Draft

FALKIRK COUNCIL

Minute of meeting of Falkirk Council held remotely on Wednesday 20 January 2021 at 10.00 a.m.

Councillors:	David Aitchison	Fiona Collie	John McLuckie
	David Alexander	Joan Coombes	Cecil Meiklejohn
	David Balfour	Jim Flynn	Lynn Munro
	Lorna Binnie	Paul Garner	Laura Murtagh
	Robert Bissett	Dennis Goldie	Malcolm Nicol
	Allyson Black	David Grant	Alan Nimmo
	Jim Blackwood	Nigel Harris	John Patrick
	Gary Bouse	Gordon Hughes	Pat Reid
	Provost William Buchanan	James Kerr	Robert Spears
	Niall Coleman	Adanna McCue	

Officers: Danny Cairney, Senior Service Manager Corporate Finance
Patricia Cassidy, Chief Officer, Health and Social Care Partnership
Douglas Duff, Acting Director of Development Services
Jack Frawley, Team Leader - Committee Services
Kenny Gillespie, Head of Housing
Kenneth Lawrie, Chief Executive
David McGhee, Head of Procurement & Housing Property
Colin Moodie, Chief Governance Officer
Robert Naylor, Director of Children's Services
Brian Pirie, Democratic Services Manager
Stuart Ritchie, Director of Corporate & Housing Services
Bryan Smail, Chief Finance Officer

Also Attending: Maureen Campbell, Chief Executive, Falkirk Community Trust

In accordance with section 43 of the Local Government in Scotland Act 2003 the Provost had directed that the meeting would be conducted by video to allow remote attendance by elected members.

In accordance with section 50A of the Local Government (Scotland) Act 1973 the public were excluded from this meeting as it was likely that, if members of the public were present, there would be a real and substantial risk to public health due to infection or contamination with coronavirus.

FC36. Sederunt

The sederunt was taken by way of a roll call. An apology was intimated on behalf of Depute Provost Ann Ritchie.

FC37. Declarations of Interest

Councillors Binnie, Coleman, Coombes, Flynn and Spears each declared a non-financial interest in item FC38 as Directors of Falkirk Community Trust, but did not consider that this required them to recuse themselves from consideration of the item, having regard to the specific exclusions contained in the Code of Conduct.

FC38. Falkirk Community Trust:-

(a) Falkirk Community Trust Business Plan

Council considered a report by the Director of Corporate and Housing Services presenting Falkirk Community Trust's Business Plan for 2021/22.

At its meeting of 2 December 2020 (ref FC33) Council agreed to a request from Falkirk Community Trust to enter into further discussions on possible budget savings proposals.

Meetings took place with the Trust on 18 December 2020 and 6 January 2021. The Trust was represented by the Chair and Chief Executive and the Council by the 3 Group Leaders, Chief Executive and Chief Finance Officer. The main points which emerged from the discussion were:-

- The Trust highlighted that they operated under the Companies Act(s) which brought with it responsibilities on directors.
- The uncertainties were readily recognised and exemplified by the new lockdown and the extension of the Furlough Scheme to April 2021.
- The Trust had produced 3 scenarios leading to a range of possible deficits in 21/22. After discussion it was agreed that it would be both reasonable and prudent to accept the middle scenario and a projected deficit of c£3m.
- Group Leaders sought to explore service configuration options such as greater outdoor activities - with the Trust pointing out that whilst these were being actively taken forward there were difficulties in creating a reliable income stream from them.
- Individual budget options were explored, and it was evident most had significant service and staffing implications
- It was noted that, if the budget options proposed by the Trust were not accepted by the Council, the equivalent savings would then need to be taken from Council Services.

The discussions revealed certain criteria which were fundamental to the Council's evaluation of potential savings options by the Trust:-

a) compulsory redundancies were not acceptable;
b) options with respect to buildings needed to be placed in the context of the Strategic Property Review (SPR), and
c) proper regard needed to be paid to current community engagement.

Regarding the latter 2 criteria, timing issues meant they were not compatible with the 21/22 Council budget. There were, however, two options that could be acceptable to the Council:-

- deployment of £500k from the Trust's reserves. Although this would still leave a balance of £142k in unallocated unrestricted reserves, and
- increased income from a new Community Membership Scheme which could yield £150k.

This would reduce the Trust's projected deficit of c£3m by £650k. If accepted these would only reducing the scale of the projected Trust deficit which required to be covered.

Decision

Council noted that the projected deficit for the Trust had reduced from £4.5m to £3m and accepted the proposals from the Trust which would reduce that projected deficit by a further £650k.

(b) Falkirk Community Trust – Future Options

Council considered a report by the Chief Executive which provided information on the future options for Falkirk Community Trust regarding maintenance of the current arrangements, bringing the Trust back in-house or any other course of action identified by Council.

At its meeting 30 September 2020 (ref FC16) Council requested that the Chief Executive, having consulted with the Trust, prepared a report outlining:-

(i) the process, work and any risk factors that would be involved should a decision be taken by the Council to bring the Trust back in-house;

(ii) the advantages and disadvantages that would result should the Trust be brought back in-house addressing the issues noted above and including finance, workforce and governance implications, and

(iii) what the anticipated timescale would be.

