



MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 25 APRIL 2023
VIA DIGITAL MEETING FACILITY

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Committee Members Present:

Provost J McMillan (Convener)

Councillor S Akhtar

Councillor E Allan

Councillor R Bennett

Councillor L Bruce

Councillor C Cassini

Councillor D Collins (from Item 5)

Councillor F Dugdale

Councillor J Findlay

Councillor A Forrest

Councillor N Hampshire

Councillor L Jardine

Councillor C McFarlane

Councillor C McGinn

Councillor G McGuire

Councillor S McIntosh

Councillor K McLeod

Councillor L-A Menzies

Councillor B Ritchie

Councillor T Trotter

Councillor C Yorkston

Council Officials Present:

Ms M Patterson, Chief Executive

Ms L Brown, Executive Director for Education and Children's Services

Ms S Fortune, Executive Director for Council Resources

Mr D Proudfoot, Executive Director for Place

Ms F Wilson, Director of Health and Social Care

Ms L Byrne, Acting Head of Children's Services

Ms E Dunnet, Head of Finance

Ms M Ferguson, Head of Corporate Support

Ms N McDowell, Head of Education

Ms W McGuire, Head of Housing

Mr T Reid, Head of Infrastructure

Ms S Saunders, Head of Communities and Partnerships

Mr S Cooper, Team Manager – Communications

Ms F Currie, Committees Officer

Mr P Forsyth, Project Manager – Growth and Sustainability

Mr C Grilli, Service Manager – Governance

Mr I Lennox, Team Manager – Assets and Regulatory

Ms M Scott, Committees Officer

Mr A Stubbs, Service Manager – Roads

Mr P Vestri, Service Manager – Policy, Improvement and Partnerships

Mr T Renouf, Executive Officer

Visitors Present:

Chief Inspector Ben Leathes, Police Scotland

Clerk:

Mrs L Gillingwater

Apologies:

Councillor N Gilbert

Declarations of Interest:

None

The Provost advised that the meeting was being held remotely, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. He noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for up to six months from the date of the meeting.

The clerk recorded attendance by roll call.

1. MINUTES FOR APPROVAL

The minutes of the following meeting were approved: East Lothian Council, 28 February 2023.

2. MINUTES FOR NOTING

The minutes of the following meeting were noted: Local Review Body (Planning), 16 March 2023.

3. THE LOTHIAN AND SCOTTISH BORDERS LOCAL POLICING PLAN 2023-26

The Provost welcomed Chief Inspector Ben Leathes to the meeting, and invited him to present to Council the Lothian and Scottish Borders Local Policing Plan 2023-26.

Chief Inspector Leathes drew Members' attention to the five priorities set out in the Policing Plan (as summarised at Section 3.2 of the report). He advised that there would be a localised approach and response to national priorities, and highlighted the inclusion of the 'digital world' to reflect the increase in online criminal activity. He pointed out that Police Scotland was working in schools and using other opportunities to educate people on how to avoid falling victim to crime.

Councillor McLeod asked for further details about officer numbers. Chief Inspector Leathes explained that resources were deployed on the basis of demand, but indicated that there would normally be 8-12 officers on response duty at any one time, as well as community officers.

Responding to questions from Councillor Bruce, Chief Inspector Leathes advised that resources were deployed into areas where they were needed most, and that discussions were ongoing as to the provision of more support in areas of growth. On the policing of roads, he advised that resources were deployed in response to accident data, which currently prioritised the A1 and A199 in East Lothian.

Councillor Jardine asked about the impact of the changes of personnel in the Local Area Commander post. Chief Inspector Leathes assured her that efforts were made to ensure a smooth transition, and that having worked in East Lothian previously, he was familiar with the area. Councillor Jardine welcomed an offer by the Chief Inspector to discuss community engagement with her in more detail.

Councillor Hampshire welcomed the continued partnership working and efforts made to engage with young people to prevent crime. He asked if there was anything else the Council could do to support the Police in this regard. Chief Inspector Leathes stressed the importance of working with young people to prevent crime and was committed to maintaining a presence in schools to engage with young people in a non-confrontational setting. He noted that school link workers in East Lothian had the highest number of schools per head in Scotland, and he welcomed support from the Council on providing preventative guidance.

Welcoming the range of actions and priorities in the Plan, Councillor Dugdale asked about support for children who had witnessed domestic abuse. Chief Inspector Leathes pointed out that there were a number of charities which provided support, in addition to social work services. He also advised that the Police had engaged with the White Ribbon Campaign, and he expected all officers to have the highest standards as regards supporting this campaign.

With reference to the vetting and training of new recruits, as raised by Councillor Cassini, Chief Inspector Leathes reported that Police Scotland was undertaking a review of the vetting of officers and other staff in the wake of events at the Metropolitan Police, which would focus on violence against women and girls and ensuring officers meet the highest standards of integrity.

Councillor McIntosh asked questions about road safety, in particular the rollout of a national dashcam safety portal, and crimes against the LGBTQ+ community. On the first point, Chief Inspector Leathes advised that a pilot scheme was being run in Tayside, which would provide for uploaded dashcam footage to be assessed by officers, and followed up where an offence had been committed. It was anticipated that this facility would be rolled out nationally in due course. On the second question, he stated that hate crime was a priority. However, as only 20% of incidents responded to actually involved a crime, it was felt that Police Scotland may not be the best agency to respond in many cases, and that the Police would work with relevant partners to ensure that vulnerable people were being protected and supported in the best way possible.

Councillor Akhtar welcomed the positive and constructive relationship between the Council and the Police, and highlighted the importance of community policing. She recognised the added pressure on the Police due to population growth in East Lothian, noting that the Council could provide evidence to support requests for additional resources if required. She also praised the work of Chief Inspector Jocelyn O'Connor regarding violence against women and girls.

Responding to comments made by Councillor Menzies in relation to the White Ribbon Campaign, Councillor McGinn advised that support for this campaign in East Lothian was increasing, and he would welcome education for boys about their behaviour towards girls. He paid tribute to the Police for their work in East Lothian and their ongoing engagement with the community at many levels. His comments were echoed by Councillor Forrest, who looked forward to developing the Community and Police Partnership (CAPP).

The Provost thanked Chief Inspector Leathes for his report, and moved to the roll call vote on the recommendation which was approved unanimously.

Decision

The Council agreed to approve the Lothians and Scottish Borders Local Policing Plan 2023-26, as set out at Appendix 1 to the report.

4. FINANCE UPDATE

A report was submitted by the Executive Director for Council Resources providing the Council with an update on the financial outlook for the Council and seeking agreement on the continuation of measures to mitigate budget pressures.

The Head of Finance, Ellie Dunnet, presented the report, advising that the financial situation continued to be very challenging, due to the cost of living crisis, rising interest rates and high inflation, as well as the impact of growth. She reminded Members of the mitigation measures already in place, and proposed a number of additional measures, as set out in Section 3.13 of the report, namely that new Common Good grant applications should be put on hold pending the outcome of the assessment of Common Good assets. She noted that these funds should prioritise the maintenance and repairs of the assets to ensure they are fit for the future, and that there would be a further report to Council in June on this issue, to accompany the Common Good budget proposals. She also proposed that a review of the Community Intervention Fund be undertaken. Ms Dunnet advised that a further report on the financial position would be presented to the Council in June.

Responding to questions from Councillor McIntosh, Ms Dunnet advised that a response to the consultation on second homes and long-term empty properties had to be submitted in July and that she would keep Members informed about this. On the proposal to suspend Common Good grant funding, Ms Dunnet pointed out that the maintenance of assets had to be the priority for Common Good funds, and she was proposing to pause grant funding until the asset requirements had been clarified. She added that although there was currently a specific concern regarding the Brunton Hall, it seemed appropriate to carry out a wider review so that the Council could take a proactive approach to the maintenance of assets.

Councillor Jardine asked for further information on the impact of growth on the Council's budget. Ms Dunnet provided some examples, such as estimated cost increases relating to the learning estate over the next five years amounting to £16.4m, as well as an increase in the education budget of £3.5m, both due to demographic changes; there would also be a further £0.9m required to top up the Council Tax Reduction Scheme in 2023/24, largely due to growth – these aspects were outwith the control of the Council. In terms of capital expenditure, she also warned that there were significant funding gaps emerging as regards Section 75 Agreement values not keeping pace with rising costs, mainly in relation to the learning estate, and it was likely that the Council would need to borrow additional funds to support that investment.

Councillor Bruce questioned the rationale for reviewing the Community Intervention Fund, rather than other funding streams, such as Area Partnerships or One-Partnership funding. Ms Dunnet confirmed that other funding streams would also be subject to consideration. She was not suggesting suspending applications to the Community Intervention Fund, but suggested that the application criteria should be reviewed, in the context of the significant challenges facing the Council and applying in-year mitigation measures. Sarah Fortune, Executive Director for Council Resources, added that given the scale of the challenges facing the Council, all funding streams would be subject to review alongside the existing mitigation measures. On a question regarding the funding floor, Ms Fortune reported that following the discussion at Council, she and the Chief Executive had raised this matter at CoSLA. She advised that there was no agreement in place to look at the floor at this time, but she would continue to lobby at a national level on this matter.

On a question from Councillor Allan regarding identifying ways to address the ongoing financial issues, Ms Dunnet assured Members that officers were working in accordance with the Council's Financial Strategy to find ways to close the funding gap, and were also looking at actions taken by other local authorities. The Provost remarked that officers were continually working creatively and innovatively under pressure, and that their efforts should be

recognised. Councillor Allan also asked about the potential impact on third sector and community groups should funding be withdrawn. Ms Dunnet advised that there were a number of Common Good applications in the pipeline still to be considered, and that the reason for the proposed suspension of grants was to allow officers to ascertain the requirements regarding safeguarding the assets. As regards the Community Intervention Fund, she indicated that officers would be looking at the potential impacts should there be changes to the application criteria.

Councillor Trotter asked about the Council's options should the cost of the works required for the Brunton Hall exceed the balance of the Common Good fund. Ms Dunnet explained that officers would first look at the capacity of the Common Good fund to support the required investment, and beyond that may need to consider other options available. She stressed that the risk would fall to the Council, hence the recommendation to suspend grant funding in the interim in order to safeguard the Council. Tom Reid, Head of Infrastructure, advised that work was ongoing to determine the extent of the problem at the Brunton Hall, which would take a number of weeks. He undertook to keep Members apprised of the situation.

Opening the debate, Councillor Hampshire commented that the current financial situation was due to matters outwith the Council's control, despite the Council working as efficiently as possible. He warned that difficult decisions would need to be taken to protect services. He undertook to write to Scottish Ministers to set out the position the Council was in. On the proposed additional mitigation measures, whilst he accepted the reasons for bringing forward these proposals, he felt that more information on the Common Good accounts and assets, as well as the impact of suspending grant funding, was required. He was also of the view that a report on the impact of reviewing the Community Intervention Fund was needed in order for the Council to take a decision. He therefore proposed an amendment to remove Recommendation (iii) from the report [approve the further mitigation measures set out at paragraph 3.13 of this report] and continue the proposals set out in Section 3.13 of the report to the meeting of the Council on 27 June to allow officers to report back to Council on the details of Common Good funds and assets, as well as the Community Intervention Fund, in order that the Council could take an informed decision on these matters. The amendment was seconded by Councillor Akhtar.

With reference to the funding floor, Councillor Menzies claimed that the method of distribution of funding was currently negatively impacting East Lothian, and that she looked forward to Ms Fortune reporting back to Members on this in due course.

Councillor Forrest accepted that the Council was currently operating within severe financial constraints and that mitigation measures were necessary; however, he did not believe that postponing Common Good grant funding was the correct action to take, so he would therefore support Councillor Hampshire's amendment.

Noting that there would be a Musselburgh Common Good Committee meeting on 16 May, Councillor McIntosh asked for clarification on making funding awards at this meeting. Ms Fortune advised that as the 2023/24 Common Good budgets had not yet been approved, any award of funding would be pending the setting of the budget.

[Post-meeting note: following the meeting, the Head of Finance advised that as the 2022/23 Musselburgh Common Good grants budget was underspent, the surplus funds could be used to fund the applications going forward for consideration by the Musselburgh Common Good Committee on 16 May 2023, should the Committee agree to support these applications.]

Councillor Akhtar concluded the debate by pointing out that East Lothian was one of the lowest-funded councils [per head of population] in Scotland. She also argued that local authorities should have more power to determine how their funding was used, and asked Councillor Hampshire to raise this with the Scottish Government.

The Provost moved to the roll call vote on the amendment to remove Recommendation (iii): ‘approve the further mitigation measures set out in Paragraph 3.13 of this report’, as moved and seconded by Councillors Hampshire and Akhtar, which was approved unanimously.

The Provost moved to the roll call vote on the recommendations, as amended, which were approved unanimously.

Decision

The Council agreed:

- i. to note the update on the wider financial environment and current risks;
- ii. that the existing mitigation measures set out in Section 3.11 of the report remained appropriate; and
- ii. that a further update on mitigation measures would be presented to Council in June 2023.

5. NORTH BERWICK HIGH STREET: SAFETY AND ACCESS

A report was submitted by the Executive Director for Place updating the Council on the outcome of the public consultation and design optioneering to mitigate concerns about safety and equality of access for users of the High Street, North Berwick. The report also sought approval of the preferred option and authority to move forward to technical design and construction, and of the statutory procedures necessary to make a Traffic Regulation Order to prohibit parking within the defined area with the exception of loading/unloading and drop-off/pick-up for disabled users.

The Team Manager for Assets and Regulatory, Ian Lennox, presented the report. He advised Members of the work carried out over a number of years, including consultation with the community, to make North Berwick High Street safer and more accessible. He referred to the 2017 North Berwick Charette, which proposed a design for changes to the road layout, and of the subsequent work by a consultant, whose had been shared with Members and lodged in the Members’ Library. Mr Lennox confirmed that the proposed design would meet the requirements of national and local transport strategies and that it would prioritise active travel. He provided details on a survey carried out with the local community, and he drew attention to the plans of the preferred layout, as set out in Appendices B and C to the report.

Councillor Findlay asked for further details on potential sources of external funding for the project. He also asked if the drainage problems identified during the Charette process would be addressed with the proposed remodelling of the High Street. Mr Lennox advised that there were a number of funding streams that the Council could explore, including Sustrans, the Cycling, Walking and Safer Routes Fund, the Active Travel Transformation Fund, and the Road Safety Improvement Fund. As regards the drainage issue, this would be considered during the technical design stage of the project.

Councillor Bruce asked about drop-off and pick-up arrangements for blue badge holders. Mr Lennox suggested that a pragmatic approach would be adopted in this regard, adding that there would be a number of spaces for blue badge holders nearby.

Councillor McFarlane opened the debate by welcoming the report and the proposed improvements. She also welcomed the engagement with the public, noting that 65% of consultation respondents were supportive of the proposed changes.

Councillor Findlay noted that some residents and business owners had reservations about the proposed changes. He asked officers to work with those sections of the community to monitor the impact of the measures; he also requested that they be reviewed after a year in order to consider if any further changes would be required.

The proposed measures were welcomed by a number of Members, who believed that they would provide better access and improved safety for visits to the High Street.

The Provost moved to the roll call vote on the recommendations, which were approved unanimously.

Decision

The Council agreed:

- i. to note the contents of the report;
- ii. to approve the recommendation of the preferred option, as set out in Section 3.17 of the report and as shown at Appendices B and C to the report; and
- iii. to approve the statutory procedure necessary to make a Traffic Regulation Order in accordance with the relevant legislation in respect of the location listed in Appendix A to the report.

6. TOWN CENTRE PARKING MANAGEMENT: INTRODUCTION OF PARKING MANAGEMENT PROPOSALS IN NORTH BERWICK

A report was submitted by the Executive Director for Place advising of the outcome of the public consultation on the parking interventions proposed in North Berwick; presenting the resulting amendments made to improve the scheme and to mitigate public concerns raised; and recommending that the Council progresses to the next stage of the Traffic Regulation Order process, namely, the intent to make the Order.

Councillor Findlay advised that he wished to propose a procedural motion, in accordance with Standing Order 11, to continue this item of business to the meeting of the Council on 27 June, on the grounds that he believed the community had not had sufficient time to consider the implications of the proposals, and that North Berwick businesses, the Community Council, and residents had requested a postponement. He pointed out that all three ward Members had written to Councillor Hampshire seeking a delay, but that no response had been received. He stressed the significance of the proposals for the community, arguing that delaying taking a decision would allow for more time to consider the implications.

Councillor Bruce seconded the procedural motion.

In terms of Standing Order 11, the Provost moved to the roll call vote on the procedural motion as moved and seconded by Councillors Findlay and Bruce, to continue this item of business to the meeting of the Council on 27 June:

For: 4
Against: 17
Abstentions: 0

The procedural motion therefore fell, and the Provost invited Peter Forsyth, Project Manager – Growth and Sustainability, to present the report.

Mr Forsyth provided a summary of the responses to the consultation exercise, which ran in November/December 2022. As a result of the responses received, a number of changes had been made to the Order to address concerns, including the extension of the free parking period, increased parking for residents, and an increase in the parking time in off-street car parks. Cognisance had also been taken of the parking needs of those people visiting North Berwick Golf Club and North Berwick Tennis Club. He advised that a detailed report had been lodged in the Members' Library.

Councillor Menzies welcomed the report and the proposed introduction of parking charges. However, she questioned the allowances made to accommodate Sunday church services but not other services and not for other faiths. Mr Forsyth explained that in preparing the proposals, the views of the community had been taken into consideration – although there were a low number of comments regarding religious services, officers had taken account of practices in other local authority areas. He noted that the proposals for North Berwick were based on the consultation responses, and that there may be different requirements for other areas.

Councillor Findlay asked for an explanation on the amendment to Recommendation (ii) (below). Mr Forsyth advised that this change was due to the fact that the introduction of parking charges was not generally supported by the whole community. Mr Forsyth also explained that any surplus generated from on-street parking would need to be used to fund road improvements, assist with public transport, fund decriminalised enforcement or make environmental improvements. However off-street charging surpluses could be used to support other Council services. He provided an explanation as to how the estimated revenue had been calculated, noting that a prudent approach had been adopted.

In response to questions from Councillor Trotter, Mr Forsyth advised that officers had looked at providing additional parking facilities, as well as providing a park and ride service; however, the latter would result in a significant deficit, so that option would not be pursued at this time. Officers would continue to consider additional parking provision.

Councillor Jardine asked if the 45-minute free parking provision would apply to other areas in East Lothian should charging be introduced more widely. Mr Forsyth advised that each town had its own characteristics and demands, and that he could not give any commitments until the design process and consultations for other areas had been carried out and assessed. He added that surpluses for parking charges were not ring-fenced for a specific area with East Lothian, as towns did not only serve the people living in them, so surpluses could be used according to need.

Opening the debate, Councillor McFarlane commended officers for the consultation and listening to the concerns raised within the community, particularly in relation to the simplification of the charging zones, the extension of free parking time, and the accommodation made for golfers, tennis players and people attending church. She stated that doing nothing was not an option, and that she would therefore be supporting the recommendations.

Councillor Collins expressed concern about the poor public transport provision in the area and suggested that the park and ride option should be reconsidered.

Councillor Findlay thanked all those who had responded to the consultation, and thanked officers for their work on this issue. However, he questioned if the introduction of charges was the correct response. He accepted that the amendments to the Order would help alleviate concerns raised; however, he was worried about the impact of charges on local businesses, stressing that free town centre parking was key to their survival, and suggested that people would simply drive to out-of-town shopping centres where the parking was free. He made

reference to the situations in Peebles (where parking remained free of charge and business were thriving) and Berwick-upon-Tweed (where charges had been introduced and the high street had been ‘decimated’) to demonstrate his point. He did not foresee that the introduction of charges would lead to improvements on North Berwick High Street, and warned that charges would be likely be introduced in other towns.

Councillor McIntosh commented that transport emissions were a factor in the climate emergency and that the Council should try to make public and active transport an attractive option. She believed it was untenable to continue without parking charges; not only did charging provide a source of revenue, but the income generated could contribute to road improvements. She made reference to Keswick, which had a thriving town centre despite parking charges, and she argued that there was no evidence to suggest that businesses would suffer. She hoped this policy would be extended to other towns.

Councillor Forrest mentioned the increased demand on parking spaces in North Berwick, arguing that encouraging vehicle turnover would help keep the town centre vibrant.

Councillor Menzies accepted that this was an emotive issue. She argued that with a growing population, parking was becoming a problem across East Lothian and that action was required. She agreed with Councillor Forrest that limited vehicle turnover was damaging high streets. She also suggested that the proposals would help fund improvements, reduce pollution and increase footfall. She looked forward to a similar scheme being introduced in Tranent.

