



MINUTES OF THE MEETING OF EAST LOTHIAN COUNCIL

TUESDAY 13 FEBRUARY 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

1a

Committee Members Present:

Provost J McMillan (Convener)	Councillor J Henderson
Councillor S Akhtar	Councillor S Kempson
Councillor L Bruce	Councillor G Mackett
Councillor S Currie	Councillor K Mackie
Councillor F Dugdale	Councillor P McLennan
Councillor J Findlay	Councillor K McLeod
Councillor A Forrest	Councillor F O'Donnell
Councillor N Gilbert	Councillor B Small
Councillor J Goodfellow	Councillor T Trotter
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)
and Monitoring Officer
Mr D Small, Director of East Lothian Health & Social Care Partnership
Mr J Lamond, Head of Council Resources
Mr D Proudfoot, Acting Head of Development
Ms S Saunders, Head of Children's Wellbeing
Mr T Shearer, Head of Communities and Partnerships
Mr K Christie, Service Manager – Revenues
Mr S Cooper, Team Manager – Communications
Mr J Coutts, Service Development & Support Manager – Housing
Mr J Cunningham, Service Manager – Benefits
Ms E Denovan, Service Manager – Corporate Finance
Ms C Dora, Executive Officer
Ms S Fortune, Service Manager – Business Manager
Ms C Grandison, Members' Services PA
Mrs W Grant, Members' Services PA
Mr P Vestri, Service Manager – Corporate Policy and Improvement

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

Councillor W Innes

Councillor C McGinn

1. SETTING OF BUDGET, COUNCIL TAX AND RENT LEVELS 2018-23

A report was submitted by the Depute Chief Executive (Resources and People Services), providing an update of recent developments in respect of the Local Government Finance Settlement and presenting amended budget proposals for both General Services and the Housing Revenue Account in accordance with the budgetary framework approved previously by the Council.

The Head of Council Resources, Jim Lamond, presented the report, drawing attention to changes in the Council's budget-setting process, namely the introduction of a 5-year General Services capital budget, which was in line with Audit Scotland recommendations, an extended 5-year Financial Strategy, and the submission of the Administration's draft budget to Cabinet in January. He made reference to significant changes made to the Local Government Finance Settlement, the net effect of which was an additional £2.2m of grant funding for the Council; however, he noted that £1.7m of this additional funding would be used to meet new obligations. He declared that the Council had effectively accepted the terms of the Local Government Settlement Offer. He further advised that a request to the Scottish Government from the Depute Council Leader for flexibility on how the Council Tax cap could be applied had not been granted. Mr Lamond confirmed that both the Administration and SNP Group had submitted amendments to the Administration's draft budget proposals, and that no formal amendments had been submitted as regards the Housing Revenue Account (HRA) proposals.

Councillor Forrest asked for clarification on how much additional funding had been allocated to the Council since the final Local Government Finance Settlement was announced on 14 December 2017. Mr Lamond advised that an additional £1.222m was awarded to the Council on 23 January, with a further £3.023m being allocated on 31 January; the net effect of this additional funding would amount to a year-on-year increase of £2.245m.

Councillor Akhtar questioned whether this additional funding would meet the costs of additional burdens, such as pay awards for staff. Mr Lamond confirmed that it would not meet additional costs, indicating that, although there was a marginal increase of £0.5m in grant funding, the total allocation still amounted to a reduction in funding, given the demands on the Council and increases in pay and prices.

Responding to a question from Councillor Goodfellow as regards the use of reserves to fund services, Mr Lamond advised that in recent years there had been a decrease in the Council's reserves, and that the 2017/18 budget had used a significant proportion of reserves. He was of the view that there were now no 'spare' reserves, and that the further use of reserves would leave the Council in a vulnerable position.

With reference to the error made in the initial distribution of grant funding from the Scottish Government, Councillor Bruce questioned if it was possible that the settlement could be subject to further amendments. Mr Lamond commented that he could not be certain of this, but noted that such errors were unusual.

Councillor O'Donnell asked what assessments had been made to ascertain if the additional funding allocated to the Council would meet the cost of new obligations. Mr Lamond reported that the additional £1.245m should cover the costs of a number of social care obligations, such as sleepovers, changes to the living wage and the costs associated with

the Carers Act. He indicated that work to assess these obligations was ongoing, and that CoSLA was also currently looking at the impact of the Carers Act. He anticipated that he would be in a position to provide more detail on this within the next two months. On the new national care home contract, he advised that this had also been discussed at CoSLA, but that the negotiations had not concluded.

Councillor Dugdale sought confirmation that all three political groups had been given access to the same information during the budget process. Mr Lamond confirmed that all groups had been treated the same.

Decision

The Council agreed:

- i. to note the circumstances relating to changes made to the original Local Government Finance Settlement offer of 14 December 2017, as set out within Sections 3.1-3.4 of the report;
- ii. to note that, in accordance with Section 3.5 of the report, the Council had now effectively accepted the amended settlement offer made by the Cabinet Secretary; and
- iii. to consider and make recommendations in relation to the respective budget, Council Tax and rent proposals included within the agenda for the meeting at Items 2 and 3, these items reflecting formal amendments proposed to the Draft Administration Proposal approved by Cabinet on 16 January 2018.

2. BUDGET PROPOSALS ON GENERAL SERVICES

(a) Amendment Submitted by the Administration

Councillor Hampshire presented the Administration's amendment to the budget proposals. He made reference to the difficult decisions that would require to be made, and the Administration's strategy to limit the use of useable reserves. He thanked officers for their advice during the process, and those members of the public who had participated in the budget consultation exercise. Councillor Hampshire pointed out that it would be necessary for the Council to make £8.1m of savings over the coming three years. He advised that he had met with both the Conservative and SNP Groups to consider their proposals, noting that one proposal by the SNP Group and a number by the Conservative Group had been incorporated into the Administration's amended budget proposals. He then drew attention to the key aspects of the Administration's amendment:

- Investment in schools, including a new secondary school, four new primary schools and a number of school extensions
- Investment in new community, sport and transport infrastructure
- An increase of £6,477m in Education over three years
- Protection of the Adult Wellbeing budget
- An additional £1m for Children's Services over three years

He noted that all services were considering ways to reduce the costs of delivering services, as well as looking at additional income streams. He believed that the Administration's draft budget (as amended) would allow the Council to deliver high-quality services whilst meeting the financial challenges, and commended it to the Council.

The Administration amendment was seconded by Councillor Forrest, who spoke of the importance of setting a budget that covered all areas and people of all ages. He welcomed, in particular, the additional investment in Education, Adult Wellbeing and Children's Services.

(b) Amendment Submitted by the SNP Group

Having thanked officers for their advice and support, Councillor Currie set out the SNP Group's amendment to the budget proposals, advising that these proposals were in line with the Group's manifesto. He advised that frontline services would be protected, and that the SNP would reject changes to nursery staffing and additional support for learning services. He also opposed the introduction of charges for music tuition in schools, and reductions in funding to Adult Wellbeing resource centres, arguing that the introduction of charges for day centres would result in people being unable to attend. He reiterated the SNP pledge to abolish coastal car parking charges. Councillor Currie proposed ending the publication of the Council's newspaper, and using those savings to introduce the webcasting of Council meetings. He also supported the continued funding of Area Partnerships and the grant to the Brunton Theatre Trust, as well as investment in facilities for Musselburgh Windsor Football Club and Musselburgh Grammar School. In commending his budget amendment to the Council, Councillor Currie emphasised the need for transformation change at the Council in order to protect frontline services.

The SNP Group amendment was seconded by Councillor McLennan, who stated that the Council's priority should be to protect the vulnerable in society. He questioned the Administration's proposed introduction of charges for Adult Wellbeing services when the consultation on those charges had not yet concluded, and highlighted concerns that users of resource centres would not be able to afford such charges. He spoke in support of the views of carers, who had urged the Council not to implement charges until a full impact assessment had been carried out.

(c) Debate and Decision

Following the presentations, a full debate took place.

Councillor Small opened the debate, thanking officers and the leaders of the other political groups for their assistance during the budget process. He set out the Conservative Group's priorities: education, care for the elderly, and making the Council a more efficient and innovative organisation. He also spoke of the importance of financial prudence and long-term financial planning. Councillor Small made reference to discussions with the Administration, noting that his group's 'red lines' had not been crossed, namely the closure of rural schools, the introduction of parking charges in town centres, and extending the mileage limit for home-to-school transport. He noted that he had requested a review of the Council's management structure, which would achieve significant savings, as well as a review of the Council's property assets, making particular reference to the potential opportunities associated with the former Cockenzie Power Station site and the need to provide more affordable housing. He also proposed that £300,000 should be transferred from the Area Partnerships to the general education budget. Councillor Small concluded his statement by advising that his group would continue to provide effective scrutiny of Council services and expenditure, and called on the Council to maximise commercial opportunities and identify new income streams.

Councillor Small's comments were supported by Councillor Bruce, who welcomed the Administration's agreement on the Conservative Group's 'red lines'. He also welcomed the

opportunity to review the Council's management structures and assets, and declared that he would be supporting the Administration's amendment.

As Cabinet spokesperson for Education and Children's Services, Councillor Akhtar highlighted the decision by the Administration not to close rural schools or make changes to the home-to-school transport limits. She pointed out that, despite the financial challenges facing the Council in terms of increasing population and demand on services, an additional £1m would be invested in services for vulnerable children over the next three years, with a drive to recruit more foster carers to ensure that children could remain in their own communities. She also drew attention to additional investment in schools, the review of nursery staffing and the introduction of means-testing for instrumental tuition.

Councillor Mackie emphasised the need to protect frontline services, and reiterated the Conservative Group's manifesto pledge not to close rural schools or limit free home-to-school transport. She expressed concern at the proposal to redeploy teachers from nurseries to vacant primary school posts, stressing the need for the Scottish Government to take action on teacher recruitment. She was also disappointed at the proposals to limit free music tuition.

Councillor McLeod expressed concern at the proposed introduction of charges for music tuition, suggesting that all children should be treated equally in this regard. His views were shared by Councillor Gilbert, who feared that this would have an impact on the many children at Preston Lodge High School who accessed music tuition. He also spoke in opposition to the proposal to reduce Area Partnership funding, and feared that the Administration's proposals would have a detrimental effect on the elderly and disabled.

On health and social care, Councillor O'Donnell paid tribute to the commitment of Council officers in improving the lives of the vulnerable people in East Lothian. She highlighted the challenges in meeting the needs of a growing number of elderly people and those with disabilities. She argued against using Council reserves to fund social care services, as this would not be sustainable in the long term, and advised that there was a need to increase existing charges and introduce new ones in order to continue delivering such services. Councillor O'Donnell undertook to ensure that service users would not be charged more than they could afford, that support would be given to them to maximise their income, and that they would be able to request a review of their charges. She commended the Administration's budget to the Council.

Councillor Williamson voiced his concern about a number of the Administration's proposals, including the abolition of concessionary rail fares at peak times, the introduction of music tuition charges, new and increased charges for adult social care services, and reductions in funding for therapeutic services. He expressed disappointment at the Administration's proposals to delay investment at Musselburgh Grammar School and the lack of investment in facilities for Musselburgh Windsor FC.

Councillor Trotter questioned the introduction of charging for adult social care services while the consultation on this matter was ongoing. He believed that the Administration's proposed budget would have a negative impact on communities, and called on Members to support the SNP amendment.

As Economic Development and Tourism spokesperson, the Provost drew attention to the investment in East Lothian through the City Region Deal, as well as additional funding for town centre regeneration. He also advised that there would be significant investment in the road and rail infrastructure, and an allocation of £200,000 towards delivery of the core path network. He highlighted the importance of economic development opportunities at Queen Margaret University, Blindwells and Cockenzie, and made reference to the expected

increase in tourist numbers due to the major golf competitions being held in East Lothian during 2018.

The Provost's comments on the potential for economic growth were echoed by Councillor Findlay, although he was disappointed with the Administration's proposed reduction in funding for tourism in Year 2. He did not share views expressed by Councillor Currie as regards the forthcoming review of coastal car parking charges, noting that the Conservative Group would hold the Administration to account on this issue. He stated that he would be supporting the Administration's budget.

Councillor Dugdale spoke of the difficult decisions that had had to be made during the budget development process, but felt that such decisions were necessary in order to protect frontline services. She welcomed the proposed investment at Ross High School and Wallyford Primary School, which would benefit those communities, as well as the additional support for playgroups. Councillor Dugdale pointed out that demand for food bank assistance remained high, and was supportive of the Fa'side Area Partnership's lunch club initiative. She also welcomed the plans to bring forward the development of the Whitecraig community centre, paying tribute to the Whitecraig community for their commitment to this project.

Councillor Goodfellow questioned the SNP's proposals to use reserves to fund services. In response to the concerns expressed as regards charges for music tuition, he pointed out that children in areas of deprivation would benefit and that charges would be means tested. On coastal car parking charges, he argued that visitors to East Lothian expected to pay for parking, and that the charges were fair. He also suggested that the SNP proposals would benefit Musselburgh at the expense of other areas, emphasising that the Administration's budget was concerned with quality and fairness.

Summing up for the SNP Group, Councillor Currie stated that his proposals were affordable, sustainable and deliverable, noting that in Year 3 money would be returned to the Council's reserves. He believed that political manifestos should be reflected in budget proposals, arguing that this was not the case with the Administration's proposals. He reiterated the concerns expressed by a number of Members in relation to music tuition charges, and warned that the Administration's proposals would be damaging to communities.

Summing up for the Administration, Councillor Hampshire questioned some of the SNP Group's proposals, such as abolishing coastal car parking charges at the same time as reducing funding for adult social care services, as well as the level of investment in Musselburgh Windsor FC, which he felt would be at the expense of other communities. He reiterated the difficult decisions that would have to be made, and that it was necessary to reduce funding to services or generate additional income in order to balance the budget. He concluded the debate by stating that the Administration would protect vulnerable people in all communities and urged Members to support the Administration's amendment.

The Provost then asked the Council to move to the vote. At the request of Councillor Currie, the vote was taken by roll call.

Vote on the amendment to the budget proposals as submitted by the SNP Group:

For: Councillors Currie, Gilbert, McLennan, McLeod, Trotter and Williamson
Against: Councillors Akhtar, Bruce, Dugdale, Findlay, Forrest, Goodfellow, Hampshire, Henderson, Kempson, Mackett, Mackie, McMillan, O'Donnell and Small

The SNP Group's amendment therefore fell.

Vote on the amendment to the budget proposals as submitted by the Administration:

For: Councillors Akhtar, Bruce, Dugdale, Findlay, Forrest, Goodfellow, Hampshire, Henderson, Kempson, Mackett, Mackie, McMillan, O'Donnell and Small
Against: Councillors Currie, Gilbert, McLennan, McLeod, Trotter and Williamson

The amendment as proposed and seconded by the Administration was therefore carried.

Decision

The Council agreed to approve the amendment to the budget proposals as presented by the Administration and to increase Council Tax levels by 3% in 2018/19 (Band D level of £1,185.68).

3. RENT PROPOSALS 2018/19–2022/23

(a) Presentation by the Administration

Councillor Goodfellow presented the Administration's Housing budget to the Council. He thanked officers who had been involved in the preparation of the Housing Revenue Account (HRA) budget and in the delivery of 370 new Council homes over the past five years. He stated that £90 million would be invested in delivering new Council houses over the next five years. In addition, almost £60 million would be invested in the modernisation programme, which would see around 500 new bathrooms, 500 new kitchens and the rewiring of 500 homes being delivered during the next year.

Councillor Goodfellow highlighted areas where new Council houses would be delivered during 2018/19, as well as a number of additional planned developments. He also drew attention to work being undertaken as regards improving energy efficiency in Council homes. He confirmed that the debt:income ratio of below 40% would be maintained.

The Administration proposals were seconded by Councillor Forrest.

(b) Debate and Decision

Following the presentation, the Provost opened the matter for debate.

Councillor Henderson spoke in support of the proposed housing budget. She appreciated that rent rises would not be popular, but believed that they were necessary in order to maintain and repair the housing stock. She also noted that there was a need for more affordable housing, but stressed that this had to be affordable for the Council.

Councillor Currie stated that the SNP Group would abstain from voting on the proposed budget, on the basis that they felt that 5% year-on-year rent increases were too high. He argued that such increases were being made in advance of need, and this would result in East Lothian no longer having lower-than-average rent levels. He also suggested that further consideration should be given to the debt:income ratio level. He reiterated that he was supportive of a 5% rent increase for 2018/19, but would not support 5% increases for future years.

Councillor Hampshire commented that the Council had taken great care of its housing stock, particularly with increased investment in new kitchens and bathrooms. He noted that, during the recent consultation exercise, tenants had indicated they were willing to accept a 5% increase to provide for further investment. He also highlighted the challenges in delivering new affordable housing.

Summing up, Councillor Goodfellow assured the Council that any future rent increases would be subject to consultation with tenants. Referring to areas where rents were high, he noted that there was a clear correlation between rent levels and debt:income levels, adding that the Council would need to impose moderate increases in order to deliver more houses at the same time as keeping the debt:income ratio below 40%.

The Provost then asked the Council to move to the vote.

The HRA budget proposals of the Administration for 2018/19 to 2022/23 were put to the vote.

For:	14
Against:	0
Abstentions:	6

The HRA budget as proposed and seconded by the Administration was therefore carried.

Decision

The Council agreed to approve the rent proposals as presented by the Administration and increase Council house rent levels by 5% in 2018/19.

Signed

Provost John McMillan
Convener of the Council



MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 27 FEBRUARY 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

1b

Committee Members Present:

Provost J McMillan (Convener)	Councillor J Henderson
Councillor S Akhtar	Councillor S Kempson
Councillor L Bruce	Councillor K Mackie
Councillor S Currie	Councillor C McGinn
Councillor F Dugdale	Councillor P McLennan
Councillor J Findlay	Councillor K McLeod
Councillor A Forrest	Councillor F O'Donnell
Councillor N Gilbert	Councillor B Small
Councillor J Goodfellow	Councillor T Trotter
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
Ms F Robertson, Head of Education
Ms S Saunders, Head of Adult & Children's Services
Mr T Shearer, Head of Communities and Partnerships
Mr S Cooper, Team Manager – Communications
Ms E Denovan, Service Manager – Corporate Finance
Ms C Dora, Executive Officer
Ms S Fortune, Service Manager – Business Finance
Mr P Forsyth, Team Leader – Assets & Regulatory (Transportation)
Mr C Grilli, Service Manager – Legal and Procurement
Mr I McFarlane, Service Manager – Planning
Mrs K MacNeill, Service Manager – Licensing, Admin and Democratic Services
Mr A Stubbs, Service Manager – Roads
Mr P Vestri, Service Manager – Corporate Policy and Improvement

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

Councillor G Mackett
Councillor W Innes

Declarations of Interest:

Councillor Akhtar, Forrest, Mackie and O'Donnell declared an interest in respect of Item 11 (Governance Review – Musselburgh Racecourse) as members of the Musselburgh Joint Racing Committee, and advised that they would leave the meeting for the duration of this item.

Councillor McMillan also declared an interest in respect of Item 11 as a former member of the Musselburgh Joint Racing Committee, and he advised that he too would leave the meeting for the duration of this item.

1. MINUTES FOR APPROVAL

The minutes of the Council meeting specified below were approved:

East Lothian Council – 19 December 2017

Matters arising: Item 4 (Financial Strategy) – Councillor McLennan asked if any discussions had taken place within the Administration or with the City of Edinburgh Council as regards the introduction of a tourist levy. The Provost reported that CoSLA was considering this issue, and that Members would be informed of the outcome of those deliberations.

Item 8 (Motion on RBS Closures in Dunbar and North Berwick) – Councillor McLennan asked what action had been taken in relation to the motion on the Royal Bank of Scotland closures in Dunbar and North Berwick. The Chief Executive advised that she had written to the Chief Executive of RBS, but was yet to receive a response. She reminded Members that, following the closure of the Prestonpans branch, she had met with the RBS executives and expressed the Council's concerns about banking provision; she was awaiting an update on this issue. She added that the Depute Leader had also written to the Secretary of the Treasury on this matter. The Provost noted that he would be leading discussions with two other banks with a view to opening branches in East Lothian.

Item 6 (Amendments to Standing Orders) – as regards membership of committees, Councillor Currie advised that the SNP wished to make a change to their representation on the Planning Committee, with Councillor Gilbert replacing Councillor Trotter. The Council agreed to this change. The Provost thanked Councillor Trotter for his contribution to the Planning Committee.

Item 3 (Empowering Schools) – Councillor Akhtar asked for an update on the Empowering Schools consultation. The Head of Education, Fiona Robertson, advised that 55 responses had been received, and that a significant number of parents had attended the public meeting. The responses had been incorporated into the Council's response, which was submitted to the Scottish Government on 7 February 2018.

Item 6 (Amendments to Standing Orders) – in response to a question from Councillor Goodfellow regarding political balance on the East Lothian Licensing Board, the Service Manager – Legal and Procurement, Carlo Grilli, advised that the Licensing Board was subject to specific legislation and had to act with political neutrality; therefore, political proportionality could not be applied. Councillor Currie remarked that although there was no requirement for political balance, it might be considered desirable. He noted that he would take this matter up with officers, with a view to resolving the issue.

2. MINUTES FOR NOTING

The minutes of the East Lothian Partnership meeting of 26 September 2017 were noted.

3. BEST VALUE ASSURANCE REVIEW 2018

A report was submitted by the Chief Executive informing the Council of Audit Scotland's intention to carry out a Best Value Assurance Review of East Lothian Council in the spring of 2018.

The Service Manager – Corporate Policy and Improvement, Paolo Vestri, presented the report, advising that the Council would be subject to a Best Value Insurance Review in 2018, the first such assessment since 2007. He highlighted the factors that would be taken into account during the review, which would involve interviews with staff, councillors and community planning partners. He advised that this process would get underway in mid-March, and that the report should be completed by June, with a report being presented to the Accounts Commission in October.

The review was welcomed by both Councillor Hampshire and the Provost, who looked forward to working with the auditors throughout the process.

Decision

The Council agreed to authorise the Chief Executive to dedicate appropriate resources to prepare for the Best Value Assurance Review.

4. FINANCIAL REVIEW 2017/18, QUARTER 3

A report was submitted by the Depute Chief Executive (Resources and People Services) recording the financial position at the end of the third quarter of the financial year 2017/18.

Sarah Fortune, Service Manager – Business Finance, presented the report, which had been brought to Council at the request of Members. She drew attention to the key aspects of the report, covering the positions with the General Services budget, Housing Revenue Account (HRA) and the capital programme. She highlighted, in particular, services which were overspent, noting that action was being taken to deliver efficiencies in those areas. She anticipated that the HRA would end the financial year broadly within budget, and that there was likely to be an underspend of £6.3m in the capital programme, £5.7m of which would be carried forward into the new financial year.

Officers responded to a number of questions from Councillor Small in relation to the Education and Adult Social Care budgets. Fiona Robertson, Head of Education, confirmed that the underspend in Education would have no impact on early learning and childcare. She advised of staffing changes required in this area to meet the needs of the '1140 hours' nursery provision. She also highlighted delays in recruiting to posts; a planned review of home-to-school transport for children with additional support needs, including regularising the timings of the school day across East Lothian; and ongoing work with head teachers to manage school budgets. On Adult Wellbeing, David Small, Director of Health & Social Care, advised that there had been some improvement in the delivery of the efficiencies programme and the income collection process since Quarter 2.

Councillor Currie voiced concern at the overspend on the Adult Wellbeing budget and asked if officers were confident that efficiency savings would be realised. Ms Fortune indicated that there was evidence that the overspend was reducing and that plans were in place to ensure efficiencies were delivered. However, she cautioned that this may not be achieved in the current financial year. Mr Small added that 80-90% of the programme would be delivered, but he could not say how much of this would be delivered in the current financial year. He noted that there had been improvements in delayed discharge figures, and that the use of acute hospital beds had reduced by 10% - a meeting would be held with the NHS to look at

the financial impact of this. He suggested that this matter could be discussed in more detail at the Integration Joint Board.

On the carry-forward of overspends, Ms Fortune pointed out that the Adult Wellbeing budget may start the 2018/19 financial year with a deficit, but reiterated that officers would continue to work with the service to deliver the required savings before the end of 2017/18.

Councillor McLennan asked about the cost to the Council of external day and residential care and foster placements for children and young people. Sharon Saunders, Head of Children and Adult Services, reported that for Children's Services, the projected year-end spend on external residential placements for 2017/18 was £1,55m, and for Education it was £1.869m, against 2017/18 budgets of £998,070 and £1.629m respectively. She emphasised that children were only placed externally where necessary, and that there was work underway to look at providing alternative local opportunities. On fostering, the budget for external placements was £250,000, with an in-year spend amounting to £499,000, due to higher numbers of children being in external foster placements (currently 13, although it had been as high as 19 in the current financial year). Ms Saunders advised that, traditionally, East Lothian has approximately 5 children in external foster placements at any one time. She made reference to pressures on the foster care capacity within East Lothian Council's own foster care service, which had resulted in an underspend for local placements, off-setting the costs of the overspend in the external placements budget.

In response to a question from Councillor McLennan as regards coastal car parking income, Ms Fortune advised that income received amounted to £127,000, which was lower than expected, but noted that the expected income for a full year would be £300,000. On the review of coastal car parking charges, the Chief Executive noted that the review would be carried out after a full year of operation, and that she would advise Members about the review process in due course.

With reference to projected expenditure on Polson Park, Tranent, Councillor McLeod asked if it would be possible to bring this work forward. Liz Denovan, Service Manager – Corporate Finance, undertook to look into this matter.

Councillor Hampshire opened the debate by paying tribute to staff for their efforts to continue providing high-quality services during difficult financial circumstances. He assured Members that staff were looking at new ways of delivering services, but that making changes could take some time.

Councillor Small recognised that the financial environment was challenging, but hoped that the implementation of changes could be accelerated. He hoped to see improvements in financial performance in the next quarterly report.

Councillor Currie welcomed the opportunity to debate this report at Council. With reference to the underspend on the capital programme, he warned that this may result in an overspend at a later date once projects had been delivered, and asked that this situation be monitored.

Councillor Akhtar highlighted the pressures on the Education and Children's Services budgets, especially at a time of population growth. She informed Members of the efforts being made to keep children and young people within East Lothian.

Decision

The Council agreed to note the financial performance of services at the end of December 2017.

5. TREASURY MANAGEMENT STRATEGY 2018/19 TO 2020/21

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking the approval of the Treasury Management and Investment Strategies for 2018/19 to 2020/21.

The Service Manager – Corporate Finance, Liz Denovan, presented the report, advising Members of the requirement for the Council to approve a Treasury Management and Investment Strategy that demonstrated compliance with the CIPFA Code of Practice. She highlighted the key aspects of the Strategy, which were summarised in the report at Sections 3.5-3.26. She also noted that a Members' briefing on treasury management would take place on 24 April.

Councillor Findlay raised the possibility of converting higher interest rate loans to lower ones. Ms Denovan advised that there were currently no re-financing opportunities available that would benefit the Council, but that she would continue to monitor this position.

Councillor McLeod asked if the Council was intending to borrow in the near future. Ms Denovan indicated that it was the intention to borrow up to £15m within the next week.

Responding to a question from Councillor Hampshire on whether the generation of income was taken into account when considering capital investment, Ms Denovan confirmed this to be the case.

Councillor Currie suggested that the Council should consider purchasing shop units to lease. Ms Denovan advised that this may be possible, but that such purchases would have to be made from the General Services budget.

Referring to the Council's previous high level of external debt in comparison to other Scottish local authorities, Councillor O'Donnell asked what the position was now. Ms Denovan explained that the situation had not changed significantly.

Councillor Small proposed that the Council should be looking at generating additional income in order to achieve its long-term plans. Councillor McLennan, speaking in support of this view, suggested that a cross-party group should be established to explore income-generation opportunities. Councillor Hampshire made reference to the opportunities that would be created by the development of Blindwells, Cockenzie and Queen Margaret University, noting that all parties would continue to be involved in discussions about these developments. However, he warned against the Council taking financial risks.

There followed a discussion on the establishment of a cross-party group, as proposed by Councillor McLennan, to look at investment/income generation opportunities. The Chief Executive reminded Members that the Council's priorities had been set out in the Council Plan and that any additional investment plans would have resource implications. She noted, however, that she was prepared to consider the ideas put forward by Members.

Decision

The Council agreed:

- i. to note the Treasury Management Strategy, as referenced in Sections 3.5-3.23 of the report;
- ii. to note the Investment Strategy, as referenced in Sections 3.24-3.27 of the report;

- iii. to approve the repayment of loan fund advances by the statutory method before 1 April 2016 and after 1 April 2016, as set out in Sections 3.10-3.11 of the report;
- iv. to approve operational boundaries for external debt, as detailed in Section 3.20 of the report;
- v. to approve authorised limits for external debt, as detailed in Section 3.21 of the report;
- vi. to approve the delegation of authority to the Head of Council Resources to effect movement between external borrowing and other long-term liabilities, as detailed in Section 3.23 of the report; and
- vii. to approve the detailed Treasury Management Strategy Statement, available in the Members' Library (Ref: 24/18, Feb 18 Bulletin).

6. RATIFICATION OF THE SESPLAN BUDGET 2018/19

A report was submitted by the Depute Chief Executive (Partnership and Community Services) seeking ratification of the decision of the Joint Committee of the South East Scotland Strategic Development Planning Authority (SESplan) to approve the SESplan operating budget for 2018/19.

Iain McFarlane, Service Manager – Planning, presented the report, advising of the decision of the SESplan Joint Committee in November 2017 to approve an operating budget for 2018/19; this decision required ratification by all member authorities. Mr McFarlane advised that the SESplan Strategic Development Plan 2 was currently at examination stage, with the report expected in the autumn of 2018, and that the member authorities had agreed to commit resources to complete any outstanding actions in relation to SDP2. He noted that, for 2018/19, the Council was being asked to contribute £10,000 to this function.

Decision

The Council agreed to ratify SESplan's operating budget for 2018/19 in terms of the decision taken by the SESplan Joint Committee at its meeting on 27 November 2017.

7. EAST LOTHIAN COUNCIL LOCAL TRANSPORT STRATEGY AND ASSOCIATED PLANS

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) presenting Council with the draft Local Transport Strategy and associated plans (subject to consultation and amendment, as appropriate), and advising of the consultation and scoping on the Strategic Environmental Assessment (SEA) accompanying the Local Transport Strategy and associated plans.

The Service Manager – Roads, Alan Stubbs presented the report, which had been continued from the meeting of the Council on 19 December 2017. He advised of the five main themes of the Strategy, which were reflected in the four action plans (as set out in Section 3.6 of the report). He drew attention to the timescales and the process for the consultation exercise, noting that a consultation report and final draft of the Strategy would be presented to Council for approval in June 2019.

Councillor Findlay requested that the review of coastal car parking charges should commence as soon as possible. He also asked how the Council would ensure the

involvement of rural communities in the Local Transport Strategy consultation. Mr Stubbs made reference to the method proposed for the consultation, which had also been used for previous consultations, and which would involve workshops being held in the six main towns and an online consultation facility. He also noted that a variety of community groups would be informed about the consultation, and he took on board suggestions as regards publicising the consultation. He advised that, due to resource issues, it would be difficult to deliver additional workshops to those planned. Councillor Findlay suggested that additional workshops could be held in the larger villages; Mr Stubbs agreed to discuss this further with him outwith the meeting.

Councillor Currie questioned the re-wording of the section of the Parking Strategy. Mr Stubbs assured him that the wording had been amended to take account of the options available.

In response to a question from Councillor Williamson on the volume of documentation relating to the consultation, Mr Stubbs advised that an executive summary of each document would be produced, as well as a questionnaire on specific aspects of the consultation.

As regards the timescales of the consultation exercise, Mr Stubbs indicated that, if approved, it would be launched at the end of March, with the workshops taking place during the week beginning 19 April. The consultation would run for six weeks.

Responding to a question from Councillor Goodfellow on carbon emissions from vehicles, Peter Forsyth, Team Manager – Assets and Regulatory (Transportation), explained that there were a number of low-emission zones in East Lothian, and that work was underway to ascertain if the Council's parking wardens could issue penalty notices in instances of idling vehicles.

Councillor Small welcomed the revisions to the draft Strategy. He asked how the Local Transport Strategy linked to the Local Development Plan. Mr Stubbs advised that the Strategy may need to be altered to reflect the outcome of the LDP Examination Report.

Councillor Henderson raised her concerns at the technical nature of the documents, remarking that people may find them difficult to understand. She also sought reassurance that people's expectations would be managed through the workshops.

Councillor Currie expressed his disappointment that Members had not been given the opportunity to comment on the wording of the documents, particularly in relation to Parking Policies 4 and 5. He stated that SNP Members would not be supporting the draft Strategy because they felt the wording of these policies had not been amended sufficiently.

The draft Strategy and proposed consultation process was welcomed by a number of Members.

The Provost moved to the vote on the draft Local Transport Strategy, associated plans and supporting supplementary documents, for consultation:

For:	14
Against:	6

Decision

The Council agreed to approve, for consultation, the draft Local Transport Strategy, associated plans and supporting supplementary documents.

