

## **Newbattle Centre European System of Accounts 2010 Update**

### **Report by Garry Sheret, Head of Property and Facilities Management**

#### **1 Purpose of Report**

The purpose of this report is to provide Council with a further update in relation to Scottish Futures Trust's (SFT) progress with resolving the technical accounting issue "European System of Accounts 2010 (ESA 10)" in relation to Newbattle High School.

The report provides an update regarding the final outcome of the Office of National Statistics (ONS) findings in relation to how the Hub Design, Build, Finance and Maintain (DBFM) projects require to be altered to bring them back within ESA 10 guidance.

#### **2 Background**

At its meeting on 23 June 2015 Council received a report updating Council on the ESA 10 situation in relation to Newbattle High School. The report was prepared following a briefing by SFT to Council officers in relation to the ESA 10 situation as they understood at that time.

The SFT briefing shared further information regarding the changes they believed would be required to the HubCo structure to remain in line with ESA 10 guidance following feedback on the Aberdeen Western Peripheral Route proposals.

SFT outlined a number of changes required to the legal and financial structure of these contracts to enable them to remain within the ESA 10 guidance.

#### **3 Guidance and Direction**

##### **3.1 Office of National Statistics findings**

ONS has confirmed that the policy proposals for Hub contracts put forward by SFT would be privately classified under ESA10 and current guidance. This means affected Hub Co projects can now proceed to financial close.

The Scottish Government has agreed to all the amendments required to deliver this vital classification judgement and reaffirmed commitment to all projects in the hub pipeline and their progress to financial close on this revised basis.

The amended contractual arrangements are based on the structure circulated by SFT over the summer and generally as detailed in the report to Council on 23 June 2015.

Some further essential amendments to the Hub model standard contract are required, including revisions to the profit sharing arrangements (to remove sharing and capping) and the refinancing provisions (to reduce the public sector share of any gains). Given the limited upside potential in the extant arrangements as procured, and the low probability of any substantial refinancing gains, these changes are not considered material and will be effected through the normal amendment process for the Hub standard contract. An amended version of the standard contract has been published by SFT.

It has been recognised that the time taken to resolve the ESA10 issue has resulted in several projects being delayed beyond the point in time that project costs were originally fixed and that elements of consequential costs may have been incurred. SFT has agreed with the Scottish Government that project funding should be appropriately updated.

### **3.2 SFT Direction to Council**

SFT have written to Council Officials notifying the Council should now work with Hub Co to achieve financial close on Newbattle High School. SFT have offered their assistance in this matter.

Under direction from SFT Council had already started to make changes to the Hub DBFM structure in line with previous recommendations.

## **4. Report Implications**

### **4.1 Construction Programme for Newbattle Centre project**

Hub Co's current programme shows a 24 month construction duration. As a result of the ONS ruling SFT/Scottish Government require the Council and all of the other parties involved in the hub programme to make structural changes both in terms of the individual hub companies and in relation to the specific contracts for individual DBFM contract (which applies to Newbattle High School). This process is now underway. Council should be aware that the Hub programme covers all public sector areas and any structural changes will require to be agreed by all parties who have an interest within the hub programme both public and private side. It may take some time to obtain agreement from the various parties to implement the structural changes given the number of parties involved. There is also a risk that the Private Sector Partner may be unwilling to accept the changes that SFT/Scottish Government bring forward.

It is expected that Financial Close will be achieved by March 2016 with a start on site following that milestone. This will allow a completion of the Newbattle Centre for the summer of 2018.

## **4.2 Cost of the delay**

SFT have confirmed that Council will be no worse off as a result of the ESA 10 delays. Dialogue with SFT regarding the compensatory inflationary adjustment has commenced.

## **4.3 Resource**

Financial assessment of all costs can now be determined with the knowledge of a Spring 2016 start date. Officers will report back to Council with a further update which will outline the resource implications in more detail.

## **4.4 Risk**

### Public Sector control of the Special Purpose Vehicle (SPV)

The findings of the ONS report require structural changes to be made that will reduce public sector control of the SPV.

### Programme

The conclusion of the ESA 10 position no longer delays the programme for delivery of Newbattle High School apart from the conclusion of the Financial Close stage and agreement the inflationary adjustments.

### Inflation

The further delay caused by the ESA 10 situation means further inflation being applied to the project. Scottish Government has previously confirmed that the Council will be in a no worse off position as a result of the ESA 10 delays. Dialogue has commenced with SFT to ensure that this is secured.

## **5 Policy**

### **5.1 Single Midlothian Plan and Business Transformation**

Themes addressed in this report:

- ☒ Community safety
- ☒ Adult health, care and housing
- ☒ Getting it right for every Midlothian child
- ☒ Improving opportunities in Midlothian
- ☒ Sustainable growth
- ☒ Business transformation and Best Value
- ☐ None of the above

### **5.1.1 Key Priorities within the Single Midlothian Plan**

This project supports the provision of suitable infrastructure for the efficient and effective delivery of services to meet the full range of community needs. The co-location of facilities would ensure closer working relationships and assist in the delivery of strategic initiatives such as the Ageing Well, Getting it Right for Every Child (GIRFEC), Midlothian Active Choices and Get Going programmes.

### **5.2 Impact on Performance and Outcomes**

This work is a part of the Single Midlothian Plan's key priority of Early Years, providing fit for purpose community schools to present every child with the opportunity to attend the school which serves their community and supports improvement in pupil attainment and achievement.

### **5.3 Adopting a Preventative Approach**

Providing fit for purpose community schools to provide every child the opportunity to attend the school which serves their community supports the preventative approach by improving achievement and attainment of pupils and increasing their prospects of progressing onto positive destinations.

### **5.4 Involving Communities and Other Stakeholders**

At this stage the information has been shared by SFT on the basis that it remains confidential. Once we have more definitive information regarding start and finish dates then the intention would be to make the general public aware of this from the earliest possible date.

### **5.5 Ensuring Equalities**

An EQIA has been commenced which will be taken forward in parallel with the overall project design.

### **5.6 Supporting Sustainable Development**

The proposals take into account the need to deliver fit for purpose, sustainable (for both now and the future) services including through the design and use of appropriate and sustainable facilities and infrastructure.

### **5.7 IT Issues**

There are no IT implications resulting from this report.

## **6 Recommendations**

It is recommended that Council:-

- Note the decision by Office of National Statistics and that SFT have advised to commence to Financial Close for the delivery of Newbattle High School.

- Note the potential resource implications and inflation risks associated with the delay incurred through the ESA10 situation and instruct the Director, Resources to recover from SFT/Scottish Government all additional costs as a result of the delays created by ESA 10.
- Instruct the Director, Resources to provide a further report to Council as soon as reasonably practical confirming the outcome of the Financial Close stage and resultant construction phase programme.

**2 December 2015**

**Report Contact: Garry Sheret Tel No: 0131 561 5249**

**E-mail: [garry.sheret@midlothian.gov.uk](mailto:garry.sheret@midlothian.gov.uk)**

**Background Papers:**