



MINUTES OF THE MEETING OF THE CABINET

TUESDAY 12 NOVEMBER 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

Committee Members Present:

Councillor S Akhtar
Councillor D Grant
Councillor N Hampshire
Councillor W Innes (Convener)
Councillor J McMillan
Councillor M Veitch

Other Councillors Present:

Councillor D Berry
Provost L Broun-Lindsay
Councillor S Brown
Councillor J Caldwell
Councillor S Currie
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor P MacKenzie
Councillor F McAllister
Councillor P McLennan
Councillor K McLeod
Councillor J Williamson

Council Officials Present:

Mrs A Leitch, Chief Executive
Mr A McCrorie, Depute Chief Executive–Resources and People Services
Mr D Small, Director of East Lothian Health and Social Care Partnership
Mr J Lamond, Head of Council Resources
Dr R Jennings, Head of Development
Mr Leys, Head of Adult Wellbeing
Mr R Montgomery, Head of Infrastructure
Mr P Vestri, Service Manager–Corporate Policy and Improvement
Mrs K MacNeill, Service Manager–Licensing, Administration and Democratic Services
Mrs M Ferguson, Service Manager–Legal Services
Mr C Clark, Principal Environmental Protection Officer
Mr I Glen, Policy and Projects Manager
Mr D Evans, Senior Environment and Consumer Services Manager
Mr D Russell, Communications Manager

Clerk:

Ms A Smith

Apologies:

Councillor Day

Declarations of Interest:

None

Visitors:

None

1. MINUTES OF THE MEETING OF THE CABINET OF 10 SEPTEMBER 2013

The minutes of the meeting of the Cabinet of 10 September 2013 were approved.

Matters Arising – Councillor Veitch gave Members an update on the position in relation to supported bus services.

2. SUMMARY OF CONTRACTS AWARDED BY EAST LOTHIAN COUNCIL, 29 AUGUST TO 31 OCTOBER 2013

A report was submitted by the Depute Chief Executive (Resources and People Services) advising Members of all contracts awarded by the Council from 29 August to 31 October 2013, with a value of over £150,000.

Decision

The Cabinet agreed to note the award of contracts with a value of over £150,000 from 29 August to 31 October 2013 as listed in Appendix 1 to the report.

3. FINANCIAL REVIEW 2013-14 QUARTER 2

A report was submitted by the Depute Chief Executive (Resources and People Services) informing Cabinet of the financial position of the Council at the end of the second quarter of the financial year 2013-14.

The Head of Council Resources, Jim Lamond, presented the report. He outlined the Budget Summary. He referred to the General Services Summary for Quarter 2, drawing particular attention to 6 high risk service areas and also made reference to the pressures facing the Health and Adult Care Partnership directorate. He provided details in relation to the Housing Revenue Account and General Services Capital Budgets. He informed Members that a number of significant budget adjustments that had been carried out in the last three months. He advised that the overall position remained challenging, finely balanced but with a significant risk of overspending and therefore it was critical to continue close monitoring and application of effective control actions.

In response to a question from Councillor Currie regarding the recommended additional transfer referred to in section 3.13 of the report, Mr Lamond clarified that this would be a permanent change to the base budget. He also responded to questions in relation to the mechanisms for further reporting on concessionary fares and projects detailed in the General Services Capital Spend.

Councillor McLennan asked the Head of Adult Wellbeing to clarify the control measures and pressures facing his service over the winter months. Mr Leys stated that the winter period posed significant pressures on Adult Wellbeing services. He advised Members that staff

teams were working very closely with colleagues in the Health sector. He made reference to the Winter Plan. He informed Cabinet that officers were working to ensure that the most vulnerable people in the community received the care and support they needed when required. In response to questions regarding the Winter Plan, Mr Leys stressed the importance of making sure the correct measures and thresholds were in place. He offered Members sight of the Winter Plan and also, outwith Cabinet, to provide briefings on the position in each ward. He added that how preventative measures were provided was important; it was necessary to build capacity in communities.