8. EAST LoTHIAN PARTNERSHIP – REVISED STRUCTURE

A report was submitted by the Chief Executive informing the Council of changes that the East Lothian Partnership had agreed to its structure.

The Service Manager – Corporate Policy and Improvement, Paolo Vestri, presented the report, advising of changes to the community planning process, as a result of the Community Empowerment (Scotland) Act 2015. He reminded Members of the decision by the East Lothian Partnership to approve the Local Outcomes Improvement Plan, and to the approval of a new structure by the Partnership in January 2018. He set out the details of that new structure.

Councillor Bruce asked about Council funding for the East Lothian Partnership. Mr Vestri advised that the Council made a contribution of £20,000, and that the NHS contributed £10,000. He added that the Police and the Fire and Rescue Service had made no financial contribution, adding that the future resourcing of the Partnership would be discussed by the Governance Partners Group.

In response to a question from Councillor Findlay as regards the potential for councillors to have a conflict of interest when voting on certain matters, Mr Vestri advised that this matter had not been discussed as part of the review, and that he had not been aware of any conflicts of interest. Councillor Findlay requested that this issue be considered.

Councillor Currie commented that the test of the new structure would be the outcomes, and suggested that there should be a review of the arrangements in due course.

Councillor Small welcomed the Chief Executive's role on the Governance Partners Group. He also spoke in support of the revised structure.

Councillor McGinn praised the diverse nature of the Area Partnerships, which had attracted broad representation from across communities and empowered people to make decisions affecting their own communities. His views were echoed by Councillor Forrest.

Councillor Akhtar pointed out that the Council could not address all issues alone, and that it was important to ensure that outcomes could be delivered. She welcomed the revised structure and the strengthening of Area Partnerships.

Decision

The Council agreed:

- i. to note the new structure agreed by East Lothian Partnership;
- ii. to note that the Council no longer has lead responsibility for the Partnership, but rather joint responsibility with other organisations, and that consequently, Partnership meeting minutes would now be placed in the Members' Library rather than being presented separately to the Council for noting; and
- iii. to authorise the Council's Chief Executive, or substitute when necessary, to represent the Council on a Governance Partners Group.

9. SCHEDULE OF MEETINGS 2018/19

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 2018/19.

The Clerk presented the report, advising that the 2018/19 schedule largely followed that of the current session. She noted that a change had been requested to the date of the PPRC meeting in June 2019, proposing that this meeting be held on 12 June.

Discussion

The Council agreed:

- i. to approve the proposed Schedule of Meetings for 2018/19, noting the change to the PPRC meeting date in June 2019; and
- ii. to note that the schedule was subject to change, and that any changes would be communicated to Members and officers as soon as practicable.

10. SUBMISSIONS TO THE MEMBERS' LIBRARY, 7 DECEMBER 2017 – 14 FEBRUARY 2018

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 7 December 2017 and 14 February 2018, 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) of Schedule 7A to the Local Government (Scotland) Act 1973.

Governance Review: Musselburgh Joint Racing Committee

A private report advising of the findings of a governance review of the Musselburgh Joint Racing Committee was approved by the Council.



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

**THURSDAY 16 NOVEMBER 2017
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

2a

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor S Currie
Councillor J Findlay
Councillor S Kempson

Advisers to the Local Review Body:

Mr P Zochowski, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB

Others Present

Ms L Fisher, EMA Architecture + Design Limited (Item 2)

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

None

Councillor Hampshire, elected to chair the meeting by his colleagues, welcomed everyone to the meeting. He advised that Members would today consider three planning applications and outlined the procedure for the East Lothian Local Review Body (ELLRB) meetings.

A site visit for all three applications had been carried out prior to the meeting.

**1. PLANNING APPLICATION 17/00244/P – NON-DETERMINATION
PROPOSED CHANGE OF USE FROM FORMER ANNEX BUILDINGS TO 67
HIGH STREET, DUNBAR, FAIRBAIRN'S FURNITURE STORES, TO FORM
DWELLING HOUSE ACCESSED FROM COSSARS WYND, DUNBAR**

The Planning Adviser, stated that the application site was within a Conservation Area and advised that the proposed buildings to be demolished were considered Listed Buildings by virtue of being attached to Listed Buildings. He referred to the Case Officer's planning assessment and stated that the application site was located on the south side of Cossars Wynd and comprised two components: the northern part on which are located a series of linked former storage buildings, and the southern part which comprised an area of rough, unmade land associated with those buildings.

The Planning Adviser advised that the site was essentially landlocked and that the closest public road was Cossars Wynd. The applicant had been granted Listed Building Consent by the Department of Planning and Environmental Appeals (DPEA) on 8 November 2017 and today's application was for the planning application only. He also explained that the applicant's proposals had changed. Originally, the plans had been only for the downtakings of the upper part of the coach house. The Case Officer had requested a report from a structural engineer and the report stated that the building was of poor quality and more downtakings were required. The Council's structural engineer had agreed with this assessment. The applicant subsequently submitted revised drawings with additional downtakings. The Case Officer requested the applicant to submit a revised application to reflect the material change to the proposals but the applicant did not comply with this request.

The Planning Adviser stated that the Case Officer had considered that the proposals would have an impact on the Conservation Area but the effects were expected to be largely neutral.

Questions from Members followed.

The Chair understood from the papers that the original application was for the reduction of the walls to a certain height and that the revised application was for the walls to be reduced to a lower height, a height which the Case Officer considered to be demolition and erection of a new house. He asked the Planning Adviser if his understanding was correct and the Planning Adviser confirmed that it was. Councillor Findlay noted from the papers that Historic Scotland had recommended that the stone from the down-takings on the site should be retained and re-used elsewhere on the site and enquired how viable this would be. The Planning Adviser advised that it would be possible to re-use much of the stone and, if Members were minded to grant planning permission, a condition could be applied to this effect.

Councillor Currie enquired if the Case Officer's assessment within the papers was based on the original application. He noted that this assessment was recommended

for approval subject to conditions. The Planning Adviser confirmed that it was, and agreed with Councillor Currie that the key issue with this planning application was the technicality over the description on the application form. Councillor Currie enquired if a revised application form from the applicant was a requirement or if Members could exercise judgement. The Legal Adviser replied that it was the Case Officer's opinion that the application needed a new planning assessment, but in terms of the building, Members might decide that the changes were insufficiently material to warrant a revised application form. The Chair asked if the application form was acceptable in building terms and the Planning Adviser confirmed that it was.

The Chair stated that the change in description was that the walls would be further reduced in height by one metre. That was classed as demolition, but he noted that the historical arches would be retained. His concern was whether a full assessment had been carried out by the Case Officer. The Planning Adviser replied that the Case Officer's view was that she considered the extent of the demolition to be the effective removal of the building and the erection of a new building. The Chair stated that he would understand demolition as being the removal of the entire building but it was clear some of the original building would be retained. The Chair asked if the walls could be reduced in height from the original planning application by submitting a Variation of Planning Consent. The Planning Adviser replied that a new planning application might be required.

For clarification, the Legal Adviser stated that the application before Members today is for the revised proposals and it was for Members to decide if the description on the application form was a material issue. If Members were to approve the application, conditions could be applied to reflect what had been approved.

The Chair asked Members if they had sufficient information to proceed to determine the application today and they confirmed that they had. Comments from Members followed.

Councillor Currie stated that the site visit had been helpful, allowing him to see the dilapidated condition of the building and to learn what was to be retained and why. The key issue was the description on the planning application form and Members had been re-assured that they could make a legal decision based on the original application form. In his view, the revised proposals would bring about a significant improvement to the site and he considered that the present condition of the buildings was a matter of concern. He was therefore minded to approve the application.

Councillor Findlay agreed with his colleague. He was concerned that if the proposals were not approved, the buildings would be at risk. He too was therefore minded to approve the application.

Councillor Kempson shared the view of her colleagues. She considered that the buildings, in their present state, were not attractive and, in the event of stormy weather, could be at risk.

The Chair was similarly minded and considered that the proposals would not have a detrimental impact on the community. He had witnessed how quickly buildings can deteriorate and welcomed proposals which would restore the buildings on this site.

Decision

The ELLRB unanimously agreed to grant planning permission to the application, subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.
The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:
 - a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
 - b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
 - c. the ridge height of the proposed house shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 No development shall take place on the site until the developer, has through the employment of an archaeologist or historic buildings specialist, secured the implementation of a programme of archaeological work (Enhanced level Historic Building Recording) on the former 'coach house' building to be demolished, in accordance with a written scheme of investigation which the applicant shall submit to and have approved in advance by the Planning Authority.

Reason:

To record upstanding historical archaeological remains.

- 3 The support columns and arches of the east elevation of the existing former 'coach house' building and the lower part of its north (roadside) elevation wall shall be retained in situ in accordance with the details shown for their retention on the application drawings docketed to this grant of planning permission, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interest of safeguarding the special architectural or historic interest of the listed building and the character and appearance of the Conservation Area.

- 4 Other than for the lowering in height of parts of the north (roadside) boundary wall and of the length of wall between the southwest corner of the former 'coach house' building and the west boundary of the site, as detailed for them on the drawings docketed to this grant of planning permission, the boundary walls of the site shall be retained in situ at their present height unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interest of safeguarding the special architectural or historic interest of the listed building and the character and appearance of the Conservation Area.

- 5 Details and a sample of the natural red clay pantiles to be used to clad the roof of the house hereby approved shall be submitted to and approved in writing by the Planning Authority prior to their use in the development, and thereafter the natural red clay pantiles used to clad the roof of the house shall accord with the details and sample so approved.

Reason:

In the interest of securing an appropriate external finish for the house hereby approved in order to safeguard the character and appearance of the Conservation Area.

- 6 Details, including its colour, and a sample of the lime render to be used for the finish of the external walls of the house hereby approved shall be submitted to and approved in writing by the Planning Authority prior to its use in the development, and thereafter the lime rendered finish of the external walls of the house shall accord with the details and sample so approved.

Reason:

In the interest of securing an appropriate external finish for the house hereby approved in order to safeguard the character and appearance of the Conservation Area.

- 7 Notwithstanding that which is shown on the application drawings docketed to this grant of planning permission, the glazing units of the windows and external doors of the house hereby approved, including those of the lean-to addition on its east side, shall be slim-lite glazing units in accordance with details of such glazing to be submitted to and approved in advance in writing by the Planning Authority and thereafter the slim-lite glazing units used for the windows and external doors of the house shall accord with the details so approved unless otherwise agreed in writing with the Planning Authority.

Reason:

In the interest of safeguarding the character and appearance of the Conservation Area.

- 8 Details, including its colour, of the paint, stain or timber preservative to be applied to the outer surface of the frames of the windows and external doors of the house and the timber parts of the external doors shall be submitted to and approved in advance in writing by the Planning Authority prior to its use in the development, and thereafter the paint, stain or timber preservative used shall accord with the details so approved.

Reason:

In the interest of safeguarding the character and appearance of the Conservation Area.

- 9 The natural stone to be used in the repair, infill and copes of the existing boundary walls and in the new lengths of wall hereby approved shall be a natural stone that shall match as closely as possible the natural stone of the existing boundary walls in its coursing, texture, and colour in accordance with details and a sample of the new stone to be used that shall be submitted to and approved in advance in writing by the Planning Authority prior to its use in the development hereby approved, and thereafter the natural stone used shall accord with the details and sample so approved.

The mortar to be used to repoint the existing boundary walls and to point the new lengths of boundary wall hereby approved shall be a lime mortar unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of safeguarding the special architectural or historic interest of the listed building and the character and appearance of the Conservation Area.

- 10 Details and a sample of the paving to be used for the surface finish of the hardstanding areas hereby approved shall be submitted to and approved in advance in writing by the Planning Authority prior to its use in the development and thereafter the paving used shall accord with the details so approved.

Reason:

In the interest of safeguarding the special architectural or historic interest of the listed building and the character and appearance of the Conservation Area.

- 11 Roof and wall vents/flues are to be installed in accordance with details of them to be submitted to and approved in advance in writing by the Planning Authority prior to their installation in the development and thereafter the roof and wall vents/flues shall accord with the details so approved.

Reason:

In the interest of safeguarding the character and appearance of the Conservation Area.

- 12 Prior to the occupation of the house hereby approved the windows of the north elevation of single storey lean-to component of its east elevation shall be obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved in advance in writing by the Planning Authority prior to its use on the house. The obscure glazing of the windows shall accord with the sample so approved. Thereafter the windows of the north elevation of single storey lean-to component of the east elevation of the house shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential property of 1 to 4 Church Place to the north.

- 13 Prior to the occupation of the house hereby approved, on-site secure cycle parking / storage shall be provided in accordance with details of such cycle parking / storage to be submitted to and approved in writing in advance by the Planning Authority prior to its provision on the site, and thereafter the cycle parking / storage facilities shall accord with the details so approved and shall be retained for such use unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure provision of adequate on-site cycle parking / storage.

A Decision Notice would be issued within 21 days.

2 PLANNING APPLICATION 17/00292/P- REVIEW AGAINST DECISION (REFUSAL) ERECTION OF SCULPTURE, FORMATION OF FOOTPATH, MOUND AND ASSOCIATED WORKS AT LAND NORTH EAST OF SPOTT ROUNDABOUT, DUNBAR

The Planning Adviser stated that permission was being sought for the erection of an artwork on an area of land to the north off the A1 Trunk Road. The proposed steel sculpture was a 5-metre high bear symbolising Dunbar's association with the environmentalist John Muir who was born in in Dunbar. It was also proposed to form two pedestrian connections from the footpath of the northern side of the A1 trunk road to provide pedestrian access to the proposed sculpture.

The Chair opened a session of questions for the Legal Adviser and Planning Adviser. He noted that the principle reason for refusal was Transport Scotland's advice that the location of the proposed sculpture could result in inappropriate parking which would interfere with the safety and free flow of traffic on the trunk road. The Chair enquired if the application could be continued and the Legal Adviser informed Members that they had two options; they could either refuse the application or agree to hold a Hearing and request further information. The applicant had requested the second option.

The Planning Adviser stated that this planning application had been submitted to satisfy a condition attached to planning permission for the erection of 525 houses on land at Halhill, Dunbar. He also advised that two objections had been received in relation to the bear structure application and Dunbar Community Council had expressed concerns. The application had been refused by the Case Officer as he considered that the proposed development would have a detrimental impact on highway safety in the area, contrary to policy T2 of the adopted East Lothian Local Plan 2008.

The Legal Adviser stated that, should Members be minded to overturn the decision of the Case Officer to refuse the application, it was open to them to propose a change to the proposals. The application would then go through a further Transport Scotland consultation process.

The Chair asked Members if they had sufficient information to proceed to determine the application today and they confirmed that they had. Comments from Members followed.

Councillor Findlay stated that he had at first been surprised that the application had been refused, but on further scrutiny, when he noted the pedestrian paths on the A1, he had changed his view. He was in favour of having the sculpture erected but on the condition that the connecting footpaths were re-routed through the adjacent field for safety reasons.

Councillor Kempson stated that she considered the link with John Muir a tenuous one and did not find the sculpture attractive. In her view, the sculpture could also present a distraction for motorists using the A1 and pose a danger. She was therefore minded to uphold the decision of the Case Officer to refuse the application.

Councillor Currie was in favour of the bear sculpture being erected but described the proposed footpaths for members of the public, linking the sculpture to the A1, as 'ridiculous'. In his view, the paths would also encourage motorists to park on the A1 which would be dangerous. He therefore considered that a new pathway would be a more viable option. Councillor Currie stated that the sculpture had merit from a tourism point of view and cited the successful Kelpies structure and the Angel of the North. He believed that the bear sculpture presented a great opportunity for Dunbar and could be a catalyst for other enterprises at this location. He was therefore minded to overturn the decision of the Case Officer to refuse the application. However, he stressed that approval would have to be on the condition that footpaths connecting the structure with the A1 would be re-routed under the railway line where there was an existing path.

The Chair stated that this proposal had elicited a range of opinions in the community and this was to be expected as all artwork provokes an opinion. He advised that the artist commissioned to deliver the sculpture was a well known Scottish artist who had designed the famous Kelpies. He was also mindful that the sculpture would provide Dunbar with a further connection to John Muir and would make more people aware of his achievements. However, he agreed with his colleagues that the proposed footpath was unacceptable. He was therefore minded to grant planning consent on the condition that the connecting path was routed through the retail park to allow safe access to the sculpture for the general public.

The Planning Adviser advised that a new application would be required to reflect the change to the footpaths.

Decision

The ELLRB agreed by a majority of 3:1 to overturn the original decision of the Case Officer and grant planning permission subject to the following conditions:

1. Prior to the commencement of development, full details of the treatment and colour of the steel finishing material of the sculpture shall be submitted to and approved in writing by the Council. Thereafter development shall be undertaken in accordance with the details so approved.

Reason:

In the interests of preserving the character and appearance of the area.

2. Notwithstanding that shown on the drawings docketed to this planning permission, the footpaths are not hereby approved.

Reason:
In the interests of road safety

**3. PLANNING APPLICATION 17/00490/P - REVIEW AGAINST DECISION (REFUSAL)
REPLACEMENT WINDOWS AT 15 CREEL COURT, NORTH BERWICK**

The Planning Adviser advised that this application applied to a two-storey flatted property located within the North Berwick Conservation Area. Permission was being sought for the replacement of 2 windows on the rear (west and south) elevations of the property at first floor level and 3 windows on the front (east) elevation of the property at first floor level, all of which were timber framed sash and case style windows. The proposed replacement windows would be double glazed uPVC sash and case style windows.

The Planning Adviser advised that the application had been refused as the proposals had been contrary to policy DP8 of the adopted East Lothian Local Plan 2008 which states that replacement windows in a Conservation Area must preserve or enhance the area's special architectural or historic character. The policy allowed only three exceptions; when there was no visible difference between the original window and the proposed window, the building did not contribute to the character of the area or the window could not be seen from a public place. The Planning Adviser advised that the uPVC windows to the rear of the property would not be visible to the public.

The Chair asked Members if they had sufficient information to proceed to determine the application today and they confirmed that they had. Comments from Members followed.

Councillor Currie stated that, in his view, the windows of this property could not be easily seen by members of the public and he had observed many examples of both uPVC doors and windows in the area. He also argued that good quality uPVC windows, as opposed to poor quality wooden framed windows, could enhance the character of the area. He understood why planning officers wished to protect Conservation Areas but was satisfied that, in this case, one of the exceptions to policy DP8 applied as the replacement windows were not in full view of the public. He was therefore minded to overturn the decision of the Case Officer to refuse the application.

Councillor Kempson agreed with her colleague. She considered that the proposed replacement windows were not in public view and would not have a detrimental impact on the Conservation Area. She too was therefore minded to overturn the decision of the Case Officer.

Councillor Findlay was satisfied that the replacement windows could not be seen by the general public and, like his colleagues had observed many other examples of uPVC windows and doors in properties nearby.

The Chair took a similar view. He considered that the public could only have a very limited view of the replacement windows and was minded to grant consent to the application.

Decision

The ELLRB unanimously agreed to overturn the decision of the Case Officer and grant planning consent to the application.

A Decision Notice would be issued within 21 days.

Signed

Councillor N Hampshire
Convener of Local Review Body (Planning)



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

**THURSDAY 15 FEBRUARY 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

2b

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor S Currie
Councillor J Findlay
Councillor S Kempson

Advisers to the Local Review Body:

Mr L Taylor, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB

Others Present

Ms C Samuel, Applicant (Item 1)

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

None

Councillor Hampshire, elected to chair the meeting by his colleagues, welcomed everyone to the meeting of the East Lothian Local Review Body (ELLRB).

A site visit had been carried out for both planning applications prior to the meeting.

1. PLANNING APPLICATION 16/01035/P – REVIEW AGAINST CONDITION 9 OF PLANNING PERMISSION FOR 11a LETHAM MAINS HOLDINGS, HADDINGTON

The Planning Adviser stated that the first application was a review against Condition 9 of planning consent 16/01035/P at 11A Letham Mains Holdings, Haddington. A planning application had been submitted for the erection of a single storey detached dwelling house of contemporary architectural style within the land owned by the applicant and in use as a Plant Nursery Business. The Planning Adviser added that the site was largely screened from the adjacent road by existing hedgerows with the exception of the access point and the high point of the adjacent road. It was also largely screened from the south and west by existing planting.

The Planning Adviser stated that, in considering the application, the Case Officer had determined that the building height and positioning within the site, away from the eastern boundary, were acceptable for the site and countryside surroundings. The proposal was considered to contrast in a complimentary manner with existing, more traditional dwellings to the south and compliant with Strategic Development Plan Policy 1b and with Local Plan 2008 Policy DC1. The Case Officer had made his decision based on evidence submitted in support of the need for the dwelling, in association with the existing business. However, the permission was subject to a number of conditions including sample materials and external finishing. A condition to remove permitted development rights was also added, to which this review relates.

The Chair invited questions from Members. Councillor Currie assumed that if restrictions were removed, any future plans of the applicant would still be subject to building control and building warrants. He asked the Planning Adviser if the only difference between having Condition 9 attached to the consent and not having the condition was that in one instance a planning application would need to be submitted, and for the other, no application would be required. The Planning Adviser confirmed that Councillor Currie's understanding was correct and advised that the reason the Case Officer had included Condition 9 was likely to be because new dwellings in the countryside were subject to tighter controls. The Chair asked if the applicant could apply for planning permission if she wished to extend the building and the Planning Adviser confirmed that the applicant could submit another planning application if she wished.

The Chair asked Members if they had sufficient information to proceed to determine the application today and they confirmed that they had.

Councillor Bruce stated that he supported the Case Officer's decision to include Condition 9 and Councillor Kempson agreed, stating that it was important to safeguard the countryside. Councillor Currie considered that Condition 9 had been included in the planning consent for a purpose and had not been convinced that it should be removed. He added that development in the countryside was a sensitive issue and the guidance to Councillors was to exercise control in this area.

The Chair was similarly minded to his colleagues.

Decision

The ELLRB unanimously agreed to uphold the original decision of the Planning Officer to include Condition 9 in planning consent 16/01035/P and rejected the appeal.

2. PLANNING APPLICATION 16/00563/P – REVIEW AGAINST DECISION (REFUSED) CHANGE OF USE OF OPEN SPACE TO DOMESTIC GARDEN GROUND AND ERECTION OF FENCING (RETROSPECTIVE) AT 13 CALEDONIAN CRESCENT, PRESTONPANS EH32 9GF

The Planning Adviser stated that this application sought a change of use of open space to domestic garden ground and the erection of a fence. The land to which this retrospective application related was in the ownership of no.13. The property was a two storey detached dwelling of modern design located in a prominent corner position on Caledonian Crescent within the wider Mid Road Prestonpans site. The Planning Adviser stated that the site was a generally open plan development with limited examples of boundary walls and fences within it and the 1.8m timber fence which had been erected enclosed an area of previously open ground. In considering the application, the Case Officer had determined that the combined effect of the change of use together with the erection of a fence was harmful to the character and appearance of the area. The proposal was therefore considered contrary to Local Plan 2008 Policy DP2 and permission was refused.

The Planning Adviser stated that no objection had been received from the Council's Highways Department and that landowner debates were not a material planning consideration.

The Chair opened questions for the Planning Adviser asking if the land enclosed by the fence had been sold to the applicant and included in his title deeds. The Planning Adviser confirmed that the applicant owned the land and that it was included in the title deeds. The Chair noted from the applicant's submission that the area enclosed by the fence had been intended by the developer to be open space but had been sold to the applicant. The Planning Adviser stated that it was common for people to own land designated as open space.

Councillor Currie, who had viewed Google Earth photos of the property before and after the erection of the fence, stated that it appeared the applicant owned the land but was not free to do as he chose with his land. He asked if it would make a difference if the applicant lowered the height of the fence and was advised by the Planning Officer that each application was considered on its own merits. Councillor Currie asked if the reason for refusal of the application was the fence or the loss of the open ground and was advised by the Planning Adviser that it was the combined effect of both.

The Chair stated that this appeal suggested that, in future, planning consent should be more specific, clearly stating whether the responsibility for land was being given to an area of residents or one individual. He considered that, in this case, either the developer had wrongly sold the land or there had been insufficient clarity in the planning consent.

The Chair asked Members if they now had sufficient information to proceed to make a decision today and they agreed that they had.

Councillor Currie stated that someone either owns land or they don't. The applicant has the responsibility of maintaining the land and should not have the liability without the benefit. He considered that open space should not be sold to an individual and was minded to uphold

the appeal. He also pointed out that there were other fences and hedges bordering garden ground in the neighbourhood.

Councillor Kempson, having had ownership of the land clarified, agreed with Councillor Currie and was also minded to uphold the appeal. She stated that the land belonged to the house at No 13 and the owner was justified in fencing it.

Councillor Bruce was similarly minded and considered that an anomaly had occurred in this case. In his view, if the garden area at No 13 was designated open space, it should have been the responsibility of all owners in the area.

Decision

The ELLRB unanimously agreed to overturn the original decision of the Planning Officer and grant planning permission.

Signed

Councillor N Hampshire
Convener of Local Review Body (Planning)

REPORT TO: East Lothian Council

MEETING DATE: 24 April 2018

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Report on Examination of Proposed East Lothian Local Development Plan

3

1 PURPOSE

- 1.1 To request that the Council notes the findings of the Scottish Ministers' Examination in Public of the proposed East Lothian Local Development Plan (LDP), set out as conclusions within each section of the completed [Report of Examination](#) as previously made available to elected members and available to view on the Council's website within the Local Development Plan web pages.
- 1.2 To advise the Council of the Reporter's consequent recommended post-examination modifications to the proposed LDP also set out within the Report of Examination, and in the Table of Reporter's Recommendations by Issue (Appendix 1 of this report).
- 1.3 To advise the Council that the Reporter's recommended post-examination modifications are largely binding on the Council as it finalises the content of the LDP for adoption as set out in Section 19 (10-11) of the Town and Country Planning (Scotland) Act 1997 and Regulation 2 of the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009 (see paragraph 3.24 below).
- 1.4 To advise the Council that, in the context of point 1.3 above, before the LDP can be adopted by the Council all the Reporter's recommended post-examination modifications should be fully incorporated within the LDP, unless any one of them falls within a category that means the Council should decline to follow it, as defined within Regulation 2 of the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009.
- 1.5 To further advise the Council that it should also make any requisite minor consequential modifications to the proposed LDP arising as a consequence of the Reporter's modifications themselves (e.g. minor

mapping changes or changes to policy, proposal or paragraph references etc.) and that, other than this and in the circumstances described in point 1.4 above, no further modifications to the proposed LDP can be made by the Council before it adopts the LDP.

- 1.6 To advise Members of the requirement within the Town and Country Planning (Scotland) Act 1997 (as amended) for a decision of the Council on whether it intends to adopt the LDP (as modified following Examination in Public) within three months of receiving the Report of Examination. A decision to this effect will be sought at a separate and later Council meeting.

2 RECOMMENDATIONS

- 2.1 That Council notes the findings of the Scottish Minister's Report of Examination in respect of the proposed East Lothian Local Development, in particular its conclusions and recommended post-examination modifications to the proposed LDP.

3 BACKGROUND

Components of the Development Plan

- 3.1 The Council is required to review the development plan every five years in order to maintain up-to-date development plan coverage for East Lothian. The development plan broadly comprises two parts, a strategic development plan and a local development plan. A local development plan must, by law, be consistent with a strategic development plan.
- 3.2 The development plan is the starting point for determining planning applications, and if kept up to date its provisions carry significant weight in planning decisions. If any part of the development plan is out of date, that part carries less weight in planning decisions. In these circumstances, decision makers may choose to place greater weight on other relevant material considerations such that they outweigh the strategy and policies of the Council's development plan. It is therefore important that both parts of the development plan are kept up to date.
- 3.3 A strategic or local development plan can also be supported by statutory Supplementary Guidance. Statutory Supplementary Guidance must be scoped within the main plan and its content must only address, in more detail, matters of principle set out in the main plan. Once adopted, statutory Supplementary Guidance becomes part of the development plan, and can therefore carry significant weight in the determination of planning applications.
- 3.4 Additionally, a strategic or local development plan can also be supported by non-statutory Supplementary Planning Guidance, but this cannot become part of the development plan. Therefore, as a material

consideration it does not carry as much weight in the determination of planning applications. Non-statutory Supplementary Planning Guidance must be consistent with the main plan and can only provide more detailed policy guidance on the interpretation and application of its policies than would be appropriate in the main plan itself.

- 3.5 Statutory and non-statutory guidance are prepared separately from the main plan(s) to which they relate and are subject to their own separate adoption procedures. They are not subject to Examination in Public.

The Current Development Plan for East Lothian

- 3.6 Currently, the development plan for East Lothian is under review and it comprises the following parts:

- the approved Strategic Development Plan for Edinburgh and South East Scotland (SDP1) prepared by the South East Scotland Strategic Development Plan Authority (SESplan) and approved by Scottish Ministers in June 2013;
- SESplan's statutory Supplementary Guidance on Housing Land. This was prepared by SESplan to support SDP1 and became operative in June 2014. It specifies how much of the city region's requirement for new homes must be satisfied by new housing land allocations within each local authority area; and
- the adopted East Lothian Local Plan 2008.

- 3.7 The Council is in the process of replacing the East Lothian Local Plan 2008 with a new Local Development Plan and has now reached a very advanced stage. The completed stages of this process are described in the following section of this report. If adopted by the Council, the new Local Development Plan will replace the East Lothian Local Plan 2008 as the up-to-date Local Development Plan for the area.

- 3.8 The new Local Development Plan is intended to be accompanied by statutory Supplementary Guidance and non-statutory Supplementary Planning Guidance. Initial drafts of some of this guidance were consulted on when the proposed LDP was published for representation. Comments received on these early draft versions will be taken into account in updated consultation drafts of these documents, as will the findings of the Examination in Public on the proposed LDP. Additional draft Supplementary Planning Guidance has also been prepared for consultation.

- 3.9 All of these planning guidance documents must be published for consultation prior to adoption by the Council. Decisions from the Council to initiate public consultation exercises on these planning policy guidance documents will therefore be sought at separate and later meetings of the Council. The intention is to minimise any delay between adoption of the LDP and adoption of its associated statutory and non-statutory supporting guidance.

- 3.10 Once in consultative draft form, these documents could be taken into account as material considerations but would not carry as much weight in the determination of planning applications as they will once adopted by the Council.

Emerging Local Development Plan: Completed Stages

- 3.11 The Council published the LDP Main Issues Report (MIR) for consultation on 17 November 2014 following significant early consultation and engagement work. Publication of the MIR was the first statutory stage of preparing the LDP. The MIR process consulted on a range of preferred and reasonable alternative approaches and other options for East Lothian's future planning strategy and policies. Around 1,000 consultation responses were received to the MIR, which were reported to Council on 21 April 2015.
- 3.12 On 17 November 2015 the Council approved an amended draft proposed LDP to reflect its consideration of the responses to the MIR. That decision set the context for the necessary technical work to be concluded by officers in support of the planning strategy and policies the Council wanted to include within its proposed LDP.
- 3.13 On 6 September 2016 the Council approved its proposed LDP and associated supporting technical work. That decision confirmed the Council's settled view on its proposed future planning strategy and policies for East Lothian. The proposed LDP was published for a seven-week period of representation until 7 November 2016. Around 440 representations to the proposed LDP were received during the representation period.
- 3.14 Having considered the representations, the Council decided on 28 March 2017 not to make any pre-examination modifications to the plan. Instead the decision was to submit the proposed LDP and its supporting evidence base, the unresolved representations and the Council's responses to these to the Scottish Ministers for Examination in Public, as required if there are unresolved representations to a proposed LDP. In these circumstances Scottish Ministers appoint an independent Reporter to examine the plan and whether the unresolved representations would, in the Reporter's view, justify changes to the proposed LDP. This submission was made on 3 May 2017.
- 3.15 When preparing the submission for Examination in Public, Scottish Ministers required the Council to consider whether the unresolved representations contained common themes – e.g. the amount of new development to be delivered in the area / whether the proposed spatial strategy is appropriate / concern over the impact of new development on infrastructure and the intended approach to mitigation / the scale of development in particular locations or sites / omission of sites etc. Overall, a number of broad themes were identified in the unresolved representations and these were grouped in to issues. In total, 34 separate issues were identified within the unresolved representations.

3.16 The Council responded to each of these separate issues within the standard forms for Examination known as Schedule 4 Forms. The Schedule 4 Forms, taken together, address each individual objectors' unresolved representations. To do this some objectors appear in more than one Schedule 4 Form. This reflects situations where more than one point of objection was made by an individual objector. Each Schedule 4 Form prepared by the Council is completed during the Examination in Public by the Examination Reporter(s), who detail their conclusions and recommendations in respect of each issue. These forms, once completed by the Reporters, become the final chapters of the Report of Examination.

