



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

**TUESDAY 23 APRIL 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Provost L Broun-Lindsay (Convener)	Councillor W Innes
Councillor S Akhtar	Councillor M Libberton
Councillor D Berry	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 A McCrorie, Executive Director (Support Services)
Ms M Patterson, Executive Director (Services for Communities) and Monitoring Officer
Dr R Jennings, Head of Housing & Environment
Mr J Lamond, Head of Council Resources
Mr M Leys, Head of Adult Wellbeing
Mr T Shearer, Head of Policy & Partnerships
Ms M Ferguson, Corporate Legal Adviser
Mr K Dingwall, Principal Planner
Mr I Glen, Policy & Projects Manager (Planning)
Mr I McFarlane, Acting Development Management Manager
Ms J Ogden-Smith, Communications Officer
Mr D Russell, Corporate Communications Manager
Mr P Vestri, Corporate Policy Manager
Ms E Wilson, Housing Strategy and Development Service Manager

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

None

1. DETERMINATION HEARING: PLANNING APPLICATION No. 12/00199/PPM – LAND WEST OF ABERLADY ROAD, HADDINGTON. PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED OPEN SPACE, LANDSCAPING, TREE PLANTING, SUDS POND, DEVELOPMENT ACCESS ROAD, JUNCTION IMPROVEMENTS, ENHANCEMENT OF PEDESTRIAN ROUTES AND ANCILLARY WORKS

A report was submitted by the Executive Director (Services for Communities) advising that as this application site was greater than 2 hectares and the principle of development was for more than 50 houses, the proposed development was, under the provisions of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development. Furthermore, the proposed development was significantly contrary to Policies ENV3 and HOU8 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.

The report advised that a Pre-determination Hearing for this application was held at the Planning Committee meeting on 9 April 2013, which is mandatory where a planning application is made for a major development that is significantly contrary to the development plan. This application was now brought before the Council for determination.

The Acting Development Management Manager, Iain McFarlane, presented the report, which gave a full description of the site, the development proposal and summaries of the development plan policies and other material considerations, consultation responses and public representations.

Mr McFarlane advised that the report recommended refusal of the application on the grounds that the proposal was contrary to Structure Plan and Local Plan policies on development in the countryside, that there was no requirement for the Council to release additional land for housing using Structure Plan Policy HOU10, and that the proposals were also contrary to Structure Plan policy on development of Greenfield land.

In response to a question by Councillor Hampshire regarding the Council's ability to make alterations to the East Lothian Local Plan, Mr McFarlane confirmed that it was not possible to make alterations to an existing adopted Local Plan.

The Provost referred to a statement made at the Pre-determination Hearing in relation to education contributions, in particular the potential to enable commencement of development at the Letham Mains site, and asked for clarification of the legal position. Morag Ferguson, the Corporate Legal Adviser, stated that any contribution towards education made in connection with this particular site would be to accommodate children from this site only and that there would be no cross-subsidisation. The Head of Housing & Environment, Richard Jennings provided further details on the impact on Knox Academy of this development, adding that the major cost of the Letham Mains development was related to the construction of the new primary school.

Responding to comments made by Councillor Berry concerning environmental issues, Mr McFarlane advised that the Local Plan and Structure Plan set out the settlement strategy for East Lothian as a whole, based on the spatial strategy for Edinburgh and the Lothians, but that consideration under Policy HOU10 was not given to specific sites within East Lothian.

Councillor McMillan advised that he would be supporting the officer's recommendation to refuse the application, on the grounds that a piecemeal approach was being adopted by developers, rather than developing the strategic sites.

Councillor Trotter agreed with the objections as regards the potential impact on traffic and infrastructure and stated that he too would be supporting the officer's recommendation.

Councillor Veitch commented that the Council had a duty to protect the countryside and that, given that this particular site was designated greenfield land, he would be supporting the report recommendation.

Councillor Hampshire reminded Members of the work undertaken with communities during the Local Plan process to identify suitable sites for development. He observed that, as proposed developments such as this one had not been subject to the same level of consultation, the credibility of the planning process in East Lothian was at risk. He also highlighted the amount of development that had taken place in East Lothian in recent years and the impact this had had on infrastructure and communities. On this basis, he indicated that he would support the officer's recommendation to refuse the application.

