



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

**TUESDAY 26 APRIL 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

1

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 McAllister
Councillor S Currie	Councillor P McLennan
Councillor T Day	Councillor K McLeod
Councillor A Forrest	Councillor J McMillan
Councillor J Gillies	Councillor J McNeil
Councillor J Goodfellow	Councillor T Trotter
Councillor D Grant	Councillor M Veitch
Councillor N Hampshire	Councillor J Williamson

Council Officials Present:

Mrs A Leitch, Chief Executive
Mr A McCrorie, Depute Chief Executive (Resources and People Services)
Ms M Patterson, Depute Chief Executive (Partnerships and Community Services)
Mr D Small, Director of East Lothian Health & Social Care Partnership
Mr J Lamond, Head of Council Resources
Mr R Montgomery, Head of Infrastructure
Mr D Proudfoot, Head of Development
Ms F Robertson, Head of Education
Mr T Shearer, Head of Communities and Partnerships
Mr B Davies, Service Manager – Resources (Health & Social Care Partnership)
Ms M Ferguson, Service Manager – Legal and Procurement
Ms S Fortune, Service Manager – Business Finance
Mr E John, Service Manager – Sport, Countryside and Leisure
Ms J Mackay, Media Manager
Mr I McFarlane, Service Manager, Planning
Ms E McLean, Service Manager – Strategic Asset and Capital Plan Management
Mr D Oliver, Service Manager – Environmental Health
Mr R Parker, Service Manager – Education (Strat and Ops)
Ms L Shaw, Corporate Finance Manager
Mr P Vestri, Service Manager – Corporate Policy & Improvement

Visitors Present:

Mr A Clark, Audit Scotland

Clerk:

Mrs L Gillingeater

Apologies:

Councillor J Caldwell

Order of Business

The Provost announced that Items 5 and 7 on the agenda would be taken at the beginning of the meeting. The Council agreed to this change.

1. MINUTES FOR APPROVAL

The minutes of the Council meeting specified below were approved:

East Lothian Council – 9 February 2016

Matter arising, Item 1 – Referring to comments he had made in respect of how councils would need to change to meet future financial challenges, Councillor Berry asked if this had been progressed through CoSLA. The Chief Executive advised that the Scottish Parliament had been dissolved shortly after the Council meeting had taken place, but that she was aware that discussions had taken place involving civil servants and that she would be happy to raise this with CoSLA following the Scottish Parliament election on 5 May.

East Lothian Council – 23 February 2016

5. FINANCIAL ASSURANCE UPDATE – HEALTH AND SOCIAL CARE INTEGRATION

A report was submitted by the Depute Chief Executive (Resources and People Services) providing an update to Council on the work undertaken in relation to financial assurance in respect of the delegation of resources to the East Lothian Integration Joint Board (IJB) from 1 April 2016.

The Service Manager – Business Finance, Sarah Fortune, presented the report. She drew particular attention to the situation as regards the resources delegated from the Council to the IJB, and advised that the NHS budget had not yet been set, and as such a formal offer of the final budget to be delegated to the IJB would not be made until late May/early June 2016. She noted that the due diligence process could not be closed off until the NHS delegated budget had been confirmed. She also made reference to the IJB Directions and the financial risks, confirming that each partner would manage its own risks for 2016/17. She concluded her presentation by setting out the next steps as regards further financial assurance work and monitoring/reporting of financial performance.

In response to a question from Councillor Berry, Ms Fortune reiterated that the due diligence process would not be completed prior to the NHS delegated budget being finalised.

Councillor Hampshire asked how budgets would be managed in 2016/17 for areas where there was cross-over between the two partner organisations. Ms Fortune advised that appropriate procedures would be put in place to ensure that performance and the management of risk to both parties was properly monitored. David Small, Director of the Health and Social Care Partnership, added that the Scheme of Integration set out resolution procedures to be followed, where required.

Councillor Grant pointed out that the report was an important step in the integration process. He advised that the NHS boards would not present their financial plans until after the Scottish Parliament election in May 2016, and that while this was not a desirable position, he was happy with the progress made in relation to integration.

Councillor Currie accepted that there were risks associated with the integration process, but also recognised that there were opportunities. He warned of the financial challenges facing health and social care services, and highlighted the need to align the budgets of both partners. He also highlighted the importance of the IJB Directions.

Councillor Berry voiced his concerns as regards the increasing pressures on adult social care services, and hoped that working in partnership with the NHS would result in efficiency savings in this area.

Councillor McMillan mentioned the importance of trust between the two partners, as well as the regular monitoring of performance and quality of services.

Decision

The Council agreed:

- i. to note the update on the ongoing financial assurance process in relation to the delegation of financial resources to East Lothian Integration Joint Board from 1 April 2016; and
- ii. to note the next steps, set out within Sections 3.22 to 3.24 of the report.

7. DEVELOPING SPECIALIST SUPPORT AND CARE AT HOME SERVICES

A report was submitted by the Director of the Health and Social Care Partnership informing Members of the Integration Joint Board's (IJB) plans to develop specialist support and care at home services over the coming 12 months. The report also advised of the tendering requirements that would result from these development plans.

The Service Manager (Resources), Bryan Davies, presented the report in detail, setting out the current provisions and details of the contracts in relation to the Specialist Provider Framework and the Help to Live at Home Framework. He also highlighted capacity issues and other challenges within these frameworks. He advised that it was hoped the proposed arrangements would address self-directed support (SDS) and focus on individual outcomes. As regards the Specialist Framework, he made reference to the development of a range of community models as regards providing opportunities, noting that stakeholders would be involved in this process. The Help to Live at Home Framework would be developed on a similar basis, with the framework being opened up to all client groups. Mr Davies set out the policy and resource implications associated with the proposals.

In response to questions from Councillor Currie, Mr Davies confirmed that the contracts would be awarded by the Council, and that he would take advice on how this should be reported to Members. He emphasised the focus on individual choice, carried out through the SDS process, noting that there would not be a 'one size fits all' approach. He anticipated that the new approach would contribute to efficiency-saving measures, albeit this was not the driver for the redesign of the services. On the issue of ensuring providers were not penalised for paying the living wage, Mr Davies expected that CoSLA would issue guidelines on this.

Councillor Berry asked a question in relation to the financial implications. Mr Davies advised that there were no details to report at this stage, as full assessments had not yet been carried out. He pointed out that each service user would be assessed in terms of their outcomes and accommodation, which would determine the budget required, and once established this would also provide information on efficiency savings. He added that the

service worked with all providers to determine the types of support and resources required. On providing support to people living at home, Mr Small advised that the capacity issues were related to staff recruitment and retention rather than budgets.

Councillor Akhtar asked how the work with stakeholders would be undertaken. She was informed that a number of meetings and events would take place with user groups over the next 3-6 months, and that they would be invited to contribute to the process.

Councillor Grant welcomed the alignments of both contracts from 2017, and also the tailoring of services towards individual needs and outcomes. He indicated that this integrated approach would provide opportunities to deliver services in different ways.

Councillor Currie also welcomed the report, particularly as regards SDS, which he believed would be successful, with the appropriate support. He also spoke in support of the increased use of technology, but stressed the importance of getting it right. He suggested that any efficiency savings should be reinvested in preventative measures.

Councillor Berry commented on the need to quantify efficiency savings, and had hoped that information could be provided at this stage. On the capacity issue, he claimed that there was a lack of affordable housing for people employed in the care sector which may be contributing to recruitment and retention problems.

Decision

The Council agreed:

- i. to ratify the plans and timescales which the IJB has put in place to support the development of specialist support and care at home services; and
- ii. to approve the process for procuring services, as required by the IJB.

Sederunt: Councillor Grant left the meeting.

2. LOCAL SCRUTINY PLAN

A report was submitted by the Chief Executive informing the Council of Audit Scotland's East Lothian Council Local Scrutiny Plan 2016/17.

The Chief Executive introduced the report, advising Members of the role of the Local Area Network (LAN) in relation to identifying target, risk-based scrutiny. She explained that the Local Scrutiny Plan outlined progress made as regards risks identified in the previous year's Plan and highlighted the areas for inspection in the coming year. She also noted that the Accounts Commission had agreed on a 5-year programme of Best Value Audits, although it was not known at this time when the Council would be subject to this. The Chief Executive welcomed Antony Clark of Audit Scotland to the meeting to present the Local Scrutiny Plan.

Mr Clark stated that the Local Scrutiny Plan for 2016/17 was broadly positive and that it was recognised that the Council was doing well in relation to managing its financial strategy. He also noted that he was satisfied with the progress being made as regards the integration of health and social care services and the associated governance procedures, adding that this would continue to be monitored. On Education services, Mr Clark reported that improvements had been made in this area and that although there were no plans for further scrutiny at this time, Education Scotland would continue to engage with the Head of Education. On Housing, he noted that the Scottish Housing Regulator had questioned the

Council's approach to repairs and maintenance, and would work with the Council as regards the performance of that service to identify areas for improvement.

Responding the questions from Councillor Berry on the two areas highlighted above, Mr Clark confirmed that the Council was making progress towards meeting the Scottish Housing Quality Standard (SHQS), adding that many councils had not met the requirements of every aspect of the Standard. Concerning school attainment, he advised that a range of statistics, including leadership, governance, attainment and outcomes, had been used by Education Scotland to reach an aggregate overview of performance. He pointed out that there was still scope for improvement and that the Council should not be complacent.

Councillor MacKenzie asked how the Council's internal scrutiny function could better scrutinise performance. Mr Clark advised that one aspect of the Best Value Audit would be to look at the Council's scrutiny and governance functions and that following that work, targeted advice would be provided to the Council.

Councillor Currie expressed concern at the rent arrears situation. He was advised that the Scottish Housing Regulator was due to visit the Council to discuss this issue. Councillor Currie also asked for more information on how school attainment would be monitored. Mr Clark advised that inspectors from Education Scotland would engage with the Head of Education as regards attainment measures and how performance was being scrutinised. He reiterated that there would be no specific inspection of Education services for the coming year, but that there may be targeted inspection work in future years.

Mr Clark advised that the LAN looked to improve the capacity of the Council from all perspectives. He noted that there were regular meetings with the Council Management Team, and that he was satisfied that the processes in place were robust, adding that community engagement would have a higher profile in future audit work.

Councillor Veitch welcomed the report, which he believed underlined the success of the Council. He drew particular attention to the progress made in relation to the improvement in the Council's financial sustainability.

Councillor MacKenzie voiced his concern as regards the Council's scrutiny of the Education Service, especially as regards reviewing performance and driving forward improvements.

As Convener of the Policy & Performance Review Committee, Councillor Berry expressed his disappointment that he had not been involved in the Local Scrutiny Plan process. He also suggested that more detailed guidance should be included in the report to assist Members and officers.

Councillor Akhtar recognised the challenges facing the Education Service, noting that the appointment of Fiona Robertson to the Head of Education post would make a significant difference. She pointed out that the issue of attainment was being tackled, and that there was a focus on literacy, numeracy and equality. Responding to comments made by Councillor MacKenzie, she remarked that any Member could raise questions with senior officers.

On housing, Councillor Hampshire welcomed the feedback from the Housing Regulator as regards property conditions and progress being made to meet the SHQS. He accepted that there were concerns as regards rent arrears but that the Council was seeking to address this issue. He commented on the importance of houses being of a high standard for new tenants moving in, noting that the Council had previously been criticised for taking too long preparing houses for new tenants.

Councillor Currie raised a number of concerns, including the length of time between meetings of the Education Committee and the need for greater scrutiny in that area, and the level of rent arrears, which would have an impact on the Council's ability to deliver the modernisation programme.

Councillor McMillan made reference to the improvement in the Council's processes and that there was no specific scrutiny required at this time. His comments were echoed by Councillor Innes, who noted that the report was an endorsement of the Council's approach. He highlighted progress in a number of areas, including in education and the integration of health and social care. He did warn against becoming complacent, stating that the Administration would continue to drive forward improvements. He thanked Council staff for their hard work.

Decision

The Council agreed to approve the Local Scrutiny Plan 2016/17.

3. PARTNERSHIP WORKING UPDATE

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) providing Council with an update in relation to the following areas of partnership working across East Lothian and Midlothian Councils: Trading Standards and Contingency Planning.

The Head of Development, Douglas Proudfoot, presented the report, updating Members on the partnership working arrangement in respect of Trading Standards and the proposals as regards Contingency Planning. He advised that the new arrangements would increase resilience, capacity and service improvement in these services.

Councillor Williamson asked for information on savings made through these partnership arrangements. Mr Proudfoot noted that, for Trading Standards, savings had been identified during the budget process, for example, by not replacing the manager post at East Lothian Council. Tom Shearer, Head of Communities and Partnerships, added that the changes to the Contingency Planning Service were focused on increasing resilience and capacity, but noted that Midlothian Council would also contribute up to one-third of the Emergency Planning Officer post salary.

Councillor Berry commented that savings should be set out in the report. Mr Proudfoot indicated that savings of c. £60,000 had been made in respect of the partnership working in Trading Standards. Councillor Berry remarked that the Council was not doing enough as regards partnership working.

Councillor Currie welcomed the sharing of services, but warned that greater partnership working would be required in order for the Council to meet future financial challenges and provide better services. Referring to the Scrutiny Plan report discussed earlier in the meeting, Councillor McMillan commented that it was better to approach partnership working by taking 'small steps'.

Councillor Innes advised that it was the view of the Administration that partnership working should be explored where it made sense and where it could benefit both partners. He spoke of the importance of bringing services closer to communities, making reference to Area Partnership funding and initiatives.

Decision

The Council agreed:

- i. to note and approve the proposal for a co-located Trading Standards partnership service for East Lothian and Midlothian Council; and
- ii. to note and approve the initial sharing proposals in relation to Contingency Planning and note that an update report would be presented to the Joint Liaison Group after 6 months.

4. AREA PARTNERSHIPS – UPDATE AND DEVOLVED BUDGET

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) providing Council with an update on progress made by the six Area Partnerships, illustrating the progress made in developing Area Plans and the decisions made in relation to devolved budgets in 2015/16, and presenting Council with the proposal for further devolution of funding to Area Partnerships in 2016/17.

The Head of Communities and Partnerships, Tom Shearer, presented the report, highlighting the progress made by the Area Partnerships in developing their Area Plans. He drew attention to Appendix 1 to the report, which outlined projects that were funded and supported by the Area Partnerships in 2015/16. Referring to the funding for Area Partnerships, set out in Section 3.8 of the report, he reminded Members that £600,000 of new money had been approved for the 2016/17 financial year to support education initiatives, with each Area Partnership receiving £100,000.

In response to questions from Councillor Berry as regards the funding of initiatives, Mr Shearer confirmed that this was annual funding, that the £600,000 allocated for education initiatives would be shared equally between the six Area Partnerships, and that the £350,000 for non-recurring general services priorities would be allocated at £100,000 for the Musselburgh Area Partnership and £50,000 for each of the other Partnerships. He added that almost all of the funding allocated for the 2015/16 financial year had now been committed.

Councillors from all wards welcomed the report and paid tribute to the work of the Area Partnership members and the Area Managers. A number of successful initiatives were highlighted, and it was acknowledged that the Area Partnerships provided an effective vehicle for delivering local priorities.

Councillor McNeil suggested that the Chief Executive, Leader and Provost should write to the Area Partnerships congratulating them on their achievements. The Provost noted this suggestion.

Councillor Currie commented on the importance of attracting new volunteers to participate in the Area Partnerships in order to build future capacity.

Decision

The Council agreed:

- i. to note the good progress in developing the six Area Partnerships;
- ii. to note the range of projects that devolved funding has been used to deliver; and

- iii. to approve the proposal for devolving £100,000 to each of the six Area Partnerships to support educational initiatives that contribute to improving educational attainment and achievement and reduce the attainment gap (as outlined in Sections 3.9–3.12 of the report).

6. ADDITIONAL SECONDARY EDUCATION PROVISION, MUSSELBURGH AREA

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval to consult on the proposal to establish a new, second, secondary school and the creation of its catchment area.

The Head of Education, Fiona Robertson, presented the report, advising Members of the requirement for additional secondary education provision in the Musselburgh area in accordance with the emerging Local Development Plan (LDP) compact growth strategy. She summarised the qualitative assessment of potential sites and the range of options considered as regards the provision of secondary education in this area, and advised that following appraisal of each of these options, and taking account of the advantages, disadvantages and costs, the best value option for the Council would be a new, second, secondary school in Wallyford.

Councillor Williamson asked why the consultation would be based on only one option, rather than all three. He also questioned the value of the pre-consultation exercise, claiming that it was flawed. Ms Robertson advised that the purpose of the pre-consultation process was to explore options and get an indicative view on those options. She pointed out that the consultation exercise would include information on the options that had been considered, as well as the rationale behind the decision to move forward with the proposal for the new secondary school.

Responding to a question from Councillor Currie on the location of the proposed school, Douglas Proudfoot, Head of Development, reminded Members of the decision taken by the Council on 17 November 2015 to remove the site identified in the draft LDP for a proposed new secondary school. Following that decision, he advised that further work had been undertaken to refine the options for remaining two potential sites.

Ms Robertson stated that the Council was obliged to take forward a proposal for a school option on the preferred site. She pointed out various aspects that had to be considered, such as the impact on the community, transportation, pupil movement and access to after-school activities. She stressed that the views of the community would be taken into account during the consultation and would be reported back to Council for consideration.

Councillor Currie questioned the wording of Recommendation 2.1(i) and highlighted potential community concerns as regards the catchment area for the new school. He also commented on the lack of investment at Musselburgh Grammar School. Morag Ferguson, Service Manager – Legal and Procurement, clarified that the Council was being asked to approve a proposal for consultation, the outcome of which would be reported back to Council for a final decision. Ms Robertson confirmed that the consultation documentation would include information on the proposed catchment area for the school. She also noted that, in relation to Musselburgh Grammar School, there had been recent improvements in attainment, and that the establishment of a new school may open up opportunities for pupils of Musselburgh Grammar School which would alleviate the accommodation problems mentioned by Councillor Currie.

Councillor McNeil asked about the implications for pupils at Sanderson's Wynd Primary School and Ross High School. Ms Robertson indicated that there would only be an impact on a small cluster of dwellings close to the proposed new housing development in Wallyford,

in that they would be within the catchment area for Wallyford Primary School and the new secondary school. The head teachers of the schools in question had been informed of this.

Ms Robertson explained that the consultation would run for a minimum of six weeks, in accordance with Education Scotland guidelines, with documentation being distributed to schools, community centres and libraries, as well as being advertised in the media. There would be public meetings, and also meetings with the PCC, parents and pupils, with feedback being accepted in writing or by email.

Councillor MacKenzie commented on a number of matters that needed to be taken into consideration, including the quality of the education and buildings, the impact on the environment, safety, and the cohesion and wellbeing of the community.

Councillor Williamson remarked that the pre-consultation exercise had not included proposals as regards the location of the new school, and that it had not delivered clear conclusions. He maintained his view that all three options should be subject to the consultation in order that the Council would be better informed when making the final decision. He also felt that the community would feel more involved if consulted on all the options. His views were shared by Councillor McAllister, who suggested that a fourth option – to develop the existing Musselburgh Grammar School – should be considered.

Councillor McNeil stressed the importance of consulting with all primary schools as well as parents of pupils currently in S1 and S2 at Musselburgh Grammar School. He also noted that there would be no construction traffic going through Wallyford during the construction period.

Councillor Currie reiterated his concern as regards the wording of Recommendation 2.1(i) and his view that all three options should be consulted on, remarking that it was wrong that the public would be consulted on a solution that had already been approved. He also mentioned that parents of children at Pinkie St Peter's Primary School were concerned about the catchment boundaries for the new secondary school. He declared that he would not support the report recommendations.

Mrs Ferguson pointed out that, in accordance with the legislation, the Council was obliged to consult on a formulated proposal, and that there was therefore a need to have a proposal at the start of the process.

Councillor Currie argued that the Council had not consulted on the geographic options to date. He proposed that Recommendation 2.1(i) should be deleted. The Provost explained that deleting that recommendation would not be competent, as the Council was obliged to consult on a proposal. Mrs Ferguson confirmed that it would not be possible to vote against Recommendation 2.1(i) but vote in favour of (ii) and (iii) on the grounds that the Council could not carry out a consultation without having a proposal to consult on. She advised that the options available were either to put forward an alternative proposal or to vote against the recommendations in their entirety.

Councillor Hampshire referred to the Local Development Plan process and the decision taken to adopt a compact growth strategy. He stressed that without a secondary education solution in the Musselburgh area, the LDP would not be competent and this would present risks for the Council. He explained that the outcome of the consultation would be reported to Council for consideration and determination, and urged SNP Councillors to support the recommendations in order to progress the consultation process.