Scope and Purpose of the Examination in Public

3.17 The Examination in Public comprises two stages:

- Stage 1 of the Examination considered whether the Council complied with the minimum publicity and consultation requirements associated with preparing the proposed LDP. This stage of the East Lothian proposed LDP Examination found that the Council met the statutory minimum publicity and consultation requirements, and allowed the Examination to proceed to the next stage;
- Stage 2 of the Examination considers whether, in the Reporter's view, the unresolved representations to the proposed LDP, notwithstanding but also considering the Council's position on these, ought to result in changes to the proposed LDP before it can be adopted by the Council. Stage 2 of the Examination commenced on 8 June 2017.

3.18 During the course of an Examination in Public it is always at the Reporter's discretion to decide whether further information should be sought from parties in order to reach conclusions and recommendations on any issue, and to decide how this further information is to be obtained. Reporters may seek further information through a range of means including written submissions, accompanied or unaccompanied site visits, or hearing or inquiry sessions. During the course of the Examination the Council received 21 requests for further information and 3 other interested parties requests. No hearing or inquiry sessions were considered necessary. All of the information required to reach conclusions on the issues was provided to them at the point of submission, or through the limited amount of further written submissions they requested.

Findings of the Examination in Public on the Council's LDP

3.19 Notwithstanding the content of the [Report of Examination](#) itself, the key highlights of the Report of Examination that support or recommend changes to the proposed LDP are set out below.

Support for the Proposed LDP Approach

3.20 The overall key messages from the Report of Examination that support the Council's approach are as follows:

- The compact spatial strategy and the overall distribution of new development with planned mitigation (including infrastructure provision) is supported as a sustainable settlement strategy for the area that responds appropriately to the pressures for development it faces; in the vast majority of cases the proposed development sites are also supported. The overall strategy will manage change in an appropriate way and is the spatial strategy that should be followed;
- Support is also provided for the introduction of new policies that, taken together with those that facilitate appropriate new development in suitable locations, provide balance to the spatial strategy and offer appropriate strategic landscape protection, conservation and, where appropriate, scope for enhancement – examples of these policies include those on the Green Network, Special Landscape Areas and Countryside Around Towns;
- The supply of employment and housing land within the LDP (as modified) would be appropriate and sufficient, there would be an adequate supply of effective housing land at this time and therefore no need for additional housing land allocations or releases other than those recommended to be included within the LDP. The Report of Examination also concludes that, due to the slower than anticipated rate of housing delivery, a sufficient number of house completions is now unlikely to be possible to meet the SDP1 'interim' housing requirement to 2019, and therefore allocation, release or approval of any additional housing sites in order to meet that 'interim' requirement is not required. The overall Housing Requirement to 2024 does, however, need to be met;
- The Report supports the framework of policies that identify the need for new infrastructure and community facilities provision expected to arise directly as a result of new development, including interventions to provide additional capacity in our schools and community facilities, on the road and rail networks and, where appropriate, NHS provision. Significantly, it also supports the method by which the Council has assessed and justified the need for developer contributions towards these items;
- The safeguard of land for a larger new settlement at Blindwells is supported. The emphasis for the future planning of this area is to be on collaborative working in order to produce a vision for the development of the larger new settlement that will realise the opportunities it could bring in future for East Lothian; on demonstrating how such a vision for the expansion of the new settlement can be made effective; on identifying the nature and

scale of development and land uses that it could contain; on maximising opportunities for regeneration and environmental improvement; and on identifying the mechanisms for delivery, including for required mitigation. In advance of the review of LDP1, the Council can seek to prepare non-statutory Supplementary Planning Guidance, working with stakeholders as appropriate, to describe and illustrate this vision spatially across the expansion area;

- In terms of the wider policy framework within the LDP, the suite of policies on employment and housing (including affordable housing), on town centres, on open space, and on development in the countryside and on the coast, on natural and cultural heritage, on minerals and waste, on energy generation (including sustainable energy generation and the spatial and policy framework for wind farm and wind turbine development), as well as on digital communications networks, on water and air quality and on noise, and on design are all supported with only minor modifications recommended in respect of the wording of some policies or their preambles;
- In light of the Supreme Court Judgement issued during the Examination period (*Aberdeen City and Shire Strategic Planning Authority v Elsick Development Company Ltd*), and in response to a request from the Reporter for further information on this matter as relevant to the proposed LDP, the Council suggested modified wording in respect of Policy DEL1. This was to take account of the above Supreme Court judgement and to clarify within Policy DEL1 that the use of statutory Supplementary Guidance is to be used to indicate the *'likely nature and scale'* of developer contributions, and cannot lawfully be used to predetermine and prescribe these. This modified wording clarifies how Policy DEL1 must be operated by the Council and it is supported by the Report of Examination;
- In that context, the Report also supports the use of the proposed statutory Supplementary Guidance: Developer Contributions Framework to set out in advance, for communities and developers alike, the required infrastructure items and an outline delivery strategy for them as well as the *'likely nature and scale'* of developer contributions that will be expected from developers towards their delivery.

Recommended Post-examination Modifications to the Proposed LDP Approach

3.21 The overall key messages from the Report of Examination where post-examination modifications to the LDP are recommended are as follows:

- The removal of the following sites from the spatial strategy of the LDP:

- MH13: Howe Mire (170 homes and 1 hectare of employment land)
- TT15: Humbie North (20 homes)
- TT16: East Saltoun (75 homes)

In reaching this conclusion the Reporter took into consideration the potential of some allocations helping to sustain local schools and environmental reasons (including cultural heritage constraints and the size and location of some of the settlements). The Report conclusions on the supply of housing land, particularly in the period to 2019, may also have been relevant to supporting the recommendation to remove these sites from the overall supply of housing land. The Reporter also considered that the level of generosity provided results in an adequate supply of housing land. Similarly, the Reporter makes no requirement to re-provide land for employment deleted from the land supply in view of the overall generous supply of land for employment within the LDP;

- The addition of one site for 115 homes and for cemetery provision at Newtonlees Farm, Dunbar is recommended to reflect the Council being minded to grant planning permission in principle for housing and cemetery development at that site as the Examination in Public was ongoing;
- Proposal EGT1: Former Cockenzie Power Station Site is recommended to be modified to reflect the wording of National Planning Framework 3 as interpreted by the Scottish Government. Scope is retained for the Council to prepare non-statutory Supplementary Planning Guidance for this site when the LDP is operative to help guide future planning decisions for development on the land in line with Proposal EGT1 as proposed to be modified;
- Proposal BW2: Safeguarded Blindwells Expansion Area is recommended to be modified only so as to remove the references to the preparation of statutory Supplementary Guidance as a means to allocate the site for development. The Report considers this to be an inappropriate procedural approach, since the Supplementary Guidance was proposed to be used to confirm an allocation of more than only local significance. Additionally, references to the inclusion of a sub-regional town centre within the new settlement is recommended to be removed from the LDP, although the Report notes that future technical work might support the inclusion of this ambition within future plans. Overall on this issue, the Report concludes that these matters should be addressed through a review of the Local Development Plan;
- The Report recommends that references to potential longer-term areas for development to the south-west of Haddington at Dovecot, to the south-west of Dunbar at Eweford Farm and, in particular, at Drem are recommended to be removed from the LDP. The Report

notes that sufficient land would be allocated by the LDP to meet the development requirements of SDP1, and that land is proposed to be safeguard for an expansion of Blindwells in to the longer term. There is therefore no need to identify additional potential development areas at this time, as these are matters more appropriately dealt with through a review of the LDP;

- In terms of cemetery provision, the Report of Examination recommends that Proposal OS5: Potential Cemetery Extensions and the associated cemetery safeguards, be removed from the LDP. The Report of Examination concludes that further technical work will be needed to demonstrate that these sites can be developed for the purpose intended, and that to safeguard them now might prejudice any other appropriate types of development. Nonetheless, it remains possible for the Council to pursue its proposals for these sites via planning applications, as required when the LDP is operative.

Implications of the Reporter's Recommendations on the Council's LDP

- 3.22 Examination in Public is an independent, detailed and public scrutiny of the Council's proposed LDP. It is the means by which objectors can challenge the proposed LDP. Objectors can seek a determination from an independent and impartial Reporter on whether and how the proposed LDP should be modified in light of their representations before it can be adopted by the Council.
- 3.23 The Reporter's conclusions and recommendations have been reached objectively in the course of the Examination in Public, and are to be largely binding on the Council in so far as the adopted content of its LDP is concerned. It is therefore essential that the outcome of this due process is acknowledged.
- 3.24 However, the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009 does set out very limited circumstances in which the Council may justify a departure from the Report of Examination's recommended post-examination modifications before adopting the LDP. Regulation 2 sets out the only grounds on which the Council may decline to make such post-examination modifications to the proposed LDP, and these are:
- a. the modification, if made, would have the effect that the proposed Local Development Plan would not be consistent with:
 - i. the National Planning Framework;
 - ii. the strategic development plan for the land to which the proposed Local Development Plan relates; or
 - iii. any plan adopted as a National Park Plan under section 12(7)(a) of the National Parks (Scotland) Act 2000 for such land;

- b. that the adoption of the Local Development Plan as so modified would not be compatible with the requirements of Part IVA of the Conservation (Natural Habitats, etc.) Regulations 1994;
 - c. the recommendation in respect of the modification is based on conclusions that the appointed person could not reasonably have reached based on the evidence considered in the course of the examination under section 19(3) of the Act
- 3.25 Before officers make any recommendation to the Council advising that any of the Reporter's recommendations are incorporated within the LDP prior to its adoption, officers will have considered whether any of these modifications fall within the scope of the provisions of Regulation 2 above.
- 3.26 Before this can be determined further detailed consideration of the Report of Examination as well as further technical work on the implications of the recommended post-examination modifications require to be concluded. Officers will report to the Council the outcome of this further consideration in due course to inform the Council as it decides whether it intends to adopt the LDP as modified following Examination in Public.

Next Steps Towards Adoption of the Local Development Plan

- 3.27 The Town and Country Planning (Scotland) Act 1997 (as amended) requires that the Council submit to Scottish Ministers the LDP it intends to adopt within three months of receiving the Report of Examination. Accordingly, once officers have concluded the necessary further technical work and made appropriate post-examination modifications to the proposed LDP, the next step for the Council will be to decide whether it intends to adopt the LDP as modified following Examination in Public. This decision of the Council will be sought at a later Council meeting.
- 3.28 If the Council approves the Local Development Plan as modified following the Examination in Public as the LDP it intends to adopt, the Act requires that this version of the LDP be submitted to Scottish Ministers for their review before it can be adopted by the Council. The Scottish Ministers must be formally notified of this submission, and at the same time be sent copies of the LDP the Council intends to adopt with the relevant information, including the Report of Examination and any updated environmental assessments.
- 3.29 If the Scottish Ministers' review of the Local Development Plan is relatively straightforward it should take around 28 days to complete. However, if their review is more complex, for example, if all the recommendations from the Scottish Ministers' Report of Examination in Public have not been fully incorporated within the LDP the Council intends to adopt, it may take significantly longer to conclude.

4 POLICY IMPLICATIONS

- 4.1 Subject to decision on adoption

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The original Integrated Impact Assessment that accompanies the proposed LDP (see Members' Library Ref: 159/16, August 2016 Bulletin) will be updated following consideration of the Reporter's recommended post-examination modifications to the proposed LDP.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – The growth resulting from the implementation of the adopted Local Development Plan will have significant implications for the Council and its wider Community Planning partners in respect of financial and other strategic plans. These implications continue to be a significant input to the budget setting process. The Proposed LDP and the draft Supplementary Guidance: Developer Contributions Framework provide for the development of additional capacity or new facilities/infrastructure so as to ensure that developers contribute towards these where appropriate. The cumulative impacts, mitigation interventions and high level costs and contribution requirements would be set out within the LDP Action Programme as well as the Supplementary Guidance: Developer Contributions Framework if these documents are adopted. Once adopted, they will help the Council to maximise recovery of required developer contributions, government grants and other contributions to help accommodate its own commitments within both capital and revenue forward planning. The Financial Strategy approved by the Council in February 2018 signalled the future significance of the LDP although it was accepted that the vast majority of this would lie outwith the existing 3-year strategy period. Upon adoption of the LDP, there will be a clear imperative that the Council continues to refresh and extend the financial planning horizon, particularly in respect of the Council's Capital Programme but also in anticipation of the associated revenue implications that will flow from any such investment.
- 6.2 The Planning Service budget includes for the remaining Examination costs and cost for making post-examination modifications to the proposed LDP. Other services budgets may also be affected in concluding this work too.
- 6.3 Personnel - staff of the Planning Service and other services of the Council will be required to complete further technical work to address the recommendations of the examination report, including in terms of the preparation of other planning policy documents as required, and to deliver the LDP.

7 BACKGROUND PAPERS

- 7.1 East Lothian Proposed Local Development Plan: Report of Examination [RoE](#)
- 7.2 Representations to the Proposed LDP (Members Library Ref 21/17 March 2017)
- 7.3 Strategic Environmental Assessment Environmental Report on consultation responses (Members Library Ref 32/17 March 2017)
- 7.4 Proposed LDP Action Programme report on consultation responses (Members Library Ref 33/17 March 2017)
- 7.5 Participation Statement and Statement of Conformity with the Participation Statement (Members Library Ref 34/17 March 2017)
- 7.6 Proposed Local Development Plan and supporting documents September 2016 [Proposed LDP](#)
- 7.7 Consultation Feedback – summaries and key messages April 2015 [CF](#)
- 7.8 Consultation Feedback – summaries and key messages April 2015 [CF](#)
- 7.9 Draft Proposed Local Development Plan and supporting documents November 2015 [draft LDP](#)
- 7.10 Interim Environmental Report October 2014 (with appendices – Site Assessments) October 2014 [IER](#)
- 7.11 East Lothian Local Development Plan Main Issues Report October 2014 [MIR](#)
- 7.12 Monitoring Statement October 2014 [MR](#)
- 7.13 Transport Appraisal October 2014 [TA](#)
- 7.14 SESplan Supplementary Guidance on Housing Land October 2014
- 7.15 National Planning Framework 3 [NPF3](#)
- 7.16 Scottish Planning Policy: June 2014 [SPP](#)
- 7.17 SESplan Strategic Development Plan, June 2013 [SDP](#)

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DATE	13 April 2018

**Proposed East Lothian Local Development Plan
Report to East Lothian Council – 12 March 2018
Recommendations by Issue Number**

ISSUE	REPORTER'S RECOMMENDATION	REPORT PAGE NO
01. Introduction	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. In paragraph 1.47, amending the second sentence to read: "The Central Scotland Green Network is also a National Development which extends into East Lothian." 2. In paragraph 1.47, amending the third sentence to read: "It is to help maintain the environmental quality of the area, tackle vacant and derelict land, and promote active travel and healthier lifestyles." 	20
02. Spatial Strategy	No modifications.	53
03. Musselburgh Cluster	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. Altering the text within PROP MH1: Land at Craighall, Musselburgh to comprise separate paragraphs as follows: "Land at Craighall is allocated for a mixed use development including 1,500 homes, around 41 ha employment land, a new local centre, a new primary school and community uses as well as infrastructure and associated works. 	129

	<p>Approximately 21ha of land to the north west of Queen Margaret University is allocated for economic uses that support the key sectors of learning, life sciences and food and drink. The servicing of this land will be enabled by housing development on other parts of the Craighall site and this will be a subject of a legal agreement associated with the entire site.</p> <p>The 55ha of land to the east of Millerhill Marshalling Yards between the freight rail loop and south of the A1 is allocated for mixed use development including circa 800 homes and around 20ha of employment land to which Policy EMP1 will apply: access to this land will be from the A1 via a modified junction with an underpass of the A1 at Queen Margaret Drive. This, in combination with existing bridges of the east coast rail line and rail freight loop, and bus access from land at Newcraighall and the transport network within the Craighall site, must significantly improve connections to the site and through it to the surrounding area, particularly for bus based public transport.</p> <p>Approximately 1.5ha of land to the north west of Queen Margaret University, south of Musselburgh Station, is safeguarded as part of this proposal for any future improvement of Musselburgh rail station, which shall become more accessible and able to be better served by bus as a result of the improved connections.</p> <p>The 21ha of land to the south of the A1 at Old Craighall is allocated for a mixed use, predominantly housing development which has capacity for circa 350 homes once sufficient land for the required local centre and primary school is identified.</p> <p>The 15ha of land to the east of Queen Margaret University and north of the A1 is allocated for housing and has capacity for circa 350 homes: access to these sites will be from the local road network.</p> <p>The 3ha of land to the north east of Queen Margaret University is allocated for mixed use development, potentially including housing and employment uses.</p>	
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	<p>A comprehensive masterplan for the entire allocated site that conforms to relevant Development Brief will be required as part of any planning application for the allocated land, accompanied by a single legal agreement for the entire allocated site. A Habitats Regulation Appraisal and if necessary Appropriate Assessment of the proposal will also be necessary, in accordance with Policy NH1 of this Plan. Any development here is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate.”</p> <p>2. Adding a new fourth sentence to PROP MH2 as follows: “The safeguarding of the setting of the category A listed Monkton House and category B listed Monkton Gardens should be a consideration in the development of a masterplan or proposals for this site.”</p> <p>3. In paragraph 2.36, adding the following sentence at the end: “A Flood Risk Assessment will be required for this site.”</p> <p>4. Deleting PROP MH13: Land at Howe Mire, Wallyford and the accompanying text in paragraphs 2.38, 2.39 and 2.40.</p> <p>5. In paragraph 2.45, inserting third and fourth sentences as follows: “Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.”</p> <p>6. Deleting Policy MH17: Development Briefs.</p>	
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04. Prestonpans Cluster	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. Deleting paragraph 2.51 and replacing it with the following text: <p>“National Planning Framework 3 recognises that the Cockenzie and Torness area is a potentially important energy hub and therefore Cockenzie is safeguarded as a site for future thermal generation. It is acknowledged within NPF3 that Cockenzie may present significant opportunities for renewable energy related investment. As a result, NPF3 expects developers, the council and the key agencies to work together to ensure that best use is made of the existing land and infrastructure in the area. In accordance with NPF3, given the particular assets of Cockenzie, the plan requires that if there is insufficient land for competing proposals, that priority is given to those which make the best use of Cockenzies assets and which will bring the greatest economic benefits.”</p> 2. In paragraph 2.60, inserting the following sentence at the end: “A Flood Risk Assessment will be necessary for this site.” 3. In paragraph 2.62, inserting third and fourth sentences as follows: <p>“Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.”</p> 4. Deleting Policy PS3: Development Briefs. 	146
05. Blindwells Cluster	<p>Modify the local development plan by:</p>	182

	<ol style="list-style-type: none"> 1. In paragraph 2.9, deleting the text “sub-regional” within the third sentence. 2. In paragraph 2.9, deleting the penultimate sentence. 3. In paragraph 2.10, deleting the text “sub-regional” within the last sentence. 4. In paragraph 2.71, deleting the text “sub-regional” within the second sentence. 5. In paragraph 2.75, deleting the text “and would be adopted by the Council as Supplementary Guidance” in the third sentence. 6. In paragraph 2.75, deleting the last two sentences. 7. Amending the third paragraph of PROP BW2 to read: “If a comprehensive solution for the development of the entire area is found, it will be detailed in a Development Brief. This brief will also detail the delivery mechanisms for the provision of shared infrastructure as necessary to enable an appropriate phasing and timing of development, including the identification of areas of land to which the associated legal agreement would relate. The preparation of this brief will be led by the Council working collaboratively with others, including relevant landowners, the Key Agencies and other stakeholders.” 8. Deleting the entire fourth paragraph within PROP BW2: Safeguarded Blindwells Expansion Area commencing: “Once such Supplementary Guidance has been adopted by the Council, this will confirm the allocation of the safeguarded Blindwells Expansion Area...” 9. In paragraph 2.80, amending the last sentence to read: “For the avoidance of doubt, this non-statutory supplementary planning guidance will be additional to the Development Framework already adopted for Proposal BW1.” 	
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	<p>10. In paragraph 2.81, deleting the following text from the last sentence:</p> <p>“which if adopted by the Council as Supplementary Guidance, would confirm the allocation of the safeguarded Blindwells Expansion Area to contribute to the development of a larger new settlement as Blindwells.”</p> <p>11. Amending the second sentence of Policy BW3: Blindwells Area Design Framework to read: “For the avoidance of doubt, this non-statutory supplementary planning guidance will be additional to the Development Framework already adopted for Proposal BW1.”</p> <p>12. In paragraph 3.36, deleting the third sentence commencing: “However, if such a solution is found as this LDP is operative....”</p>	
06. Tranent Cluster	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. On the Tranent Cluster Strategy Map and Inset Map 35 (Tranent) removing the mixed-use annotation for PROP TT1 (Windygoul South) and identifying the site as a housing allocation. 2. In paragraph 2.82, deleting the second “and” from the first sentence. 3. In paragraph 2.84, replacing the fourth sentence with: “The opportunity for or provision of a link road between the B6371 and the B6414 must not be prejudiced through the development of either of these sites”. 4. Replacing paragraph 2.85 with the following: “The Plan identifies that there may be the potential for a new trunk road interchange to be provided at Adniston which could support the provision of the Tranent eastern bypass. The Council is investigating the feasibility of the interchange and the bypass. To ensure that the 	285

	<p>long-term ability to effectively consider potential delivery is not prejudiced, land is safeguarded for a new trunk road interchange at Adniston and for potential road alignment from it to the A199, B6371 and B6414.”</p> <p>5. In paragraph 2.90, replacing the second sentence with:</p> <p>“As a result of the location of the site, in accordance with Policy DP3, the density of the housing development should make efficient use of land, reflecting its accessibility to services and facilities without compromising the character and appearance of the development”.</p> <p>6. In paragraph 2.90, deleting the third and fourth sentences.</p> <p>7. In PROP TT1, replacing the first sentence with: “Land at Windygoul South is allocated for circa 550 homes”.</p> <p>8. Replacing paragraph 2.92 with the following:</p> <p>“PROP TT2 will provide for the expansion of Windygoul Primary School campus in line with PROP ED4, to accommodate the impacts generated by PROP TT1 and other housing sites in the school’s catchment area. It will also provide community facilities in line with PROP CF1 and PROP OS7.”</p> <p>9. In PROP TT2, adding the following text to the start of the first sentence: “Approximately 1.12 ha of”.</p> <p>10. Deleting paragraph 2.105 and PROP TT15: Humbie North.</p> <p>11. Deleting paragraph 2.106 and PROP TT16: East Saltoun.</p> <p>12. In paragraph 2.108, inserting third and fourth sentences as follows:</p>	
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	<p>“Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.”</p> <p>13. Deleting Policy TT17: Development Briefs.</p>	
07. Haddington Cluster	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. In paragraph 2.114, deleting the first sentence. 2. In paragraph 2.119 adding the following as a new sentence immediately prior to the final sentence: “A Flood Risk Assessment will be necessary at this site.” 3. In paragraph 2.122 adding the following as a new sentence at the end of the paragraph: “A Flood Risk Assessment will be necessary at this site.” 4. In paragraph 2.122 deleting the following text from the end of the first sentence: “including a pub/restaurant, to reflect existing planning permissions”. 5. In paragraph 2.127, inserting third and fourth sentences as follows: <p>“Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.”</p>	307

08 . Dunbar Cluster	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. In paragraph 2.139, adding the following sentences at the end: “Should any culverted watercourses be found on the site, there should be no development on top of them. Advice should be sought from SEPA in respect of any planning applications.” 2. In paragraph 2.149, inserting third and fourth sentences as follows: “Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up-to-date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.” 	346
09. North Berwick Cluster	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. In paragraph 2.154, deleting the final two sentences. 2. In paragraph 2.170, amending the end of the final sentence to read: “views to and from Dirleton Castle.” 3. In paragraph 2.172, inserting third and fourth sentences as follows: “Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.” 	386

	4. Deleting Policy NK12: Development Briefs.	
09a. North Berwick Cluster - Gullane	No modifications.	474
10. General Urban Development Policies	<p>Modify the local development plan by:</p> <p>1. In paragraph 3.4, amending second sentence to read as follows:</p> <p>“Such uses could include retail, commercial leisure uses, offices (Class 2), community and cultural facilities, and, where appropriate, other public buildings such as libraries, education and healthcare facilities.”</p> <p>2. In paragraph 3.7, amending the second sentence to read as follows:</p> <p>“Class 4 office proposals will normally be expected to locate in town centres, where appropriate in scale and character, however some Class 4 proposals may be located on land specifically allocated by the plan for such use”.</p> <p>3. In paragraph 3.15, amending third sentence to read as follows:</p> <p>“These will be progressed once the plan is operative and will be taken forward as statutory supplementary guidance”.</p>	485
11. Planning for Employment and Tourism	<p>Modify the local development plan by:</p> <p>1. Adding a final sentence to Policy EMP1 as follows:</p> <p>“This policy applies to the employment element of all sites in the plan which are allocated for employment use, including mixed use sites that include employment use.”</p>	501

	<p>2. In paragraph 3.27, deleting the fifth sentence commencing: “Archerfield Estate is also included...”</p> <p>3. Deleting the last sentence of Policy TOUR1: Archerfield Estate, Dirleton.</p>																													
12. Planning for Housing	<p>Modify the local development plan by:</p> <p>1. Replacing existing references to “housing land requirement” with “housing requirement” within the following paragraphs: 1.50, 1.54, 2.5, 3.33, 3.39 and 3.44.</p> <p>2. In paragraph 3.34, replacing the fourth sentence as follows: “Yet the rate of housing delivery that will take place may be dependent on many factors not related to the SDP requirement, or the LDP or its Action Programme.”</p> <p>3. In Policy HOU1, amending the reference to the Housing Land Audit 2015 to refer to the Housing Land Audit 2017.</p> <p>4. Making consequential changes to Table HOU1 to reflect the position in Table HOU2.</p> <p>5. Replacing Table HOU2 with the following:</p> <p>Table HOU2: Housing Land Requirements and Supply</p> <table border="1" data-bbox="618 1043 1895 1342"> <thead> <tr> <th></th> <th>2009/19</th> <th>2019/24</th> <th>2009/24</th> <th>2024/32</th> <th>Beyond 2032</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Housing Requirement and Housing Land Requirement 2009 to 2024</td> <td colspan="3"></td> <td>Housing Need and Demand (vi)</td> <td></td> <td></td> </tr> <tr> <td>SESplan Housing Requirement</td> <td>6,250</td> <td>3,800</td> <td>10,050</td> <td>3,820</td> <td>0</td> <td>13,870</td> </tr> <tr> <td>Housing Land Requirement</td> <td>7,350</td> <td>4,469</td> <td>11,819</td> <td>n/a</td> <td>n/a</td> <td>n/a</td> </tr> </tbody> </table>		2009/19	2019/24	2009/24	2024/32	Beyond 2032	Total	Housing Requirement and Housing Land Requirement 2009 to 2024				Housing Need and Demand (vi)			SESplan Housing Requirement	6,250	3,800	10,050	3,820	0	13,870	Housing Land Requirement	7,350	4,469	11,819	n/a	n/a	n/a	550
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Housing Supply 2009 to 2024						
Housing Completions 2009/17	3,064	0	3,064	0	0	3,064
Contribution from Established Supply(i)	1,144	3,003	4,147	594	0	4,741
Contribution from New Allocations(ii)	470	3,711	4,181	2,225	325	6,731
Contribution from Blindwells(iii)	0	291	291	801	508	1,600
Contribution from Future Windfall sites(iv)	42	105	147	110	0	257
Loss of Supply to Dwelling Demolitions(v)	-3	-8	-11	-12	0	-23
Total Housing Land Supply	4,717	7,102	11,819	3,718	833	16,370
Generosity			17.6%			

- (i) Based on 2017 Housing Land Audit including contribution of 70 dwellings from small sites (less than 5 units) programmed 2017/19 and 106 units 2019/24 as per audit;
- (ii) Based on 2017 Housing Land Audit [adjusted for deletion of MH13, TT15 and TT16 and the addition of Land at Newtonlees Farm, Dunbar];
- (iii) Based on 2017 Housing Land Audit;
- (iv) SESplan’s windfall assumption for East Lothian;
- (v) Based on demolitions from information from ELC Building Standards;
- (vi) Estimate of need and demand for housing from SESplan HNDA (not part of SESplan Housing Requirement).

6. Within Advice Box 1, replacing all references to the “housing land requirement” with “housing requirement”.

7. Within Advice Box 1, removing reference to “or any housing monitoring paper”.

	<p>8. In paragraph 3.46, deleting the last sentence.</p> <p>9. In paragraph 3.47, deleting the last sentence.</p> <p>10. In paragraph 3.48, deleting the text “and this is not due to ‘marketing constraints’” from the second sentence.</p> <p>11. In Policy HOU2, deleting Criterion 1.</p> <p>12. In Policy HOU2, within Criterion 2, replacing the following text: “capable of being substantially completed within five years” with: “capable of making a meaningful contribution to reducing the identified shortfall.”</p> <p>13. In Policy HOU2, within Criterion 3, delete the following text: “and should be no more than 300 homes – the subdivision of a larger sites into smaller applications in order to meet this maximum will not be supported.”</p> <p>14. Amending the Glossary definition of Housing Land Requirement to read as follows: “The amount of land required to be allocated for housing (including generosity) to meet the identified housing requirement.”</p>	
13. New Sites	<p>Modify the local development plan by:</p> <p>1. Adding a housing proposal for Land at Newtonlees Farm, Dunbar, as promoted in representation 0213/3 by Gladman Developments. A new paragraph should be added within the Dunbar Cluster: Main Development Proposals section of the plan stating: “Land at Newtonlees Farm, Dunbar is allocated for residential development incorporating circa 115 homes and cemetery, with associated access, infrastructure, landscape and open space.”</p>	636

	2. Amending the Spatial Strategy for the Dunbar Cluster map to show the site - Land at Newtonlees Farm, Dunbar.	
14. Affordable and Specialist Housing	<p>Modify the local development plan by:</p> <p>1. Adding the following as a new second paragraph to Policy HOU4:</p> <p>“The Council will seek to ensure that as part of the provision of affordable housing on any site, that provision is made where appropriate for specialist housing, in line with the Council’s Local Housing Strategy and the Supplementary Planning Guidance: Affordable Housing Quota and Tenure Mix.”</p>	658
15. Education	<p>Modify the local development plan by:</p> <p>1. In paragraph 3.81, amending the beginning of the first sentence to read: “An extension to Preston Lodge High School will help.....”</p> <p>2. In paragraph 3.81, adding a new second sentence as follows: “It will also enable the development of Longniddry South (PROP PS1).”</p> <p>3. In paragraph 3.101, deleting the following text from the last sentence: “the reprovion of”.</p> <p>4. In paragraph 3.101, inserting the following text at the end: “An extension to East Linton Primary School will also be required.”</p> <p>5. In paragraph 3.103, deleting the last sentence.</p>	675
16. Community, Health and Social Care Facilities	No modifications.	688

<p>17. Open Space and Play Provision</p>	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. In paragraph 2.60, deleting the second sentence. 2. In paragraph 3.123, modify the final sentence to read as follows: <p>“Where an area with recreational, amenity or landscape open space potential not designated as such by Policy OS1 is proposed as a development site, the Council will consider its value as open space based on the open space audit and strategy and its contribution to the amenity of the area against Policy OS1.”</p> 3. Amending the text of Policy OS1 to read as follows: <p>“Recreational, leisure and amenity open space and facilities, including outdoor sports facilities, will be safeguarded to meet the recreational needs of the community or protect the amenity or landscape setting of an area. Alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and:</p> <ol style="list-style-type: none"> i. the loss of a part of the land would not affect its recreational, amenity or landscape function; or ii. alternative provision of equal community benefit and accessibility would be made available; or iii. provision is clearly in excess of existing and predicted requirements.” 4. In paragraph 3.126, amending sentence two to read: <p>“Open spaces should be multifunctional and can include district, town and local parks, sports pitches, civic space and community growing space.”</p> 	<p>707</p>
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	<p>5. Deleting Proposal OS5: Potential Cemetery Extensions from the plan and from the proposal maps.</p> <p>6. In paragraph 3.134 deleting the final sentence.</p>	
18a. Transport: General	<p>Modify the local development plan by:</p> <p>1. Adding to Inset Map 3 the full length of the Longniddry to Haddington Route Safeguard (Proposal T14).</p> <p>2. Deleting the words “Safeguarding of land for” from the title of Proposal T9 so that it reads: “PROP T9: Larger Station Car Parks”.</p> <p>3. Deleting the words “Safeguarding land for” from the title of Proposal T10 so that it reads: “PROP T10: Platform Lengthening”.</p>	739
18b. Transport: Active Travel	No modifications.	748
18c. Transport: Public Transport	No modifications.	779
18d. Transport: Trunk Road Network	<p>Modify the local development plan by:</p> <p>1. In paragraph 4.33, adding the following text as a new sentence at the end:</p> <p>“As part of Proposal T18 the council will explore the economic and regeneration case for a new junction, how this would need to be designed and its resultant impacts on safety and operational performance of the A1(T).”</p>	785