Decision

The Council agreed (with one abstention) that planning permission in principle be refused for the following reasons:

- i. The new build housing development proposed in principle in this application was not necessary for agriculture, horticulture, forestry or other employment use and thus it was contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.
- ii. There was no demonstrable need for a grant of planning permission in principle for housing development of the land of the application site to release additional land for house building and in this the proposal is not supported by Policy HOU10 of the approved Edinburgh and the Lothians 2015.
- iii. In that the land of the application site was greenfield land not allocated for housing development through the adopted East Lothian Local Plan 2008 and was not required to meet strategic housing land allocations, the proposed development was contrary to Policy HOU8 of the approved Edinburgh and the Lothians Structure Plan 2015 and with Scottish Planning Policy: February 2010 on housing land.
- iv. In that the proposal was contrary to Policies ENV3 and HOU8 of the Structure Plan, they were also contrary to the requirement of Policy HOU10 of the approved Edinburgh and the Lothians Structure Plan 2015 that the bringing forward of any additional land into the already allocated housing land supply by a grant of planning permission would comply with other Structure Plan policies.
- v. Development of the site for houses would be contrary to the objectives, proposals and policies of the adopted East Lothian Local Plan 2008 on housing development within and outwith the settlements of East Lothian. It would prejudice the development of allocated strategic housing sites, particularly at Letham Mains in Haddington. In this the principle for housing development of the land of the application site was contrary to Policy HOU3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Proposals H1 to H7 of the adopted East Lothian Local Plan 2008.
- vi. A housing development of the application site would result in the loss of some 6.4 hectares of prime agricultural land and was not necessary to meet any established need and thus the principle of such development was contrary to Policy DC1 (Part 5) of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

2. DETERMINATION HEARING: PLANNING APPLICATION No. 12/00680/PPM: FERRYGATE FARM, DIRLETON ROAD, NORTH BERWICK. PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT

A report was submitted by the Executive Director (Services for Communities) advising that as this application site was greater than 2 hectares and the principle of development was for more than 50 houses, the proposed development was, under the provisions of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development. Furthermore, the proposed development was significantly contrary to Policies ENV3 and HOU8 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.

The report advised that a Pre-determination Hearing for this application was held at the Planning Committee meeting on 9 April 2013, which is mandatory where a planning application is made for a major development that is significantly contrary to the development plan. This application was now brought before the Council for determination.

The Acting Development Management Manager, Iain McFarlane, presented the report, which gave a full description of the site, the development proposal and summaries of the development plan policies and other material considerations, consultation responses and public representations.

Mr McFarlane advised that the report recommended refusal of the application on the grounds that the proposal was contrary to Structure Plan and Local Plan policies on development in the countryside, that there was no requirement for the Council to release additional land for housing using Structure Plan Policy HOU10, and that the proposals were also contrary to Structure Plan policy on development of Greenfield land.

Councillor Goodfellow asked for clarification as to the ownership of Gas Works Lane. Keith Dingwall, Principal Planner, advised that there had been some dispute as to the ownership of the Lane, and that a title search had determined that at least part of the Lane was owned by another party. He pointed out that if planning permission was granted, the developer would require the permission of all owners in order to proceed. He summarised the procedure to be followed should it not be possible to ascertain ownership of the Lane in its entirety.

Councillor Goodfellow also asked about the views of the NHS as regards the proposed development. Mr McFarlane reported that the NHS submission had included a general comment on the requirement for additional capacity at North Berwick Health Centre, but that there was no detail as to which developments would cause this additional demand or an estimation of the costs involved. He noted that the response submitted by the NHS did not meet the criteria for a Section 75 Agreement.

Councillor Day declared that he would be supporting the officer's recommendation to refuse the application on the grounds that the site was prime agricultural land, and that allowing development on such a site would set a precedent and undermine the planning process. He also made reference to the developments at Gilsland and Mains Farm and believed that North Berwick could not sustain any further development to that specified in the Local Plan. He also commented on the impact of additional traffic on the town and believed that this development would adversely alter the shape and character of North Berwick.

Councillor Goodfellow remarked that this application was both premature and opportunistic, and that the development would put significant pressure on the infrastructure of North Berwick, as well as potentially leading to the coalescence of North Berwick and Dirleton. He also questioned the types and affordability of the housing units. He indicated that he would be supporting the report recommendation.