Councillor McGinn went on to talk about the traffic problems in Tranent. He disagreed with claims that the proposals were concerned with generating income, rather that they were more focused on safety, economic development and allowing people to move around more easily.

Responding to a comment made by Councillor Findlay, Councillor Hampshire explained that he had replied to the request by the North Berwick Members to continue the item to a future meeting. He pointed out that the consultation had concluded in December and that the proposals were now ready for the Council to consider. He believed that there was a parking problem in North Berwick, with limited parking for residents and visitors alike. He stated that the Council could not make improvements without introducing charging, and it was necessary to proceed in order to prevent dangerous parking. He was of the view that the proposals would make the town centre safer. He praised officers for their work on the consultation and their accommodation of requests made by respondents, noting that the situation would be reviewed to ascertain if further amendments would be required.

The Provost moved to the roll call vote on the recommendations:

For:	17
Against:	4
Abstentions:	0

Decision

The Council agreed:

- i. to note the extensive consultation exercise carried out between 2 November and 13 December 2022, the level of community engagement, the welcome receipt of varied and detailed responses to the survey, and the explanation as to how these have influenced the proposals for North Berwick; and
- ii. that in the context of the requirements of the Council decision of 30 October 2018, but weighing that against the significant change in policy context at a national, regional

and local level as well as the climate change, road safety, public health and economic circumstances:

- to agree that an assessment for town centre parking for North Berwick has been undertaken to ascertain the views of local people;
 - to amend the pre-requisite to proceeding with a proposed scheme from 'demonstrate local support' to 'seek views from the public to help shape proposals';
- iii. to approve the current proposals, noting the amendments made to improve the scheme and to mitigate public concerns raised as a result of feedback received through the consultation and engagement exercise; and
- iv. to acknowledge the completion of the consultation stage of the Local Authorities' Traffic Orders (Procedures) (Scotland) Regulation 1999 (as amended), and that the intent to make the Order will allow opportunity for the public to raise further representations and objections to the proposals as amended; following this a report will be brought to Council.

7. REVIEW OF STANDING ORDERS

A report was submitted by the Executive Director for Council Resources seeking approval of proposed changes to Standing Orders resulting from the review carried out by the Standing Orders Working Group (SOWG), advising that a further meeting of the SOWG would be required to consider a number of aspects of the Scheme of Administration (with a view to reporting back to Council in June 2023), and seeking approval of a number of changes to the Scheme of Delegation.

The Head of Corporate Support, Morag Ferguson, presented the report, reminding Members that the Council had agreed in May 2022 to review Standing Orders to ensure that they remained fit for purpose. She advised that the cross-party SOWG had met three times and that their proposed changes were set out at Appendix 1 to the report. Mrs Ferguson also noted that a number of changes to the Scheme of Delegation had also been proposed during the period of the review, and these were set out in the report and at Appendix 2 to the report. As regards the Scheme of Administration, she indicated that the SOWG would need to meet again to discuss a number of aspects on which a consensus had not been reached – the outcome of this meeting would be reported to Council in June.

Councillor Menzies questioned the inclusion of an amendment which stated that councillors and officers must not use any part of meeting recordings for political purposes. Mrs Ferguson pointed out that Members were prohibited from using the Council's resources for political purposes, and that the use of clips of recordings for such purposes would be a breach of statute by the Council and a breach of the Code of Conduct by the Member using the clip. She suggested, however, that Members may share links to the recordings.

Councillor Bruce sought an update on the introduction of hybrid committee meetings. Carlo Grilli, Service Manager – Governance, advised that the Hybrid Link system was in the process of being installed in the Council Chamber, that training would be provided for Committees and IT staff on 3 May, and that training for Members and officers would take place throughout May. He anticipated that the system would be ready for use in early June.

Councillor Ritchie welcomed the opportunity to take part in the SOWG, and the proposed updates to Standing Orders. Her comments were echoed by Councillor Findlay, who commended the cross-party approach.

The Provost moved to the roll call vote on the recommendations, which were approved unanimously.

Decision

The Council agreed:

- i. to approve the proposed changes to the Council's Standing Orders, as set out in Appendix 1 to the report, to take effect immediately;
- ii. to approve the proposed changes to the Scheme of Delegation, as set out in Section 3.4 and Appendix 2 to the report, to take effect immediately; and
- iii. to note that a further report would be presented to Council in June 2023 as regards proposed changes to the Scheme of Administration.

8. SCHEDULE OF MEETINGS 2023/24

A report was submitted by the Executive Director for Council Resources seeking approval to set the Schedule of Meetings of the Council, committees and other forums for 2023/24.

The Clerk presented the report, advising that the number and pattern of meetings was similar to those of previous sessions. She pointed out that meetings scheduled to be held in the Council Chamber would take place via the Hybrid Link system, which would allow participants to attend either in person or remotely. She noted that the schedule was subject to change, and that any changes would be communicated to Members and officers as soon as practicable.

The Provost moved to the roll call vote on the recommendations, which were approved unanimously.

Decision

The Council agreed:

- i. to approve the proposed Schedule of Meetings for 2023/24; 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.

9. APPOINTMENT OF THE CONVENER OF THE EAST LOTHIAN INTEGRATION JOINT BOARD

A report was submitted by the Executive Director for Council Resources seeking approval of the appointment of Councillor Akhtar as Convener of the East Lothian Integration Joint Board (IJB), with effect from 1 April 2023.

The Clerk presented the report, advising that in accordance with the IJB's Scheme of Integration, the Convener of the IJB must change every two years, and that from 2023 to 2025, the Convener would be nominated by the Council from among its voting members on the IJB. She reported that the Administration had nominated the Council's Spokesperson for Health and Social Care, Councillor Akhtar, for this role, to take effect from 1 April 2023, noting that this nomination would be confirmed by the IJB at its meeting on 25 May.

Councillor Hampshire stressed the importance of this role and believed that Councillor Akhtar would represent the Council well as the Convener of the IJB.

Councillor Akhtar paid tribute to the work of previous IJB Conveners, in particular Donald Grant, who had played a key role in the delivery of the new community hospital. She highlighted the importance of health and social care facilities being provided at a local level, and stated that she would work with all members of the IJB to advocate strongly for East Lothian.

The Provost moved to the roll call vote on the recommendation, which was approved unanimously.

Decision

The Council agreed to approve the appointment of Councillor Shamin Akhtar as Convener of the East Lothian Integration Joint Board, with effect from 1 April 2023.

10. MOTION: THE PROPOSED CLOSURE OF THE ROYAL BANK OF SCOTLAND BRANCH IN TRANENT

A motion was submitted by Councillors Dugdale and McGinn:

This Council notes the decision by the Royal Bank of Scotland to close its branch in Tranent.

Council is aware that this action will remove the only bank in the Tranent area, and will result in this area having no banking facilities, and this ignores the needs of local businesses, community and voluntary sector groups, charities and the local community, who need a face-to-face service.

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

Council is appalled that the Royal Bank of Scotland has chosen this course of action in closing the last remaining bank in this community with no consultation or discussion. This is 7 years after the Royal Bank of Scotland closed its branch in Prestonpans, leaving that community without a bank, and transferring accounts to Tranent.

Council is deeply concerned that due consideration has not been given to the disproportionate impact on older people, those with disabilities, and those who rely on others to support them with local banking, and for whom a call centre or digital banking will not meet their needs.

Council therefore agrees:

To instruct the Chief Executive and the Leader of the Council to seek an urgent meeting with the Chief Executive and Chairman of the Royal Bank of Scotland to express this Council's extreme concern at their decision, and to explore other options with Royal Bank of Scotland for keeping the branch open and to ensure we retain access to banking services locally.

Councillor Dugdale presented the motion, expressing her shock and disappointment at RBS's decision to close the Tranent branch without consultation or discussion with the community. She was of the view that RBS had not taken account of the impact of this decision on people who could not use online banking facilities, such as older and disabled customers, and those who needed assistance with managing their money; they would need to travel to Musselburgh

to their nearest branch. Given that East Lothian is one of the fastest growing areas in Scotland, she stated that she was appalled by the decision to close the branch.

Seconding the motion, Councillor McGinn voiced his concern that the closure of bank branches in East Lothian in recent years had resulted in many people being financially excluded. With reference to his own personal experience, he paid tribute to the staff in the RBS Tranent branch, who had provided excellent customer service. He observed that with this closure there would be large areas of East Lothian without physical banking services, and believed that this would hinder the Council's ability to regenerate town centres. He believed that banks had a responsibility to ensure that banking was available to communities.

Opening the debate, Councillor Bruce declared that he was supportive of the motion. He recalled that when RBS closed its branch in Prestonpans, they had argued that banking facilities would be available in nearby Tranent. He indicated that the closure of the Tranent branch would have an impact on individuals and also on small business, which relied on banking facilities to assist with cash flow. He also commented on the difficulties of converting former bank buildings for other purposes.

Councillor Menzies was also supportive of the motion, but feared that any action would be in vain as RBS had already made the decision to close the branch. She suspected that the reason for the closure was due to the footfall in the branch, but pointed out that this was likely due to the branch restricting its opening hours. She also noted that RBS had indicated that keeping the building open was not cost efficient. She and Councillor Gilbert had requested the introduction of mobile banking services, but had been advised that this would take nine months to set up, and that there were only two vehicles available. She informed Members that East Lothian's MSPs had raised the matter with RBS, and that she hoped that a banking hub could be established in Tranent.

Sharing his colleagues' disappointment as regards the closure of the branch, Councillor McLeod noted that local Members had not been contacted by the bank in advance of the decision being taken.

Councillor Ritchie also pointed out that the closure would result in the loss of local jobs, as well as opportunities for young people looking to work in a bank. She believed that the closure would result in greater pressure on Post Office staff, who would have to increase their provision of banking services.

Councillor Akhtar called for the Council to put as much pressure as possible on RBS to keep the branch open. She claimed that RBS had used statistics compiled during the COVID-19 period to justify the closure. Recalling the state intervention to support RBS some years previously, she argued that the bank should now support local communities. She undertook to approach the outgoing Convener of the IJB to write to RBS on behalf of the IJB regarding the importance of retaining local banking services.

The Provost spoke of corporate social responsibility and the duty of the banking sector to support its customers and communities. He also made mention of the impact on local businesses.

Summing up, Councillor Dugdale thanked Members for their support for the motion. She reiterated the potential impacts of the closure of the branch on individuals, businesses and community groups, and stressed the need for the Council to give those people a voice. She argued that RBS should have looked at alternative options before making a decision on the closure, and she hoped that they would reconsider the impacts on the community and the need to retain local banking services.

The Provost moved to the roll call vote on the motion, which was approved unanimously.

Decision

The Council agreed to instruct the Chief Executive and the Leader of the Council to seek an urgent meeting with the Chief Executive and Chairman of the Royal Bank of Scotland to express this Council's extreme concern at their decision, and to explore other options with Royal Bank of Scotland for keeping the branch open and to ensure we retain access to banking services locally.

11. MOTION: JOHNNIE COPE ROAD

A motion was submitted by Councillors Bruce and Findlay:

That East Lothian Council:

Notes that there has been a significant community response following the launch of the consultation on the closure of the Johnnie Cope Road between Prestonpans and Tranent;

Understands that there has been a lot of opposition to the closure of the road from various community sources including, but not limited to, Prestonpans Community Council and Tranent and Elphinstone Community Council;

Believes that the connections between the communities in East Lothian are vital, particularly in the areas where our county is growing most rapidly;

Calls for the current consultation and legal process to be paused to allow for more detailed and robust research into any potential negative impacts closing this road might have on local communities and to explore alternative proposals, such as the installation of traffic lights at the bridge on Johnnie Cope Road, to happen and be reported back to Council;

Further notes that the bridge on the A1 is in the ownership of Transport Scotland and the Scottish Government, and requests that the Chief Executive and Leader of East Lothian Council write to Transport Scotland and the relevant Scottish Government ministers to request support to upgrade the bridge over the A1 on Johnnie Cope Road and to request a cross-party meeting with ministers to discuss the various infrastructure needs of East Lothian given the proposed scale of housing growth.

Councillor Hampshire advised that he wished to propose a procedural motion, in accordance with Standing Order 11, to continue this item of business to the meeting of the Council on 27 June. He pointed out that Members had not had the opportunity to consider the outcome of the consultation on the Johnnie Cope Road, which had involved the local communities, emergency services and other consultees. He argued that it was necessary to consider the responses prior to determining any action to be taken, noting that Council officers would be providing a full report on the assessment of the road and the options available, hence his proposal to continue the motion.

Councillor Trotter seconded the procedural motion.

In terms of Standing Order 11, the Provost moved to the roll call vote on the procedural motion as moved and seconded by Councillors Hampshire and Trotter, to continue this item of business to the meeting of the Council on 27 June:

For: 17

Against: 4
Abstentions: 0

The procedural motion was therefore carried.

Decision

The Council agreed to continue this motion to the Council meeting of 27 June 2023.

Sederunt: Councillor McGinn left the meeting.

12. MOTION: APPEAL TO SCOTTISH GOVERNMENT TO BAN DISPOSABLE VAPES

A motion was submitted by Councillors McIntosh and Jardine:

East Lothian Council:

Notes the increase in use of disposable vapes and the impact this has on health, wellbeing and the environment;

Notes also the increase in pressure on Council resources in having to deal with the littering and poor disposal of these items, but that legislative control over them lies with the Scottish Government;

Therefore instructs the Leader of the Council to write to the Scottish Government expressing the Council's support for a ban on disposable vapes and urging them to take action on this at the earliest opportunity.

Councillor McIntosh presented the motion. She highlighted the dangers associated with discarded disposable vapes, including the potential for them to explode and cause fires. She argued that the concept of disposable vapes was at odds with the circular economy, as well as being harmful to the environment. She also pointed out that increasing numbers of young people were using disposable vapes, and that the long-term effects on health remained unknown. Councillor McIntosh made clear that she was not completely opposed to vapes, just those which were disposable, and called on Members to urge the Scottish Government to ban them.

Seconding the motion, Councillor Jardine informed Members that according to Keep Scotland Beautiful there had been a 14-fold increase in the use of disposable vapes between January 2021 and January 2022, and community groups had also seen an increase in vapes being discarded irresponsibly. She advised that recent research had shown that the use of vapes by 18-year-olds had increased from 1% to over 56% of all users during this period. She made reference to discussions held between Ross High School and The Wombles group in Tranent, who reported that they faced 'an epidemic' of disposable vapes in and around schools. She highlighted health problems and side-effects believed to be associated with vaping, as well as the high nicotine content of vapes, and was concerned that many people using disposable vapes had not previously smoked, particularly young people at whom the bright coloured and sweet flavoured devices were marketed. Councillor Jardine accepted that the long-term health impacts of vaping remains unknown, but that it was important to find ways to reduce the potential harms to young people and environment. She called on Members to support the motion.

Councillor Hampshire spoke in support of the points put forward by Councillors McIntosh and Jardine. He agreed that there were benefits of vaping for those wishing to give up smoking,

but that the negatives associated with vaping were concerning, especially the increase in use in younger age groups. He suggested that a deposit return scheme may reduce the numbers of inappropriately discarded vapes.

Councillor Ritchie also agreed with those who had already spoken, particularly as regards the impact on young people's health. She noted that disposable vapes were more affordable and accessible for young people, and she was therefore supportive of a ban on disposable vapes. Her comments were echoed by Councillors Bennett, Dugdale and McGuire, who were all fully supportive of the motion.

Councillor McLeod argued that many disposable vape users were responsible, and that he felt uncomfortable with calling for a complete ban. On that basis, he declared that he would abstain.

Councillor Akhtar noted that the Scottish Government had consulted on the advertising of vapes in February 2022, and she hoped that action would come from this. She requested that Trading Standards be consulted on the letter being sent to the Scottish Government, as they had been actively involved in raising awareness of the problems caused by vapes, both locally and nationally.

Summing up, Councillor McIntosh welcomed the support and suggestions of Members on this issue. She noted that used disposable vapes should be returned to the retailer for recycling, but that a recent study showed that c. 90% of shops were not taking responsibility for this.

The Provost moved to the roll call vote on the motion:

For:	19
Against:	0
Abstentions:	1

Decision

The Council agreed to instruct the Leader of the Council to write to the Scottish Government expressing the Council's support for a ban on disposable vapes and urging them to take action on this at the earliest opportunity.

13. MOTION: BUSINESS RATES

A motion was submitted by Councillors Collins and McGuire:

That East Lothian Council:

Notes the vital importance of retail, hospitality, and leisure businesses to the economy of East Lothian and that many of these businesses are facing substantial increase in business rate due to re-evaluation;

Understands that in England retail, hospitality, and leisure businesses are receiving 75% business rates relief to support them but due to decisions taken by the Scottish Government this relief has not been passed on to similar businesses in Scotland;

Further understands that the Scottish Government received £220 million in Barnett consequential on the introduction of this policy in England;

Calls on officers to report back to Council setting out what can be done to support local businesses in dealing with the large increases in business rates they are facing and

instructs the Chief Executive and Leader of East Lothian Council to write the relevant Scottish Government minister requesting that the Scottish Government introduce 75% rates relief for retail, hospitality, and leisure businesses.

Councillor Collins presented the motion, highlighting the impact that COVID-19 and the cost of living crisis had had on the hospitality, leisure and retail sectors, and that the re-evaluation of business rates – which had resulted in an increase for a number of businesses in East Lothian – together with rising energy bills and difficulties in recruiting staff had put these sectors under significant financial strain. She advised that in England, business rates relief for these sectors had been extended to 75% this year, but that only a three-month discount for last year had been provided in Scotland. Councillor Collins noted that £220m had been provided in Barnett consequentials and that this funding could have been used to support businesses. She added that some businesses in East Lothian would be paying c. £18,000 more in business rates than their English counterparts. She accepted that such assistance would not solve all the problems being experienced by these sectors, but it would be helpful. She therefore called on the Chief Executive and Council Leader to write to Scottish Ministers seeking the introduction of 75% rates relief for the retail, hospitality and leisure sectors, and asked officers to outline what the Council could do to support local businesses experiencing increases in business rates.

Councillor McGuire seconded the motion, stressing that local businesses were struggling to survive and required help get them through this difficult period. He noted that there were currently twelve unoccupied commercial premises in Haddington.

Opening the debate, Councillor Menzies stated that she would be voting against the motion, claiming that 50% of retail, hospitality and leisure businesses in Scotland currently paid no business rates, and this would continue into 2023/24. She argued that Scotland provided the most generous business relief packages in the UK, and that the cost of proposal set out in the motion would be £85m. She drew attention to the Small Business Bonus Scheme, which provided a higher level of relief than was provided in England, and claimed that East Lothian businesses were better off under existing Scottish schemes. In addition, she believed that only 140 businesses in East Lothian out of 3810 would be supported by the proposal set out in the motion. She went on to set out the proportion of businesses in various sectors currently receiving relief, at a total value of £12.2m. Councillor Menzies argued that the motion was ill-judged and took no cognisance of the business profile of EL.

Councillor McFarlane made reference to businesses in her ward which were experiencing financial problems, citing comparisons with similar businesses in England. She noted that the Council could provide advice, but did not have the power to set business rates. She suggested that the Scottish Government could provide help for these businesses.

Councillor McIntosh questioned the proposal to write to the Scottish Government asking for a tax break without setting out how this would be funded, given that the Scottish Government's budget was fully committed. She suggested that it would be more appropriate for the Council to seek powers regarding the setting of business rates based on size, income and turnover. She therefore declared that she would not support the motion.

Councillor Hampshire commented that a number of long-established businesses in East Lothian were struggling, and this could result in the loss of jobs and businesses. He stressed that the Council should do all it can to support these businesses, and was in favour of making a request for assistance to the Scottish Government.

Expressing sympathy with those businesses which were currently struggling, Councillor Cassini remarked that she could not support the motion without knowing how it would be funded.

Councillor Ritchie commented that the Council was not responsible for balancing the Scottish Government's budget, and that the motion merely asked the Scottish Government to consider providing assistance to struggling businesses.

Councillor Forrest thanked the Provost and Councillor Bennett for their work to support local businesses and high streets.

The Provost, in his capacity as Spokesperson for Economic Development, advised on action taken by the Council to support the local economy. He reported that he had recently written to the Cabinet Secretary and three Ministers on behalf of the local business community on a variety of issues, but had not yet received replies. He also remarked that Members could have approached him or officers to discuss work underway to support local businesses.

Summing up, Councillor Collins set out comparisons between the relief provided in Scotland and England to demonstrate the significant differences. She noted that the Scottish Government had been allocated £220m to fund rates relief, and questioned what had happened to this funding.

The Provost moved to the roll call vote on the motion:

For:	14
Against:	6
Abstentions:	0

Decision

The Council agreed to call on officers to report back to Council setting out what can be done to support local businesses in dealing with the large increases in business rates they are facing and instructed the Chief Executive and Leader of East Lothian Council to write the relevant Scottish Government minister requesting that the Scottish Government introduce 75% rates relief for retail, hospitality and leisure businesses.

