



**MINUTES OF THE MEETING OF  
EAST LoTHIAN COUNCIL**

**TUESDAY 26 JUNE 2012  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor S Akhtar	Councillor W Innes
Councillor D Berry	Councillor M Libberton
Councillor L Broun-Lindsay (Convener)	Councillor P MacKenzie
Councillor S Brown	Councillor F McAllister
Councillor J Caldwell	Councillor P McLennan
Councillor S Currie	Councillor K McLeod
Councillor T Day	Councillor J McMillan
Councillor A Forrest	Councillor J McNeil
Councillor J Gillies	Councillor T Trotter
Councillor J Goodfellow	Councillor M Veitch
Councillor D Grant	Councillor J Williamson
Councillor N Hampshire	

**Council Officials Present:**

Mrs A Leitch, Chief Executive  
Mr P Collins, Executive Director of Environment  
Mr D Ledingham, Executive Director (Services for People)  
Mr A McCrorie, Executive Director (Support Services)  
Ms M Patterson, Executive Director (Services for Communities) and Monitoring Officer  
Dr R Jennings, Head of Housing and Environment  
Mr M Leys, Head of Adult Wellbeing  
Mr J Lamond, Head of Council Resources  
Mr T Shearer, Head of Policy and Partnerships  
Ms S Birrell, Committees Assistant  
Mr K Dingwall, Principal Planner  
Ms C Dora, Administration Research Assistant  
Ms M Ferguson, Corporate Legal Adviser  
Mr D Russell, Corporate Communications Manager  
Mr R Sinclair, Communications Officer  
Mr B Stalker, Development Management Manager  
Mr P Vestri, Corporate Policy Manager

**Visitors Present:**

None

**Clerk:**

Mrs L Gillingwater

**Apologies:**

None

### **Order of Business**

The Convener announced that there would be an additional item of public business to be discussed, which had been prepared following distribution of the agenda. He advised that this item – Appointment of Head of Education – would be discussed as the final item of public business.

### **Valedictories**

Prior to the commencement of business, the Convener advised that Stella Birrell, Committees Assistant, who had worked for the Council for 7 years, would be leaving the Council. He thanked Ms Birrell for her work and assistance to Members during her employment with the Council.

The Convener also announced that this would be the last Council meeting attended by Pete Collins, Executive Director of Environment. He spoke of Mr Collins's expertise and knowledge, particularly in relation to planning matters, and of the contribution that Mr Collins had made to the work of the Council during his many years of service. Members and officers joined the Provost in wishing Ms Birrell and Mr Collins well for the future.

### **1. DETERMINATION HEARING: PLANNING APPLICATION NO. 11/00459/PPM: PLANNING PERMISSION IN PRINCIPLE FOR (i) 3 CHALETS AND (ii) 7 HOUSES AS AN ENABLING DEVELOPMENT FOR THE EXTENSION OF THE EXISTING CLUBHOUSE AND CHALETS AT CASTLE PARK GOLF CLUB, GIFFORD**

A report was submitted by the Executive Director (Services for Communities) advising that, on the simple fact that the site of application 11/00459/PPM had an area greater than 2 hectares, the development in principle proposed in the application was, under the provisions of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development. Furthermore, the housing component of the proposed development was significantly contrary to Policy DC1 of the adopted East Lothian Local Plan 2008.

Members were reminded that a Pre-determination Hearing for this application was held at the Planning Committee meeting of 6 March 2012, and that a Pre-determination Hearing is mandatory where a planning application is made for a major development that is significantly contrary to the development plan.

As amended by Section 14(2) of the Planning etc. (Scotland) Act 2006, the Local Government (Scotland) Act 1973 requires that in cases where a Pre-determination Hearing is mandatory then the application must be decided by a meeting of the Council. Thus this application had now been brought before the Council for a determination.

The Development Management Manager, Brian Stalker, drew attention to the key aspects of the report, in particular the enabling development element of the application and the potential visual impact of that development. He also advised of the Section 75 Agreement requirements, should Members be minded to grant planning permission.