Councillor Berry voiced his concern that many of the recent developments in North Berwick were not necessarily affordable for the average family, and provided examples to support this statement. He claimed that the town had grown by 50% over the past 15 years, but there had been little improvement to the infrastructure or facilities within the town. Councillor Berry believed that this development would be inappropriate for North Berwick and he would therefore be supporting the officer's recommendation.

Councillor Hampshire called on relevant Council officers to meet with Scottish Government Ministers to discuss the infrastructure issues associated with the strategic sites identified in the Local Plan, with a view to satisfying the required demand through the development of those sites.

Decision

The Council agreed (with one abstention) that planning permission in principle be refused for the following reasons:

- i. The new build housing development proposed in principle in this application was not necessary for agriculture, horticulture, forestry or other employment use and thus it was contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.
- ii. There was no demonstrable need for a grant of planning permission in principle for housing development of the land of the application site to release additional land for house building and in this the proposal was not supported by Policy HOU10 of the approved Edinburgh and the Lothians 2015.
- iii. In that the land of the application site was greenfield land not allocated for housing development through the adopted East Lothian Local Plan 2008 and was not required to meet strategic housing land allocations, the proposed development was contrary to Policy HOU8 of the approved Edinburgh and the Lothians Structure Plan 2015 and with Scottish Planning Policy: February 2010 on housing land.
- iv. In that the proposal was contrary to Policies ENV3 and HOU8 of the Structure Plan, they were also contrary to the requirement of Policy HOU10 of the approved Edinburgh and the Lothians Structure Plan 2015 that the bringing forward of any additional land into the already allocated housing land supply by a grant of planning permission would comply with other Structure Plan policies.
- v. Development of the site for houses would be contrary to the objectives, proposals and policies of the adopted East Lothian Local Plan 2008 on housing development within and outwith the settlements of East Lothian. It would prejudice the development of allocated strategic housing sites, particularly at Gilsland and at Mains Farm, both in North Berwick. In this the principle for housing development of the land of the application site was contrary to Policy HOU3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Proposals H1 to H7 of the adopted East Lothian Local Plan 2008.
- vi. A housing development of the application site would result in the loss of some 10.3 hectares of prime agricultural land and was not necessary to meet any established need and thus the principle of such development is contrary to Policy DC1 (Part 5) of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

3. COUNCIL AND COMMITTEE MINUTES FOR APPROVAL

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

Planning Committee – 5 February 2013

Special East Lothian Council – 12 February 2013

East Lothian Council – 26 February 2013

Matter arising – Item 13: Councillor Akhtar asked for a progress report as regards the call for an independent review of convictions made during the miners' strike. The Chief Executive undertook to look into this and report back.

Planning Committee – 5 March 2013

Cabinet – 12 March 2013

Matter arising – Item 12: Councillor Berry reported that he had not received a response to his request for a review of the Scottish Government's approach to wind farm applications and advised that his request had been turned down.

Education Committee – 12 March 2013

Audit & Governance Committee – 19 March 2013

4. COUNCIL AND COMMITTEE MINUTES FOR NOTING

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

Local Review Body (Planning) – 21 February 2013

Local Review Body (Planning) – 21 March 2013

5. POLICE AND FIRE & RESCUE SERVICES: ARRANGEMENTS FOR PUBLIC SCRUTINY AND ENGAGEMENT

A report was submitted by the Chief Executive presenting the Shadow Police and Fire & Rescue Board's recommendations for future arrangements for engaging with and scrutinising Police and Fire & Rescue Services following the establishment of the Scottish Police Authority and the Scottish Fire and Rescue Service on 1 April 2013.

The Corporate Policy & Improvement Manager, Paolo Vestri, presented the report, informing Members of the responsibilities of local authorities under the new national arrangements for Police and Fire & Rescue Services. He advised that draft Police and Fire & Rescue Plans would be presented to Council and all Members would have the opportunity to comment on and scrutinise the Plans. He also explained that Local Members would be consulted on Police local ward plans and that the proposed Safe and Vibrant Communities Partnership would have responsibility for the Single Outcome Agreement outcomes relating to community safety. He proposed a change to the report recommendation to reflect that there was no need to make amendments to Standing Orders.