14. SUBMISSIONS TO THE MEMBERS' LIBRARY SERVICE, 11 FEBRUARY TO 6 APRIL 2023

A report was submitted by the Executive Director for Council Resources noting the reports submitted to the Members' Library since the meeting of the Council in February 2023.

Lesley Brown, Executive Director for Education and Children's Services, drew attention to Item 24/23 – External Review of East Lothian's Child Protection and Safeguarding Policies and Procedures. She advised that the independent report had been published on Education Scotland's website on 8 March, and that Members had received a briefing on the report on 7 March. She asked Members to contact her directly should they have any questions in relation to that report.

Decision

The Council agreed to note the reports submitted to the Members' Library Service between 11 February and 6 April 2023, as listed in Appendix 1 to the report.

Sederunt: Councillor Forrest left the meeting.

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.

Applications for Funding to Musselburgh Common Good Committee

A private report seeking determination of applications for funding from Musselburgh Common Good Committee was approved.

DRAFT



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

**THURSDAY 18 MAY 2023
VIA THE DIGITAL MEETINGS SYSTEM**

2

Committee Members Present:

Councillor N Gilbert (Chair)
Councillor D Collins
Councillor C Yorkston

Advisers to the Local Review Body:

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

Other attendees:

None

Clerk:

Ms F Currie, Committees Officer

Apologies:

None

Declarations of Interest

None

The Clerk confirmed that Agenda Item 1 – planning application no. 22/01125/P - had been postponed and would be considered by the Local Review Body at its meeting on 15th June 2023.

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the Local Review Body to reach a decision on the planning application before it. He also asked the Members to confirm that they had viewed all of the documentation which had been available to the planning case officer during his consideration of the application. All members did so.

The Legal Adviser then invited nominations to chair the meeting. Councillors Yorkston and Collins indicated that they would be content for Councillor Gilbert to chair the Local Review Body (LRB) on this occasion.

2. PLANNING APPLICATION NO. 22/01296/P: EXTENSIONS TO HOUSE AND ALTERATIONS TO DOMESTIC GARDEN GARAGE/WORKSHOP TO FORM ANCILLARY RESIDENTIAL ACCOMMODATION, 7 BALLENCRIEFF MAINS FARM COTTAGES, BALLENCRIEFF, ABERLADY EH32 0PJ

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

The Planning Adviser advised Members that the first case related to a review against refusal of planning permission for application no. 22/01296/P. He set out in detail the proposals contained within the application and provided information on the site and surroundings.

He reminded Members that the application must be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consisted of the East Lothian Local Development Plan 2018 together with National Planning Framework 4 which was approved by Scottish Government after the determination of this application and which replaced Scottish Planning Policy. The case officer had separately identified NPF4 policies appropriate to the determination of the application, as had the applicant's agent, but NPF4 must be read as a whole.

As set out in the Planning Officer's report, policies relevant to the determination of this planning application were: LDP Policy DP5: Extensions and Alterations to Existing Buildings. Among the relevant NPF4 policies were Policies 14 Design Quality and Place, Policy 16 Quality Homes and Policy 17 Rural Homes. The Planning Adviser advised that, generally, NPF4 was supportive of reusing empty homes, derelict, vacant or previously developed land including in appropriate rural areas. However, NPF4 policies needed to be considered alongside the requirements of existing LDP policies.

The Planning Adviser then provided a detailed summary of the proposed application and confirmed that there had been no public objection to this proposal nor had any consultees objected.

He summarised the planning case officer's assessment of the application. He looked at the proposed materials to determine whether they were in keeping with the house and area. The elevation walls of the existing house were in white render with the elevation walls of the proposed altered house in a mix of natural stone and render to match. The roof would be in clay tiles similar to the existing with stone copings. Looking at the architectural character of the existing house the case officer found that it was derived

from its distinctly small size and scale. Looking at the proposed alterations and extension the case officer found these would significantly alter the shape and size and footprint of the existing house to the extent that it was considered that it would be essentially new build with a new roof, new windows and door openings, new dormers, new external wall finishes and a new entrance feature. Taken together, they would not appear as an integral part of the original cottage but instead would be additions that would significantly overwhelm it. Due to their form, size, scale, massing and proportions the proposal would not be subservient to it and therefore would not be in keeping with or complementary to it contrary to LDP Policy DP5.

The case officer concluded the proposals were tantamount to a new house in the countryside which in the manner proposed would give a greater emphasis to it being isolated sporadic development in the countryside and that if assessed on that basis it would conflict with LDP policies DC1 Rural Diversification and DC4 New Build Housing in the countryside. This would set an undesirable precedent for the development of new houses in the countryside the cumulative effect of which would result in a detrimental impact on the rural character of the open countryside in East Lothian. This justified the reasons for refusal.

The Planning Adviser stated that the determining issue was therefore whether the house met the terms of NPF4 in terms of Policy 16 Quality Homes and Policy DP5 of the LDP in terms of the suitability of its design and the size and scale of the extension and alterations. If the considered view was that it overwhelmed the property to the point where the intentions of planning policy were breached then policies DC1 and DC4 of the LDP could be applied, but if it was considered that it did not, then it was his view that DC1 and DC4 did not apply as the house was an existing house. He advised that Members also needed to consider whether the house with the proposed alterations would be in keeping with the general character of the area in which it was located.

The Planning Adviser then summarised the appellant's submission, which was provided in depth by both the planning agent and the architectural and building designer but could be summarised as:

- The existing house was constructed in the 1930s and later extended to form a single storey 3 bedroom bungalow with a higher centrally pitched roof with long views over its large plot originally provided for self-sufficient food production
- The house and outbuildings were in poor condition requiring considerable expenditure to upgrade to an acceptable standard
- The proposals would proportionately suit the size of plot while retaining 80% of the existing external walls and undertaking only minor extensions to the fabric of the existing house while converting the presently dilapidated store to provide habitable accommodation suitable for ancillary use of the main house.
- The design maintained the characteristic design of the local architecture and though the roof was larger covering a greater area it did not increase the ridge height which is balanced by the surrounding foliage and tree line.
- The site contained a house and a garage/store building that were proposed to be altered therefore it did not represent a new house in the countryside and the second reason for refusal should not have applied
- Permissions had been granted elsewhere in East Lothian in similar circumstances
- The design evolved to try to ensure that elements of the existing house were retained for example the bay window, and that much of the floorplate of the house

was retained along with the majority of the external walls, the roof height was not exceeded and other key design themes are incorporated

- Not all planning policies referred to could apply to all circumstances and proposals should be supported where the outcome was better than the existing situation
- The individual characteristics of the site should be considered as well as the proposals and a balanced view taken in the context of all influencing factors
- The officer report contained an assessment highlighting how the proposal complies with all key policies protecting neighbouring properties and it was an ideal site for these proposals
- The three reasons for refusal were challenged as they overstated concerns regarding the proposals: 1) The design was appropriate for its site and setting and the quality of the proposed finish should be the focus; 2) policies DC1 and DC4 did not apply to this application and it was not a new home in the countryside; and 3) a development that was both attractive and appropriate could not set an undesirable precedent.

The Planning Adviser concluded his presentation by reminding Members that it was now open to them to review the case and either agree with the decision taken by the planning case officer, for the reasons given, or to come to a different determination. He added that should Members wish to approve planning permission, a condition to the effect that the development shall begin within 3 years had been supplied by the planning case officer but a condition would also be required to ensure that the ancillary building was not to be used as a separate dwelling house.

The Planning Adviser responded to questions from Members on the existing flooring within the property, its current energy rating and the increase in the size of the footprint compared to the original building.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor Yorkston commented that works arising from the proposed permission were on the fine edge of subservience. He noted the increase in footprint together with the additional roof space meant the living space more than doubled in size but this does not look that way. While he was sympathetic to the Planning Officer's opinion, he was minded to agree with the applicant that this did not constitute a new build. Accordingly, he was minded to grant the Planning Permission.

Councillor Collins was of the view that the proposed building materials would be sympathetic to the area and the application was consistent with NPF4 as this improved the environment. Accordingly, she was minded to support this application.

The Chair agreed with his colleagues. He was of the view that the proposed development would not overwhelm the existing property and therefore was minded to grant the application.

The decision to grant planning permission was confirmed by roll call vote. The members of the LRB then considered the suggested conditions outlined by the Planning Adviser and agreed that both conditions should be added to the planning permission.

Decision

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

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended

2. The outbuilding hereby approved shall only be used for purposes incidental to the residential use and enjoyment of the dwelling house of 7 Ballencrieff Mains Farm Cottages and shall at no time form a separate residential unit or be used for any business, trade or other commercial use.

Reason:

To enable the Planning Authority to control the use of the development in the interests of safeguarding the character and residential amenity of the area and that of the dwelling house of 7 Ballencrieff Mains Farm Cottages.

Signed

Councillor Neil Gilbert
Chair of Local Review Body (Planning)

REPORT TO: East Lothian Council
MEETING DATE: 27 June 2023
BY: Executive Director for Council Resources
SUBJECT: Financial Review 2022/23

3

1 PURPOSE

- 1.1 To provide an update on the **DRAFT** financial position for the year ending 31 March 2023.

2 RECOMMENDATIONS

- 2.1 The Council is recommended to:
- Note the 2022/23 financial performance against approved budgets and the underlying financial pressure faced by the Council.
 - Note the progress in delivering the approved 2022/23 budget reductions.
 - Note the additional funding received from the Scottish Government in the 2022/23 financial year.
 - Note the application of the loans fund repayment holiday in 2022/23, to mitigate the in-year overspend.
 - Note the update on key developments since the Quarter 3 report.
 - Note that financial review reports will continue to be reported to Council for scrutiny until the financial position improves.
 - Note the update on the wider financial environment and current risks.
 - Agree to provide a “letter of guarantee” to support Council relevant group partners in line with previous years’ assurance.

3 BACKGROUND

- 3.1 During 2022/23 Council has considered a number of reports setting out the enhanced challenges of managing an increasingly complex, acute and growing range of financial pressures and associated risks. Given the collective scale of these challenges, in November 2022, a special Council meeting was called to discuss the resulting impact, projected in-year overspend and plans to respond to this. At this meeting, Council agreed to a range of cost control measures aimed at mitigating the full impact of these wider financial pressures.
- 3.2 A number of subsequent reports have been presented to Council and Cabinet since then, and these have continued to highlight the significance and increasingly challenging financial landscape. This has also been reflected in the corporate risk register where '*Managing the Financial Environment*' remains the highest ever scoring risk being managed by the Council and continues to represent the key corporate priority risk. This scoring currently remains unchanged.
- 3.3 The most recent report setting out the position at Quarter 3 was presented to Council on 28 February 2023. That report noted a forecast overspend of £16.8 million for the year, of which over £12 million would be recurring.
- 3.4 The main reasons for the unplanned pressure included unfunded pay pressures, utility and inflationary pressures and pressures within Children's Services.
- 3.5 This report sets out the financial results for the 2022/23 financial year across all service areas. These results remain in **DRAFT** pending the finalisation of the 2022/23 audit.

Unaudited Accounts – 2022/23

- 3.6 The draft accounts covering the financial year 2022/23 are in the process of being finalised for publication at the end of this month. The process for considering the annual accounts process is set out below:
- In accordance with requirements, the Chief Financial Officer will be responsible for ensuring the draft accounts are submitted for audit prior to the statutory deadline of 30 June 2023. The draft accounts will be submitted formally to Members' Library Service following submission to audit;
 - The audit will be undertaken between June and September 2023;
 - Aligned to statutory requirements, the draft accounts will be available for public inspection during the first 3 weeks of July 2023;
 - Officers will provide a briefing for Elected Members during August to support a wider understanding of the annual accounts and key issues contained within them;

- In August 2023, the draft accounts will be presented to Council for consideration in order to support formal requirements to enable members to scrutinise the unaudited accounts by 31 August 2023.
 - The audited accounts will be formally considered by Audit & Governance Committee end of September 2023.
- 3.7 The accounts and financial results will remain in draft pending the completion of the audit. Members will be kept fully apprised of any material changes that may arise during the course of the audit.

General Services Revenue Summary – 31 March 2023

- 3.8 An analysis of the financial position across service groups is set out in **Appendix 1** with further details in the paragraphs below.
- 3.9 A number of budgets have changed to reflect necessary accounting adjustments to ensure that the surplus or deficit on service areas reflects only costs that are chargeable direct to the taxpayer. The most significant of these adjustments relates to IAS19 Pension requirements.
- 3.10 In summary, before applying use of reserves and other mitigations, there was an overspend of £16.154 million (5.6%). This total includes one-off costs to be funded from earmarked reserves of £3.496 million. This means that there was a recurring in-year pressure of £12,537 million (4.3%). The main reasons for this overspend were:
- Unfunded Pay - £1.882 million
 - General Inflation - £500,000
 - Utility inflation - £1.218 million
 - One-off use of reserves to fund recurring budget pressures - £8.690 million
- 3.11 The Council has been able to partly offset the financial pressure in-year by applying additional savings and mitigations most of which are non-recurring. These include:
- Savings from two additional days of school strike action - £340,000
 - Additional Funding for Teachers Pay - £779,000
 - Mitigation Measures - £8.150 million, comprising:
 - Use of Loans Fund repayment holiday flexibility - £6.4 million
 - 1140 Hours surplus flexibility to fund associated costs - £1.750 million
 - Other service underspends - £777,000
- 3.12 The application of these one-off funds reduces the overspend to £5.986 million (2.1%). This will be funded by reserves as set out in **Appendix 1**.

- 3.13 The Council has and continues to face a wide range of external financial pressures and these have continued to be reported to Council. These include: high inflation and contractual costs; funding for public sector pay awards; high interest rates; and significant increased demand for Council services aligned to cost of living pressures and a growing population. Many Council services are continuing to face significant financial challenges in meeting these collective demands, and these have been set out in previous financial reports including: Children's Services, commissioned services within the Health and Social Care Partnership and continued pressure on Housing related services including Homelessness and managing the demands aligned to the wider national resettlement schemes.

Many of these demands will remain key areas of risk during 2023/24 and will remain under close monitoring.

2022/23 Efficiencies

- 3.14 All of the £393,000 planned efficiencies in 2022/23 have been achieved and this is set out in **Appendix 2.**

Additional Scottish Government Funding

- 3.15 Since Quarter 3 there has been net additional funding totalling £150,000, from the Scottish Government. This is highlighted in Appendix 3 alongside the full detail of additional funding provided during 2022. This includes Child Bridging Payments (£0.024m), teachers' pay (£0.629m) and the correction of a Scottish Government funding allocation error for the Teacher Induction Scheme (-£0.503m). The majority of these funding streams are to support existing commitments or specific policy objectives so they cannot help alleviate wider pressures on the Council's financial position.

Council Tax

- 3.16 Overall, Council Tax was £696,000 lower than approved budget. This was due to a combination of factors including lower than projected house completions and changes arising from re-banding rates. In-year collection rates have remained high, although this continues to be an area of risk in light of the ongoing cost of living crisis and pressure on household finances. A large proportion of this forecast has been taken into consideration as part of the 2023/24 updated budget.

Integrated Joint Board

- 3.17 The IJB has delegated authority over the majority of the Health and Social Care budget along with a small number of other budgets within Community Housing, the Housing Revenue Account and Housing Capital. The management of these resources remains in line with the scheme of integration and wider overall IJB resources. The IJB delivered an underspend of £282,000 which has been transferred to the IJB reserve with £62,000 earmarked for carers and £220,000 allocated to IJB General Reserves.

Council's Group Components

- 3.18 In previous years, a 'letter of guarantee' was provided to both Enjoy and Brunton Theatre Trust in closing off their final accounts. The "guarantee" whilst not prescriptive in respect of quantum, gave both organisations positive assurance that the Council would work proactively with them to manage cash flow and fulfil their obligations should the need arise.
- 3.19 It is recommended that a similar 'letter of guarantee' is supported to Enjoy Leisure as part of the 2022/23 accounts closedown.
- 3.20 Members will be aware that there remains ongoing issues associated with Brunton Theatre and the ability to operate the building. Given the significance of these issues, it is not recommended that a 'letter of guarantee' as set out in previous years is provided to Brunton Theatre Trust (BTT) auditors, given the lack of clarity around the immediate and future operational delivery of services. The Council will continue to liaise with BTT external auditors and BTT during the course of the 2022/23 audit.

General Services Capital Summary

- 3.21 **Appendix 4** sets out the expenditure to 31 March 2023 with spend of £84.341 million against an updated budget of £111.310 million. The borrowing requirement is £37.867 million.
- 3.22 A significant proportion of this underspend has already been re-profiled as part of the work on the 2023/24 capital plan and will be utilised in future years. Where appropriate, this is matched against anticipated income in line with individual project requirements.
- 3.23 A summary of the key movements and associated risks are shown below:
- IT and Fleet – supply chain and lead in times has been volatile during the year with orders having to be placed earlier to tie in delivery of goods with service needs. Late in 2022/23 a number of IT items and Fleet items were delivered earlier than indicated, resulting in spend greater than projected in Quarter 3.
 - Roads, Lighting & related assets – the timing of the second instalment for the East Linton Rail Infrastructure was invoiced in March 2023, resulting in a significant forward budget reprofile from 2023/24.
 - Education – most of these projects have been reprofiled as part of the 2023/24 budget.
 - Other property assets
 - Cockenzie – following a successful bid to the UK Government for funding, the Levelling Up project has been separated into a specific line for reporting. The link road through the site has been designed with procurement and construction re-profiled to future years.

- A1/QMU Junction - delays on site with targeted completion in early summer 2023.
- 3.24 Capital income applied during 2022/23 was £46.474 million, broken down as follows:
- Developer Contributions - £8.161 million
 - 1140 Hours Grant Income - £7.862 million
 - Town Centre Regeneration Grant - £973,000
 - Other Funding Sources - £11.320 million, this includes:
 - Non section 75 Developer Contributions
 - Transport Scotland
 - Sport Scotland
 - Cycling Scotland
 - Sustrans
 - Scottish Government General Capital Grant - £18.158 million
- 3.25 Supply chains have seen improvements in some areas; however, there is still significant volatility and this remains a key element for capital monitoring, spend projections and overall capital plan affordability.
- 3.26 The current capital programme remains aligned to the Local Development Plan requirements and remains ambitious. A number of projects have moved from the design and planning stage to construction over the last 12 months.
- 3.27 External market conditions remain very challenging, with wider supply chain issues, inflationary pressures and wider external risks including interest rate increases on borrowing. This wider external focus is placing significant additional financial challenges on the current approved capital programme and borrowing levels and the financial impact and risk on future capital projects will remain a key area of focus.
- 3.28 Whilst recognising the ambitious plan, there remains significant external challenges due to current market conditions and wider inflationary pressures. These are collectively placing significant and increased financial risk to the deliverability and affordability of the current capital plan. The impact of these risks remains under close review with further updates to be provided during this year.

Housing Revenue Account Summary

- 3.29 The HRA delivered a budget surplus of £4.652 million against a planned surplus of £1.686 million. The increase in the surplus related to the application of a capital grant relating to local government pay, with this subsequently adjusted as a Movement in Reserves. The increased

surplus allowed for a higher than planned CFCR. The movements related to the grant for local government pay resulted in an overall neutral impact on the HRA. Voids remain high and work is ongoing to remedy. **Appendix 5** sets out the revenue spend for the year.

- 3.30 The HRA General Reserve as at 31 March 2023 reduced from £1.748 million to £1,487 million reflecting the application of the capital grant and aligning the opening balance in 2023/24 with the opening balance in the approved five-year budget starting from 2023/24.
- 3.31 Looking ahead, in order to meet the two key tests in the financial strategy, a £1 million minimum HRA balance and a debt to income ratio below 40%, adhering to the 5% rent strategy is essential in order to maintain the proposed capital investment in modernising properties and building new council houses.
- 3.32 Capital spend at year-end was just over £40 million in line with forecasts at Quarter 3. Further detail is provided in **Appendix 6**.
- 3.33 There remain challenges in delivering the programme due shortage of labour resources, uncertainty in the housing market due to the current economic situation and challenges in awarding and mobilisation of contracts.

Conclusion

- 3.34 The Council continues to operate in an extremely challenging, complex and ever-changing financial environment. Within General Services revenue, there is an overspend of more than £16 million, before applying mitigations, within which, there is a recurring pressure in excess of £12 million. In addition, there remains a growing range of pressures which are challenging the affordability of the capital programme and associated cost of borrowing.
- 3.35 Many of these pressures will be recurring, and the collective scale of financial risks and challenges facing the Council remains at an unprecedented level.
- 3.36 The Council will continue to harness all opportunities arising from the current environment and how it can sustain the delivery of vital services to the community, and more effectively manage wider assets. Nevertheless, the number of concurrent risks, and associated financial impact remains at a significantly heightened scale and will require some difficult decisions in the months and years ahead to ensure ongoing financial sustainability.