Councillor Berry queried the 13.3% variance against Transport and Waste Services; he also queried the underspend within the Modernisation Spend. In relation to the first point Mr Lamond explained that winter maintenance budgets were difficult to profile accurately due to uncertainty on the incidence of any severe weather. Regarding the second query he indicated that for capital expenditure this was a typical position at the half year stage; he added that Housing officers had confirmed that the full budget allocation would be spent.

Councillor Hampshire paid tribute to work undertaken by the management team and all staff; these were difficult times and it had been a considerable achievement to get the Council in this position.

Councillor Innes concurred; he added that it was very important that managers had the responsibility to keep their budgets in line.

Councillor Currie expressed concerns about the position in relation to the budget provision for both Children's Wellbeing and Adult Wellbeing. He drew attention to national discussions on the CoSLA distribution formula. He also raised concerns about the Housing Revenue Account, in particular with regard to the spend on new housing. He referred to developer contributions and Section 75 Agreements and requested clarification that if a substantial change was proposed to a previous agreement that these came back to committee.

Decision

The Cabinet agreed:

- i. to note the financial performance of services at the end of September 2013 and also the continued actions being taken by management to ensure that services were delivered within approved budgets; and
- ii. to approve the budget adjustments outlined at Section 3.13 and 3.29.

4. FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 AND DATA PROTECTION ACT 1998 – COMPLIANCE STATISTICS

A report was submitted by the Depute Chief Executive (Resources and People Services) regarding the Council's compliance for the period 1 April 2013 to 30 September 2013 with a) the 20 working day timescale laid down by the Freedom of Information (Scotland) Act 2002 and b) the 40 calendar day timescale laid down by the Data Protection Act 1998.

The Service Manager (Licensing, Administration and Democratic Services), Kirstie MacNeill, presented the report, informing Members that it was a requirement of the Scottish Information Commissioner (SIC) that local authorities provide performance reports on a 6 monthly basis. She drew attention to the Freedom of Information and Data Protection statistics for the period in question. She advised Cabinet that the SIC was pleased with the progress the Council had made and had signed off on their assessment.

In response to questions Mrs MacNeill advised that most enquiries came from the general public and varied considerably. Monthly reports were provided for the Council Management Team. Responses to all requests were published on the Council's website.

Decision

The Cabinet agreed to note the report.

5. ANNUAL PENSIONS REPORT 2012/13

A report was submitted by the Depute Chief Executive (Resources and People Services) summarising the early retirement activity within the financial year 2012/13, in accordance with External Audit requirements and Council Policy.

Mr Lamond presented the report, drawing attention to the different types of pensionable retirements available to Council employees and summarising the pension retirements in the financial year 2012/13. He gave details of the Council's liability for future pension costs and also made reference to 'ex gratia' pension payments.

Councillor Currie, in relation to the final salary pension scheme, asked if, of those retirees, any had been in receipt of the Living Wage, which was non-pensionable. He also made reference to pension arrangements agreed by trade unions on a national level regarding financial contributions/additional contributions and queried the resource implications.

Mr Lamond indicated that he did not have specific information to hand however he had no direct knowledge of any such staff. He added that the report related solely to 2012/13 activity. On the second point he advised that it was too early to determine the effect of these pension changes; the situation was being closely monitored and officers were in contact with the Lothian Pension Fund regarding the appropriate employers' contribution for the next 3 year budget. If significant liability was anticipated this would be brought to Members as part of the budget development process.

Councillor Berry referred to the increase in pension costs liability and asked if the expectation was for another increment in the following years to take account of VERS, which he assumed had not been accounted for in the figures reported.

Mr Lamond confirmed that VERS activity occurred in 2013/14 and therefore had not affected the figures in the report before Members. He advised that although there had been a number of staff departures not many had been much in advance of normal retiral age. The critical aspect would be the Actuarial 3 Year valuation, due at the end of this financial year.

Decision

The Cabinet agreed to note the report.

6. AREA PARTNERSHIPS

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) outlining and seeking approval for the framework to establish six Area Partnerships.