Councillor Currie expressed his concern that there would be no specific committee established to deal with Police and Fire & Rescue Service matters, as he believed such a committee would strengthen community engagement. He called for the attendance of local

commanders at meetings where Police and Fire & Rescue Service matters were to be considered.

Councillor Innes provided reassurance that the proposals would enable wider engagement with the public and that local communities would be working in partnership with Police and Fire & Rescue Services.

Councillor MacKenzie welcomed the proposal to enable all Councillors to contribute and scrutinise Police and Fire & Rescue Service Plans and looked forward to having a productive relationship with these services.

Councillor Berry commented on the effectiveness of community policing.

Decision

The Council agreed to approve the recommendation from the Shadow Police and Fire & Rescue Board to adopt the new scrutiny and engagement arrangements outlined in Sections 3.28 of the report.

6. EAST LOTHIAN COMMUNITY PLANNING PARTNERSHIP GOVERNANCE REVIEW

A report was submitted by the Chief Executive informing the Council of the outcome of the review of the East Lothian Community Planning Partnership governance arrangements and seeking nominations for Elected Members to represent the Council on the new Community Planning Partnership arrangements.

The Corporate Policy & Improvement Manager, Paolo Vestri, presented the report, drawing attention to the work undertaken in reviewing the community planning process. He summarised the remits of the proposed East Lothian Partnership and the three Strategic Partnerships, which were in line with the strategic objectives set out in the Council Plan.

The Clerk advised the Council of the nomination of representatives to the Partnerships, as proposed by the Administration and Opposition.

Decision

The Council agreed:

- i. to endorse the Community Planning Partnership Board's decision to establish new governance arrangements and structure as detailed in Sections 3.4 and 3.5 of the report; and
- ii. to approve the nomination of representatives to the Partnerships as follows:

East Lothian Partnership: Councillors Innes, Veitch and Currie
Sustainable Economy Partnership: Councillors Hampshire, McMillan and Currie
Resilient People Partnership: Councillors Grant, Akhtar and Currie
Safe and Vibrant Communities Partnership: Councillors Day, Gillies and MacKenzie

7. INTEGRATION OF HEALTH AND SOCIAL CARE: PROPOSED SHADOW PARTNERSHIP ARRANGEMENTS

A report was submitted by the Chief Executive seeking approval of the establishment of a Shadow Partnership to plan for the establishment of a formal Health and Social Care Partnership in East Lothian and of the appointment of a Jointly Accountable Officer.

The Chief Executive presented the report, advising that the proposed arrangements would deal initially with the integration of adult services, and that the Shadow Partnership would work on the alignment of arrangements up until the enactment of the legislation. She noted that the Shadow Partnership would comprise four Elected Members and four non-executive directors from NHS Lothian, and that consideration could be given to include representation from other groups. She stated that Mike Ash, the current Chair of the East Lothian Community Health Partnership would chair the Shadow Partnership for the first two years, and that the Council would appoint the Vice-Chair. The Chief Executive also highlighted the proposal to appoint a Jointly Accountable Officer, and set out the process and eligibility criteria in relation to that appointment.

In response to questions from Councillor Innes, the Chief Executive advised that she expected the legislation to be enacted in the spring of 2015. She also indicated that should a Council employee be appointed to the post of Jointly Accountable Officer, they would continue to have operational responsibility for Council services, but added that any operational or policy changes would require Council approval.

Councillor Grant welcomed the report and thanked officers involved for their work in reaching this stage.

Councillor Currie welcomed the proposed involvement service users, carers and families in developing health and social care services.

Decision

The Council agreed:

- i. to approve the proposals to establish a Shadow Partnership
- ii. to approve the nomination of Councillors Grant, Goodfellow, Akhtar and Currie to serve on the Shadow Partnership;
- iii. to approve the nomination of Councillor Grant to act as Vice-Chair of the Shadow Partnership;
- iv. to approve the process of appointment for the Jointly Accountable Officer, as set out at Section 10 of the report; and
- v. to note that all seven existing Heads of Service and the existing General Manager of East and Midlothian Community Health Partnership would make up the pool of candidates for this post.

