



MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 26 FEBRUARY 2019
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

Committee Members Present:

Provost J McMillan (Convener)	Councillor J Henderson
Councillor S Akhtar	Councillor W Innes
Councillor L Bruce	Councillor S Kempson
Councillor S Currie	Councillor K Mackie
Councillor F Dugdale	Councillor C McGinn
Councillor J Findlay	Councillor P McLennan
Councillor A Forrest	Councillor K McLeod
Councillor N Gilbert	Councillor F O'Donnell
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 J Lamond, Head of Council Resources
Mr D Proudfoot, Head of Development
Mr T Reid, Head of Infrastructure
Mrs F Robertson, Head of Education
Ms S Saunders, Head of Communities and Partnerships
Ms J Tait, Head of Adult and Children's Services
Mr R Baty, Team Leader – Business Development
Mr S Cooper, Team Manager – Communications
Ms C Dora, Executive Officer
Ms S Fortune, Service Manager – Business Finance
Mr C Grilli, Service Manager – Legal & Procurement
Mr I McFarlane, Service Manager – Planning
Mr R Montgomery, Project Manager
Ms W McGuire, Team Leader – Strategy & Development
Ms J Squires, Planner (Policy & Projects)
Mr L Taylor, Planning Policy Officer
Mr P Vestri, Service Manager – Corporate Policy and Improvement
Ms S Wanless, Planner (Policy & Projects)

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

Councillor G Mackett
Councillor B Small

Declarations of Interest:

Councillors Innes and McMillan declared an interest in Item 5 – Support for East Lothian Businesses: Loan to East Lothian Investments Ltd, as they are Directors of East Lothian Investments Ltd.

Councillor McLennan declared an interest in Items 6, 7 and 8 – Local Development Plan reports, due to his employment status.

1. MINUTES FOR APPROVAL

The minutes of the meeting of East Lothian Council of 11 December 2018 were approved.

2. MINUTES FOR NOTING

The minutes of the Local Review Body (Planning) meeting of 15 November 2018 were noted.

3. FINANCIAL REVIEW 2018/19, QUARTER 3

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Council of the financial position at the end of December 2018.

The Head of Council Resources, Jim Lamond, presented the report, informing Members that at the end of Quarter 3 the overall financial position showed an overspend of £1.3 million (0.7%). He anticipated that there would be an overspend at the year-end of between £1m and £2m. He drew attention to the financial position of all Council services. Mr Lamond anticipated that 93% of planned efficiency savings would be achieved, with £350,000 of savings unlikely to be achieved before the end of the financial year. He warned of the pressures within health and social care services, the overspend on which was currently being offset by underspends in other areas.

On the Housing Revenue Account, Mr Lamond reported an underspend of £0.8m. He highlighted the unusual spending pattern (set out in Appendix 3 of the report), noting that it was unlikely that two key projects would be concluded by the end of the financial year. He added that he expected year-end underspends in relation to the modernisation programme and mortgage-to-rent acquisitions.

Mr Lamond referred Members to Appendix 4 of the report, which set out the revised budget for capital expenditure. He anticipated that at the year-end, the Council would have spent £43m on capital projects (a summary of which was outlined in Section 3.23 of the report).

Mr Lamond responded to a series of questions from Councillor Currie. He indicated that the financial position as regards health and social care was a recurring issue, and that it was likely that the current spending patterns would continue into the new financial year. He added that negotiations with the NHS as regards resource transfer were ongoing, and that this could result in the overspend being reduced. On underspends, he advised that this was due to a variety of issues, including planned efficiencies and vacancy management; he emphasised that this position may not continue into the next financial year. As regards

coastal car parking, he confirmed that the income generated was less than anticipated, but that this was partly due to unexpected costs associated with decriminalised parking enforcement, which was charged against coastal car parking activity. He added that there was no direct link between the under-recovery of car parking income and investment at coastal car parks, and that there were a number of other reasons for the delay in improvements to the facilities. Tom Reid, Head of Infrastructure, pointed out that a report on coastal car parking would be presented to the PPRC on 27 February.