The Service Manager (Corporate Policy and Improvement), Paolo Vestri, presented the report. He made reference to the commitment in the Council Plan to establish Area Partnerships. He outlined the framework and drew attention to the objectives, roles and remit of Area Partnerships. He referred Members to the 'principles' which had guided the proposed

membership of Area Partnerships, advising that membership was detailed in Appendix 1. He drew attention to the consultation process and gave details of the proposed timescale and phasing for establishment.

In response to questions from Members, Mr Vestri clarified issues regarding Area Partnership Chairs and representation from Tenants and Residents Associations. He also clarified that the Area Plans referred to in the report would not be land use planning documents and Area Partnerships were not expected to be involved in commenting on individual planning applications. Area Plans would be local versions of the Single Outcome Agreement.

Councillor Veitch, in relation to proposed membership, welcomed that every Community Council would be represented on their relevant Area Partnership. East Lothian had an excellent network of Community Councils and their active support and involvement would be key to making the success of Area Partnerships.

Councillor Goodfellow echoed his colleague's comments. The proposed structure was democratic and it was good to note that each Area Partnership Chair would be elected from the community, appointed by each partnership.

Councillor Currie welcomed the report; it was important that people got involved but there was a need to make sure that it was not always the same people/groups. He made reference to section 3.7 of the report, remarking that these Area Partnerships did not devolve any decision making powers to local level, so where conflict arose, the Council would make the decisions, not the Area Partnerships. This was a step in the right direction but not what had been set out in the Administration's manifesto.

Councillor MacKenzie welcomed the part that Area Partnerships would play in aspects such as Police Ward Plans. He also welcomed the focus on reducing inequalities; in relation to this he made reference to the decision taken by this Administration to abolish free school meals in the county in areas of deprivation.

Councillor Williamson referred to section 3.8 of the report, specifically in relation to the involvement of Community and Police Partnerships (CAPPs). He detailed his concerns, stating he would prefer CAPPs not to be included in Area Partnerships.

Councillor Berry shared some of the concerns expressed but indicated that this was an opportunity to address local identification. He acknowledged the work carried out but felt the proposals did not go far enough. He stated that all communities tended to have 1/2 very active groups; he would like to see the involvement of these groups in the Area Partnerships.

Councillor Hampshire stated that the geographical diversity of the different areas of East Lothian was recognised in the report. With regard to the financial aspect, Area Partnerships had to be established and have structures in place first.

Councillor Akhtar welcomed the report, which was a significant piece of work. She indicated that the Fa'side community would welcome this opportunity. She was pleased to note that each Area Partnership would have to consider youth representation; it was also good that representation would be considered from groups like Support from the Start.

Councillor McMillan informed Cabinet that this paper was welcomed by local communities. He referred to concerns voiced by Councillors Williamson and Currie, stating these were all covered in the report. He stressed that this report needed support from all Members; this was new and emerging and a great opportunity for each local area in East Lothian. He drew attention to the role and remit of the Area Partnerships.

In response to questions from Councillor McLennan regarding the link with the Scottish Government's Communities Empowerment Bill, Mr Vestri advised that the Bill was still a consultation document. He indicated that there was nothing specific in the Bill that would impact on the Area Partnerships but added that if anything came out from the consultation this would be taken on board.

Councillor Grant stated this was the first step in devolving resources to communities. He indicated that all concerns raised by the SNP group were covered in the report. There was a need to look forward.

Councillor Innes welcomed the report and thanked Mr Vestri and other officers involved in this piece of work. He expressed disappointment at the approach taken by the SNP. He drew attention to section 4.1 of the report which clearly stated that budgets would be devolved; this was the first step in the process.

Decision

The Cabinet agreed:

- i. to the establishment of six Area Partnerships as outlined in the report and Appendices 1 and 2; and
- ii. to note that progress on the establishment and development of Area Partnerships would be reported to Cabinet.