8. HEALTH AND SAFETY PARTNERSHIP ARRANGEMENTS WITH MIDLOTHIAN COUNCIL

A report was submitted by the Executive Director (Support Services) presenting the Council with a review of the current partnership arrangements with Midlothian Council in relation to Health and Safety and recommending that the existing arrangements be continued and

further consideration be given to extending partnership arrangements in relation to Health and Safety, Emergency Planning and Business Continuity, Risk and Internal Audit.

The Head of Policy & Partnerships, Tom Shearer, presented the report, reminding Members that the Council currently had a shared managerial arrangement with Midlothian Council for the Health and Safety function, and that a review had been undertaken to look at the potential for sharing the function in its entirety. He also advised that consideration would be given to sharing other services, including Emergency Planning, Business Continuity, Risk and Internal Audit, and that further reports on this would be presented to Council as necessary.

Councillor Currie welcomed the report and the potential for more efficient working methods.

Councillor Innes commented that the Administration would continue to look at partnership working opportunities where there would be demonstrable benefits to the Council.

Decision

The Council agreed to approve the continuation of the current arrangements for partnership working in relation to Health and Safety and that further consideration be given to extending partnership arrangements in relation to Health and Safety, Emergency Planning and Business Continuity, Risk and Internal Audit.

9. COMMON GOOD FUNDS – BUDGETS FOR 2013/14 TO 2015/16

A report was submitted by the Executive Director (Support Services) seeking approval for the budgets for the Dunbar, Haddington, Musselburgh and North Berwick Common Good Funds over this and the following two years, and recommending that local expenditure proposals are developed within these budgets.

The Head of Council Resources, Jim Lamond, presented the report, advising that a review of the Scheme of Delegation for Common Good funds was currently underway. He drew attention to the financial situation for each Common Good fund and the proposed budgets for 2013/14 – 2015/16.

Councillor Berry voiced his dissent at the proposed financial strategy for Common Good funds. In response to questions from Councillor Berry, Mr Lamond explained that, in relation to the Haddington Common Good usable funds, there was outstanding work to be done on the Town House and that a significant proportion of these funds would be used to contribute to the cost of that work. As regards the potential income for rental of the 'Beehive' building in North Berwick, he noted that the figures in the report reflected a prudent assessment and that every effort would be made to find a suitable tenant for that property.

Councillor McNeil reported that the work on the Inveresk Wall would go ahead during 2013, and that a review of the Brunton Hall doors was underway, although the cost of replacing the doors was likely to exceed the £55,000 allocated for this work.

Mr Lamond reminded Members that any item of expenditure exceeding £10,000 would require the approval of Council.

Decision

The Council agreed:

- i. to approve the strategy as outlined at Section 3.12, in particular the aim of maintaining the Funds' assets and the protection, maintenance and, where possible, increase to the level of usable reserves
- ii. to approve the budgets for the four Common Good Funds for 2013/14 to 2015/16 (as outlined at Appendices 1a – 1d);
- iii. to approve the specific items of expenditure, as noted at Section 3.15; and
- iv. to note the investment performance of long term Common Good fund balances with East Lothian Council's investment managers, Investec Wealth & Investment Ltd.

10. SCOTTISH HOUSING REGULATOR INSPECTION REPORT AND IMPROVEMENT PLAN

A report was submitted by the Executive Director (Services for Communities) advising the Council of the content of the Scottish Housing Regulator's Final Inquiry Report published in November 2012 and the Council's proposed Improvement Plan.

The Housing Strategy and Development Service Manager, Esther Wilson, presented the report, reminding Members that the Assurance and Improvement Plan (AIP) for 2011/12 had highlighted uncertainties around potential risks in the Council's Homelessness Service and its progress in meeting the Scottish Housing Quality Standard (SHQS) by 2015. An Inquiry was carried out in 2012 to assess these risks, and the findings of this Inquiry were attached to the report. Ms Wilson drew Members' attention to the Improvement Plan which would address the recommendations of the Inquiry.

Councillor Hampshire pointed out that the Regulator had criticised the Council's policy in relation to allocation of new build housing, in particular the proportion of transfers versus homelessness allocations. He stated that the Council wanted to create balanced, sustainable communities and that is why this policy had received cross-party support. He added that a review of the Council's Allocations Policy was currently underway.

Councillor Currie believed that having Local Lettings Plans in each area was a positive approach and that allocating all new houses to people on the waiting list would not create a balanced and sustainable community. He advised the transfer incentive scheme had been commended by Ministers, but this had not been taken into account in the Inquiry report. He proposed that tenants who paid their rent and who did not display anti-social behaviour should be given priority for new building housing.

