

COUNCIL: 16 FEBRUARY 2022

RESPONSE TO REQUEST FOR SUPPLEMENTARY INFORMATION

Please find below some supplementary information provided in relation to matters raised at the 16 February 2022 Council meeting. Responses are shown in red font.

10. Medium-Term Financial Outlook 2022/23 to 2024/25

The Head of Finance undertook to circulate information to Elected Members on (i) the comparative costs to the public purse of the different funding models for capital school estate projects and (ii) payments to the PPP contractor in respect of non-domestic rates and utilities.

Response

- (i) A separate briefing note is appended to this document.
- (ii) The total unitary charge payments for the period were £172.124m, including NDR and utility costs.

However, as previously mentioned, the value of the contracted unitary charges for the period was £162.966m.

The £9.158m difference represents NDR and utilities costs which the contractor paid on behalf of NAC and then recharged. These costs would have been payable by NAC irrespective of the funding mechanism used.

12. Questions

- (4) As a supplementary question, Councillor Stalker asked how much the contract was over budget and whether there would be any contractual penalties to the contractor due to the delays.

Councillor Montgomerie responded by advising that he did not have this information available but undertook to have a written response circulated to Elected Members.

Response

The tender for the Upper Garnock Valley FPS was approximately £12.63m and a contingency of £1.263m (10%) was allowed in the overall project budget of £18.504m for the inevitable cost increases that occur during construction on a project of this nature. The construction is still ongoing and costs are not finalised, but it is not expected that the increase in costs over the tender price will exceed the contingency which was allowed in the budget.

The works at Beith Road in Dalry were subject to the same completion date as the project as a whole. Initially this was 9th March 2022 but has been extended to 19th May 2022, mostly due to delays which occurred at the dam site above Kilbirnie. It would have been possible to apply an earlier completion date to the work in Dalry in the Contract, but there was a risk of delays to access at two areas of the site in Dalry due to required third party permissions which were outwith the control of NAC as the Client. Those delays in permissions did occur for work to the railway embankment and at the Tofts Mill site. The extended time period allowed in the contract has minimised the exposure of the Client to claims for additional costs from the Contractor.

Although the contractor has taken much longer than the time in his original programme at this location, he is still subject to the May 2022 completion date for the whole project. Therefore, although a liquidated damages clause was included in the contract, no damages are expected to be applied because the work will be completed within the contractually permitted period. Work at Beith Road is focusing on the cladding to the front of the wall, which will allow the road to be re-opened in early March, although there may still be traffic management beyond that period.

Further questions about this contract can be directed to Arthur Cowley, Senior Manager - Engineering Services.

- (10) As a supplementary question, Councillor Marshall advised that he had been looking for figures on a year-by-year basis, of the new houses which contributed to council tax, and asked whether the Leader recognised the successful efforts of planning officials and the Planning Committee in bringing new housing to the area, thus mitigating population decline.

Councillor Cullinane responded by advising that he would arrange for any missing information to be circulated.

Response

During the period 2017 to 2022, 2,047 new dwellings have been added to the Council Tax base. This has been offset by 672 demolitions / removals over the same period, resulting in a net increase to the Gross Council Tax base of 1,375 dwellings. This is equivalent to additional gross Council Tax Income of £2.164m before the application of any discounts or reductions.

Year	New Dwellings	Demolitions /Removals	Net Increase in CT Base
2017	448	-288	160
2018	502	-304	198
2019	419	-80	339
2020	274	0	274
2021	404	0	404
Total	2,047	-672	1,375

- (13) As a supplementary question, Councillor Ferguson referred to this data being made available to IT professionals within local authorities and asked the Cabinet Member whether all those with access were PVG checked. Councillor Ferguson also requested confirmation that the full survey would be published on the Council's website so that it was available in the public domain.

Councillor Bell responded by undertaking to check the PVG arrangements for the Council's data protection experts who would access the data. The Cabinet Member provided an assurance that the data would be held in a secure location and could not be accessed by anyone without proper authentication. Councillor Bell also undertook to advise Elected Members whether, and where, the survey had been published.

Response

- There are three members of staff in the Education data team and as they are not required to work directly with children then they are not required to have a Disclosure certificate/PVG check. Only those working directly with children require to be Disclosure/PVG checked. Given the sensitive nature of this survey, the task of analysis will be given to the senior data analyst alone.
- Once analysed reports will be anonymous. The census has been designed to be confidential and pupils are not asked to provide their name but rather their Scottish Candidate Numbers are requested to enable analysis by gender, deprivation, or equity gap characteristics, for example. The HWB data is being collected for statistical and research purposes as part of a public task and will not be used to identify names of individual pupils.
- In their use of the data to carry out their duty to improve the physical and mental health of the people of Scotland, Scottish Government will not link it to the individual names of pupils. Any reports generated from the data for a wide range of purposes, will be suppressed to ensure individual pupils will not be identified.