Councillor Innes voiced his disappointment at the stance taken by the SNP Group. He emphasised that information on all the options considered would be included in the consultation documentation, which would allow the community to form their own views. He

proposed an amendment to the wording of Recommendation 2.1(i) from ‘approve the solution to provide additional secondary education capacity ...’ to ‘approve the proposal, for consultation, to provide additional secondary education capacity ...’.

There followed a short adjournment to allow Members to consider the proposed amendment to the wording of Recommendation 2.1(i).

Following the adjournment, Councillor Currie indicated that the SNP Group would support the recommendations, with the proposed amendment.

Councillor Libberton seconded the amendment to Recommendation 2.1(i), as proposed by Councillor Innes.

Councillor Akhtar spoke in support of the consultation process, reiterating that the views of the community would be taken into consideration.

The Provost moved to the vote on the amendment to Recommendation 2.1(i), as proposed by Councillor Innes and seconded by Councillor Libberton.

For:	20
Against:	0
Abstention:	1

Decision

The Council agreed:

- i. to approve the proposal, for consultation, to provide additional secondary education capacity required for the Musselburgh cluster area being a new, second, secondary school in Wallyford;
- ii. to note that a formal consultation in line with the Schools (Consultation) (Scotland) Act 2010 would be undertaken in relation the establishment of a new school, proposed variation in catchment areas and in arrangements for the transfer of pupils from a primary school to a secondary school. The proposal would include the revision of the catchment boundaries of Pinkie St Peter’s Primary School, Wallyford Primary School, Musselburgh Grammar School, Sanderson’s Wynd Primary School, and Ross High School; and
- iii. to note that the consultation period would be undertaken prior to the summer recess.

Sederunt: Councillor Akhtar left the meeting.

8. NEW CHARGES – ENVIRONMENTAL HEALTH SERVICE

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) providing Council with a schedule of new charges for services delivered/proposed to be delivered by the Environmental Health Service.

The Service Manager – Environmental Health, Derek Oliver, presented the report, advising of current activities carried out by the Environmental Health Service in dealing with pest control. He drew attention to pest control services provided by neighbouring local authorities and the income associated with these services. He highlighted the proposed charges and concessionary rates to be introduced by the Council.

Mr Oliver answered a number of questions from Members in relation to the judgement used in carrying out pest control, guidance provided to residents, and the control methods used to deal with pigeon and gull problems, as well as bed bugs and fleas.

In response to a question from Councillor Goodfellow in dealing with pests in communal areas, Mr Oliver made reference to the Council's statutory obligations, and advised that the Council had the power to serve notices on residents, where required.

Councillor Currie expressed concern that the proposed concessionary rates were set at too high a level for some people and that this may lead to pest problems not being reported. He moved that the proposed concessionary rates should be reconsidered and brought back to Cabinet for consideration. Councillor Innes seconded this motion. The Council agreed unanimously with this proposal.

Decision

The Council agreed:

- i. to approve the schedule of new charges for services delivered/proposed to be delivered by the Environmental Health Service, with the exception of the proposed concessionary rates, which would be considered further and reported back to Cabinet;
- ii. to approve, in principle, subject to the conclusion of the service review, the establishment of a pest control treatment service.

9. SCHEDULE OF MEETINGS 2016/17

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of the Schedule of Meetings of the Council, Committees and other forums for 2016/17.

The Clerk presented the report, highlighting in particular the inclusion of an additional meeting of the Planning Committee on 9 August 2016; the election recess, which would run from 31 March to 22 May 2017; and that the date of the budget-setting meeting would be announced at a later date. She added that any other changes to the schedule would be communicated to Members as appropriate.

As regards the 2015/16 Schedule of Meetings, Councillor Hampshire proposed that an additional meeting of the Planning Committee should take place in June 2016 to deal with a number of planning applications requiring determination. The Clerk advised that she would take this forward.

A number of comments were made by Members in relation to the possibility of re-introducing evening meetings, the need for additional meetings of the Education Committee and alerting officers as to when to arrive at meetings to present their reports. The Committees Team were thanked for their efforts in servicing meetings.

Decision

The Council agreed:

- i. to approve the proposed Schedule of Meetings for 2016/17;

- ii. to note the date of the budget-setting meeting would be set at a later date;
- iii. to note that the schedule is subject to change, and that any changes will be communicated to Members and officers as soon as practicable; and
- iv. that an additional meeting of the Planning Committee should be arranged in June 2016.

10. APPOINTMENT OF REPRESENTATIVES TO OUTSIDE BODIES

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of the nomination of Councillor McMillan to represent the Council on the John Muir Birthplace Trust, replacing Councillor Veitch.

The Clerk presented the report, advising that Councillor Veitch had recently indicated that he wished to relinquish his role as a Council-appointed representative on the John Muir Birthplace Trust. She reported that the Administration had nominated Councillor McMillan to replace Councillor Veitch on this body.

Decision

The Council agreed to approve the appointment of Councillor John McMillan to represent the Council on the John Muir Birthplace Trust, replacing Councillor Michael Veitch.

11. SUBMISSIONS TO THE MEMBERS' LIBRARY, 11 FEBRUARY – 7 APRIL 2016

A report was submitted by the Depute Chief Executive (Resources and People Services) advising Members of the reports submitted to the Members' Library since the last meeting of the Council.

Decision

The Council agreed to note the reports submitted to the Members' Library Services between 11 February and 7 April 2016, as listed in Appendix 1 to the report.

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) and Paragraph 9 (terms proposed or to be proposed in the course of negotiations for a contract for the acquisition of or disposal of property) of Schedule 7A to the Local Government (Scotland) Act 1973.

Referral to Council by Musselburgh Common Good Committee – Repairs at Fisherrow Harbour

A private report submitted by the Depute Chief Executive (Resources and People Services) seeking determination of a funding request to make repairs at Fisherrow Harbour, referred to the Council by Musselburgh Common Good Committee, was approved.

Proposed Property/Site Acquisition

A private report submitted by the Depute Chief Executive (Partnerships and Community Services) seeking approval for the acquisition of the former Cockenzie Power Station site was approved.

East Lothian Partnership

ACTION NOTE OF THE MEETING OF EAST LoTHIAN PARTNERSHIP
Wednesday 20 January 2016, 2pm,
Council Chamber, the Town House, Haddington

Partnership Members Present:

Cllr. Willie Innes, Leader, East Lothian Council (Chair) (WI)
Alasdair Perry, Local Senior Officer, Scottish Fire & Rescue Service (AP)
Angela Leitch, Chief Executive, East Lothian Council (AL)
Brian Rodgers, Superintendent for Partnerships, substitute for Gillian Imery, Police Scotland – J Division (BR)
Cllr. Donald Grant, Chair, East Lothian Integration Joint Board (DG)
Cllr. Stuart Currie, Leader of the SNP Group. East Lothian Council (SC)
Danny Logue, substitute for Neville Prentice, Skills Development Scotland (DL)
David Small, Chief Officer, East Lothian Integration Joint Board (DS)
Eliot Stark, Chief Executive, STRiVE (ES)
Frank Beattie, substitute for Jonathan Wilson, Scottish Enterprise (FB)
Hilary Smith, Chair, Association of East Lothian Community Councils (HS)
Mark Ormiston, Chair, ELTRP (MO)
Monica Patterson, Depute Chief Executive – Partnerships and Community Services, East Lothian Council (MP)
Nigel Paul, Chair, Sustainable Economy Partnership (NP)
Ray McCowan, Vice Principal Education Leadership, Edinburgh College (RM)
Susan Goldsmith, Director of Finance, NHS Lothian Board (SG)
Tim Ellis, Chief Executive, National Records of Scotland, Scottish Government (TE)

Others Present:

Jill Mackay, Media Manager, East Lothian Council (JM)
Paolo Vestri, Corporate Policy & Improvement Manager, East Lothian Council (PV)
Patsy King, Development Worker, ELTRP (PK)
Veronica Campanile, Policy Officer, Corporate Policy & Improvement, East Lothian Council (VC)

Partnership Members' Apologies:

Cllr. Michael Veitch, Leader of the Conservative Group, East Lothian Council
George Archibald, Chief Executive, East & Midlothian Chamber of Commerce
Gillian Imery, Divisional Commander, Police Scotland
Gordon Henderson, Senior Development Officer-Scotland, Federation of Small Business
Jonathan Wilson, International Sector Head - Education and Location / Director for East Lothian, Scottish Enterprise
Mike Ash, Non Executive member NHS Lothian Board & Chair, Resilient People Partnership
Neville Prentice, Senior Director – Development and Delivery, Skills Development Scotland
Prof. Alan Gilloran, Deputy Principal, Queen Margaret University

2a

WELCOME/APOLOGIES

- Apologies are noted above
- The East Lothian Integration Joint Board (IJB) and its two members - Cllr. Donald Grant and David Small were welcomed to the Partnership. The IJB replaces the Shadow Health and Social Care Partnership.
- A further report 'Chair of the Safe and Vibrant Communities Partnership' was tabled. The report recommended the appointment of Alasdair Perry (SFERS) as the Chair (replacing Monica Patterson of ELC): there were no objections and the appointment was noted. The Chair thanked Monica for her work as chair to date.

1. MINUTES OF THE PREVIOUS MEETING

a. The minutes of the ELP meeting of 7 October 2015 were approved.

b. Matters arising

- Meeting with Partner's Boards: The onward dates were noted (see agenda) and further meetings to be arranged / VC / Partners.
- Developing East Lothian's Young Workforce/communications: Mike Pretious, QMU, is now a member; the group will identify additional activity to address if required.
- [The East Lothian Plan Performance Report 2014/15](#) – was signed-off, published in December and presented to the Scottish Government through TE, Location Director.
- The East Lothian Poverty Commission: PV reported that Annette Bruton, Principal of Edinburgh College will chair the Commission and it has 7 members. The first meeting will take place on the 2nd February. **Action:** The Commission will report to this Partnership and Council after the summer.
- Musselburgh Total Place Family Focus: work ongoing by the Board and Project Team.
- Briefing session: Local Development Plan, Cockenzie Master Plan and the Edinburgh and South East Scotland City Deal. The Briefing is for all Partnership Groups including the Area Partnerships. Date confirmed: **Monday 22 February, 6-9pm**, in East Lothian Council (Saltire Rooms), John Muir House, Haddington. **Action:** Note the date in diaries and invitation to follow - **All/VC**.

2. Partners Strategic Issues

a. Joint Inspection of Older People's Services.

DS gave a verbal update: initial feedback had been received and was favourable. The final report was expected by 1st February 2016.

b. Strategic Plan for Health and Social Care, draft 2

DS gave a verbal update. Consultation was underway and closes on 26 January 2016. East Lothian Council and NHS Lothian will give formal responses. The IJB will consider the responses and adopt the final plan. Once funds have been received, the Plan will become Directions for commissioning services.

Action:

- Partners urged to consider the draft plan and respond / **All Partners**
- Report to the next meeting / **DS**

3. Community Justice Redesign - update

PV spoke to the report.

Decision on the Recommendations/Action

That East Lothian Partnership:

- 2.1 Notes progress in relation to establishing a Reducing Reoffending Group to act as a Planning and Delivery Group with senior officer representation from a range of partners. - **Noted**
- 2.2 Notes that the Safe and Vibrant Communities Partnership will take on the role of 'Reducing Reoffending Board' from 2016/17 onward (as a 'Shadow Board' during 2016/17) and that discussion took place at the November meeting of the S&VCP as to changes required re the S&VCP's role and membership. - **Noted**
- 2.3 Agrees that a draft Community Justice Transition Plan will be produced and circulated to East Lothian Partnership members at the earliest possible opportunity. The Plan will be signed off by the East Lothian Partnership Chair and Vice Chair. – **Agreed**

Action

- Confirm if the future Community Justice Strategic Plan should be adopted as part of the Health and Social Care Strategic Plan / **DS**

4. **Community Engagement Framework Monitoring Report**

VC spoke to the report. The discussion is noted to inform the action below:

- Possible reasons for the limited usage of the framework
- That usage had been mainly retrospective and mostly without concluding the review
- Ways to make this more effective:
 - Establish a calendar of initiatives forthcoming
 - Plan effectively: incorporate assessment/planning for engagement at the outset of an initiative to ensure engagement is hardwired in.
 - The 'Monitoring Group' needs to be the driver/consider the name/membership
- Use of the framework should help to streamline engagement and potentially reduce the pressure on community councils (currently overburdened with consultation) and Area Partnerships, etc. Useful to have the views of Community Councils on appropriate engagement.

Decision on the Recommendations/Action

- 2.1 That East Lothian Partnership notes current usage levels of the Community

Engagement Framework. - **Noted**

2.2 That the Partnership and partners restate commitment to the Community Engagement Framework. – **Commitment restated**

2.3 That partners agree to nominate a member of staff to join the Engagement Monitoring Group. – **Agreed / and note the comment above**

Action

- **AI/PV/VC** to take this forward based on the discussion points (above).

5. Partnership Improvement Plan

a. Improvement Point 13: Partnership Asset Management Plan - update

MP spoke to the report. Summary of discussion points raised:

- Properties that become surplus to requirement should be considered for business use through the Sustainable Economy Partnership – responding to the shortage of business premises
- Partners from national organisations to promote the disposal of assets in East Lothian according to local need
- Joint register and Joint Planning: Asset mapping must cover current assets and future capital plans/milestones in order to design for future service needs
- Wider engagement is needed – how is this built in?
- Asset planning should look to increasing access to community facilities eg community centres (and similar) become accessible at weekends, during holidays, evening and at a reasonable cost.

Decision on the Recommendations/Action

2.1 East Lothian Partnership is asked to:

- note the update from the Joint Property Asset Management Group. - **Noted**
- agree to the principle of a Joint Communications Policy (see item 3.11) –**Agreed**

Action

- Take account of the points raised above / MP/Douglas Proudfoot

b. Improvement Plan - update

VC spoke to the report. Discussion is recorded in the actions below.

Decision on the Recommendations/Action

2. That East Lothian Partnership:

2.1 Considers progress on the points detailed in the updated Improvement Plan in Appendix 1 and notes that a further update will be provided at the 11 May 2016 meeting. – **Noted**

Action on IPs 4 and 14 – Priority Actions

- Volunteering Strategy / Action Planning Workshop: well attended by partner organisations and Area Partnerships. The Action Plan is being developed and feedback will be sought from participants. Further engagement on the plan is anticipated with all ELP partnership groups. Approval will be sought at the May meeting / **ES/LMcN/VC**.
- School attendance: Edinburgh College is keen to collaborate – **VC / RMcC**

Action on IP 11: Strengthening the role of the TSI

- ES gave an update: Phase 1 had been an internal process, which was about to conclude. Phase 2 includes external engagement; a proposal for representation to community planning will be brought for discussion to ELP in May / **ES**

2.2 Improvement Point 5: Consider if further data sharing protocols are required

Action

- Partners reported other protocols are in existence - DL (SDS), PV (DWP), DS (NHS/GPs) or underway - AP (SFRS). There are possibly others. All to send additional protocols and VC to collate and circulate to this group and identify any further gaps. Once complete consider awareness raising needs – **DL, PV, DS, AP, and others / VC**

2.3 Improvement Point 15: Agree to undertake a Review of The East Lothian Plan and East Lothian Partnership, beginning with the proposed workshop (see 3.2.4). – **Agreed** – however, the Partnership and the work are now settling in and this should be ‘light touch’ to refine and tweak The East Lothian Plan.

Action

- ELP Officers group to advance the work and present a proposal as a ‘Starter for 10’ for the event in late April (date tbc) - **PV/EW/VC/CG**

Items 6, 7 and 8: No action required

NEXT MEETINGS

Wednesday 11 May 2016, 2-4pm, Boardroom, Queen Margaret University, Musselburgh
 Wednesday 26 Oct 2016, 2-4pm, Boardroom, Edinburgh College Milton Road, Edinburgh
 Wednesday 25 Jan 2017, 2-4pm, Saltire Rooms 1&2, East Lothian Council, JMH, Haddington



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 17 MARCH 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

2b

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor J McNeil
Councillor D Grant
Councillor J Caldwell
Councillor J Williamson

Advisers to the Local Review Body:

Ms E Taylor, Planning Adviser to the LRB
Ms C Molloy, Legal Adviser/Clerk to the LRB

Others Present

Mrs G Rowan-Hamilton, Applicant (Item 1)
Mr and Mrs Reynolds, Applicants (Item 2)
Mr J Frostwick, Agent (Item 2)

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

None

Councillor Hampshire was elected to chair today's meeting by Councillors McNeil, Grant, Caldwell and Williamson. Duly elected, Councillor Hampshire welcomed everyone to the meeting.

Catherine Molloy, Legal Adviser, stated that there were two planning applications being presented today in the form of written submissions and that site visits had been carried out prior to the meeting today. She also advised that a Planning Adviser, who had had no involvement with the determination of the original application, would provide information on the planning context and background of the application.

Members of the LRB and Council Officials were introduced to those present.

**1. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No: 15/00878/P – ERECTION OF NEW
CONSERVATORY AT THE OLD BARN, VILLAGE GREEN ROAD,
STENTON**

The Legal Adviser outlined the procedure for the ELLRB meeting today. Members had been provided with written papers, including a submission from the Case Officer and review documents from the applicant. She advised that the Planning Adviser would summarise the planning policy issues in relation to the application and Members would decide if they had sufficient information to reach a decision today. If they did not, the matter would be adjourned for further written representations or for a hearing session and Members would have to specify what new information was needed to enable them to proceed with the determination of the application. Should Members decide they had sufficient information before them, they would proceed to discuss the application and a vote would be taken on whether to uphold or overturn the decision of the Appointed Officer.

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Emma Taylor, Planning Adviser, stated that the site was a single storey semi-detached house and garden and that permission was being sought for the erection of a uPVC framed conservatory on the side (south west) elevation of the house. She advised that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicate otherwise. The development plan consisted of the approved Strategic Development Plan for Edinburgh and South East Scotland, known as SESplan, and the adopted Local Plan 2008.

The Planning Adviser advised that the site was within a residential area of Stenton, designated under local plan policy ENV1, and within the Stenton Conservation Area. The main policy considerations relevant to the application were design and impacts on the Conservation Area, as the development plan seeks to preserve or enhance the character of Conservation Areas and promote a high quality of design in all development. The key policies in relation to these matters were Strategic Development Plan policy 1B and Local Plan policy ENV4.

The Planning Adviser stated that the application was refused by the Appointed Officer on the basis that, due to its roof form and uPVC external finish, the conservatory would be architecturally different from the house and would be a

prominent and incongruous physical feature on the side elevation of the house. This would be contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008.

No consultations had been carried out on the application by the Case officer and one letter of representation had been received.

The Chair thanked the Planning Adviser for her presentation and Members now had an opportunity to ask questions. The Chair asked if Historic Scotland was a Consultee on this application and the Planning Adviser replied that it was not, as they were only consulted on listed buildings. Councillor McNeil quoted from the letter submitted by the Architectural Heritage Society of Scotland: "It would be essential for the conservatory to be a fully framed structure, designed with insulated timber panels.....UPVC framing was non-traditional and would be inappropriate in the conservation area..." Councillor McNeil asked if the Planning Adviser shared this view and she replied that certain conservatories can be harmful to the amenity of the area, but Members would need to discuss and reach a view on this application. Councillor McNeil asked if the proposal would be acceptable if constructed with wood and the Planning Adviser replied that it was not only the materials which are considered, but the form of the conservatory. Councillor Caldwell had noted that there was a conservatory in a neighbouring property and the roof was visible from the main road. He asked if this had, in effect, set a precedent. The Planning Adviser did not consider that it had set a precedent, but a firm view on that would depend on other factors. It was also not known if the owner of the property had planning permission for this conservatory.

The Chair then asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed. Comments from Members followed.

Councillor Grant noted that the Planning Officer, in his reason for refusal, had considered that the proposal contravened Policy 1B of SESplan and the East Lothian Local Plan. The Planning Officer had also explained in detail why he had reached this conclusion in his report. During the site visit, Councillor Grant had tried to visualise the applicant's proposals and had to agree with the Case Officer's decision. He considered that the conservatory would be the wrong colour and would look incongruous in its elevated position. He would therefore not be supporting this appeal.

Councillor Caldwell stated that, although there was a conservatory constructed of uPVC materials in the vicinity, he considered that the proposed conservatory for this site would be more obtrusive due to its higher position. He would therefore not be supporting the appeal as he considered it would be harmful to the Conservation Area.

Councillor Williamson stated that, following the site visit, he considered that this application would harmonise more in its surroundings than the existing conservatory nearby. He also considered that, as the structure would be made of glass, it would not harm the character of the area. He also believed that few people would have a view of the proposed conservatory. He would therefore vote to overturn the Case Officer's decision.

Councillor McNeil was surprised to note that no objections had been received in connection with this application. In his view, a uPVC structure would be incongruous

on this site and he would therefore be upholding the Case Officer's decision to refuse this application.