Councillor Innes questioned the assessments made by the Regulator, given that 7 Inspectors had been involved. He suggested that the Inspectors should be invited to present their findings to the Council and that the Council should have an opportunity to publicly scrutinise their report.

Councillor Berry remarked that both the current and previous Administrations should be complimented on the quality of Council housing and on the efforts made to accommodate tenants.

Councillor McMillan concluded the debate by commending officers on their work in preparing the action plan.

Decision

The Council agreed:

- i. to note the content of the Scottish Housing Regulator's Final Inquiry Report (Appendix 1); and
- ii. to approve the Council's Improvement Plan (Appendix 2).

11. RESPONSE TO THE SCOTTISH GOVERNMENT'S CONSULTATION ON PROPOSALS FOR REDESIGNING THE COMMUNITY JUSTICE SYSTEM

A report was submitted by the Executive Director (Services for People) advising of the Council's proposed response to the consultation.

The Head of Adult Wellbeing, Murray Leys, presented the report, drawing attention to the options outlined in the consultation document, and recommending that the Council selects Option B as its preferred option.

In response to a question from Councillor Innes, Mr Leys confirmed that in the past local authorities had had responsibility for delivering community and criminal justice services.

Councillor Grant welcomed the proposed response, and reported that Option B was the model preferred by a number of other authorities and CoSLA.

The Chief Executive provided Members with an update on the proposed closure of Haddington Sheriff Court. She advised that Councillor Innes had written to a number of MSPs, including the Justice Minister, making a robust case for retaining Haddington Sheriff Court, including the strength of public opinion, the changing demographics of East Lothian, the cost to the Council and other public sector partners in moving business to Edinburgh Sheriff Court, i.e. 'cost-shunting', and the backlog of maintenance costs. She further advised that she had invited the Chief Executive of the Scottish Court Service to meet with her in Haddington for the purposes of demonstrating the positive working relationship between Haddington Sheriff Court and the Council. She noted that meetings had been arranged with the Faculty of Advocates and Procurators to discuss the situation. Members were assured that the Council was doing everything possible to support the retention of Haddington Sheriff Court.

Councillor McMillan expressed his disappointment that the views and needs of the community had not been taken into account during the review process.

Members were urged to continue supporting efforts to retain Haddington Sheriff Court.

Decision

The Council agreed to approve 'Option B' as the preferred option, which was the Local Authority Model whereby local authorities would assume responsibility for the strategic planning, design and delivery of offender services in the community.

12. NOTICE OF MOTION: BEDROOM TAX IN EAST LOTHIAN

A Notice of Motion was submitted to the Council by Councillors Currie and Williamson:

- "1) Council wishes to express its concern regarding the impact that the range of Welfare Reform measures is having on people in East Lothian.

- 2) Specifically the Council is concerned that, from April 2013, measures to reduce housing benefit for tenants of local authorities and housing associations (Bedroom Tax) have not taken account of the acute shortage of one bedroom homes. This will lead to significant hardship for the tenant affected and increase the risk of homelessness.
- 3) Council is further concerned that these measures may have an adverse impact on Council and Housing Association landlords' rental income and their ability to invest in improving their own stock and in building new, affordable to heat, homes.
- 4) Council agrees:
 - a) that where Council officers are satisfied that tenants who are subject to the under-occupancy charge have done all they reasonably could to avoid falling into arrears, then all legitimate means to collect rent arrears should be utilised except eviction.
 - b) to establish a joint working group that will include elected members, officials from Housing and Revenue and Benefits, Registered Social Landlords and tenants' representatives. The role of the working group shall be to monitor the implementation and impact of various benefits changes and to contribute to consideration of further measures to support tenants.
 - c) to support calls by campaign groups to scrap the Bedroom Tax."