4 POLICY IMPLICATIONS

- 4.1 There are no direct policy implications associated with this report, although, ongoing monitoring and reporting of the Councils financial performance is a key part of the approved Financial Strategy.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report has been considered and given there is no change in policy direction, there is no requirement to undertake any further impact assessment.

6 RESOURCE IMPLICATIONS

6.1 Financial – as described above and in the supporting appendices

6.2 Personnel - none

6.3 Other – none

7 BACKGROUND PAPERS

7.1 Council – 1 March 2022 – Item 1 – Budget Development including setting of Council Tax and Council Rent for 2022/23

7.2 Council – 1 March 2022 – Item 2 – Budget Proposals on General Service – Amendment Submitted by the Labour Administration

7.3 Cabinet – 13 September 2022 (Meeting delayed until 27 September 2022) – Item 1 – Quarter 1 Financial Review 2022/23

7.4 Council – 25 October 2022 – Item 4 – Finance Update

7.5 Council – 22 November 2022 – Item 1- Finance Update

7.6 Council – 13 December 2022 – Item 4 – Financial and Capital Strategies

7.7 Council – 28 February 2023 – Item 3 – Finance Update

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DATE	8 July 2023

Appendix 1
 East Lothian Council
 Budget Monitoring 2022/23 - Year-end

Service	Head of Service	Business Unit	Out-turn			2022/23 Budget Variance (Surplus) / Deficit	2022/23 Budget Variance %
			2022/23 Actual	2022/23 Budget	2022/23 Budget Variance (Surplus) / Deficit		
			£'000	£'000	£'000		%
Education & Children's	Children's	Performance & Service Delivery	1,202	1,294	-92		-7.1%
Education & Children's	Children's	Management	6,325	5,073	1,252		24.7%
Education & Children's	Children's	Assessment HUB and Early Interventions	2,735	2,600	135		5.2%
Education & Children's	Children's	Long Term Social Work Supervisory Groups	2,231	2,397	-166		-6.9%
Education & Children's	Children's	TAC, Disability & Resources	6,221	6,607	-386		-5.8%
Education & Children's	Children's	Disability Short Breaks	654	689	-35		-5.1%
EDUCATION & CHILDREN'S	CHILDREN'S TOTAL		19,368	18,660	708		3.8%
Education & Children's	Education	Additional Support for Learning	11,544	11,561	-17		-0.1%
Education & Children's	Education	Pre-school Education & Childcare	14,253	16,993	-2,740		-16.1%
Education & Children's	Education	Schools - Primary	49,892	49,881	11		0.0%
Education & Children's	Education	Schools - Secondary	46,337	46,900	-563		-1.2%
Education & Children's	Education	Schools - Support Services	6,743	5,162	1,581		30.6%
Education & Children's	Education	East Lothian Works	1,980	1,358	622		45.8%
EDUCATION & CHILDREN'S	EDUCATION TOTAL		130,749	131,855	-1,106		-0.8%
EDUCATION & CHILDREN'S TOTAL			150,117	150,515	-398		-0.3%
Council Resources	Finance	Financial Services	2,708	3,670	-962		-26.2%
Council Resources	Finance	Revenues & Benefits	7,321	7,190	131		1.8%
Council Resources	Finance	Procurement	347	364	-17		-4.7%
COUNCIL RESOURCES	FINANCE TOTAL		10,376	11,224	-848		-7.6%
Council Resources	Corporate	IT Services	3,216	3,074	142		4.6%
Council Resources	Corporate	People & Council Support	3,493	3,335	158		4.7%
Council Resources	Corporate	Governance	2,090	2,346	-256		-10.9%
Council Resources	Corporate	Communications	428	447	-19		-4.3%
COUNCIL RESOURCES	CORPORATE TOTAL		9,227	9,202	25		0.3%
COUNCIL RESOURCES TOTAL			19,603	20,426	-823		-4.0%
Health & Social Care Partnership	Head of Operations	Adult SW	40,986	41,781	-795		-1.9%
Health & Social Care Partnership	Head of Operations	Acute & Ongoing Care	9,606	8,702	904		10.4%
Health & Social Care Partnership	Head of Operations	Rehabilitation	2,189	1,697	492		29.0%
Health & Social Care Partnership	Head of Operations	Adult Statutory Services	3,020	2,587	433		16.7%
Health & Social Care Partnership	Head of Operations	Statutory Services	2,272	2,360	-88		-3.7%
Health & Social Care Partnership	Head of Operations	Head of Operations	5,153	6,080	-927		-15.2%
Health & Social Care Partnership	Head of Operations	Business & Performance IJB	3,140	3,159	-19		-0.6%
HEALTH & SOCIAL CARE PARTNERSHIP	IJB TOTAL		66,366	66,366	0		0.0%
Health & Social Care Partnership	Head of Operations	Business & Performance Non-IJB	853	540	313		58.0%
HEALTH & SOCIAL CARE PARTNERSHIP	Non-IJB TOTAL		853	540	313		58.0%
HEALTH & SOCIAL CARE PARTNERSHIP TOTAL			67,219	66,906	313		0.5%
Place	Development	Planning	1,391	1,634	-243		-14.9%
Place	Development	Economic Development	1,711	1,696	15		0.9%
PLACE	DEVELOPMENT TOTAL		3,102	3,330	-228		-6.8%
Place	Housing	Housing, Strategy & Development	157	289	-132		-45.7%
Place	Housing	Property Maintenance Trading Account	-382	-926	544		-58.7%
Place	Housing	Community Housing	3,084	2,442	642		26.3%
PLACE	HOUSING TOTAL		2,859	1,805	1,054		58.4%
Place	Infrastructure	Facility Support Services	3,827	3,869	-42		-1.1%
Place	Infrastructure	Facility Trading Activity	-230	-327	97		-29.7%
Place	Infrastructure	Asset Maint & Engineering Services	3,140	3,433	-293		-8.5%
Place	Infrastructure	Asset Management & Capital Planning	-870	-462	-408		88.3%
Place	Infrastructure	Landscape & Countryside Management	5,936	5,819	117		2.0%
Place	Infrastructure	Roads Network	4,565	5,269	-704		-13.4%
Place	Infrastructure	Roads Trading Activity	-73	-666	593		-89.0%
Place	Infrastructure	Transportation	1,670	1,584	86		5.4%
Place	Infrastructure	Waste Services	9,310	9,738	-428		-4.4%
Place	Infrastructure	Active Business Unit	3,855	3,723	132		3.5%
PLACE	INFRASTRUCTURE TOTAL		31,130	31,980	-850		-2.7%
Place	Communities & Partnerships	Corporate Policy & Improvement	1,864	1,934	-70		-3.6%
Place	Communities & Partnerships	Connected Communities	6,237	6,553	-316		-4.8%
Place	Communities & Partnerships	Protective Services	2,029	1,988	41		2.1%
Place	Communities & Partnerships	Customer Services Group	4,174	4,295	-121		-2.8%
PLACE	COMMUNITIES & PARTNERSHIPS TOTAL		14,304	14,770	-466		-3.2%
PLACE TOTAL			51,395	51,885	-490		0.0%
SERVICE TOTAL			288,334	289,732	-1,398		-0.5%
CORPORATE MANAGEMENT TOTAL			-282,348	-289,732	7,384		-2.5%
TOTAL			5,986	0	5,986		2.1%
Movement in Reserves							
General Services Overspend				5,986			
HRA Transfer to support National Pay funding grant				-2,307			
Increase in earmarked reserve affordable housing				-408			
Increase in Capital Receipts				-10,004			
HRA				261			
Total Movement in Reserves				-6,472			
Usable Reserves							
Opening Usable Reserves				-38,720			
Movement in Reserves				-6,472			
Closing Usable Reserves				-45,192			

Appendix 2
East Lothian Council
2022/23 Budget Efficiencies - Year-end

Service	2022/23			
	Achieved	Amber	High	
	£'000	£'000	£'000	
Education	0	0	0	
Finance	0	0	0	
Corporate Services	20	0	0	
H&SCP	0	0	0	
Housing	8	0	0	
Communities	30	0	0	
Infrastructure	185	0	0	
Corporate Management	150	0	0	
Total	393	0	0	393
	100.00%	0.00%	0.00%	

Appendix 3

East Lothian Council

Budget Monitoring 2022/23 - Additional Funding from the Scottish Government

	£million
2022/23 GRG (per Budget Amendment)	195.103
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Additional Funding - GRG	
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Universal Free School Meals (future years TBC)	0.947
Free School Meals School Holiday Support (future years TBC)	0.303
Additional Investment in H&SC (share of £200m)	3.841
Scottish Child Bridging Payments	0.646
Summer Holiday Provision for Primary School Children	0.161
Whole Family Wellbeing Funding	0.579
Local Heat and Energy Efficiency Strategy	0.075
Balance of the 2021/22 Teachers Pay Award	0.627
£150 Cost of Living Support - 90% of allocation	4.339
Local Government Pay Offer	2.679
£150 Cost of Living Support - Final 10%	0.497
Green Growth Accelerator Funding	0.026
Scottish Child Bridging Payments	0.433
Adult Disability Payment	0.054
DHP Benefit Cap and Admin	0.053
Educational Psychologists	0.008
Council Tax Reduction	0.029
Additional Teacher Induction Scheme	0.499
Self Isolation Assistance Service	0.013
Child Bridging Payments	0.024
Teachers Induction Scheme	-0.503
Teachers Pay	0.629
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Total Additional Funding	15.959
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Revised GRG	211.062
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Appendix 4
 East Lothian Council
 General Services Capital Budget Monitoring Summary 2022-23
 Year-end

	Annual (In-Year)					
	Approved Budget 2022/23	Updated Budget 2022/23	Actual 2022/23	Updated Budget-Actual Variance 2022/23 (Surplus) / Deficit	Previously reported Outturn to Council (P9/Q3)	Reprofiled during 2023/24 budget process
	£'000	£'000	£'000	£'000	£'000	£'000
Expenditure						
Community Projects						
Community Intervention	375	375	239	(136)	260	
Community Intervention Fund - Pump Tracks	125	125	-	(125)	25	100
Bleachingfield Centre Remodelling Works	90	90	-	(90)	-	90
Dunbar Conservation Area Regeneration Scheme (CARS)	196	286	-	(286)	15	208
Support for Business	1,544	2,258	2,029	(229)	2,258	-
CCTV	150	378	131	(247)	200	128
Town Centre Regeneration	823	1,275	1,148	(128)	1,500	
Total Community Projects	3,303	4,787	3,546	(1,240)	4,258	526
Town Centre Regeneration Grant	(823)	(1,275)	(973)	303	(1,500)	
Other Funding Sources	(236)	(236)	-	236	(28)	(174)
Total Income: Community Projects	(1,059)	(1,511)	(973)	539	(1,528)	(174)
ICT						
IT Programme & Digital Opportunities	2,100	2,100	2,342	242	1,720	
Total ICT	2,100	2,100	2,342	242	1,720	-
Other Funding Sources	-	-	(14)	(14)	(120)	
Total Income: ICT	-	-	(14)	(14)	(120)	-
Fleet						
Amenties - Machinery & Equipment - replacement	230	230	184	(46)	230	
Vehicles	5,041	5,554	3,210	(2,344)	3,594	2,554
Total Fleet	5,271	5,784	3,394	(2,390)	3,823	2,554
Other Funding Sources	-	-	-	-	-	
Total Income: Fleet	-	-	-	-	-	-
Open Space						
3G Pitch Carpet Replacement Programme	500	500	475	(25)	500	
Cemeteries (Burial Grounds)	439	939	60	(879)	100	621
River Tyne / Haddington Flood Protection scheme	300	315	-	(315)	10	290
Coastal / Flood Protection schemes - Musselburgh	1,642	1,912	734	(1,178)	750	1,083
Coastal Car Park Toilets	14	81	48	(34)	112	
Core Path Plan	50	59	63	4	50	
Mains Farm Town Park & Pavilion	12	38	17	(21)	38	
Nature Restoration	-	43	51	8	50	
Replacement Play Equipment	100	100	94	(6)	108	
Polson Park	160	160	-	(160)	-	160
Sports and Recreation LDP	1,361	1,361	696	(666)	703	210
Waste - New Bins	172	172	164	(8)	168	
Waste - Machinery & Equipment - replacement	40	40	44	4	44	
Total Open Space	4,791	5,720	2,446	(3,275)	2,633	2,363
Developer Contribution	(361)	(361)	(110)	252	(125)	
Other Funding Sources	(1,011)	(1,020)	(841)	179	(806)	(210)
Total Income: Open Space	(1,372)	(1,382)	(951)	431	(931)	(210)
Roads, Lighting and related assets						
Cycling Walking Safer Streets	472	502	318	(184)	721	
East Linton Rail Stop / Infrastructure	1,520	3,038	2,973	(65)	1,520	1,538
Parking Improvements	110	230	112	(118)	134	96
Roads	6,700	6,993	7,180	187	6,637	
Roads - externally funded projects	1,729	1,729	1,616	(113)	1,729	
Drem - Gullane Path	30	30	25	(5)	30	
Total Roads, Lighting and related assets	10,561	12,522	12,223	(298)	10,770	1,634
Developer Contribution	(69)	(69)	(343)	(274)	(69)	
Other Funding Sources	(2,162)	(2,192)	(1,616)	576	(2,411)	
Total Income: Roads, Lighting and related assets	(2,231)	(2,261)	(1,959)	302	(2,480)	-
Property - Education						
Aberlady Primary - extension	1,698	2,413	36	(2,378)	70	2,326
Blindwells Primary - new school	3,227	3,216	704	(2,512)	744	2,472
Craighall Primary - New School	4,298	4,292	688	(3,604)	727	3,564
Dunbar Grammar - extension	-	-	-	-	-	-
Dunbar Primary - John Muir Campus - Early Learning and 1140	-	24	23	(1)	24	
East Linton Primary - extension including Early Learning and 1140	324	524	-	(524)	-	(450)
Elphinstone Primary - extension	77	77	-	(77)	-	
Gullane Primary - extension including Early Learning and 1140	-	702	394	(309)	450	
Haddington School (Infants & St. Mary)	26	51	-	(51)	-	
Kingsmeadow Primary	26	51	-	(51)	-	
Law Primary - extension including Early Learning and 1140	2,890	3,415	3,352	(63)	3,415	(37)
Letham Primary - New School	-	120	8	(112)	10	
Musselburgh Grammar - upgrades	284	412	317	(96)	300	
North Berwick High School - Extension	1,445	3,083	2,137	(946)	3,467	
Ormiston Primary - extension	374	1,012	1,319	307	1,353	
Pinkie St Peter's Primary - sports hall extension	1,454	2,087	1,239	(848)	2,087	776
Pinkie St Peter's Primary - extension including Early Learning and 1140	2,970	3,596	3,039	(557)	2,596	381
Preston Lodge High School - extension (phase 1)	248	248	-	(248)	30	201
Prestonpans Primary - upgrades	3	3	-	(3)	-	
Ross High School - extension	1,273	1,377	1,826	450	1,873	
School Estate - Curriculum Upgrades	330	653	-	(653)	-	653
School Kitchens - 1140 Upgrades	-	-	19	19	2	
St Gabriel's Primary - extension including Early Learning and 1140	648	742	837	96	959	
Wallyford Primary - New School	-	59	10	(49)	10	
Wallyford Learning Campus	18,545	19,801	21,475	1,673	22,800	(2,854)
West Barns Primary - extension including Early Learning and 1140	1,590	1,794	1,673	(121)	2,315	
Whitecraig Primary - new school including Early Learning and 1140	185	309	382	73	309	
Windygoul Primary - Early learning and 1140 extension	1,063	1,010	17	(994)	10	1,000
Windygoul Primary - extension	900	900	839	(61)	840	
Total Property - Education	44,035	52,125	40,365	(11,760)	44,426	8,188
Developer Contribution	(10,760)	(12,863)	(7,708)	-	(9,660)	(3,974)

Appendix 4
 East Lothian Council
 General Services Capital Budget Monitoring Summary 2022-23
 Year-end

	Annual (In-Year)					
	Approved Budget 2022/23	Updated Budget 2022/23	Actual 2022/23	Updated Budget- Actual Variance 2022/23 (Surplus) / Deficit	Previously reported Outturn to Council (P9/Q3)	Reprofiled during 2023/24 budget process
	£'000	£'000	£'000	£'000	£'000	£'000
Expenditure						
1140 Grant Income	(8,190)	(8,498)	(7,862)	-	(7,888)	(1,332)
Other Funding Sources	-	-	-	-	-	-
Total Income: Property - Education	(18,950)	(21,361)	(15,570)	-	(17,548)	(5,306)
Property - Other						
Accelerating Growth	11,696	14,702	11,585	(3,116)	14,438	
- Cockenzie	3,000	3,000	386	(2,614)	980	2,070
- Levelling Up Project Cockenzie	-	-	59	59	-	-
- Blindwells	91	273	45	(229)	158	115
- Innovation Hub	1,006	1,330	697	(633)	800	0
- A1/QMU Junction	7,599	10,098	10,399	301	12,500	(2,402)
Brunton Hall - Improved Community Access	200	200	27	(173)	50	200
Court Accommodation - incl. SPOC	1,749	1,749	-	(1,749)	-	1,749
Haddington Corn Exchange - upgrades	16	16	-	(16)	-	-
Haddington Town House - Refurbishment and Rewire	300	417	417	0	417	-
Meadowmill - New Depot	-	25	27	2	27	-
New ways of working Programme	1,995	1,995	1,312	(683)	973	381
Prestonrange Museum	2,279	2,484	679	(1,805)	1,004	1,460
Property Renewals	3,000	3,000	3,074	74	3,099	-
Replacement Childrens House	802	802	-	(802)	-	802
Sports Centres	200	372	372	-	372	-
Tynebank Resource Centre	-	-	8	8	8	-
Water meter size reduction	14	14	-	(14)	-	-
Whitecraig Community Centre	-	49	0	(49)	49	-
Total Property - Other	22,251	25,825	17,502	(8,324)	20,437	4,376
Developer Contribution	-	-	-	-	-	-
Other Funding Sources	(5,993)	(7,379)	(8,414)	(1,035)	(8,660)	(1,125)
Total Income: Property - Other	(5,993)	(7,379)	(8,414)	(1,035)	(8,660)	(1,125)
Total Property Spend - Education and Other	66,286	77,950	57,867	(20,084)	64,863	12,563
Total Income: Property - Education and Other	(24,943)	(28,740)	(23,984)	(1,035)	(26,208)	(6,431)
Capital Plan Fees	2,447	2,447	2,088	(359)	2,447	-
PPP Projects	-	-	436	436	-	-
Total Gross Expenditure	94,759	111,310	84,341	(26,969)	90,514	19,641
Other Funding Sources	-	-	(436)	(436)	-	-
Total Income:PPP Projects	-	-	(436)	(436)	-	-
Income						
Developer Contribution	(11,190)	(13,293)	(8,161)	5,132	(9,853)	(3,974)
1140 Grant Income	(8,190)	(8,498)	(7,862)	636	(7,888)	(1,332)
Town Centre Regeneration Grant	(823)	(1,275)	(973)	303	(1,500)	-
Other Funding Sources	(9,401)	(10,827)	(11,320)	(493)	(12,025)	(1,509)
Scottish Government General Capital Grant	(9,044)	(9,422)	(18,158)	(8,736)	(18,158)	-
Total Income	(38,648)	(43,316)	(46,474)	(3,158)	(49,424)	(6,815)
Borrowing Requirement	56,110	67,994	37,867	(30,126)	41,090	12,826

Appendix 5
East Lothian Council
Budget Monitoring HRA 2022/23 - Year-end

	2022/23 Budget	2022/23 Actual	2022/23 Budget Variance (Surplus) / Deficit
	£'000	£'000	£'000
Total Income	-34,711	-37,720	-3,009
Total Expenditure	33,025	33,068	43
(Surplus) / Deficit for Year	-1,686	-4,652	-2,966

	2022/23 Budget	2022/23 Actual
	£'000	£'000
Management of Balances		
Opening (Surplus) / Deficit	-1,748	-1,748
CFCR	1,500	2,196
Capital Grant	0	2,718
(Surplus) / Deficit for Year	-1,686	-4,652
Closing (Surplus) / Deficit	-1,934	-1,486

Appendix 6
East Lothian Council
Budget Monitoring HRA Capital 2022/23 - Year-end

	2022/23 Budget	2022/23 Actual	2022/23 Budget Variance (Surplus) / Deficit
	£'000	£'000	£'000
Modernisation	14,421	13,222	-1,199
New Council Housing	26,068	25,560	-508
Fees	1,410	1,568	158
Mortgage to Rent	280	0	-280
TOTAL	42,179	40,350	-1,829

Funded By:

	2022/23 Budget	2022/23 Actual	2022/23 Budget Variance (Surplus) / Deficit
	£'000	£'000	£'000
Grants	-6,500	-13,197	-6,697
Grants MTR	-196	0	196
CFCR	-1,500	-2,196	-696
Capital Grant	0	-2,718	-2,718
Borrowing	-33,983	-22,239	11,744
TOTAL	-42,179	-40,350	1,829

REPORT TO: East Lothian Council

MEETING DATE: 27 June 2023

BY: Executive Director for Council Resources

SUBJECT: Budget Development 2024/25 Onwards

4

1 PURPOSE

- 1.1 To provide Council with an update on budget development and planning for 2024/25 onwards and to highlight the significant challenges in relation to this.