The Chair, a Local Member, commented that Stenton had seen a significant investment in older properties. However, like all Conservation Areas across East Lothian, there were also modern buildings in the village. Members had to decide whether new structures enhanced the appearance of the village or would be detrimental to it. It was right that Members should also consider whether new buildings would be visible to the public when considering the merits of an application. In his view, the majority of the proposed structure would be behind a stone wall and not visible to the public. Looking towards the site from the road, he considered that the buildings around the property would be higher than the conservatory and it would not detract from the character of the area. He would therefore vote to overturn the Case Officer's decision.

Decision

The ELLRB agreed 3:2 to uphold the original decision of the Planning Officer and rejected the appeal.

The Legal Adviser stated that the Decision Notice would be issued within 21 days.

2. REVIEW AGAINST DECISION (REFUSAL) PLANNING APPLICATION No: 15/00475/P – ERECTION OF HOUSE GARDEN AND FENCING AT 6 ELCHO ROAD, LONGNIDDRY

The Legal Adviser outlined the procedure for the ELLRB meeting today. Members had been provided with written papers, including a submission from the Case Officer and review documents from the applicant. She advised that the Planning Adviser would summarise the planning policy issues and Members would decide if they had sufficient information to reach a decision today. If they did not, the matter would be adjourned for further written representations or for a hearing session and Members would have to specify what new information was needed to enable them to proceed with the determination of the application. Should Members decide they had sufficient information before them, they would proceed to discuss the application and a vote would be taken on whether to uphold or overturn the decision of the Appointed Officer.

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Emma Taylor, Planning Adviser, stated that the application site was the southeast part of the garden of the house at 6 Elcho Road, Longniddry and that the proposal was for the erection of one house and the formation of a new vehicular access and driveway. The application also included the erection of a garage to serve the existing house of 6 Elcho Road.

The Planning Adviser stated that Members would have noted from the planning history of the site, outlined in the Officers Report, that two previous applications for the erection of a house on the plot had been refused planning permission. The reason for refusal of those previous applications was that the proposed house would be a crammed form of infill development which would make the site appear over

developed, in a manner detrimental to the characteristic layout, density of development and appearance of the area. There was also the likelihood that the occupants of the house would not be afforded sufficient residential amenity and that the existing residential amenity of the properties of 4 and 6 Elcho Road would be harmed. The Case Officer had refused this application for the same two reasons as the two previous applications.

The Planning Adviser stated that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicate otherwise. The development plan consists of the approved Strategic Development Plan for Edinburgh and South East Scotland, known as SESplan, and the adopted Local Plan 2008. The site was within a residential area of Longniddry, designated under local plan policy ENV1 and the main policy considerations relevant to the application were design, amenity, and road safety. The key development plan policies in relation to these matters are Strategic Development Plan policy 1B and Local Plan policies ENV1, DP7, DP22, and T2.

The Planning Adviser stated that consultation responses had been received from the Council's Roads Services and Environmental Services. Four representations to the application had also been received. Copies of all responses were included in the Officer's report.

The Chair thanked the Planning Adviser for her presentation.

The Legal Adviser made a point of clarification, stating that this application was for planning permission and not for planning permission in principle, as stated on the applicant's Notice of Review.

The Chair invited questions and there were none. The Chair then asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed. Comments from Members followed.

Councillor McNeil noted that this was the third application to have a narrow house built in the garden of this property. He stated that he had found the site visit very helpful and had observed that the houses in Elcho Road appeared to have large gardens, although the distance between the houses was relatively small. As he could see no material change to the impact the proposed dwelling would have on this site compared to the two previous applications, he would vote to uphold the decision of the Case Officer and reject this appeal.

Councillor Grant stated that there was no doubt that infill development can bring benefits, but it had to be done in appropriate locations. It was clear to him from the site visit and plans that the proposed house would be shoe-horned into a small area and he considered that the amenity from neighbouring 4 Elcho Road would suffer as a result. He was not convinced that this would be a satisfactory form of development and would therefore not be supporting this appeal.

Councillor Williamson concurred with his colleagues. An application to build a home on this site had been refused on two previous occasions and he could see no reason to support this application. He would therefore also vote to uphold the decision of the Case Officer.

Councillor Caldwell stated that all applications needed to be considered on their own merits. He considered that the proposals here were a typical example of infill development and that there would be some homes in Longniddry where such a

development would be acceptable. However, having studied the plans and visited the site, he considered that this particular application would lead to over development of the site. He was also concerned that the proposed new dwelling would be very intrusive in respect of neighbouring properties.

The Chair stated that he accepted the Case Officer's reasons for refusal and therefore he too would be upholding the Case Officer's decision.

Decision

The ELLRB unanimously agreed to uphold the original decision of the Planning Officer and rejected the appeal.

The Legal Adviser stated that the Decision Notice would be issued within 21 days.



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 21 APRIL 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

2c

Committee Members Present:

Councillor J McMillan (Chair)
Councillor W Innes
Councillor J Gillies
Councillor P MacKenzie

Advisers to the Local Review Body:

Ms E Taylor, Planning Adviser to the LRB
Mrs M Ferguson, Legal Adviser/Clerk to the LRB

Others Present

Mr and Mrs Higgins, Applicants

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

Councillor D Berry

Councillor McMillan was elected to chair today's meeting by Councillors Innes, Gillies and MacKenzie. Duly elected, Councillor McMillan welcomed everyone to the meeting and introduced the Members of the East Lothian Local Review Body (ELLRB) and Council Officers present. He also outlined the procedure for the meeting and advised that a site visit had been carried out prior to the meeting.

**1. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No: 15/00580/P – ERECTION OF ONE HOUSE
AND ASSOCIATED WORKS AT MILLERS COURT, ELPHINSTONE ROAD,
TRANENT**

The Legal Adviser advised that Members had been provided with written papers, including a submission from the Case Officer and review documents from the applicant. She advised that the Planning Adviser would summarise the planning policy issues in relation to the application and Members would decide if they had sufficient information to reach a decision today. If they did not, the matter would be adjourned for further written representations or for a hearing session and Members would have to specify what new information was needed to enable them to proceed with the determination of the application. Should Members decide they had sufficient information before them, they would proceed to discuss the application and a vote would be taken on whether to uphold or overturn the decision of the Appointed Officer.

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Emma Taylor, Planning Adviser, stated that the site was within a residential area of Tranent designated under Local Plan policy ENV1 and that the application site was an area of public open space forming part of the landscaping scheme of the adjacent housing developments. She therefore advised that the main policy consideration for the ELLRB was the impact of the loss of this public open space. Other policy considerations relevant to the application related to design, amenity and road safety, and the key development plan policies in this regard were Strategic Development Plan policy 1B and Local Plan policies ENV1, C5, DP7, DP22 and T2.

The Planning Advisor outlined the Consultation responses received in connection with this application and advised that eighteen representations to the application had been received. Five further representations had been received and copies of all representations were included in the Review Papers. She also summarised the reasons for refusal of this application which were that the proposed house would be an intrusive and inharmonious form of infill development and would significantly alter the character of the area. The applicant had argued that the proposed house would be appropriate to its location and did not accept that the proposed house would be intrusive or harmful to the character of the adjacent houses.

The Chair thanked the Planning Adviser for her presentation and there was now an opportunity for questions. The Chair asked the Planning Adviser if, at any point, the land which was the subject of the planning application had been considered suitable for a housing project. The Planning Adviser replied that the land had always been landscaped and had never been considered as a possible site for a house. There were no further questions.

The Chair then asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed. Comments from Members followed.

Councillor MacKenzie stated that he had found the site visit very helpful. He described the land as a piece of natural habitat; a public space used as a separating element between existing homes. Having also read the submissions of both the Case Officer and the Applicant, he considered that there were not sufficient grounds to overturn the Appointed Officer's decision. He would therefore vote to uphold the original decision to refuse this application.

Councillor Innes stated that he felt sympathetic towards the circumstances of the applicant and commented that the area in question had clearly not been managed properly. However, in his view, the site had been designed to serve as a buffer between areas of existing homes in the development and he considered it significant that the developer had chosen not to build on this strip of land. Councillor Innes had also noted the objections to the application which clearly showed that local residents valued retaining this strip of land in its present form. Therefore, after due consideration, he indicated that he would vote to reject the appeal.

Councillor Gillies shared the view of Councillor Innes and agreed that the proposals would result in a loss of amenity for neighbouring residents.

The Chair considered that the land in its present form added to the character and nature of the development in which it was located. He had also been persuaded by the terms of policy DP7 which stated that the principle of development within infill locations could be supported only where the site can accommodate an appropriate amount of open space, satisfactory vehicle and pedestrian access and car parking spaces. This policy also stated that residents in neighbouring properties should experience no significant loss of privacy and amenity. The Chair was therefore minded to uphold the original decision of the Appointed Officer.

Decision

The ELLRB unanimously agreed to uphold the original decision of the Planning Officer and rejected the appeal.

The Legal Adviser stated that the Decision Notice would be issued within 21 days.

REPORT TO: East Lothian Council
MEETING DATE: 28 June 2016
BY: Chief Executive
SUBJECT: 2016/17 Council Improvement Plan

3

1 PURPOSE

- 1.1 To present the 2016/17 Council Improvement Plan to the Council for approval.

2 RECOMMENDATIONS

- 2.1 The Council is recommended to:
- a) note the update report on the 2015/16 Council Improvement Plan (Appendix 1)
 - b) approve the 2016/17 Council Improvement Plan (Appendix 2).

3 BACKGROUND

- 3.1 The annual Council Improvement Plan is based on improvement actions drawn up using evidence from a range of self evaluation activities and external audit and inspection reports including:
- the Corporate Governance Self-evaluation, (Audit & Governance Committee, 17 May 2016)
 - Audit Scotland's Overview of Local Government in Scotland (Audit & Governance Committee, 17 May 2016)
 - the auditor's interim management report and status summary (Audit & Governance Committee, 22 March 2016)
 - Audit Scotland's Local Scrutiny Plan (East Lothian Council, 26 April 2016).
- 3.2 The Council Improvement Plan also includes action points from the previous year's Plan that are have been continued or carried forward. Appendix 1

provides a monitoring report on progress in achieving the actions from the 2015/16 Council Improvement Plan and highlights actions that need to be carried forward into 2016/17.

- 3.3 The Corporate Governance self-evaluation carried out by the Council Management Team (reported to Audit & Governance Committee on 17 May 2016) identified twelve areas of development and improvement, which build on existing good practice and improvement action already being implemented in order to ensure the Council's progress through continuous improvement. These actions have been reflected in, and form the majority of, the actions in the 2016/17 Council Improvement Plan.
- 3.4 The Council Improvement Plan does not contain any specific actions arising from the Overview of Local Government in Scotland, the Auditors' interim audit report or the Local Scrutiny Plan. The auditors' report and the Local Scrutiny Plan both provide assurance that there are no major concerns about the Council's governance and performance management arrangements.
- 3.5 Implementation of the 2016/17 Council Improvement Plan will be assured via ongoing internal monitoring of progress on key actions points by the relevant lead officers and Depute Chief Executives. Monitoring reports on progress with implementing the Plan will be made to the Council Management Team and the Audit and Governance Committee.

4 POLICY IMPLICATIONS

- 4.1 One of the four areas of focus of the Council Plan 2012-2017 is *Growing the Capacity of Our Council* which has one specific outcome: *We deliver excellent services as effectively and efficiently as possible*. All the improvement points in the 2016/17 Council Improvement Plan will contribute to growing the capacity of the Council to meet this outcome.
- 4.2 The 2016/17 Council Improvement Plan supports four of the principles that underpin or influence the Council Plan:
 - Services built around people and communities
 - Effective, efficient and excellent services
 - Working together to achieve outcomes
 - Prioritising prevention and promoting equality
- 4.3 In accordance with the principles of Best Value the Council strives to pursue 'continuous improvement' and seeks to deliver services in as effective and efficient way as possible. The recommendations arising from Council's self-evaluations, review and inspection work identified above help to inform the Council's pursuit of 'continuous improvement' through the adoption and implementation of the 2016/17 Council Improvement Plan.
- 4.4 The 2016/17 Council Improvement Plan will assist the Council in demonstrating that it is achieving Best Value. It will provide the necessary focus to improve key areas of the Council at a corporate level, thus aiding delivery of the Council Plan. Moreover, it will support East Lothian Council in

its constant striving for continuous improvement, to continue improving the quality and delivery of its services and to meet the Council Plan outcome: ‘We deliver excellent services as effectively and efficiently as possible.’

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none.
 6.2 Personnel – none.
 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Appendix 1: 2015/16 Council Improvement Plan Final Monitoring Report
 7.2 Appendix 2: 2016/17 Council Improvement Plan
 7.3 Interim Management Report and Status Summary; KPMG (Audit & Governance Committee, 22nd March 2016)
 7.4 Local Scrutiny Plan 2016/17; report to East Lothian Council, 26th April 2016
 7.5 Corporate Governance Self-Evaluation and Annual Governance Statement 2016; report to Audit & Governance Committee, 17th May 2016
 7.6 An Overview of Local Government in Scotland 2016 (Accounts Commission, March 2016); report to Audit & Governance Committee, 17th May 2016

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DATE	6 th June 2016

Appendix 1: 2015/16 Council Improvement Plan: Monitoring Statement (June 2016)

2015/16 Council Improvement Plan

We deliver excellent services as effectively and efficiently as possible

	ACTION	LEAD SERVICE	TIMESCALE	UPDATE
1	Review and develop elected members' training and briefings including development issues arising from Councillors' training and development needs survey based on Audit Scotland Overview of Scottish Local Government Councillors' Checklist	Democratic Services/ Communities and Partnerships	Completed	A programme of elected members' briefings in 2015/16 was carried out based on the results of the Dec 2014 elected members' survey.
2	Review and revise the Improvement Framework and make more effective use of benchmarking, Best Value reviews and options appraisal	Communities and Partnerships	Completed	The Council's Improvement Framework has been reviewed and revised. The Council is involved in several benchmarking exercises which are informed by the Local Government Benchmarking Framework. A Best Value Review has been undertaken of a Council service. Options appraisal has been written into the projects and investment decision process that has been instigated for new capital projects.
3	Introduce the new Integrated Impact Assessment framework that has been prepared jointly with Midlothian Council, City of Edinburgh Council and NHS Lothian; including provision of guidance, training and support for services	Communities and Partnerships	Completed	A new Integrated Impact Assessment template has been finalised, guidance has been updated, an on-line training module has been prepared.
4	Implement staff communications plan to ensure staff are fully informed and engaged;	Communities and	To be carried over	A review of staff communications is being carried out. The Chief Executive will lead a

	including identifying ways to recognise and celebrate excellent performance and employee achievement	Partnerships	into 2016/17	project team to agree and take this forward. Over 20 One Council Workshops (attended by c.750 staff) were held in 2015/16 to engage with staff in an interactive setting. Very positive feedback was received and consideration is being given to rolling out further workshops in 2016.
5	Implement the Web Development strategy to provide a more responsive and effective Council website that will support more 'self-service' activity by council service users – 'Channel Shift'	Communities and Partnerships	To be carried over into 2016/17	A business case for funding from the Cost Reduction Fund to support the development of a responsive by design website which will support greater self-service on-line services has been approved. The project will commence in summer 2016. The re-development of the Council's intranet has started and will be completed in summer 2016.
6	Develop a process/ programme for reviewing and evaluating Council policies and strategies to ensure they are up-to-date and relevant	Communities and Partnerships	To be carried over into 2016/17	This project has not commenced. It is proposed that this work will form part of the work to develop the Draft 2017-2022 Council Plan.
7	Implement the revised Performance Review and Development scheme in all services	Communities and Partnerships	Completed	The Performance Review and Development framework has been revised. Following very positive feedback from a pilot the new form and procedure is being rolled out across all services.
8	Review the Council's community engagement strategy to reflect the Community Empowerment (Scotland) Act 2015	Communities and Partnerships	To be carried over into 2016/17	Work on reviewing the implications of the Community Empowerment (Scotland) Act 2015 has begun and will be concluded in autumn 2016.

Appendix 2: 2016/17 Council Improvement Plan

2016/17 Council Improvement Plan

We deliver excellent services as effectively and efficiently as possible

	ACTION	LEAD	TIMESCALE	SOURCE
1	Begin developing a new Council Plan for 2017 – 2022 in autumn 2016. The Draft Plan will be presented to Council in early 2017 and form the basis of the Plan to be adopted by Council in August 2017. The work to develop the Draft Plan will include review of the East Lothian Profile, challenges and opportunities facing East Lothian and East Lothian Council and a review of Council policies to ensure they are relevant and up-to-date	Service Manager Corporate Policy & Improvement	Feb 2017	Corporate Governance Self-Evaluation and carried forward from the 2015/16 Plan
2	Undertake benchmarking exercises on three service areas in order to better understand the variance in East Lothian Council performance against other councils	Service Manager Corporate Policy & Improvement and relevant Service Managers	Mar 2017	Corporate Governance Self-Evaluation
3	Carry out a Best Value Review of at least one service during 2016/17	Service Manager Corporate Policy & Improvement and relevant Service Managers	Mar 2017	Corporate Governance Self-Evaluation
4	Prepare an elected members' Induction Programme, including mandatory elements, a briefing on the role of elected members on partnership bodies and arms length organisations and offering the opportunity to undertake a Continuous Personal Development	Service Manager Democratic Services	Jan 2017	Corporate Governance Self-Evaluation

	Programme, in consultation with elected members for Council approval prior to the 2017 Council elections			
5	Review Standing Orders including the Scheme of Administration (roles and responsibilities of Council Committees) and the Scheme of Delegation	Service Manager Democratic Services	Mar 2017	Corporate Governance Self- Evaluation
6	Review the Workforce Development Plan	Service Manager Corporate Policy & Improvement	Oct 2016	Corporate Governance Self- Evaluation
7	Promote greater awareness of Council policies such as the Gifts and Hospitality policy and Register of Interests	Service Manager Democratic Services	Oct 2016	Corporate Governance Self- Evaluation
8	Review and where appropriate, act on the recommendations of the East Lothian Poverty Commission	Service Manager Corporate Policy & Improvement	Oct 2016	Corporate Governance Self- Evaluation
9	Review and where appropriate, act on the new duties and responsibilities arising the Community Empowerment (Scotland) Act 2015	Service Manager Corporate Policy & Improvement	Oct 2016	Corporate Governance Self- Evaluation and carried forward from 2015/16 Plan
10	The Council will follow up the review of STRIVE (the Third Sector interface) to further strengthen the relationship between the third sector, the Council and East Lothian Partnership	Service Manager Corporate Policy & Improvement	Dec 2016	Corporate Governance Self- Evaluation
11	Implement staff communications plan to ensure staff are fully informed and engaged; including identifying ways to recognise and celebrate excellent performance and employee achievement	Service manager Corporate Policy & Improvement	Oct 2016	Carried forward from 2015/16 Plan
12	Implement the Web Development strategy to provide a more responsive and effective Council website that will support more 'self-service' activity by council service users – 'Channel Shift'	Service Manager Corporate Policy & Improvement	Mar 2017	Carried forward from 2015/16 Plan

REPORT TO: East Lothian Council

MEETING DATE: 28 June 2016

BY: Chief Executive

SUBJECT: Edinburgh and South East Scotland City Region (ESESCR) Deal **4**

1 PURPOSE

- 1.1 The purpose of this paper is to provide an update on the focus, scope and scale of the City Region deal and to agree to the recommendations in Section 2.

2 RECOMMENDATIONS

- 2.1 It is recommended that Council:

- Notes the progress of the City Region Deal since the previous update in April 2015;
- Approves the proposed formation of a Joint Committee for the City Region Deal programme;
- Notes ongoing discussions on the opportunity for a reformed approach to policy integration under a new cross-sector partnership model;
- Agrees the priorities for the City Region Deal that form the basis of negotiations with the UK and Scottish Governments; and
- Authorises the Chief Executive to negotiate a total contribution from East Lothian Council towards a City Region Deal that secures a deal of significance for East Lothian. The deal contribution should be in accordance with project(s) and programme interventions that are negotiated with Governments, whilst being balanced against parameters of affordability and risk.

3 BACKGROUND

- 3.1 At its meeting in December 2014 the Council agreed to contribute initial resources to support the development of an outline business case for a City Region Deal Infrastructure Fund, in partnership with the City of Edinburgh, Fife, Midlothian Scottish Borders and West Lothian councils.

Further resources were committed in April and May 2015 to enable a more detailed proposition to be developed. This was submitted to the UK and Scottish Governments in September 2015, with further, more detailed iterations in December 2015 and April 2016.