Councillor O'Donnell asked if the Council had received guidance on how the overspend in the Health and Social Care Partnership would be addressed. Judith Tait, Head of Adult and Children's Services advised that she wasn't aware of any centralised guidance. Jim Lamond noted that provisions were made within the Scheme of Integration to allow flexibility, and that the East Lothian Scheme differed from other schemes. However, this position had been challenged by Audit Scotland, and that guidance from the Scottish Government would be welcomed.

Responding to a question from Councillor Henderson in relation to the HRA budget, Mr Lamond reported that it had been an unusual year, in that expenditure was heavily weighted to the end of the financial year – the position would become clearer at the year-end. He pointed out that there was scope to transfer activity into the new financial year.

Councillor Williamson highlighted the overspend on void rents. Douglas Proudfoot, Head of Development, signalled that there was work underway to review the voids policy, and that efforts were being made to re-let houses as quickly as possible. A report on this would be presented to Cabinet in May.

Councillor Bruce asked for an explanation as to the underspend in the pre-school budget. Fiona Robertson, Head of Education, reported that the Council had received additional funding of £200k to employ additional staff and assist in the implementation of the 1140 hours of early learning and childcare; some aspects of this work would be carried out on a phased basis.

Councillor Gilbert questioned the expenditure on residential and secure accommodation for children. Ms Tait advised that there had been an unusual increase in demand for such services during 2018/19, with 19 children being subject to external placements and 7 in secure care. She emphasised that the Council had a duty to protect these children, and that the right decisions had been made as regards these placements.

Councillor Hampshire noted that it was very difficult to control the demands on a number of services; however, the resulting overspend was offset to a certain extent by savings made by other services. He paid tribute to the staff for continuing to provide high-quality services, but warned that the year ahead would be challenging.

Councillor Currie remarked that it was unlikely that the position for health and social care services would improve by the end of the financial year. He anticipated that the demand on these services would remain and may even increase, and questioned what effect the efficiency measures in place would have. His view was that the current situation was not sustainable and that an early solution as regards shifting the balance of care was required. On coastal car parking, he sought assurance that the anticipated income would be realised, and suggested that wardens should be patrolling high streets and streets around schools rather than the coastal car parks.

Councillor Akhtar drew attention to the pressures resulting from an increasing population, particularly in the 0-16 age group. She highlighted the challenges facing schools at a time when Council budgets were being reduced, noting that staff were working hard to ensure positive outcomes for children and young people.

As health and social care spokesperson, Councillor O'Donnell advised that the IJB was currently consulting on its Strategic Plan. She made reference to the growing number of older people in East Lothian, stressing the need to provide the right care and security for those service users. She noted that the Strategic Plan would also look at innovative ways of working. She welcomed discussions between the Council and NHS officials on the challenges ahead, and added that the additional money from the Scottish Government would be needed to progress integration and the Carers Act.

Councillor Innes concluded the debate by stating that, despite the challenges, the Council was performing well. He highlighted in particular the improvements made to schools and children's services, and the recent Best Value Assurance report. He expressed concern that the Scottish Government continued to set budgets on a year-by-year basis, arguing that this model was not sustainable. He called on the Council to thank staff for their hard work during such challenging financial times.

Decision

The Council agreed to note the financial performance at the end of the third quarter of 2018/19 against approved budgets.

4. TREASURY MANAGEMENT STRATEGY 2019/20 – 2023/24

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of the Treasury Management and Investment Strategies for 2019/20 to 2023/24.

The Service Manager – Business Finance, Sarah Fortune, presented the report, advising of the requirement for the Council to have approved Treasury Management and Investment Strategies that demonstrates compliance with the CIPFA Code of Practice. She drew Members' attention to the key aspects of the Strategy, as set out in Sections 3.5-3.22 of the report.

Ms Fortune responded to a number of questions from Members, advising that the review of loans charges would cover both general services and the Housing Revenue Account, and that the outcome would be reported back to Council. On the Council's investment priorities, she noted that minimising exposure to risk was the main focus of the strategy.

Decision

The Council agreed:

- i. to approve the Treasury Management Strategy, referenced within Sections 3.5-3.18 of the report;
- ii. to approve the Investment Strategy, references within Sections 3.19-3.21 of the report;
- iii. to approve the repayment of loans fund advances by the statutory method before 1 April 2016 and by the asset life method after 1 April 2016 (outlined in Section 3.6), and that this may need to be reviewed subject to the outcome of the promised legislative changes at a national level;
- iv. to approve the operational boundaries for external debt, as detailed in Section 3.14 of the report;

- v. to approve the authorised limits for external debt, as detailed in Section 3.15 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 3.18 of the report; and
- vii. to note the detailed Treasury Management Strategy Statement, available in the Members' Library (Ref: 19/19, February 2019 Bulletin).