7. LOCAL AIR QUALITY MANAGEMENT – DESIGNATION OF AIR QUALITY MANAGEMENT AREA (AQMA) IN MUSSELBURGH

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) a) informing Cabinet of the outcomes of monitoring and assessment of local air quality across East Lothian and particularly in Musselburgh during calendar year 2012/13, in fulfilment of the Council's obligations under the Environment Act 1995, the UK National Air Quality Strategy and Scottish Air Quality Regulations and b) seeking approval of the 2013 Air Quality Progress Report to progress the legal Order required by section 83 of the Environment Act 1995 to establish an Air Quality Management Area (AQMA) at Musselburgh High Street.

The Senior Environment and Consumer Services Manager, David Evans, presented the report, informing Members that assessment of local air quality was a statutory obligation on local authorities, reviewed annually by SEPA and reported to the Scottish Government. The Council had been annually reviewing and assessing air quality for 10 years; the air quality in East Lothian was generally very good. He drew attention to the results of the 2013 Air Quality report, advising that under the legislation the Council was now required to declare an AQMA in Musselburgh and to develop an Air Quality Action Plan. A further report would be brought to Cabinet this time next year.

In response to questions from Councillor Berry, Mr Evans advised that assessment work had been carried out regularly by the Council over the years and that work had been reviewed by SEPA/Scottish Government. Up to 2012 the air quality objective levels in the Musselburgh town centre area had not previously been exceeded. In relation to traffic flow issues raised he advised that new traffic management work had been, and would continue to be, undertaken and monitored.

Councillor Currie asked how often pollution levels were measured and if this data was published. He also asked if officers would meet with the Community Council and other community groups to discuss this issue. Mr Evans advised that ongoing continuous

measurements took place. He gave details of the 2 different types of measurements carried out. An annual report was provided to the Scottish Government, which had previously been published on the Council's website. He confirmed that officers would meet with representatives of the local community. Councillor Currie referred to the timescale for the action plan, remarking that 12-18 months was too distant. He asked if the further report referred to could be brought forward earlier and if it could come to Council not Cabinet as no Musselburgh councillors were members of Cabinet and it was important that local councillors were able to have a direct input into this matter. He was pleased at the offer to meet local groups; this issue was a concern for many people and there was a need to separate the actuality from the perception.

Councillor Hampshire stated that controlling traffic volume/flow was an issue for many local authorities. The Council was working on measures to improve the flow of traffic through Musselburgh. He added however that if the volume of traffic kept increasing at the current rate, other, more radical, alternatives may need to be considered.

Councillor Berry agreed that a radical solution may be necessary. Musselburgh was the biggest town in East Lothian, congested traffic on the High Street was not productive to the retail economy. Dialogue with the bus companies was essential, there were too many buses using the High Street. A strategic rethink regarding traffic in Musselburgh High Street was required.

Councillor Grant welcomed the ongoing monitoring of air quality in Tranent and was pleased to note that there had been no breach of objectives.

Councillor McMillan referred to the recent realignment of Council services, stating that the restructure of service areas would bring together some key areas such as economic development and environmental health within the same service. A strategic approach was required to deal with all the key issues.

Mr Evans indicated he was happy to bring forward an interim report. He also offered to hold a specific briefing for Members if requested.

Councillor Innes agreed that an interim report would be beneficial. This was an important issue although, as Mr Evans had reported, the figures were just above the objective levels.

Decision

The Cabinet agreed:

- i. to note the report and that further actions through developing an air quality action plan were required in order that Air Quality Objectives were achieved in Musselburgh; and
- ii. to delegate to the Head of Development in consultation with the Service Manager (Legal Services) to progress the necessary legal order for the Council to declare an Air Quality Management Area in Musselburgh High Street as delineated in the plan in Appendix 1 to the report.

8. CONSULTATION BY THE SCOTTISH GOVERNMENT ON A SECTION 36 APPLICATION FOR THE CRYSTAL RIG WIND FARM (PHASE 3)

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) advising Cabinet that the Council had been consulted by the Scottish Government Energy Consents Unit (ECU) on an application made under Section 36 of the Electricity Act

by Fred Olsen Renewables Limited for an extension to Crystal Rig windfarm (Crystal Rig 3) and recommending a response to this consultation.