2 RECOMMENDATIONS

2.1 The Council is recommended to:

- Note the update on the financial landscape and current risk environment, detailed within the report.
- Note the high-level revenue projections and funding gap set out at paragraph 3.6, table 1.
- Note the emerging risks detailed within paragraphs 3.12 to 3.18, and that a review of the current general services capital programme in light of these risks will be presented to a future Council meeting.
- Note the update on mitigation measures at paragraphs 3.19 to 3.22.
- Note the arrangements for authorising urgent expenditure outwith approved budgets, to ensure that statutory duties can be fulfilled, detailed at paragraph 3.16.
- Agree the proposed reserves strategy, set out at paragraphs 3.23 to 3.30.
- Note the next steps to budget development and timetable set out at 3.32.

3 BACKGROUND

Context

- 3.1 In December 2022, Council adopted the financial and capital strategies 2023/24 to 2027/28, which set out East Lothian Council's approach to budget development and sustainable financial planning. This report provides an update on the strategy and sets out the key next steps to set Council budgets for 2024/25 and beyond.
- 3.2 As previously reported to Council, we are now facing financial challenges of an unprecedented scale, resulting in the largest funding gap and highest risk level that this Council has ever previously documented. This situation has arisen from a combination of significant external pressures and growing demands and collectively these are resulting in a significant adverse impact on the Council's financial position and capacity to set balanced budgets over the coming years.
- 3.3 At a local level, the impact of population growth continues to represent the most significant source of pressure on budgets. As one of the fastest growing local authorities in Scotland, the gap between the increasing costs and available funding to support this growth is widening, both in terms of supporting the capital costs of enabling infrastructure, alongside the recurring revenue costs aligned to this infrastructure and increased service obligations to support a growing population.
- 3.4 In relation to the impact of growth in East Lothian, members are asked to note that:
- Between 2001 and 2021, the population of East Lothian has increased by 21.5%. This is the highest percentage change out of the 32 council areas in Scotland. Over the same period, Scotland's population rose by 8.2%.¹
 - Between 2018 and 2028, the population of East Lothian is projected to increase from 105,790 to 113,403. This is an increase of 7.2%, which compares to a projected increase of 1.8% for Scotland as a whole.¹
 - East Lothian's pensionable age population is expected to increase by 10.9% by 2028 (which is highest in Scotland, which has a projected increase of 3.7%).¹
 - East Lothian's working age population is projected to increase by 8.6% (which is the joint 2nd highest in Scotland which has a projected increase of 3.3%)¹
 - In 2023/24, as a consequence of growth, East Lothian Council has received one of the lowest levels of per capita funding in Scotland in 2023/24.
 - Population growth has resulted in demand for 4 new schools, and extensions to 6 others over the next 5 years.
 - The Council is projecting over £20m of cost pressures over the next 5 years arising directly from growing the education estate and this

¹ [East Lothian Council Area Profile \(nrsotland.gov.uk\)](https://nrsotland.gov.uk)

will continue to rise further in line with increased school roll projections, none of which currently will be met through additional funding.

- The Council is also facing significant gaps within the capital programme where indexation of section 75 contributions for school extensions and new schools is not keeping pace with the increasing cost of materials and labour costs to deliver the projects. If these projects proceed without additional external funding, this will place further pressure on the net borrowing requirement.

3.5 These pressures are compounded by the continuation of external factors including instability in the domestic and global economies, the ongoing conflict in Ukraine and wider impacts of EU Exit and COVID-19 recovery, which continue to place acute pressure on public finances. Locally, we have seen expenditure demands rising as a result of the cost of living crisis, increases in energy costs, high inflation, rising interest rates and pay inflation. Further detail on these pressures is set out below:

Pay

- Whilst a Teachers' Pay agreement is in place for 2023/24, negotiations are ongoing for other staff groups. Trade Unions have rejected the level of pay increase that can be met from the current 2023/24 budget provision, which includes additional Scottish Government funding. Any settlement above this level is unfunded in 2023/24 and would be a recurring pressure in future years without additional funding from the Scottish Government.
- As previously reported to Council, there remains a recurring underfunding of the Non-Teachers Pay award of around £2 million in 2022/23, which is reflected in the pressures in the 2023/24 budget.

Utility Inflation

- As previously reported, there have been significant increases in utility costs over the last year, with gas up over 160% and electricity by 25%.
- Projected budget pressures built into the 2023/24 budgets are in excess of over £2m and this remains a key risk which is being monitored closely.

General Inflation

- General inflation remains elevated and continues to have an impact on the prices paid by the Council for goods and services. The UK Government target is to halve inflation in 2023.

Interest Rates

- As noted in previous reports, turbulence in the economy has given rise to increases in interest rates beyond previous expectations.

Officers are continuing to update modelling to reflect changes in borrowing rates and to review the impact of this on revenue budgets and the affordability of the capital programme whilst developing options to mitigate the impact. This is an area which remains under review. Borrowing rates remain higher than reflected in budgets and this remains a key risk to the affordability of the agreed capital programme.

Financial Modelling

- 3.6 Increases in recurring grant funding from Scottish Government, which accounts for approximately 76% of the Council's budget has not kept pace with the rising costs and this presents a significant risk to the Council's capacity to maintain services and deliver on policy commitments in the future. Table 1 below sets out the predicted budget gap over the next 5 years. This reflects the agreed budget projections, which have been updated to incorporate further projections in year 5 (2027/28) in line with the updated budget development framework:

	2024/25	2025/26	2025/26	2026/27	2027/28	Total
	£000	£000	£000	£000	£000	£000
Funding gap	27,124	12,046	8,749	11,808	11,134	70,861
Less agreed savings	-3,691	-2,081	-2,094	-2,785	0	-10,651
5% council tax increase*	-5,191	-5,389	-5,352	-5,526	-5,808	-27,266
Further savings required	18,242	4,576	1,303	3,497	5,326	32,944

Table 1: Expected funding gap 2024/25 to 2027/28

* This reflects an assumption of annual council tax increases of 5% over the next 5 years which will be subject to annual review as part of the budget setting process.

- 3.7 Projected pressures arising from growth, including revenue costs of capital make up over £20m of the predicted budget pressure over the next 5 years, and are likely to continue to further increase beyond this period. These cost pressures are in addition to the wider pressures linked to inflation, pay and debt financing costs which the local authority sector is facing more generally.
- 3.8 Given the scale of the challenge, if no immediate additional funding is received through future finance settlements then it is likely that the Council will be facing a scenario in which reductions in service provision are unavoidable. The Leader of the Council has written to the Deputy First Minister who has agreed to meet with Councillors to discuss the unmanageable challenges, which East Lothian Council faces as a consequence of growth.
- 3.9 The Account's Commission's recent report, *Local Government in Scotland: Overview 2023* highlights that constraints and increasing cost pressures are putting councils' finances under severe strain, noting that council funding has been constrained for many years. Funding is also

forecast to reduce in real terms, which will further increase cost pressures and jeopardise the sustainability of local services. Councils are now relying on reserves to bridge budget gaps and increasingly ring-fenced and directed budgets reduce financial flexibility².

3.10 The financial bulletin 2021/22 published by the Accounts Commission in January 2023 notes that increasing cost pressures jeopardise the sustainability of local services. The report highlighted that councils and their communities are still feeling the impact of the COVID-19 pandemic, and highlighted the increasing range of cost pressures including:

- Inflationary pressures, including rising energy costs, which are having a significant impact on the cost of providing services;
- Managing the ongoing recovery from COVID-19 and its longer-term impact, now that one-off COVID-19 funding has ended;
- Meeting the cost of new pay awards and Real Living Wage;
- Increasing demand for services from a population that is ageing, less healthy and facing increasing financial hardship;
- Higher costs of capital programmes as a result of inflation, slippage due to the pandemic and shortages in construction materials. These increased costs may affect councils' ability to deliver on capital transformation programmes, which are a necessary component of modernising services to deliver improved outcomes for local communities³.

3.11 The Overview report concludes that these significant cost pressures alongside forecasted reductions to funding are raising significant concerns around the financial sustainability of councils, and that this could lead to cuts to services and job losses, particularly in the absence of a radical reform of services.

Emerging Risks

3.12 The Corporate Risk Register remains a live document, and the most recent update was reported to Audit and Governance Committee in June 2023. Managing the financial environment remains at the highest level ever reported through the corporate risk register.

3.13 Since the 2023/24 budgets were agreed by Council in February 2023, a number of additional risk factors have emerged, and these are detailed in the paragraphs below.

3.14 Structural issues have been identified within operational property owned by the Council, including the discovery of defective Reinforced Autoclaved Aerated Concrete (RAAC) which presents a number of risks to both revenue and capital budgets:

- Firstly, in the event that the Council is required to meet any interim costs in order to safeguard service provision this will create an

² [Local government in Scotland: Overview 2023 \(audit-scotland.gov.uk\)](https://www.audit-scotland.gov.uk/publications/2023/01/2023-overview)

³ [Local government in Scotland: Financial bulletin 2021/22 \(audit-scotland.gov.uk\)](https://www.audit-scotland.gov.uk/publications/2023/01/2023-financial-bulletin)

unbudgeted revenue pressure in the current financial year. Closure of buildings will also give rise to loss of income for the Council and some of its partners.

- Aligned to the capital strategy, which prioritises expenditure that is required for statutory reasons including health and safety requirements, there may also be some significant additional capital expenditure requirements arising from the findings. This may give rise to a requirement to review and reprioritise the existing capital programme in light of any additional expenditure needed to address the emerging risks, to ensure that capital expenditure plans remain affordable.
- If the extent of the issues associated with the existence of RAAC within PPP assets results in an impairment then this will impact on the planned application of fiscal flexibilities for service concession assets, agreed by Council in February 2023. This presents a risk to the Council's financial strategy, which set out plans to use the one-off increase to reserves for investment in critical enablers to support the delivery of a balanced budget.

3.15 In response to these issues, the Council may need to incur some urgent expenditure in excess of agreed budgets in order to meet its statutory responsibilities. Aligned to Standing Order 15.4, authority for approving any urgent and essential expenditure shall be delegated to the Chief Executive and Council's statutory Chief Financial Officer (Executive Director for Council Resources).

3.16 Aligned to existing approved mitigation measures, Members will be aware that a review of the capital programme remains ongoing given the wide range of concurrent and emerging financial risks and pressures. These include known and emerging structural challenges including the Loch Centre swimming pool, and Haddington Court Building. Constraints on the property maintenance budget will require this funding to be prioritised according to operational requirements, as well as asset condition and health and safety requirements. This may require some operational properties to be mothballed where repairs cannot be completed within allocated budgets, and the delays gives rise to health and safety concerns. Alongside this, a number of significant planned capital projects have in tender prices significantly in excess of approved budget levels. Given these collective range of risks and pressures officers are currently considering a range of options and recommended next steps and an update report will be presented to a future Council meeting.

3.17 Aside from property related risks, delivery of approved budget savings proposals will be monitored closely and reported to Council through quarterly financial update reports. To date, there remains concern around the deliverability of circa £0.5m of the savings agreed by Council in the current financial year, and alternative options may need to be sought in order to offset any adverse impact on the budget.

- 3.18 Further potential risks to the Council's financial position arise from the delivery of financial savings within the IJB delegated services, and this has been reflected in the Council's Corporate Risk Register under managing the financial environment. While the responsibility for budget planning sits within the IJB and is not within the Council's control, aligned with the Scheme of Integration, should budget pressures arise which cannot be met within appropriate cost mitigation factors, these costs will fall on the responsibility of respective funding partners, including the Council. Assumptions within IJB financial planning have been identified as carrying a significant risk of budget overspend which it may not be possible to offset in full against planned efficiencies. If this risk materialises, it will create an additional demand on the general fund balance. The funding assumptions reflected within IJB medium-term financial plans for Council delegated services remains subject to ongoing discussions between the Council and IJB officers.

Update on agreed mitigation measures

- 3.19 At the last meeting of Council, on 25 April 2023, Members received an update on current mitigation measures and it was agreed at that meeting, that a further update would be brought to the meeting.
- 3.20 In light of the risks outlined in the preceding paragraphs and aligned to Council decision, these existing measures will remain in place until further notice to mitigate the impact of budget overspends on the Council's financial position.
- 3.21 The previous report included a number of additional mitigation measures which were subject of ongoing consideration, and include Common Good budgets which is subject to a separate report in this Council agenda, and ongoing review of Community Intervention Fund, which will be considered as part of the wider and ongoing review of the Capital programme and infrastructure requirements.
- 3.22 An update on the status of the Brunton Hall, along with other buildings impacted by the discovery of potentially defective RAAC will be presented to a future meeting of Council following collation of options and recommended next steps.

Reserves Strategy

- 3.23 The Council holds balances in reserves for a range of different purposes:
- Unusable reserves reflect balances created through statutory accounting adjustments which cannot be spent and usable reserves are comprised of balances which have been earmarked to meet future costs related to a specific purpose, and amounts set aside as contingency for unforeseen events.
 - The usable reserve balances includes amounts which are required to be held separately from other balances, including IJB and Housing Revenue account reserves, as well as amounts which have been ringfenced through local policy decisions.

- 3.24 The budget for the current financial year incorporates planned use of reserves of £7.378m. It will not be possible to sustain this in future years, and the budget development principles agreed by Council include a commitment to minimising the use of one-off resources to balance the budget.
- 3.25 In light of the acute financial challenges and budget pressures which the Council faces over the medium term, the financial strategy 2023–2028 agreed by Council in December 2022 recognises that reserves could be used to enable investment needed in measures which will deliver a sustainable benefit to the revenue account. This could include investment in the following critical enablers which are identified within the strategy:
- Investing in digital transformation
 - Resourcing and enabling the asset review
 - Support for service reviews & wider transformation
 - Cost reduction through energy efficiency
 - Investment in early intervention and prevention
 - Developing and growing income streams
- 3.26 The table below sets out the closing balance on the general fund and earmarked balances, based on the provisional outturn position. At 31 March 2023, the total balance on general fund earmarked and unallocated balances was £26.214m (noting that this excludes the Insurance Fund, Capital Receipts Reserve, and Capital Grants and Receipts Unapplied). £7.2m of this represents the target minimum unallocated balance on the general fund aligned to the financial strategy agreed by Council in December 2022. The presentation of earmarked reserves reflects some rationalisation and repurposing of previously earmarked sums, compared with previous formats.
- 3.27 These results remain in draft pending completion of the statutory audit.

Earmarked Balance	Balance at 1 April 2023
	£000s
Committed for Future Budgets	(8,524)
Transformation Fund	(5,826)
Ring-fenced Funds & Other Balances	(2,253)
Devolved School Management Balances	(1,148)
Empty Homes Premium for Affordable Housing	(1,463)
Total Earmarked Balances	(19,214)
Uncommitted General Fund (General Services) Balance	(7,200)
Total General Fund (General Services) Balance	(26,414)

Table 2: Earmarked balances at 31 March 2023 (provisional)

3.28 This shows the following:

Committed for future budgets

- £8.524m represents the planned drawdown of reserves for 2022/23 which was not required due to the application of mitigation measures, as reported in the 2022/23 Finance Update Report elsewhere on this agenda. £7.378m of this balance has already been committed for the current financial year through the 2023/24 budget agreed by Council and at this stage it is proposed that the residual £1.1m is retained as contingency to offset in year budget pressures in light of the emerging risks detailed within this report.

Transformation Fund

- This line amalgamates the Cost Reduction Fund and residual funding for COVID-19 Recovery and Renewal. In line with the financial strategy 2023/24–2027/28, balances within this earmarked reserve will be used for investment in critical enablers to support the delivery of sustainable financial planning.
- Aligned to Council's decision on 28 February 2023 to apply fiscal flexibilities to service concession assets, we anticipate that this reserve will increase due to the backdated application of the new accounting treatment. The exact value will be determined through a review of useful lives for service concession assets; however, as stated previously, there is a risk that the one-off increase in reserves will be lower than initially anticipated due to the potential impairment of one or more PPP schools.
- The Council decision to apply service concessions was aligned to a commitment to reviewing the opportunities for deploying the surplus at a future Council meeting, including recommendations for deploying the short-term benefits of service concession flexibilities in order to support the development of a balanced budget in future

years. The proposed allocations have been summarised within table 3 below, with further detail contained in the subsequent paragraphs.

Ring-Fenced Funds and Other Balances

- This earmarked reserve has been established to support specific funding commitments within service areas relating to previously committed expenditure obligations which have not yet materialised and includes balances which have been legally ring-fenced for a specific purpose.

Devolved School Management Balances

- These funds represent balances established from both Primary and Secondary Devolved School Management schemes.

Empty Homes Premium for Affordable Housing

- This balance represents amounts which have been earmarked to support the delivery of affordable housing, arising from the removal of discounts for second and empty homes.

3.29 Although the 2023/24 budget incorporates planned use of reserves, the financial strategy and budget development principles include a commitment to minimise this. With this in mind, the below indicative allocation of the transformation fund is recommended, aligned to the critical enablers identified within the financial strategy. The proposed allocations below represent one-off funding which may be spent across multiple financial years, but is non-recurring in nature. These are provisional allocations which will be subject to ongoing review.

Transformation Fund - Proposed Allocation	£000
Asset review	1,500
Digital Transformation	5,000
Service Redesign & Income Generation	3,500
Early Intervention	1,000
Energy Transformation	800
Existing commitments	3,000
Contingency	1,826
	14,800*

Table 3: Indicative application of the Transformation Fund

*Based on assumed transfers in from service concession fiscal flexibility of £10m

3.30 Further detail on these areas is provided below:

Asset Review

- The proposed allowance of £1.5m is intended to cover staffing costs for progressing the place-based review of assets, as well as a revenue allowance to support the wider associated costs of delivering this project including surveys and consultation. Rationalising the Council's asset portfolio through a place-based

review of assets is a key corporate project which aims to develop a new service delivery model for communities.

- The approved budgets for 2023/24–2027/28 incorporate recurring revenue savings of £4.85m, and assumed capital receipts from the disposal of assets totalling £20m over the next 5 years.
- Investment to enable the advancement of this work is therefore considered to be a high priority and critical to the successful delivery of the financial strategy.
- Within the most recent budget consultation, 75% of respondents agreed or strongly agreed that the council should close buildings which are not well used in order to protect others and 77% agreed or strongly agreed that the council should sell some buildings to fund reinvestment in others.
- Projects will be overseen via the project board and existing governance structures: the Capital Investment & Asset Management Group, Corporate Asset Group and political consideration will be discussed at the established Cross Party Groups including Sustainability and Budget Forum.

Digital Transformation

- In addition to the replacement of key corporate systems, investment is required to review business processes to ensure that the benefits of digital transformation can be realised.
- The financial strategy identifies that the Council will need to upgrade or replace its financial management system in the coming years. Although this will represent a complex project with significant resourcing implications, support for the database and operating system for the current software will end in 2026 and 2027 respectively. The considerable benefits that will be derived from updating the legacy system, including greater efficiency and improved management information are fundamental to the successful delivery of the Council's financial strategy and to sound financial management, meaning that it is advisable to begin this process as soon as possible.
- Further considerations regarding the future of the Revenues & Benefits and HR & Payroll systems will also be required.
- The notional allocation of funding will support and enable the Council's Digital Strategy 2022–2027 which was adopted by Cabinet in January 2023.
- Within the most recent budget consultation, 76% of respondents agreed or strongly agreed that the Council should make greater use of digital technologies to deliver services more efficiently.
- Projects will be overseen via the project board and existing governance structures including the Digital Transformation Board.

Service Redesign & Income Generation

- The importance of redesigning internal processes and service delivery models to deliver efficient, cost effective modern services is recognised within the financial strategy, and the proposed investment is intended to fund some of the enablement that will be required to successfully deliver and accelerate these work streams.
- This was supported by 80% of respondents to the budget consultation survey who either agreed or strongly agreed that the Council should redesign services to make them more efficient in order to help reduce the budget gap.
- Some further investment is also required in order to support the ongoing work to grow the Council's income streams. This is important to our financial strategy as income generation will support the delivery of front line services and reduce the extent to which reductions are required.
- 44% of respondents to the budget consultation survey agreed or strongly agreed that the Council should increase income through raising fees and charges, and a further 20% of respondents had a neutral view on this.
- Projects will be overseen via the project boards and existing governance structures including the Executive Transformation Team.