A number of Members, including Councillors McLeod, McMillan and Trotter indicated that they would not support the officer recommendations on the grounds that the golf club facilities required upgrading and this proposed development appeared to be the only means of funding those improvement.

The Provost urged Members to be careful when considering planning applications of this type, particularly in relation to Policy DC1 and indicated that, had he been voting, he would have voted in support of the officer recommendations.

Councillor Hampshire agreed with previous comments that the golf club facilities were poor and would possibly deter some golfers from playing there. He advised that he would vote against the officer recommendation, but only on the condition that an alternative location could be found for the seven houses in order to reduce the visual impact on the countryside. His views were shared by Councillor McLennan, who added that in the current economic conditions, the Council should support visitor attractions.

Councillor Berry asked if a new planning application would be required for a change in the location of the seven houses. He suggested that the business may not be viable if it required an enabling development of the type proposed, and concurred with Councillor Broun-Lindsay's comments in respect of Policy DC1. He added that if planning permission was granted, it would be more difficult in future for the Council to defend this Policy. He stated, therefore, that he would vote in support of the officer recommendations.

Councillor Veitch commented that although golf was a major attraction in East Lothian, the main attraction was the landscape, and the proposal for the enabling development would cause harm to that landscape. He, too, indicated his support for the officer recommendations.

Councillor Grant stated that he would support the application.

Mr Stalker highlighted again the requirements in respect of a Section 75 Agreement, should planning permission in principle be granted. He reiterated that the seven houses proposed as enabling development would not be acceptable for their proposed place in the countryside as they were to be built on the side of a hillock, they would be in a prominent position, and they would appear as isolated, intrusive and sporadic development. He did not think that this concern could be addressed by a conditional grant of planning permission in principle and reiterated that the indicative siting of the seven houses was an unacceptable component of the application.

Councillor Hampshire, seconded by Councillor Trotter, proposed that the application should be approved, but only on the condition that an alternative suitable location could be identified for the enabling development of seven houses.

In response to a question from Councillor Innes as regards the potential for relocating the seven houses, Mr Stalker illustrated the limitations of the available space and advised that there was no scope within the current application site to address this aspect of the development proposal. Should the applicant wish to reconsider this aspect of the development, a new planning application would need to be submitted.

Councillor Innes stated that he could not support the siting of the enabling development of seven houses as proposed in the application, but that if the houses could be relocated appropriately then he would support in principle the seven houses as enabling development.

Councillor Innes, seconded by Councillor Berry, proposed that Reason 1, as set out in the report should be removed, and that planning permission in principle should be refused on the grounds of Reasons 2 and 3.

The Provost adjourned the meeting for 10 minutes to take advice from officers on the options available to Members.

Following the adjournment, Councillor Hampshire advised that he would be withdrawing his amendment and would support the amendment as proposed by Councillor Innes.

The Provost then moved to the vote on the officer recommendations:

For: 6  
Against: 15  
Abstentions: 2

The Provost then moved to the vote on the amendment, as proposed by Councillor Innes and seconded by Councillor Berry, in that Reason 1, as set out in the report should be removed, and that planning permission should be refused on the grounds of Reasons 2 and 3:

For: 13  
Against: 8  
Abstentions: 2

Mr Stalker concluded the debate by stating that by its decision the Council had refused to grant planning permission in principle on the grounds of Reasons 2 and 3, as set out in the report, in that the proposed enabling development of seven houses, if sited in the location indicated for it would have an unacceptable harmful impact on the countryside. He noted, however, that the Council had accepted in principle there was a case for the seven houses as enabling development to cross fund the three chalets and the extensions and alterations to the clubhouse; a revised planning application would require to be submitted to propose a suitable alternative location for the seven houses which would not have a harmful impact on the landscape. He confirmed that the principle of the seven houses as enabling development could not be challenged if an acceptable location for the seven houses could be identified.

