

Minute

Development and Infrastructure Committee

Tuesday, 2 February 2021, 10:30.

Microsoft Teams.



Present

Councillors Graham L Sinclair, Andrew Drever, Norman R Craigie, Robin W Crichton, David Dawson, J Harvey Johnston, Rachael A King, W Leslie Manson, Stephen Sankey, James W Stockan, Duncan A Tullock and Heather N Woodbridge.

Councillor John A R Scott, who had been invited for Items 8 to 10.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Gavin Barr, Executive Director of Development and Infrastructure.
- James Buck, Head of Marine Services, Transport and Harbour Master.
- Hayley Green, Head of IT and Facilities (for Items 8 to 12).
- Roddy Mackay, Head of Planning, Development and Regulatory Services (for Items 1 to 16).
- Colin Kemp, Corporate Finance Senior Manager.
- Karen Bevilacqua, Solicitor.
- Jackie Thomson, Development and Regeneration Manager (for Items 1 to 16).
- Stuart Allison, Economic Development Manager (for Items 10 to 16).
- Graeme Christie, Estates Manager (for Items 10 to 12).
- Laura Cromarty, Transport Manager (for Items 14 to 19).
- Gary Foubister, Trading Standards Manager (for Item 7).
- Kenneth Roy, Roads Support Manager (for Items 1 to 5).
- Susan Shearer, Planning Manager (Development and Marine Planning) (for Items 1 to 10).
- Jordan Low, Economic Development Officer (for Items 14 to 16).

Observing

- David Custer, Engineering Services Manager (for Items 1 to 6).
- Mark Evans, Animal Welfare Officer (for Items 1 to 5).
- Rebecca McAuliffe, Press Officer.

Declarations of Interest

- Councillor Robin W Crichton – Item 15.
- Councillor David Dawson – Item 3.
- Councillor Andrew Drever – Item 13.
- Councillor J Harvey Johnston – Item 7.
- Councillor Rachael A King – Item 13.
- Councillor Stephen Sankey – Item 15.
- Councillor Heather N Woodbridge – Item 10.

Chair

- Councillor Graham L Sinclair.

1. Disclosure of Exempt Information

The Committee noted the proposal that the public be excluded from the meeting for consideration of Items 15 to 17, together with Annex B of Item 13, as the business to be discussed involved the potential 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.

2. Disclosure of Confidential Information

The Committee noted that, as Item 18 contained confidential information of the class described in Section 50A(3)(a) of the Local Government (Scotland) Act 1973 as amended, the public must be excluded from the meeting for consideration of that Item.

3. Revenue Expenditure Monitoring

Councillor David Dawson declared a non-financial interest in this item, being a Council-appointed Director on the Board of Orkney Ferries Limited, but concluded that his interest did not preclude his involvement in the discussion.

After consideration of a joint report by the Executive Director of Development and Infrastructure and the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Committee:

Noted:

3.1. 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 2020, attached as Annex 1 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, which indicated a budget underspend position of £733,100.

3.2. 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 2020, attached as Annex 2 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance.

The Committee scrutinised:

3.3. 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 joint report by the Executive Director of Development and Infrastructure and the Head of Finance, and obtained assurance that action was being taken with regard to significant budget variances.

4. KIMO

After consideration of a report by the Chief Executive, copies of which had been circulated, the Committee:

Noted:

4.1. That, on 12 November 2019, the Development and Infrastructure Committee recommended:

- That an elected member should be appointed to represent the Council on KIMO.
- That the Council's representative on KIMO should be a member of the Harbour Authority Sub-committee.
- That Councillor Kevin F Woodbridge be appointed to represent the Council on KIMO.

4.2. That, following the death of Councillor Kevin F Woodbridge, a vacancy existed in respect of the Council's representative on KIMO.

4.3. That the nomination to fill the vacancy in respect of the Council's representative on KIMO would last for the remainder of the term of this Council, namely until May 2022.

The Committee resolved, in terms of delegated powers:

4.4. That Councillor Heather N Woodbridge be appointed to represent the Council on KIMO.

5. Road Asset Replacement Programme

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

Noted:

5.1. The summary position of expenditure incurred, as at 31 December 2020, against the approved Road Asset Replacement Programme for 2020/21, as detailed in section 4.1 of the report by the Head of Finance.