18e. Transport: Local Road Network	No modifications.	789
18f. Transport: Transport Infrastructure Delivery Fund	<p>Modify the local development plan by:</p> <p>1. In Policy T32, deleting reference to Transport Scotland in sentences three and four so that these sentences read:</p> <p>“Within this overall Transport Infrastructure Delivery Fund separate funds and accounts will be created, monitored and managed by the Council as appropriate for each of the infrastructure projects. Developer contributions will always be used by the Council as relevant to deliver the mitigation for which they were originally intended.”</p>	794
19. Digital Communications Network	No modifications.	797
20. Sustainable Energy and Heat in New Developments	<p>Modify the local development plan by:</p> <p>1. Adding the following sentence to the end of Policy SEH1: Sustainable Energy and Heat:</p> <p>“The council supports the principle of combined heat and power schemes and energy generation from renewable or low carbon sources.”</p> <p>2. In paragraph 4.73, deleting the first sentence and deleting “However” from the following sentence.</p>	805
21. Wind Farm and Wind Turbine Development	<p>Modify the local development plan by:</p> <p>1. In the Energy Generation, Distribution and Transmission section of the plan, changing references to the “Habitats Directive” to “Habitats and Birds Directives”.</p> <p>2. Deleting paragraph 4.80.</p>	826

	<p>3. In paragraph 4.81, replacing the third sentence with the following:</p> <p>“The study finds that turbines over 42 metres in height to blade tip would have adverse landscape and visual impacts within the lowland landscapes of East Lothian. This consideration would form part of an overall planning assessment of any proposal.”</p> <p>4. Replacing the first sentence of Policy WD2 with the following:</p> <p>“Smaller scale wind turbine development includes all non-windfarm development, namely developments of 1 to 3 turbines of any height and developments of 4 or more turbines under 42 metres in height to blade tip.”</p> <p>5. Amending the first sentence of Policy WD3 as follows:</p> <p>“Applications for freestanding (as against roof-mounted or wall-mounted) wind turbine development ...”</p> <p>6. Deleting the repeated phrase “integrity of” in criterion (n) of Policy WD3.</p> <p>7. In paragraph 4.85, adding the following sentence at the end:</p> <p>“The council may publish supplementary planning guidance on re-powering.”</p> <p>8. Replacing the first sentence of Policy WD6 with the following:</p> <p>“All wind turbines must be decommissioned and the site restored to an appropriate condition within an agreed timescale after the earliest of: (a) expiry of planning consent; or (b) the failure of the wind turbine to produce electricity for a continuous period of 12 months, unless otherwise agreed in writing by the planning authority.”</p>	
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	<p>9. Replacing the fourth sentence of Policy WD6 with the following:</p> <p>“For any wind farm or development of wind turbines over 42 metres in height to blade tip, before works commence, the council will require the submission for its prior written approval of an outline strategy for appropriate decommissioning and restoration of the site and any relevant offsite works, together with the delivery of a sufficient bond or other financial guarantee to secure their implementation, to avoid the risk of decommissioning and restoration costs falling to the council.”</p>	
<p>22a. Energy Generation and Transmission: Proposal EGT1: Land at Former Cockenzie Power Station</p>	<p>Modify the local development plan by:</p> <p>1. Replacing paragraph 4.89 with the following:</p> <p>“The council endorses the support expressed in NPF3 for onshore links to offshore renewable energy installations, including at Cockenzie and the Forth coast extending to Torness, as part of National Development 4: High Voltage Energy Transmission Network.”</p> <p>2. In paragraph 4.91, deleting the second and third sentences.</p> <p>3. In paragraph 4.93, replacing the second sentence with the following:</p> <p>“The council wishes to protect these assets as far as possible.”</p> <p>4. In paragraph 4.94, replacing the first sentence with the following:</p> <p>“There may be potential for intermediate proposals on the site, such as temporary greening.”</p> <p>5. Replacing Proposal EGT1 with the following:</p> <p>“PROP EGT1: Land at former Cockenzie Power Station</p>	<p>867</p>

	<p>Land at the above site will be safeguarded for future thermal power generation and carbon capture and storage consistent with National Development 3. Land at Cockenzie may also present significant opportunities for renewable energy-related investment. The council will work together with developers, the landowner, the relevant agencies, local organisations and interested parties, including local residents to ensure that the best use is made of the existing land and infrastructure in this area.</p> <p>If there is insufficient land for competing proposals, priority will be given to those which make best use of the location's assets and which will bring the greatest economic benefits.</p> <p>Development proposals must avoid unacceptable impact on the amenity of the surrounding area, including residential development.</p> <p>Proposals will be subject to a Habitats Regulations Appraisal and an Appropriate Assessment under the Habitats Directive, as required."</p>	
22b. Energy Generation and Transmission: Other Matters	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. Replacing the second sentence of Proposal EGT2 with the following: <p>"If power generation ceases during the lifetime of this LDP, the council will seek to facilitate necessary works associated with the site's decommissioning and restoration, including mitigation of impacts on communities and the character of the local area."</p> 2. In paragraph 4.97, replacing the third sentence with the following: <p>"The existing high voltage transmission network infrastructure at Cockenzie and Torness, and that serving Crystal Rig Wind Farm in the Lammermuirs, present opportunities for new grid connections."</p> 	877

	<p>3. Replacing the last sentence of Proposal EGT3 with the following:</p> <p>“Proposals must be accompanied by project-specific information to inform a Habitats Regulations Appraisal and, if necessary, an Appropriate Assessment under the Habitats Regulations.”</p> <p>4. In paragraph 4.99, deleting the last sentence.</p> <p>5. Replacing the wording of Policy EGT4 with the following:</p> <p>“The council supports enhancement of the high voltage electricity transmission network in locations defined by operational requirements, subject to acceptable impacts on the landscape, visual amenity, communities, natural and cultural heritage and the provision of appropriate mitigation where required.</p> <p>The network infrastructure is identified on Strategic Diagram 3 elements of which, including strategic reinforcement points, will likely be subject of some upgrading during the lifetime of this plan. Development consisting of new and/or upgraded transmission lines, substations and transformer stations to enhance the network is designated as a national development in National Planning Framework 3. The council will not support development proposals which could prejudice the implementation of the enhancements.</p> <p>The council will expect the removal of power lines which become redundant as a consequence of enhancements to the network.”</p> <p>6. Incorporating the key contents of drawing SPEN001 into Strategic Diagram 3, namely: power stations, substations, overhead transmission lines, underground cables, and strategic reinforcement points.</p>	
23. Waste	No modifications.	881

<p>24. Minerals</p>	<p>Modify the local development plan by:</p> <p>1. Adding a new paragraph of supporting text before Policy MIN5: Mineral Resources as follows:</p> <p>“Scottish Planning Policy requires planning authorities to ensure a landbank of permitted reserves of construction aggregates for a minimum of 10 years extraction, to be available at all times and in all market areas. A Minerals Technical Note published by SESplan in September 2011 acknowledged difficulties in estimating reserves of construction aggregates in the region, but concluded that the lower of its two estimates of permitted reserves of sand and gravel – 4.5 years supply - was more realistic, but that there was no shortfall in the landbank for hard rock. Since then, within East Lothian, an extension to the sand and gravel quarry at Longyester has been implemented and the permission at Skateraw has expired. If a shortfall of permitted reserves is demonstrated, the presumption against such development in Policy MIN5 may not apply, provided the preference to extend existing workings before opening new ones expressed in the policy and the provisions of other relevant plan policies can be satisfied. Any proposal for extraction of construction aggregates, including sand and gravel, will be assessed against Policies MIN5, MIN8, MIN9 and MIN10.”</p> <p>2. Replacing criterion 5 of Policy MIN8: Mineral Extraction Criteria with the following:</p> <p>“In the case of surface coal extraction, where there is a material risk of disturbance or environmental damage, this is outweighed by demonstrable and significant local or community benefits related to the proposal.”</p> <p>3. In Policy MIN9, replacing the second sentence of point (ix) with the following:</p> <p>“In the case of prime quality agricultural land, applicants must demonstrate that the site will be reinstated to agricultural land of a similar quality to that existing prior to mineral working, other</p>	<p>892</p>
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	than in exceptional circumstances where restoration to an alternative afteruse can be demonstrated to have greater benefits.”	
25. Diverse Countryside and Coast	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. In paragraph 5.10, deleting the final sentence. 2. In Policy DC5, immediately following the final sentence of criterion b, adding the following: “Enabling development will only be acceptable where it can be clearly demonstrated to be the only means of preventing loss of the asset and securing its long-term future.” 3. In Policy DC5, adding a new sentence immediately following: “Any enabling development must be on the same site as and part of the main proposal.” as follows: “Where the proposal will fund the restoration of a listed building, the priority is for enabling development to take place on the same site as the listed building. Any enabling development proposed off site must be clearly justified with strong evidence to demonstrate why the enabling development could not take place on the site” 4. In paragraph 5.15, deleting “largely” from the first sentence and adding the following text at the end of first sentence: “and on inset map 4”. 5. In Policy DC6, deleting “largely” from the third bullet point. 6. On the Proposals Map – Inset 4, amending the key by deleting the word “largely”. 	915
26. Special Rural Landscapes	Modify the local development plan by:	949

	<p>1. In paragraph 5.20, replacing the final sentence with the following:</p> <p>“Countryside Around Towns designations will apply and their objectives are to:</p> <ul style="list-style-type: none"> • to conserve the landscape setting, character or identity of the particular settlement; and /or • to prevent the coalescence of settlements; and/or • where it can provide opportunity for green network and recreation purposes.” <p>2. Replacing the first sentence of Policy DC8 with the following:</p> <p>“Development that would harm the objectives of the specific Countryside Around Town area, as defined in supplementary planning guidance, will not be permitted.”</p> <p>3. In Policy DC10, replacing the following text in the first sentence: “contribute to the Green Network” with: “make provision for the Green Network”.</p>	
27. Natural Heritage	<p>Modify the local development plan by:</p> <p>1. In paragraph 6.7, replacing the final sentence with two separate sentences as follows:</p> <p>“Offshore, the Firth of Forth Banks Complex is a Nature Conservation Marine Protected Area (MPA). The Outer Firth of Forth and St Andrews Bay Complex is a marine proposed Special Protection Area (SPA).”</p> <p>2. Amending Policy NH3 to read:</p> <p>“Local Biodiversity Sites and Local Geodiversity Sites are designated as Local Nature Conservation Sites, as shown on the Proposals Map. Details of these sites are set out in Technical Note 10: Planning for Biodiversity (2016) and Technical Note 11: Planning for Geodiversity (2016).</p>	958

	<p>Development that would adversely affect the interest of a Local Nature Conservation Site, Local Nature Reserve or Country Park will only be permitted where it is demonstrated that any damage to the natural heritage interest or public enjoyment of the site is outweighed by the economic, social or environmental benefits of the development and suitable mitigation will be secured.”</p>	
<p>28. Water, Floodrisk, Air Quality and Noise</p>	<p>Modify the local development plan by:</p> <ol style="list-style-type: none"> 1. Replacing the second part of paragraph 6.29 (third, fourth, fifth and sixth sentences) commencing “A developed site...” with the following: <p>“.....A development site must control and release runoff rates at greenfield rates over a range of rainfall events including the 1 in 30 year event and the 1 in 200 year event in agreement with East Lothian Council as flood prevention authority. This helps manage flood risk within the development site and also ensures there is no increase in flood risk to adjacent and downstream sites. The SEPA surface water flood map shows areas that may be subjected to ponding from either pluvial or sewer flooding and can be used to indicate areas where further assessments are required, such as a flood risk assessment. This map does not show flow path direction. Pre development flow paths through the site should be maintained after the completion of the development.”</p> 2. Amending the final sentence of Policy NH10: Sustainable Drainage Systems to read: <p>“Proposals must also demonstrate through a design-led approach how SuDS proposals are appropriate to place and designed to promote wider benefits such as placemaking, green networks and biodiversity enhancement.”</p> 3. In paragraph 6.32, adding the following text after the third sentence: 	<p>970</p>

	<p>“However, the avoidance principle should be applied whenever possible in compliance with Scottish Planning Policy.”</p> <p>4. In paragraph 6.34, modifying the penultimate sentence and adding two new sentences immediately after it to read as follows:</p> <p>“Developers of major development sites in these areas will be expected to make appropriate and proportionate financial contributions towards air quality mitigation measures. This excludes measures described in Proposal T20. Policy T8 and its supporting text describe the circumstances in which developer contributions may be sought towards improvements to the bus network as a consequence of new development.”</p>	
29. Cultural Heritage	<p>Modify the local development plan by:</p> <p>1. In paragraph 6.54, sentence one, replacing the word “Government” with the word “Planning” so it reads “Scottish Planning Policy requires...”</p> <p>2. Deleting the Policy CH6 designation from Inset Map 3 for both the Archerfield and the Elvington estates.</p>	985
30. Design	No modifications.	1007
31. Delivery	<p>Modify the local development plan by:</p> <p>1. Rewording paragraph 8.4 to read as follows:</p> <p>“Further detail on the likely nature and scale of developer contributions is set out within Supplementary Guidance Developer Contributions Framework. The exact nature and scale of developer contributions required will be assessed on a case by case basis, based on the same approach used in the preparation of the Supplementary Guidance: Developer</p>	1061

	<p>Contributions Framework. Applicants and developers must commit to provide for their developer contributions before planning permission will be approved for appropriate proposals.”</p> <p>2. In paragraph 8.5, replacing sentence three to read as follows:</p> <p>“This is so developers and communities have early sight of the need for additional infrastructure and the likely nature and scale of associated developer contributions that will be required from new planned development in the area.”</p> <p>3. In paragraph 8.5, replacing the text of bullet point three to read as follows:</p> <p>“likely nature and scale of developer contributions that will be required from planned development to deliver the key interventions necessary to implement the plan.”</p> <p>4. Amending paragraph 8.9 to read as follows:</p> <p>“The LDP policies and proposals that provide the basis for seeking developer contributions are set out in Table DEL1 below.”</p> <p>5. Amending the title of Table DEL1 to read as follows:</p> <p>“Table DEL1: Developer Contributions Policies/Proposals.”</p> <p>6. Adding the following policy reference to Table DEL1:</p> <p>“Policy OS3: Minimum Open Space Standard for New General Needs Housing Development.”</p> <p>7. Adding the following policy reference to Table DEL1:</p>	
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	<p>“Policy OS4: Play Space Provision in new General Needs Housing Development.”</p> <p>8. Adding the following policy reference to Table DEL1:</p> <p>“Policy T8: Bus Network Improvements.”</p> <p>9. Deleting from Table DEL1 the following policy reference:</p> <p>“Policy DC10: The Green Network.”</p> <p>10. Replacing the second and third sentences of paragraph 8.12 to read as follows:</p> <p>“This will be identified as early as possible in the Development Management process, as will the exact nature and scale of all the required contributions. The availability or ability to provide additional capacity for windfall proposals in addition to planned development will also be assessed on a case by case basis.”</p> <p>11. Rewording Policy DEL1 to read as follows:</p> <p>“New development will only be permitted where the developer makes appropriate provision for infrastructure and community facilities required as a consequence of their development in accordance with Scottish Government Circular 3/2012 or any revision. Any necessary provision for interventions must be phased as required with the new development.</p> <p>Developer contributions will be required from all new development proposals that meet or exceed the scale thresholds below, including windfall proposals:</p> <ul style="list-style-type: none"> • Proposals of 5 or more dwellings, including affordable homes; and • Employment, retail, leisure or tourism proposals of 100 square metres gross floor space or larger. 	
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	<p>The items for which developer contributions will be required shall include but not be limited to the key interventions identified by the LDP and its Action Programme. Developer contributions will be required where a development proposal would generate a need for an intervention and the proposed development is within a contribution zone that applies to that intervention.</p> <p>The likely nature and scale of developer contributions required in association with the developments that are planned for by this LDP is set out within the Supplementary Guidance: Developer Contributions Framework.</p> <p>The exact nature and scale of developer contributions required in association with all relevant new development proposals, including windfall proposals, will be assessed on a case by case basis.</p> <p>Developer contributions will always be used to deliver the mitigation for which they were originally intended.</p> <p>Planning conditions and / or legal agreements will be used as appropriate and required to secure any necessary provision from developers, which could include land and/or a capital contribution.”</p>	
32. Proposals Map	No modifications.	1085
33. Appendix 1: Developer Contribution Zones	No modifications.	1089
34. Local Development Plan Miscellaneous	No modifications.	1099

REPORT TO: East Lothian Council

MEETING DATE: 24 April 2018

BY: Depute Chief Executive (Resources and People Services)

4

SUBJECT: Outcome of the Statutory School Consultation on the Proposed Closure of Haddington Infant School and King's Meadow Primary School and the Establishment of a New Primary School and its Associated Catchment Area for Haddington

1 PURPOSE

- 1.1 To share the outcome of the proposal to close Haddington Infant School and King's Meadow Primary School and establish a new primary school for Haddington covering Nursery to P7 and its associated catchment area.
- 1.2 To seek approval for the recommendation set out within the Consultation Report (available in the Members' Library, April 2018 Bulletin, Ref: 51/18) to close Haddington Infant School and King's Meadow Primary School and establish a new primary school for Haddington covering Nursery to P7 and its associated catchment area.

2 RECOMMENDATIONS

- 2.1 The Council is asked to approve, on the basis of the outcome of the school consultation, and taking account of the educational and social benefits of the proposal that:
 - i. subject to the conclusion of the Scottish Ministers eight-week call-in period or the notification of the outcome of a call-in, as appropriate, Haddington Infant School and King's Meadow Primary School will be closed and a new primary school covering Nursery to P7 and its associated catchment area will be established for Haddington;

- ii. the closure of Haddington Infant School and King's Meadow Primary School and the establishment of the new primary school and its associated catchment area will take effect from August 2018, or as soon as possible thereafter.

3 BACKGROUND

- 3.1 The Education (Scotland) Act 1980 places a legislative duty on the Council to make adequate and efficient provision of school education across their area. This duty applies in respect of both the current school population and anticipated pattern of demand. In addition, councils have a statutory duty to secure best value in terms of the Local Government in Scotland Act 2003.
- 3.2 The Council must consult on certain changes in arrangements for educating children in its area before it can commit to delivering them. This includes when proposing a permanent change to any of their schools, including nursery schools, such as closure, relocation or change of catchment area. This proposal required a formal consultation to be carried out in accordance with the Schools (Consultation) (Scotland) Act 2010. The Consultation Report (available in the Members' Library, April 2018 Bulletin, Ref: 51/18) documents the formal consultation undertaken on this proposal between 8 January 2018 and 26 February 2018.
- 3.3 One of the key outcomes identified for the Education Service in session 2017/18 to 2019/20, as set out in the East Lothian Education Service Local Improvement Plan 2017-18, is consistency in our approaches to planning learning, teaching and assessment, particularly at key milestones. This consistency is vital for learner progression, effective transition and raising attainment for all.
- 3.4 The need for seamless and high-quality transition is recognised internationally, nationally and locally and is central to continuity of education and progression through the curriculum. Consistency in our approaches to planning learning, teaching and assessment, particularly at key milestones is vital for learner progression, effective transition and raising attainment for all. Pupil wellbeing is further supported where approaches are consistent through one school. There is better continuity for pupils in terms of familiarity and confidence and there are increased opportunities for pupils to develop and sustain relationships with their peers and with school staff.
- 3.5 The Haddington catchment area is one of only two primary catchment areas in East Lothian where P1 to P3 and P4 to P7 pupils from the same catchment are taught in two separate schools requiring an additional stage transition between P3 and P4. Across Scotland there were only three mainstream local

authority Infant Schools registered as open as at September 2016 of which two were in East Lothian.

- 3.6 Evidence following the Education Service Reviews of Haddington Infant School and King's Meadow Primary School in 2016 highlighted that they needed to develop stronger and more effective links to improve curriculum transition. The additional stage transition between these two schools presents many challenges, the most significant being how to ensure meaningful progression and continuity of learning from Primary 3 to Primary 4. This is a crucial stage for pupils as they progress through Curriculum for Excellence levels with the expectation that most achieve First Level by the end of Primary 4. Although both schools have worked to develop consistent approaches to planning learning, teaching and assessment, there are still opportunities to improve this further
- 3.7 East Lothian Council considers establishing one new primary school covering nursery through to P7 under a single management structure through this proposal will provide the opportunity to develop a coherent and progressive curriculum and enhance transition and continuity in learning across the stages in the Haddington catchment area from Early Level through to Second Level.
- 3.8 The main considerations relating to the proposed closure of Haddington Infant School and King's Meadow Primary School and the establishment of a new primary school and its associated catchment area for Haddington were fully explained in the Consultation Proposal Document. The main points are highlighted below:
- The requirements of the National Improvement Framework and the new duties proposed within Education Governance: Next Steps.
 - The duties placed on local authorities in relation to the adequate and efficient provision of school education in their area.
 - The duties placed on local authorities to secure best value in the delivery of services.
- 3.9 The statutory consultation on the proposed closure of Haddington Infant School and King's Meadow Primary School and the establishment of a new primary school and its associated catchment area for Haddington commenced at 12.00am on Monday 8 January 2018 and lasted until 12.00am on Monday 26 February 2018, being a period of eight weeks, which also included the statutory minimum 30 school days. This was in line with the Schools (Consultation) (Scotland) Act 2010. Notification of the consultation was given to all statutory consultees prior to the commencement of the consultation. The Consultation Proposal Document was published on [East](#)

[Lothian Council's Consultation Hub](#) and paper copies distributed on Monday 8 January 2018.

- 3.10 Representations were sought from statutory consultees and the wider public by the completion of an online questionnaire available on the East Lothian Council Consultation Hub. The Consultation Hub also stored all relevant consultation documentation for public viewing. Paper copies of the questionnaire were also distributed at Council buildings around the Haddington area. Sealed boxes were also located at Haddington Infant School, King's Meadow Primary School and John Gray Centre for their return.
- 3.11 Publicity material detailed an East Lothian Council email address, phone number and postal address, to which representations and any other queries could be submitted.
- 3.12 In addition to the public meeting and public drop-in sessions, staff at the affected schools were also invited to attend a planned staff voice session held at Haddington Infant School and King's Meadow Primary School to discuss the proposal. Additional informal meetings to discuss any queries or concerns they may have on the proposal were held with staff in both schools based around their availability and at their discretion. Information on the 'Protocol for School Merger' was shared with staff at these meetings and a copy of the protocol was provided to the Head Teacher to share with staff on request. Further additional opportunities to engage with HR staff regarding the protocol were also offered to staff at their discretion.
- 3.13 A representative group of pupils from both Haddington Infant School and King's Meadow Primary School attended separate workshops where they were able to express their views on the proposal
- 3.14 Meetings were also held with Haddington Infant School Parent Council and King's Meadow Primary School Parent Council.
- 3.15 HM Inspectors from Education Scotland undertook their statutory duties in accordance with the Schools (Consultation) (Scotland) Act 2010, by reviewing the educational aspects of the proposal and completing their report. A full copy of the Education Scotland report can be found in Appendix 5 of the Consultation Report.
- 3.16 All submitted representations, including the Education Scotland report, were analysed by East Lothian Council officers, summarised and answered to in the Consultation Report. The Consultation Report, summarising all representations and East Lothian Council's response, was published on the East Lothian Council Consultation Hub on Thursday 29 March 2018. This was made publicly available for a period of three weeks, in line with the Schools (Consultation) (Scotland) Act 2010.

- 3.17 At the end of the consultation process, Section 15 of the Schools (Consultation) (Scotland) Act 2010 enables Scottish Ministers to call in a decision to implement the proposed closure of Haddington Infant School and King's Meadow Primary School and the establishment of a new primary school and its associated catchment area for Haddington. Beginning on the day that a final decision has been taken, the Council must notify Scottish Ministers of this decision within a period of six working days. Scottish Ministers then have a period of eight weeks from and including the date of decision to decide if they will call in the proposal. The Council may not proceed with the implementation of the proposal until this eight-week period has passed.
- 3.18 If Scottish Ministers decide to call in a closure proposal, it is then referred to the Convener of the School Closure Review Panels who has a period of seven days after a call in notice is issued to constitute a School Closure Review Panel. The Panel may decide to refuse consent to the proposal, refuse consent and remit it to the education authority for a fresh decision or grant consent to the proposal, either subject to conditions, or unconditionally. The Panel must notify the education authority of its decision within eight weeks from when the Panel was constituted or within 16 weeks if the Panel has issued a notice to the education authority that a decision has been delayed. The Council may not proceed with the implementation of the proposal until the outcome of the call-in has been notified to the Council.

Summary

- 3.19 The Council received 147 responses to its questionnaire, 146 of these questionnaire responses were received during the consultation period. The Council received one submission to its consultation by email the day after the consultation period had ended. This response was submitted to Education Scotland with all representations that had been made during the consultation period and any issues or concerns raised are also subject to the Council's response in this Consultation Report. 145 of the responses were from individuals and 2 were from groups.
- 3.20 43% of all individual questionnaire respondents (62 responses) to the consultation were in favour of establishing a new primary school covering Nursery to P7 for the Haddington area, 49% (71 responses) were not in favour and 8% (12 responses) had no opinion. There were responses from 2 groups during the consultation period. Both of these were from the Parent Councils of the two directly affected schools who took a neutral position. A summary of responses by demographic is provided in Section 5 of the Consultation Report.

3.21 A number of themes emerged from the questionnaire and oral responses, and can be grouped as follows:

- Concerns that the consultation outcome is already decided and it is just a cost saving exercise
- Concerns that the proposal document is focused on the benefits of the proposal and no information is provided on the benefits of the 'status quo'
- Concerns over loss of "specialism" in stages
- Concerns over loss of additional stage transition as a positive experience
- Concerns that the proposal will not go ahead and that there will continue to be inconsistencies between the two schools in terms of teaching and policies
- School Budget and size of Senior Management Team of Proposed New School
- Appointment of Head Teacher and difficulty in recruitment
- Management of one larger school across two campuses
- Class structure for the 2 campuses and protocol for creating a composite class at P3/4
- Timescales for the establishment of the new school
- Transition to the new single school structure and minimising disruption
- Cost of purchasing a new uniform
- School Capacity & Building Condition
- Shared Assemblies
- Catchment area for the new school

East Lothian Council's response to these themes is detailed in Section 8 of the Consultation Report.

3.22 The comments made as part of the questionnaire submissions are included in Appendix 1 of the Consultation Report, apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been included in the collation of stakeholder's views and informed the Education Authority's response as detailed in Section 8 of the Consultation Report.

3.23 During the consultation period, Council officers visited Haddington Infant School and King's Meadow Primary School providing good opportunities for

pupils and staff to discuss their views. Pupils from Haddington Infant School were in support of the proposal, while the majority of pupils from King's Meadow Primary School were unsure. A note of the staff and pupil voice sessions are included as Appendices 3 and 4 of the Consultation Report.

3.24 In line with the Schools (Consultation) (Scotland) Act 2010, Education Scotland considered the educational aspects of the proposal and submitted a report to East Lothian Council. As part of this consideration, Education Scotland met with children, staff and parents who may be affected by the proposal. The full report from Education Scotland can be found in Appendix 5 of the Consultation Report. Education Scotland stated that there are clear educational benefits to the proposal as follows:

- The proposal provides an opportunity to improve learning and teaching and further raise attainment for all children in the catchment area;
- The establishment of a single staff team working together to ensure continuity and progression from P1 to P7 should bring greater curricular coherence, improved consistency of expectations and increased moderation of standards;
- Children will benefit from improved progression planning to better meet their needs; and
- Removing the need for an additional transition to a different school at the end of P3 is likely to reduce any possible risk of a slowing down of progress as children progress through the first level of Curriculum for Excellence.

3.25 Education Scotland reported that parents and staff across the two schools hold significantly different views about the educational benefits of the proposal.

3.26 Education Scotland noted that East Lothian Council in taking the proposal forward, should continue to engage and work with all stakeholders to address their concerns and agree an appropriate timescale for implementing its proposal. Education Scotland also stated that *“an effective communication strategy and an action plan based on the needs of both schools will be essential for the council to keep all stakeholders informed and engaged. The council should include details of these in its final report.”*

3.27 The Education Authority has set out its commitment to ongoing engagement with all stakeholders and the process for taking the proposal forward within Section 8.11 and Section 10 of the Consultation Report. Details on the process for transitioning to the new school structure were also made publicly available during the consultation period through the Frequently Asked

Questions document on the Consultation Hub and shared at the Public meeting.

3.28 Following receipt of a total of 147 questionnaire responses and consideration of feedback from consultees and Education Scotland, officers reviewed the proposal. The feedback from the consultation was considered by relevant officers within the Council's Education, Finance, Human Resources and Property Services. This ensured that the Council met the requirements of sections 9(1), 12 and 13(3) (b) of the 2010 Act.

3.29 Following completion of the statutory school consultation exercise, the Council has 3 options to consider, namely:

- i. approve, on the basis of the outcome of the school consultation and taking account of the educational and social benefits of the proposal, that:
 - a. subject to the conclusion of the Scottish Ministers eight-week call-in period or the notification of the outcome of a call in, as appropriate, Haddington Infant School and King's Meadow Primary School will be closed and a new primary school covering Nursery to P7 and its associated catchment area will be established for Haddington;
 - b. the establishment of the new school will take effect from August 2018, or as soon as possible thereafter.
- ii. withdraw the proposal. The two schools would remain as separate establishments with separate staffing structures, management teams and identities. While the Education Service would continue to work with both schools to focus on the improvement in the consistency of learning and teaching and continuity and progression the Council may not be able to fully address the additional transition challenges for children, staff and parents to better meet the needs of all pupils. The Education Bill 2018 will also determine the extent to which the local authority will be able to influence such improvements;
- iii. undertake a further consultation exercise on a new proposal.

3.30 On the basis of the feedback received and taking account of the educational and social benefits of the proposal, it is concluded that the following proposal is the only viable and deliverable option to address the additional transition challenges for children, staff and parents at Haddington Infant School and King's Meadow Primary School.

3.31 The proposed closures and establishment of a new primary school will create a positive environment for more effective learning and teaching that is better matched to the needs of the children across the stages. It will provide the

opportunity to develop a coherent and progressive curriculum from Nursery to P7. It will also provide the opportunity to improve the consistency of learning and teaching approaches to better meet the needs of all pupils. This will support much smoother and improved pastoral and curricular transitions across the stages. In addition, this will also enable staff to work with children across the school which will provide enhanced support for their learning.

3.32 It is therefore recommended that the Council approves the following:

- subject to the conclusion of the Scottish Ministers eight-week call-in period or the notification of the outcome of a call in, as appropriate, Haddington Infant School and King's Meadow Primary School will be closed and a new primary school covering Nursery to P7 and its associated catchment area will be established for Haddington;
- the establishment of the new school will take effect from August 2018, or as soon as possible thereafter;
- the Education Service will commence with the recruitment of the Head Teacher for the new school. Once in post, the Head Teacher will assume responsibility for the leadership and management of both schools during the transition period to the new single school structure;
- the two schools would continue to function as two separate schools with separate budgets and staffing structures until the Head Teacher is in post; and
- once a Head Teacher is appointed and in post, a Transition Action Group would be set up comprising the new Head Teacher, staff and parent representatives from both schools as well as council officers and trade union representatives. The new Head Teacher will lead the Transition Action Group. The Education Authority will take forward the establishment of the new school in partnership with the Transition Action Group.

4 POLICY IMPLICATIONS

4.1 None

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report has been through the Integrated Impact Assessment process. Potential impacts have been identified and will be addressed.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – School revenue budgets, including nursery, within East Lothian Council are set in line with the pupil roll and calculated in accordance with the Council's Devolved School Management (DSM) policies and the approved Scheme of Delegation for Schools. If the proposal is approved, Haddington Infant School and King's Meadow Primary School would continue to function as two separate schools with separate budgets and staffing structures until the Head Teacher is in post. The predictable needs funding for the two schools would remain as set for that academic session under the responsibility of the appointed Head Teacher until the establishment of the new school. As is the situation with the other primary school in East Lothian which operates across a split site the school budget and staffing entitlement is adjusted to reflect this.

Any increases in the pupil rolls due to an increase in nursery and primary aged children arising from committed and planned housing in the area will be reflected within the revenue budget for the new school during the budget and staffing allocation processes.

There are no capital budget implications directly associated with this proposal.

- 6.2 Personnel – The staffing entitlement for the new school will be set in line with the primary and nursery pupil roll of the school and calculated in accordance with the approved Scheme of Delegation for Schools and the Council's DSM policies. Revised staffing arrangements for the new school will be managed in line with the Council's 'Protocol for School Merger'.

The post of Head Teacher within the new school is deemed to be a "new" job against which Head Teacher(s) of the closed schools are not eligible to claim a match. The recruitment of the new Head Teacher will be carried out in line with current East Lothian recruitment procedures, appointing the best candidate for the vacancy. Recruitment will be open to all appropriately qualified staff from East Lothian and beyond. The Council has an obligation to redeploy any displaced Head Teacher to an appropriate vacancy within the Council. Successful redeployment would depend on a number of factors, as set out in the relevant procedure for the appointment of teaching staff, and would be subject to consultation with the relevant Parent Council. All staff, other than the Head Teacher(s), from the closed schools will be eligible to be matched to jobs in the structure of the new school.

- 6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 Consultation Report on the outcome of the consultation on the proposed closure of Haddington Infant School and King's Meadow Primary School and the establishment of a new primary school and its associated catchment area for Haddington (Members' Library, April 2018 Bulletin, Ref: 51/18).