Early Intervention

- The Council continues to report overspends in a number of demand-led services including Children's Services. Learning from other local authorities has identified that investing in service provision and early intervention initiatives over the medium term will produce longer-term positive results, and will be key to managing the cost pressures in this area, and this remains a key principle within the approved Financial Strategy.
- Options currently under consideration are connected to education services as well as the creation of an intensive support service for young people involved in complex offending and high-risk behaviour and increasing the Lothian Villa outreach service.
- 84% of respondents to the budget consultation survey agreed or strongly agreed that the Council should invest in prevention to help reduce demand for Council services.
- Projects will be overseen via the Transforming Services for Children project board, and existing governance structures including the Executive Transformation team.

Energy Transformation

- The allocation of funding represents an allowance for seed funding which could be used for the advancement of projects which support

the development of renewable energy sources as well as wider energy transformation initiatives.

- The amount set aside for this work stream may be used to support feasibility studies, development of business cases and funding applications and minor improvements to secure reductions in the amount that the Council pays for energy.
- 71% of respondents to the budget consultation survey agreed or strongly agreed that this is an area that the Council should invest in.
- Projects will be overseen via the Energy Transformation Board, and existing governance structures including political oversight through the Cross-Party Sustainability Forum.

Existing Commitments

- This represents an estimate of existing known commitments from the cost reduction fund which require funding on a non-recurring basis.

Budget Development Timeline & Next Steps

- 3.31 Previous reports to Council on the budget development framework have recognised the importance of supporting discussions on the budget throughout the year, and enabling Elected Members to actively contribute to the development of budget proposals, and the establishment of the cross-party group is considered to be key to enabling this.
- 3.32 As noted elsewhere in this report, the Council is facing a significant and unprecedented challenge to setting a balanced budget for 2024/25 and beyond. The table below outlines a proposed timetable and key next steps to future budget development.

	Meeting	Action
August 2023	Council	Report to consider key assumptions and high-level options for closing the budget gap for 2024/25 onwards.
August 2023	Council	Q1 budget monitoring report for 2023/24, including an update on agreed savings
August/October 2023	Council	Revised general services capital budget 2023/24 onwards
October 2023	Council	Period 5 financial update 2023/24
November 2023	Cabinet	Report to consider detailed budget savings proposals
December 2023	Council	Q2 financial update report, to include an overview of progress towards delivering agreed savings for 2023/24.
December 2023	Council	Financial & Capital Strategies 2024/25 onwards
January 2024	Cabinet	Overview of draft Local Government Finance Settlement
January 2024	Cabinet	Proposed fees & charges applicable from 1 April 2024
February 2024	Council	Agree GS capital & revenue and HRA budgets for 2024/25 onwards, including setting council tax and rent levels

Table 4: Budget development next steps

3.33 In addition, the Cross-Party Budget Working group will continue to meet on a regular basis throughout the year, to oversee the implementation of budget proposals in 2023/24 and to support the development of proposals to balance the budget from 2024/25 and beyond. Although not a forum for decision-making, this approach is intended to support the budget development process by ensuring that Members are sighted on the detail and impact of changes linked to budget decisions, to ensure that progress towards delivery of budget savings is on target and to act as an informal sounding board for ideas.

3.34 Further targeted budget consultation activity will continue, and the outputs will be used to inform future considerations around budget decisions. This will build upon the results of the initial online consultation on budget priorities, the results of which have been published in the Members' Library.

4 POLICY IMPLICATIONS

4.1 The council's budget and financial strategies should be a representation of the Council Plan and strategic priorities in financial terms. The proposals within this report are intended to support the effective delivery of policy objectives as far as possible.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 Equalities – impact assessments may be required for budget proposals which involve a significant change to delivery of services by East Lothian Council. Political groups will be provided with all relevant information relating to the potential impact of budget saving proposals as part of the budget development process.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – as described within the report
- 6.2 Personnel - none
- 6.3 Other – none

7 BACKGROUND PAPERS

- 7.1 Council – 29 March 2022 – Item 8 – Review of the Budget Development Process
- 7.2 Council – 28 June 2022 – Item 2 – Financial Outlook and Budget Development Framework 2023/24 Onwards
- 7.3 Council – 13 December 2022 – Item 4 – Financial and Capital Strategies
- 7.4 Council – 28 February 2023 – Budget Development 2023/24

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REPORT TO: East Lothian Council
MEETING DATE: 27 June 2023
BY: Executive Director for Council Resources
SUBJECT: Common Good Budget 2023/24

5

1 PURPOSE

- 1.1 To provide an update on Common Good Funds, and consider a budget for 2023/24, noting the status of financial implications arising from Common Good review, and that a further update will be brought back to Council in October 2023.

2 RECOMMENDATIONS

- 2.1 The Council is recommended to:
- Note the ongoing financial implications and risks relating to the current economic climate and ongoing financial review of Common Good;
 - Approve the 2023/24 grants budget for Dunbar, Haddington, Musselburgh and North Berwick as set out in Appendices 2a-2d, noting the context for future budget development;
 - Agree that given the wider financial challenges, a further update report on the emerging financial risks and associated implications will be brought back to Council in October 2023 for consideration.

3 BACKGROUND

- 3.1 The Council's approved Standing Orders and Scheme of Administration states the following:
- Council will approve an annual budget for each of the Common Good Funds that will include provision for the maintenance of assets and any committed items of expenditure.

- Each Common Good Committee has authority to approve the following for the benefit of the community:
 - Award a grant of up to £10,000
 - Approve revenue expenditure of up to £10,000 for the maintenance of the assets of the fund, if any individual award can be met within the overall approved budget.
- 3.2 Common Good investment income and funds should be used to maintain the Common Good asset base with any surplus funds being used to benefit the inhabitants of the area covered by the funds.

Budget Development

- 3.3 Council approved the Common Good budget for 2022/23 in June 2022. These budgets are updated annually, and take into consideration the following key components:
- a. Previous year review and updated fund balances;
 - b. Roll forward of indicative budgets, taking into consideration any updated assumptions relating to:
 - Projected expenditure commitments in particularly relating to ongoing repairs and maintenance of Common Good assets;
 - Projected income to the funds relating to rental income and investment income.
- 3.4 The funds have traditionally forecast to deliver a surplus, with levels of grants available to support the community set at a reasonable level to ensure the fund values could continue to meet current obligations and sustain a value of investment for future benefit.

2022/23 Financial Position

- 3.5 The draft 2022/23 financial position set out fund balances of all Common Good Funds including Cockenzie, Port Seton & Tranent at 31 March 2022 of £13.133 million, and is set out in more detail at **Appendix 1** of this report. This position includes accumulated fair value gains on financial instrument investments of £0.664 million. These gains are unrealised and should be regarded as deferred gains, i.e. they are profits on paper and will only be available for use if investments are sold. It would not be prudent for these gains to be used until they are realised. The impact of unrealised gains, and indeed potential losses, however, remains a considerable budgetary focus to ensure the ongoing liquidity and longevity of the fund.
- 3.6 The fund balances also reflect the historic cost of Common Good property assets amounting to £3.977 million. This excludes any gains from revaluation, which are held in the Revaluation Reserve, and represents the proportion of the value of property assets which the Common Good funds may direct to achieve their objectives. As previously reported to members, some properties are inalienable and therefore their values cannot be realised through sale of assets.

In effect, the means by which the value of these assets will be realised by the Common Good is continued use in service rather than any potential sale, disposal or distribution.

Current Position and Risks

3.7 Council is aware that a wider review of Common Good and associated financial implications for budget development has been ongoing for a number of years. This has included the following areas:

- The review and consultation to identify Common Good Assets has largely been concluded and an asset register is now publicly available online.
- The financial implications associated with this review to formalise arrangements for taxpayers' services use of Common Good assets remains subject to ongoing review, and a wider update on current status will be reported and lodged in Members' Library Services before the June 2023 Council meeting.
- An enhanced asset management plan to support future revenue and capital investment requirements in Common Good assets/properties is currently being updated. This will require significant financial investment in existing common good assets, which will need to be considered in setting future budgets, particularly ensuring the ongoing fund values can continue to support the repairs and maintenance of the Common Good asset base.
- The fund is supported by significant levels of investment which has been subject to ongoing market turbulence and has resulted in a decrease to the value of existing investments during 2022/23. Future investment returns remain subject to ongoing discussion with Treasury Investment advisers; however, given market uncertainty the liquidity and value of these funds remains a key risk. The need to ensure the ongoing viability of the investment funds remains essential to ensure the long-term benefits of the Common Good investments.
- As previously reported to Council there remains significant and ongoing challenges associated with Brunton Hall due to the identification of structural issues related to the use of Reinforced Autoclaved Aerated Concrete (RAAC). Detailed options appraisal surveys to consider viable solutions have been commissioned, but have yet to be finalised. This is likely to have significant financial implications and the affordability of any solution will need to be part of the wider consideration in terms of key next steps.

3.8 Whilst good progress has been made, the extent to finalising this work has continued to be constrained due to key service areas remaining in Business Continuity. In addition, the issue relating to RAAC has only in recent months been identified and officers are working as quickly as they can to undertake the options appraisal surveys.

2023/24 Budgets

- 3.9 Given the wide range of financial and ongoing risks and variables which may impact on future budgets, this must be balanced alongside the requirement for Common Good Committees to have some certainty in approved budgets to consider any grant applications during 2023/24.
- 3.10 As such, it is recommended Council approve a 2023/24 budget, which has been rolled forward from previous approved budget, and updated with the assumptions set out in the section below. Future years' budgets will be considered at a later date pending finalisation of the wider review, and future Common Good Budget development to be set within the context of medium-term financial planning.
- Based on commentary from the appointed investment managers, and current forecast market conditions, no assumption has been made to reflect an investment return during 2023/24. Given the continued market uncertainty, this position will remain under close review during the financial year and remains a key area of risk.
 - No assumption has been made relating to the wider financial implications arising from the Common Good review as detailed above. Given the current emerging risks, this remains a critical area of risk and progress on this work will remain a key area of focus.
 - Grant levels for each of the Common Good funds remains consistent with those approved for 2022/23, the levels of which will remain subject to change given both investment and future asset management investment requirements.
 - The 2022/23 accounts are still being finalised, and therefore the fund balances remain in draft pending finalisation of the audited accounts.
- 3.11 Noting the restrictions set out above, the draft budgets for 2023-2024 for each of the Common Good Funds are set out in **Appendix 2a-d** of this report for consideration and approval.
- 3.12 A further update report will be brought forward to Council in October to provide an update on current progress and status of emerging financial risks. This may include any necessary changes to draft budgets pending clarification on the financial status of the funds.

4 POLICY IMPLICATIONS

- 4.1 There are no direct policy implications associated with this report, although ongoing monitoring and reporting of the Council's financial performance is a key part of the approved Financial Strategy.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report has been considered and given there is no change in policy direction, there is no requirement to undertake any further impact assessment.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – as described above
- 6.2 Personnel - none
- 6.3 Other – none

7 BACKGROUND PAPERS

- 7.1 Council 28 June 2022 – Item 4 Common Good Budgets 2022/23

AUTHOR'S NAME	Ellie Dunnet
DESIGNATION	Head of Finance
CONTACT INFO	edunnet@eastlothian.gov.uk
DATE	15 June 2023

Appendix 1 - Common Good Fund Balances 2022/23

Fund	22/23 Fund Balance	Balance Related to Unrealised Fair Value Gains on Investments	22/23 Fund balances (Excluding Investments fair value movements)	Historic Cost of Property Assets (PPE)	22/23 Fund Balance (excluding FV Investments and Historic Cost of PPE)
<i>Balances at 31/03/2023 (unaudited financial statements)</i>	£'000	£'000	£'000	£'000	£'000
Dunbar	970	6	964	730	234
Haddington	820	15	805	208	597
Musselburgh	9,217	608	8,609	1,489	7,120
North Berwick	1,703	35	1,668	1,135	533
TOTAL*	12,710	664	12,046	3,562	8,484
Cockenzie, Port Seton & Tranent	423		423	415	8
TOTAL COMMON GOOD FUND BALANCE	13,133	664	12,469	3,977	8,492

*Fund balances may be subject to variation based on common good grants awarded since April.

Appendix 2 - Summary

Consolidated Common Good Income & expenditure Budget

	Approved	Draft budgets
	Budget 2022/23 £000	Indicative Budgets 2023/24 £000
Expenditure		
Premises - Repairs & Maintenance	97	97
Premises - Rates	29	29
Supplies & Services	61	61
Grants	199	174
Depreciation	86	86
Total Expenditure	472	447
Income		
Rents & Other Income	-488	-488
Interest / Investment Income (inc realised gains and losses on sale of investments) *	-2	-2
Dividend income *	-83	-83
Total Income	-573	-573
Cost of Services	-101	-126
Net Surplus for the year	-101	-126
Common Good Balance *	-11,292	-12,046
Accumulated Fund	-11,393	-12,172

Appendix 2a

Dunbar Common Good Income & expenditure Budget

	Approved	Draft budgets
	Budget 2022/23 £000	Indicative Budgets 2023/24 £000
Expenditure		
Premises - Repairs & Maintenance	20	20
Premises - Rates	0	0
Supplies & Services	4	4
Grants	4	4
Depreciation	30	30
Total Expenditure	58	58
Income		
Rents & Other Income	-19	-19
Interest / Investment Income (inc realised gains and losses on sale of investments) *	0	0
Dividend income *	-1	-1
Total Income	-20	-20
Cost of Services	38	38
Net Deficit for the year	38	38
Common Good Balance *	-996	-964
Accumulated Fund	-958	-926

* Excluding unrealised gains and losses on the fair value of investments

Appendix 2b

Haddington Common Good Income & expenditure Budget

	Approved	Draft budgets
	Budget 2022/23 £000	Indicative Budgets 2023/24 £000
Expenditure		
Premises - Repairs & Maintenance	1	1
Premises - Rates	0	0
Supplies & Services	1	1
Grants	10	10
Depreciation	0	0
Total Expenditure	12	12
Income		
Rents & Other Income	-27	-27
Interest / Investment Income (inc realised gains and losses on sale of investments) *	0	0
Dividend income *	-2	-2
Total Income	-29	-29
Cost of Services	-17	-17
Net Surplus for the year	-17	-17
Common Good Balance *	-767	-805
Accumulated Fund	-784	-822

* Excluding unrealised gains and losses on the fair value of investments

Appendix 2c

Musselburgh Common Good Income & expenditure Budget

	Approved	Draft budgets
	Budget 2022/23 £000	Indicative Budgets 2023/24 £000
Expenditure		
Premises - Repairs & Maintenance	45	45
Premises - Rates	24	24
Supplies & Services	52	52
Grants	150	150
Depreciation	51	51
Total Expenditure	322	322
Income		
Rents & Other Income	-404	-404
Interest / Investment Income (inc realised gains and losses on sale of investments) *	-2	-2
Dividend income *	-76	-76
Total Income	-482	-482
Cost of Services	-160	-160
Net Surplus for the year	-160	-160
Common Good Balance *	-7,910	-8,609
Accumulated Fund	-8,070	-8,769

* Excluding unrealised gains and losses on the fair value of investments

Appendix 2d

North Berwick Common Good Income & expenditure Budget

	Approved	Draft budgets
	Budget 2022/23 £000	Indicative Budgets 2023/24 £000
Expenditure		
Premises - Repairs & Maintenance	31	31
Premises - Rates	5	5
Supplies & Services	4	4
Grants	10	10
Depreciation	5	5
Total Expenditure	55	55
Income		
Rents & Other Income	-38	-38
Interest / Investment Income (inc realised gains and losses on sale of investments) *	0	0
Dividend income *	-4	-4
Total Income	-42	-42
Cost of Services	13	13
Net Surplus for the year	13	13
Common Good Balance *	-1,619	-1,668
Accumulated Fund	-1,606	-1,655

* Excluding unrealised gains and losses on the fair value of investments

REPORT TO: East Lothian Council
MEETING DATE: 27 June 2023
BY: Executive Director for Council Resources
SUBJECT: Trust Funds Review 2022/23

6

1 PURPOSE

- 1.1 To inform the Council of potential options for the future stewardship of Trust Funds in its care and seek approval in relation to the future direction of the review project.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Council:
- Agree in principle the proposal to explore the transfer of stewardship and administration of the Trust Funds to a specialist third party, noting that this excludes the Richardson Bequest.
 - Authorise the Head of Finance to consult with Group Leaders to progress the transfer of stewardship to a specialist third party, subject to confirmation that this option will maximise best value for the Trust Funds.
 - Note that some funds, particularly those with property assets, may be retained within the stewardship and administration of the Council. In that event a framework for stewardship and administration for those funds will be developed.

3 BACKGROUND

Current Position and Reason for Review

- 3.1 The Council is responsible for the stewardship of Trust Funds. These funds are not taxpayer funds and are subject to use under the terms of the deeds, will and bequests which established the funds. The administration of the Richardson Bequest is being considered separately as there are ongoing legal proceedings seeking to secure the release of these funds. This paper relates to the remaining 45 Trust Funds. One fund (the Dr Bruce Fund) is [monitored by OSCR as a registered charity](#). As at 31/03/23

the unaudited annual accounts include reserve balances of some £2.870m for these funds. The largest is some £0.684m, the smallest is £0.001m (see Appendix A).

- 3.2 Audit Scotland have noted that “There is a risk that trust funds held could become dormant due to lack of use and lack of wider knowledge in the community as to their existence. If charitable objectives are not being met, there is scope for OSCR to withdraw the charitable status of the funds.” They have recommended that to meet funds’ objectives and discharge trustees duties appropriately the Council should, for example, consider whether there is scope to consolidate any or all of the trusts and promote the availability of the funds. This paper seeks to address the concerns raised by Audit Scotland, and provide recommendations which will enable the respective trust fund objectives to be met.

Objectives and Areas for Change

- 3.3 The status quo is not considered to be a viable option and will not represent an adequate response to the Audit Scotland findings or enable the Council to fulfil its responsibilities in relation to Trust Funds. The overall requirement is therefore to implement changes which will ensure the effective fulfilment of the Trust Funds’ objectives in a manner which provides value for money for the Trust Funds, without the use of taxpayer funding. It is considered that this will, at a minimum, require changes in the following aspects:
- Review of each Trust’s objectives, and appropriate modification where the objectives are identified as being impractical to comply with (e.g. funds established for the provision of coal).
 - Governance arrangements, for instance formal scheduled meetings of the Trustees of each fund
 - Publicity of Trust Funds’ availability and the required criteria for applications (or use) for each fund
 - Grant application process and evidence required to support applications or use
 - Assessment of grant applications or fund use proposals
 - Payment of grants and/or implementation of use proposals
 - Other relevant administration and governance support.
- 3.4 In considering the above, two initial key options have been identified which are outlined below.
- 3.5 Stakeholder engagement and consultation would also be envisaged as informing the development of the options.
- 3.6 Ensuring that the benefits and costs of any proposal provides value for money is critical.
- 3.7 Legal Services’ review of any proposal will also be required to minimise and manage the risk of the Council failing to properly perform its duties for the funds in its care.

Option: Investment in Council Capacity to Support Trust Funds

3.8 The Council can choose to retain stewardship and administration responsibilities by using Trust Fund balances to implement:

- Trust Funds consolidation and re-organisation, potentially merging some trusts where possible. This may require seeking court approval for trust deed changes. Where allowed it may also involve the full exhaustion of some funds (e.g. awarding grants to fully utilise the existing fund balance).
- Governance changes through the establishment of a more formal committee structure for Trust Fund matters, with regular Councillor participation, officer support for agendas, minutes and communications, identification of relevant Councillors for consideration of each Fund (primarily on an area basis)
- Outreach changes to publicise and inform local communities and individuals of the availability and criteria of grant support in each area or for each client group
- Grant application and fund use proposals changes, including a process for fund use proposals to be invited and evaluated, a formal application form, evidence requirements to accompany applications, a formal evaluation process, payment of grants, assessment of whether outcomes have been achieved, and criteria for recovery of monies where relevant.
- Appropriate professional support relating to legal, governance and financial aspects of the Trust Funds' activities. This would include monitoring and reporting of financial information; internal and external audit functions; liaison with the Investec investment management advisers; OSCR registration and liaison; and legal consideration of applications or changes in legislation where relevant.