The Committee scrutinised:

5.2. 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 made with delivery of the approved Road Asset Replacement Programme.

6. Churchill Barriers

Wave Overtopping

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, the Committee:

Noted:

6.1. That, in October 2019, the Council agreed to undertake consultation, by way of a survey-based communication, to seek views on five options for wave overtopping at Barrier Number 2, with the following:

- Key national agency stakeholders.
- Orkney Opinions.
- All households in South Ronaldsay and Burray.
- All Community Councils.
- The main ferry operators.
- Business representatives, including those servicing the main supermarkets.

6.2. That the consultation, referred to at paragraph 6.1 above, was undertaken during the period March to October 2020.

6.3. A summary of the survey results, as detailed in section 4 of the report by the Executive Director of Development and Infrastructure, with full details attached as Appendix 1, which indicated that there was no clear majority view emerging for any particular option.

6.4. Options for the next steps in respect of dealing with wave overtopping at Barrier Number 2, as detailed in section 5 of the report by the Executive Director of Development and Infrastructure.

Councillor David Dawson, seconded by Councillor Duncan A Tullock, moved that no further action should be taken to explore options for wave overtopping at Barrier Number 2 at this time, with a review of this option in several years' time.

Councillor Stephen Sankey, seconded by Councillor Rachael A King, moved an amendment that:

(1) A wave overtopping project be promoted as part of the forthcoming prioritisation process for the Capital Programme, by updating cost estimates for a bridge solution and refacing the east side of Barrier Number 2.

(2) A project budget be established to support staff time resources and external consultant fees to enable cost estimates to be updated.

(3) The Executive Director of Development and Infrastructure should undertake to include the barrier project into the Strategic Transport Project Review 2, and seek to identify sources of capital funding from both the Scottish and UK Governments to progress the preferred solution to wave overtopping by means of a partnership approach.

(4) The Executive Director of Development and Infrastructure should undertake to revisit points raised by the survey respondents in further detail, to identify any immediate short-term actions that would improve safety arrangements prior to the long-term resolution of the wave overtopping issue at Barrier Number 2.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Norman R Craigie, Robin W Crichton, Andrew Drever, J Harvey Johnston, Rachael A King, W Leslie Manson, Stephen Sankey, James W Stockan and Heather N Woodbridge (9).

For the Motion:

Councillors David Dawson, Graham L Sinclair and Duncan A Tullock (3).

The amendment was therefore carried. The amendment then became the motion.

Councillor W Leslie Manson, seconded by Councillor James W Stockan, moved a further amendment, notice of which had been given, that:

(1) No further studies be undertaken at this time in respect of wave overtopping at Barrier Number 2.

(2) The Executive Director of Development and Infrastructure should explore financial support from the Scottish Government for potential engineering solutions, failing which the Council should determine what action to take.

(3) The Executive Director of Development and Infrastructure should undertake to continue to review options to enhance current safety arrangements with regard to wave overtopping at Barrier Number 2 where possible.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Norman R Craigie, David Dawson, Andrew Drever, J Harvey Johnston, W Leslie Manson, Graham L Sinclair, James W Stockan, Duncan A Tullock and Heather N Woodbridge (9).

For the Motion:

Councillors Robin W Crichton, Rachael A King and Stephen Sankey (3).

The amendment was therefore carried.

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

6.5. That no further studies be undertaken at this time in respect of wave overtopping at Barrier Number 2.

6.6. That the Executive Director of Development and Infrastructure should explore financial support from the Scottish Government for potential engineering solutions, failing which the Council should determine what action to take.

6.7. That the Executive Director of Development and Infrastructure should undertake to continue to review options to enhance current safety arrangements with regard to wave overtopping at Barrier Number 2 where possible.

7. Animal Welfare in Transport

Councillor J Harvey Johnston declared a non-financial interest in this item, in that he was a partner in a farm business, but concluded that his interest did not preclude his involvement in the discussion.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Head of Planning, Development and Regulatory Services, the Committee:

Noted:

7.1. That both the UK Government, via the Department for Environment, Food and Rural Affairs (DEFRA), and the Scottish Government were undertaking formal consultation on proposals to review legislation regarding Animal Welfare in Transport.