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DATE	4 th April 2018

REPORT TO: East Lothian Council

MEETING DATE: 24 April 2018

BY: Depute Chief Executive (Resources and People Services)

5

SUBJECT: Outcome of the Statutory School Consultation on the Proposed Closure and Re-designation of North Berwick Nursery School to Law Primary School Nursery Class

1 PURPOSE

- 1.1 To share the outcome of the proposal to close North Berwick Nursery School as a standalone nursery school and re-designate to a nursery stage within Law Primary School.
- 1.2 To seek approval for the recommendation set out within the Consultation Report (Appendix A) to close North Berwick Nursery School as a standalone nursery school and re-designate to a nursery stage within Law Primary School.

2 RECOMMENDATIONS

- 2.1 The Council is asked to approve on the basis of the outcome of the school consultation and taking account of the educational and social benefits of the proposal that:
 - i. subject to the conclusion of the Scottish Ministers eight-week call-in period or the notification of the outcome of a call in, as appropriate, North Berwick Nursery School will be closed and re-designated to Law Primary School Nursery Class;
 - ii. the Care Inspectorate will be notified of the change in registration details; and

- iii. the re-designation of North Berwick Nursery School to Law Primary School Nursery Class will take effect from August 2018, or as soon as possible thereafter.

3 BACKGROUND

- 3.1 The Education (Scotland) Act 1980 places a legislative duty on the Council to make adequate and efficient provision of school education across their area, including the provision of education for eligible pre-school children and includes any school or Early Learning and Childcare centre (e.g. nursery school), which are run by the education authority. This duty applies in respect of both the current school population and anticipated pattern of demand. In addition, councils have a statutory duty to secure best value in terms of the Local Government in Scotland Act 2003.
- 3.2 The Council must consult on certain changes in arrangements for educating children in its area before it can commit to delivering them. This includes when proposing a permanent change to any of their schools, including nursery schools, such as closure, relocation or change of catchment area. This proposal required a formal consultation to be carried out in accordance with the Schools (Consultation) (Scotland) Act 2010. The Consultation Report (Appendix A) documents the formal consultation undertaken on this proposal between 24 October 2017 and 4 December 2017.
- 3.3 In August 2013 the Head Teacher of Law Primary School assumed the role of Head Teacher of North Berwick Nursery School under a shared headship arrangement following the retirement of the nursery school Head Teacher. There has been no local authority managed nursery class historically at Law Primary School as North Berwick Nursery School contributed towards the nursery provision in the local area.
- 3.4 While North Berwick Nursery School is registered as a standalone nursery school, the current staffing, budget and management operation is in line with the nursery class model which is in operation across East Lothian Council's authority managed nursery establishments, reflecting the shared headship with Law Primary School.
- 3.5 The Scottish Government recently announced plans to strengthen the role of Head Teachers as leaders of learning within the Education Governance: Next Steps 15 June 2017 (<http://www.gov.scot/Resource/0052/00521038.pdf>). East Lothian Council places a high importance on supporting our Head Teachers in developing the skills and knowledge to secure improvement in our schools. Over the past few years, the implementation of Curriculum for Excellence and the Scottish Government's new national outcomes for education as set out in

the National Improvement Framework have brought about changes to the role of a Head Teacher.

- 3.6 East Lothian Council considers formalising the shared headship across North Berwick Nursery School and Law Primary School through this proposal to be the preferable option in providing the Head Teacher with the ability to carry out effectively such duties associated with both recent and planned changes within education.
- 3.7 The main considerations relating to the proposed closure and re-designation of North Berwick Nursery School to Law Primary School Nursery Class were fully explained in Section A of the Consultation Proposal Document. The main points are highlighted below:
- The requirements of the National Improvement Framework and the new duties proposed within Education Governance: Next Steps.
 - The responsibilities associated with the expansion of early learning and childcare from 600 to 1140 hours.
 - The duties placed on local authorities in relation to the efficient and effective management of the school estate.
- 3.8 The statutory consultation on the proposed closure and re-designation of North Berwick Nursery School commenced at 12.00am on Tuesday 24 October 2017 and lasted until 12.00am on Monday 4 December 2017, being a period of six weeks, which also included the statutory minimum 30 school days. This was in line with the Schools (Consultation) (Scotland) Act 2010. Notification of the consultation was given to all statutory consultees prior to the commencement of the consultation. The Consultation Proposal Document was published on [East Lothian Council's Consultation Hub](#) and paper copies distributed on Tuesday 24 October 2017.
- 3.9 Representations were sought from statutory consultees and the wider public by the completion of an online questionnaire available on the East Lothian Council Consultation Hub. The Consultation Hub also stored all relevant consultation documentation for public viewing. Paper copies of the questionnaire were also distributed at Council buildings around the North Berwick area. Sealed boxes were also located at Law Primary School, North Berwick Nursery School and Dirleton Primary School for their return.
- 3.10 Publicity material detailed an East Lothian Council email address, phone number and postal address, to which representations and any other queries could be submitted.
- 3.11 In addition to the public meeting and public drop-in sessions, staff at the affected schools were also invited to attend a planned staff voice session held

at Law Primary School, Dirleton Primary School and North Berwick Nursery School to discuss the proposal; a representative group of pupils from Law Primary School and Dirleton Primary School attended separate workshops where they were able to express their views on the proposal; and meetings were held with Law Primary School Parent Council and Dirleton Primary School Parent Council to discuss the proposal.

- 3.12 HM Inspectors from Education Scotland undertook their statutory duties in accordance with the Schools (Consultation) (Scotland) Act 2010, by reviewing the educational aspects of the proposal and completing their report. A full copy of the Education Scotland report can be found in Appendix 5 of the Consultation Report (Appendix A).
- 3.13 All submitted representations, including the Education Scotland report, were analysed by East Lothian Council Officers, summarised and answered to in the Consultation Report (Appendix A). The Consultation Report, summarising all representations and East Lothian Council's response, was published on the East Lothian Council Consultation Hub on Thursday 29 March 2018. This was made publicly available for a period of three weeks, in line with the Schools (Consultation) (Scotland) Act 2010.
- 3.14 At the end of the consultation process, Section 15 of the Schools (Consultation) (Scotland) Act 2010 enables Scottish Ministers to call in a decision to implement the proposed closure and re-designation of North Berwick Nursery School to Law Primary School Nursery Class. Beginning on the day that a final decision has been taken, the Council must notify Scottish Ministers of this decision within a period of six working days. Scottish Ministers then have a period of eight weeks from and including the date of decision to decide if they will call in the proposal. The Council may not proceed with the implementation of the proposal until this eight-week period has passed.
- 3.15 If the Scottish Ministers decide to call in a closure proposal, it is then referred to the Convener of the School Closure Review Panels who has a period of seven days after a call in notice is issued to constitute a School Closure Review Panel. The Panel may decide to refuse consent to the proposal, refuse consent and remit it to the education authority for a fresh decision or grant consent to the proposal, either subject to conditions, or unconditionally. The Panel must notify the education authority of its decision within eight weeks from when the Panel was constituted or within 16 weeks if the Panel has issued a notice to the education authority that a decision has been delayed. The Council may not proceed with the implementation of the proposal until the outcome of the call in has been notified to the Council.

Summary

3.16 The Council received 35 responses to its questionnaire during the consultation period, 34 responses were from individuals and 1 was from a group.

3.17 59% of all individual questionnaire respondents (20 responses) to the consultation were in favour of closing North Berwick Nursery School and re-designating it to Law Primary School Nursery Class, 32% (11 responses) were not in favour and 9% (3 responses) had no opinion. There was 1 response from a group, Gullane Area Community Council, who held no opinion on the proposal. A summary of responses by demographic is provided in Section 5 of the Consultation Report (Appendix A).

3.18 Two main themes emerged from the questionnaire and oral responses, and can be grouped as follows:

- Concerns over the location of the nursery building
- Management structure and staffing for the re-designated nursery class

East Lothian Council's response to these themes is detailed in Section 8 of the Consultation Report (Appendix A).

3.19 The comments made as part of the questionnaire submissions are included in Appendix 1 of the Consultation Report (Appendix A), apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been included in the collation of stakeholder's views and informed the Education Authority's response as detailed in Section 8 of the Consultation Report (Appendix A).

3.20 During the consultation period, Council officers invited staff at the affected schools to attend planned staff voice sessions held at Law Primary School, Dirleton Primary School and North Berwick Nursery School to discuss the proposal. Council officers also visited Dirleton Primary School and Law Primary School providing good opportunities for pupils to discuss their views. Staff at North Berwick Nursery School expressed mixed views on the proposal. Overall, pupils expressed their support for the proposal. Staff who met with officers did not have any concerns regarding the proposal. A note of the staff and pupil voice sessions are included as Appendices 3 and 4 of the Consultation Report (Appendix A).

3.21 In line with the Schools (Consultation) (Scotland) Act 2010, Education Scotland considered the educational aspects of the proposal and submitted a report to East Lothian Council. As part of this consideration, Education Scotland met with children, staff and parents who may be affected by the proposal. The full report from Education Scotland can be found in Appendix 5 of the Consultation Report (Appendix A). Education Scotland has identified that the proposal has

the potential to bring educational benefits to the children and families in North Berwick Nursery and Law Primary School as follows:

- The proposal formalises the current management and staffing arrangements through the creation of the former North Berwick Nursery as a nursery class within Law Primary School; and
- Improved transitions for children as they progress from nursery to primary school should result from greater opportunities for collaboration and professional learning for all staff.

3.22 Education Scotland reported that all parents and children who met with HM Inspectors were in support of the proposal. Nursery staff were mixed in their views about the potential benefits.

3.23 Education Scotland noted that East Lothian Council in moving forward with the proposal, should continue to work with those nursery staff who are not yet convinced of the benefits with regard to staffing and resourcing in the proposed new arrangements.

3.24 Following receipt of a total of 35 questionnaire responses and consideration of feedback from consultees and Education Scotland, officers within the Council's Education Service reviewed the proposal. This ensured that the Council met the requirements of sections 9(1), 12 and 13(3) (b) of the 2010 Act.

3.25 Following completion of the statutory school consultation exercise, the Council has 3 options to consider, namely:

- i. approve, on the basis of the outcome of the school consultation and taking account of the educational and social benefits of the proposal, that:
 - a. subject to the conclusion of the Scottish Ministers eight-week call-in period or the notification of the outcome of a call-in, as appropriate, North Berwick Nursery School will be closed and re-designated to Law Primary School Nursery Class;
 - b. the Care Inspectorate will be notified of the change in registration details; and
 - c. the re-designation of North Berwick Nursery School to Law Primary School Nursery Class will take effect from August 2018, or as soon as possible thereafter.
- ii. withdraw the proposal and continue with an informal shared headship arrangement which is not in line with the Council's vision and values for Education and Early Learning & Childcare;
- iii. undertake a further consultation exercise on a new proposal.

3.26 On the basis of the feedback received and taking account of the educational and social benefits of the proposal, it is concluded that the following proposal is the most reasonable, viable and appropriate course of action open to it in providing primary education and early learning and childcare provision within the context of these schools.

3.27 The re-designation of North Berwick Nursery School as a nursery class supports continuity and progression in young children's learning and will further develop and enhance current arrangements in place through the shared headship. The proposal will formalise current management operations that are already in place through the shared headship under a single management structure with Law Primary School. This will have a positive impact on the children in both schools by further developing and enhancing a shared vision, values and aims from the nursery class through to P1 and beyond in both schools. The proposal will improve the continuity and progression in learning across all curriculum areas and stages of learning. Young children will benefit from seamless transition between pre-school and primary with staff and management who know them well.

3.28 It is therefore recommended that the Council approves the following:

- subject to the conclusion of the Scottish Ministers eight-week call-in period or the notification of the outcome of a call-in, as appropriate, North Berwick Nursery School will be closed and re-designated to Law Primary School Nursery Class;
- the Care Inspectorate will be notified of the change in registration details; and
- the re-designation of North Berwick Nursery School to Law Primary School Nursery Class will take effect from August 2018, or as soon as possible thereafter.

4 POLICY IMPLICATIONS

4.1 None

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report has been through the Integrated Impact Assessment process. Potential impacts have been identified and will be addressed.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – School revenue budgets, including nursery, within East Lothian Council are set in line with the pupil roll and calculated in accordance with the Council’s Devolved School Management (DSM) policies and the approved Scheme of Delegation for Schools. In August 2013 the Head Teacher of Law Primary School assumed the role of Head Teacher at North Berwick Nursery School under a shared headship arrangement. Due to the shared operational management arrangements, the budgets for North Berwick Nursery School and Law Primary School were brought together in 2015/16.

Any increases in the pupil rolls due to an increase in nursery and primary aged children arising from committed and planned housing in the area will be reflected within the Law Primary School revenue budget. There are no capital budget implications directly associated with this proposal.

- 6.2 Personnel – The staffing entitlement for the proposed re-designated nursery class will be set in line with the nursery roll in accordance with the approved Scheme of Delegation for Schools and the Council’s DSM policies. Any increases in the nursery roll due to an increase in nursery aged children arising from committed and planned housing in the area will be reflected within the staffing complement.

The Education Service closely monitors school rolls and plans staff recruitment in response to increases in rolls. Revised staffing arrangements are managed in accordance with the Council’s policies and procedures. No reconfiguration of existing core staffing arrangements is required as a result of this proposal.

- 6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 Consultation Report on the outcome of the consultation on the proposed closure and re-designation of North Berwick Nursery School to Law Primary School Nursery Class (Appendix A).

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DATE	4 th April 2018



EAST LOTHIAN COUNCIL
DEPARTMENT OF RESOURCES AND PEOPLE SERVICES
EDUCATION SERVICE

STATUTORY CONSULTATION REPORT

**REPORT ON THE OUTCOME OF THE CONSULTATION ON THE PROPOSED
CLOSURE AND RE-DESIGNATION OF NORTH BERWICK NURSERY SCHOOL TO
LAW PRIMARY SCHOOL NURSERY CLASS**

March 2018

This Consultation Report has been issued by East Lothian Council in accordance with the Schools (Consultation) (Scotland) Act 2010.

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EAST LOTHIAN COUNCIL

RESOURCES AND PEOPLE SERVICES

EDUCATION

This report has been prepared following consultation on the following proposal:

- The closure and re-designation of North Berwick Nursery School to Law Primary School Nursery Class.

This proposal **directly affected** the following schools:

- North Berwick Nursery School
- Law Primary School

Having had regard (in particular) to:

- a) Relevant written representations received by the Council (from any person) during the consultation period
- b) Oral representations made to it (by any person) at the public meeting held on 21st November 2017
- c) Oral representations made to it at the public drop-in session
- d) Oral representations made to it at the pupil voice sessions
- e) Education Scotland's report on the proposal

1. INTRODUCTION

1.1 This is a Consultation Report prepared in compliance with the Schools (Consultation) (Scotland) Act 2010 on the above proposal.

1.2 The purpose of this report is to:

- Provide a record of the total number of written responses made during the Statutory Consultation period;
- Provide a summary of the written responses;
- Provide a summary of oral representations made at the public meeting held on 21st November 2017;
- Provide a statement of the Council's response to those written and oral representations;
- Provide the full text of Education Scotland's report and a statement of the Council's response to this report;
- State how the Council reviewed the above proposal following the representations received during the Statutory Consultation period and the report from Education Scotland;
- Provide details of any alleged omission from, or inaccuracy in, the Consultation Proposal Document and state how the Council acted upon it; and
- State how the Council has complied with Section 12 of the Schools (Consultation) (Scotland) Act 2010 when reviewing the above proposal.

2. BACKGROUND

2.1 Education Authorities have a statutory duty in terms of the Education (Scotland) Act 1980 to make adequate and efficient provision of school education across their area, including the provision of education for eligible pre-school children and includes any school or Early Learning & Childcare centre (e.g. nursery school), which are run by the Education Authority. This duty applies in respect of both the current school population and anticipated pattern of demand. In addition, Councils have a statutory duty to secure best value in terms of the Local Government in Scotland Act 2003.

2.2 East Lothian Council is committed to raising educational attainment and ensuring that all children and young people have the best start in life and are ready to succeed. East Lothian's Education Service aims to provide the best education in Scotland through a relentless focus on Inclusion, Achievement, Ambition and Progress for All. We will all work together to Get it Right for Every Child and to ensure that all children and young people are Safe, Healthy, Nurtured, Active, Respected, Responsible and Included. To

realise our vision we will:

- act with ambition and integrity to open minds to the rights and values of education and help everyone to achieve their potential;
- work together to nurture all our children and young people;
- demonstrate a community working together to make that difference for every child; and
- collectively strive for excellence and equity for all.

2.3 Our vision and values for education within East Lothian Council align with the Key Priorities in the National Improvement Framework for Scottish Education 'Achieving Excellence and Equity' (Scottish Government, January 2016) and 'Delivering Excellence and Equity in Scottish Education' (Scottish Government, June 2016):

- Improvement in attainment, particularly in literacy and numeracy;
- Closing the attainment gap between the most and least disadvantaged children;
- Improvement in children and young people's health and wellbeing; and
- Improvement in employability skills and sustained, positive school leaver destinations for all young people.

2.4 East Lothian Council has set out its vision for early learning and childcare in the 'Early Learning and Childcare Strategy 2016-2021', making a clear commitment to working with children, families and partners in the community to ensure that children have the best start in life and are ready to succeed. The Strategy outlines three guiding principles as follows:

- Deliver on the Scottish Government's commitment to increase the number of funded early learning & childcare hours for all three and four year olds and eligible two year olds from 600 to 1140 per year by 2020. Targeting support towards the parents, children and communities most in need.
- To close the attainment gap through early intervention and reduce the impact of disadvantage by providing targeted support to families facing additional pressures.
- To ensure an informed, well-qualified, skilled and motivated workforce to enable delivery of high quality early learning and childcare services capable of meeting future demand and challenges, as we move towards 1140 hours.

2.5 In August 2013 the Head Teacher of Law Primary School assumed the role of Head Teacher of North Berwick Nursery School under a shared headship arrangement following the retirement of the nursery school Head Teacher. There has been no local authority managed nursery class historically at Law Primary School as North Berwick Nursery School contributed towards the nursery provision in the local area.

- 2.6 While North Berwick Nursery School is registered as a stand-alone nursery school, the current staffing, budget and management operation is in line with the nursery class model which is in operation across East Lothian Council's authority managed nursery establishments, reflecting the shared headship with Law Primary School.
- 2.7 The Scottish Government recently announced plans to strengthen the role of Head Teachers as leaders of learning within the Education Governance: Next Steps 15th June 2017 (<http://www.gov.scot/Resource/0052/00521038.pdf>). East Lothian Council places a high importance on supporting our Head Teachers in developing the skills and knowledge to secure improvement in our schools. Over the past few years, the implementation of Curriculum for Excellence and the Scottish Government's new national outcomes for education as set out in the National Improvement Framework have brought about changes to the role of a Head Teacher. East Lothian Council considers formalising the shared headship across North Berwick Nursery School and Law Primary School through this proposal to be the preferable option in providing the Head Teacher with the ability to carry out effectively such duties associated with both recent and planned changes within education.
- 2.8 The Council must consult on certain changes in arrangements for educating children in its area before it can commit to delivering them. This includes when proposing a permanent change to any of their schools, including nursery schools, such as closure, relocation or change of catchment area. This proposal required a formal consultation to be carried out in accordance with the Schools (Consultation) (Scotland) Act 2010. This report documents the formal consultation undertaken on this proposal between 24th October 2017 and 4th December 2017.
- 2.9 The proposed closure and re-designation of North Berwick Nursery School to Law Primary School Nursery Class will **directly affect** the following schools and is considered in this Proposal Document:
- Law Primary School
 - North Berwick Nursery School
- 2.10 The educational benefits that will arise from this proposal for children affected or likely to be affected were outlined in the Consultation Proposal Document. It is believed that this proposal is the most reasonable, viable and appropriate course of action open to it in providing primary education and early learning & childcare provision within the context of these schools. The reasons for coming to this view and consulting on the proposal were set out in Section A of the Consultation Proposal Document.

3. CONSIDERATIONS

3.1 The main considerations relating to the proposed closure and re-designation of North Berwick Nursery School to Law Primary School Nursery Class are fully explained in Section A of the Consultation Proposal Document. The main points are highlighted below:

- The requirements of the National Improvement Framework and the new duties proposed within Education Governance: Next Steps.
- The responsibilities associated with the expansion of early learning and childcare from 600 to 1140 hours.
- The duties placed on local authorities in relation to the efficient and effective management of the school estate.

4. THE CONSULTATION PROCESS

4.1 The Council has met the minimum requirements set out in the Schools (Consultation) (Scotland) Act 2010 with regards to ensuring the views of all members of the community were listened to and their views are included in this report. The Council believes that this report accurately reflects the views of the community, which have been gathered through a range of engagement events and response mechanisms. It is for members of East Lothian Council to decide to adopt the proposal, withdraw it or seek to consult on another proposal.

4.2 Notification of the consultation was given to all statutory consultees prior to the commencement of the consultation.

4.3 The Consultation Proposal Document was published on East Lothian Council's website and paper copies distributed on 24th October 2017 to:

- Dirleton Primary School
- Law Primary School
- North Berwick Nursery School
- Aberlady Primary School
- Athelstaneford Primary School
- Gullane Primary School
- Fenton Barns Nursery
- Mary Poppins Nursery
- Pumpkin Patch North Berwick Nursery
- Dirleton Playgroup
- Gullane Playgroup
- North Berwick Community Centre

- North Berwick Health Centre
- John Muir House, Haddington.

4.4 The consultation period commenced at 12.00am on **Tuesday 24th October 2017** and lasted until 12.00am on **Monday 4th December 2017**, being a period of six weeks, which also included the statutory minimum 30 school days.

4.5 The proposal on which consultation took place was:

- To close North Berwick Nursery School as a stand-alone nursery school and re-designate it to a nursery stage within Law Primary School.

4.6 The requirements for consulting on a relevant proposal relating to schools are set out in the Schools (Consultation) (Scotland) Act 2010.

4.7 An information leaflet setting out details about the proposal and consultation meetings was issued to the consultees listed in the Consultation Proposal Document. Advice on where the complete Consultation Proposal Document could be obtained was included and was published on East Lothian Council’s Consultation Hub:

<http://www.eastlothianconsultations.co.uk/education/northberwickconsultation>

4.8 If requested, copies of the proposal would have been made available in alternative formats or translated for readers whose first language is not English.

4.9 A “Frequently Asked Questions” document was also prepared which was available at the same location on East Lothian Council’s Consultation Hub:

<http://www.eastlothianconsultations.co.uk/education/northberwickconsultation>

4.10 An advertisement was placed in the local newspaper on **26th October 2017** and **16th November 2017**. A pre-announcement was also made on the Council’s website and social media posts on the **23rd October 2017**. In addition, there were announcements related to the consultation process on East Lothian Council’s website, linked via a Facebook page and Twitter feeds.

4.11 The public meeting was held at **North Berwick High School** on **Tuesday 21st November 2017 at 7.00pm**.

4.12 In addition to specific meetings with statutory consultees, drop-in sessions were held in respect of the proposal at the venues below, at which any members of the public and staff were welcome to attend:

Venue	Date	Time
Dirleton Primary School	6 th November 2017	12:00pm – 5:00pm
North Berwick Community Centre	9 th November 2017	12:00pm – 5:00pm

4.13 In accordance with statutory requirements, the following persons, including those indirectly affected, were consulted:

- The Parent Councils of Law and Dirleton Primary Schools
- The parents/carers of children at North Berwick Nursery School, Law Primary School and Dirleton Primary School
- The parents/carers of any children expected to attend Dirleton Primary School, Law Primary School and North Berwick Nursery School within two years of the date of publication of the proposal paper
- The children at North Berwick Nursery School, Law Primary School and Dirleton Primary School
- The staff at North Berwick Nursery School, Law Primary School and Dirleton Primary School
- The trade union representatives of the above staff
- North Berwick Coastal Area Partnership
- North Berwick Community Council
- Gullane Area Community Council
- Dunpender Community Council

4.14 The following schools are **directly affected** by the proposal:

- North Berwick Nursery School
- Law Primary School

4.15 Representations were sought from statutory consultees and the wider public in the following ways:

- An online questionnaire on East Lothian Council's Consultation Hub. The questionnaire asked specific questions and enabled general comments and views to be entered. The Consultation Hub stored all relevant consultation documentation for public viewing;
- Widely distributed paper copies of the same questionnaire, at Council buildings around the North Berwick area. Sealed boxes were also located at Law Primary School, North Berwick Nursery School and Dirleton Primary School for their return;
- Paper and digital flyers, in addition to the press adverts and Council web and social media announcements linked to the Consultation Hub. These flyers also detailed a specific Education Consultations email inbox, to which any queries could be submitted during the consultation period;
- Flyer distribution to pupils at Law Primary School, Dirleton Primary School and North Berwick Nursery School as well as all local authority managed nursery classes and partner providers within the North Berwick cluster area. The Head Teacher of the

affected schools used established methods of communication to engage/remind parents about the consultation and the Education Scotland independent evaluation visit.

- In addition to the public meeting and public drop-in sessions, staff at the affected schools were also invited to attend a planned staff voice session held at Law Primary School, Dirleton Primary School and North Berwick Nursery School to discuss the proposal;
- A representative group of pupils from Law Primary School and Dirleton Primary School attended separate workshops where they were able to express their views on the proposal;
- Meetings were held with Law Primary School Parent Council and Dirleton Primary School Parent Council to discuss the proposal.

4.16 This Consultation Report is the Council’s response to the points raised during the consultation period on the Consultation Proposal Document.

4.17 This Consultation Report will be published for a period of three weeks before a final decision is taken by East Lothian Council on 24th April 2018.

5. RESPONSES TO THE CONSULTATION EXERCISE

5.1 As part of the consultation process, the Council sought the views of a wide range of stakeholders. The Council provided stakeholders with a short online or paper questionnaire and also made good arrangements for receiving additional written responses. The Council received 35 responses to its questionnaire.

5.2 Although the responses to the questionnaire capture the flavour of opinions regarding the consultation and are all valued, it is important to note that such a small sample size is not statistically significant.

5.3 The comments made as part of the questionnaire submissions are included in Appendix 1, apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been included in the collation of stakeholder’s views and informed the Education Authority’s response as detailed in section 8 of this report.

5.4 The questionnaire responses are summarised by category in the following tables:

Table 1 – Number of respondents by type of respondent

Type of Respondent	No. of Responses	% of Responses
Groups	1	3%
Individuals	34	97%
Total Responses	35	100%

Table 2 – Number of individual respondents by category

Individual Respondents	No. of Responses	% of Responses
Parents	30	88%
Staff	3	9%
Other	1	3%
Total Responses	34	100%

Table 3 – Number of group respondents by category

Group Respondents	Number of Responses	% of Responses
Community Council	1	100%

Response Analysis from Individuals

5.5 The number of responses to the consultation in support or not in support of the proposal by category of respondent is shown in Table 4 below:

Q - To what extent do you agree or disagree with the proposal to close North Berwick Nursery School and re-designate it as Law Primary School Nursery Class?

Table 4 – Number of respondents by category

Individual Respondents	Agree/ Strongly Agree		No Opinion/Not Answered		Disagree/ Strongly Disagree		Total	
	No.	%	No.	%	No.	%	No.	%
Parents	18	60%	3	10%	9	30%	30	100%
Staff	1	33%	0	0%	2	67%	3	100%
Other	1	100%	0	0%	0	0%	1	100%
Total Responses	20	59%	3	9%	11	32%	34	100%

Response Analysis from Groups

5.6 There was 1 response from Gullane Area Community Council who held no opinion on the proposal.

The Public Meeting

5.7 A public meeting was held in North Berwick High School on Tuesday 21st November 2017 which was attended by one member of the community. A full note of the meeting is attached at Appendix 2 which details the questions and issues raised at the meeting. The points raised are addressed within the response to Frequently Asked Questions or within this report.

- 5.8 Additionally, drop-in sessions were arranged at both schools during the consultation period, enabling any member of the public and staff to ask questions and discuss the proposal, the consultation process and how they could make representations

Pupil & Staff Voice Sessions

- 5.9 During the consultation period, Council officers invited staff at the affected schools to attend planned staff voice sessions held at Law Primary School, Dirleton Primary School and North Berwick Nursery School to discuss the proposal. Council officers also visited Dirleton Primary School and Law Primary School providing good opportunities for pupils to discuss their views. A note of the staff and pupil voice sessions are included as Appendices 3 and 4. Staff at North Berwick Nursery School expressed mixed views on the proposal. Overall, pupils expressed their support for the proposal.

6. SUPPORT FOR THE PROPOSAL

- 6.1 59% of all individual questionnaire respondents (20 responses) to the consultation were in favour of closing North Berwick Nursery School and re-designating it to Law Primary School Nursery Class. The full text of all responses received can be read in Appendix 1, apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been included in the collation of stakeholder's views and informed the Education Authority's response as detailed in Section 8 of this report.
- 6.2 The main points from the individual responses that were in favour of the proposal were as follows:
- Wraparound care - location and closure of building
 - Closure and moving of the nursery building - outdoor space

7. OPPOSITION TO THE PROPOSAL

- 7.1 32% of all individual questionnaire respondents (11 responses) to the consultation were not in favour of closing North Berwick Nursery School and re-designating it to Law Primary School Nursery Class. The full text of all responses received can be read in Appendix 1, apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been included in the collation of stakeholder's views and informed the Education Authority's response as detailed in Section 8 of this report.
- 7.2 The main issues raised in these responses were as follows:
- Closure and moving of the nursery building - outdoor space
 - Wraparound care - location and closure of building
 - Management structure and staffing for the nursery

8. EDUCATION AUTHORITY RESPONSE TO THE MAIN ISSUES RAISED

8.1 Concerns over the location of the nursery building

8.1.1 The proposal to close North Berwick Nursery School as a stand-alone nursery and re-designate to Law Primary School Nursery Class will not affect the location of the nursery building. Law Primary School Nursery Class will operate within the current North Berwick Nursery School facilities. Therefore, this proposal will not affect the use of the existing outdoor space at the nursery. The proposal will also not affect the wraparound service currently offered in the North Berwick area.

8.2 Management structure and staffing for the re-designated nursery class

8.2.1 The Scottish Government commits to providing 1140 hours of early learning and childcare for all three and four year olds, and eligible two-year-olds for the beginning of the academic year, August 2020. To assist Local Authorities in this task the Scottish Government has published an action plan: “A Blue Print for 2020: The expansion of early learning and childcare in Scotland” 2017–18 Action Plan. The above document makes it clear that quality provision benefits all children, however, quality does not sit with the structure of a building but what goes on within. We should also remind ourselves that early learning does not begin when children are three but starts from birth in the home. In acknowledgement of this, East Lothian Council support a number of community initiatives working to support parents to be, parents and young children within their own homes and communities.

8.2.2 Working with parents and young children in the community is acknowledged as an investment, with the positive effects and outcomes from this support evidence as children progress through school.

8.2.3 East Lothian Council, as with all Authorities across Scotland, has begun the journey towards the provision of 1140 hours of early learning and childcare by 2020. As trials begin and we move away from the conventional nursery times and provision, there will be opportunities for staff to work in different ways. Law Primary School Nursery Class will continue to benefit from management time from the senior leadership team in the primary school who will work with nursery staff to ensure high quality provision for all children attending the nursery. This practice is common-place across all East Lothian primary schools with nursery classes. At the time of consulting on this proposal, East Lothian Council is also transforming the early year’s workforce including creating a new Senior practitioner role who will take on a leadership role in the nursery. Recruitment for these positions will begin in May 2018 and Law Primary School Nursery Class will benefit from this change. From August 2018 teachers working in East Lothian local authority nurseries will be redeployed in primary schools.

8.2.4 The Scottish Government commits not only to provide 1140 hours of early learning and childcare by 2020, but also to support parents in their choice of provision, “provider neutral” an “enhanced role for childminders” and through a “choice of settings” provide “increased flexibility”. East Lothian Council, in their planning for 1140 hours, are considering a number of trials, the majority of which are to be finalised before announcements to parents and communities will be made.

8.2.5 East Lothian Council in rising to the challenge of providing 1140 hours of early learning and childcare by 2020, and will, between 2017 and 2020, consult with parents and trial different models of provision in cluster areas. This will include more flexibility and choice for parents and involve Local Authority and Partnership Centres, as well as Childminders and other registered childcare providers within the community. Trials will begin slowly so that feedback, from staff working in different ways and parents using different models, can be taken into account before rolling out across the county.

9. EDUCATION SCOTLAND REPORT

9.1 In accordance with the Schools (Consultation) (Scotland) Act 2010, a report was produced by Education Scotland on the educational aspects of the proposal. The Education Scotland report can be read in full at Appendix 5.

9.2 In preparing this report, HM Inspectors undertook the following activities:

- consideration of all relevant documentation provided by the Council in relation to the proposal, specifically the educational benefits statement and related consultation documents, written and oral submissions from parents and others; and
- visits to the sites of Law and Dirleton Primary Schools, including discussion with relevant consultees.