The following data protection measures are in place:

- A Data Processing Agreement is in place that allows us to use the platform for carrying out the survey
- A Privacy Notice is in place for parents and young people so they are aware of what we are collecting and how
- A Data Protection Impact Assessment has been completed with Data Compliance and Legal colleagues
- A Data Sharing Agreement will be in place to allow us to securely pass our HWB data to Scottish Government
- A young person's response to the Health and Wellbeing survey is securely kept electronically in the survey systems and centrally within password protected areas on North Ayrshire's secure servers.

The survey is the property of the Scottish Government and as such they have publishing rights. The questions are available on the Scottish Government website. <https://www.gov.scot/publications/foi-202100263860/>

Secondary School Estate

Briefing Note on the comparative Funding Models

North Ayrshire Council has utilised three distinct methodologies for the provision of Secondary Schools and their associated campuses.

The differing methods take a variety of approaches to main elements of school provision, i.e. construction, financing, maintenance and operation.

Private Finance Initiative / Public Private Partnership

During 2007/08 North Ayrshire Council entered into the North Ayrshire Schools PPP Contract, a 30 year contract for the construction, maintenance and operation of four schools including Stanley Primary, Arran High, Greenwood Academy and St Matthew's Academy.

Under PFI/PPP contracts a private sector provider is engaged to design, build, finance, maintain and operate infrastructure assets and related services. The potential risks associated with construction delay, cost overrun and maintenance of the asset are transferred to the private sector partner.

Under these arrangements North Ayrshire Council only began making payments to the contractor once the assets were operational and services were being provided. Payments of the unitary charge are made monthly over the term of the contract and include the costs of construction, financing costs, lifecycle replacement expenditure, maintenance and services, including cleaning and janitorial services, repairs and maintenance, energy, non domestic rates and insurances. The payment is subject to performance, which means that payments are reduced if services are not delivered to the standards set out in the contract.

At the end of the contract period all assets, including the buildings, plant and equipment will transfer to North Ayrshire Council for nil consideration.

A key criticism of PFI/PPP is the lack of understanding and transparency of the financial returns being earned by project company shareholders.

Capital Costs

The capital costs for the project included £83.6m financed through the model. This was partly offset by an advance capital contribution of £1.7m.

Revenue Costs

Under the PFI/PPP contract, North Ayrshire Council has entered into a 30 year contract to make unitary payments which include the financing of the £81.9m capital costs, £26.2m towards property maintenance and lifecycle costs and £141.3m for the provision of services. Total unitary charges are currently estimated at £406.3m.

The contract includes provision for the unitary charge to increase by 2/3rds of RPI at February each year. This inflationary element requires additional pressures to be included within North Ayrshire Council's Revenue Estimates each year. For 2022/23 this resulted in an additional pressure of £0.6m.

Additional Funding

Under the terms of the agreement, the Scottish Government provided additional revenue grant of £159.9m over the 30 year period.

North Ayrshire Council also agreed to apply £35.2m from the Schools Fund allocation received as part of the Scottish Government finance settlement over the 30 year period.

Design, Build, Finance and Maintain

During 2017/18 North Ayrshire Council opened the Largs Campus which combines one secondary school, two primary schools and one early years' centre. The campus was delivered using the Design, Build, Finance and Maintain (DBFM) model.

Under this model, North Ayrshire Council worked with the South West Scotland Hub and the Scottish Futures Trust (SFT) to develop the project including both the design and build of the campus.

The procurement method used is the Non Profit Distributing (NPD) model. NPD is not a "not for profit" model as contractors and lenders expect to earn a normal market rate of return. The model seeks to limit the returns to a reasonable rate, set in competition through an open procurement process, and remove the possibility of uncapped equity returns previously associated with the PPP/PFI model.

Capital Costs

The capital costs for the project were split into:

- (i) those costs which form part of the DBFM contract and which will be financed through the model, for Largs this was £44.3m; and
- (ii) other capital costs outwith the model which would be met from within the Council's approved Capital Investment Programme. This amounted to £7.7m for Largs and included such items as upgraded road networks around the campus, new cycling and walking routes and purchase of land.

Revenue Costs

Under the DBFM model, North Ayrshire Council has entered into a 25 year contract to pay unitary charges for the construction and maintenance of the campus. This includes the financing of the capital costs of £44.3m plus the projected costs of property maintenance and lifecycle replacement over the term of the contract. Total unitary charges are currently estimated at £107.3m.

As with PFI/PPP, North Ayrshire Council only began making payments to the contractor once the assets were operational. Payments of the unitary charge are made monthly over the term of the contract and include the costs of construction, financing costs and lifecycle replacement expenditure. The payment is subject to performance, which means that payments are reduced if services are not delivered to the standards set out in the contract

The contract includes provision for annual increases in the unitary charge linked to RPI based on 21% of the unitary charge increasing by April RPI each year. This inflationary element requires additional pressures to be included within North Ayrshire Council's Revenue Estimates each year. For 2022/23 this resulted in a pressure of £0.1m.