### **Decision**

The Council agreed to refuse to grant planning permission in principle for the following reasons:

- i. in their positioning on exposed, rising ground the indicatively proposed 7 houses, irrespective of their size and height would be prominent, sporadic and intrusive features that would be harmful to the landscape character and appearance of the area and a harmful suburbanisation of this part of the East Lothian countryside contrary to Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008; and
- ii. as the proposed new build housing development would be on Greenfield land not allocated for housing development by the adopted East Lothian Local Plan 2008 and as it would not be in keeping with the character of the local area, the proposed new build housing development was contrary to Policy HOU8 of the approved Edinburgh and the Lothians Structure Plan 2015.

## **2. COUNCIL AND COMMITTEE MINUTES FOR APPROVAL**

The Minutes of the Council and Committee meetings specified below were submitted and approved:

### **East Lothian Council – 15 May 2012**

*Matter arising – Item 10:* Councillor Currie asked if a new Administration budget would be presented to the Council at its August meeting and, if so, would all political groups be entitled to full information. Councillor Innes responded, advising that the Administration had not made a decision on this matter, as examination of the previous Administration's budget was ongoing. However, should a new budget be required, he would give all Members appropriate notice. The Chief Executive added that the Administration priorities would be

incorporated into the Council Plan, and that budget proposals to mirror the priorities would be presented to Council as part of the annual cycle.

### **Planning Committee – 6 June 2012**

#### **3. COUNCIL AND COMMITTEE MINUTES FOR NOTING**

The Minutes of the Committee meetings specified below were noted.

##### **Local Review Body (Planning) – 31 May 2012**

An amended version of the minute was tabled and noted.

#### **4. 2012/13 COUNCIL IMPROVEMENT PLAN**

A report was submitted by the Chief Executive seeking approval for the 2012/13 Council Improvement Plan.

The Corporate Policy Manager, Paolo Vestri, presented the report, advising that any outstanding action points from the previous Corporate Improvement Plan would be carried forward to the 2012/13 Council Improvement Plan. He explained that the action points in the Corporate Improvement Plan had been drawn primarily from the How Good is Our Council and Corporate Governance self-evaluation processes, and from External Audit reports. He drew Members' attention to the Council Improvement Plan, attached as Appendix 3 to the report.

In response to a number of questions from Councillor Berry, Mr Vestri advised that the draft Council Plan had been approved in January and that work was underway to finalise this document. As regards Members' caseload management, Mr Vestri explained that the Improvement Service had encountered problems with the introduction of the system, which was being piloted by a number of other local authorities, and that once these problems had been resolved, proposals for implementing the system would be presented to the Council.

Councillor Currie asked a question in relation to the costs of implementing the Administration's priorities. The Chief Executive reported that work was now underway in this regard, and that this would be reported on when the Council Plan comes back for Council approval in August.

#### **Decision**

The Council agreed to approve the 2012/13 Council Improvement Plan, as attached as Appendix 3 to the report.

#### **5. ESTABLISHMENT OF A SHADOW POLICE AND FIRE AND RESCUE SERVICES BOARD**

A report was submitted by the Chief Executive presenting proposals for arrangements for engaging with and scrutinising Police and Fire and Rescue Services in preparation for the establishment of the Scottish Policy Authority and the Scottish Fire and Rescue Service.

The Chief Executive presented the report, reminding Members of the background to the report, and advising that a formal board/committee should now be established in preparation for the implementation of the Police and Fire & Rescue Reform (Scotland) Act 2012.

Councillor Innes proposed that the existing Elected Member representatives on the Lothian & Borders Police Board and Lothian & Borders Fire & Rescue Services Board (Councillors McNeil, Day, Gillies and Goodfellow) and Councillor Innes himself be nominated as members of the new board/committee, together with two members from the Opposition.

Councillor McLennan remarked that as he had only been advised of the proposed proportionality of the committee shortly before the start of this meeting, he would need to discuss the matter further with his Group before advising of the Opposition nominations.

Councillor Berry asked for details in relation to lay membership of the board/committee. Mrs Leitch advised that this is one of the issues that would be considered and report on by the Shadow Board.