7.2. The DEFRA consultation, attached as Appendix 1 to the report by the Executive Director of Development and Infrastructure, with the Scottish Government consultation available for viewing on its consultation web pages.

7.3. That the DEFRA consultation introduced a number of potential measures which would have a significant impact on the operational practice for Orkney's agricultural sector, to the extent that it could threaten the viability of the sector in Orkney.

7.4. That the National Farmers' Union had prepared a detailed response to the DEFRA consultation, attached as Appendix 2 to the report by the Executive Director of Development and Infrastructure.

7.5. The Council's draft response to the Scottish Government consultation, which was more general in scope and focussed on gathering data, attached as Appendix 3 to the report by the Executive Director of Development and Infrastructure.

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

7.6. That the Council endorse the National Farmers' Union consultation response to the DEFRA consultation on proposals to review procedures and protocols regarding Animal Welfare in Transport, attached as Appendix 1 to this Minute.

7.7. That the Executive Director of Development and Infrastructure should write to DEFRA confirming the Council's endorsement of the National Farmers' Union's position, outlined at paragraph 7.4 above.

7.8. That the Leader should write to the Secretary of State for Environment, Food and Rural Affairs at the UK Government, expressing the Council's concerns and disappointment in relation to the consultation on proposals to review procedures and protocols regarding Animal Welfare in Transport, and outlining the serious threat posed to the future of farming in Orkney should the proposals contained in the consultation be implemented in new legislation.

7.9. That the response to the public consultation by the Scottish Government's Farm Animal Welfare Committee on the Welfare of Animals During Transport, attached as Appendix 2 to this Minute, be approved.

7.10. That the Executive Director of Development and Infrastructure should submit the response to the Scottish Government's Farm Animal Welfare Committee, on behalf of the Council, in relation to the consultation on the Welfare of Animals During Transport, by the deadline of 26 February 2021.

The Committee noted:

7.11. That, due to the timescale constraints involved, the Chief Executive would be requested to exercise emergency powers to authorise submission of the letter and response, referred to at paragraphs 7.8 and 7.9 above, prior to approval by Council.

8. Orkney Local Development Plan

Development Plan Scheme 2021

After consideration of a report by the Executive Director of Development and Infrastructure, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Planning Manager (Development and Marine Planning), the Committee:

Noted:

8.1. That the Council was required by statute to review and publish a Development Plan Scheme, which explained the work programme, how and when stakeholders would be involved in the review of the Local Development Plan, and the methods of consultation which would be employed.

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

8.2. That the Development Plan Scheme 2021, attached as Appendix 3 to this Minute, be approved.

9. Supplementary Guidance: Housing in the Countryside

After consideration of a report by the Executive Director of Development and Infrastructure, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Planning Manager (Development and Marine Planning), the Committee:

Noted:

9.1. That, on 10 September 2019, the Development and Infrastructure Committee deferred consideration of the Supplementary Guidance: Housing in the Countryside, to enable a seminar to be held, to which all members should be invited.

9.2. That, following the seminar referred to above, which was held on 10 December 2019, public consultation was undertaken in respect of a revised version of the Supplementary Guidance: Housing in the Countryside.

9.3. The Consultation Report, attached as Appendix 1 to the report by the Executive Director of Development and Infrastructure, which recorded the comments raised by members of the public and stakeholders and the response by the Executive Director of Development and Infrastructure to those comments.

9.4. The revised draft Supplementary Guidance: Housing in the Countryside, attached as Appendix 2 to the report by the Executive Director of Development and Infrastructure, which had been amended to respond to the material planning matters raised through the consultation process, referred to at paragraphs 9.2 and 9.3 above.

Councillor Robin W Crichton, seconded by Councillor Rachael A King, moved that the Supplementary Guidance: Housing in the Countryside, as submitted, be approved.