Councillor Currie presented the motion, advising that the Scottish Local Government Forum Against Poverty had made an assessment of the impact of the welfare reform measures across Scottish authorities and advised that the impact on East Lothian residents would be significant. He highlighted a number of issues concerned with the 'Bedroom Tax', including a shortage of one-bedroom properties, the Council's duties and responsibilities for homeless people, and the impact this policy would have on vulnerable people. He warned that the Council would be unable to deal with the demand for assistance and that there would also be implications for the Council in terms of rental income, which would in turn have affect the Council's borrowing capacity and housing modernisation programme. Councillor Currie drew Members' attention to Paragraph 4 of his motion, noting that the wording used was similar to motions submitted to and agreed by a number of other councils. He called on Members to support the motion in order to ensure that no tenant would be evicted as a result of the 'Bedroom Tax'.

Councillor Williamson seconded the motion.

Councillor Innes asked for clarification as regards the safeguards this motion would provide outwith existing Council policy. Councillor Currie referred to Paragraph 4a of the motion and, whilst recognising that any decision to evict rests with the Sheriff, called on the Council to do everything possible to collect rent arrears.

Councillor Innes asked the Head of Housing & Environment if eviction was an option where tenants were co-operating with the Council in relation to rent arrears. Dr Jennings, confirmed that in such cases eviction was not an option.

Councillor Hampshire advised that a working group to deal with this matter had already been established and that all affected tenants had been contacted directly about their own particular circumstances. He stated that the Council would work with and support tenants, but that if a tenant was refusing to pay rent then action would have to be taken. He believed

that the motion would not provide any additional benefits to tenants and that he would therefore not support it.

Speaking on behalf of the Conservative Group, Councillor Veitch commented that the welfare reforms were necessary in order to reduce the Government's welfare bill. He accepted that there was a lack of one-bedroom properties available, but pointed out that funding had been allocated to local authorities to help manage the changes. He thanked John Cunningham, Benefits Manager, and his staff for the measures taken to assist those affected by the changes. He called on Councillor Currie to support a more affordable welfare system.

Councillor McLennan advised that the City of Edinburgh Council had recently approved a similar motion, and questioned why East Lothian Council would not support the motion.

Councillor Grant commented that there was no way of telling whether arrears had been the result of the 'Bedroom Tax', but that the Administration would do all it could to protect tenants.

Councillor Libberton stated that whilst she had some sympathy for the motion, she would not be supporting it.

Councillor Innes argued that the motion was "divisive, dishonest and dishonourable", as it would provide no extra protection to tenants and may actually lead to an increase in arrears. He recognised that the reforms would have an impact on tenants and reiterated that no one would be evicted if they were co-operating with the Council regarding their arrears.

Whilst recognising that there was a need for welfare reform, Councillor McAllister pointed out that approximately 80% of people affected by the 'Bedroom Tax' were disabled and highlighted the potential psychological effects of the reforms on those affected.

Councillor McMillan stated that he would be happy to support campaign groups, as outlined in Paragraph 4c of the motion, but felt that 4a and 4b were not required.

Councillor Akhtar remarked that she had every confidence in the Council's Housing staff in their support of tenants and called on the Council to support these staff.

Summing up, Councillor Currie suggested that the UK's welfare bill was so high due to measures introduced by the previous Conservative Government. Referring to a number of specific cases, he demonstrated the effects that the welfare reform agenda was having on people. He called on the Council to support the motion.

Councillor Hampshire called on the Council to reject the motion on the basis that it added no further protection for tenants.

The Provost then moved to the vote on the motion, as proposed by Councillor Currie and seconded by Councillor Williamson. At the request of Councillor Currie, the vote was taken by roll call, the result of which was as follows:

In favour of the motion: 9 (Councillors Berry, Brown, Currie, MacKenzie, McAllister, McLennan, McLeod, Trotter, Williamson)

Against the motion: 13 (Councillors Akhtar, Caldwell, Day, Forrest, Gillies, Goodfellow, Grant, Hampshire, Innes, Libberton, McMillan, McNeil, Veitch)

Abstentions: 1 (Provost Broun-Lindsay)

The motion therefore fell.

13. NOTICE OF MOTION: COMMUNITY USE OF THE BRUNTON

A Notice of Motion was submitted to the Council by Councillors Currie and MacKenzie:

- “1) Council wishes to recognise the valuable role the many local community and voluntary organisations play in the life of Musselburgh. Many of these organisations have in the past made use of the Brunton Hall to run events, both social and fundraising.
- 2) Council recognised that the new charging regime for use of the facilities at the Brunton (the Main Hall and the Supper Room), even with the discount applied is such that these organisations are no longer able to afford to use the new Brunton. The increased charges, coupled with the restriction on being able to use the new kitchen facilities for their events mean that community and voluntary organisations are to all intents and purposes being prevented from using the Brunton.
- 3) Council is concerned about the effects of the charges on the bodies affected and acknowledges the problems caused.