3.9 This option is not recommended on the bases that:

- Any costs incurred by the Council will be recharged to the Trust Funds. This is considered unlikely to provide value for money for the Trust Funds given that the fixed costs associated with this option will be disproportionate to the levels of funds available for distribution. However, the cost of this arrangement will be reviewed against the alternatives with a view to maximising best value for the Trusts and ensuring that the most cost effective solution is implemented.
- The Council does not currently have sufficient in-house expertise to administer the Trust Funds, or capacity to prioritise this alongside other demands. It would need to procure these, through extra staff or external service provision.

- Councillors may potentially face a conflict of interest where an applicant specifically requests their support or is known to them. This may mean that a Councillor would be unable to fulfil their role as a fund Trustee in considering grant award or fund use decisions.

3.10 Further investigation of this option would need to more definitely establish the implementation of such changes. This would include more detailed estimation of the staff expertise and time, the physical resources, and the third party services required, as well as the availability of these resources.

Option: Transfer Responsibilities to a Specialist Third Party

3.11 The Council can choose to transfer stewardship and administration responsibilities to a specialist third party. The third party concerned would be an OSCR registered charity with a specific focus on maximising, for benefit at a geographic locality level, the use of dormant charity funds. This arrangement could be open to flexibility and specification dependent on the extent to which the Council wishes to maintain Councillors' involvement in grant award and fund use decisions.

3.12 Key aspects for consideration under this option include:

- This would not involve immediate investment of Trust Fund balances in establishing a framework of support for the Trust Funds. Instead the third party would adopt stewardship and administration responsibilities, subsuming these into their existing framework for other charities.
- The third party would charge each Trust Fund with a service fee. The extent of fee would depend on the complexity of the administration and the exact nature of any agreement between the Council and the third party in transferring the trusts. This would remain subject to review relative to the costs of creating an in-house service, with a view to implementing the arrangement which will offer best value to the Trusts.
- The Council would require to specify the use of each fund as part of any transfer, including reference to trusts deeds, etc., geographic area, and beneficiary criteria. In doing so, the Council can undertake some consolidation work to reduce the number of trusts, particularly combing trusts in the same area and with similar purposes together.
- Specification as to the extent of Councillors' involvement in the grant award process is possible.
- As part of any potential transfer of Trust Funds to a third party to administer, the Council will be able to specify the level of involvement and regarding the use of funds. With this in mind, the opportunity to promote the utilisation of balances held within trust funds, aligning with council plans, such as the Council's Poverty

Plan, which are consistent with the objectives of the trusts will be explored further as part of this review.

- Specification as to whether the funds transferred are to be maintained in perpetuity (i.e. only the interest earned is available for awards) or can be consumed (i.e. reduced over time) through grant award will be required.
- Transfers of land and building assets would not be possible, and therefore three Trust Funds may remain with the Council.
- The pooled investment fund currently managed by Investec would need to be disaggregated. Transfer of existing investments held may be acceptable however there could be a requirement to realise investments held for cash which would require significant liaison with Investec.
- Transfer of the Trust Funds may involve some minor loss of income to Council services for recharges made to the Trust Funds. This should free up relevant resources to then support taxpayer services.

3.13 This option is recommended on the grounds that it would improve achievement of the objectives of the Trust Funds while providing better value for money for the Trust Funds. This is on the bases that the arrangement would provide:

- A more cost effective solution for the trust funds.
- Application of an existing stewardship and administration framework
- Expertise in utilising and re-purposing dormant charity funds in liaison with OSCR
- Local contacts and alternative support delivery options within East Lothian for the granting and use of funds
- Expertise in the legislative requirements relating to Scottish charity law
- Scope, dependent on the transfer agreement, for some level of Councillor involvement or influence in the grant award or fund use decision-making process
- The ability for Councillors, and officers, to publicise the role and availability of the transferred funds to potential beneficiaries.

3.14 The further investigation of this option will involve more detailed discussion with the third party, particularly regarding the potential nature and wording of any transfer agreement. Some funds, especially those with property assets, may not be able to be included in a transfer.

4 POLICY IMPLICATIONS

- 4.1 Changes to the Trust Funds arrangements should primarily be assessed in terms of the Council's responsibilities for the Trust Funds. The options above are considered to support this through more active use and governance of Trust Funds for East Lothian area beneficiaries.
- 4.2 The options above are also considered to align with the Council's stated policy regarding growing our people, growing our communities, and growing our capacity. Public perception and reaction to any proposals may be a consideration.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report has been through the Integrated Impact Assessment process and no negative impacts have been identified.

6 RESOURCE IMPLICATIONS

- 6.1 Financial –The effectiveness of Trust Funds should be improved, with a key consideration being the value for money offered by each alternative. If a transfer approach is adopted there may be some minor loss of income to the Council; however, this should free up resources for taxpayer service support.
- 6.2 Personnel - Enhancement of Council support for Trust Funds would involve Council staff, with recharges to the Trust Funds on an ongoing basis for this. Where relevant a share of sick leave cover, maternity leave, redundancy and other costs may be involved. Transferring to a third party would involve staff time in initial discussions and finalisation with no significant staff time envisaged as involved after that.
- 6.3 Other – Legal services review of any proposals or option determined will be required, and a risk assessment regarding the Council's reputation and legal duties would be appropriate.

7 BACKGROUND PAPERS

- 7.1 Audit & Governance Committee – 1 November 2022 – 2021/22 Annual Audit Report

AUTHOR'S NAME	Gareth Davies Ann-Marie Glancy Ellie Dunnet
DESIGNATION	Principal Accountant (Financial) Service Manager (Corporate Accounting) Head of Finance
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DATE	9 June 2023

Appendix A	Draft (unaudited) balances at 31/03/23	
	Fund	Property Assets
John Hume Fund	£447,880.00	£683,701.11
Brown Bequest		£364,367.41
James McKelvie Bequest		£292,285.56
Wrights & Masons Trust	£318,087.65	£235,331.01
New Hall Fund		£205,343.29
Yester Precious Lands	£170,000.00	£156,757.34
T&AR Taylor Trust		£146,545.40
Dunbar Memorial Trust		£142,867.46
Haddington Combined Trust		£77,915.10
Coronation Fund		£64,521.90
Gourlay Trust		£50,168.94
Museums Purchases Fund		£46,835.22
Frank Tindall Trust		£40,097.22
Dirleton Parish Fund/ Lady Hamilton Bequest		£34,946.66
Inveresk Churchyard		£30,356.37
Thomas Carse Fund		£28,008.50
Jessie Dickson Mackay Fund		£25,984.55
WS Davidson Trust		£24,731.53
Burial Grounds Funds		£24,320.66
Christina Milne Bequest		£24,165.81
Dr Bruce's Fund		£20,310.66
Clark-Campbell Bequest		£13,997.14
Hamilton (Innerwick) Bequest		£13,655.84
Agnes Neillan Bequest		£13,076.03
Sailors Park Trust		£11,400.40
Oldhamstocks Parish Fund		£11,177.86
Belhaven Bequest		£10,529.94
Mrs Bridges Bequest (Musselburgh)		£9,875.16
Humbie Parish Fund		£9,643.10
Caplan Charity		£8,118.42
John Gray Trust		£7,357.18
James Hislop Legacy		£6,501.77
Bankton (Prestonpans) Bequest		£5,177.26
Brunton Bequest		£5,066.20
Lady Milne Memorial Fund		£3,609.90
Hamilton (Pencaitland) Bequest		£2,979.56
Helen Bridges Bequest (North Berwick)		£2,805.39
Bankton (Tranent) Bequest		£2,575.17
Midlothian Educational Trust		£2,520.34
Guildry Fund		£2,135.40
Yester Parish Fund		£1,921.53
Mrs M Brown's Legacy		£1,877.35
Guns Green		£1,520.90
James Easton Bequest		£1,329.77
Hamilton (Stenton) Bequest		£1,147.69
	£935,967.65	£2,869,561.00

REPORT TO: East Lothian Council

MEETING DATE: 27 June 2023

BY: Executive Director for Council Resources

SUBJECT: Council Tax for Second and Empty Homes, and Non-domestic Rates Thresholds: Proposed Consultation response

7

1 PURPOSE

- 1.1 To enable Council to consider the proposed response to the Scottish Government and COSLA consultation on council tax for second and empty homes, and non-domestic rates thresholds.

2 RECOMMENDATIONS

- 2.1 The Council is recommended to agree the proposed consultation response set out within Appendix 1, to be submitted by 11 July 2023.

3 BACKGROUND

- 3.1 Scottish Government has published a [joint consultation](#) with COSLA, which seeks views on giving local authorities the power to increase council tax on second homes and empty homes, as well as considering whether the current non-domestic rates thresholds for self-catering accommodation remain appropriate.
- 3.2 Consultation responses must be submitted before the closing date of 11 July 2023.
- 3.3 A proposed response to the consultation has been prepared by officers from Finance, Revenues, Policy and Economic Development, and this is enclosed within Appendix 1.

4 POLICY IMPLICATIONS

- 4.1 There are no direct policy implications which arise from submission of a consultation response. However, if the proposals within the consultation are implemented, then the Council will have additional powers to apply discretion to adopt policy which allows for a premium to be charged on council tax for second homes and long-term empty homes.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 Impacted assessments will be undertaken if any changes to policy are proposed in the future.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – there are no financial implications arising due to the submission of the consultation response. However, if the Council were to implement a premium on council tax for second homes and long-term empty homes in the future then this would create additional revenue.
- 6.2 Personnel - none
- 6.3 Other – none

7 BACKGROUND PAPERS

- 7.1 [Second Homes - Council Tax for second and empty homes, and non-domestic rates thresholds: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2023/06/14/Second_Homes_-_Council_Tax_for_second_and_empty_homes,_and_non-domestic_rates_thresholds_consultation_-_gov.scot)

AUTHOR'S NAME	Ellie Dunnet
DESIGNATION	Head of Finance
CONTACT INFO	edunnet@eastlothian.gov.uk
DATE	14 June 2023

Respondent Information Form

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

East Lothian Council

Phone number

01620 827827

Address

John Muir House, Brewery Park, Haddington, East Lothian

Postcode

EH41 3HA

Email Address

edunnet@eastlothian.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Questionnaire

Question 1

Do you think the current definition of a second home should continue to apply?:

More information:

For council tax purposes, the current definition of a second home is, 'a dwelling which is no one's sole or main residence and that is lived in for at least 25 days during the 12 month period of the council tax charge'.

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

The definition is acceptable but the terminology 'Second Homes' may be problematic given that in theory, this could refer to third/fourth etc properties.

Furthermore, there will need to be a mechanism which requires homeowners to declare that they have a second home, and support to enable the status of homes which meet this definition to be identified. We do not believe that the figures included as part of the consultation are accurate, this may be historical data from when discounts were offered on second homes. There will be little incentive to encourage homeowners to disclose this status in relation to their property and consider that this is an area which will be open to fraud and tax avoidance.

Question 2

Do you think the discount eligibility for job related dwellings and purpose built holiday accommodation is appropriate?:

More information:

Eligible job related dwellings and purpose built holiday accommodation are entitled to a council tax discount of 50%.

Purpose built holiday accommodation is defined as a dwelling that is used for holiday purposes and has a licence or planning permission limiting its use for human habitation throughout the whole year. An example might be chalets or other types of holiday accommodation that are either unsuitable to be occupied all year round (their construction may mean they are only suitable to be lived in during the warmer months) or are not allowed to be lived in all year due to planning, licensing or other restrictions.

Job-related dwellings are defined as homes owned by someone who has to live elsewhere for most or all of the time as part of their job, or the home the person occupies to undertake their job if the person has another home that is their main residence.

Answer:

- Yes
 No
 Don't know

Please give reasons for your answer.

Our view is that it should be for councils to determine an appropriate policy at a local level for this category of property.

Question 3

Do you think councils should be able to charge a council tax premium on top of regular council tax rates for second homes?

More information:

A premium is charging more than the full rate of council tax.

Answer:

- Yes
 No
 Don't know

Please give reasons for your answer.

We support the proposal to introduce scope for councils to charge a premium on second homes.
This will provide a source of revenue to councils which can be used to offset wider pressures and to support local services.
We believe that the impact on behaviour around second home ownership in our council area will be marginal rather than fundamental, so while there would be a need to consider the impact on tourism, local businesses and any potential unintended consequences, we are confident that this can be managed without any significant adverse consequences.

Question 4

If you have answered yes to question 3, what do you think the maximum premium councils could charge should be?

More information:

50% premium is the same as one and a half times the normal rate of council tax.
100% premium is double the normal rate of council tax
150% premium is two and a half times the normal rate of council tax
200% premium is three times the normal rate of council tax

250% premium is three and a half times the normal rate of council tax

300% premium is four times the normal rate of council tax

Answer:

- 50%
- 100%
- 150%
- 200%
- 250%
- 300%
- Other (specify)

Please give reasons for your answer.

Our view is that councils should be given delegated powers to apply a discretionary premium to second homes, on the basis of local factors. We would therefore support legislation which maximises flexibility for councils to set their own policies in this area.

If an upper limit were to be introduced through the legislation, then we believe that this should be set at 300% to allow for maximum flexibility within local policies.

Question 5

What factors should be taken into account by councils when deciding whether to introduce a premium on council tax for second homes?

More information:

A non-exhaustive list of potential factors is set out below:

- numbers and percentages of second homes in the local area
- distribution of second homes and other housing throughout the council area and an assessment of their impact on residential accommodation values in particular areas
- potential impact on local economies and the tourism industry
- patterns of demand for, and availability of, affordable homes
- potential impact on local public services and the local community
- other existing measures or policies that are aimed at increasing housing supply and the availability of affordable housing

Councils may also decide not to use the powers or to disapply a premium for a specific period of time.

A non-exhaustive list of examples of where a council might consider doing this include:

- where there are reasons why the home could not be lived in as a permanent residence
- where there are reasons why a home could not be sold or let
- where the owner's use of their accommodation is restricted by circumstances not covered by an exception from the premium
- where charging a premium might cause hardship

Answer:

Please list the factors and provide reasons for your answer:

We agree that all of the below factors should be taken into account:

- numbers and percentages of second homes in the local area
- distribution of second homes and other housing throughout the council area and an assessment of their impact on residential accommodation values in particular areas
- potential impact on local economies and the tourism industry
- patterns of demand for, and availability of, affordable homes
- potential impact on local public services and the local community
- other existing measures or policies that are aimed at increasing housing supply and the availability of affordable housing

We also agree that the below would be valid areas in which we might consider making an exception to charging the premium:

- where there are reasons why the home could not be lived in as a permanent residence
- where there are reasons why a home could not be sold or let
- where the owner's use of their accommodation is restricted by circumstances not covered by an exception from the premium
- where charging a premium might cause hardship
- where there could be a negative impact to the visitor economy

Question 6 (Not Applicable)

If you do, or were to, own a second home please tell us what you would do if the applicable rate of council tax were to increase, and the 'thresholds' to be classed as self-catering holiday accommodation for non-domestic rates purposes stayed the same?

More information:

The current threshold for defining premises as self-catering holiday accommodation liable for non-domestic rates is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

A private residential tenancy is when a registered landlord lets accommodation to an individual/s and it will be their sole or main residence. All tenancies created on or after 1 December 2017 are open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.

Answer:

- The home is (or would be) already used as self-catering accommodation and liable for non-domestic rates
- The home is (or would be) already used as a private residential tenancy and the tenant is liable for council tax
- I would continue to use it purely for personal use and pay the higher rate of council tax
- I would continue with split use between self-catering accommodation (below the non-domestic rates threshold) and personal use, and pay council tax
- My second home already has/would have split use between self-catering accommodation (below the non-domestic rates threshold) and personal use. Rather than pay the higher rate of council tax, I would increase the number of days the accommodation is available to let and actually let in order to meet the non-domestic rates thresholds
- My second home is purely for personal use. However, in order to stop paying council tax, I would make it available as self-catering accommodation for 140 days or more and actually let it for 70 days or more in order to be liable for non-domestic rates
- I use my second home purely for personal use but I would change its use to a private residential tenancy
- I use my second home as self-catering accommodation (below the non-domestic rates threshold) but I would change its use to a private residential tenancy
- I will seek reclassification as an empty home and pay council tax
- I will sell the second home

Question 7

Do you think councils should be able to charge a higher premium than the current 100% (double the full rate) of council tax on homes empty for longer than 12 months?

More information:

Councils currently have the discretion to charge up to 100% premium on council tax on homes empty for longer than 12 months.

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

As with the second homes premium, we welcome change that would enable councils greater flexibility within the policies which they set at a local level in this area. We would also support any change which may help to discourage home owners from allowing properties to remain empty for a prolonged period of time when housing is in short supply.

Question 8

If you have answered yes to question 7, what do you think the maximum premium councils could charge should be?

More information:

This question is asking what the maximum premium should be for homes that have been empty for longer than 12 months.

The current maximum is 100% premium, which is double the normal rate of council tax.

Answer:

- 150%
- 200%
- 250%
- 300%
- Other (specify)

Please give reasons for your answer.

As noted above - we support change that would enable councils the greatest degree of flexibility in adopting a local policy in this area.

If an upper limit were to be introduced through the legislation, then we believe that this should be set at 300% to allow for maximum flexibility within local policies.

Question 9

Do you think there should be a stepped approach to charging higher rates of council tax on long-term empty homes?

More information:

By 'stepped approach' we mean only giving councils powers to charge higher rates of council tax the longer the home is empty. For example, 100% premium at 12 months, 200% premium at 2 years, 300% premium at 5 years.

100% premium is the same as double the normal amount of council tax.

200% premium is the same as three times the normal amount of council tax

300% premium is the same as four times the normal amount of council tax.

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

We feel that councils should be able to set their own policies on this, including discretion to implement a stepped approach to the higher charge.

Question 10

Are there any exceptions that are not already taken into account, that should be, when charging a premium of council tax on homes empty for longer than 12 months?

More information:

Current discretionary powers for councils to change council tax liability for empty homes

Status of empty home	Up to 6 months	6-12 months	12 months +	2 years +
No work underway and not for sale or let	Owner may apply for an unoccupied and unfurnished exemption	Discount can be varied between 50 and 10%	Discount can be varied between 50 and 10% or discount can be removed or premium of up to 100% can be applied	Discount can be varied between 50 and 10% or discount can be removed or premium of up to 100% can be applied
If undergoing repair work to make them habitable	50% discount cannot be changed	Owner may apply for a major repairs or structural alterations exemption. Discount can be varied between 50 and 10%.	Discount can be varied between 50 and 10% or discount can be removed or premium of up to 100% can be applied.	Discount can be varied between 50 and 10% or discount can be removed or premium of up to 100% can be applied.
If being actively marketed for sale or let	50% discount cannot be changed	50% discount cannot be changed	50% discount cannot be changed	a premium of up to 100% can be charged

The current list of exemptions to council tax are:

Exemption	Period of Exemption
Dwellings last occupied by charitable bodies	Up to 6 months
Dwellings last occupied by persons living or detained elsewhere	Unlimited
Deceased owners	Unlimited up to grant of confirmation
	6 months after grant of confirmation
Dwellings empty under statute	Unlimited
Dwellings awaiting demolition	Unlimited
Dwellings for occupation by ministers	Unlimited
Dwellings occupied by students, etc.	Unlimited
Repossessed dwellings	Unlimited
Agricultural dwellings	Unlimited
Dwellings for old or disabled persons	Unlimited
Halls of residence	Unlimited
Barracks, etc.	Unlimited
Dwellings occupied by young people	Unlimited
Difficult to let dwellings	Unlimited
Garages and storage premises	Unlimited
Dwellings of persons made bankrupt	Unlimited
Visiting forces	Unlimited
Dwellings occupied by severely mentally impaired persons	Unlimited
Prisons	Unlimited
Prescribed housing support services accommodation	Unlimited

Answer:

Please tell us about exemptions that you feel should apply and give reasons for your answer. Do not include exemptions that are already provided for.

We consider that the above exemptions are appropriate and would not add anything further to this other than:

- clarity around the definition of 'minister'
- correction to clarify that prisoners are entitled to the exemption (not prisons as stated)

Question 11

What factors should be taken into account by councils when deciding whether to introduce a premium on council tax for homes empty for longer than 12 months?

More information:

A non-exhaustive list of potential factors might be:

- numbers, percentages and distribution of long-term empty homes throughout a local area
- potential impact on local economies and the community
- patterns of demand for, and availability of, affordable homes
- potential impact on local public services
- impact on neighbours and local residents

Councils may also decide not to use the powers or to disapply a premium for a specific period of time. A non-exhaustive list of examples of where a council might do this include:

- where there are reasons why a home could not be sold or let
- where an offer has been accepted on a home but the sale has not yet been completed and the exception period has run out
- if the home has been empty for longer than 12 months but has been recently purchased by a new owner that is actively taking steps to bring the home back into use
- if an owner has submitted a timely planning application or is undergoing a planning appeal that is under consideration by the council or Scottish Government. This means they cannot undertake work to bring the home back into use until that process is concluded
- where charging a premium might cause hardship or act as a disincentive to bringing the home back into use e.g. where extensive repairs are actively being carried out

Answer:

Please list factors and give reasons for your answer.