Councillor Duncan A Tullock, seconded by Councillor David Dawson, moved an amendment that the Supplementary Guidance: Housing in the Countryside be approved, subject to the following references being removed from the Guidance:

- Paragraph 1.05 – “In May 2019, Orkney Islands Council declared a Climate Emergency. The statutory functions of the Planning Authority along with the statutory functions of Building Standards are committed to reducing carbon levels in Orkney and contributing to the Council’s commitment to a vibrant carbon neutral economy.”
- Paragraph 2.11 – “DC10 – In line with the Council’s Climate Emergency, all new housing development needs to demonstrate how they are proposing to incorporate low or carbon technologies for heating and power as well as a high standard of insulation for the proposed living accommodation. The applicant is also required to demonstrate how they have incorporated electric vehicle charging or how it could be included within the curtilage, when required.”

The result of a recorded vote was as follows:

For the Amendment:

Councillors Norman R Craigie, David Dawson, Andrew Drever and Duncan A Tullock (4).

For the Motion:

Councillors Robin W Crichton, J Harvey Johnston, Rachael A King, W Leslie Manson, Stephen Sankey, Graham L Sinclair, James W Stockan and Heather N Woodbridge (8).

The motion was therefore carried.

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

9.5. That the Supplementary Guidance: Housing in the Countryside, attached as Appendix 4 to this Minute, be approved.

9.6. That, once approved, the Supplementary Guidance, referred to at paragraph 9.5 above, be taken forward as Statutory Supplementary Guidance in relation to the adopted Orkney Local Development Plan.

10. Planning Policy Advice: Amenity and Minimising Obtrusive Lighting

Councillor Heather N Woodbridge declared a non-financial interest in this item, in that she was Vice Chair of an organisation pursuing Dark Skies Status, but concluded that her interest did not preclude her involvement in the discussion.

After consideration of a report by the Executive Director of Development and Infrastructure, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Planning Manager (Development and Marine Planning), the Committee:

Noted:

10.1. That public consultation had been undertaken in respect of draft Planning Policy Advice: Amenity and Minimising Obtrusive Lighting.

10.2. The Consultation Report, attached as Appendix 1 to the report by the Executive Director of Development and Infrastructure, which recorded the comments raised by members of the public and stakeholders and the response by the Executive Director of Development and Infrastructure to those comments.

10.3. The revised draft Planning Policy Advice: Amenity and Minimising Obtrusive Lighting, attached as Appendix 2 to the report by the Executive Director of Development and Infrastructure, which had been amended to respond to the material planning matters raised through the consultation process, referred to at paragraphs 10.1 and 10.2 above.

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

10.4. That the Planning Policy Advice: Amenity and Minimising Obtrusive Lighting, attached as Appendix 5 to this Minute, be approved.

10.5. That, once approved, the Planning Policy Advice: Amenity and Minimising Obtrusive Lighting be taken forward as a material consideration in the determination of relevant planning applications.

11. Sustainable Transport Project Development Plan

Project Resource

The Committee noted that this item had been withdrawn.

12. Policy on Industrial Estates

After consideration of a report by the Executive Director of Development and Infrastructure, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Development and Regeneration Manager, the Committee:

Noted:

12.1. That, on 10 November 2020, when considering a review of policy in respect of the provision and disposal of industrial land and property, the Development and Infrastructure Committee recommended:

- That consideration of the policy statement in respect of Industrial Estates be deferred, to enable officers to establish a set of criteria in respect of sites for sale by exception.
- That the Executive Director of Development and Infrastructure should submit, to the next meeting of the Committee, a revised policy statement in respect of Industrial Estates, including the criteria referred to above.

12.2. The assessment of possible criteria for sale of sites by exception, as detailed in section 5 of the report by the Executive Director of Development and Infrastructure.

On the motion of Councillor Robin W Crichton, seconded by Councillor W Leslie Manson, the Committee resolved to **recommend to the Council**:

12.3. That the policy statement in respect of Industrial Estates, attached as Appendix 6 to this Minute, be approved.

13. Economic Development Grants

Budget Monitoring Statement and Delegated Approvals

Councillors Andrew Drever and Rachael A King declared non-financial interests in this item, in that family members were employed by organisations which had received Economic Development Grant funding, however, as the specific applications were not discussed, they did not leave the meeting.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Economic Development Manager, the Committee:

Noted:

13.1. That, for financial year 2020/21, the approved budget in respect of Economic Development Grants amounted to £303,200.

13.2. Spending to 30 November 2020, in relation to Economic Development Grants, totalling £133,269, of which £121,942 related to grant commitments made in previous financial years and £11,327 to current year commitments.