- 3.2 Partners involved in shaping the City Region Deal include the local authorities, universities and colleges, the private sector, the third sector and relevant public sector agencies.
- 3.3 Following the statement in the 2016 Budget from the Chancellor of the Exchequer on pursuing a City Region Deal for the region, the Scottish Government, the UK Government and the local authorities signed Terms of Reference for a City Region Deal, and negotiations are now underway on the scope and timing of the Deal.
- 3.4 The City Region Deal aims to make a step change in economic growth across the region through a wide-ranging programme of investment. Integrated regional low carbon and skills programmes will cut across all interventions.
- 3.5 A number of freedoms and powers are also being sought in the proposition submitted to both governments as well as proposing delivery governance.

Leadership, Governance and Policy Integration

- 3.6 Both the UK and Scottish Governments have emphasised that local leadership and commitment across the regions is important to deliver their aspirations for local economic growth through the City Region Deal programmes. All City Deals require authorities participating to demonstrate a strong, local and accountable governance structure that includes each of the authorities participating in the Deal. Recognising the importance of robust governance arrangements, the City Region Leaders have agreed to establish a Joint Committee for this purpose and to include representation from both the university and business sectors on that committee.
- 3.7 The role of the committee would be fourfold: to determine strategic focus; to agree investment priorities; to oversee planning and implementation activity; and to monitor impact.
- 3.8 The City Region Deal provides the opportunity for a new approach to policy integration which could bring together strategic planning functions for the region under a new cross-sector partnership model. The potential benefits would include a clear alignment of activities and more efficient working. Discussions on a reform of the approach to city region governance and programmes are ongoing.

Investment programmes

3.9 The City Region Deal proposals have been shaped around four interconnected programmes:

- innovation hubs;
- infrastructure investment;
- a regional housing programme; and
- a culture and tourism programme.

3.6 Taken together across the region, these amount to around £2bn of investment, with the potential to lever in £5bn of private sector monies. This cohesive programme of investment will create a step change in the regional economy, accelerating inclusive growth over the next 20 years. Projects will be prioritised based on strategic fit, impact and deliverability.

(i) Innovation Hubs

3.7 At the heart of the vision is the aim of accelerating growth through investing in dynamic, future-oriented sectors of the economy. Universities are potential powerhouses for economic growth and can play a unique role at the heart of an innovation ecosystem, connecting world-leading research and innovation to business incubation and skills development.

3.8 Sectors in which the region already has significant strengths, and in which universities already have potential to deliver a step-change to sectoral growth include:

- low carbon;
- data technologies (with applications in creative industries including Edinburgh's festivals, fintech, communications technology and the 'smart' public sector);
- life sciences, (medicine / health care and veterinary medicine and agriculture);
- food and drink; and
- textiles.

3.9 The partners aim to scale up or establish innovation hubs around each of the above sectors, placing university research and innovation at the heart of the region's growth strategy.

3.10 Co-funding is being sought to establish or develop the facilities in which leading-edge research can produce innovative technologies in close engagement with businesses, in ways that leverage in private investment to take products to market. By investing in this way in incubation and reformed business support capabilities the region will build the comparative advantage that grows dynamic sectors that can compete and lead in national and global markets.

(ii) Infrastructure Investment

- 3.11 The Innovation Hub activity will take place within a broader context of City Region Deal investment in infrastructure – both physical and digital – across the region. This programme of investment will focus on developing a pipeline of strategically significant projects which have the potential, both individually and collectively, to contribute to significant economic impact across the city region.
- 3.12 The City Region Deal also provides a unique opportunity to provide a step change in digital connectivity and activity. Access to high quality digital provision across the region is both complex and a major barrier to economic growth.

(iii) Regional Housing Programme

- 3.13 There is an urgent need to accelerate the supply of affordable housing across the region. The market is failing to deliver enough new homes to meet demand and the response to the housing crisis facing the region cannot be solved without innovative solutions and key policy intervention. House prices and rents in the private rented sector continue to rise. This has led to rising inequality and a cost of living crisis in many areas across the city region.
- 3.14 The Regional Housing Programme will enable the development of major strategic housing sites and the delivery of affordable housing across sites identified in strategic housing investment programmes and the wider public sector estate:
- A strategically significant revolving **Housing Infrastructure Fund** could materially assist in the delivery of a large number of affordable and market homes across major housing sites;
 - **Additional affordable housing grant** funding for the region is sought over the next ten years;
 - **A Regional Land and Property Commission** will assess public sector sites viability for accelerated affordable housing led development prior to sites being marketed on the open market. It will also have powers to acquire sites from private market. A start up loan fund is sought to enable site acquisitions between partners, with loans repayable post development. Potential partners could include: Local Authorities, Scottish & UK Government, NHS, MoD, Police & Fire services and the Crown Estate.

(iv) Culture and Tourism Programme

- 3.15 The city region, including the capital city, is one of the most desirable tourist destinations in Europe, welcoming over 3.8m visitors a year. The world-class cultural assets offer is also a vital stimulus for the region's

wider creative and services industries, and its attractiveness to knowledge-based workers, businesses and students.

- 3.16 Investment in enhanced cultural infrastructure is critical for the city region to maintain its international standing. A number of investment propositions are being considered as part of the city region deal, including increased levels of funding for the festivals and enhanced workspace provision for the creative sector.

Cross-Cutting Programmes

- 3.18 The City Region Deal provides an opportunity to future proof the economy of the city region and to further develop the world-leading low carbon sector within its boundaries. The work of the Edinburgh Centre for Carbon Innovation shows the potential to connect academic expertise both to early-stage business incubation but also to support the development of a 200-strong network of established companies in developing products for regional, UK and now international markets. The opportunity is to replicate and scale up this model across the range of low carbon technologies that have a strong basis in research and innovation in the region's universities, and to link these to development opportunities across the region.

- 3.19 With innovation hubs at the heart of the City Region Deal, a cross-cutting Integrated Regional Employability and Skills (IRES) programme will marry the world-class research of the region's universities, the excellent skills training provided by its colleges, and insights and planning from businesses to match supply and demand in skills. Bespoke skills pipelines will help to up-skill the region's workforce ensuring that new jobs created can both attract talent from outside the region and be filled by talent nurtured from within the region.

- 3.20 The IRES programme will re-engineer and augment the currently separate employability and skills infrastructures into an integrated regional system that is co-produced with stakeholders and led by an underpinning regional partnership. The Scottish Government announcement to review SE, HIE, SDS and the SFE is timely in respect of our proposals.

- 3.21 Through this enhanced participation by stakeholders and the sharing and joining up of expertise at a more natural economic scale, significant quantitative and qualitative benefits will be realised.

Impact

- 3.22 These mutually reinforcing programmes of investment will be transformational for the city region. Detailed modelling of the programme of investment will be undertaken over coming weeks. The City Region Deal programme represents an ambitious and game-changing approach to accelerating and future-proofing inclusive growth across the region.

- 3.23 The proposed investments align clearly with national priorities identified within the Scottish Government's Economic Strategy and with targets included in the National Performance Framework.

Next steps

- 3.24 Negotiations are underway with the UK and Scottish Governments on each of the investment programmes. A series of workshops are planned over coming weeks with the aim of delivering a City Region Deal by the end of the calendar year.

Measures of success

- 3.25 The success of projects will be measured and assessed by an agreed formula between Treasury and the partners. This will include indicators to determine the increase in productivity and reduction in inequalities arising from the investment.
- 3.26 It is likely that Gateway Reviews will determine whether projects have delivered value for money, and whether funds will be returned from Government for further investment (see Financial Impact section).

Consultation and engagement

- 3.27 A stakeholder engagement strategy has been developed within the Project Management Office (PMO) function of the City Region Deal partnership. Through the Sustainable Economy Partnership (SEP) we will continue to engage with local businesses to ensure optimal alignment of interventions with business requirements.
- 3.28 Ongoing discussions on the composition and scope of City Region Deal have been held over the past 18 months with city region local authorities, the UK and Scottish Governments and agencies, and key regional stakeholders in the business and third sectors.

4 POLICY IMPLICATIONS

- 4.1 City Deal negotiation is evolving and an eventual deal is likely to have significant policy impact.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 All of our propositions aim to reduce inequalities across the city region and by definition within East Lothian. Inclusive Growth is one of the Scottish Government's four priority areas in its Economic Strategy. The integrated regional skills programme will work to ensure that all residents throughout the region have the ability to share in future success.

- 5.2 A City Region Deal would also provide a mechanism to help drive forward investment in sustainable place making. A cross-cutting approach to sustainable growth is at the heart of the City Region Deal.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – financial arrangements for agreeing a City Region Deal remain subject to negotiation. Based on other agreed City Deals with infrastructure funds of scale, it can be assumed that local authorities will contribute 10 per cent of the capital funding. Assuming a total infrastructure fund of approximately £2bn this would mean local authority contributions of £200m. The share of this attributable to East Lothian Council will be dependant not just on the scale of the Deal agreed, but on the projects and programme interventions that progress. It is important to note that along with a capital funding component, there may also be revenue funding implications. Taken together these proposals currently amount to around £2bn of investment, with the potential to lever in £5bn of private sector monies. Financial arrangements for a Deal are still to be determined but funds are likely to be released from Government, at least in significant part, on a “Payment by Results” basis. Although City Deal is referenced within the Council’s approved Financial Strategy, commitment of resources to the City Deal will have a significant impact upon the Council’s financial plans, especially in the medium to long term and it will be necessary for the Council to consider this further when the detail becomes known.
- 6.2 Risk - There is currently limited information on the approach to risk for the City Region Deal; this may be shared between local authorities at a programme level or be held by individual authorities on a project by project basis. The region requires a long term programme of sustained capital investment to tackle existing issues such as congestion that constrain growth as well as open up opportunities to remain internationally competitive. Without this investment programme, there is a risk that the city region loses out on investment by the private sector and reduces its current contribution to the UK and Scottish economies. There is a further risk that the current situation where many residents in the region lack the opportunity to share in the region’s economic prosperity does not change.

7 BACKGROUND PAPERS

- 7.1 Edinburgh City Region Deal, East Lothian Council, 16 December 2014
- 7.2 Edinburgh City Region Deal, East Lothian Council, 21 April 2015

AUTHOR'S NAME	Douglas Proudfoot
DESIGNATION	Head of Development
CONTACT INFO	dproudfoot@eastlothian.gov.uk
DATE	28 June 2016

REPORT TO: East Lothian Council

MEETING DATE: 28 June 2016

BY: Chief Executive

SUBJECT: Local Government Boundary Commission – Fifth Review

5

1 PURPOSE

- 1.1 To advise Council of the Recommendations made by the Local Government Boundary Commission (LGBC) to Scottish Ministers on 26 May 2016 as part of the Fifth Statutory Review of Electoral Arrangements and the response thereto sent to the Minister for Parliamentary Business on behalf of East Lothian Council.

2 RECOMMENDATIONS

- 2.1 To note and approve the response to the recommendations of the Local Government Boundary Commission submitted to the Minister for Parliamentary Business on behalf of East Lothian Council on 20 June 2016.

3 BACKGROUND

- 3.1 The Local Government Boundary Commission started its fifth review of electoral arrangements on 21 February. In consultation in April 2014 East Lothian Council opposed the initial proposal to reduce Councillor numbers from 23 to 21 and objected to the use of deprivation as a factor in the methodology employed by the LGBC.
- 3.2 In May 2015, in response to proposals to change ward boundaries necessitated by the reduction in Councillor numbers to 21, the Council maintained its opposition to the proposals and called for the status quo to be maintained.
- 3.3 In the summer of 2015 the LGBC went to public consultation on a new proposal to reduce councillor numbers by only one to 22 and on different ward boundary proposals that the Council had not at that time considered or commented on. The Council raised concerns with the LGBC about this procedural irregularity in October 2015 and called for a local inquiry. In December 2015 the LGBC replied stating that in its view it had complied with the terms of the legislation and that it felt that a local inquiry was unnecessary.

3.4 The LGBC submitted its report and recommendations to Scottish Ministers on 26 May 2016 proposing a reduction in Councillor numbers in East Lothian to 22 and suggesting changes in ward boundaries to accommodate that. A six-week period was given for responses to be made to Scottish Ministers

3.5 The cross-party working group met to discuss the proposals on 14 June 2016 and it was decided that at the Council should maintain its opposition to the current proposal. A letter to that effect was submitted on 20 June 2016 and is attached at Appendix 1 for noting

4 POLICY IMPLICATIONS

4.1 There are no policy implications associated with this report.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 Report to Council 22 October 2013

7.2 Report to Council 22 April 2014

7.3 Report to Council 21 April 2015

7.4 Members Library Report 3 June 2015

7.5 Report to Council 25 August 2015

AUTHOR'S NAME	Kirstie MacNeill
DESIGNATION	Service Manager – Licensing, Admin and Democratic Services
CONTACT INFO	kmacneill@eastlothian.gov.uk
DATE	21 June 2016



East Lothian Council

Our Ref: KMac/HH
Your Ref:
Date: 20 June 2016

John Muir House
Haddington
East Lothian
EH41 3HA
Tel 01620 827827

Joe Fitzpatrick MSP,
Minister for Parliamentary Business,
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Mr Fitzpatrick,

Fifth Review of Local Government Electoral Arrangements Final Recommendations for East Lothian Council Area

I refer to the recommendation that the number of Councillors in East Lothian should be reduced from 23 to 22 and that ward boundaries should consequently be redrawn that has been made to you by the Local Government Boundary Commission (LGBC) in its report of 26 May 2016. I should be grateful if you would note and record that East Lothian Council maintains its strong cross party opposition to the recommendation and urges you to reject the proposal made in the report. It is the whole Council's strongly held opinion that the status quo should be maintained.

You will no doubt be aware that there is widespread general opinion that the methodology adopted by the LGBC when determining Councillor numbers is fundamentally flawed and lacking any evidential basis. As soon as it was aware that deprivation was being used as a factor by the LGBC, this Council challenged that use in submissions it made to the LGBC at the time. This remains the Council's position and I would ask you to note that the LGBC has to date failed to provide any evidence to support its use of deprivation in its methodology despite requests made by East Lothian through a Freedom of Information request for it to do so. This Council also pointed out that the last detailed Survey of Scottish Councillors' Workload carried out by Hexagon Research and Consulting in September 2005 provided no support for the use of deprivation as a factor. It is worth noting that the LGBC has now commissioned its own report into Councillors' workload but that report is not yet available to inform any decision making and has not informed the current process.

In addition, I would ask you to particularly note that it is East Lothian Council's position that the LGBC has breached the requirements of Section 18(2) (aa) of the Local Government (Scotland) Act 1973. That Section requires the LGBC to consult the Council on any proposal for a period of two months before that proposal is then put to public consultation. The legislation also requires that the Commission takes account of any views that the Council might have prior to public consultation. You will see from paragraph 7.2 of the East Lothian report that the LGBC consulted the council on a proposal that there should be 21 Councillors and specific proposals in relation to ward boundaries. It then reconsidered its proposal and launched a public consultation on 22 Councillors with very different ward boundary proposals. This proposal had never been put to the Council. While the LGBC offered the Council the opportunity to further comment as part of the public consultation, it is the Council's view that the terms of the legislation are strict and clear and require separate consultation with the Council before **public** consultation. This matter has been raised with the LGBC and it has replied that "this cannot have been the intention behind the legislation" as it could "result in a potentially open ended process". With respect, there is no ambiguity

in requirements of the Act and it is not open to the LGBC to simply ignore its terms in this way. East Lothian Council was deprived of its right to comment on the proposal and to have its comments taken into account before public consultation. The requirements of the legislation have been breached and any decision based on the recommendation currently made to you is therefore open to challenge.

East Lothian is experiencing increasing levels of population and will have a further 10,000 new homes in the next 10 years as a result of its local plan. The Council requires sufficient Councillors to provide effective administration, opposition and scrutiny. This is achieved at the moment with the current number of Councillors but is threatened by the proposed reduction in the number of Councillors.

In East Lothian there was full cross party support at the time of the last review in 2004 and the Council concluded that the best way to reflect "natural communities, identifiable boundaries and local ties" was to use existing Community Council boundaries. These boundaries have existed since 1976 and were based on historic parish boundaries. School catchment areas were also largely reflected in those wards and importantly the recently formed Local Area Partnerships also follow these boundaries. The public is very comfortable with the existing ward boundaries that are natural to them. There would be inevitable disruption and inconvenience to the Council's many partner agencies should there be a redrawing of ward boundaries as proposed. The current proposals will result in breaking established ties and will lead to communities with no existing connection being "lumped together" without adequate justification cutting across previous advice from the LGBC and going against its current criteria. These proposals will lead to a complete redrawing of how the Council carries out its business and will involve considerable time effort and expense. The proposals cut across the Community Empowerment Act to which the Government is committed.

It is worthy of note that in East Lothian opposition from members of the public and community groups in the two public consultations held by the LGBC has been overwhelming in its opposition. Indeed the response in East Lothian to the first public consultation was the highest from any Council area and in relation to the Second was amongst the highest five Councils. Given that East Lothian is one of the smaller Council areas that fact in itself demonstrates the strength of feeling against the proposals in the wider community.

The Councillors of East Lothian are united in opposition to the LGBC proposals and with one voice together respectfully call on you to reject the proposals put forward by the LGBC and to retain the status quo in East Lothian.

Yours sincerely



KIRSTIE MacNEILL
Service Manager – Licensing, Administration and Democratic Services
Licensing, Administration and Democratic Services

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REPORT TO: East Lothian Council

MEETING DATE: 28 June 2016

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Appeal Statement – Submission to Directorate of Planning and Environmental Appeals for Appeal Against Non-Determination of Planning Application 11/00664/PPM Mixed Use Development at Goshen Farm, Musselburgh

6

1 PURPOSE

- 1.1 To inform Council of the response made to the Directorate of Planning and Environmental Appeals (DPEA) in respect of the non-determination of planning application 11/00664/PPM for Planning Permission in Principle for mixed use development comprising the erection of up to 1,000 residential units, local centre, including provision of employment accommodation, non-denominational primary school, community facilities, open space, landscaping, roads and associated infrastructure on land at Goshen Farm, Musselburgh.

2 RECOMMENDATIONS

- 2.1 That Council notes the response made by officers to the above-mentioned appeal.

3 BACKGROUND

- 3.1 Planning application 11/00664/PPM was registered as valid on 22 July 2011.
- 3.2 The applicant, Ashfield Commercial Properties Ltd, had been advised prior to submission that officers could not support the application, it being contrary in principle to the adopted East Lothian Local Plan 2008. The officer advice was that the applicant should participate in the Local Development Plan process so the site could be considered for allocation in the new Local Development Plan (LDP).

- 3.3 Whilst the site was being considered through the LDP process, the applicant declined to withdraw the application but requested extensions of time for its determination, which were agreed by officers.
- 3.4 On 10 February 2016 the applicant confirmed they would not agree to any further extension of time for determination and subsequently lodged an appeal against the Council's non-determination of the application on 3 March 2016.
- 3.5 When the appeal was registered by the DPEA on 4 March 2016 a response was requested from the Council. The DPEA required a response from the Council within 14 days of notification to give full details of the handling of the application and a response within 21 days to give its full response to the grounds of appeal.
- 3.6 These timescales did not give officers the opportunity to take the response on the grounds of appeal to a meeting of the Planning Committee or of the Council. An extension of time was requested but this was given only in respect of two days of public holiday which fell during the period within which the Council had to respond.
- 3.7 Officers therefore submitted the Council Officer Statement of Appeal as set out in Appendix 1 of this report, following discussions with the Convenor of the Planning Committee. The report refers to the Minute of the Council meeting of 17 November 2015 which considered the Draft Proposed LDP and amended it by the removal of the Goshen site.
- 3.8 The report sets out the reasons why officers are of the view the appeal should be dismissed and the application refused, specifically:
1. The proposal is dependent on education solutions that are subject to decisions of the Education Authority and subject to a separate statutory process. In the absence of clear and deliverable solutions for both primary and secondary education provision the proposal is premature and ineffective.
 2. The proposals require a significant abstraction from the Edinburgh Green Belt, of a scale that should be managed by the LDP process of consultation and examination rather than by the determination of a planning application. As such a decision needs to consider the green belt strategically through that LDP process, with due regard to other proposed sites, the proposal is premature
 3. The development of this site and others in the Musselburgh area requires the completion of significant technical work on cumulative transportation impacts, including for air quality management, without which the proposal does not have the support of the Council's Road Services or Transport Scotland. As such, a decision would again be premature.
 4. In all of the above, approval of a proposal of this scale and with its infrastructure implications would prejudice the emerging LDP and the sites therein which reflect the settled view of the Council.