9.3 Section 4 of the Education Scotland report summarises their findings and conclusions as follows:

“HM Inspectors consider that this proposal has the potential to bring educational benefits to the children and families in North Berwick Nursery and Law Primary School. The proposal formalises the current management and staffing arrangements through the creation of the former North Berwick Nursery as a nursery class within Law Primary School. Improved transitions for children as they progress from nursery to primary school should result from greater opportunities for collaboration and professional learning for all staff. In moving forward with the proposal, the council should continue to work with those nursery staff who are not yet convinced of the benefits with regard to staffing and resourcing in the proposed new arrangements.”

East Lothian Council's Response to Education Scotland's Report

9.4 East Lothian Council welcomes the report from Education Scotland and accepts its findings. The points raised by Education Scotland within the Education Scotland Report were also key themes identified through the consultation process and are addressed in Section 8 of this consultation report. The Education Authority will continue to engage with staff regarding the proposed new arrangements.

10. TRANSITION ARRANGEMENTS

10.1 Subject to the conclusion of the Scottish Ministers eight-week call-in period or the notification of the outcome of a call-in, as appropriate, if approved, the closure and re-designation of North Berwick Nursery School as a stand-alone nursery school to Law Primary School Nursery Class will take effect from August 2018, or as soon as possible thereafter.

10.2 Children currently attending North Berwick Nursery School and Law Primary School will not be significantly affected by the closure and re-designation as North Berwick Nursery School has been operating under a shared headship arrangement with Law Primary School since August 2013.

10.3 Parents of eligible pre-school children would continue to apply for early learning and childcare provision at the re-designated Law Primary School Nursery Class through the Council's existing Nursery Admissions processes.

10.4 Current management operations that are already in place through the shared headship will be formalised under a single management structure within Law Primary School.

11. ALLEGED OMISSIONS OR INACCURACIES

11.1 Section (10) (3) of the Schools (Consultation) (Scotland) Act 2010 also places a requirement on the Council to provide details of any alleged inaccuracy or omission within the Consultation Proposal Document which has either been identified by the Council or raised by consultees. This section of the 2010 Act also requires the Council to provide a statement on the action taken in respect of the inaccuracy or omission, or, if no action was taken, to state that fact and why.

11.2 There were no inaccuracies or omissions within the Consultation Proposal Document either identified by the Council or raised by consultees during the consultation period.

12. COMPLIANCE WITH SECTION 9(1) OF THE SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010

12.1 Section 9(1) of the Schools (Consultation) (Scotland) Act 2010 states that:

After the Education Authority has received Education Scotland's report, the Authority is to review the relevant proposal having regard (in particular) to:

- (i) written representations received by the Authority (from any person) during the consultation period,*
- (ii) oral representations made to it (by any person) at the public meeting,*
- (iii) Education Scotland's report.*

12.2 Following receipt of 35 questionnaire responses officers reviewed the proposal. There were no oral representations made at the public meeting held during the consultation period.

12.3 The feedback from the consultation was considered by relevant officers within the Council's Education Service. This ensured that the Council met the requirements of sections 9(1), 12 and 13(3) (b) of the 2010 Act.

13. LEGAL ISSUES

13.1 The Council has complied in full with the requirements of the Schools (Consultation) (Scotland) Act 2010 throughout this statutory consultation.

13.2 The Council is mindful of its duties in respect of equality and the Equality Impact Assessment did not identify that any parent, child or young person would be treated less favourably as a result of this proposal.

13.3 Under the terms of the Schools (Scotland) (Consultation) Act 2010, it is a legal requirement that the Council should not reach any formal decision without having reviewed the relevant proposal having regard, in particular, to:

- a) relevant written representations received from any person during the consultation period;
- b) oral representation made to it by any person at the public meeting held on 21st March 2017;
- c) the Education Scotland report;
- d) preparing a Consultation Report; and
- e) waiting until a period of three weeks starting on the day on which this Consultation Report is published in electronic and printed form has expired.

13.4 As it is the intention that this Consultation Report should be published, both electronically and in written form, if required, on 29th March 2018, this meets the statutory requirement to publish this report more than three weeks before consideration of the proposal by East Lothian Council.

14. SCOTTISH MINISTERS CALL-IN CLOSURE PROCEDURE

- 14.1 At the end of the consultation process, Section 15 of the *Schools (Consultation) (Scotland) Act 2010* enables Scottish Ministers to call-in a decision to implement the proposed closure and re-designation of North Berwick Nursery School to Law Primary Nursery Class.
- 14.2 Beginning on the day that a final decision has been taken, the Council must notify Scottish Ministers of this decision within a period of six working days. Scottish Ministers then have a period of eight weeks from and including the date of decision to decide if they will call-in the proposal. The Council must publish the fact that the Scottish Ministers have been notified and that representations can be made to the Scottish Ministers within the first three weeks of the eight-week period. The Scottish Ministers will take into account any relevant representations that were made to them by any person within the first three weeks. The Council may not proceed with the implementation of the proposal until this eight-week period has passed.
- 14.3 If the Scottish Ministers decide to call in a closure proposal, it is then referred to the Convener of the School Closure Review Panels who has a period of seven days after a call in notice is issued to constitute a School Closure Review Panel. The Panel may decide to refuse consent to the proposal, refuse consent and remit it to the education authority for a fresh decision or grant consent to the proposal, either subject to conditions, or unconditionally. The Panel must notify the education authority of its decision within eight weeks from when the Panel was constituted or within 16 weeks if the Panel has issued a notice to the education authority that a decision has been delayed. The Council may not proceed with the implementation of the proposal until the outcome of the call-in has been notified to the Council.

15. PERSONNEL ISSUES

- 15.1 No personnel issues have been identified with regard to this proposal.

16. ENVIRONMENTAL ISSUES

- 16.1 No environmental issues have been identified with regard to this proposal.

17. CONCLUSION

- 17.1 Officers of the Education Authority have considered carefully the written representations, including the Education Scotland report. Having reviewed the feedback from consultees, officers conclude that the basis of the original proposal remained the best solution in providing primary education and early learning & childcare provision within the context of these schools.

17.2 The re-designation of North Berwick Nursery School as a nursery class supports continuity and progression in young children's learning and will further develop and enhance current arrangements in place through the shared headship. The proposal will formalise current management operations that are already in place through the shared headship under a single management structure with Law Primary School. This will have a positive impact on the children in both schools by further developing and enhancing a shared vision, values and aims from the nursery class through to P1 and beyond in both schools. The proposal will improve the continuity and progression in learning across all curriculum areas and stages of learning. Young children will benefit from seamless transition between pre-school and primary with staff and management who know them well.

17.3 The key messages deriving from the consultation period are as follows:

- 59% of all individual questionnaire respondents (20 responses) to the consultation were in favour of closing North Berwick Nursery School and re-designating it to Law Primary School Nursery Class, 32% (11 responses) were not in favour and 9% (3 responses) had no opinion;
- There was 1 response from a group, Gullane Area Community Council, who held no opinion on the proposal;
- During the consultation period, Council officers invited staff at the affected schools to attend planned staff voice sessions held at Law Primary School, Dirleton Primary School and North Berwick Nursery School to discuss the proposal. Council officers also visited Dirleton Primary School and Law Primary School providing good opportunities for pupils to discuss their views. Staff at North Berwick Nursery School expressed mixed views on the proposal. Overall, pupils expressed their support for the proposal. Staff who met with Officers did not have any concerns regarding the proposal.

17.4 Education Scotland has identified that the proposal has the potential to bring educational benefits to the children and families in North Berwick Nursery and Law Primary School. This includes *“Improved transitions for children as they progress from nursery to primary school should result from greater opportunities for collaboration and professional learning for all staff”*.

17.5 The Council now has 3 options to consider, namely:

- a) adopt the proposal;
- b) withdraw the proposal;
- c) undertake a further consultation exercise on a new proposal.

17.6 If the Council adopts the proposal, it would be on the basis that the educational benefits set out in the Consultation Proposal Document would materialise.

17.7 In withdrawing the proposal, the alternative to the closure and re-designation of North Berwick Nursery School as a stand-alone nursery school to a stage within Law Primary School is to continue with an informal shared headship arrangement which is not in line with the Council's vision and values for Education and Early Learning & Childcare.

18. **RECOMMENDATIONS**

18.1 On the basis of the feedback received and taking account of the educational and social benefits of the proposal, it is concluded that the following proposal is the most reasonable, viable and appropriate course of action open to it in providing primary education and early learning & childcare provision within the context of these schools

18.2 Following the conclusion of the Scottish Ministers eight-week call-in period or the notification of the outcome of a call-in, as appropriate, it is recommended that the Council approves the following:

- North Berwick Nursery School will be closed and re-designated to Law Primary School Nursery Class;
- the Care Inspectorate will be notified of the change in registration details;
- The re-designation of North Berwick Nursery School to Law Primary School Nursery Class will take effect from August 2018 or as soon as possible thereafter.

Fiona Robertson
Head of Education
March 2018

APPENDIX 1: COMMENTS FROM QUESTIONNAIRE RESPONSES

Of the 35 questionnaire responses, 10 contained comments of whom 7 declined permission to make their comments publicly available. However, their representations have been taken account of and responded to in Section 8 of this Consultation Report. The summary of comments below, were made from the remaining 3 responses who gave permission to share their comments publicly.

Responses from Individuals

Responses from those in support of the proposal to close North Berwick Nursery School and re-designate it to Law Primary School Nursery Class

The comments included with those responses received that were in favour of the proposal are shown below:

Comments
<p>My only concerns with Proposal 1 would be whether the change of location would negatively impact the wraparound care options for working parents. Pumpkin Patch, for example, currently walk children to and from NB Nursery School at the current location - and it may be felt that the distance to the primary school would be too far to continue this option. There are also people employed specifically for this purpose, so this may impact these roles.</p> <p>I also have concerns on the additional traffic that would be created at dropoff and pickup times - Law Road and Grange Road are already significantly impacted by the existing schools at 8.30 am - so adding pre-school to this could create further issues.</p> <p>However, as an option for parents that have both primary school and nursery aged children - this could be an obvious efficiency.</p>

Responses from those who are not in favour of the proposal to close North Berwick Nursery School and re-designate it to Law Primary School Nursery Class

The comments made in the responses that were not in favour of the proposal are shown below.

Comments
<p>I would like to hear more on the reasoning but the nursery school has a wonderful garden area and it would be so sad to lose it along with all the education opportunities it offers. The nursery currently do an excellent transition up to the primary school.</p>
<p>My main concern is that the outdoor space is so good at the current North Berwick Nursery and there does not appear to be the same provision at Law Primary.</p>

APPENDIX 2: NOTE OF PUBLIC MEETING

STATUTORY PUBLIC CONSULTATION MEETING

PROPOSAL 1 – PROPOSED CLOSURE AND RE-DESIGNATION OF NORTH BERWICK NURSERY SCHOOL TO LAW PRIMARY SCHOOL NURSERY CLASS

PROPOSAL 2 – TO ALTER THE SCHOOL CATCHMENT AREAS OF DIRLETON PRIMARY SCHOOL AND LAW PRIMARY SCHOOL

**TUESDAY 21 NOVEMBER 2017
NORTH BERWICK HIGH SCHOOL**

PRESENT:-

Chris Webb, Independent Adviser, Chair of meeting
Lesley Brown, Quality Improvement Manager
Richard Parker, Service Manager, Education
Iain McFarlane, Planning Service Manager, Development Management
Pauline Smith, Principal Officer (Information & Research)
Rob Lewis, Senior Information Officer
Katy Johnstone, Graduate Intern
David Gilmour, Web Officer
1 member of the public

Chris Webb welcomed everyone to the meeting, introduced himself and outlined the purpose of the meeting. He informed the attendee that the meeting was being recorded to allow the Council to have an accurate record of any issues raised so they can answer any questions in more detail at a later date. The views recorded will form part of the consultation exercise.

Chris Webb advised that the purpose of the meeting is to give members of the public the opportunity to hear more about the proposals, ask questions about the proposals and have their views recorded and noted and taken account of as part of the consultation process.

He acknowledged that there were two proposals however the member of the public in attendance identified that they were only interested in the second proposal. It was the member of the public's preference to only discuss the second proposal.

Richard Parker reiterated that the meeting was being held to discuss two proposals but as there was no interest in the first proposal, only the second was to be presented:-

- To alter the catchment areas of Dirleton Primary School and Law Primary School
- If approved, the catchment area of Law Primary School will be extended to include the whole of the new residential development at Ferrygate Meadow and the houses in the area of Westerdunes Park, North Berwick currently in the catchment area of Dirleton Primary School

- The proposed changes to the Dirleton Primary School and Law Primary School catchment areas will become operational with immediate effect.

Background on Proposal Two

- On 13th November 2015 planning permission in principle was allowed under appeal for planning application 14/00632/PPM, a new residential development on the land at Ferrygate Farm (known as Ferrygate Meadow).
- The supporting documentation at the time of the application assessment indicated that the new development could be wholly contained within the Law Primary School catchment boundary
- In the Spring of 2017 the location of the houses as mapped on the Council's geographical information system showed that the current Law Primary School catchment boundary now divides Ferrygate Meadow.
- 132 of these 140 properties are located within the current Law Primary School catchment area and the remaining 8 properties are located within the Dirleton Primary School catchment area.
- The Ferrygate Meadow development has escalated a legacy catchment boundary issue to the west of the current Law Primary School catchment boundary which runs across open fields.
- To enable all of the properties from the development to be in the same catchment, it is proposed that the boundary line will be extended to the next appropriate natural boundary.
- As a result, this change will include houses in the area of Westerdunes Park which are also currently in the Dirleton Primary School catchment area.

Educational Benefits

The proposed alteration of the catchment areas of Dirleton Primary School and Law Primary School will have educational benefits through:

- Ensuring all primary aged children from the new development at Ferrygate Meadow will be able to attend the same school.
- Promoting a greater sense of community and providing the opportunity for children living within the properties at Ferrygate Meadow and Westerdunes Park to develop and sustain strong relationships both at school and at home.

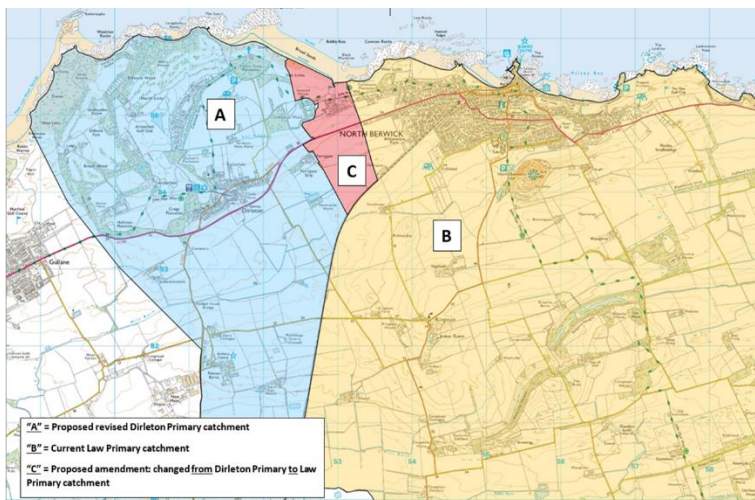
Transition Arrangements

- Pupils who currently attend Dirleton Primary School and Law Primary School will not be significantly affected as the proposed catchment changes will only impact on future pupil enrolments.
- Children currently living in the affected area and attending Dirleton Primary School will continue to attend Dirleton Primary School for the remainder of their primary education.
- For children starting P1 living in the affected area who have a sibling continuing to attend Dirleton Primary School in the same academic year who would, but for implementation of the proposal, be likely to become pupils of that school, will have the option to attend Dirleton Primary School if they wish to do so.

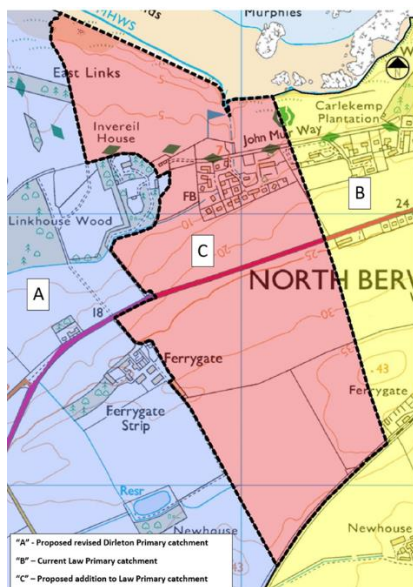
School Capacity

- Law Primary School with its extension has the capacity to accommodate the projected pupil numbers that will arise from the proposed boundary change and the committed housing developments in the Law Primary School catchment area.
- Further expansion of Law Primary School is not required as a result of this proposal.
- Dirleton Primary School has the capacity to accommodate the projected pupil numbers which will arise from the planned and committed housing development in its catchment area.
- However, the Dirleton Primary School facilities and site are constrained and would not have the ability to be physically extended to accommodate the additional pupils projected to arise from the new development at Ferrygate Meadow in addition to the planned and committed housing developments in the Dirleton catchment area.

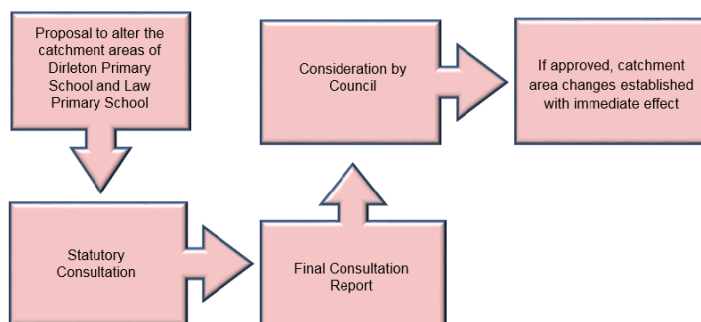
Map of Locations 1



Map of Locations 2



Project Timeline – Proposal 2



Chris Webb invited questions from the member of the public.

The member of the public stated that the proposal was clear and that they expected there to be an answer on the outcome when the proposal ends on the 4th December.

Richard Parker responded that after the close of the consultation the proposal would need to go to Council to be approved. He explained that this proposal will not become effective until after the Council meeting and once Scottish Ministers have had the opportunity to call the proposal in.

Chris Webb explained that although the time between the consultation and the Council decision seemed long, this is the process that is undertaken for all statutory school consultations. He explained that there had to be due diligence in the process of every consultation and that the role of Education Scotland was to scrutinise the educational benefits of the proposal as an independent body. He reiterated the process undertaken by both Education Scotland and the Local Authority and explained that it was in place to ensure that the process was safeguarded by an independent perspective.

The member of the public stated that they understood the timescales and that their reason for attending the meeting was to show their support for the proposal. They stated that they supported the proposal for the inclusivity of the children who would grow up in one of the 8 houses in the current Dirleton Primary School catchment, living in North Berwick but potentially having to go to a school that wasn't in town. They felt that it would be hard for the children to forge friendships and a network of friends as they would have children a stone's throw away who go to a different school. The member of the public felt that the current situation is divisive and they would not want their children to take a place from a child at Dirleton Primary School as they felt that Dirleton Primary School was for Dirleton residents. They also stated that there is a safe walking route from Ferrygate Meadow to Law Primary School which is not the case with Dirleton Primary School as there is a national speed limit road and you could not consider a child walking to school using that route. The member of the public wished to safeguard the future for other families that would be potentially moving into the street and would find themselves in that awkward position where their children would be in a different catchment area.

Chris Webb drew the meeting to a close and thanked everyone who attended the meeting.

APPENDIX 3: NOTE OF STAFF VOICE SESSIONS

Dirleton Primary School Staff Voice Session 07/11/2017

Staff members attended to let officers know they had no concerns about the consultation proposals.

North Berwick Nursery School Staff Voice Session 10.11.2017

David Scott (DS) and Katy Johnstone met with a group of staff. David Scott described the proposal and then there was a group discussion:

Staff explained that there had been misunderstanding about the wording of the proposal document re moving of the nursery. DS confirmed that it would not be moving as a result of this consultation.

Staff had concerns about the school roll growing over the next few years and the capacity of the nursery to cope with this.

Many staff felt the consultation has come too late, the consultation is happening now and should have happened before the change of management 4 or 5 years ago.

There were some reservations about how the transition would change given that they have been doing it for many years.

Staff still see the nursery as being in itself separate from the primary school.

Staff feel that they would no longer be the top priority when they become part of the primary school.

Staff felt that there have been big changes in management, a high turnover of deputies.

Staff feel they are struggling because of the lack of admin time and staff.

Staff felt that it is important to have teachers in nursery as well.

Overall, some staff want to stay standalone nursery and others are fine with the change.

Law Primary School Staff Voice Session 16/11/2017

Staff members were invited to attend a meeting to share their views, none attended.

APPENDIX 4: NOTE OF PUPIL VOICE SESSIONS

The Pupil Voice sessions were structured workshops with a representative group of pupils from the school. The following are summaries of the discussions and questions/answers.

Dirleton Primary School Pupil Voice Session 06/11/2017

David Scott and Katy Johnstone met with a group of pupils for a short time. David Scott described the proposals and the pupils put forward their thoughts:

- 'You would want to go to the same school as your friends'
- Concerns about their postcode changing
- 'It will be a big change but it could work out very well, it works in Haddington' (regarding the nursery)
- Concerns about having to move school if living in the change area

Dirleton Primary School Pupil Voice Session 16/11/2017

David Scott and Katy Johnstone met with a group of pupils for a second time as it was felt there was not enough opportunity for all of the children to share their views on the proposal. David Scott described the proposal and then there was a group discussion:

There was a discussion around how the children felt when they came to school for the first time

- Scared, didn't like the idea of a big school
- Excited, already had siblings at the school so knew what it was like

Some children felt the first proposal is an okay idea, but it feels like it could go either positively or negatively.

Others felt it was a change for the good – just a bit nostalgic about the nursery school

Can't see how it would be a bad thing, really just a change of name.

Regarding Proposal 2

Did not feel it was fair in the current position, if your best friend was on the other side of the line it's not good.

Overall the children thought it was a pretty good idea.

Law Primary School Pupil Voice Session 16.11.2017

David Scott and Katy Johnstone met with a group of pupils. David Scott described the proposals and then there was a group discussion:

There was a discussion around how the children felt when they came to school for the first time:

- Nervous
- Excited
- Difference between a day of playing at nursery and the work of Primary 1

All children felt that the first proposal was fine.

Regarding proposal 2, there were questions as to why the council was not making the catchment area of Dirleton Primary School larger instead of Law Primary Schools. David Scott explained that there would not be capacity at Dirleton Primary School for all of the children in the catchment area if it was to be extended.

Many children expressed dismay at the thought of children who were neighbours not being able to go to school together.

APPENDIX 5: EDUCATION SCOTLAND REPORT

Report by Education Scotland addressing educational aspects of the proposal by East Lothian Council to close North Berwick Nursery School and re-designate this as Law Primary School Nursery Class.

1. Introduction

1.1 This report from Education Scotland has been prepared by Her Majesty's Inspectors of Education (HM Inspectors) in accordance with the terms of the *Schools (Consultation) (Scotland) Act 2010* and the amendments contained in the *Children and Young People (Scotland) Act 2014*. The purpose of the report is to provide an independent and impartial consideration of East Lothian Council's proposal to close North Berwick Nursery School and re-designate this as Law Primary School Nursery Class. Section 2 of the report sets out brief details of the consultation process. Section 3 of the report sets out HM Inspectors' consideration of the educational aspects of the proposal, including significant views expressed by consultees. Section 4 summarises HM Inspectors' overall view of the proposal. Upon receipt of this report, the Act requires the council to consider it and then prepare its final consultation report. The council's final consultation report should include a copy of this report and must contain an explanation of how, in finalising the proposal, it has reviewed the initial proposal, including a summary of points raised during the consultation process and the council's response to them. The council has to publish its final consultation report three weeks before it takes its final decision. Where a council is proposing to close a school, it needs to follow all legislative obligations set out in the 2010 Act, including notifying Ministers within six working days of making its final decision and explaining to consultees the opportunity they have to make representations to Ministers.

1.2 HM Inspectors considered:

- the likely effects of the proposal for children of North Berwick Nursery and Law Primary School; any other users; children likely to become pupils within two years of the date of publication of the proposal paper; and other children and young people in the council area;
- any other likely effects of the proposal;
- how the council intends to minimise or avoid any adverse effects that may arise from the proposal; and
- the educational benefits the council believes will result from implementation of the proposal, and the council's reasons for coming to these beliefs.

1.3 In preparing this report, HM Inspectors undertook the following activities:

- consideration of all relevant documentation provided by the council in relation to the proposal, specifically the educational benefits statement and related consultation documents, written and oral submissions from parents and others; and

- visits to the site of North Berwick Nursery and Law Primary School, including discussion with relevant consultees.

2. Consultation Process

2.1 East Lothian Council undertook the consultation on its proposal with reference to the *Schools (Consultation) (Scotland) Act 2010* and the amendments in the *Children and Young People (Scotland) Act 2014*.

2.2 The consultation process ran from 24 October 2017 until 4 December 2017. Copies of the consultation document and an information leaflet were available on the East Lothian Council consultation website. In addition, paper copies and questionnaires were available in local schools and council buildings. An advertisement was placed in the local newspaper and the council used social media posts to raise further awareness. A public meeting was held at North Berwick High School on 21 November 2017. This meeting was attended by one local resident who wished to express a view about another proposal on which the council was also currently consulting stakeholders. Less formal drop in sessions were also held on 6 November 2017 at Dirleton Primary School and on 9 November 2017 at North Berwick Community Centre.

2.3 Thirty-five written and electronic responses were received by the council with a majority in favour of the proposal and just over 31% of respondents disagreeing or strongly disagreeing.

3. Educational Aspects of Proposal

3.1 HM Inspectors consider that the proposal has the potential to bring educational benefits. The headteacher of Law Primary School assumed the role of headteacher of North Berwick Nursery School under a shared headship arrangement in August 2013. The current staffing, budget and management arrangements in the nursery reflect the model which is in operation across East Lothian Council. The proposal seeks to formalise this arrangement permanently.

3.2 The formalised arrangements outlined in the proposal will assist the council to respond to the expansion of early learning and childcare from 600 to 1140 hours as part of a range of flexible options. It also contributes to best value with regard to the efficient and effective management of the school estate.

3.3 The proposal has the potential to allow children to benefit from stronger transition between early years and primary with staff and management who know them well. This should lead to improved progression in learning and improved consistency in teaching and learning approaches. The delivery of, in particular, the Early Level of Curriculum for Excellence will be improved through joint professional learning and the deployment of staff from the nursery class and other stages.

3.4 All parents and children who met with HM Inspectors were in support of the proposal. At an earlier stage in the process, some parents had wrongly assumed that North Berwick Nursery would be closing and moving from its current location and this is reflected in the comments they made during the council's consultative activities. From the evidence collated by the council, stakeholders who agreed with the proposal could see the benefits to children from the closer links. Nursery staff were mixed in their views about the potential benefits. A few expressed concerns over the nursery losing its

independent identity and its future share of resources and administrative and management support.

4. Summary

HM Inspectors consider that this proposal has the potential to bring educational benefits to the children and families in North Berwick Nursery and Law Primary School. The proposal formalises the current management and staffing arrangements through the creation of the former North Berwick Nursery as a nursery class within Law Primary School. Improved transitions for children as they progress from nursery to primary school should result from greater opportunities for collaboration and professional learning for all staff. In moving forward with the proposal, the council should continue to work with those nursery staff who are not yet convinced of the benefits with regard to staffing and resourcing in the proposed new arrangements.

**HM Inspectors
Education Scotland
January 2018**

REPORT TO: East Lothian Council

MEETING DATE: 24 April 2018

BY: Depute Chief Executive (Resources and People Services)

6

SUBJECT: Outcome of the Statutory School Consultation on the Proposed Alteration of the School Catchment Areas of Dirleton Primary School and Law Primary School

1 PURPOSE

- 1.1 To share the outcome of the proposal to extend Law Primary School catchment area to include the whole of the new residential development at Ferrygate Meadow (NK5) (hereinafter referred to as 'Ferrygate Meadow') and the houses in the area of Westerdunes Park and remove the area of land affected from the Dirleton Primary School catchment area.
- 1.2 To seek approval for the recommendation set out within the Consultation Report (Appendix A) to extend Law Primary School catchment area to include the whole of the new residential development at Ferrygate Meadow (NK5) (hereinafter referred to as 'Ferrygate Meadow') and the houses in the area of Westerdunes Park and remove the area of land affected from the Dirleton Primary School catchment area.

2 RECOMMENDATIONS

- 2.1 The Council is asked to approve the following on the basis of the outcome of the school consultation and taking account of the educational and social benefits of the proposal:
 - i. to extend Law Primary School catchment area to include the whole of the new residential development at Ferrygate Meadow and the houses in the area of Westerdunes Park and remove the area of land affected from the Dirleton Primary School catchment area;

- ii. the new catchment and admission arrangements for Dirleton Primary School and Law Primary School would become operational with immediate effect.

3 BACKGROUND

- 3.1 The Education (Scotland) Act 1980 places a legislative duty on the Council to make adequate and efficient provision of school education across their area. This duty applies in respect of both the current school population and anticipated pattern of demand. In addition, councils have a statutory duty to secure best value in terms of the Local Government in Scotland Act 2003.
- 3.2 The Council must consult on certain changes in arrangements for educating children in its area before it can commit to delivering them. This includes when proposing a permanent change to any of their schools, including nursery schools, such as closure, relocation or change of catchment area. This proposal required a formal consultation to be carried out in accordance with the Schools (Consultation) (Scotland) Act 2010. The Consultation Report (Appendix A) documents the formal consultation undertaken on this proposal between 24 October 2017 and 4 December 2017.
- 3.3 On 13 November 2015 planning permission in principal was allowed under appeal for planning application 14/00632/PPM, a new residential development on the land at Ferrygate Farm (known as Ferrygate Meadow). The supporting documentation at the time of the planning application assessment, indicated that the new development could be wholly contained within the Law Primary catchment boundary in alignment with the proposed development strategy for the area.
- 3.4 Following release of the first properties in the Ferrygate Meadow development in the spring of 2017, the location of the houses as mapped on the Council's geographical information system showed that the current Law Primary School catchment boundary to the west now divides the Ferrygate Meadow development. As a result, 132 of the 140 properties are located within the Law Primary School catchment area and the remaining 8 properties are located within the Dirleton Primary School catchment area.
- 3.5 As a greater proportion of the new residential development at Ferrygate Meadow sits within the existing Law Primary School catchment area, and to ensure that the future provision of additional education capacity is aligned with the proposed development strategy for the area, it is proposed to extend the catchment area of Law Primary School to include the whole of Ferrygate Meadow.

- 3.6 The Ferrygate Meadow development has also escalated a legacy catchment boundary issue to the west of the current Law Primary School catchment boundary which currently runs across open fields. To enable all properties from the development to be in the same catchment area, we are proposing to extend the current catchment boundary west to the next appropriate natural boundary. This would reduce the likelihood of this type of catchment boundary issue arising again. As a result, it is also proposed that the alteration of Law Primary School catchment area will include the houses within the area of Westerdunes Park, North Berwick, currently within the Dirleton Primary School catchment area.
- 3.7 The main considerations relating to the alteration to Law Primary School and Dirleton Primary School catchment areas were fully explained in Section B of the Consultation Proposal Document. The main points are highlighted below:
- The need to address primary education provision for the Ferrygate Meadow development and create a sustainable school estate for future generations.
 - The increasing pupil populations in the Dirleton Primary School and Law Primary School catchment areas.
 - The duties placed on local authorities in relation to the efficient and effective management of the school estate.
- 3.8 The statutory consultation on the proposed revised catchment areas for Dirleton Primary School and Law Primary School commenced at 12.00am on Tuesday 24 October 2017 and lasted until 12.00am on Monday 4 December 2017, being a period of six weeks, which also included the statutory minimum 30 school days. This was in line with the Schools (Consultation) (Scotland) Act 2010. Notification of the consultation was given to all statutory consultees prior to the commencement of the consultation. The Consultation Proposal Document was published on [East Lothian Council's Consultation Hub](#) and paper copies distributed on Tuesday 24 October 2017.
- 3.9 Representations were sought from statutory consultees and the wider public by the completion of an online questionnaire available on the East Lothian Council Consultation Hub. The Consultation Hub also stored all relevant consultation documentation for public viewing. Paper copies of the questionnaire were also distributed at Council buildings around the North Berwick area. Sealed boxes were also located at Law Primary School, North Berwick Nursery School and Dirleton Primary School for their return.
- 3.10 Publicity material detailed an East Lothian Council email address, phone number and postal address, to which representations and any other queries could be submitted.