Councillor MacKenzie asked a question in relation to funding the new arrangements. The Head of Council Resources, Jim Lamond, advised that there were no significant financial implications arising directly from this report which made recommendations only in respect of pathfinder arrangements in the shadow year. He anticipated that the Scottish Government would provide direct funding to the Scottish Police Authority and Scottish Fire and Rescue Services, but indicated that there was still some uncertainty about precisely how this would be implemented although an adjustment to the Local Government grant settlement was expected.

In response to concerns raised by Councillor MacKenzie in relation to accountability, Councillor McNeil undertook to ensure that the new board/committee would work to deliver a more effective service and ensure that communities were safer.

Councillor McLennan spoke of the positive working relationship between the Council and Police and of the importance of local accountability.

## **Decision**

The Council agreed:

- i. to establish a Shadow Police and Fire and Rescue Services Board and appoint seven Elected Members to the Shadow Board (Councillors McNeil, Day, Gillies, Goodfellow, Innes, and two Members of the Opposition, to be nominated) ; and
- ii. to note that the Shadow Board would report and make recommendations for the permanent arrangements to be put in place by April 2013.

**Post-meeting Note:** following the meeting, Councillor McLennan advised that the Opposition nominations for membership of the Shadow Board would be Councillors Currie and MacKenzie.

## **6. APPOINTMENT OF APPROPRIATE REPRESENTATIVES TO OUTSIDE BODIES – FOLLOW-UP REPORT**

A report was submitted by the Executive Director (Support Services) seeking approval for a number of additional nominations and amendments to the list of appointments of representatives to Outside Bodies.

The Head of Council Resources, Jim Lamond, presented the report, advising of the need to invoke Standing Order 27 – Rescinding a Resolution – in relation to the nominations for

representatives to CoSLA Convention. In order to overturn the decision made by the Council on 15 May, the support of two-thirds of Members would be required.

Councillor McLennan expressed concern as regards the CoSLA Convention nominations in terms of proportionality, and declared that the SNP Group would not be supporting those appointments. He indicated that all other proposals in the report would have the support of the SNP Group.

Councillor McLennan proposed an amendment, in that the reference to the CoSLA nominations should be excluded from the Recommendations. This proposal was seconded by Councillor Currie.

The Provost moved to the vote on the amendment as proposed by Councillor McLennan and seconded by Councillor Currie

For	9
Against	13
Abstentions	1

The proposed amendment therefore fell. The Provost then moved to the vote on the Recommendations, as set out in the report:

For	13
Against	9
Abstentions	1

In the absence of the support of two-thirds of Members to rescind the resolution made by Council on 15 May in relation to the nomination for appointment of Members to CoSLA Convention, the Recommendations as set out in paper could not be carried and therefore fell.

## **7. SUMMER RECESS ARRANGEMENTS 2012**

A report was submitted by the Executive Director (Support Services) advising Members of the arrangements for dealing with Council business during the summer recess 2012.

Councillor McLennan sought assurance from the Council Leader that no report would be submitted under summer recess arrangements in relation to the introduction of coastal car parking charges, as he was of the view that this matter should be discussed at a Council meeting. Councillor Innes provided this reassurance.

### **Decision**

The Council agreed:

- i. to approve the application of the summer recess arrangements outlined in Rule 43 of the Council's Standing Orders, effective from the close of this meeting until the Council meeting of 28 August 2012; and
- ii. to note that a summary of business carried out during the recess period would be brought to the Council meeting of 28 August 2012, and that copies of all reports approved during the recess period would be lodged in the Members' Library.

## **8. NOTICE OF MOTION – BRITISH OLYMPIC TEAM**

A motion was submitted by Councillors MacKenzie and Brown, as follows:

“Council wishes to record its congratulations to Josh Taylor, James Clegg and Blair Glynn upon their selection for the British Olympic Team”.

Councillor MacKenzie presented the motion, paying tribute to the hard work and preparation required of those participating in the Olympic Games and wished them well.

Councillor Brown seconded the motion, mentioning the sacrifices made by the competitors.

Councillor Innes supported the comments made by Councillors MacKenzie and Brown. He was joined by other Members in wishing Josh Taylor, James Clegg and Blair Glynn well at the Olympic Games.