5. SUPPORT FOR EAST LOTHIAN BUSINESSES: LOAN TO EAST LOTHIAN INVESTMENTS LTD

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of a loan to East Lothian Investments Ltd (ELI) and authorisation for the Head of Council Resources to finalise and enter into a loan agreement on behalf of the Council.

Declarations of Interest: having declared an interest as Directors of the Board of East Lothian Investments Ltd, Councillors Innes and McMillan left the meeting. Councillor Forrest took the chair for this item of business.

The Head of Council Resources, Jim Lamond, presented the report, advising Members that the Council has been providing interest-free loans to East Lothian Investments Ltd over the past ten years. He drew Members' attention to the success of this initiative, namely that 81 jobs had been created and 1,500 had been protected, and that East Lothian Investments had been able to secure an additional £16,459,637 of private-sector funds. He reported that the type of loan proposed was unsecured, thereby carrying a greater degree of risk; however, previous loan arrangements had operated without any difficulties. If approved, he sought authority from the Council to finalise the formal loan agreement in accordance with the requirements set out in Section 3.8 of the report.

Douglas Proudfoot, Head of Development emphasised the positive impact of providing such a loan facility, noting that the initiative had been reviewed at both the Audit & Governance Committee and Policy & Performance Review Committee.

In response to a question from Councillor O'Donnell on the impact of the loan facility on the local supply chain, Richard Baty (Team Leader – Business Development) advised that this would be difficult to quantify; however, he explained that the Economic Development Team did provide advice to companies moving to East Lothian or expanding on other local businesses which could assist them.

Councillor Currie questioned the potential of using common good funds to provide a similar facility to that being offered, and asked if this could be explored. Mr Lamond reminded Councillor Currie about the investment arrangements for common good funds; however, he noted that he would be happy to look into his suggestion.

Mr Baty informed assured Members that the loan facility was open to all businesses in East Lothian and that applications had been received from all areas of the county.

The initiative was welcomed by a number of Members, who viewed it as an effective way to support local businesses and protect jobs.

Decision

The Council agreed:

- i. to approve a loan of £300,00 to East Lothian Investments Ltd; and
- ii. to authorise the Head of Council Resources to finalise the loan agreement satisfying the requirements set out in Section 3.8 of the report.

Sederunt: Councillors Innes and McMillan returned to the meeting. Councillor McMillan resumed the chair.

6. EAST Lothian LOCAL DEVELOPMENT PLAN: REPORT ON CONSULTATION RESPONSES ON SUPPLEMENTARY PLANNING GUIDANCE – AFFORDABLE HOUSING

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) informing Members of the results of the public consultation exercise on Supplementary Planning Guidance for Affordable Housing to the East Lothian Local Development Plan 2018; seeking approval for amendments to the supplementary planning guidance arising from the consultation responses received; and seeking approval to adopt the supplementary planning guidance as amended.

Declarations of Interest: having declared an interest in respect of his employment status, Councillor McLennan left the meeting.

The Service Manager – Planning, Iain McFarlane, presented the report, advising Members that the consultation on the Affordable Housing Supplementary Planning Guidance had now been completed and that the amended guidance was now before Council for approval. He added that the guidance would be reviewed every two years.

Wendy McGuire, Team Leader – Strategy and Investment, drew Members' attention to the key aspects of the report, including the consultation process and responses received, the evidence base used to assess need, and securing contributions from developers to deliver affordable housing.

Ms McGuire and Mr McFarlane responded to a series of questions from Councillor Currie, advising: that the Strategic Housing Investment Plan (SHIP) provided a breakdown of affordable housing tenures for the next five years; that there would be approximately 1570 affordable housing units built over the next five years; that housing needs would be kept under review; that the delivery of affordable housing on the larger Local Development Plan sites was largely dependent on the delivery of private sector housing, although the Council did have some sites of its own where it could provide affordable units; that the Council did not have powers to insist on factoring services being included in developments; and that there was the potential for the Council to take on factoring duties in future.