Council had agreed, on 2 December 2020 to continue consideration of this item until the discussions set out in (a) above had taken place.

The Trust was an arm's length external organisation (ALEO) and a charity registered with the Scottish Charity Regulator (OSCR). It was constituted as a company limited by guarantee. The Council was its sole member. It was established in 2011 by the Council to provide cultural, recreation, sports and library services for the Falkirk Council area.

Three appendices were attached to the report which set out information requested by Council on the advantages and disadvantages of bringing the Trust back in-house, the process, work and indicative timeline that would be involved in such a project, and risk factors.

The main advantage of bringing the Trust back in-house was that decisions could be taken by the Council as a single decision maker in alignment with its agreed priorities. There could be a more integrated and streamlined approach taken to treatment and use of facilities in alignment with the Council's wider property portfolio, its objectives and the Strategic Property Review. There would be scope to ensure an integrated approach to transformational project work. There could also be potential savings and efficiencies through an assessment of duplication of posts and work and a review of structural arrangements. This would include removing additional areas of work such as monitoring of and liaison between the Council and the Trust and company secretarial tasks. An estimate of these potential savings in employee costs was £220k per annum, albeit that would not be realised in the initial years after a transfer when short term costs would likely be incurred.

The key disadvantage to the Council of bringing the Trust back in-house was the loss of rates savings that the charitable status of the Trust allowed for amounting to £1.35m per annum. As a result of implementation of the Barclay recommendations, if the Trust was wound up, that saving would be lost and would not be available again to the Council in the future. The loss would be partially offset by a VAT benefit of circa £250k as, unlike the Council, the Trust was unable to fully recover all its VAT. Accordingly, the net loss to the Council taking account of rates and VAT would be circa £1.1m per annum, increasing the projected budget gap in 2022/23 to circa £8.8m.

Council required to carefully balance the advantages and disadvantages. In particular, it required to balance the loss of current savings of circa £1.1m per annum with the advantages that could result from the Council being the single decision maker. This was only an advantage if the Council was prepared to take the decisions on property investment and rationalisation to achieve the level of savings to close the Council's budget gap.

The pandemic had had a significant impact on the Trust since the initial lockdown in March 2020 both operationally and financially. The Trust made an application through the UK Government's Job Retention Scheme with c£2.2m claimed for furloughed employees to date. Such support was not available to those councils who had in-house provision.

The process and indicative timescale that would be involved should a decision be taken to bring the Trust back in-house was set out in an appendix to the report. Given the complexity of the processes involved including the need to seek approval from the OSCR, engage/consult with a number of parties, including employees, Trade Union representatives, communities and external funding bodies/ grant providers it was anticipated that 6 months would be the shortest time the process would take. In reality, a longer timeframe would likely be needed to allow for potential unforeseen events and to give time to properly consult with relevant parties and affected employees in both the Trust and the Council. In addition, it would be desirable to align any change with the start of a new financial year as this would allow integration of the process with the budget cycle. Accordingly, a target transfer date was suggested of 1 April 2022 if Council decided to bring the Trust back in-house.

Budgetary implications of bringing the Trust back in-house would require to be very carefully considered, particularly from a tax perspective given nondomestic rates and VAT issues. Considerable uncertainty remained in relation to the Council's overall financial position, particularly with regard to potential financial flexibilities which may ease the position.

There would be significant work involved in workforce planning and transfer of staff under the Transfer of Undertaking (Protection of Employment) Regulations (TUPE) should a decision be taken to bring the Trust back in-house. Significant legal work would also be involved in terms of charity and company law, input to an application to OSCR for approval for winding up, the process of winding up a charitable company (which would require specialist corporate advice and input), due diligence, transfer of staff, assets and liabilities of the Trust to the Council including the Trust's role in the Helix project.

Councillor Meiklejohn, seconded by Councillor Kerr, moved, for the reasons set out in the Chief Executive's report, that Council agrees:-

(1) to commence work to bring the Trust back in-house with a targeted transfer date of 1st April 2022; and

(2) requests that the Chief Executive develop a detailed project plan for bringing the Trust back in-house including key milestones and report this to the June meeting of Council.

As an amendment, Councillor Bissett, seconded by Councillor Coombes, moved in substitution for the motion, for the reasons set out in the Chief Executive's report, that Council agrees to maintain the current arrangements with the Trust at the present time.

In terms of Standing order 22.1, the vote was taken by roll call, there being 29 members present with voting as undernoted:-

For the motion (20) – Provost Buchanan; and Councillors Alexander, Balfour, Binnie, Bouse, Coleman, Collie, Flynn, Garner, Grant, Harris, Hughes, Kerr, McCue, Meiklejohn, Munro, Murtagh, Nicol, Patrick and Spears.

For the amendment (9) – Councillors Aitchison, Bissett, Black, Blackwood, Coombes, Goldie, McLuckie, Nimmo and Reid.

Decision

Council agreed the motion.

Council adjourned at 12noon and reconvened at 12.15pm with all members present as per the sederunt.