### **Decision**

The Council unanimously agreed to support the motion, as proposed by Councillor MacKenzie and seconded by Councillor Brown.

## **9. NOTICE OF MOTION – LIVING WAGE**

A motion was submitted by Councillors McLennan and MacKenzie, as follows:

“Living Wage

Council commits to the Living Wage and calls for its implementation as from 1 August 2012.

Any subsequent payments to affected staff should be backdated upon implementation to the date of 1 August 2012.

Council believes that agreement should be reached with the Joint Trade Unions in its implementation at the earliest opportunity.”

Councillor McLennan presented the motion, stating that by supporting this motion, the Council would be helping many of the Council's lower paid staff. He remarked that half of Scotland's local authorities had already implemented the Living Wage, and a number of other public bodies had also committed to its implementation. He urged the Council to support the motion with an implementation date of 1 August 2012.

Councillor MacKenzie seconded the motion, commenting that the current and previous governments had failed to close the gap between the highest and lowest earners, resulting in greater inequality. He believed that this motion would help address this problem in East Lothian.

Councillor Innes expressed his surprise at the motion, given that work was already underway to implement the Living Wage within East Lothian Council, and that this matter had been discussed at a recent Joint Consultative Committee meeting. He remarked that the previous Administration had failed to take the opportunity to adjust the lower pay grades during the Single Status process, and questioned the timing of the motion.

Councillor Innes proposed an amendment to the motion:



“Council commits to the Living Wage in consultation with the Joint Trade Unions, and that an agreed implementation date will be brought back to Council.”

Councillor Currie pointed out that the main purpose of the motion was to set an implementation date for the Living Wage.

Councillor Akhtar seconded Councillor Innes’s proposed amendment, commenting that the previous Administration could have implemented the Living Wage at any point within the previous five years.

Summing up, Councillor McLennan drew attention to the previous year’s Council’s Employee Survey, which had seen an increase in employee satisfaction. He highlighted the importance of setting a date for implementing the Living Wage to reassure staff.

The Provost moved to the vote on the amended motion, as proposed by Councillor Innes and seconded by Councillor Akhtar.

For: 13  
Against: 8  
Abstentions: 2

### **Decision**

The Council agreed to approve the amended motion:

“Council commits to the Living Wage in consultation with the Joint Trade Unions, and that an agreed implementation date will be brought back to Council.”

### **10. NOTICE OF MOTION – NO COMPULSORY REDUNDANCY GUARANTEE**

A motion was submitted by Councillors McLennan and MacKenzie, as follows:

“No Compulsory Redundancy Guarantee

Council commits to a no compulsory redundancies policy with immediate effect.

Council believes that agreement should be reached with the Joint Trade Unions in its implementation at the earliest opportunity.”

Councillor McLennan presented the motion, stating that, together with the implementation of the Living Wage, a guarantee of no compulsory redundancies would give staff reassurance. He also made reference to the previous Administration’s record on apprenticeships.

Councillor MacKenzie seconded the motion.

Councillor Innes asked why the previous Administration had not given a guarantee of no compulsory redundancies when they had an opportunity to do so. Councillor McLennan advised that there had been very few compulsory redundancies between 2007 and 2012 and that reductions in the workforce had been managed through natural wastage. He was unable to provide figures in relation to the number of staff who had been subject to compulsory redundancy, but undertook to provide Councillor Innes with this information.

Councillor Currie commented that giving this guarantee would provide certainty to staff, which would be welcomed by employees and Trades Unions.

Councillor Hampshire indicated that it would be unwise to commit to something that the Council may not be able to deliver. He advised that the Council could not guarantee that there would be no compulsory redundancies in the future, given the uncertainty as regards the financial climate.

Councillor Veitch paid tribute to the staff of the Council, but pointed out that the majority of the lowest paid workers in the county were not employed by the Council. He made reference to the excellent terms and conditions enjoyed by Council staff and called on the Council to concentrate more on boosting employment in the private sector and supporting local businesses.