4 POLICY IMPLICATIONS

- 4.1 There are no policy implications arising from the consideration of this report.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

6 RESOURCE IMPLICATIONS

- 6.1 Financial - none
6.2 Personnel - none
6.3 Other - none

7 BACKGROUND PAPERS

- 7.1 None

AUTHOR'S NAME	Iain McFarlane
DESIGNATION	Service Manager, Planning
CONTACT INFO	imcfarlane@eastlothian.gov.uk Ext. 7292
DATE	23 May 2016

East Lothian Council

Council Officer Statement of Appeal

PPA-210-2054 Land at Goshen Farm, Musselburgh

11/00664/PPM Application for application for planning permission in principle for mixed use development comprising the erection of up to 1,000 residential units, local centre, including provision of employment accommodation, non-denominational primary school, community facilities, open space, landscaping, roads and associated infrastructure at Goshen Farm

Appeal against Non-Determination

For convenience of referencing, document references in brackets relate to the appellant's document list dated 2 March 2016 unless otherwise advised. Appendices refer to documents accompanying this statement.

1 Introduction

- 1.1 Ashfield Commercial Properties Limited has appealed against the Council's non-determination of the above mentioned application. This Statement of Appeal is submitted by officers of the Council, as the appeal submission deadline does not allow time for the Council to give its consideration to a submission. The minute of the Council meeting of 17 November 2015 (69) which considered the draft proposed plan sets out the views of the Elected Members on the Officer proposal that the appeal site be allocated through the Local Development Plan (LDP) process.
- 1.2 The appellant approached Council officers for discussions on a development of the site at Goshen Farm prior to making their application in 2011. The advice of officers was that the principle of a mixed use development of the site should be pursued through the LDP process and not as an application. This was on the basis that consideration of removing a site of this size from the Edinburgh Green Belt should rightly be considered as part of that LDP process rather than by planning application. It was also due to the requirement for the Council to consider the site in terms of the significant education and infrastructure (particularly transportation) issues which could be aligned with the LDP process. Since submitting the application the appellant had agreed a series of extensions of time for determination of the application, the most recent of which expired on 15 February 2016.
- 1.3 Officers promoted the site as part of the Draft Proposed LDP considered at a meeting of the full Council on 17 November 2015 (65). This was not a statutory stage of the plan making process but one convened in order to arrive at a settled view of the Council on the strategy and sites for the Proposed LDP, to enable the completion of cumulative technical work and a Finalised Proposed LDP.
- 1.4 The Draft Proposed LDP was approved subject to amendments. One of the approved amendments is to remove the proposed allocation of land at Goshen for mixed use

development, Proposal MH9, and the related proposed site for development of secondary education facilities, Proposal MH10 (68, 69). On that basis, the intent of part of PROP ED1 – Musselburgh Cluster Education Proposals as relating to Goshen requires to be removed from the Finalised Proposed LDP. It is noted from Para 3.3 of the appellant’s statement that the area of land shown on the revised masterplan does not form part of the appeal subjects.

- 1.5 As a statement from Officers who recommended the site be allocated through the LDP process, this appeal statement does not seek to rebut point by point the appellant’s statement. It is written in the context of an acknowledgement of housing land supply issues and due consideration of the context of the proposal in relation to the LDP process. It focuses on the key issues relevant to the site, including unresolved consultee responses.
- 1.6 Officers disagree with the appellant’s contention in Para 1.2 of the submitted appeal statement that the Council had all information available to determine the application, as amended in September 2015, as is set out below in terms of the relevant considerations for this proposal.

2 *The Development Plan, planning policy and other material considerations*

- 2.1 East Lothian Council is subject to the approved South East Scotland Strategic Development Plan (SDP) (78) together with its approved Supplementary Guidance on Housing Land (81), which defines the housing targets for each constituent authority of the SDP area.
- 2.2 The adopted East Lothian Local Plan 2008 (79) set out a spatial strategy for East Lothian and allocated land for housing in response to the then strategic plan, the Edinburgh and the Lothians Structure Plan 2015. At this stage a number of those allocated sites are not yet complete though significant progress has been made on them whilst some others await planning permission and commencement of development.
- 2.3 The Council has previously acknowledged the delays in delivery of these sites, partly though not wholly due to the economic recession, with a consequent impact on the five year effective housing land supply. It has also acknowledged that its adopted East Lothian Local Plan 2008 is out of date, being more than 5 years old. The Council’s Housing Land Supply: Interim Planning Guidance (IPG) has been introduced and subsequently modified in response to changing circumstances, most recently on 23 February 2016 (77) in relation to the approval with amendments of the Draft Proposed LDP, the forthcoming Proposed LDP and the due process that will follow.
- 2.4 The IPG and its appendices sets out the Council’s consideration of the development plan context, including SDP policies 5,6 and 7 (78) in respect of housing land, the five year housing land supply and the potential for grants of planning permission to supplement the housing land supply. It also sets out the Council’s consideration of the sites proposed for allocation for housing development (including mixed use) through the LDP process and their ability to provide for an adequate housing land

supply going forward. The Council is supportive of the general principle of development of these sites, subject to their technical assessment including where relevant the cumulative technical assessment of the impacts of those sites. The IPG also codifies the Council's position in respect of the material planning considerations relevant to the consideration of sites which are not allocated in the 2008 Local Plan and not proposed to be allocated in the Proposed LDP but which might potentially augment the effective housing land supply.

- 2.5 The IPG considers Scottish Planning Policy: June 2014 (51), its presumption in favour of development which contributes to sustainable development where development plans are out of date (Para 33) and its consideration (Para 34) that where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan. Such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.
- 2.6 The IPG is a statement of the Council's position on these matters. As relevant to this particular case the considerations of the site being removed from the Proposed LDP, its technical assessment, including cumulative assessment, the scale of the site (more than 300 units), its forming part of the Edinburgh Green Belt and the consideration of prematurity in relation to the plan are all significant material considerations.
- 2.7 The Draft Proposed LDP before amendment included the Goshen sites and it is noted that the appellant's statement quotes from that document. However, that does not override the decision of the Council to remove the site such that it would not form part of a Finalised Proposed Plan for the reasons set out in the official minute of the Council meeting of 17 November 2015 as recorded in the appellant's statement Paras 3.45 to 3.50.
- 2.8 Council officers have worked with the appellant in respect of responses by consultees and the relevant matters arising. A number of these remain as unresolved material considerations.
- 2.9 There is objection to the original and revised proposals from Historic Scotland/Historic Environment Scotland, from the Community Councils of Musselburgh and Inveresk, Prestonpans and Wallyford, and from the Council's Archaeology Service and Executive Director of Education and Children's Services/Depute Chief Executive, Resources & People Services (on behalf of Education).
- 2.10 Where conditions meeting the test of Circular 4/1998 are recommended by consultees these are incorporated into the accompanying schedule of conditions to

be considered should it be concluded that planning permission in principle be recommended.

3 *External Consultees*

- 3.4 In respect of the original proposals **Historic Scotland** (2011, PARF submission) advised of its statutory remit as regards impact on the Category A listed buildings of Prestongrange House and Colliery and also gave advisory comments on the impact of the proposed development on the Battle of Pinkie, a nationally important site which appears on the Inventory of Historic Battlefields.

Historic Scotland advised that the proposed development would not have an adverse impact on the setting of the above listed buildings. However, it expressed concern that the appellant's Environmental Statement had not addressed the historic environment issue of greatest potential significance being the impact on the Battle of Pinkie site. It considers that the proposed development has the potential to impact adversely both on archaeological remains of the English Camp and the landscape context of this key part of the battlefield site.

Historic Scotland clarified that its position in this case does not mean objection to the principle of any development occurring within open areas of the battlefield designation but, given the presence of these key elements of the battlefield landscape and possible archaeological remains, any scheme coming forward as a planning application should give due consideration to the significance and presence of the battlefield and a full review of suitable mitigation proposals. It considers that the application has to balance the need to protect these two parts of the battlefield while delivering wider economic benefits. Historic Scotland acknowledged that this could be dealt with through matters specified by conditions.

In respect of the revised proposals **Historic Environment Scotland** (2016, PARF submission) objects to the application on the basis of the potential impact on the inventory battlefield known as the Battle of Pinkie. It clarifies that it has no objection to the principle of development in this location, and that concerns relate specifically to the scale and layout of development as demonstrated in the application. Its further advice is that the Council consult its own archaeological and conservation advisors, who may also wish to comment on potential historic environment impacts. This may include issues outwith Historic Environment Scotland's remit, such as category B and C listed buildings, and unscheduled archaeology.

In respect of this advice the Council's Archaeology/Heritage Officer (PARF submission) objects to the proposal (Para 4.6) and states that should it be seen appropriate to grant planning permission in principle, he would require to be re-consulted. He has clarified that there is the potential that adequate assessments of the impacts and formation of suitable mitigation strategies, which may include archaeological investigations and master planning design solutions, particularly in

relation to the impacts upon the Inventory Battlefield of Pinkie Cleugh, could overcome this objection. This reflects Historic Environment Scotland's position.

Whilst the reasons for Historic Environment Scotland objecting to the proposals could be mitigated by the use of matters specified in conditions it is clear that the appellant has not addressed these concerns in the revision of the proposal. The extent to which the level of change required to enable Historic Environment Scotland to withdraw its objection is not yet established and could influence the viability of the site and thereby its effectiveness. This remains an unresolved material consideration.

- 3.5 **The Scottish Environment Protection Agency (SEPA)** (2011, PARF submission) advised in respect of the original proposals that review of the Indicative River and Coastal Flood Map (Scotland) shows that there is no risk of flooding to the proposed development site and notes that the appellant's Flood Risk Assessment (FRA) assesses the flood risk from the Ravensheugh Burn through the site. In its analysis of the methodology and outcomes of the FRA, SEPA is of the opinion that there is no fluvial flood risk to the development site and therefore raises no objection to the proposals on this matter.

For waste water drainage provision SEPA objects unless a condition requiring the development to connect to the public waste water network is imposed.

For surface water drainage provision SEPA supports the masterplan layout which allows for a number of water bodies to be provided throughout the development as part of the site infrastructure but although some details of SUDS have been provided it objects to the proposals unless a planning condition is imposed requiring a full site specific surface water scheme be submitted.

SEPA also advised of its standing advice and requirements under its own regulatory powers in respect of some of these matters, and copied this information to the appellant.

In respect of the revised proposals SEPA (82) reiterated the above and that unless the planning condition on foul drainage is attached to the consent this representation should be taken as an objection. This is also the case for surface water drainage, including during the construction phase of any approved development. As regards flood risk SEPA comment that the FRA has been updated and although the comments made in its response of 16 September 2011 remain applicable to the updated application and offers the following additional observations:

- The SEPA surface water flood map shows that parts of the site are at risk of surface water flooding. We are aware that there is significant surface water issues adjacent to the site and the Council's flood officer has been made aware of these issues as a result of a third party representation in November 2014.

- The FRA does not take account of this source of flooding. We advise that planning authorities should ensure an appropriate assessment of surface water flood risk in consultation with their flood prevention officer.

In respect of SEPA's requirements for conditions on waste water connection and surface water drainage provision the Council assumes the appellant has no dispute over these. In respect of the views of the Council's flood officer (Structures, Flooding & Street Lighting Manager) the comments below at Para 4.2 would require an appropriately worded condition to be attached to any grant of planning permission in principle.

As regards Air Quality SEPA referred to advice on air quality and noise being sought from the Council's environmental health team, as the lead authority, those comments are below at Para 4.4. SEPA considered the information submitted by the applicant, including the Environmental Statement and advised that the assessment failed to consider air quality in Musselburgh, where concentrations of NO₂ already exceed the air quality objective. It therefore advised that the air quality assessment be extended so that it includes Musselburgh High Street.

In relation to the revised Environmental Statement SEPA concludes that the appellant's statement (Paragraph 14.44a) that the newly declared Musselburgh AQMA is some distance away from the application site and is therefore unlikely to experience significant changes in traffic flows as a result of the proposed development is unsubstantiated by any evidence. SEPA acknowledges that East Lothian Council has identified road traffic as being the main source of the atmospheric pollution that has led to the designation of an AQMA, therefore an increase in the volume of traffic should be discouraged. SEPA therefore advise that the Council must have considered the cumulative impact of all development that will add traffic to the road network, particularly along main commuter routes, in order to address concerns in respect of air quality in the AQMA.

The above remains as an unresolved material consideration. The Council is carrying out a cumulative assessment of transportation impacts which will inform assessment of the impact of this and other proposals in the Musselburgh/Wallyford area on the AQMA.

SEPA also notes in respect of greenhouse gas emissions that the development is located some distance from local amenities (retail, employment etc.), therefore there is likely to be an increase in the number of journeys made by car. It advises that whilst this figure may appear to be insignificant, when considered alongside other developments across Scotland, the cumulative increase in the distance travelled by car – and subsequent emissions of carbon dioxide - could undermine the Scottish Government's commitment to reduce emissions of greenhouse gases.

- 3.6 In respect of the revised proposal **Scottish Natural Heritage (SNH)** (2016, PARF submission) advises that the current application is an Addendum to the Environmental Statement submitted in August 2011, for which it gave advice to the Council in a letter dated 31 August 2011. SNH also advises that its approach to

Planning and the context in which it works has changed substantially since 2011 and therefore this new letter supersedes its previous advice.

SNH considers that the revised Environmental Statement presents a thorough assessment of impacts upon the nearby Firth of Forth Special Protection Area (SPA) referring to its advice to the Council on 23 November 2011 that the revised HRA had addressed all the issues it had raised in relation to the SPA and was fit to be adopted by the Council as the basis of their appropriate assessment. However SNH does advise that the final conclusion in section 9.96 is not compliant with the Habitats Regulations and must be changed from: *“there will be no **likely significant** adverse effect on site integrity”* to *“there will be no adverse effect on site integrity.”*

SNH advises it is content with the level of ecological survey work carried out to date and the survey findings. It supports the package of ecological mitigation measures presented in the ES Addendum Chapter 8, sections 8.108 to 8.125 and recommends that the Council secures the delivery of this package of measures if planning permission is granted, although as the mitigation package does not include measures aimed at removal of giant hogweed from the site it recommends that the Council secures the removal of this invasive non-native species from the site. SNH also recommends that the Council secures the provision of a suitably qualified Ecological Clerk of Works (ECoW) to ensure that these ecological mitigation measures are implemented.

In relation to Green Belt considerations SNH notes the shift in site status from the Main Issues Report to the Draft Proposed LDP as amended. It comments that in its view the site has comparatively few adverse natural heritage impacts. However, in terms of SNH’s remit the non-inclusion of the site within the Proposed Plan means that the site’s role in delivering important long term strategic green infrastructure and regional green network connections cannot be communicated within the Finalised LDP or any proposed site briefs or strategic frameworks that would support it. SNH is therefore uncertain how this site may contribute towards delivery of wider planning and natural heritage issues such as strategic green networks or the emerging Strategic Active Travel Corridor, which may usefully pass through or near to the site.

SNH remains of the view that the proposal lies within the Green Belt and therefore any development in this location may affect the landscape setting of Edinburgh and neighbouring towns, challenging the policy objective of the SDP and adopted Local Plan relating to the Edinburgh Green Belt. SNH does note the Indicative Masterplan layout and the retention of open space south of the Ravensheugh Burn, which would act to reduce some of the impacts of settlement coalescence relating to the south side of the proposal. It also notes that to the east there is an active application for development of land at Dolphinstone Farm [ref 15/00473/PPM, further extension to Wallyford]. Whilst SNH notes and welcomes the statement in the landscape section of the Masterplan Report addendum to enhance the woodland boundary along the road to Drummohr this does not appear to be shown in the Indicative Masterplan drawings. Given the proximity of the appeal site and the other application SNH advises that if both of these proposals were to be approved then the

issue of coalescence between Goshen and the western edge of Prestonpans would require to be carefully considered.

With reference to landscape and visual impacts, green infrastructure and placemaking SNH advises that it considers that the layout and planting proposals set out in the draft masterplan *could* help reduce adverse landscape and visual impacts resulting from development, both at the immediate site level and in relation to wider issues of landscape setting and settlement coalescence. In respect of the possible siting of a secondary school on the site's principal open space SNH highlights that poorly sited development of this nature could reduce the public access and landscape benefits that this open space could deliver for the development.

SNH makes the following suggestions relating to enhancement of green infrastructure and the placemaking approach for the site:

- the potential to retain, repair and where necessary reposition existing stone walls which contribute to local landscape character and site identity;
- the potential to ensure that the Ravensheugh Burn is fully de-culverted within the development site with appropriate marginal habitats, paths and crossing points also delivered;
- the potential to strengthen tree planting within the development, with particular focus given to enhancing the boundary planting on the public road boundaries which may help accommodate the development within the landscape and as seen within wider views; and
- the potential to provide clearly defined active travel provision through the site, connecting to wider places and integrated with other aspects of on-site green infrastructure (for example, combining active travel routes with areas of enhanced boundary planting or along the de-culverted water course route).

SNH clearly has concerns that have not been addressed in the revised masterplan, which must be taken as an unresolved material consideration. Whilst these concerns could be mitigated by planning conditions, this may have a significant impact on the layout, viability and effectiveness of the proposal.

With reference to the preferred growth strategy and other alternatives for the Edinburgh City Region as set out in the SDP2 Main Issues Report (MIR), SNH notes and supports the general issues/aims for green network development as set out in the Green Network Technical Note. This identifies Goshen Farm as being within green network priority area *'11b Forth Coast – Musselburgh to Cockenzie, Port Seton, Longniddry and inland to Tranent*. The supporting text concludes there is a *"clear agenda for green network development in this area, particularly given the extent of development proposed"*. Area 11b is categorised as an area of *'high'* priority for green network development with important connections between existing and proposed developments needed, and to be delivered through co-ordinated effort.

Notwithstanding the other issues raised in its response SNH advises that, if the proposal were to be approved full further details of all aspects of the proposed open spaces, SUDS and structural landscaping areas are produced to appropriately high standards of design, and the long term maintenance and management of these aspects of the development are secured. These and the above matters could be made subject to matters specified in conditions.

- 3.6 **Transport Scotland** (15) raised no objection to the original proposal in itself though did have some concerns over its impacts and recommended some conditions in mitigation of these, for a maximum of 1200 units, provision of traffic calming measures in Wallyford and along the A6094 Salters Road, alterations to the signalisation of the A6094 Salters Road junction with the A1, modifications to the A1 Dolphingstone Interchange to replace signal control with roundabouts, and an agreed mechanism for addressing the impact of the proposal on the Old Craighall Interchange through either the implementation of agreed modifications or a financial contribution to agreed works.

Transport Scotland (2016, PARF submission) now advises that it is satisfied that original DBA Transport Assessment for the proposal remains suitable for determining the impacts and mitigation requirements if the development were to reduce from 1200 to 1000 units.

Transport Scotland understands that the appellant is content to deal with the Old Craighall Interchange impacts by an agreement under Section 48 of the Roads (Scotland) Act 1984.

Transport Scotland does advise, however, that a significant caveat to its comments is the uncertainty over what may be required to accommodate expanded development proposals within Wallyford (i.e. with reference to the proposals for further expansion of Wallyford at Dolphingstone, ref 15/00473/PPM).

Transport Scotland had previously responded on the application to intensify the allocated Wallyford site from 1050 units to 1450 units (planning permission 14/00903/PPM). In the Transport Assessment for this allowance was made for the Goshen proposal and Transport Scotland were satisfied the previously identified mitigation would be adequate. In the context of application 15/00473/PPM for up to 600 units at Dolphingstone, Transport Scotland sees a materially changed context for the Goshen proposal.

In relation to this context Transport Scotland is aware that East Lothian Council is undertaking a modelling exercise to assess the impacts of proposed LDP development, including the Dolphingstone site. Transport Scotland is of the view that if this exercise identifies that alternative mitigation is required at Salters Road and Dolphingstone to accommodate increased development, potentially in conjunction with Goshen, then it would reserve the right to revisit its response in order to establish how such alternative mitigation may be delivered.

Transport Scotland's position is that, in now having to consider the Goshen proposals against a background of development as set out in the Draft Proposed LDP as

amended, mitigation as previously agreed (in January 2013) would not in itself be adequate to address the cumulative impacts. In addition, Transport Scotland considers that it does not at this stage have any information that would allow it to conclude what mitigation would be required to address the impacts of the Proposed LDP and, therefore, what extra mitigation may be required to also accommodate the Goshen proposal. Transport Scotland therefore requires to revisit its position once a more definitive understanding of the proposed scale of development in the area is understood, allowing it to thereafter consider its position in view of the emerging planning landscape suggested by the Proposed LDP.

On that basis, Transport Scotland is not in a position to give its view of the cumulative impacts of this proposal as it relates to the strategy and sites which reflect the settled view of the Council and which will form the Finalised Proposed LDP. This is an unresolved material consideration.

- 3.7 **Scottish Water** (2016, PARF submission) advises that there are no drinking water catchments or water abstraction sources designated as Drinking Water Protected Areas under the Water Framework Directive in the area, that may be affected by the proposed development.

In respect of assets to service the site, its records indicate that there is Scottish Water infrastructure located along the southern and western boundary of the site including a 315mm trunk main and a 6" and 280mm distribution main.