Council agrees:

- 1) that a review of charges levied on community and voluntary organisations be undertaken with the intention of reducing these to a cost recovery basis only;
- 2) that the use of the kitchen facilities should be made available for community use and that a refundable deposit system be considered whereby use of the kitchens will be permitted with the deposit retained if kitchens are not left in a clean state;
- 3) that a list of community and voluntary organisations which, prior to the refurbishment, had traditionally used the Brunton for events be compiled along with the dates they require to use the Brunton; and that such dates where they are fixed are guaranteed for those organisations' use. Examples would be for Musselburgh Festival events, community council events and the Musselburgh Horticultural Society.”

Councillor Currie introduced the motion, advising that when the refurbishment of the Brunton was completed, there had been an expectation that community groups would be able to use the main hall and the facilities, but that for a number of them the increase in costs had prevented them from doing so. He provided examples to support this claim, and stressed that community groups and charities should not be adversely affected by the changes at the Brunton. He proposed that charges to such groups should be made on a 'cost recovery' basis, and should also be given access to the kitchen facilities. He urged the Council to take action to make the facilities more accessible and affordable to the community.

Councillor MacKenzie seconded the motion.

As Cabinet Spokesperson for Community Wellbeing, Councillor Day informed Members that the issues highlighted in the motion were already being investigated and that some had now been addressed. He advised a review was currently underway which would provide greater flexibility in relation to charges. He noted that if charges were applied directly on a 'cost recovery' basis, costs would actually be higher. He also pointed out that the kitchen facilities did not lend themselves to self-catered events, but that the review would take account of this, with consideration being given to the use of the bar area for such events. He

commented that since the re-opening of the Brunton, there had only been one occasion when a group had been unable to secure their first choice date for an event. Councillor Day recognised the importance of the Brunton within the community and undertook to seek to address the issues raised.

Councillor Williamson welcomed the update from Councillor Day. He paid tribute to the efforts of volunteers and groups who worked to engage with the community and regretted that a number of these groups had been unable to use the Brunton since its re-opening due to the new charging regime. He also mentioned that organisations had been prevented from erecting community displays in the foyer. He suggested that the charges for commercial events should be increased in order to subsidise community use.

Councillor Innes accepted that this matter had not been handled well, but pointed out that as soon as the issues had been raised action had been taken to address them. He expressed his disappointment that Councillor Currie had submitted this motion, given that a review of the situation had already commenced. He indicated that he would not be supporting the motion, but that work to resolve the outstanding issues would continue.

Councillor McAllister explained that the motion had been submitted to the Council because Members were representing groups within their community. He argued that the charges to community groups were not in keeping with the ethos of the Common Good.

Whilst sympathising with the views of the community, Councillor Caldwell stated that he would not be supporting the motion whilst the review was underway.

Councillor McNeil questioned why the motion had come forward, indicating that all Musselburgh Councillors had been informed that officers were considering the issues raised.

Summing up, Councillor Currie advised that he had submitted the motion because there had been little or no action taken to resolve the problems at the Brunton. He called on Members to support the community and support the motion.

The Provost then moved to the vote on the motion, as proposed by Councillor Currie and seconded by Councillor MacKenzie. At the request of Councillor Currie, the vote was taken by roll call, the result of which was as follows:

In favour of the motion: 9 (Councillors Berry, Brown, Currie, MacKenzie, McAllister, McLennan, McLeod, Trotter, Williamson)

Against the motion: 13 (Councillors Akhtar, Caldwell, Day, Forrest, Gillies, Goodfellow, Grant, Hampshire, Innes, Libberton, McMillan, McNeil, Veitch)

Abstentions: 1 (Provost Broun-Lindsay)

The motion therefore fell.

14. SUBMISSIONS TO THE MEMBERS' LIBRARY, 19 FEBRUARY – 10 APRIL 2013

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 19 February and 10 April 2013, as listed in Appendix 1, to the report, into the Council's business.

Signed

Provost Ludovic Broun-Lindsay
Convener of the Council