Councillor Hampshire asked about the status of affordable housing as regards statutory supplementary guidance. Mr McFarlane explained that statutory supplementary guidance required the approval of Scottish Ministers, but that this did not apply to supplementary planning guidance as now proposed on affordable housing. He advised that the Council's position on the provision of affordable housing was supported by Scottish Planning Policy, and that the house-building industry did not object to the Council's policy.

On the matter of commuted sums, Ms McGuire noted that this was a last resort, and it applied mainly to small rural developments or steading developments.

Councillor Hampshire welcomed the development of affordable housing across all areas of East Lothian, and also the proposed mixture of tenures and integration of affordable housing in larger housing developments.

Councillor Currie highlighted the importance of delivering the planned number of affordable housing units, especially in view of the uncertainty around the UK's departure from the EU.

As the Cabinet spokesperson for housing, Councillor Goodfellow thanked staff for their work on developing the guidance. He pointed out that the plans for delivering affordable homes was based on the continuation of Scottish Government support.

Douglas Proudfoot, Head of Development, reminded Members that there would be a briefing on growth delivery on 14 March.

Decision

The Council agreed:

- i. to approve the amendments proposed to the supplementary planning guidance arising from the consultation responses received;
- ii. to adopt the Supplementary Planning Guidance: Affordable Housing; and
- iii. that the supplementary guidance would be reviewed and updated every two years, unless there is a material change in the market; any changes would be reported through the Members' Library.

7. EAST LOTHIAN LOCAL DEVELOPMENT PLAN 2018 – SUPPLEMENTARY GUIDANCE: TOWN CENTRE STRATEGIES, REPORT ON CONSULTATION; AND SUPPLEMENTARY PLANNING GUIDANCE: GREEN NETWORKS; DESIGN STANDARDS FOR NEW HOUSING AREAS, REPORT ON CONSULTATION

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) informing Members of the results of the public consultation on Draft Town Centre Strategies Supplementary Guidance (SG) to the East Lothian Local Development Plan; advising of proposed changes resulting from the public consultation and seeking approval of the final document for approval for submission to Scottish Ministers.

The report also sought consideration of the responses to the public consultation on the Draft Green Networks Supplementary Planning Guidance (SPG) to the East Lothian Local Development Plan 2018 and agreement of the resulting proposed changes and final document for adoption.

The report further sought approval for further work to be carried out on the preparation of draft non-statutory Supplementary Planning Guidance titled 'Design Standards for New Housing Areas', associated with the adopted East Lothian Local Development Plan 2018. The revised Design Standards for New Housing Areas SPG would, once finalised, be reported to a future meeting of the Council for determination.

The Service Manager – Planning, Iain McFarlane, presented the report, reminding Members that these documents had previously been approved by the Council for consultation. He proposed that the Design Standards document be continued to a future meeting. As regards

the Town Centre Strategies, he advised that if Scottish Ministers approved these strategies, then they would be adopted by the Council at the date of Ministers' approval. He pointed out that an error in the Haddington Town Centre Strategy, relating to parking, would be amended to correctly reflect the Local Transport Strategy. On Green Networks, he sought Council approval of the amendments in order for that document to be adopted.

Councillor McGinn welcomed the report, particularly in relation to the regeneration of town centres. With reference to the work underway at the old post office in Tranent, he paid tribute to young people in the town who had put their views forward on how this building should be used. Councillor Akhtar also commended the work of Area Partnerships on town centre regeneration.

Councillor Currie suggested that other funding streams may be available for town centre regeneration, and highlighted the importance of involving communities in shaping the future of their high streets.

Decision

The Council agreed:

- i. to note the results of the public consultation on the draft Supplementary Guidance: Town Centre Strategies; to approve the officer responses, recommended changes and updated guidance and to forward it, along with a report on its publicity and consultation, to Scottish Ministers for approval; and to adopt the Town Centre Strategies as statutory supplementary guidance if Scottish Ministers give clearance to the Council that it may adopt them. In the event that such clearance is given or that no response is received within 28 days of submission to Scottish Ministers, then the Council may adopt the Town Centre Strategies without any further modification. The Town Centre Strategies would become constituted as adopted supplementary guidance;
- ii. to note the results of the recent public consultation, officer responses and recommended changes, and adopt the final Green Networks Supplementary Planning to the East Lothian Local Development Plan; and
- iii. to defer consideration of draft Design Standards for New Housing Areas SPG to allow additional work to be carried out on the document, and for this guidance to be brought to a future meeting of the Council where approval would be sought to reconsult on the revised version.