Scottish Water notes that the Environmental Statement commits to managing surface water drainage for the Proposed Development by means of a Sustainable Drainage System (SUDS). It advises its requirements for the future management and adoption of such a scheme.

Scottish Water further advises it is undertaking a strategic review of the potential impacts of developments in the area and their likely impact on the water and waste water infrastructure network. This review will be followed by modelling work and identification of a solution, anticipated to be identified within the coming year. If modelling indicates that a growth project is required to provide new capacity to service this development, Scottish Water will be able to initiate this if the development meets our Ministerial Approved criteria for growth, which includes having full planning permission.

It is not fully clear from Scottish Water's response as to whether this means there is effective capacity for the proposal and this could be taken as an unresolved material consideration.

- 3.8 In respect of the Environmental Statement accompanying the application, the **Scottish Government Directorate for the Built Environment, Rural and Environment Directorate, Environmental Quality Division** (PARF submission) comments in respect of noise matters that it notes the potential for residual noise impacts in relation to the scheme despite the proposed mitigation measures. However, it makes no further comment or recommendation in respect of this.

- 3.9 The **Coal Authority** (2011, 2016 PARF submission) does not object to the proposal in original or revised form. It confirms that the proposal site falls within the defined Coal Mining Development Referral Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority confirms that the applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Environmental Statement which accompanies the planning application.

The Coal Authority is satisfied with the conclusions of the Environmental Statement that the application site is not likely to be affected by shallow coal mine workings, but that the recorded mine entry within the eastern part of the application site will need to be treated for stability purposes. It therefore recommends that the Council impose a Planning Condition on any grant of planning permission in principle to ensure that the recorded mine entry is treated in accordance with the mitigation measures outlined in paragraph 6.73 of the Environmental Statement.

- 3.10 **Musselburgh & Inveresk Community Council** (2016, (PARF submission) advises that it is vehemently opposed to the revised proposal as it considers that development of the site is a step too far for local residents, with Musselburgh being boxed in on all sides by new developments and in danger of losing its identity. It also objects to the proposals in relation to the impacts on traffic management and pollution levels in the Musselburgh area.

- 3.11 **Prestonpans Community Council** (various, PARF submission) objected to the original proposal as it considered that it was not in line with the current local plan in numerous aspects. In respect of the revised proposal, it comments further that it is opposed to development on the site in principle and advises that community opposition is strong and growing, as awareness of the proposal and its effects become greater.

In relation to the amended 'Master Plan' the Community Council raises the following specific concerns:

- (a) flood control ponds appear to be greatly reduced (flooding is a huge concern on this site);
- (b) the alignment of open space in the original master plan which showed a modicum of respect for the setting of Drummohr House has been changed with the effect that there is now no such open space;
- (c) the East Drive is shown as one of the access roads to the development, which we think is entirely wrong: Manager's Brae is barely wide enough for two cars to pass, and the 18th century main gateway at the east end of the Estate Drive is too narrow to allow 2 vehicles to pass. (We understand that the gateway is also listed). Manager's Brae and the East Drive are entirely unsuitable as access for substantially increased traffic. We would oppose strongly widening of either road and the loss of historic walls that this would necessitate.

Prestonpans Community Council considers that discussion about potential educational provision on this site is highly contentious, since, if the Council were to favour educational provision on this site, that would effectively pre-judge the

principle of development on the site, which would turn the planning process on its head and would be highly objectionable. It also considers that a so-called 'super' school (i.e. a very large new secondary school) to the east of Musselburgh would have the incidental effect of favouring, in time, yet more housing to the immediate East of Musselburgh, and as such, that could not be supported.

Prestonpans Community Council further comments that the mining reports are at best incomplete, that traffic congestion and rail capacity issues mean the site is not sustainable despite applicant's claims of good transport links and accessibility and that the site is not 'semi urban' and of limited landscape value as the applicant claims. It considers that the start of infrastructure works on the Wallyford development demonstrate that that site is accordingly deliverable and strengthens its case that approval of the Goshen proposal would result in intolerable congestion and pollution in Wallyford, Musselburgh and elsewhere. It would additionally further overload public transport, specifically rail, which is already running at capacity and no realistic funded proposals to increase capacity have been made.

3.12 Wallyford Community Council (11, 13, 2016 PARF submission) objects to the proposal for the following reasons:

- The area is in the green belt and assurances were given that after [the Wallyford development] was granted planning permission no other areas would be removed from the Green Belt in this area.
- The current structure plan does not identify this area as a future area for development.
- This development will lead to the coalescence of Wallyford Ravensheugh and Prestonpans. Wallyford has a unique identity as a village and does not want to form part of a larger community. If [the Wallyford development] goes ahead Wallyford will have tripled in size in the last ten years and is in danger of becoming a dormitory for Edinburgh.
- The traffic in Salters Road in Wallyford is currently giving cause for concern due to the volume of vehicles, particularly during peak times. [the Wallyford development] was only approved on the condition that a distributor road was provided to take the traffic from Salters Road to the bypass. A further development at Goshen will only add to the current traffic problems in Wallyford.
- The provision of a primary school on the proposed lay out plan is of no benefit to the community of Wallyford due to the distance children would need to travel. Wallyford needs a new school but not in this location.
- There is no provision for healthcare/secondary schools
- The site is of historic interest and is now a recognised battle site of national importance.

In a later statement in respect of the approval of the SDP's Supplementary Guidance on Housing Land, Wallyford Community Council registered its continuing strong opposition to the proposal with additional grounds of objection in respect of the impact on the setting of Drummohr House, the land being prime agricultural land,

there being little or no prospect of increased rail capacity for commuters and the consequent traffic impacts on Musselburgh High Street and Salters Road, including on air quality and lack of mains water supply capacity

- 3.13 Due weight requires to be given to the substantive body of **public objection** to the proposals. Though no significant additional issues are raised in public comment, the 333 objections require weight to be given to them as material considerations.

4 *East Lothian Council Consultees*

- 4.1 Officers of the Councils's then **Transportation Service (now Road Services)** (16) raised no objection to the proposals as originally submitted, or to the appellant's Transport Assessment. Whilst some concerns were expressed in respect of impacts on the local road network and junction capacities and trunk road junctions, the mitigation measures proposed in the Transport Assessment and the measures set out as recommended conditions in Transportation's consultation response were seen to be sufficient for the development to be acceptable.

In response to the changes to the application, Road Services (2016, PARF submission) advise in respect of this and other nearby applications that:

the original transport data within the Goshen TA investigated the impacts of 1,200 houses with other community facilities plus the development at Wallyford for 1,050 houses. During this time there were slight amendments to these 2 applications with Goshen reducing to 1000 houses and Wallyford increasing to 1450. At that time like Transport Scotland, Road Services took the pragmatic view that the overall scale of development being proposed on the two sites was altering by 10% from 2250 to 2450 units and that the previously agreed mitigation identified in the 2013 Goshen response was satisfactory.

Further, as regards the changing context of the appeal case, Road Services acknowledge that the Draft Local Plan has added significant housing development into this area with the expansion Wallyford (2050 units), Windygoul, Tranent (550), Lammermuir Terrace (120), Dolphinstone (160), Greyhound Stadium (90), Bankpark (80) creating a total of 3,050 houses increasing to 4,050 houses if Goshen were to receive planning permission. In this context Road Services advise that:

Through scoping discussions on the 2050 Wallyford Transport Assessment, it was requested that the modelling exercise undertaken for the original application be updated to reflect all development proposals in the Wallyford area (including Goshen Farm). This exercise was undertaken by Aecom on behalf of East Lothian Development Limited and submitted for consideration in August 2015. This model identifies (like the Goshen TA before it) that there would be a package of measures which could be brought forward to mitigate the traffic impact for 2450 houses, however, the levels of congestion predicted to arise as a result of the combined development content would result in an unacceptable impact on the operation of the trunk road interchanges and the local road approaches to these. No package of

measures has been brought forward to date that would adequately address this cumulative impact.

The Council is currently undertaking a technical transport appraisal of the Draft Proposed LDP (as amended) to demonstrate through macro and micro modelling what the impacts of all the proposed development in the Wallyford area will be and identify the necessary mitigation to support that level of development.

Road Services therefore advise that the Goshen application now has to be considered against a background of development as set out in the Draft LDP and that the mitigation as agreed in January 2013 would not adequately address the cumulative impacts.

Road Services states in respect of this:

that the advice originally provided in 2013 requires to be revisited once the [Council's] technical appraisal has been completed and the proposed scale of development within Wallyford has been modelled....this clarifies Road Services current position on not just the Goshen Farm application but all development proposals within Wallyford and Tranent.

In this the transportation considerations of the appeal proposal in the context of the LDP process are an unresolved material consideration and evidence of the further technical work required to consider cumulative impacts and quantify required developer contributions.

- 4.2 The Structures, Flooding & Street Lighting Manager (2016, PARF submission) advises that he would expect the developer/applicant to submit a Drainage Assessment which is to include an assessment of culverts of the Ravensheugh Burn downstream to its outfall. This report should be prepared in accordance with the Water Assessment and Drainage Assessment Guide which was published in January 2016. This could be made a condition of a grant of planning permission in principle.
- 4.4 The Environmental Health Service (2011, 2016 PARF submission) raises no objection to the proposal but does recommend the use of conditions in respect of construction phase (Construction Management Plan to cover matters of dust and noise) and operational phase (noise assessments, Air Quality Management plan) of the development. These matters could be made conditions of a grant of planning permission in principle.
- 4.5 In respect of the original application the **Landscape Projects Officer** (2011, 2016 PARF submission) advised that the site is rural and undeveloped in character, provides visual and physical separation between the existing urban settlements of Musselburgh, Wallyford and Prestonpans and also provides a setting for them. This clarified in respect of there being clear boundaries between the existing urban and rural areas defined partly by the boundaries of this site, particularly to the west of the site. The proposal to develop this site will lead to its urbanisation, the loss of rural character of the area, the loss of important views, and visual and in part physical coalescence of existing settlements as well as harming their settings and

separate identities. The conclusion was that the proposed development would have a significant detrimental impact on the landscape character of the Edinburgh Green Belt and therefore it could not be supported, on grounds of visual and landscape impact.

In respect of the revised proposals the Landscape Projects Officer conclusion is that although some of the landscape issues raised in the landscape site appraisal of January 2012 have been considered, the proposal to develop the site in the current form will still lead to its urbanisation, the loss of rural character of the area, the loss of important views, and visual and in part physical coalescence of existing settlements as well as significantly harming their settings and separate identities. The proposed development at Goshen Farm will also have a significant detrimental impact on the landscape character of the Edinburgh Green Belt.

The inclusion of the site in the Draft Proposed LDP by Planning Officers was not without consideration that there would be visual and landscape impacts from development of the site, however, in the context of other green buffers between the settlements, subject to a detailed design of the site using appropriate green infrastructure to enhance these buffers and, in the context of a compact spatial strategy with significant sustainability benefits, those visual and landscape impacts being outweighed by the considerations of development that contributes to sustainable development.

The Landscape Projects Officer advises that any grant of planning permission in principle should be subject to conditions on the detailed layout with reference to the Scottish Government's Designing Streets and East Lothian Council's Design Standards for New Housing Areas, a full tree survey and arboricultural assessment and retention of trees and established landscaping on the site and full structure landscaping and planting for the whole site.

- 4.6 The Council's Archaeology and Heritage Officer recommends refusal of the proposals and that if planning permission were to be granted then the Archaeology Service be re-consulted. The recommendation for refusal is on the grounds that the proposed development is contrary to Local Plan ENV7 in respect of the direct impacts and setting impacts of a designated battlefield site, the Category B listed Drummohr House and having a negative effect upon the character of the historic landscape in which the proposal is located.

These constraints on the site were noted in the Site Assessment for the Main Issues Report (20, Appendix 4 Musselburgh Area p58-61). As in the consideration of Historic Environment Scotland's objection to the proposal it is considered that the masterplan of the site could be designed to take account of these. However, in its revised proposal the appellant has not sought to address this and, therefore, there is no firm evidence as to how it would be incorporated whilst maintaining the site's viability and effectiveness. This remains an unresolved material consideration.

4.7 The then **Landscape & Countryside Management Manager** (9) advised in respect of the original application that a housing development of this scale needs a green network that connects into the surrounding wider countryside and provide the setting for the development. For this and due to insufficient capacity for the development in existing service provisions, the green network should comprise of an interconnected network of woodlands, hedgerows, ponds and wetlands, grassland and other habitats; open spaces; outdoor sports facilities; play areas; allotments; community gardens; burial provision; civic spaces; SUDS systems and walking, cycling, horse riding and heritage routes and also link outwards to green spaces. She advised that the green network indicated on the Indicative Masterplan did not meet these requirements. It did not show open space in the eastern part of the site, had no indication of the hierarchy of open spaces proposed and required an Outdoor Access Impact Assessment to be carried out.

The then **Healthy Living Manager** (10) advised that a requirement for the original application was 2 x 11 aside football pitches and 1x 7aside pitch with a 4 team changing pavilion with associated showers, toilets first aid and storage to service the pitches. The **Sport, Countryside & Leisure Manager** (2016, PARF submission) now advises that the revised proposals would require two full size grass, unfenced sports pitches with associated four team changing pavilion. He further advises that if the proposal were to be approved it would require to contribute to a 6 court sports hall linked to any new Education solution for High School pupils in the cluster. This would allow a maximising of school and community provision together where it is sensible and possible to do so.

The **Biodiversity Officer** (2011, 2016 PARF submission) does not object to the proposals. He advises that developing the site would not have an impact on the integrity of the Firth of Forth SPA and, in respect of the site itself, that with the possible exception of curlew there are no biodiversity reasons why this form of development should not take place at Goshen. He recommends that a more ambitious plan for the Ravensheugh Burn through the site needs to be designed such that it becomes a much better feature of the landscape. He further advises that the creation of large areas of lower-lying ground beside the burn could assist with flood alleviation by creating temporary flood plains and that ecologically this would allow more light into the burn and an improved range of species can be encouraged.

The Access Officer (2016, PARF submission) reiterates previous comments in respect of path networks and connections for walking/cycling within and outwith the development site but also highlights the need for a path connection of appropriate specification from the site to the proposed Segregated Active Travel Corridor route.

These requirements for open space, access, biodiversity and sports provision can be met through the use of planning conditions and, as appropriate an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 as amended.

4.8 The Council's Contaminated Land Officer (2016, PARF submission) does not object to the proposals. He advises that he has reviewed the original Site Investigation report, which concluded that there were no contamination or gassing issues on the site. The report did, however, recommend that further intrusive investigations be carried out

to confirm potential ground stability issues - shallow mine workings in the southwest of the site and a 'capped' mine entry in the northeast – and that this would then inform as to whether any stabilisation (grouting) measures were required. The Contaminated Land Officer notes that there have been extensive grouting works carried out on the adjacent Wallyford site and it is possible these have had an impact on the gas regime in the area and he therefore raises concerns over the possible occurrence of mine gas and recommends, once site stabilisation works have been completed, that a further round of gas monitoring be carried out on the site to confirm the report's original findings. This could be required as a condition of a grant of planning permission in principle.

- 4.9 The site of this planning application is in the catchment area of Wallyford Primary School with its nursery class and the local catchment secondary school is Musselburgh Grammar School.

In respect of the original application the **then Executive Director of Education and Children's Services** (2011, PARF submission) objected on the basis that there was no capacity available at either pre-primary, primary or secondary levels to meet the anticipated pupil product of the Goshen proposal of 1,200 houses within the catchment schools. The evidence and reasoning for this in respect of the catchment schools and others is set out in his consultation response. This conclusion includes consideration of the possibility of primary pupils attending the envisaged replacement Wallyford Primary School and/or Pinkie St Peter's Primary School, which would require an education catchment review.

The Executive Director of Education and Children's Services noted that the appellant's '*Education Impact Assessment Report*' concludes similarly. He advised that the applicant proposed a solution where the Council undertakes a catchment review, either within the town of Musselburgh and the Musselburgh Grammar School catchment area or, more unusually, outside the existing catchment area to include the neighbouring town of Prestonpans, an approach he would not support. He advised that the arrangements for education of pupils from Musselburgh within the Musselburgh Grammar School cluster and for those from Prestonpans within the Preston Lodge High School cluster work well, that these clusters reflect town boundaries and traditional schooling patterns and are widely supported by pupils, parents and the wider communities within both Musselburgh and Prestonpans. He also advised that in the absence of any demonstrable need, there would be no educational requirement or desire to undertake a catchment review in respect of these areas at the time and further that it would be premature to assume the outcome of such a review would be a change to the catchment areas.

A catchment review must, in terms of the relevant statutory procedures, take due account of the views of the various stakeholders and it is not possible to predict at this time what the outcome might be with regard to the nature of any new catchment areas, the location of any new school(s), the size of those schools and any consequential and appropriate developer contribution that may be required towards the cost of providing the same.

He also advised that there is no context for undertaking a catchment review without a formal recommendation from the Planning Authority supporting the principle of the development and the subsequent agreement of the Council. Whilst Officers proposed the Goshen site and an Education provision solution in the Draft Proposed LDP, the Council did not agree on these points.

In respect of the revised proposals, the appeal and in the context of progress towards a Finalised Proposed Development Plan the **Depute Chief Executive, Resources & People Services** (Appendix 1) advises that at this point in time, the Education Authority is of the view that there is no acceptable primary or secondary solution for the appeal site.

In his letter of 24 March 2016, the Depute Chief Executive advises that the Education Authority notes that at paragraphs 4.86 to 4.97 of the appellant' statement, a case is made in relation to the associated infrastructure requirements to deliver primary and secondary education at the appeal site.

The Depute Chief Executive sets out the Education Authority's comments as follows:

At Para 4.89, the appellant notes that at the meeting of 17 November both the Draft Proposed LDP report and the accompanying report on secondary education provision in Musselburgh supported the provision of secondary education provision at Goshen. (The education report was withdrawn following the approval with amendments of the Draft Proposed LDP due to the amendment to remove the Goshen site from the plan). On that basis the appellant contends that "the secondary education solution was, therefore, entirely acceptable to the officers, including Education Officers of ELC"

The Education Authority accepts the position of the appellant that the secondary education solution was supported by officers.

The appellant states that the subsequent removal of the appeal site by amendment by the Elected Members does not change the factual position that the "Appeal Site is the most appropriate site". The Education Authority respectfully disagrees with this and is of the view that the removal of the appeal site from the Draft Proposed LDP does change the factual position. This is on the basis that it is an established and necessary process of decision making within local authorities that Officers make recommendations to Elected Members, who are not bound, in their role as decision makers, to approve the Officer recommendations. Rather, the approval of the Elected Members of the Draft LDP is an integral and crucial element in finalising the Draft LDP.

In this context it is clear that, as presented to Elected Members on 17th November 2015 the proposed LDP was in draft form and the appellant should recognise that at that time all proposals within the Draft LDP were open to further consideration and possible amendments by the Elected Members. The Council cannot be criticised for this process.

The Depute Chief Executive further advises that for the avoidance of doubt, the Education Authority would also state that the appellant's statement at Para 4.92 that "the New Education Provision proposal was neither deleted nor amended and remains the settled position of the Council" is not factually correct. The Education Authority directs the Reporter to the Minutes of the Council meeting which record that the Elected Members, as they are entitled to do so, directed that proposal MH10 Goshen New Secondary School be removed from the Draft LDP. The Education Authority is of the view that this amendment did change the factual position. It required the officers of the Council, including the Education Officers, to assess and consider an alternative solution that would be presented to the Elected Members at a future meeting. [Whilst PROP ED1 was not subject to the approved amendment, the removal of the site allocation from the Draft LDP has the effect of rendering that proposal ineffective].

The Depute Chief Executive also advises that the Education Authority's view is that any conditional missives that were concluded prior to the 17 November 2015 are not to be viewed as giving an indication as to the Council's position in respect of proposals in the Draft LDP. The conclusion of conditional missives with the Appellant and with other parties was to allow the Council to identify which options were viable in order to enable the pursuit of same (c.f. Para 4.87).

It is further advice of the Depute Chief Executive that the Education Authority also rebuts the appellant's statement (Para 4.96) that there is "current capacity for 220 pupils" at Musselburgh Grammar School. The letter that the appellant refers to in evidence of this is dated 25th January 2015 and it is clear that the statistics detailed in that letter will have changed due to other sites coming forward (e.g. Wallyford). For that reason the Education Authority respectfully asks the Reporter to disregard same.

The Depute Chief Executive also communicates the Education Authority's response to the appellant's statement that "*The Goshen Farm planning application includes a primary school as part of its first phase*". He confirms that at this point in time, the Education Authority is not minded to pursue the necessary catchment review to make such a primary school effective at this time. As the Reporter will appreciate the outcome of this cannot be guaranteed and therefore this proposal of the application cannot be taken into account.