- 3.11 In addition to the public meeting and public drop-in sessions, staff at the affected schools were also invited to attend planned staff voice sessions to discuss the proposal; a representative group of pupils from both current catchment schools attended separate workshops where they were able to express their views on the proposal; and meetings were also held with Dirleton Primary School Parent Council and Law Primary School Parent Council to discuss the proposal.
- 3.12 HM Inspectors from Education Scotland undertook their statutory duties in accordance with the Schools (Consultation) (Scotland) Act 2010, by reviewing the educational aspects of the proposal and completing their report. A full copy of the Education Scotland report can be found in Appendix 5 of the Consultation Report (Appendix A).
- 3.13 All submitted representations, including the Education Scotland report, were analysed by East Lothian Council Officers, summarised and answered to in the Consultation Report (Appendix A). The Consultation Report, summarising all representations and East Lothian Council's response, was published on the East Lothian Council Consultation Hub on Thursday 29 March 2018. This was made publicly available for a period of three weeks, in line with the Schools (Consultation) (Scotland) Act 2010.

Summary

- 3.14 The Council received 35 responses to its questionnaire during the consultation period, 34 responses were from individuals and 1 response was from a group.
- 3.15 62% of all individual questionnaire respondents (21 responses) to the consultation were in favour of altering the catchment areas of Dirleton Primary School and Law Primary School, 18% (6 responses) were not in favour and 21% (7 responses) held no opinion or did not answer the question. There was 1 response from a group, Gullane Area Community Council, who were in support of the proposal. A summary of responses by demographic is provided in Section 5 of the Consultation Report (Appendix A).
- 3.16 A number of themes emerged from the questionnaire and oral responses, and can be grouped as follows:
- School Capacity
 - Impact on class sizes at Law Primary School
 - Impact on attainment at North Berwick High School
 - Impact on school budget and resources
 - Additional traffic concerns

East Lothian Council's response to these themes is detailed in Section 8 of the Consultation Report (Appendix A).

- 3.17 The comments made as part of the questionnaire submissions are included in Appendix 1 of the Consultation Report (Appendix A), apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been included in the collation of stakeholder's views and informed the Education Authority's response as detailed in Section 8 of the Consultation Report (Appendix A).
- 3.18 During the consultation period, Council officers visited Dirleton Primary School and Law Primary School, providing good opportunities for pupils to discuss their views. Staff who met with the officers did not have any concerns regarding the proposal. Overall, pupils expressed their support for the proposal. A note of the staff and pupil voice sessions are included as Appendices 3 and 4 of the Consultation Report (Appendix A).
- 3.19 In line with the Schools (Consultation) (Scotland) Act 2010, Education Scotland considered the educational aspects of the proposal and submitted a report to East Lothian Council. As part of this consideration, Education Scotland met with children, staff and parents who may be affected by the proposal. The full report from Education Scotland can be found in Appendix 5 of the Consultation Report (Appendix A). Education Scotland stated that the proposal has the potential to bring educational benefits to the children and families affected by the changes to the catchment areas as follows:
- Children living close by in the same community will have the right to attend the same school.
 - Future pressures on the capacity at Dirleton Primary School are less likely as a result of fewer homes in the revised catchment area, whilst Law Primary School has greater capacity in the future.
 - The proposal will allow the council to achieve best value in managing its school estate in a growing community.
- 3.20 Education Scotland reported that all stakeholders who met with HM Inspectors were in support of the proposal.
- 3.21 Education Scotland noted that East Lothian Council in moving forward with the proposal, should continue to clarify misconceptions among a small number of parents about the scale of pupil numbers involved and the likely impact in and around Law Primary School. The Education Authority has provided further clarification on the scale of pupil numbers involved and the likely impact in and around Law Primary School in Section 8 of the Consultation Report (Appendix A) and will continue to do so as the need arises.

3.22 Following receipt of a total of 35 questionnaire responses and consideration of feedback from consultees and Education Scotland, officers reviewed the proposal. The feedback from the consultation was considered by relevant officers from the Education, Property and Road Services. This ensured that the Council met the requirements of sections 9(1), 12 and 13(3) (b) of the 2010 Act.

3.23 Following completion of the statutory school consultation exercise, the Council has 3 options to consider, namely:

- i. approve, on the basis of the outcome of the school consultation and taking account of the educational and social benefits of the proposal:
 - a. to extend Law Primary School catchment area to include the whole of the new residential development at Ferrygate Meadow and the houses in the area of Westerdunes Park and remove the area of land affected from the Dirleton Primary School catchment area; and
 - b. the new catchment and admission arrangements for Dirleton Primary School and Law Primary School would become operational with immediate effect.
- ii. withdraw the proposal and make no alteration to the Dirleton Primary School and Law Primary School catchment areas. In doing so, primary-aged children who come to live in the new residential development at Ferrygate Meadow would not be able to attend the same school. This is not in line with the Council's vision and values for Education. Furthermore, by not extending the catchment boundary line to the next appropriate natural boundary this would increase the likelihood of this type of catchment boundary issue arising again.
- iii. undertake a further consultation exercise on a new proposal.

3.24 On the basis of the feedback received and taking account of the educational and social benefits of the proposal, it is concluded that the following proposal is the most reasonable, viable and appropriate course of action open to it in providing the opportunity for primary aged children from the affected area to attend the same school and create a sustainable school estate for future generations in the Dirleton Primary School and Law Primary School catchment areas.

3.25 The proposed catchment changes will provide the opportunity for primary aged children from the affected area to attend the same school. This will promote community cohesion both at home and at school. The Council believes this proposal will allow the school estate to be managed in light of a growing community and provide a positive balance between the location of schools and the provision of schools within their local communities for

children and young people while addressing future capacity constraints at Dirleton Primary School if the catchment area revisions are not made. Future pupil roll projections have been considered and the planned extension at Law Primary school can accommodate all the projected and potential pupils from the proposed revised catchment area.

3.26 It is therefore recommended that the Council approves the following:

- to extend Law Primary School catchment area to include the whole of the new residential development at Ferrygate Meadow and the houses in the area of Westerdunes Park and remove the area of land affected from the Dirleton Primary School catchment area; and
- the new catchment and admission arrangements for Dirleton Primary School and Law Primary School would become operational with immediate effect.

4 POLICY IMPLICATIONS

4.1 None

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report has been through the Integrated Impact Assessment process. Potential impacts have been identified and will be addressed.

6 RESOURCE IMPLICATIONS

6.1 Financial – There are no revenue budget implications directly associated with this proposal. School revenue budgets, including nursery, within East Lothian Council are set in line with the pupil roll and calculated in accordance with the Council's Devolved School Management (DSM) policies and the approved Scheme of Delegation for Schools.

Any increases in the pupil rolls due to an increase in nursery and primary aged children arising from committed and planned housing in the area will be reflected within the revenue budget.

There are no capital budget implications directly associated with this proposal. The planned extension and alterations at Law Primary School is a current project in East Lothian Council's 3-year capital spend and funding of £8.5m has been made available for this as approved by Council on 21

February 2017. This includes contributions that have already been committed from consented developments to provide sufficient capacity and suitable accommodation for the anticipated pupil numbers.

- 6.2 Personnel – No reconfiguration of existing core staffing arrangements is required as a result of this proposal. The staffing entitlement for both schools will be set in line with the pupil roll in accordance with the approved Scheme of Delegation for Schools and the Council’s (DSM) policies. Any increases in the pupil rolls due to an increase in primary aged children arising from committed and planned housing in the area will be reflected within the staffing complement.

The Education Service closely monitors school rolls and plans staff recruitment in response to increases in rolls. Revised staffing arrangements are managed in accordance with the Council’s policies and procedures.

- 6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 Consultation Report on the outcome of the consultation on the proposed alteration of the school catchment areas of Dirleton Primary School and Law Primary School (Appendix A).

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DATE	4 April 2018



EAST LOTHIAN COUNCIL
DEPARTMENT OF RESOURCES AND PEOPLE SERVICES
EDUCATION SERVICE

STATUTORY CONSULTATION REPORT

**REPORT ON THE OUTCOME OF THE CONSULTATION ON THE PROPOSED
ALTERATION OF THE SCHOOL CATCHMENT AREAS OF DIRLETON PRIMARY
SCHOOL AND LAW PRIMARY SCHOOL**

March 2018

This Consultation Report has been issued by East Lothian Council in accordance with the Schools (Consultation) (Scotland) Act 2010.

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EAST LOTHIAN COUNCIL

RESOURCES AND PEOPLE SERVICES

EDUCATION

This report has been prepared following consultation on the following proposal:

- The catchment area of Law Primary School will be extended to include the whole of the new residential development at Ferrygate (Local Development Plan Proposal NK5, *hereinafter referred to as 'Ferrygate Meadow (NK5)'*) and the houses in the area of Westerdunes Park, North Berwick currently in the catchment area of Dirleton Primary School.
- The proposed changes to the Law Primary School and Dirleton Primary School catchment areas will become operational with immediate effect.

This proposal **directly affected** the following schools:

- Dirleton Primary School
- Law Primary School

Having had regard (in particular) to:

- a) Relevant written representations received by the Council (from any person) during the consultation period
- b) Oral representations made to it (by any person) at the public meeting held on 21st November 2017
- c) Oral representations made to it at the public drop-in sessions
- d) Oral representations made to it at the pupil voice sessions
- e) Education Scotland's report on the proposal

1. INTRODUCTION

1.1 This is a Consultation Report prepared in compliance with the Schools (Consultation) (Scotland) Act 2010 on the above proposal.

1.2 The purpose of this report is to:

- Provide a record of the total number of written responses made during the Statutory Consultation period;
- Provide a summary of the written responses;
- Provide a summary of oral representations made at the public meeting held on 21st November 2017;
- Provide a statement of the Council's response to those written and oral representations;
- Provide the full text of Education Scotland's report and a statement of the Council's response to this report;
- State how the Council reviewed the above proposal following the representations received during the Statutory Consultation period and the report from Education Scotland;
- Provide details of any alleged omission from, or inaccuracy in, the Consultation Proposal Document and state how the Council acted upon it; and
- State how the Council has complied with Section 12 of the Schools (Consultation) (Scotland) Act 2010 when reviewing the above proposal.

2. BACKGROUND

2.1 Education Authorities have a statutory duty in terms of the Education (Scotland) Act 1980 to make adequate and efficient provision of school education across their area. This duty applies in respect of both the current school population and anticipated pattern of demand. In addition, Councils have a statutory duty to secure best value in terms of the Local Government in Scotland Act 2003.

2.2 East Lothian Council is committed to raising educational attainment and ensuring that all children and young people have the best opportunities in life. East Lothian's Education Service aims to provide the best education in Scotland through a relentless focus on Inclusion, Achievement, Ambition and Progress for All. We will all work together to Get it Right for Every Child and to ensure that all children and young people are Safe, Healthy, Nurtured, Active, Respected, Responsible and Included. To realise our vision we will:

- act with ambition and integrity to open minds to the rights and values of

- education and help everyone to achieve their potential;
 - work together to nurture all our children and young people;
 - demonstrate a community working together to make that difference for every child; and
 - collectively strive for excellence and equity for all.
- 2.3 Our vision and values for education within East Lothian Council align with the Key Priorities in the National Improvement Framework for Scottish Education 'Achieving Excellence and Equity' (Scottish Government, January 2016) and 'Delivering Excellence and Equity in Scottish Education' (Scottish Government, June 2016):
- Improvement in attainment, particularly in literacy and numeracy;
 - Closing the attainment gap between the most and least disadvantaged children;
 - Improvement in children and young people's health and wellbeing; and
 - Improvement in employability skills and sustained, positive school leaver destinations for all young people.
- 2.4 The *Education (Scotland) Act 1980* places a legislative duty on the Council to provide sufficient school accommodation and plan for growth in our communities. This document has been developed with reference to East Lothian Council's vision for education and will allow the Council to manage its estate in light of a growing community within the local area as a result of committed and planned developments within the emerging LDP.
- 2.5 The Strategic Development Plan (SDP) for South East Scotland was approved by Scottish Ministers in June 2013. The SDP with its Supplementary Guidance on Housing Land requires the Local Development Plan (LDP) to ensure sufficient housing land is available to deliver 10,050 homes during the period 2009 – 2024 with 6,250 of those homes capable of being delivered across East Lothian in the period to 2019.
- 2.6 In order to accommodate these strategic development requirements for East Lothian, East Lothian Council approved a Proposed LDP 2016 for representation on 6th September 2016. The Proposed LDP sets out East Lothian Council's proposed spatial strategy for East Lothian. As part of this, the land at Ferrygate Meadow (NK5) is one of the main development proposals in the North Berwick cluster.
- 2.7 Significant additional education capacity at primary and secondary level will be needed to support the new housing development committed and proposed in the North Berwick cluster including a planned extension and alterations to Law Primary School. In the Dirleton Primary School catchment area there is significant constraint in primary education capacity beyond that needed to accommodate the proposed sites in the LDP.

- 2.8 On 13th November 2015 planning permission in principal was allowed under appeal for planning application 14/00632/PPM, a new residential development on the land at Ferrygate Farm (known as Ferrygate Meadow). The supporting documentation at the time of the planning application assessment, indicated that the new development could be wholly contained within the Law Primary catchment boundary in alignment with the proposed development strategy for the area.
- 2.9 Following release of the first properties in the Ferrygate Meadow (NK5) development in the Spring of 2017, the location of the houses as mapped on the Council's geographical information system showed that the current Law Primary School catchment boundary to the west now divides the Ferrygate Meadow (NK5) development. As a result, 132 of the 140 properties are located within the Law Primary School catchment area and the remaining 8 properties are located within the Dirleton Primary School catchment area.
- 2.10 As a greater proportion of the new residential development at Ferrygate Meadow (NK5) sits within the existing Law Primary School catchment area, and to ensure that the future provision of additional education capacity is aligned with the proposed development strategy for the area, it is proposed to extend the catchment area of Law Primary School to include the whole of Ferrygate Meadow (NK5).
- 2.11 The Ferrygate Meadow (NK5) development has also escalated a legacy catchment boundary issue to the west of the current Law Primary School catchment boundary which currently runs across open fields. To enable all properties from the development to be in the same catchment area, we are proposing to extend the current catchment boundary west to the next appropriate natural boundary. This would reduce the likelihood of this type of catchment boundary issue arising again. As a result, it is also proposed that the alteration of Law Primary School catchment area will include the houses within the area of Westerdunes Park, North Berwick, currently within the Dirleton Primary School catchment area.
- 2.12 The Council must consult on certain changes in arrangements for educating children in its area before it can commit to delivering them. This includes when proposing a permanent change to any of their schools, including nursery schools, such as closure, relocation or change of catchment area. This proposal required a formal consultation to be carried out in accordance with the Schools (Consultation) (Scotland) Act 2010. This report documents the formal consultation undertaken on this proposal between 24th October 2017 and 4th December 2017.
- 2.13 The proposed revised catchment area for Law Primary School will **directly affect** the following schools and was considered in the Consultation Proposal Document:
- Dirleton Primary School

- Law Primary School

2.14 The educational benefits that will arise from this proposal for children affected or likely to be affected were outlined in the Consultation Proposal Document. It is believed that this proposal is the most reasonable, viable and appropriate course of action open to it in providing the opportunity for primary aged children from the affected area to attend the same school. The reasons for coming to this view and consulting on the proposal were set out in Section B of the Consultation Proposal Document.

3. CONSIDERATIONS

3.1 The main considerations relating to the alteration to Law Primary School and Dirleton Primary School catchment areas are fully explained in Section B of the Consultation Proposal Document. The main points are highlighted below:

- The need to address primary education provision for the Ferrygate Meadow development (NK5) and create a sustainable school estate for future generations.
- The increasing pupil populations in the Dirleton Primary School and Law Primary School catchment areas.
- The duties placed on local authorities in relation to the efficient and effective management of the school estate.

4. THE CONSULTATION PROCESS

4.1 The Council has met the minimum requirements set out in the Schools (Consultation) (Scotland) Act 2010 with regards to ensuring the views of all members of the community were listened to and their views are included in this report. The Council believes that this report accurately reflects the views of the community, which have been gathered through a range of engagement events and response mechanisms. It is for members of East Lothian Council to decide to adopt the proposal, withdraw it or seek to consult on another proposal.

4.2 Notification of the consultation was given to all statutory consultees prior to the commencement of the consultation.

4.3 The Consultation Proposal Document was published on East Lothian Council's website and paper copies distributed on 24th October 2017 to:

- Dirleton Primary School
- Law Primary School
- North Berwick Nursery School
- Aberlady Primary School

- Athelstaneford Primary School
- Gullane Primary School
- Fenton Barns Nursery
- Mary Poppins Nursery
- Pumpkin Patch North Berwick Nursery
- Dirleton Playgroup
- Gullane Playgroup
- North Berwick Community Centre
- North Berwick Health Centre
- John Muir House, Haddington.

4.4 The consultation period commenced at 12.00am on **Tuesday 24th October 2017** and lasted until 12.00am on **Monday 4th December 2017**, being a period of six weeks, which also included the statutory minimum 30 school days.

4.5 The proposal on which consultation took place was:

- To extend Law Primary School catchment area to include the whole of the new residential development at Ferrygate Meadow (NK5) and the houses in the area of Westerdunes Park and remove the area of land affected from the Dirleton Primary School catchment area.

4.6 The requirements for consulting on a relevant proposal relating to schools are set out in the Schools (Consultation) (Scotland) Act 2010.

4.7 An information leaflet setting out details about the proposal and consultation meetings was issued to the consultees listed in the Consultation Proposal Document. Advice on where the complete Consultation Proposal Document could be obtained was included and was published on East Lothian Council's Consultation Hub: <https://eastlothianconsultations.co.uk/education/northberwickconsultation>

4.8 If requested, copies of the proposal would have been made available in alternative formats or translated for readers whose first language is not English.

4.9 A "Frequently Asked Questions" document was also prepared which was available at the same location on East Lothian Council's Consultation Hub: <https://eastlothianconsultations.co.uk/education/northberwickconsultation>

4.10 An advertisement was placed in the local newspaper on **26th October 2017** and **16th November 2017**. A pre-announcement was also made on the Council's website and social media posts on the **23rd October 2017**. In addition, there were announcements

related to the consultation process on East Lothian Council's website, linked via a Facebook page and Twitter feeds.

4.11 The public meeting was held in **North Berwick High School, North Berwick** on **21st November 2017 at 7.00pm**.

4.12 In addition to specific meetings with statutory consultees, drop-in sessions were held in respect of the proposal at the venues below, at which any members of the public and staff were welcome to attend:

Venue	Date	Time
Dirleton Primary School	6 November 2017	12:00pm – 5:00pm
North Berwick Community Centre	9 November 2017	12:00pm – 5:00pm

4.13 In accordance with statutory requirements, the following persons, including those indirectly affected, were consulted:

- The Parent Councils of Law and Dirleton Primary Schools
- The parents/carers of children at North Berwick Nursery School, Law Primary School and Dirleton Primary School
- The parents/carers of any children expected to attend Dirleton Primary School, Law Primary School and North Berwick Nursery School within two years of the date of publication of the proposal paper
- The children at North Berwick Nursery School, Law Primary School and Dirleton Primary School
- The staff at North Berwick Nursery School, Law Primary School and Dirleton Primary School
- The trade union representatives of the above staff
- North Berwick Coastal Area Partnership
- North Berwick Community Council
- Gullane Area Community Council
- Dunpender Community Council

4.14 The following schools are **directly affected** by the proposal:

- Dirleton Primary School
- Law Primary School

4.15 Representations were sought from statutory consultees and the wider public in the following ways:

- An online questionnaire on East Lothian Council's Consultation Hub. The questionnaire asked specific questions and enabled general comments and views

to be entered. The Consultation Hub stored all relevant consultation documentation for public viewing;

- Widely distributed paper copies of the same questionnaire, at Council buildings around the North Berwick cluster area. Sealed boxes were also located at questionnaire distribution points for their return;
- Paper and digital flyers, in addition to the press adverts and Council web and social media announcements linked to the Consultation Hub. These flyers also detailed a specific Education Consultations email inbox, to which any queries could be submitted during the consultation period;
- Flyer distribution to pupils at Dirleton Primary School and Law Primary School. Head Teachers used their established methods of communication to engage/remind parents about the consultation and the Education Scotland independent evaluation visit.
- In addition to the public meeting, staff at the affected schools were also invited to attend planned staff voice sessions to discuss the proposal;
- A representative group of pupils from both current catchment schools attended separate workshops where they were able to express their views on the proposal;
- Meetings were held with Dirleton Primary School Parent Council and Law Primary School Parent Council to discuss the proposal.

4.16 This Consultation Report is the Council's response to the issues raised during the consultation period on the Consultation Proposal Document.

4.17 This Consultation Report will be published for a period of three weeks before a final decision is taken by East Lothian Council on 24th April 2018.

5. RESPONSES TO THE CONSULTATION EXERCISE

5.1 As part of the consultation process, the Council sought the views of a wide range of stakeholders. The Council provided stakeholders with a short online or paper questionnaire and also made good arrangements for receiving additional written responses. The Council received 35 responses to its questionnaire.

5.2 Although the responses to the questionnaire capture the flavour of opinions regarding the consultation and are all valued, it is important to note that such a small sample size is not statistically significant.

5.3 The comments made as part of the questionnaire submissions are included in Appendix 1, apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been

included in the collation of stakeholder's views and informed the Education Authority's response as detailed in Section 8 of this report.

5.4 The questionnaire responses are summarised by category in the following tables:

Table 1 – Number of respondents by type of respondent

Type of Respondent	No. of Responses	% of Responses
Groups	1	3%
Individuals	34	97%
Total Responses	35	100%

Table 2 – Number of individual respondents by category

Individual Respondents	No. of Responses	% of Responses
Parents	30	88%
Staff	3	9%
Other	1	3%
Total Responses	34	100%

Table 3 – Number of group respondents by category

Group Respondents	Number of Responses	% of Responses
Community Council	1	100%

Response Analysis from Individuals

5.5 The number of responses to the consultation in support or not in support of the proposal by category of respondent is shown in Table 4 below:

Q - To what extent do you agree or disagree with the proposal to alter the catchment boundaries of Law Primary and Dirleton Primary school catchment areas?

Table 4 – Number of respondents by category

Individual Respondents	Agree/ Strongly Agree		No Opinion/Not Answered		Disagree/ Strongly Disagree		Total	
	No.	%	No.	%	No.	%	No.	%
Parents	18	60%	6	20%	6	20%	30	100%
Staff	2	67%	1	33%	0	0%	3	100%
Other	1	100%	0	0%	0	0%	1	100%
Total Responses	21	62%	7	21%	6	18%	34	100%

Response Analysis from Groups

5.6 There was 1 response from Gullane Area Community Council in support of the proposal. The full response can be read in Appendix 1.

The Public Meeting

5.7 A public meeting was held in North Berwick High School on Tuesday 21st November 2017 which was attended by one member of the community. A full note of the meeting is attached at Appendix 2 which details the questions and issues raised at the meeting. The points raised are addressed within the response to Frequently Asked Questions or within this report.

5.8 Additionally, drop-in sessions were arranged at both schools during the consultation period, enabling any member of the public and staff to ask questions and discuss the proposal, the consultation process and how they could make representations

Pupil & Staff Voice Sessions

5.9 During the consultation period, Council officers visited Dirleton Primary School and Law Primary School providing good opportunities for pupils to discuss their views. A note of the staff and pupil voice sessions are included as Appendices 3 and 4. Overall, pupils expressed their support for the proposal. Staff who met with Officers did not have any concerns regarding the proposal.

6. SUPPORT FOR THE PROPOSAL

6.1 62% of all individual questionnaire respondents (21 responses) to the consultation were in favour of altering the catchment boundaries of Law Primary and Dirleton Primary school catchment areas. The full text of all responses received can be read in Appendix 1, apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been included in the collation of stakeholder's views and informed the Education Authority's response as detailed in Section 8 of this report.

6.2 The main points from the individual responses that were in favour of the proposal were as follows:

- Altering the catchment areas will mean children from the same housing development can attend the same school
- Importance of feeling part of the local community
- Plans for new development include a safe walking/cycling route to Law Primary but would need to drive to Dirleton

7. OPPOSITION TO THE PROPOSAL

7.1 18% of all individual questionnaire respondents (6 responses) to the consultation were not in favour of altering the catchment boundaries of Law Primary and Dirleton Primary school catchment areas. The full text of all responses received can be read in Appendix 1, apart from submissions which consultees did not wish East Lothian Council to share publicly. Even if a submission is not shared publicly, it has still been included in the collation of stakeholder's views and informed the Education Authority's response as detailed in Section 8 of this report.

7.2 The main issues raised in these responses were as follows:

- School Capacity
- Impact on class sizes at Law Primary School
- Impact on attainment at North Berwick High School
- Impact on school budget and resources
- Additional traffic concerns

8. EDUCATION AUTHORITY RESPONSE TO THE MAIN ISSUES RAISED

8.1 School Capacity

8.1.1 The proposed catchment boundary changes will not have an adverse effect on the roll projections or capacity for either Dirleton Primary School or Law Primary School as the pupil roll projections for both schools have historically and currently assume that all of the 140 properties within the Ferrygate Meadow development are contained within the Law Primary School catchment area.

8.1.2 As stated earlier in paragraph 2.9 of this report, the supporting documentation at the time of the planning application assessment for Ferrygate Meadow, indicated that the new development could be wholly contained within the Law Primary catchment boundary in alignment with the proposed development strategy for the area. As a result the projections for Law Primary School at that time took into account the projected pupils arising from the whole of the Ferrygate Meadow development (140 properties) as well as pupils from other current committed developments in the Law Primary catchment area.

8.1.3 Since this initial planning application assessment took place, there have been further updates to the roll projections for Law Primary School as part of the Council's ongoing school estate management duties. As the boundary issue was only raised very recently in the Spring of 2017 following the release of the first properties, the updated projected pupil rolls for Law Primary School each year have continued to take into account all of the projected pupils arising from the whole of the Ferrygate Meadow development.

- 8.1.4 As set out in the Consultation Proposal Document, Law Primary School is being extended to accommodate the projected pupils arising from all the current committed new houses in the Law Primary School catchment area. Phase 1 of this extension was completed in October 2017 and now occupied with the full planned extension due to be completed in Summer 2018. As a result of the completion of Phase 1 the planning capacity of Law Primary School for session 2017/18 onwards is 891. As at the Pupil Census in September 2017, the pupil roll of Law Primary School was 612. The primary-aged population in the Law catchment area is projected to increase steadily over the next 6 years as a result of population demographics and committed new housing developments (including the 140 properties at Ferrygate Meadow). The latest projections for Law Primary School indicate a peak projected primary pupil roll of 863 pupils in 2023/24.
- 8.1.5 In addition, the 39 residential properties in the area of Westerdunes Park, North Berwick currently in the catchment area of Dirleton Primary School, are part of a well-established mature housing site with a small number of children resident. Of the children living in these properties, less than 5 children currently attend Dirleton Primary School with the remainder already attending Law Primary School. The pupils attending Dirleton Primary School are already taken into account in the pupil roll projections for Dirleton Primary School and the pupils attending Law Primary School are already taken into account in the pupil roll projections for Law Primary School. As stated in the Consultation Proposal Document, children currently living in this affected area of Westerdunes Park and attending Dirleton Primary School will continue to attend Dirleton Primary School for the remainder of their primary education if they wish to do so. Children starting P1 living in the affected area who have a sibling continuing to attend Dirleton Primary School in the same academic year who would, but for implementation of the proposal, be likely to become pupils of that school, will have the option to attend Dirleton Primary School if they wish to do so.
- 8.1.6 As at the Pupil Census in September 2017, the pupil roll of Dirleton Primary School was 70. The primary-aged population in the Dirleton Primary School catchment area is projected to increase between 2019 and 2024 as a result of population demographics and committed and planned new housing developments arising the 2016 Proposed Local Development Plan. The latest projections for Dirleton Primary School indicate a peak projected primary pupil roll of 93 pupils in 2024. For the reasons set out earlier in paragraphs 8.1.1 to 8.1.3, the projections for Dirleton Primary School do not include any of the projected pupils arising from the Ferrygate Meadow development.
- 8.1.7 As set out in paragraphs 21 and 31 of the Consultation Proposal Document, Dirleton Primary School has a planning capacity of 100. The Dirleton Primary School facilities and sites, however, are constrained and would not have the ability to be physically extended to accommodate more than 100 pupils. If the Law Primary School catchment

boundary was not extended to include the whole of the Ferrygate Meadow development and was left divided, or indeed if the Dirleton Primary School catchment boundary was extended to include the whole of the Ferrygate Meadow development instead, Dirleton Primary School would not be able to be extended to accommodate the additional pupils projected to arise from the new development over time.

8.1.8 As the roll projections which informed the current planned extension of Law Primary School already included the projected pupils arising from the whole of the new development at Ferrygate Meadow and the number of additional pupils projected to arise from including the affected area at Westerdunes Park is small, there is no need to further expand the buildings and facilities of Law Primary School as a result of this proposal.

8.1.9 The capacity of both schools will be continually assessed (as is the case with all schools), in comparison to roll projections from the catchment area it provides for, and all new building which occurs within its area. Any requirements to expand capacity, where appropriate, are identified in advance, to enable sufficient planning and extension as required. The Council also has control over the rate of house building to ensure all facilities are adequate to meet the needs of the growing population – and expanded to meet these needs if required. Timescales for any identified expansion will be closely monitored by the Council. If further housing development is approved, it will be subject to the school's capacity to accommodate the projected pupil numbers arising from the proposed housing.

8.2 Impact on class sizes at Law Primary School

8.2.1 While the size of the school roll at Law Primary School is due to increase steadily over the next six years this does not necessarily mean that class sizes will increase. The class structure of each school is agreed each year in discussion with the Head Teachers before the end of the academic session for the following year. Class structures are determined by the total expected school roll and how that can be organised in line with maximum class size legislation and the planning capacity available at that time.

8.2.2 Maximum class size legislation and the physical limitations of teaching spaces are a key factor in determining the number of classes that are required to accommodate the number of pupils on the school roll. The appropriate statutory maximum class size – P1 maximum of 25, P2 and P3 maximum of 30, P4 to P7 maximum of 33, and composite maximum of 25 - will still apply to the class organisation for Law Primary School as the school roll increases in line with current legislation and policy.

8.2.3 An increasing school roll will also not mean that there will be less support for pupils. The staffing entitlement for schools and nursery classes in East Lothian is set each year in line with the primary and nursery roll and calculated in accordance with the

approved Scheme of Delegation for Schools and the Council's Devolved School Management (DSM) policies. Entitlement to teacher numbers is linked to the number of planned classes for the academic session. Support for Learning staffing requirements for each school, which are met through Predictable Needs funding are determined by the Head Teacher under the DSM scheme to ensure the needs of all pupils are met. As is the case with all schools, the predictable needs funding for Law Primary School is dependent on the latest school roll and free meal entitlement information feeding into the predictable needs funding formula at the time the funding is allocated. If the school roll and free meal entitlement figures feeding into the formula remains the same from one year to the next, then the predictable needs funding will remain the same. If the school roll and/or free meal entitlement figures feeding into the formula change from one year to the next, then the predictable needs funding will change accordingly. Furthermore, budget allocations for Exceptional Need are made based upon the number of hours/full time equivalent (FTE) staff for specific children agreed by the Moderation Panel. These allocations are reviewed annually and are only available while the child attends school. If the child moves school then these allocations will move with them.

8.2.4 The staffing entitlement for each school is reviewed annually to take account of changes in the pupil roll and revised staffing arrangements are managed in accordance with the Council's policies and procedures. As stated earlier in paragraph 8.1.4 the primary-aged population in the Law Primary School catchment area is projected to increase steadily over the next 6 years. Any increases in the pupil rolls due to an increase in nursery and primary aged children arising from changing demographics and committed and planned housing in the area will be reflected in the staffing entitlement and revenue budget for the school accordingly during the budget and staffing allocation processes.

8.3 Impact on attainment at North Berwick High School

8.3.1 The proposal to alter the catchment areas for Dirleton Primary School and Law Primary School will not result in a change to the catchment area for North Berwick High School. Secondary aged children from both Dirleton Primary School and Law Primary School catchment areas are currently and will continue to be served by North Berwick High School.

8.3.2 North Berwick High School's vision aims and values "Respect, Relationships, Responsibility, Resilience" underpin the life and work of the school, as well as its commitment to strive constantly to improve and provide opportunities for all young people to achieve their full potential.

8.4 Impact on school budget and resources

As mentioned in the Consultation Proposal Document in paragraph 63 on page 34, the DSM scheme delivers an entitlement to financial resources based on a criteria. School revenue budgets, including nursery, within East Lothian Council are set in line with the primary and nursery pupil roll and calculated in accordance with the approved Scheme of Delegation for Schools and the Council's DSM policies. Any increases in the pupil rolls due to an increase in nursery and primary aged children arising from changing demographics and committed and planned housing in the area will be reflected in the staffing entitlement and revenue budget for the school during the budget and staffing allocation processes.

8.5 Additional traffic concerns

8.5.1 As stated in paragraphs 54 to 56 of the Consultation Proposal Document, within the area of land designated for realignment, the existing road infrastructure already integrates the existing properties in the vicinity of the Westerdunes Park area with the North Berwick community. For those pupils moving into housing in the Ferrygate Meadow development a shared path is provided for pedestrians/cyclists in the south eastern corner of the Ferrygate site which links to Williamstone Court, North Berwick. This provides an adequate route for walking to school contributing to the sustainability agenda.