8. ADOPTED EAST LOTHIAN LOCAL DEVELOPMENT PLAN 2018: DRAFT SUSTAINABLE DRAINAGE SYSTEMS (SUDS) SUPPLEMENTARY PLANNING GUIDANCE

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) seeking approval for the consultation on draft non-statutory Supplementary Planning Guidance (SPG) on Sustainable Drainage Systems (SuDS), associated with the adopted East Lothian Local Development Plan 2018.

Iain McFarlane, Service Manager – Planning, presented the report, informing Members that the provision of SuDS was a SEPA requirement, and that the Council was looking to promote a variety of methods as regards improvements to the design of SuDS.

Councillor Hampshire noted that there was a view that SuDS were an unattractive feature of developments and asked if the Council had the power to take a bond from a developer to

ensure that they met a certain standard. Mr McFarlane advised that the guidance was to promote better design and that the Council could take enforcement action should SuDS not be completed to the required standard. He suggested that the long-term maintenance of the facility was a concern, and that this was subject to further discussion between local authorities and Scottish Water. Should the Council sign up to this, then it would be responsible for the area above ground, and Scottish Water would be responsible for the area below ground. If the Council did take on this responsibility, then it could improve existing bad examples of SuDS. He added that SuDS design was a complex issue and it was important to have a variety of design options.

Councillor Trotter welcomed the consultation, highlighting the important role of SuDS.

Decision

The Council agreed to approve for consultation the draft non-statutory Sustainable Drainage Systems (SuDS) Supplementary Planning Guidance.

Sederunt: Councillor McLennan returned to the meeting

9. APPOINTMENTS TO COMMITTEES, BOARDS AND OUTSIDE BODIES

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of changes to committee membership, the appointment of the convener of the East Lothian Integration Joint Board, and changes to the Elected Member representation on outside bodies.

Responding to a question from Councillor Currie in relation to the changes to committee membership as proposed by the Conservative Group, the Chief Executive advised that the changes had been proposed in order to ensure the smooth continuation of business, which she considered an appropriate step at the current time.

As regards the proposal to have no Elected Member representation on the Scottish Seabird Centre Trust, the Chief Executive advised that she had discussed this matter with the Chair and Chief Executive of the Seabird Centre and that they were supportive of the proposal to brief Members twice a year on the activities of that organisation. She added that the refurbishment work at the Seabird Centre was now underway.

Decision

The Council agreed:

- i. to approve the following changes to committee membership (with immediate effect):
 - Audit & Governance Committee: Councillor Mackett to replace Councillor Small
 - Policy & Performance Review Committee: Councillor Findlay to replace Councillor Small
 - Education Committee: Councillor Henderson to replace Councillor Small
- ii. to approve the appointment of Councillor Fiona O'Donnell as Convener of the East Lothian Integration Joint Board, with effect from 1 April 2019; and
- iii. to approve the appointment of Councillor Kempson to the East Lothian Local Access Forum, replacing Councillor Henderson, with immediate effect.

10. SCHEDULE OF MEETINGS 2019/20

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 2019/20.

Discussion

The Council agreed:

- i. to approve the proposed Schedule of Meetings for 2019/20; and
- ii. to note that the schedule is subject to change, and that any changes will be communicated to Members and officers as soon as practicable.

11. SUBMISSIONS TO THE MEMBERS' LIBRARY, 4 DECEMBER 2018 – 11 FEBRUARY 2019

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 4 December 2018 and 11 February 2019, 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 1 (information relating to particular employees of the Authority) and 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.

Amendments to the Council's Chief Officer Structure

A private report submitted by the Chief Executive concerning changes to the Council's Chief Officer structure was approved.

Cockenzie Power Station Site

A private report by the Depute Chief Executive (Partnerships and Community Services) updating the Council on progress as regards the site of the former Cockenzie Power Station was approved.