FC39. Housing Revenue Account & Council House Rents 2021/22 – 2025/26

Council considered a report by the Director of Corporate and Housing Services which provided options in relation to council house rent and other rental charges for 2021/22. The report also set out the financial implications of different rent options and sought approval of the resultant Housing Revenue Account budget, based on the selected rental charge option. Information was also provided on indicative rent levels for the years 2022/23 to 2025/26.

The budgeted current average rent was £70.46 per week. Over 70% of the current rent was directed at repaying borrowing costs and paying for the cost of day-to-day maintenance and improvements, while the remainder was towards the cost of managing tenancies. The Scottish Government published a set of performance indicators for council housing, which allowed comparison of the Council's performance against the other 25 local authority landlords. Due to Covid, the most recently available figures were of 2019/20 budgets. Falkirk Council had the:-

- 6th lowest rent;
- 7th highest level of repairs and improvement expenditure per house;
- 10th lowest supervision and management costs.

Capital and revenue funding required to be aligned with future investment requirements as set out in the Housing Asset Management Plan, to ensure that the Council's housing stock continued to be maintained in accordance with the SHQS. This approach was an integral part of the development of both the Housing Investment Programme and corresponding revenue budget decision-making.

For 2021/22, it was estimated that c£63m was required in both revenue and capital funding in order to maintain and improve the housing stock and associated estates. This investment covered both internal and external work to the housing stock, along with environmental improvements to estates and other housing assets, including garage sites and lock-ups.

The main influences in preparing the Housing Revenue Account were: -

- Employee expenses were expected to increase by £0.25m (3%) mainly due to increments, pay inflation and increased employer's pension contributions;
- Property costs were set to increase by £0.68m (2.6%) primarily due to inflation. This was, however, an area of cost that may be adversely affected by Brexit going forward, with possible higher than average cost increases being experienced;
- Capital charges were anticipated to decrease by £0.235m (1%). The decrease was due to lower than anticipated capital expenditure this financial year, as a result of the impacts of COVID-19. Where necessary, all projects delayed in 2020/21 had been carried forward. As such, future year capital charges were expected to increase.
- The Council House stock available for letting was also a significant factor in determining rent levels. Provision for additional houses from new build and buy-backs had been included in the estimated stock figures for 2021/22 and future years.

Decision

Council:-

(1) agreed a rent increase of 2% for financial year 2021/22 including the use of £0.6m reserves as set out in appendix 4 of the report

(2) approved the Housing Revenue Account budget for financial year 2021/22 as set out in appendix 2 of the report, and

(3) noted the indicative budgets and rent levels for 2022/23 to 2025/26 as representing the best available information at the time.

FC40. Housing Investment Programme 2021/22 to 2025/26

Council considered a report by the Director of Corporate and Housing Services which provided details of housing investment requirements over the next 5 years in order to set a Housing Investment Programme for the years 2021/22 to 2025/26. The Programme covered 5 years in order to fully align with the Council's Medium Term Financial Plan (MTFP).

The Council was required to ensure its housing stock met the Scottish Housing Quality Standard (SHQS). To ensure the standard was maintained, comprehensive stock condition information was held in order to provide an overall position statement regarding the housing stock condition. This information provided the basis for the Council's Housing Asset Management Plan and future investment plans.
As at 31 March 2020, 97.78% of properties met the SHQS. The remaining 2.22% were due to either abeyances or exemptions. Work was progressing to improve those remaining properties.

A total of £181m had been estimated as being required over the next 5 years for priority housing improvement work. The key features of the required housing improvement works for 2021/22, totalling £36.5m, were:-

- Elemental Improvements (£23.35m)
- Energy Efficiency Works (£7.9m)
- Estate Improvements (£1.8m)
- Priority Initiatives (£1.8m)
- Health & Safety (£1.65m)

A total of £150.9m had been assessed as being required over the next 5 years for non SHQS investment. The key features of the non SHQS expenditure requirements for 2021/22, totalling £17m were:-

- New Build Council Housing (£10.5m)
- Property Buy-Backs (£6m)
- Other Works – LHS Initiatives (£0.5m).

Given the increased scale of the programme going forward, particularly in relation to the programmes for door and window replacement and new build, additional staffing resource would be required to support the delivery of the programme. A combination of additional staffing, together with the creation of permanent posts, from current temporary positions was necessary to improve staff retention and recruitment and to support the effective delivery of the investment programme. Council was asked to approve delegated authority for the Acting Director of Development Services, in consultation with the Director of Corporate and Housing Services, to amend the Building Design Unit permanent staffing establishment, subject to appropriate financial provision being available, to support the effective delivery of the Housing Investment Programme.

Decision

Council:-

(1) agreed the Housing Investment Programme as set out in appendix 1 of the report covering the financial years 2021/22 through to 2025/26.

(2) granted delegated authority to the Acting Director of Development Services, in consultation with the Director of Corporate and Housing Services, to amend the Building Design Unit permanent staffing establishment, subject to appropriate financial provision being available, to support the effective delivery of the Housing Investment Programme.

Councillor Kerr left the meeting during consideration of the previous item.