thereof.

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 4 and 6 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, and after hearing reports from the Head of Enterprise and Economic Growth and the Economic Development Manager, the Committee:

Resolved, in terms of delegated powers, what action should be taken with regard to requests for financial assistance.

The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.

15. Conclusion of Meeting

At 13:16 the Chair declared the meeting concluded.

Signed: David Dawson.