The Depute Chief Executive notes that the Council is currently progressing the Draft LDP and as part of that process, Officers are continuing to pursue the amendments as directed by the Elected Members of the Council on 17 November 2015. He anticipates that Officers will shortly make a recommendation to the Council on the secondary school options, including *inter alia* the location of same.

In respect of the above the provision of Education for pupils resulting from the development is an unresolved material consideration in respect of where those children would be educated and what the costs of that provision would be.

- 4.10 The Council's Economic Development & Strategic Investment Manager (12) advises that in respect of the revised proposal, out of 1000 units, 250 units are required to be provided to deliver 25% of the total number of housing units for affordable housing. In exceptional circumstances serviced land, offsite provision or a commuted sum may be considered. Subject to provision for this in an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended), the proposals would accord with the Council's Affordable Housing Policy and Policy H4 of the adopted East Lothian Local Plan 2008.

5 Key Determining Issues

- 5.1 In respect of all of the above matters it is not disputed that it should be feasible to design a development of the site which could be appropriately designed for its place subject to landscape, natural and cultural heritage, water environment, open space and movement considerations. A detailed layout and design of such a development could potentially comply with the Scottish Government's Designing Streets and the Council's Urban Design Standards for New Housing Areas.
- 5.2 Subject to matters specified in conditions on these technical material considerations a mixed use development of the site subject to an appropriate scale and density of development could be appropriate and could mean the proposals comply with the relevant design policies of the adopted East Lothian Plan 2008 and with national policy and guidance.
- 5.3 However, the unresolved objections from Historic Environment Scotland and the Council's Archaeology Service in respect of the site's inclusion in the Inventory of Historic Battlefields and Scottish Natural Heritage in relation to wider green belt issues, green networks and landscape settings of settlements are significant material considerations which require an evidenced response from the appellant as to how a redesign of the site could resolve those objections and maintain a viable level of development.
- 5.4 Also material considerations are the unresolved matters of transportation assessment and education provision. For both of these matters there are cost implications in terms of developer contributions as well as the issues of principle.
- 5.5 From the above there are three main issues of principal which require to be satisfied if planning permission in principle were to be granted:
- Abstraction of land on this scale from the Green Belt by a grant of planning permission
 - Cumulative Transport Assessment in relation to proposed LDP sites and mitigation measures, including for air quality management
 - Education capacity and education provision in the Musselburgh/Wallyford area

In addition in terms of Scottish Planning Policy due consideration needs to be given to the emerging LDP in terms of whether the approval of a site of this scale would predetermine decisions about the scale, location or phasing of new developments

central to the emerging plan and the requirement to avoid prejudicing the plan and its sites. In terms of the Council's IPG (4iii) due consideration must be given as to whether approval might prejudice the ability to provide infrastructure capacity for proposals emerging through the LDP as it is developed, or be dependent on the potential provision of infrastructure capacity associated with any emerging LDP strategy or site.

- 5.6 Clearly in respect of community and Community Council grounds of objection there is significant opposition to development of the site for residential or mixed use purposes. This is acknowledged, however, it is the case that proposals for new development do not always gain community backing. Equally it is clear in respect of the LDP process and as set out in the IPG that the Council does not underplay the importance of making sometimes unpopular decisions in allocating new land for housing or granting planning permission to support the effective housing land supply.
- 5.7 Indeed the Draft Proposed LDP and recent related Council decisions on planning applications demonstrate its commitment to meeting housing land needs through allocating a generous housing land supply, based on a compact strategy which seeks to maximise the possibilities of sustainable development. The strategy and sites are those that the Council has arrived at to meet the need for an effective five year housing land supply and this is close to being formalised in a Proposed LDP.
- 5.8 The Council has made several recent decisions which, as well as removing the appeal site from the Draft Proposed LDP, set out the context in which such a proposal should be considered. Officer support for the site through the LDP process, was, by the nature of the process, not an unqualified support and there remain significant issues as yet unresolved in terms of an effective masterplan for the proposal as well as matters of green belt abstraction, cumulative transport impact, education provision and emerging plan strategy and sites. These have at all stages of this application been prime considerations, thus why Officers were of the view that support for the site should be channelled through the LDP process and not by application.
- 5.9 It is not the case, as the appellant suggests (Para 4.39) that the Draft Proposed LDP as amended would allow a single developer to 'control the competition'. The amendments allow for a range and choice of sites to come forward and to allow for significant generosity in the housing land supply. In respect of comments on the effectiveness of the Wallyford site, the developer submitted a Notice of Commencement of Development with effect from 17 December 2015 and approved infrastructure works are progressing. Officers have concerns at the capacity of the housing industry to meet the challenging housing targets of the SDP, nonetheless the Draft Proposed LDP as amended provides a generous land supply.
- 5.10 It is of course the appellant's right to challenge the current situation and much is made of the Officer perspective that this is a site which in many respects can be seen to be of merit and potentially effective.

- 5.11 However, without a solution to the question of education provision it is not effective. In the absence of Council support for an Education solution on and providing in part for the site, the only recommendation Officers can make for the application is refusal. The Education Authority, subsequent to the Council's decision of 17 November 2015, is reviewing the potential for secondary education provision in the Musselburgh/Wallyford area and will bring this matter back to the Council for its decision. The Proposed LDP will take account of this decision.
- 5.12 The Planning Authority is therefore of the view that whilst the site has development potential, in the absence of an effective education solution, the site cannot be considered effective and therefore on this ground planning permission in principle cannot be granted.
- 5.13 In respect of transportation matters, the Council's Road Services and Transport Scotland are in agreement that the site must be considered in conjunction with the sites of the Draft Proposed LDP as amended. Therefore the appellant's site has to be considered in terms of both committed development in the area and the sites which will make up the Finalised Proposed LDP. These are to include the site at Dolphingstone as a further extension to the development at Wallyford which is underway. Any decision on the site cannot be made in advance of the findings of the Council's cumulative transport assessment and the mitigation measures (including for air quality management) which will be defined by it and quantified, which will be agreed by the Council's Road Services and Transport Scotland. On this consideration the proposal remains premature and could, if granted planning permission in principle, prejudice the emerging LDP.
- 5.14 On Green Belt considerations the site is not supported by the IPG due to its scale. Whilst the Council has been proactive in supporting appropriate small scale development in the green belt without requiring this to be a matter for the LDP process at Edinburgh Road, Prestonpans (57), the scale of the site and the extent to which it could change this part of the Edinburgh Green Belt should rightly be considered through the LDP process and not by a decision on an application. Such a decision needs to be made strategically with due reference to the overall impact of land allocations and development on the purpose, objectives, quality and robustness of the green belt as it is amended. On this point, as supported by Scottish Natural Heritage, the appellant has not demonstrated that the proposal complies with SDP Policy 7 (b) (78) in respect of Green Belt objectives. In this the proposal is premature and could prejudice the strategy and sites of the emerging LDP.
- 5.15 Taking the above considerations of education provision, cumulative transportation impacts and green belt objectives together it is clear that there are technical issues which still require to be resolved. In this the proposal is both premature and potentially ineffective.
- 5.16 In respect of Policy 7(c) there are infrastructure requirements which require further cumulative technical work and therefore it is unresolved as to whether the developer could or would agree to the level of funding required of them.

- 5.17 The above are all key differences between this site and those at Old Craighall (Musselburgh) (32, 33) and Edinburgh Road (Prestonpans) (57) as referred to in the appellant's statement.

6 *Summary*

- 6.1 In short, whilst it may be possible to resolve some technical issues which are currently unresolved material considerations through the use of planning conditions and a planning obligation, East Lothian Council officers contend that a determination of the application is premature and therefore that a grant of planning permission in principle would be inappropriate on the grounds that:

1. The proposal is dependent on education solutions that are subject to decisions of the Education Authority and subject to a separate statutory process. In the absence of clear and deliverable solutions for both primary and secondary education provision the proposal is premature and ineffective.

2. The proposals require a significant abstraction from the Edinburgh Green Belt, of a scale that should be managed by the LDP process of consultation and examination rather than by the determination of a planning application. As such a decision needs to consider the green belt strategically through that LDP process, with due regard to other proposed sites, the proposal is premature

3. The development of this site and others in the Musselburgh area requires the completion of significant technical work on cumulative transportation impacts, including for air quality management, without which the proposal does not have the support of the Council's Road Services or Transport Scotland. As such, a decision would again be premature.

4. In all of the above, approval of a proposal of this scale and with its infrastructure implications would prejudice the emerging LDP and the sites therein which reflect the settled view of the Council.

- 6.2 In respect of the above considerations the proposal should be refused. Should it be considered otherwise then a grant of planning permission in principle would require to be subject to planning conditions reflecting the matters raised in this appeal statement and in the material circumstances of the case. A separate schedule of conditions will be provided.

- 6.3 Any such decision would also require to be subject to an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended, to provide for developer contributions for:

Affordable housing, with 25% of the approved number of units to be provided as affordable housing with the mix and tenure to be agreed with the Council's Economic Development and Strategic Investment Service in order to be compliant with Policy H4 of the adopted East Lothian Local Plan 2008 and the Council's Affordable Housing Policy and with Scottish Planning Policy: June 2014.

Education provision for pre-school, primary and secondary pupils resulting from the development, in order to comply with Policy INF3 of the adopted East Lothian Local Plan 2008. With no solution for this provision as yet determined by the Education Authority, further work would be required to give precise and justified amounts for the required developer contributions.

Sports provision in the form of two full size grass, unfenced sports pitches with associated four team changing pavilion, to be transferred to the Council at no cost and a contribution to be assessed towards a 6 court sports hall in order to comply with Policy INF3 of the adopted East Lothian Local Plan 2008.

Green infrastructure provision in compliance with SPP

Mitigation/interpretation in respect of the battlefield site.

Appendix 1 – letter from Depute Chief Executive, Resources and People Services 24 March 2016

Our Ref : AMcC/PF
Direct Dial : 01620 827834

24 March 2016



Iain McFarlane
Planning Service Manager
East Lothian Council
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EH41 3HA

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DEPUTE CHIEF EXECUTIVE
(RESOURCES & PEOPLE SERVICES)

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Dear Mr McFarlane,

The Education Authority notes that at paragraphs 4.86 to 4.97, the Appellant states their case in relation to the associated infrastructure requirements to deliver the primary and secondary education at the Appeal Site. The Education Authority would respond as follows:-

At para 4.89, the Appellant notes that “the secondary education solution was, therefore, entirely acceptable to the officers, including Education Officers of ELC”

The Education Authority accepts the position of the Appellant that the secondary education solution was supported by officers.

The Appellant then states that the subsequent removal by the Elected Members of the Appeal Site (on the 17th November 2015) does not change the factual position that the “Appeal Site is the most appropriate site”. The Education Authority would respectfully disagree with this and direct the Reporter, that in the Education Authority’s view, the removal of the Appeal Site does change the factual position.

It is an established and necessary process of decision making within local authorities that Officers make recommendations to the Elected Members. The Elected Members are not bound, in their role as decision makers, to approve the Officers recommendations. The approval of the Elected Members of the draft Local development Plan is an integral and crucial element in finalising the draft Local development Plan.

It should also be noted that the draft Local Development Plan, as presented to Elected Members on 17th November 2015 was in draft form. The Appellant should recognise that on 17th November 2015, all proposals within the draft Local Development Plan were open to further consideration and possible amendments by the Elected Members. The Council cannot be criticised for this process.

For the avoidance of doubt the Education Authority would also state that the statement (at para 4.92) that “the New Education Provision proposal was neither deleted nor amended and

remains the settled position of the Council” is not factually correct. The Education Authority would direct the reporter to the Minutes of the Council meeting. The Minutes record that the Elected Members, as they are entitled to do so, directed that the proposal MH10 Goshen New Secondary School be removed from the draft Local Development Plan. The Education Authority is of the view that this amendment did change the factual position. It required the officers of the Council, including the education Officers to assess and consider an alternative solution that would be presented to the Elected Members at a future meeting.

The Education Authority would also comment that any conditional missives that were concluded prior to the 17 November 2015, are not to be viewed as giving an indication as to the Council’s position in respect of proposals in the draft Local development Plan. The conclusion of the conditional missives with the Appellant and other parties was to allow the Council to identify which options were viable in order to enable the pursuit of same. (cf the Appellants para 4.87)

The Education Authority would also rebut the statement by the Appellant (para 4.96) that there is “current capacity for 220 pupils”. The letter that the Appellant refers to was dated 25th January 2015. It is clear that the statistics detailed in that letter will have changed due to other sites coming forward (e.g. Wallyford). The Education Authority would respectfully ask the Reporter to disregard same.

The Education Authority would also respond to the Appellant’s statement that “*The Goshen Farm planning application includes a primary school as part of its first phase*”. At this point in time, the Education Authority is not minded to pursue the necessary catchment review to make such a primary school effective at this time. As the Reporter will appreciate the outcome of this cannot be guaranteed and therefore this cannot be taken into account.

The Council is currently progressing the draft Local Development Plan. As part of that process, the Officers are continuing to pursue the amendments, as directed by the Elected Members of the Council on the 17th of November 2015. It is anticipated that Officers will shortly make a recommendation to the Council on the secondary school options, including *inter alia* the location of same.

At this point in time, the Education Authority is of the view that there is no acceptable primary or secondary solution at the Appeal Site.

Yours sincerely



Alex McCrorie
Depute Chief Executive, Resources & People Services

REPORT TO: East Lothian Council

MEETING DATE: 28 June 2016

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Policy for the Management of Donated Commemorative Benches

7

1 PURPOSE

- 1.1 To seek Council approval to adopt the policy and procedures for the Management of Donated Commemorative Benches and approve the introduction of a maintenance fee for donated benches.

2 RECOMMENDATIONS

- 2.1 That Council approves the adoption of the policy and proposed maintenance fee at the maximum proposed Year 1 figure of £175.

3 BACKGROUND

- 3.1 The Council had traditionally offered a commemorative seat service to the public but this was done on an ad hoc basis, with no firm commitment to the long-term maintenance of donated benches. The process was time-consuming and often involved back and forth communication with the benefactor while suitable sites were identified, bench styles selected and plaque content confirmed. Following a review of available resources, the Council withdrew the service in 2013.
- 3.2 However, donated benches are a popular feature of the public environment and are important to both the benefactors and the wider public who enjoy the amenity. Accordingly a decision was taken to consider the reintroduction of the donated bench service, but to do so with appropriate management arrangements in place to administer requests consistently and to deliver a funded maintenance programme to adequately look after the bequests.
- 3.3 The policy has been drawn up in such a way as to offer a wide range of choices to customers, from payment of all purchase, installation and maintenance costs, to complete self service whereby the customer

purchases, installs to an acceptable standard and maintains the bench themselves to any combination of provision and maintenance elements. In this way customers can, according to their own financial circumstances and wishes, make provision of a commemorative bench.

- 3.4 Built into the policy are adequate safeguards to ensure that benches provided are fit for purpose, commemorate events or people in an appropriate manner, remain a safe amenity for the public to enjoy and do not place any undue burden on the council in terms of liability. The policy places the final decision regarding suitability, site, inscription and construction of bench with the Council.
- 3.5 With regard to installation and maintenance, this will be undertaken primarily by Amenity Services and administered by each cluster based Local Amenity Officer to ensure efficient handling, timeous installation and consistent maintenance standards. However, depending on the availability of Community Service hours and skills, the ongoing maintenance of donated benches could be delivered by that team and the installation fees adjusted accordingly.

4 POLICY IMPLICATIONS

- 4.1 The proposed policy offers sufficient protection to the Council to avoid any undue long-term cost burden and introduction of a maintenance fee is in line with the Council Charging Strategy.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – The policy proposes arrangements that would be a zero cost option for the Council
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Commemorative Benches FAQ Sheet and Draft Policy attached as Appendix 1 and 2 respectively

AUTHOR'S NAME	Stuart Pryde
DESIGNATION	Principal Amenity Officer
CONTACT INFO	Tel: 01620 827430 spryde@eastlothian.gov.uk
DATE	20 May 2016

EAST LoTHIAN COUNCIL

AMENITY SERVICES

MANAGEMENT OF DONATED COMMEMORATIVE BENCHES

FREQUENTLY ASKED QUESTIONS

1. How much will it cost me to donate a commemorative bench?

The cost will vary according to the type of bench, the number of words required on the plaque and if a foundation has to be built to place the bench on. The cost with a foundation will be between £1,250 and £1,520 or without a foundation £990 to £1,260. All these figures include VAT.

2. Do I have to have a foundation?

Yes you do. If the bench is not properly bolted down it is more likely to be stolen, moved to an unsafe place or damaged by being tipped over.

3. Why does the Council suggest an Aged Bronze Plaque rather than a Brass one?

Brass will very quickly tarnish in the open air and unless polished regularly will soon look unattractive and be hard to read. An Aged Bronze Plaque is delivered with an even colour, finish and white lettering, so keeps its attractive appearance, does not need polished and is easy to read.

4. What does the Maintenance Fee cover?

The Maintenance Fee will cover the cost of repainting, staining or oiling the bench every 2 - 3 years and any minor repairs to the wood or metal to keep it in good condition for as long as possible. Maintenance will not cover polishing or replacement of plaques. This will normally be for a minimum of 15 years but will be carried on for as long as the bench remains in a safe condition.

5. What happens at the end of the 15 year period?

The Council will continue to maintain donated benches as best it can for as long as the bench remains in a safe condition. When the bench reaches the end of its safe life the Council will write to your last known address telling you the bench is to be removed and offer the chance to purchase a replacement bench which would not require a plaque unless it had been stolen, or a foundation. If you do not want to purchase a new bench the site will be available for another person to site a bench.

6. Do I have to pay the Maintenance Fee?

You can make your own arrangements to maintain the bench yourself but would have to ensure that it is kept in a safe condition at all times and make sure that the public are not exposed to wet paint. If the bench becomes damaged and unsafe the Council may have to remove it until you make arrangements for the proper repairs to be carried out. If you are only providing a plaque for an existing public bench you must pay the maintenance fee.

7. Why do the Council limit the range of benches that I can donate?

The types of bench recommended are proven to be good value for money, will last for a reasonable time, are durable enough to withstand public use and can often be repaired quite easily. The range of benches also fit into the landscape of the majority of popular locations for donated benches. In certain rural sites the Council may recommend a slightly different style of bench. You can select another type of bench but the Council may not

accept maintenance responsibility for it. The decision of the Council will be final in this matter.

8. *Where can I have a bench placed?*

The Council owns and manages a lot of public open space and many of these locations are popular places for donated benches. In some cases benches can encourage youths to gather and cause a local nuisance and in other cases the landscape is carefully managed for general appearance, nature conservation or burial space. Locations covered by these restrictions would not normally be suitable. In certain cases sites are managed by local committees or groups and their permission would have to be given.

9. *If my bench is damaged or beyond repair what happens?*

If the bench can be repaired for a reasonable price, less than its current remaining value, then the Council will carry out the repair. If the bench is damaged in an accident such as a car crash or a contractor working in the area and the person responsible can be traced then the Council will try to recover the cost of repair through any insurance policy the responsible person may have. The Council will not pursue an individual for replacement.

10. *I have already donated a bench, what will happen to that?*

The Council is trying to bring together a list of everyone who has donated a bench in the last 10 years. Contact the Council and give them your details and you will be offered the option to take up a maintenance agreement at a reduced cost according to the current age of the bench. Existing benches will continue to be maintained as best they can and according to available budget.

11. *What are considered to be appropriate circumstances to commemorate by donating a bench?*

Generally benches can be donated to commemorate any individual or group that has an association with the area, has made a significant contribution to the local community, been awarded national recognition for achievement or to commemorate a particular event or anniversary. The Council will make the final decision as to what is appropriate based mainly on acceptable standards of equality and avoiding subjects that could be considered divisive or promote racist, sectarian or discriminatory views.

12. *How long will it take for a bench to be placed on site?*

Normally from the date of the initial enquiry to placement on site will take around 8 weeks allowing for final approval of the plaque wording, installation of a foundation and manufacture of the bench. Periods of extended or extremely wet or cold weather may hold up the installation of the foundation and bench manufacturers may have busy periods that slow down delivery.

13. *When would I have to pay for the bench?*

When the bench is installed you will be asked to inspect the bench or, if you live a long way away you will be sent a photograph for approval. Once you have approved the finished installation you will be invoiced for the full amount and required to pay within the maximum 30 days.

14. *If I have to pay for a foundation and then someone else places a bench on it many years later will I be reimbursed for the cost?*

Unfortunately not but equally you may select a site that does not require a new foundation and avoid having to pay that cost.

15. I do not think there is currently space to site a bench at my preferred location, what can I do?

If you make contact with the Council the situation will be confirmed and you can request that your name be placed on a waiting list. However it could be in excess of 10 -15 years before a space becomes available to the first named person on a waiting list. If there are benches on site that do not have a plaque they could be replaced or you could apply to have a plaque fitted to an existing one.