The Policy and Projects Manager, Ian Glen, informed Members that after the report had been issued the applicant had requested a meeting with officials to discuss possible amendments to their Section 36 application in the light of the Council's concerns. The Scottish Government's Energy Consents Unit had no objection to the Council deferring consideration of the current Section 36 for a month if this would facilitate further discussions. He asked therefore for a continuation of this item.

Decision

The Cabinet agreed to continue this item.

9. APPLICATION FOR OFFSHORE WIND FARM AT INCH CAPE INCLUDING EXPORT CABLE CORRIDOR WITH LANDFALL AT COCKENZIE OR SETON SANDS

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) advising Cabinet that the Council had been consulted by the Scottish Government, through their agency Marine Scotland, on an application made under Section 36 of the Electricity Act by Inch Cape Offshore Limited (ICOL) to construct and operate an offshore windfarm and recommending a response to this consultation.

Mr Glen presented the report, informing Members that the Council was a consultee and did not object to the part of the project that was subject to the Section 36 application but did wish to raise with Marine Scotland the issue of the scope of the Environment Statement. He advised that the applicant had not yet finalised details regarding other elements and a further application for planning permission was expected to be lodged with the Council in due course.

Councillor Berry asked, given that the location was off the Angus coast, why the cables were not being taken offshore at that point. Mr Glen advised that the applicant had only been offered a grid connection by the National Grid at the existing Cockenzie transmission station. Councillor Berry raised further questions regarding potential levels of disturbance to the SSSI and location of the substation. Mr Glen advised that the Council and Scottish Natural Heritage (SNH) would be paying close attention to the cable route, adding that SNH was a statutory consultee in relation to SSSIs. With regard to the second point, he advised that discussions were ongoing with the applicant regarding the onshore substation location; Cockenzie was one of the options being considered.

In response to questions from Councillor MacKenzie, Mr Glen clarified the location of the mast and consideration of options regarding the export cable route. Councillor MacKenzie added that as a ward member for Preston/Seton/Gosford he would welcome the investment coming into East Lothian at Cockenzie, which would contribute significantly to the Scottish Government's targets for renewable energy.

In relation to a query from Councillor Goodfellow regarding commercial fisheries near the windfarm area, Mr Glen advised that Marine Scotland had responsibility and control in relation to the sea; the report related to the offshore element only, the Council would however have a role regarding the approach and would be taking advice from SNH.

Councillor Veitch indicated this was a major scheme; he made reference to the Environment Statement, he also referred to sections 3.16/17 of the report regarding viewpoint number 25. He made reference to the importance of tourism to East Lothian. The Council had concerns regarding the environmental impact; this development, together with the other proposal

referred to in the report (Near Na Gaoithe), would result in 400/550 wind turbines, which would have a huge impact. He would ask that the Scottish Government, when considering the detail of these 2 applications, to consider this very carefully.

Decision

The Cabinet agreed that the Council did not object to the part of the project which was subject to this Section 36 application but would raise with Marine Scotland the issue of the scope of the related Environment Statement.

10. PUBLIC MINUTES OF THE MEETINGS OF THE LICENSING SUB-COMMITTEE HELD ON 12 SEPTEMBER AND 10 OCTOBER 2013 (FOR APPROVAL)

The public minutes of the meetings of the Licensing Sub-Committee held on 12 September and 10 October 2013 were approved.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Cabinet unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraphs 3 and 6 (information relating to any particular applicant for, recipient or former recipient of a service provided by the Authority; 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.

Sub-Committee Minutes

The private minutes of the meetings of the Licensing Sub-Committee held on 12 September and 10 October 2013 were approved.

The private minute of the meeting of the Homelessness Appeals Sub-Committee held on 19 September 2013 was approved.

The private minute of the meeting of the Social Work Appeals Sub-Committee held on 21 October 2013 was approved.