Responding to remarks made by Councillor Innes concerning Single Status, Councillor Berry commented that staff had been pleased to have this matter resolved, and that those staff who had been 'red-circled' had received salary preservation for the subsequent three years.

Summing up, Councillor McLennan reported that the number of Council staff had actually increased in 2011. He believed that giving staff a guarantee of no compulsory redundancies could be achieved and that other Scottish local authorities had already agreed this policy.

The Provost moved to the vote on the motion, as proposed by Councillor McLennan and seconded by Councillor MacKenzie.

For:	9
Against:	13
Abstentions:	1

The motion therefore fell.

## **11. SUBMISSIONS TO THE MEMBERS' LIBRARY, 3 MAY – 13 JUNE 2012**

A report was submitted by the Executive Director (Support Services) advising of the reports submitted to the Members' Library Service since the last meeting of the Council, as listed in Appendix 1 to the report, into the Council's business.

### **Decision**

The Council agreed to record the reports submitted to the Members' Library Service between 3 May and 13 June 2012, as listed in Appendix 1 to the report, into the Council's business.

## **12. APPOINTMENT OF HEAD OF EDUCATION**

A report was submitted by the Chief Executive recommending the Council to proceed with the appointment of a Head of Education.

The Chief Executive presented the report, reminding Members that both East Lothian and Midlothian Councils had agreed to wait until after the 2012 Local Government Election to appoint a joint Head of Education. Following discussions with the new Administration, she was proposing to appoint a Head of Education solely for East Lothian Council. She stated that this appointment would provide greater stability to schools and the education service, in particular to support the development of the Curriculum for Excellence and increase the

focus on educational attainment across East Lothian schools. She noted that the current arrangements to share the Executive Director post would continue until the end of 2012 and that the vehicle for further discussions in relation to partnership working would continue to be the Joint Liaison Group.

In response to questions from Councillor McLennan with regard to the sharing of the education service, Mrs Leitch explained that this additional resource for East Lothian would provide greater stability during the implementation phase of the Curriculum for Excellence, and that the continued sharing of the Executive Director post would assist in identifying further opportunities for partnership working. Councillor Innes added that any opportunities for partnership working across the Council would be considered on case by case basis.

Councillor Berry asked for clarification on the financial implications to the Council of not appointing a joint Head of Education. Mrs Leitch confirmed that that a full-time Head of Education post still existed within the establishment and that the salary could be met from within budget. She reiterated that every opportunity for joint working and improving efficiency would be maximised.

Councillor Akhtar welcomed the report and the priority being given to the Head of Education appointment. She highlighted the positive work being done in schools and the need to build on this.

As regards the scope of partnership working, Councillor Innes declared that the Administration would support policies and proposals in relation to any service that were in the best interests of the East Lothian community.

Councillor MacKenzie voiced his disappointment that the joint Head of Education post was not now going ahead as this post would allow both councils to learn from each other.

Councillor McMillan spoke of the need for vision when working in partnership and of the importance of strong leadership and structure in this regard.

Councillor Veitch supported Councillor Innes's view on considering each shared service proposal on its own merits. He commented that he had not been convinced that the case for a shared Head of Education post was robust enough.

Councillor McLennan stated that, despite having some reservations, the Opposition was prepared to support the recommendations set out in the report.

## **Decision**

The Council agreed:

- i. to rescind the decision made at the 22 November 2011 Council meeting to appoint a Joint Head of Education with Midlothian Council;
- ii. to proceed with the appointment of a Head of Education;
- iii. to endorse the decision made at 28 February Council meeting to share East Lothian Council's Executive Director (Services for People) on a fifty/fifty basis with Midlothian Council from 1 March 2012 until the end of 2012; and
- iv. to continue working with Midlothian Council to explore opportunities for shared services and partnership working through the programme of work approved by the Joint Liaison Group.

**Sederunt:** Councillor Trotter left the meeting.

## **SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION**

The Council unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

### **Economic Development Matters**

A private report submitted by the Executive Director (Support Services) concerning the Council's support of an economic development project was approved.