EAST LoTHIAN COUNCIL

AMENITY SERVICES

POLICY AND PROCEDURES FOR THE MANAGEMENT OF DONATED COMMEMORATIVE BENCHES

BACKGROUND

The Council has for a long number of years accepted donations of commemorative benches from members of the public and accepted a degree of liability for the care and repair of such benches.

In 2013, following a significant reduction in administrative staff the Council considered it was no longer able to offer a responsive commemorative bench service with appropriate maintenance and has since been refusing most applications.

However, the gift of commemorative benches is a popular feature amongst the general public and the gift of such benches does provide added amenity to the wider public. Accordingly it is considered prudent to develop a consistent policy for receipt and management of donated benches.

Previously management arrangements for commemorative benches were made on a case by case basis but it is considered important to now formalise these practices and ensure a consistent management process and positive response to benefactor requests.

OBJECTIVES

The key aim of this policy is to control the placement, management and recording of commemorative benches and to ensure that such benches are well placed and suited to the discrete environment while meeting the expectations of benefactors (hereafter referred to as the Client) and needs of the site managers.

COMMUNICATION

The service will be promoted via the Council's website and prospective clients will be encouraged to make use of an On-line enquiry form and to communicate via email to reduce the administrative burden.

RANGE OF BENCHES ACCEPTED FOR DONATION

In order to streamline the long-term maintenance of wooden benches in particular and deliver a corporate identity for the civic spaces of the county, the choice of benches accepted for placement within parks and civic spaces will be limited to 2 styles of wooden bench and 1 style model of metal bench. These styles are currently represented by the J&J Learmonth Glen Ogil and Glen Isla or the David Ogilvy Engineering KC model. Benches intended for placement in rural, coastal and countryside areas may be of alternative styles and subject to the express agreement of the site management team.

Clients wishing to select alternative styles of bench may do so, subject to the style and construction of the bench being of suitable quality, durability and in keeping with the environment and setting in

which it is to be located. Specific styles and materials of benches may also be a requirement in certain locations such as within a designated Conservation Area or in a townscape where street furniture has been installed to a common design. In those cases East Lothian Council Planning Service will require to be consulted and final approval received before a bench may be provided for such a location. Aside from cases where the Planning Service specify a particular style of bench, where a bench of specific style or construction is selected by the client the Council may not accept any long-term maintenance liability for such and the Client will be required to put in place their own arrangements to ensure the bench is maintained in a satisfactory and safe condition. The Council's decision in such matters will be final.

Plaques or inscriptions containing any reference that could be considered racist, sectarian or discriminatory or likely to incite such a response will not be permitted. The Council's decision in such matters will be final and based around the Council's current Equality & Diversity Policy

Requests to fit an additional plaque or place an additional inscription on an existing commemorative bench will not be accepted without the express written consent of the original Client or their immediate next of kin.

Clients will be permitted to supply their own plaques should they so request but the Council will not be liable for the maintenance or replacement of such under any circumstances.

COST OF SERVICE

Donated benches will be charged to the Client at supplier cost according to the catalogue price at the time including the cost of any commemorative inscription or plaque plus delivery fee. In addition and in the absence of an existing base of suitable size and condition, the Council will provide a quotation to the Client to install a suitable hard surface foundation for the bench to be secured to and the Client shall pay the full cost of supply, delivery and installation.

In addition, the Council will take a maintenance fee of £175 to provide a programme of maintenance that will protect the bench from weather related detriment for a period of 15 years.

Where benches are provided via the established network of Community Councils or Area Partnerships, the Council will recover an at cost maintenance fee annually according to the number of benches under their respective control that are in receipt of maintenance that year.

Where a Client requests a plaque to be fitted to an existing public bench, the fee will be the cost to supply and fit the plaque, including the cost of a welded mounting plate if required plus the maintenance fee for a full bench. On installation of a plaque on an existing public bench, that bench will be cleaned, repaired or repainted as required when the plaque is fitted and an agreed cost invoiced to the Client to cover the cost of this work. When providing a plaque for an existing public bench the Client must pay the maintenance Fee

Where an adequate allocation of Community Service for Offender hours exist and those allocated the hours have appropriate skills, installation of benches, foundations and annual maintenance will be delivered by use of that resource and savings for installation costs only will passed back onto the client. Any savings from the annual maintenance programme will be used to extend the period of maintenance beyond the minimum 15 years as described below.

All fees and charges will have VAT added at the current rate.

DEFENITION OF MAINTENANCE

Maintenance will be considered as rubbing down and painting with an appropriate durable outdoor wood stain or metal paint designed to protect the components from rot or rust every 2 – 3 years. Minor woodwork repairs such as the replacement of individual bolted on spars or easy to replace components will be undertaken where detriment occurs as a result of natural wear and tear. Such maintenance will be delivered for a minimum period of 15 years.

Where an adequate maintenance programme has been delivered for those 15 years but the overall structural condition of the bench is deemed to be beyond economic repair, the Council will remove the bench if required, in order to maintain public safety.

Regardless of age and previous maintenance applied, should the bench be stolen or completely destroyed as a result of vandalism, vehicle collision or similar single event, the Council will not be liable for replacement under any circumstances.

Maintenance will not include the cleaning, polishing or re-lettering of any plaque, removal of scratches or other damage or complete replacement of a plaque should it be stolen or vandalised.

REPLACEMENT ARRANGEMENTS

Where any donated bench is deemed to have reached the end of its safe operational life, the Council will write on one occasion to the last known address of the Client advising them of the situation and offering the Client the opportunity to purchase a replacement bench for the vacated site. Should a response not be received within the timescales quoted in the letter, the site will be considered available for any other potential Client to place a bench on.

Should an existing Client request a replacement be provided, this will be charged at rates according to current supplier prices.

Any bench requiring to be removed will have any metal plaque associated with it taken off and stored for a reasonable period by the Council.

Should a donated bench be damaged and require repair or replacement as a result of a vehicle accident or activities of a contractor and the person / company causing such damage becomes known to the Council then the Council will endeavour to recover the cost of the repair or replacement through the responsible parties insurance. Similarly if an individual or group of persons are convicted of any crime, the result of which involves damage or loss of a donated bench then the Council, if made aware of a pending conviction will request an award of damages via the court. If a bench is stolen and can't be recovered then the Council will not be liable for the cost of a replacement.

ADMINISTRATION ARRANGEMENTS

Initial enquiries relating to donation of a commemorative bench will be managed by the respective Local Amenity Officer (LAO) for the Cluster or Countryside Ranger (CR) for the site in which the donation is intended.

The LAO / CR will consider if the proposed location is suitable for placement of a bench with due regard to confirmed public ownership, maintaining free access for pedestrian and legitimate maintenance/service vehicle traffic, maintaining the overall visual amenity and functionality of the site, possible detriment to quality of life for neighbouring residents through creating a focus for antisocial behaviour and conservation area/archaeological/habitat status that may prevent installation.

Should the requested site be deemed suitable the LAO / CR will advise of approximate costs based on a current price schedule and if acceptable in principle to the Client, will arrange via the preferred supplier to issue a full supply and install quotation.

On receipt the Client will be required to sign off on a standard contract, agreeing to the supply price and accepting the long-term maintenance and management arrangements.

On completion of installation the LAO / CR will advise the main office of the Client details for recording onto a database to facilitate future communication. The LAO will also add the bench onto a maintenance schedule and liaise with the preferred painting contractor on an annual basis to ensure donated benches are maintained in accordance with this policy.

AVAILABLE SITES FOR PLACEMENT

Generally sites considered suitable for placement of donated benches are established and mainly occupied. Accordingly requests for new donations will only be accepted if an existing bench is determined as having reached the end of its life and requires removal. If the existing Client doesn't indicate a wish to provide a replacement, the site will then become available for the next applicant on a first come first served basis.

Only in the traditionally popular sites such as the environs of Fisherrow Harbour, Gullane Bents, North Berwick Harbour and Dunbar Harbour, where their respective capacity is generally filled, is this likely to be an issue and, should demand exceed capacity then the LAO / CR will maintain a waiting list and contact those Clients in order of application date advising them when space becomes available.

In the case of other Countryside sites, the Council will determine if placement of a donated bench is appropriate and in keeping with the management and conservation ethos for the area. In certain cases it may be deemed appropriate to consider a specific alternative form of seating and, if appropriate, Clients will be offered a quote on that basis.

Donations of benches will be permitted to;

- Commemorate the visit of royalty, heads of state and other dignitaries
- Commemorate international, national or significant local events
- Recognise an important historical body or figure associated with the area
- Record an official opening of a park or facility within a park
- Commemorate the contribution to community life of a group or person living or dead
- Recognise national or international achievements of an individual sports person
- Allow family or friends to commemorate the life of an individual who lived in, regularly visited or was generally associated with the area in which the bench is to be sited

TARGET TIMES FOR DELIVERY AND INSTALLATION

From date of acceptance of the final quote by the Client, the Council will normally aim to have the bench delivered and installed within 8 weeks. Delays in providing the bench by the supplier and periods of severe weather preventing construction of bases may delay this process and be outwith the control of the Council

Where the Client indicates a particular date by which time they wish the bench to be installed, such as the anniversary of a death, the Council will indicate at time of order if this is possible and will generally endeavour to meet reasonable installation date requests.

GENERAL CONDITIONS

If at any point the site in which the bench is located requires to be redesigned, have utility services installed, is subject to necessary road or path realignment, suffers erosion or subsidence or any other similar circumstances that are generally outwith the control of the Council, the Council will be permitted to remove the bench and relocate it to the closest alternative suitable location. If no alternative exists or the Client objects to the proposed alternative, the bench will either be taken into storage for a reasonable period until an agreeable alternative site becomes available or the bench returned to the Client for use as they see fit.

MANAGEMENT OF EXISTING DONATED BENCHES

In the absence of consistent records and contact details the Council will initially promote this policy through a range of media and encourage existing benefactors to make contact with the Council and take up the option to pay a maintenance fee appropriate to the remaining life of the bench. Existing Clients will also be encouraged to formally record their contact details so they benefit from the opportunity to secure the site for donation of a replacement bench in future. Records of existing benefactors will also be developed by examination of archived correspondence dating back to April 2006 which is considered to be a reasonable timeframe into which donated benches will be in a condition that they would still offer benefactors value from signing up to a formalised maintenance agreement.

APPENDICES

Appendix 1 – Request Processing Sheet

REPORT TO: East Lothian Council

MEETING DATE: 28 June 2016

BY: Depute Chief Executive (Resources and People Services)

8

SUBJECT: Membership of Committees – Policy & Performance
Review Committee

1 PURPOSE

- 1.1 To seek approval of proposed changes to the membership of the Policy & Performance Review Committee (PPRC).

2 RECOMMENDATIONS

2.1 Council is asked:

- to approve a proposed change to the membership of the Policy & Performance Review Committee, with an SNP Councillor being nominated to replace Councillor Caldwell; and
- to note that, in accordance with Standing Orders, the above change reflects the political balance of the Council.

3 BACKGROUND

- 3.1 At its meeting on 15 May 2012 the Council approved the membership of its committees. In accordance with Standing Orders, the membership of the Policy & Performance Review Committee was determined so as to reflect the political balance of the Council (5 SNP, 2 Labour and 1 Conservative/Independent). The PPRC subsequently appointed Councillor Berry (then SNP) as Convener of the Committee.
- 3.2 In May 2013 Councillor Berry resigned from the SNP and became an independent nationalist councillor. As a result of this change, the PPRC now comprised 4 SNP, 2 Labour and 2 Independent councillors. The membership of the PPRC has not undergone any further changes since May 2013, and Councillor Berry has remained as Convener.

- 3.3 It has recently been brought to the attention of the Head of Council Resources that in order to comply with Standing Orders, the membership of the PPRC should be amended to reflect the political balance of the Council, namely that there should be one additional SNP member appointed to the Committee, and one of the Independent members should stand down.
- 3.4 Following discussions with both Independent members of the Committee, Council is asked to note that Councillor Caldwell has agreed to give up his position on the Committee. The SNP Group will nominate an additional member for the PPRC at the Council meeting.

4 POLICY IMPLICATIONS

- 4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none
- 6.2 Personnel – none
- 6.3 Other – none

7 BACKGROUND PAPERS

- 7.1 East Lothian Council Standing Orders – Appendix 1: Scheme of Administration, Policy & Performance Review Committee
- 7.2 Report to Council, 15 May 2012 – Appointments to Committees and Sub-Committees of the Council

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager – Democratic Services
CONTACT INFO	lgillingwater@eastlothian.gov.uk
DATE	13 June 2016

REPORT TO: East Lothian Council

MEETING DATE: 28 June 2016

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Summer Recess Arrangements 2016

9

1 PURPOSE

- 1.1 To advise Members of the arrangements for dealing with Council business during the summer recess 2016.

2 RECOMMENDATIONS

Council is requested to:

- 2.1 Approve the application of the recess business arrangements, in accordance with Standing Order 15.5, effective from the close of this meeting until the Council meeting of 23 August 2016 (outlined at Section 3.1); and
- 2.2 Note that a summary of business carried out during the recess period will be brought to the Council meeting of 23 August 2016, and that copies of all reports approved during the recess period will be lodged in the Members' Library.

3 BACKGROUND

- 3.1 Rule 15.5 of the Council's Standing Orders states that:

Between the last scheduled Council meeting prior to the summer/election recess and the first meeting following the summer/election recess, a minimum of two of the Provost, Depute Provost, Leader, Depute Leader, together with the Convener/Depute Convener of the appropriate committee, will deal in their discretion with the urgent business of the Council presented to them for consideration by the Chief Executive, or officers authorised by him/her to act on his/her behalf.

For the avoidance of doubt, matters that require approval of two-thirds of Councillors cannot be dealt with under this Standing Order.

- 3.2 It is advised that reports outlining the business that has occurred over the recess period and that have required the application of Rule 15.5 should then be brought to the Council meeting of 23 August 2016 for noting.
- 3.3 Business dealt with under delegated powers and submitted to the Members' Library will continue to be processed using the normal procedures.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None
- 6.2 Personnel – None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 East Lothian Council's Standing Orders

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager – Democratic Services
CONTACT INFO	lgillingwater@eastlothian.gov.uk
DATE	13 June 2016

MOTION TO COUNCIL

28 June 2016

This Council notes the decision by the Royal Bank of Scotland to close its branch in Prestonpans and transfer all accounts to Tranent.

Council is aware that this action will remove the only bank in Prestonpans and result in the local community planning area of Preston/Seton/Gosford having no banking facilities at all, completely disregarding the needs of local businesses and the community, many of whom prefer to discuss financial matters face to face rather than electronically or through a Call Centre.

Council believes the decision by the Royal Bank takes no account of the fact that East Lothian is one of the fastest growing areas in Scotland.

Council is appalled that the Royal Bank has chosen to ignore the convention of not closing the last bank in any community and instead put profits before the needs of communities, particularly the elderly and vulnerable who will suffer disproportionately.

Council therefore agrees to instruct:

- The Chief Executive and the Leader of the Council to seek an urgent meeting with the Chief Executive and Chairman of the Royal Bank of Scotland to express this Council's extreme concern at their decision.

Proposed by Margaret Liberton Seconded [Signature]
Date 13 June 2016 Date 14/6/16

14 JUN 2016

REPORT TO: East Lothian Council

MEETING DATE: 28 June 2016

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Submissions to the Members' Library Service
8 April – 14 June 2016

11

1 PURPOSE

- 1.1 To note the reports submitted to the Members' Library Service since the last meeting of Council, as listed in Appendix 1.

2 RECOMMENDATIONS

- 2.1 Council is requested to note the reports submitted to the Members' Library Service between 8 April and 14 June 2016, as listed in Appendix 1.

3 BACKGROUND

- 3.1 In accordance with Standing Order 3.4, the Chief Executive will maintain a Members' Library Service that will contain:
- (a) reports advising of significant items of business which have been delegated to Councillors/officers in accordance with the Scheme of Delegation, or
 - (b) background papers linked to specific committee reports, or
 - (c) items considered to be of general interest to Councillors.
- 3.2 All public reports submitted to the Members' Library are available on the Council website.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None
6.2 Personnel – None
6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 East Lothian Council's Standing Orders – 3.4

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager - Democratic Services
CONTACT INFO	lgillingwater@eastlothian.gov.uk
DATE	14 June 2016

**MEMBERS' LIBRARY SERVICE RECORD FOR THE PERIOD
8 April – 14 June 2016**

Reference	Originator	Document Title	Access
47/16	Head of Infrastructure	Local Flood Risk Management Plan – appendices 1 - 3	Public
48/16	Head of Council Resources	Fees for Requests Submitted under the Environmental (Scotland) Regulations 2014	Public
49/16	Director of Health and Social Care	Adult Wellbeing – Revisions to Charges for 2016/16	Public
50/16	Head of Development	Grant of Lease and Acquisition of Sub-lease of Office Accommodation at Block B, Brewery Park, Haddington	Private
51/16	Head of Development	Response to the Consultation by the Scottish Government on Fallago Rig Windfarm	Public
52/16	Head of Development	Proposed Demolition Works at 21 Windygoul Crescent, Tranent	Public
53/16	Head of Development	Building Warrants Issued under Delegated Powers, 1-31 March 2016	Public
54/16	Head of Development	Planning Enforcement Notices, 1-31 March 2016	Public
55/16	Head of Council Resources	Awards Made by Common Good Funds, Q2, 2015/16	Public
56/16	Head of Infrastructure	Redesign of Posts within Facilities Management Services – Cleaning/Caretaking and Janitorial Posts	Private
57/17	Head of Education	Staffing for the Proposed Tots and Teens Project at Musselburgh Grammar School	Private
58/16	Head of Development	Service Review and Staffing Report – Trading Standards	Private
59/16	Head of Development	Staffing Report – Creation of Graduate Intern Post within the Planning Service (Development Management and Policy & Projects)	Private
60/16	Head of Education	Staffing Report – Graduate Placement, Assistant Education Project Officer	Private
61/16	Director of Health and Social Care	Developing Specialist Support and Care at Home Services – Resources	Private
62/16	Director of Health and Social Care	Amendment to Council Membership of East Lothian Integration	Public

		Joint Board Strategic Planning Group	
63/16	Head of Development	Proposed House Alterations and Extension at 9 Elm Street, Dunbar	Public
64/16	Head of Development	Assignment of Ground Lease for Chalet Site 12, Belhaven Bay Holiday Park, Dunbar	Private
65/16	Head of Development	Proposed Alteration Works at Winterfield Welfare Facility, Dunbar	Public
66/16	Head of Development	Proposed House Alterations and Extensions at 2 and 9 Garleton Court, Gullane	Public
67/16	Head of Service (Development)	Prestonpans Infant School Extension Works	Public
68/16	Depute Chief Executive – Partnerships and Community Services	Building Warrants Issued under Delegated Powers between 1 April 2016 and 30 April 2016	Public
69/16	Head of Development	Proposed Maintenance of Synthetic Sports Playing Surfaces, East Lothian	Public
70/16	Head of Development	Sale of 122 sqms of Land at 74 Limegrove, North Berwick	Private
71/16	Head of Development	Sale of 57 sqms of Land at 38 Gilbert Avenue, North Berwick	Private
72/16	Head of Communities and Partnerships	Tenant Participation Strategy 2016-19	Public
73/16	Head of Development	Sale of 88 sqms of Land at 72 Limegrove, North Berwick	Private
74/16	Head of Development	Service Review – Planning, Phase 1	Private
75/16	Head of Infrastructure	Service Review – Engineering Services and Building Standards	Private
76/16	Head of Education	Service Review – Recruitment of Permanent Supply Teachers	Private
77/16	Head of Infrastructure	Service Review – Property Maintenance	Private
78/16	Head of Education	Service Review – Deletion of Principal Teacher Post and Job-Sizing of Principal Teacher Post	Private
79/16	Head of Infrastructure	Service Review – Roads Services, Phase 3	Private
80/16	Head of Communities and Partnerships	Service Review – Interim Arrangements for New Build Council Housing	Private
81/16	Head of Development	Assignment of Ground Lease for Site 1, Station Yard Industrial Estate, Hospital Road, Haddington	Private
82/16	Head of Development	Grant of Servitude Rights and Lease of 25 sq ms of Land (or thereby) at Mid Road Industrial Estate, Prestonpans	Private

83/16	Head of Development	Grant of Leases for Tennis Courts and Pavilion at Church Way, Longniddry, and Tennis Courts and Shared Use of Pavilion at Neilson Park, Haddington	Private
84/16	Head of Development	Building Warrants Issued under Delegated Powers, 1 – 31 May 2016	Public
85/16	Head of Development	Planning Enforcement Notices Issued between 1 and 31 May 2016	Public

14 June 2016