All operating costs, including additional loan charges, unitary charges, non domestic rates, cleaning and catering, etc., require to be met from within the Council's revenue budgets. An additional pressure of £1.0m was included from 2018/19 in relation to this.

Additional Funding

Under the terms of the agreement, the Scottish Government will provide additional revenue grant of £83.5m over the 25 year period to meet the costs of the capital financing, i.e. principal plus interest.

Traditional Capital Investment

The Garnock Community Campus was originally developed as a DBFM model in the same way as Largs Campus. However, it was agreed to finance Garnock along the traditional route through the Council's Capital Investment Programme. This allowed the proposed Scottish Government financial support to be maximised via the Largs Campus.

Under the traditional capital investment route, North Ayrshire Council takes responsibility for all aspects of the design, construction and maintenance of the campus. This includes all potential financial and operational risks.

Capital Costs

The capital costs for the project of £40.3m were met from within the Council's approved Capital Investment Programme, funded by capital grants and prudential borrowing.

Revenue Costs

All capital financing costs and all operating costs, including loan charges, non domestic rates, cleaning and catering, etc., require to be met from within the Council's revenue budgets each year.

This resulted in estimated annual loan charges of £2.1m plus additional revenue pressures of £0.4m from 2018/19.

Secondary School Estate - Provision Methodologies

	PPP Schools (30 year contract)			DBFM - Largs Campus (25 year contract)			Traditional - Garnock Campus (25 year borrowing)		
<u>Non Recurring Costs</u>	Capital £	£	Total £	Capital £	£	Total £	Capital £	£	Total £
Contractor Capital Costs	81,847,000		81,847,000	44,264,426		44,264,426	40,343,448		40,343,448
Additional NAC Capital	1,743,000		1,743,000	4,614,216		4,614,216			
NAC Revenue contribution (Relocation, Demolition, etc.)			-		3,052,691	3,052,691		1,169,429	1,169,429
Total Projected Expenditure	83,590,000	-	83,590,000	48,878,642	3,052,691	51,931,333	40,343,448	1,169,429	41,512,877
Funded By									
SG Unitary Charge Support	81,847,000		81,847,000	44,264,426		44,264,426			
NAC Capital Programme	1,743,000		1,743,000	4,614,216		4,614,216	40,343,448		40,343,448
NAC Revenue Expenditure			-		3,052,691	3,052,691		1,169,429	1,169,429
Total NAC Funding	1,743,000	-	1,743,000	4,614,216	3,052,691	7,666,907	40,343,448	1,169,429	41,512,877
Total Funding	83,590,000	-	83,590,000	48,878,642	3,052,691	51,931,333	40,343,448	1,169,429	41,512,877
<u>Recurring Revenue Costs</u>		Annual/Average Costs £	Cumulative Costs £		Annual/Average Costs £	Cumulative Costs £		Annual/Average Costs £	Cumulative Costs £
<u>Contractor Costs</u>									
Interest		3,510,726	105,321,776		1,086,417	27,160,425		-	-
Lifecycle Replacement Costs / Hard FM		874,602	26,238,067		942,371	23,559,265	See Note 1	-	-
Contingent Rental (Inflation)		1,721,102	51,633,062		396,217	9,905,421		-	-
Services		4,709,863	141,295,895	See Note 2	-	-	See Note 2	-	-
		10,816,293	324,488,800		2,425,004	60,625,111			
NAC Loan Charges		-	-		270,000	6,750,000		2,141,000	53,525,000
NAC Additional Operating Costs		-	-		413,646	10,341,150		399,000	9,975,000
Total Projected Expenditure		10,816,293	324,488,800		3,108,650	77,716,261		2,540,000	63,500,000
Funded By									
SG Unitary Charge Support	See Note 3	2,601,767	78,053,000		1,570,674	39,266,842		-	-
NAC Revenue Expenditure		8,214,527	246,435,800		1,537,977	38,449,419		2,540,000	63,500,000
Total Funding		10,816,293	324,488,800		3,108,650	77,716,261		2,540,000	63,500,000

Note 1 Under the Traditional model, further costs in relation to the maintenance and replacement of the building, plant and equipment will arise as pressures on the Revenue and Capital budgets over the life of the campus.

Note 2 The DBFM and Traditional Models do not include costs for Services such as cleaning and janitorial services, energy costs, non domestic rates and insurances which are met from across the Council's departmental revenue budgets.

Note 3 In addition to the £159.900m of PPP support from the Scottish Government, North Ayrshire Council has applied £35.190m from the Schools Fund allocation within our annual financial settlement to support the unitary charge payments over the course of the contract.