8.5.2 In the context of the Proposed LDP 2016, East Lothian Council has undertaken a Transport Appraisal to examine the effect of the cumulative impacts from the housing and economic land allocations in East Lothian on the local and strategic road networks and evaluate the effectiveness of interventions.

9. EDUCATION SCOTLAND REPORT

9.1 In accordance with the Schools (Consultation) (Scotland) Act 2010, a report was produced by Education Scotland on the educational aspects of the proposal. The Education Scotland report can be read in full at Appendix 5.

9.2 In preparing this report, HM Inspectors undertook the following activities:

- consideration of all relevant documentation provided by the Council in relation to the proposal, specifically the educational benefits statement and related consultation documents, written and oral submissions from parents and others; and
- visits to the sites of Law and Dirleton Primary Schools, including discussion with relevant consultees.

- 9.3 Section 4 of the Education Scotland report summarises their findings and conclusions as follows:

“HM Inspectors consider that this proposal has the potential to bring educational benefits to the children and families affected by the changes to the catchment areas. In taking the proposal forward, the council should continue to clarify misconceptions among a small number of parents about the scale of pupil numbers involved and the likely impact in and around Law Primary School.”

East Lothian Council’s Response to Education Scotland’s Report

- 9.4 East Lothian Council welcomes the report from Education Scotland and accepts its findings. The points raised by Education Scotland within the Education Scotland Report were also key themes identified through the consultation process and are addressed in Section 8 of this consultation report. The Education Authority has provided further clarification on the scale of pupil numbers involved and the likely impact in and around Law Primary School in Section 8 of this consultation report and will continue to do so as the need arises.

10. TRANSITION ARRANGEMENTS

- 10.1 If approved, the new catchment and admission arrangements for Dirleton Primary School and Law Primary School would become operational with immediate effect.
- 10.2 Pupils currently attending the affected schools will not be significantly affected as the proposed catchment changes will only impact on future pupil enrolments.
- 10.3 Pupils moving into housing in the affected area following implementation of the proposal will attend Law Primary School and its associated secondary school.
- 10.4 Pupils currently attending Dirleton Primary School from the affected area will have the option to remain at their current school for the remainder of their primary education.
- 10.5 There may be an effect on children starting P1 from the affected area who have a sibling attending Dirleton Primary School in the same academic year who would, but for implementation of the catchment boundary proposal, be likely to become pupils of that school. In this instance, siblings of children continuing to attend the affected school will have the option to attend Dirleton Primary School if they wish to do so.
- 10.6 Secondary pupils will continue to be served by North Berwick High School as per the existing Dirleton Primary School and Law Primary School catchment arrangements.

11. ALLEGED OMISSIONS OR INACCURACIES

- 11.1 Section (10) (3) of the Schools (Consultation) (Scotland) Act 2010 also places a requirement on the Council to provide details of any alleged inaccuracy or omission

within the Consultation Proposal Document which has either been identified by the Council or raised by consultees. This section of the 2010 Act also requires the Council to provide a statement on the action taken in respect of the inaccuracy or omission, or, if no action was taken, to state that fact and why.

11.2 There were no inaccuracies or omissions within the Consultation Proposal Document either identified by the Council or raised by consultees during the consultation period.

12. COMPLIANCE WITH SECTION 9(1) OF THE SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010

12.1 Section 9(1) of the Schools (Consultation) (Scotland) Act 2010 states that:

After the Education Authority has received Education Scotland's report, the Authority is to review the relevant proposal having regard (in particular) to:

(i) written representations received by the Authority (from any person) during the consultation period,

(ii) oral representations made to it (by any person) at the public meeting,

(iii) Education Scotland's report.

12.2 Following receipt of 35 questionnaire responses and consideration of oral representations made at a public meeting held during the consultation period, officers reviewed the proposal.

12.3 The feedback from the consultation was considered by relevant officers from the Education, Property and Road Services. This ensured that the Council met the requirements of sections 9(1), 12 and 13(3) (b) of the 2010 Act.

13. LEGAL ISSUES

13.1 The Council has complied in full with the requirements of the Schools (Consultation) (Scotland) Act 2010 throughout this statutory consultation.

13.2 The Council is mindful of its duties in respect of equality and the Equality Impact Assessment did not identify that any parent, child or young person would be treated less favourably as a result of this proposal.

13.3 Under the terms of the Schools (Scotland) (Consultation) Act 2010, it is a legal requirement that the Council should not reach any formal decision without having reviewed the relevant proposal having regard, in particular, to:

a) relevant written representations received from any person during the consultation period;

- b) oral representation made to it by any person at the public meeting held on 21st November 2017;
- c) the Education Scotland report;
- d) preparing a Consultation Report; and
- e) waiting until a period of three weeks starting on the day on which this Consultation Report is published in electronic and printed form has expired.

13.4 As it is the intention that this Consultation Report should be published, both electronically and in written form, if required, on 29th March 2018, this meets the statutory requirement to publish this report more than three weeks before consideration of the proposal by East Lothian Council.

14. PERSONNEL ISSUES

14.1 No personnel issues have been identified with regard to this proposal.

15. ENVIRONMENTAL ISSUES

15.1 No environmental issues have been identified with regard to this proposal.

16. CONCLUSION

16.1 Officers of the Education Authority have listened carefully to the points made at the public meeting and have considered equally carefully the written representations, including the Education Scotland report. Having reviewed the feedback from consultees, officers conclude that the basis of the original proposal remained the best solution to address primary education provision for the Ferrygate Meadow development (NK5) and create a sustainable school estate for future generations in the Dirleton Primary School and Law Primary School catchment areas.

16.2 The proposed catchment changes will provide the opportunity for primary aged children from the affected area to attend the same school. This will promote community cohesion both at home and at school. The Council believes this proposal will allow the school estate to be managed in light of a growing community and provide a positive balance between the location of schools and the provision of schools within their local communities for children and young people while addressing future capacity constraints at Dirleton Primary School if the catchment area revisions are not made. Future pupil roll projections have been considered and the planned extension at Law Primary school can accommodate all the projected and potential pupils from the proposed revised catchment area.

16.3 The key messages deriving from the consultation period are as follows:

- 62% of all individual questionnaire respondents (21 responses) to the consultation were in favour of altering the catchment areas of Dirleton Primary

School and Law Primary School, 18% (6 responses) were not in favour and 21% (7 responses) held no opinion or did not answer the question;

- There was 1 response from a group, Gullane Area Community Council, who were in support of the proposal;
- During the consultation period, Council officers visited Dirleton Primary School and Law Primary School, providing good opportunities for pupils to discuss their views. Staff who met with the officers did not have any concerns regarding the proposal. Overall, pupils expressed their support for the proposal.

16.4 Education Scotland has identified that the proposal has the potential to bring educational benefits to the children and families affected by the changes to the catchment areas. This includes children living close by in the same community having the right to attend the same school.

16.5 The Council now has 3 options to consider, namely:

- a) adopt the proposal;
- b) withdraw the proposal and make no alteration to the Dirleton Primary School and Law Primary School catchment areas;
- c) undertake a further consultation exercise on a new proposal.

16.6 If the Council adopts the proposal, it would be on the basis that the educational benefits set out in the Consultation Proposal Document would materialise.

16.7 In withdrawing the proposal, primary-aged children who come to live in the new residential development at Ferrygate Meadow (NK5) would not be able to attend the same school. This is not in line with the Council's vision and values for Education. Furthermore by not extending the catchment boundary line to the next appropriate natural boundary this would increase the likelihood of this type of catchment boundary issue arising again.

17. **RECOMMENDATIONS**

17.1 On the basis of the feedback received and taking account of the educational and social benefits of the proposal, it is concluded that the following proposal is the most reasonable, viable and appropriate course of action open to it in providing the opportunity for primary aged children from the affected area to attend the same school. It is therefore recommended that the Council approves the following:

- To extend Law Primary School catchment area to include the whole of the new residential development at Ferrygate Meadow (NK5) and the houses in the area of Westerdunes Park and remove the area of land affected from the Dirleton Primary School catchment area.

- The new catchment and admission arrangements for Dirleton Primary School and Law Primary School would become operational with immediate effect.

Fiona Robertson
Head of Education
March 2018

APPENDIX 1: COMMENTS FROM QUESTIONNAIRE RESPONSES

Of the 35 questionnaire responses, 9 contained comments of whom 3 declined permission to make their comments publicly available. However, their representations have been taken account of and responded to in Section 8 of this Consultation Report. The summary of comments below, were made from the remaining 6 responses who gave permission to share their comments publicly.

Responses from Groups

Gullane Area Community Council

Comments
Makes good sense!

Responses from Individuals

Responses from those in support of the proposal to alter the catchment boundaries of Law Primary and Dirleton Primary school catchment areas

The comments included with those responses received that were in favour of the proposal are shown below, comments are redacted to avoid the identification of individuals:

Comments
We currently live in the new Ferrygatemeadow development and are baffled by the split in catchment. We simply want our kids to go to the same school as their friends living in the same area.
██████████ lives in the new Miller, Ferrygate Meadow houses. ██████ side of Phillimore Square is designated, under the current boundaries, to be in Dirleton, whereas ██████ neighbours houses on Phillimore Square are within the North Berwick boundary. This would mean that ████████████████████ would be going to Dirleton Primary School, and the neighbouring children would attend Law Primary School. I would like to see the new boundary including all of Phillimore Square in the Law Primary catchment area.
I strongly agree that the Law Primary School catchment should be altered to include the entire Ferrygate Meadow development and in doing so, the affected houses in Westerdures Park. In my opinion the decision was made when planning consent was granted in 2015 and the supporting information stated that the development would be within Law Primary boundaries. The historical boundary runs almost directly through the affected 8 houses and results in an

Comments

unfavourable situation where despite living in North Berwick and within an estate that the remaining 132 houses are included; the occupants of those homes are not.

This means that children who grow up in the same street may not be able to attend the same school as their neighbours and friends. Children who see themselves as living in North Berwick, attend activities in the town and want to feel included as part of the local community. The whole situation would potentially be very divisive.

Part of the Ferrygate Meadow plans include a safe walking / cycling route to Law Primary via Gas Works Lane. The footpath is already in place and ready to link to the development as it moves east. Any route to Dirleton Primary from Ferrygate Meadow is however not safe due to the requirement to cross a road where vehicles travel at 60 mph and beyond. This would force families to travel by car and contradict attempts for children to lead a healthy and active lifestyle by walking or cycling to and from school.

Thank you for your consideration.

Responses from those who are not in favour of the proposal to alter the catchment boundaries of Law Primary and Dirleton Primary school catchment areas

The comments made in the responses that were not in favour of the proposal are shown below.

Comments

This is surely absurd. Law Primary cannot cope with the amount of pupils it already has and Dirleton Primary is tiny - nonsensical. The infrastructure/bullying/playground space issues at Law are well known and the school is already unwieldy.

As far as I can recall when the Ferrygate development went through planning it was on the basis that the houses would be in the Dirleton catchment.

The town is expanding at such a huge rate that despite the additional class rooms in the new build section of the school the school is stretched for many reasons and is under resourced (for example there are a higher than usual percentage of children with special needs) and limited resources to help.

This will also add to more traffic through the main roads where traffic is already bad. We walk to school as we live quite centrally and are often confronted with cars and buses driving on the pavements to get through traffic (which we have reported to the council, the police and the bus companies). And despite this development being within walking distance to the school the reality is that most people would choose to drive.

APPENDIX 2: NOTE OF PUBLIC MEETING

STATUTORY PUBLIC CONSULTATION MEETING

PROPOSAL 1 – PROPOSED CLOSURE AND RE-DESIGNATION OF NORTH BERWICK NURSERY SCHOOL TO LAW PRIMARY SCHOOL NURSERY CLASS

PROPOSAL 2 – TO ALTER THE SCHOOL CATCHMENT AREAS OF DIRLETON PRIMARY SCHOOL AND LAW PRIMARY SCHOOL

**TUESDAY 21 NOVEMBER 2017
NORTH BERWICK HIGH SCHOOL**

PRESENT:-

Chris Webb, Independent Adviser, Chair of meeting
Lesley Brown, Quality Improvement Manager
Richard Parker, Service Manager, Education
Iain McFarlane, Planning Service Manager, Development Management
Pauline Smith, Principal Officer (Information & Research)
Rob Lewis, Senior Information Officer
Katy Johnstone, Graduate Intern
David Gilmour, Web Officer
1 member of the public

Chris Webb welcomed everyone to the meeting, introduced himself and outlined the purpose of the meeting. He informed the attendee that the meeting was being recorded to allow the Council to have an accurate record of any issues raised so they can answer any questions in more detail at a later date. The views recorded will form part of the consultation exercise.

Chris Webb advised that the purpose of the meeting is to give members of the public the opportunity to hear more about the proposals, ask questions about the proposals and have their views recorded and noted and taken account of as part of the consultation process.

He acknowledged that there were two proposals however the member of the public in attendance identified that they were only interested in the second proposal. It was the member of the public's preference to only discuss the second proposal.

Richard Parker reiterated that the meeting was being held to discuss two proposals but as there was no interest in the first proposal, only the second was to be presented:-

- To alter the catchment areas of Dirleton Primary School and Law Primary School
- If approved, the catchment area of Law Primary School will be extended to include the whole of the new residential development at Ferrygate Meadow and the houses in the area of Westerdunes Park, North Berwick currently in the catchment area of Dirleton Primary School

- The proposed changes to the Dirleton Primary School and Law Primary School catchment areas will become operational with immediate effect.

Background on Proposal Two

- On 13th November 2015 planning permission in principle was allowed under appeal for planning application 14/00632/PPM, a new residential development on the land at Ferrygate Farm (known as Ferrygate Meadow).
- The supporting documentation at the time of the application assessment indicated that the new development could be wholly contained within the Law Primary School catchment boundary
- In the Spring of 2017 the location of the houses as mapped on the Council's geographical information system showed that the current Law Primary School catchment boundary now divides Ferrygate Meadow.
- 132 of these 140 properties are located within the current Law Primary School catchment area and the remaining 8 properties are located within the Dirleton Primary School catchment area.
- The Ferrygate Meadow development has escalated a legacy catchment boundary issue to the west of the current Law Primary School catchment boundary which runs across open fields.
- To enable all of the properties from the development to be in the same catchment, it is proposed that the boundary line will be extended to the next appropriate natural boundary.
- As a result, this change will include houses in the area of Westerdunes Park which are also currently in the Dirleton Primary School catchment area.

Educational Benefits

The proposed alteration of the catchment areas of Dirleton Primary School and Law Primary School will have educational benefits through:

- Ensuring all primary aged children from the new development at Ferrygate Meadow will be able to attend the same school.
- Promoting a greater sense of community and providing the opportunity for children living within the properties at Ferrygate Meadow and Westerdunes Park to develop and sustain strong relationships both at school and at home.

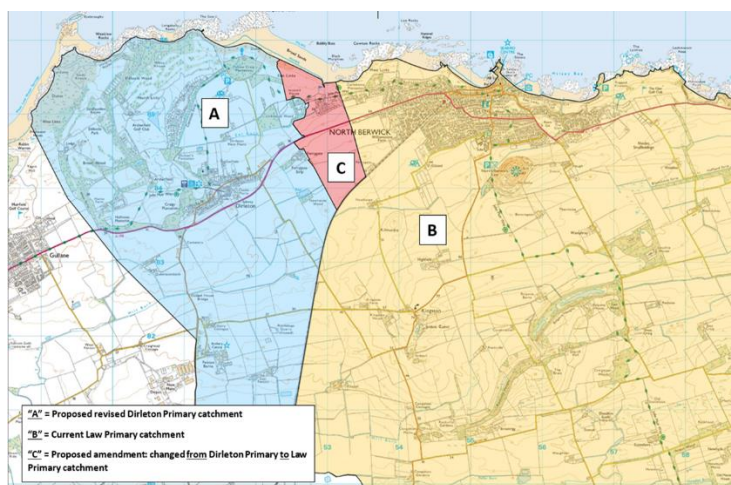
Transition Arrangements

- Pupils who currently attend Dirleton Primary School and Law Primary School will not be significantly affected as the proposed catchment changes will only impact on future pupil enrolments.
- Children currently living in the affected area and attending Dirleton Primary School will continue to attend Dirleton Primary School for the remainder of their primary education.
- For children starting P1 living in the affected area who have a sibling continuing to attend Dirleton Primary School in the same academic year who would, but for implementation of the proposal, be likely to become pupils of that school, will have the option to attend Dirleton Primary School if they wish to do so.

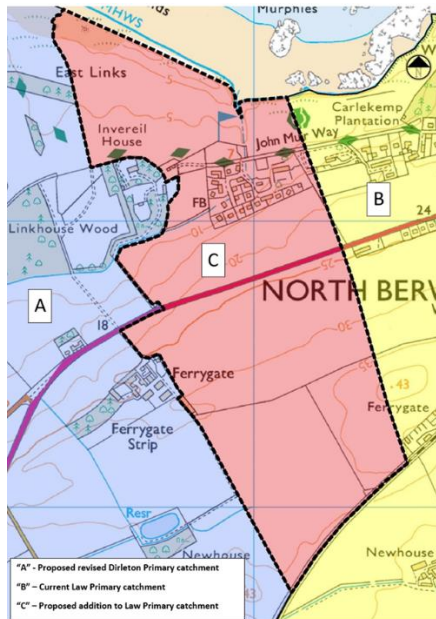
School Capacity

- Law Primary School with its extension has the capacity to accommodate the projected pupil numbers that will arise from the proposed boundary change and the committed housing developments in the Law Primary School catchment area.
- Further expansion of Law Primary School is not required as a result of this proposal.
- Dirleton Primary School has the capacity to accommodate the projected pupil numbers which will arise from the planned and committed housing development in its catchment area.
- However, the Dirleton Primary School facilities and site are constrained and would not have the ability to be physically extended to accommodate the additional pupils projected to arise from the new development at Ferrygate Meadow in addition to the planned and committed housing developments in the Dirleton catchment area.

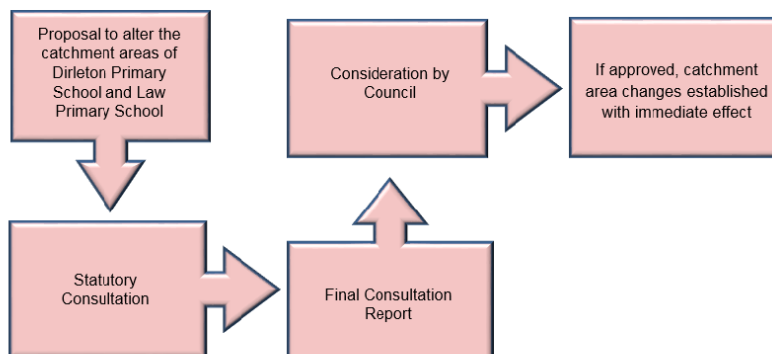
Map of Locations 1



Map of Locations 2



Project Timeline – Proposal 2



Chris Webb invited questions from the member of the public.

The member of the public stated that the proposal was clear and that they expected there to be an answer on the outcome when the proposal ends on the 4th December.

Richard Parker responded that after the close of the consultation the proposal would need to go to Council to be approved. He explained that this proposal will not become effective until after the Council meeting and once Scottish Ministers have had the opportunity to call the proposal in.

Chris Webb explained that although the time between the consultation and the Council decision seemed long, this is the process that is undertaken for all statutory school consultations. He explained that there had to be due diligence in the process of every consultation and that the role of Education Scotland was to scrutinise the educational benefits of the proposal as an independent body. He reiterated the process undertaken by both Education Scotland and the Local Authority and explained that it was in place to ensure that the process was safeguarded by an independent perspective.

The member of the public stated that they understood the timescales and that their reason for attending the meeting was to show their support for the proposal. They stated that they supported the proposal for the inclusivity of the children who would grow up in one of the 8 houses in the current Dirleton Primary School catchment, living in North Berwick but potentially having to go to a school that wasn't in town. They felt that it would be hard for the children to forge friendships and a network of friends as they would have children a stone's throw away who go to a different school. The member of the public felt that the current situation is divisive and they would not want their children to take a place from a child at Dirleton Primary School as they felt that Dirleton Primary School was for Dirleton residents. They also stated that there is a safe walking route from Ferrygate Meadow to Law Primary School which is not the case with Dirleton Primary School as there is a national speed limit road and you could not consider a child walking to school using that route. The member of the public wished to safeguard the future for other families that would be potentially moving into the street and would find themselves in that awkward position where their children would be in a different catchment area.

Chris Webb drew the meeting to a close and thanked everyone who attended the meeting.

APPENDIX 3: NOTE OF STAFF VOICE SESSIONS

Dirleton Primary School Staff Voice Session 07/11/2017

Staff members attended to let officers know they had no concerns about the consultation proposals.

Law Primary School Staff Voice Session 16/11/2017

Staff members were invited to attend a meeting to share their views, none attended.

APPENDIX 4: NOTE OF PUPIL VOICE SESSIONS

The Pupil Voice sessions were structured workshops with a representative group of pupils from the school. The following are summaries of the discussions and questions/answers.

Dirleton Primary School Pupil Voice Session 06/11/2017

David Scott and Katy Johnstone met with a group of pupils for a short time. David Scott described the proposals and the pupils put forward their thoughts:

- 'You would want to go to the same school as your friends'
- Concerns about their postcode changing
- 'It will be a big change but it could work out very well, it works in Haddington' (regarding the nursery)
- Concerns about having to move school if living in the change area

Dirleton Primary School Pupil Voice Session 16/11/2017

David Scott and Katy Johnstone met with a group of pupils for a second time as it was felt there was not enough opportunity for all of the children to share their views on the proposal. David Scott described the proposal and then there was a group discussion:

There was a discussion around how the children felt when they came to school for the first time

- Scared, didn't like the idea of a big school
- Excited, already had siblings at the school so knew what it was like

Some children felt the first proposal is an okay idea, but it feels like it could go either positively or negatively.

Others felt it was a change for the good – just a bit nostalgic about the nursery school

Can't see how it would be a bad thing, really just a change of name.

Regarding Proposal 2

Did not feel it was fair in the current position, if your best friend was on the other side of the line it's not good.

Overall the children thought it was a pretty good idea.

Law Primary School Pupil Voice Session 16.11.2017

David Scott and Katy Johnstone met with a group of pupils. David Scott described the proposals and then there was a group discussion:

There was a discussion around how the children felt when they came to school for the first time:

- Nervous
- Excited
- Difference between a day of playing at nursery and the work of Primary 1

All children felt that the first proposal was fine.

Regarding proposal 2, there were questions as to why the council was not making the catchment area of Dirleton Primary School larger instead of Law Primary Schools. David Scott explained that there would not be capacity at Dirleton Primary School for all of the children in the catchment area if it was to be extended.

Many children expressed dismay at the thought of children who were neighbours not being able to go to school together.

APPENDIX 5: EDUCATION SCOTLAND REPORT

Report by Education Scotland addressing educational aspects of the proposal by East Lothian Council to extend the catchment area of Law Primary School to include the whole of the new residential development at Ferrygate Meadow and the houses in the area of Westerdunes Park, North Berwick currently in the catchment area of Dirleton Primary School.

1. Introduction

1.1 This report from Education Scotland has been prepared by Her Majesty's Inspectors of Education (HM Inspectors) in accordance with the terms of the *Schools (Consultation) (Scotland) Act 2010* and the amendments contained in the *Children and Young People (Scotland) Act 2014*. The purpose of the report is to provide an independent and impartial consideration of East Lothian Council's proposal to extend the catchment area of Law Primary School to include the whole of the new residential development at Ferrygate Meadow and the houses in the area of Westerdunes Park, North Berwick currently in the catchment area of Dirleton Primary School. Section 2 of the report sets out brief details of the consultation process. Section 3 of the report sets out HM Inspectors' consideration of the educational aspects of the proposal, including significant views expressed by consultees. Section 4 summarises HM Inspectors' overall view of the proposal. Upon receipt of this report, the Act requires the council to consider it and then prepare its final consultation report. The council's final consultation report should include a copy of this report and must contain an explanation of how, in finalising the proposal, it has reviewed the initial proposal, including a summary of points raised during the consultation process and the council's response to them. The council has to publish its final consultation report three weeks before it takes its final decision. Where a council is proposing to close a school, it needs to follow all legislative obligations set out in the 2010 Act, including notifying Ministers within six working days of making its final decision and explaining to consultees the opportunity they have to make representations to Ministers.

1.2 HM Inspectors considered:

- the likely effects of the proposal for children of Law and Dirleton Primary Schools; any other users; children likely to become pupils within two years of the date of publication of the proposal paper; and other children and young people in the council area;
- any other likely effects of the proposal;
- how the council intends to minimise or avoid any adverse effects that may arise from the proposal; and
- the educational benefits the council believes will result from implementation of the proposal, and the council's reasons for coming to these beliefs.

1.3 In preparing this report, HM Inspectors undertook the following activities:

- consideration of all relevant documentation provided by the council in relation to the proposal, specifically the educational benefits statement and related consultation documents, written and oral submissions from parents and others; and
- visits to the site of Law and Dirleton Primary Schools, including discussion with relevant consultees.

2. Consultation Process

2.1 East Lothian Council undertook the consultation on its proposal(s) with reference to the *Schools (Consultation) (Scotland) Act 2010* and the amendments in the *Children and Young People (Scotland) Act 2014*.

2.2 The consultation process ran from 24 October 2017 until 4 December 2017. Copies of the consultation document and an information leaflet were available on the East Lothian Council consultation website. In addition, paper copies and questionnaires were available in local schools and council buildings. An advertisement was placed in the local newspaper and the council used social media posts to raise further awareness. A public meeting was held at North Berwick High School on 21 November 2017. Only one local resident attended and they were in favour of the proposal. Less formal drop in sessions were also held on 6 November 2017 at Dirleton Primary School and on 9 November 2017 at North Berwick Community Centre.

2.3 Thirty-five written and electronic responses were received by the council with a majority in favour of the proposal and just over 17% of respondents disagreeing or strongly disagreeing.

3. Educational Aspects of Proposal

HM Inspectors consider that the proposal has the potential to bring educational benefits. Children living close by in the same community will have the right to attend the same school. Future pressures on the capacity at Dirleton Primary School are less likely as a result of fewer homes in the revised catchment area, whilst Law Primary School has greater capacity in the future. The proposal will allow the council to achieve best value in managing its school estate in a growing community.

3.1 All stakeholders who met with HM Inspectors were in support of the proposal. From the evidence collated by the council, stakeholders who agreed with the proposal stated that all children from the Ferrygate Meadow area should have the opportunity to attend Law Primary School with their close neighbours and friends. They saw the importance of a community of learners having common links. For a smaller number of parents, there were concerns expressed about the growing numbers of children in Law Primary with regard to space in the school and additional traffic this might bring to the area around the school.

3.2 The council has given assurances to families living in the affected areas with children currently attending Dirleton Primary School that they will continue to be guaranteed a place and that siblings will have the right to attend the same school as their older sisters or brothers should they wish to do so.

4. Summary

HM Inspectors consider that this proposal has the potential to bring educational benefits to the children and families affected by the changes to the catchment areas. In taking the proposal forward, the council should continue to clarify misconceptions among a small number of parents about the scale of pupil numbers involved and the likely impact in and around Law Primary School.

**HM Inspectors
Education Scotland
January 2018**

REPORT TO: East Lothian Council
MEETING DATE: 24 April 2018
BY: Depute Chief Executive (Resources and People Services)
SUBJECT: Membership of the Joint Consultative Committee

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1 PURPOSE

- 1.1 To seek approval of the appointment of Councillor Neil Gilbert to the Joint Consultative Committee (JCC).

2 RECOMMENDATIONS

- 2.1 Council is asked to approve the appointment of Councillor Neil Gilbert to the Joint Consultative Committee.

3 BACKGROUND

- 3.1 At the meeting of the Council on 19 December 2017, Councillor Currie made nominations to a number of committees which had SNP Group vacancies, all of which were approved by the Council. At that time, he had not made a nomination for the SNP's vacant slot on the JCC. Councillor Currie has now advised that the SNP Group wish to nominate Councillor Neil Gilbert to the JCC.

4 POLICY IMPLICATIONS

- 4.1 None.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

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
- 7.2 Minutes of the Meeting of East Lothian Council, 19 December 2017

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager – Democratic & Licensing
CONTACT INFO	lgillingwater@eastlothian.gov.uk
DATE	6 April 2018

MOTION TO EAST LoTHIAN COUNCIL
24th April 2018

Burial Charges for Children

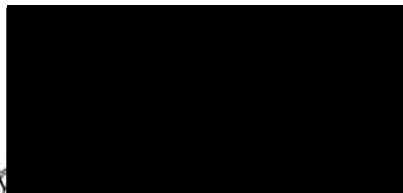
The Council is asked to agree that at time of unimaginable loss, that we should do all we can to assist families who have sadly lost a child under the age of 18. The current burial charges are £100 for a child under 5 years old and £200 for a child aged 5-17 years old.

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Council is therefore asked to agree to remove charges for the burial of children under the age of 18 with immediate effect.

Council is also asked to agree to make representations, both directly and through COSLA, to the Scottish Government for child burial charges to be met from central resources when the devolution of funeral payment benefit to Holyrood from Westminster takes place in 2019.

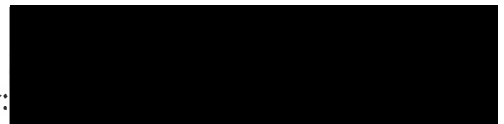
Proposed by



Date:

10/4/18

Seconded by:



Date:

10/4/18

REPORT TO: East Lothian Council

MEETING DATE: 24 April 2018

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Submissions to the Members' Library Service
15 February – 11 April 2018

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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 15 February and 11 April 2018, 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 & Licensing
CONTACT INFO	lgillingwater@eastlothian.gov.uk
DATE	11 April 2018

**MEMBERS' LIBRARY SERVICE RECORD FOR THE PERIOD
14 February – 11 April 2018**

Reference	Originator	Document Title	Access
20/18	Depute Chief Executive (Partnerships and Community Services)	Building Warrants Issued under Delegated Powers, 1-31 January 2018	Public
21/18	Depute Chief Executive (Partnerships and Community Services)	Antisocial Behaviour Policy	Public
22/18	Depute Chief Executive (Partnerships and Community Services)	Proposed Social Work Adaptations to 21 Council Houses (2018) at Various Addresses, East Lothian	Public
23/18	Head of Council Resources	Bad Debt Write Offs (under £10k in value)	Public
24/18	Head of Council Resources	Treasury Management Strategy 2018-21	Public
25/18	Depute Chief Executive (Partnerships and Community Services)	East Lothian Local Transport Strategy – Active Travel Improvement Plan	Public
26/18	Depute Chief Executive (Partnerships and Community Services)	East Lothian Local Transport Strategy – Parking Management Strategy	Public
27/18	Depute Chief Executive (Partnerships and Community Services)	East Lothian Local Transport Strategy – Road Asset Management Plan	Public
28/18	Depute Chief Executive (Partnerships and Community Services)	East Lothian Local Transport Strategy – Road Safety Plan	Public
29/18	Depute Chief Executive (Partnerships and Community Services)	Strategic Housing Investment Plan	Public
30/18	Head of Education	Protocol for Appointment of Teaching Staff Where Schools Merge/Close	Private
31/18	Head of Infrastructure	Proposed House Alterations and Extension to 12 Muirpark Road, Tranent	Public
32/18	Head of Infrastructure	Proposed House Alterations at 3 Mansfield Avenue Musselburgh	Public
33/18	Depute Chief Executive –	Proposed Installation of a Passenger Lift at Well Wynd Sheltered	Public

	Partnerships and Community Services	Housing, Tranent	
34/18	Head of Council Resources	Improvements to Customer Feedback Reporting	Public
35/18	Depute Chief Executive (Partnerships and Community Services)	Year of Young People and Investment in Young People Gold Award	Public
36/18	Head of Council Resources	Establishment Changes for January and February 2018	Private
37/18	Depute Chief Executive (Resources and People Services)	Governance Review – Musselburgh Racecourse	Public
38/18	Depute Chief Executive (Partnerships and Community Services)	Discretionary Fees 2018/19	Public
39/18	Head of Development	Scottish Government Consultation of a Fuel Poverty Strategy for Scotland	Public
40/18	Head of Development	East Lothian Council – Public Sector Climate Change Reporting 2016/17	Public
41/18	Head of Council Resources	Staffing Review - Housing	Private
42/18	Head of Council Resources	Staffing Review – Development Services	Private
43/18	Head of Infrastructure	Building Warrants Issued under Delegated Powers, 1.2.18 – 28.2.18	Public
44/18	Head of Council Resources	Staffing Review – Communications	Private
45/18	Head of Council Resources	Quarterly Feedback Reporting	Public
46/18	Head of Council Resources	Creation of an Employability and Partnership Officer	Private
47/18	Depute Chief Executive (Partnerships and Community Services)	Multi-material Kerbside Collection Services	Public
48/18	Depute Chief Executive (Partnerships & Community Services)	Procurement of Expansion of PPP Secondary Schools	Public
49/18	Head of Council Resources	Bad Debt Write Offs (under £50k in value)	Public
50/18	Head of Council Resources	Establishment Changes for March 2018	Private

11 April 2018