13.3. That, as at 30 November 2020, the budget available for approval from the Economic Development Grants budget amounted to £156,854, as detailed in Annex A to the report by the Executive Director of Development and Infrastructure.

13.4. Grant approvals made in the period 1 April to 30 November 2020 totalling £146,346, including grants approved under delegated schemes for the same period totalling £106,346, as detailed in Annex B to the report by the Executive Director of Development and Infrastructure.

14. Exclusion of the Public

On the motion of Councillor Graham L Sinclair, seconded by Councillor Andrew Drever, the Committee resolved that the public be excluded for the remainder of the meeting, as the business to be considered 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.
- The disclosure of confidential information of the class described in Section 50A(3)(a) of the Local Government (Scotland) Act 1973 as amended.

Councillor Rachael A King left the meeting at this point.

15. Economic Development Grant

Application Number 0/5/2/1777

Councillor Robin W Crichton declared a non-financial interest in this item, in that a family member was an associate member of the organisation, but concluded that his interest did not preclude his involvement in the discussion.

Councillor Stephen Sankey declared a non-financial interest in this item, in that he was a former Chair of the predecessor body to the organisation and a current member of the organisation through his tourism business, 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 Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Economic Development Manager, the Committee:

Resolved, in terms of delegated powers, what action should be taken with regard to application number 0/5/2/1777.

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.

16. Economic Development Grant

Application Number 0/5/2/2081

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 Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Economic Development Officer, the Committee:

Resolved, in terms of delegated powers, what action should be taken with regard to application number 0/5/2/2081.

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.

17. 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 paragraphs 1 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of the draft Minute of the Meeting of the Harbour Authority Sub-committee held on 19 January 2021, copies of which had been circulated, the Committee:

Resolved:

17.1. On the motion of Councillor Graham L Sinclair, seconded by Councillor Andrew Drever, to approve the Minute of the Meeting of the Harbour Authority Sub-committee held on 19 January 2021 as a true record.

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

17.2. That the recommendations at paragraphs 7.3, 9.6, 10.5 and 10.6 of the Minute of the Meeting of the Harbour Authority Sub-committee held on 19 January 2021, attached as Appendix 5 to this Minute, be approved.

18. Strategic Transport Projects Review

Under section 50A(2) 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 confidential information as defined in section 50A(3)(a) of the Act.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, the Committee:

Noted:

18.1. That Transport Scotland was undertaking a second Strategic Transport Projects Review (STPR2), to replace the first Review published in 2009, which would inform transport investment in Scotland for the next 20 years.

18.2. That STPR2 would help to deliver the vision, priorities and outcomes for transport set out in the National Transport Strategy and would align with other national plans such as the National Planning Framework and the Climate Change Plan.

18.3. That the process was an evidence-based review of the performance of Scotland's strategic transport network across all transport modes – walking, cycling, bus, rail and road plus wider island connectivity – to identify interventions required to support delivery of Scotland's Economic Strategy.

18.4. That, as set out in the Scottish Transport Appraisal Guidance, the purpose of Option Generation, Sifting and Development was to derive a range of options which had the potential to provide the solution(s) to meet the Transport Planning Objectives and alleviate any problems or opportunities identified.

18.5. The Council's draft response to the second Strategic Transport Projects Review, attached as Appendix 3 to the report by the Executive Director of Development and Infrastructure.

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

18.6. That powers be delegated to the Executive Director of Development and Infrastructure, in consultation with the Chair and Vice Chair of the Committee, to finalise the Council's response to Transport Scotland in relation to the second Strategic Transport Projects Review, based on the draft response referred to at paragraph 18.5 above.

18.7. That the Executive Director of Development and Infrastructure should submit the final response to Transport Scotland, on behalf of the Council, in relation to the second Strategic Transport Projects Review, by the deadline of 26 February 2021.

The Committee noted:

18.8. That, due to the time constraints involved, the Chief Executive would be requested to exercise emergency powers to authorise submission of the response, referred to at paragraph 18.7 above, prior to approval by Council.

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.

19. Conclusion of Meeting

At 16:15 the Chair declared the meeting concluded.

Signed: Graham L Sinclair.