We consider that the below factors are all relevant:

- numbers, percentages and distribution of long-term empty homes throughout a local area
- potential impact on local economies and the community
- patterns of demand for, and availability of, affordable homes
- potential impact on local public services
- impact on neighbours and local residents

We also consider that the following factors may be appropriate to consider as potential exemptions from the premium:

- where there are reasons why a home could not be sold or let
- where an offer has been accepted on a home but the sale has not yet been completed and the exception period has run out
- if the home has been empty for longer than 12 months but has been recently purchased by a new owner that is actively taking steps to bring the home back into use
- if an owner has submitted a timely planning application or is undergoing a planning appeal that is under consideration by the council or Scottish Government. This means they cannot undertake work to bring the home back into use until that process is concluded
- where charging a premium might cause hardship or act as a disincentive to bringing the home back into use e.g. where extensive repairs are actively being carried out

Question 12 – Not Applicable

If you do, or were to, own a home that has been empty for longer than 12 months, please tell us what you would do if your council decided to increase the maximum council tax charge above 100% premium?

More information:

Council tax premium:

- 100% premium is the same as double the normal rate of council tax. This is the current maximum councils can decide to charge. This question asks what you would do if councils are given powers to charge more than this e.g. up to 300% premium/ four times the normal rate and the council where your empty home is located decided to apply an increase.
- You may find it helpful to view what we mean by some of the options given e.g. short-term lets and private residential tenancies.

Short-term lets:

- In this consultation, short-term lets is a term used to refer to the whole or part of accommodation provided to one or more guests on a commercial basis that does not become the main residence of the guest/s. Self-catering accommodation is a type of short-term let and may be liable for council tax or non-domestic rates depending on the number of days they are available to let and actually let in the financial year.
- Self-catering accommodation must be available for let for 140 days or more and actually let for 70 days or more in the financial year, to be exempt from council tax and liable for non-domestic rates

Private residential tenancies:

- A [private residential tenancy](#) is when a registered landlord lets accommodation to an individual/s and it will be their sole or main residence. All tenancies created on or after 1 December 2017 are open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.

Answer:

- Leave the home empty and pay the higher council tax
- Sell the empty home
- Use the home as a private residential tenancy
- Use the home as a short-Term Let
- Other (specify)

Please give reasons for your answer.

Not applicable.

Question 13

Do you think that the letting thresholds for self-catering accommodation for non-domestic rates should be changed?

More information:

The owners, tenants or occupiers of self-catering accommodation (who may be businesses, the public or the third sectors) may be liable for either council tax or non-domestic rates. This includes owners of second homes who use them for self-catering accommodation.

The current threshold for defining premises as self-catering holiday accommodation liable for non-domestic rates is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

The threshold should not be reduced and consideration needs to be given to increasing this.

We feel that there needs to be change in this area in order to not undermine the implementation of a second homes premium which would incentivise home owners to pursue a non-domestic rates valuation in order to avoid a higher council tax charge.

We consider that the Small Business Bonus Scheme for this type of property represents a potential loophole to ratepayers which should be closed in order to not undermine the implementation of the second homes premium.

We recognise that many self-catering properties operate as legitimate businesses with owners who depend on the income they receive from these.

Question 14

If you have answered yes to question 13, what do you think the threshold for the number of days self-catering accommodation must actually be let for should be?

More information:

The current threshold is self-catering accommodation must actually be let for 70 days in the financial year.

Answer:

- 50 days
- 100 days
- 140 days
- 180 days
- Other (specify)

Please give reasons for your answer.

As noted above, we believe that review is necessary in order to minimise the scope for tax avoidance, and lost income to councils from ratepayers choosing to pay non-domestic rates, rather than council tax.

We would suggest that this should be informed by data on actual occupancy to determine what level might be reasonable.

There are also some challenges to way in which these thresholds are monitored currently.

Question 15

If you have answered yes to question 13, what do you think the threshold for the number of days self-catering accommodation must be available to let should be?

More information:

The current threshold is self-catering accommodation must available to let for 140 days in the financial year.

Answer:

- 120 days
- 160 days
- 200 days
- 250 days
- Other (specify)

Please give reasons for your answer.

The current legislation allows for the definition of self-catered accommodation to be met despite being available for let for less than half the year and consider that genuine businesses would be able to meet a higher threshold than this.

We also believe that this may have a positive impact on the tourism economy, by increasing the availability of bookable self-catered accommodation.

Question 16

Do you think councils should have discretion to change the self-catering accommodation 'days actually let' threshold, for their local area?

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

This would create significant complexity within the system given that councils do not have the power to apply status changes to the valuation roll.

Question 17 – Not applicable.

If you answered yes to question 16 do you think that councils should have discretion to:

Answer:

- Increase the number of days actually let only
- Decrease the number of days actually let only
- Increase or decrease the number of days actually let

Please specify if you think councils should have discretion to do something else

Please give reasons for your answer

Not applicable.

Question 18

Do you have any other comments on the non-domestic rates system in respect of self-catering accommodation?

Answer:

Please provide your views

As a general point, we consider that second homes should attract council tax, rather than non-domestic rates and that steps should be taken to close loopholes in this area which would enable payment of council tax or rates to be avoided.
We consider that the SBBS should be awarded to smaller businesses where there is greater scope to have a positive impact on local employment.

Question 19 – Not applicable

If you do, or were to, own a second home please tell us what you would do in the event that the applicable rate of council tax and non-domestic rate thresholds both increased?

More information:

The current threshold for defining premises as self-catering holiday accommodation liable for [non-domestic rates](#) is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

A [private residential tenancy](#) is when a registered landlord lets accommodation to an individual/s and it will be their sole or main residence. All tenancies created on or after 1 December 2017 are open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.

Answer:

- The home is already used as a private residential tenancy
- I would continue to use it purely for personal use and pay the higher rate of council tax
- I would continue with split use between self-catering accommodation (below the thresholds to be liable for non-domestic rates) and personal use, and pay council tax
- My second home already has/would have split use between self-catering accommodation (below the non-domestic rates threshold) and personal use. Rather than pay the higher rate of council tax, I would increase the number of days the accommodation is available to let and actually let in order to meet the non-domestic rates thresholds
- My second home already has/would have split use between self-catering accommodation (above the non-domestic rates threshold) and personal use. Rather than revert to paying council tax, I would increase the number of days the accommodation is available to let and actually let in order to meet the higher non-domestic rates thresholds
- My second home is purely for personal use. However, in order to stop paying council tax, I would make it available as self-catering accommodation and let it for the number of days I needed to in order to be liable for non-domestic rates

- I use my second home purely for personal use but I would change its use to a private residential tenancy
- I use my second home as self-catering accommodation (below the non-domestic rates threshold) but I would change its use to a private residential tenancy
- I would seek reclassification as an empty home and pay council tax
- I would sell the second home
- Other (specify)

Please give reasons for your answer.

Not applicable.

Question 20 – Not applicable.

If you do, or were to, own a second home please tell us what you would do in the event that:

- a) council tax powers remained as they are for second homes (i.e. no provision for councils to charge a premium), but
- b) the ‘thresholds’ to be classed as self-catering holiday accommodation for Non-domestic rates purposes increased?

More information:

The current threshold for defining premises as self-catering holiday accommodation liable for [non-domestic rates](#) is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

A [private residential tenancy](#) is when a registered landlord lets accommodation to an individual/s and it will be their sole or main residence. All tenancies created on or after 1 December 2017 are open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.

Answer:

- The home is already used as a private residential tenancy
- I would continue to use it purely for personal use and pay council tax

- I would continue with split use between self-catering accommodation (below the thresholds to be liable for non-domestic rates) and personal use, and pay council tax
- My second home already has/would have split use between self-catering accommodation (above the non-domestic rates threshold) and personal use. I would increase the number of days the accommodation is available to let and actually let in order to meet the higher non-domestic rates thresholds
- I use my second home as self-catering accommodation (above the current non-domestic rates threshold). If I was not able to meet the new thresholds, I would change its use to a private residential tenancy
- I would seek reclassification as an empty home and pay council tax
- I would sell the second home
- Other (specify)

Please give reasons for your answer:

Not applicable.

Question 21

Please tell us how you think changes to council tax and/or non-domestic rates thresholds for self-catering accommodation might affect businesses in your area.

Answer:

Please provide your views

Question 22

Please tell us how you think changes to the maximum council tax rate for second and/or empty homes and non-domestic rates thresholds might affect your local area or Scotland as a whole (social, economic, environment, community, cultural, enterprise).

More information:

We have prepared a partial Business Regulatory Impact Assessment and undertaken screenings to initially consider other impacts. We would welcome your views and comments to help us expand on these assessments.

Answer:

Please provide your views

We are supportive of the changes which are the subject of this consultation, and feel that this has the potential to generate an additional source of revenue that could be used to support the provision of affordable housing, or wider pressures on council budgets.

East Lothian Council already has a successful track record of ring fencing empty homes premium to support the provision of affordable homes.

We do not believe that the proposed changes will have any material impact on housing supply issues, however we are mindful of the risk of the potential adverse impact on the visitor economy. We have already noted some adverse impact on the availability of self-catering accommodation arising from the Short Term Lets legislation and will continue to monitor this closely.

Question 23

Please tell us how you think the changes identified might affect island communities.

More information:

We have prepared a partial Island Communities Impact Assessment and undertaken screenings to initially consider other impacts. We would welcome your views and comments to help us expand on these assessments.

Answer:

Please provide your views

Not applicable.

Question 24

Do you think there are any equality, human rights, or wellbeing impacts in relation to the changes set out in the consultation?

Answer:

- Yes
 No
 Don't know

Please give reasons for your answer.

Question 25

Is there anything else you would like to tell us in relation to this consultation?

Answer:

Please provide any further comments on the proposals set out in this consultation in the box below.

We feel that it will be important to recognise the interrelationship between the proposed changes to self-catering accommodation, the impact of the Short Term Lets legislation and the potential Visitor Levy on the local economy, and this feeds into the importance of enabling councils to apply discretion in setting their own policies in this area, taking account of the local impact of these changes.

We believe that revenue raised through local policies should be retained locally and we would oppose any change to distribution linked to these potential new income streams.

Consideration will need to be given to the system changes that will be required in order to implement any amendments in this area, allowing appropriate lead time for this.

Consideration should also be given to the identification of second homes, given the potential for fraud in this area. This should include data sharing between councils, and take account of the resources that will be required in order to enforce the changes.

About you

Please tell us which of the following categories best describe you (select all that apply):

- Council or Assessor

Please tick whichever council areas apply to you (or select all of Scotland)?:

- East Lothian Council

REPORT TO: East Lothian Council

MEETING DATE: 27 June 2023

BY: Executive Director of Place

SUBJECT: Cockenzie Former Power Station Site: Update

8

1 PURPOSE

- 1.1 This paper will provide an update on progress since the last two papers presented on 28 June 2022, in relation to the Cockenzie Power Station site redevelopment. This follows a successful bid for funding for site preparation and remediation from Round 2 the UK Government's Levelling Up Fund and the start of the development of Inchcape Offshore Limited's renewable electricity substation.

2 RECOMMENDATIONS

- 2.1 That Council notes the progress being made towards the goal of regenerating the site for employment uses and the next steps which will include the procurement of a technical masterplan, which will inform a subsequent site marketing strategy and programme.
- 2.2 The Council instructs the Executive Director of Place to progress the Levelling Up Works, subject to planning, including designs and procurement of designers and contracts, as per the approved capital budget.
- 2.3 That Council, considering the complexities around the use of the Cockenzie site as a port, agrees that no further work should be undertaken to advance the site as a major port facility and/or cruise terminal and instead the site should be considered for a broader range of employment uses.
- 2.4 That Council notes that the 360 Project report identifies a vision for a climate change centre, public realm and education/training on the site, but also identifies risks and viability challenges in terms of the proposals, for which there is no current funding.

3 BACKGROUND

- 3.1 The most significant progress that has been made since the last report to Council in June 2022 is the announcement that the Levelling Up Bid has been successful. This will bring £11.26m of funding to East Lothian Council to undertake a programme of works that will address some of the challenges in redeveloping this significant brownfield site. The works will include removing the earth bunds that surrounded the coal store, grouting the former cooling water infrastructure that lies below the ground, filling in the deep void where the power station stood to create a level platform, works to repair and increase the climate resilience of the sea wall, improvements to the John Muir Way and re-grading of the coal store site to create a level platform for development. These works are required to make the best use of the land available, regardless of the end land use of the site, with the removal of the bunds making available a further 8 hectares (20 acres) of land for development.
- 3.2 Inchcape Offshore Limited have commenced construction of the substation that will bring renewable electricity generated at sea to ground, for onward transmission to the National Grid. It is anticipated that in time, once the substation is in use, an offer will be made by Inchcape to local communities to provide 'community benefits' for use on projects in the area nearby and possibly more widely in East Lothian. These are voluntary payments made by the renewable energy generators directly to the community, to reflect the fact that they will be making profits from the use of Scotland's natural assets. At this stage, the scale of these payments is not available; however, once known, Council will be updated on this matter. It is the intention that the capital receipt from the sale of the relevant part of the site to Inchcape will be ring-fenced to be used for the future development of the infrastructure necessary to service the site.
- 3.3 The Council's vision for the Cockenzie site was established when the Council bought the site in 2018, as it was the subject of a 2017 high level masterplan, which proposed predominantly employment uses as well as public realm improvements. The masterplan was used to inform and support the Levelling Up Bid and the focus, as then in 2018 and now remains on the redevelopment of the site to provide for the transition to net zero, economic development and high quality employment opportunities.
- 3.4 The Council's purchase of the Cockenzie site in 2018 for economic development and employment opportunities represents a forward-thinking and important move to ensure an effective regeneration of this large and challenging area of brownfield land. Such sites can lie vacant and derelict indefinitely, without a combination of vision and the injection of significant funds. These are needed to restore the land to a developable condition and provide the necessary infrastructure and services, such as a network of roads, foul and surface water drainage and electricity supplies for future economic development. Significant capital funding will still be required for the infrastructure and servicing works, before the site can be redeveloped in the future. It is important that the challenges of the site are not underestimated and that expectations of when development can be brought forward are realistic – full development of the site is dependent on funding

becoming available to progress the site to the next stages of preparedness. The vision established in partnership with the local community in 2018, to turn it into a thriving employment area with positive public realm remains undiminished.

- 3.5 Since the site was purchased, the Council has worked with the Scottish Government to secure an appropriate land use allocation in the National Planning Framework 4 (NPF4). Partly as a result of COVID-19, this document made slow progress but was finally adopted by the Scottish Government on 13 February 2023 and confirms the previously reported policy position from the draft, namely that the site is a wider opportunity site which is suitable to generate employment and provide essential infrastructure for net zero. NPF4 has a new status as part of the Development Plan – significant in planning law terms as applications must be determined in accordance with the Plan, unless material considerations indicate otherwise.
- 3.6 Technical work on the site continues, including the detailed testing of the material that makes up the bunds, which has recently been completed and confirms that it is suitable to use for infill to create a stable platform for the redevelopment of the former power station area and regrade the coal store. This testing indicates that there is no contamination of the site that would prevent the bund material being used to infill the void in the power station site and regrade the coal store.
- 3.7 It is very positive that East Lothian Council was successful in the highly competitive Levelling Up bidding process. It has taken some time to work through the UK Government's assessment of subsidy rules and other technical matters, but the Memorandum of Understanding required to secure the funds was signed on 27 March 2023, which allows the working up of the project to begin. The next steps with regard to the Levelling Up project will include procuring a consultant to undertake detailed design of the works, further studies of the concrete slab, identifying a detailed programme and the bringing forward of planning applications for the necessary consents. Appointment of a contractor to undertake the works will follow. It is anticipated the works will start in early 2024, once the full programme is in place and approved and further progress updates will be provided to Members. We are targeting completion of the works in 2025 as per the bid submission. The 2023 Capital Plan and capital budget reflects the proposed expenditure of the Levelling Up funds and the Council's 10% contribution. Authority is sought from Elected Members for the Executive Director of Place to continue the next steps of the project.
- 3.8 Project Managers in the Development Service will lead on project progression, including community engagement at the appropriate stages. The Levelling Up bid documentation has now been made public and shared with interested community groups in the area. The Council's Cockenzie website page has also been updated to include a link to the Levelling Up Bid package. It is important that it is understood that at the end of the Levelling Up project, the site will be levelled and developable, with servicing to happen later following the substantive groundworks.

- 3.9 There remain two further energy-related interests on the site, as reported to the Council last June. One is Seagreen 1A's substation, which has planning permission in principle, but a firm development timeline remains to be confirmed. Members will recall that planning permission has been granted for a link road that will run from east to west across the site (Planning Ref: 22/00440/P). Construction of the first part of the road will be required to provide Seagreen 1A with access to the site. The road will not be required in the immediate future and construction will commence once Seagreen 1A have their necessary consents and funding in place to proceed.
- 3.10 The other energy-related use is the potential for a battery storage plant to be constructed adjacent to the National Grid substation. Bids from potential providers have been received by the Council; however, there is no contract in place at this point in time and further updates will be brought in the future as progress is made. The developer has begun a pre-planning application consultation process. The facility's proposed location is between the link road and the National Grid substation and is within the area designated to be developed as an energy quarter in the 2018 community masterplan.
- 3.11 Members will recall that in June 2022, it was also agreed that a technical masterplan should be procured for the site. This is different from the 2017 masterplan in that it will set out how the site could be technically and physically redeveloped for economic uses rather than high level vision and options for site uses. Its purpose will be to identify the potential constraints to development and devise a suitable internal road network and potential servicing routes, so that the site can be divided into a series of development land parcels and appropriate landscaped areas. It is intended that this will provide a flexible development structure for the site, allowing land parcels to be consolidated for a larger user or divided for smaller use types. This reflects the fact that the aspiration for employment investment could encompass industrial, office, distribution, or other use types as well as public realm improvements.
- 3.12 Once this structure is in place, it will facilitate the marketing of the land parcels for potential investment opportunities, to bring employment development to the area. The procurement process for the consultant is about to be completed and work and engagement on the masterplan will begin over the summer.
- 3.13 The offshore substations and battery storage facility make valuable use of the site's strategic scale energy network assets and support national priorities relating to the transition to net zero, as well as providing financial returns to the Council. However, they are not job intensive uses and so in order to support the economic development focus of the 2017 masterplan, economic uses on remaining parts of the site should look to have a greater level of employment generation. There have been a number of potential uses mooted for the site. A Scottish Futures Trust report identified it as suitable for a data centre, although to date no potential investor in this use has been identified. There have also been enquiries from a number of hydrogen manufacturers however very careful consideration would have

to be given to the potential for such a use and its proximity to the local communities. These proposals also have limited employment generation. Other potential interests have included engineering firms and rail carriage fit out. An early output of the technical masterplanning process will be to identify a series of planning and economic parameters of the potential broad economic uses and interests for the site which have been promoted for the site or we have received interest in. This will help focus the masterplan into a series of options as to how the site can be technically developed and parcelled to attract uses that members could support. This exercise would also allow members to discount potential site users that they may not feel be suitable for this site prior to marketing.

3.14 As the technical masterplanning process is ongoing, discussions can continue with the enterprise agencies, the UK and Scottish Governments for ongoing support for the ambition to redevelop of the site. Once the masterplanning process is complete a procurement process will also be undertaken for commercial agents. A programme will be developed in conjunction with Scottish Enterprise, Scottish Development International and the agents to market the site to potential commercial investors. Whilst the 2017 masterplan identified potential office and headquarters use of parts of the site, in the post-COVID-19 environment, the site is unlikely to be a marketable office location and alternative economic uses are more likely to be delivered. It should be noted that the Council is in regular contact with Scottish Enterprise and the site is sometimes included in portfolios of sites put to potential inward investors into Scotland. This process will continue.

3.15 Within the communities themselves, there have been two concepts brought forward for the potential use of the site. These are a port/cruise and the 360 climate change centre.

Port/Cruise

3.16 In relation to port/cruise-related development, Members will recall that the June 2022 report provided detail on the significant challenges of developing a cruise port at Cnockenzie, which were highlighted in a technical study finalised by AECOM in January 2021. The challenges include high capital costs with a long payback period and a lack of potential investment from the cruise industry in a new port. Consideration was also given to alternative cargo uses of the potential port, to supplement the cruise industry; however, this was also considered to be challenging. It should be noted that the NPF4, now adopted, does not identify Cnockenzie for port use and this is despite ELC seeking to engage with Scottish Ministers and Scottish Government regarding potential interest in port related development at the site. Port/cruise proposals would require national level backing to be viable, none of which has been forthcoming.

3.17 As Council agreed at the June 2022 Council meeting, the Chief Executive wrote to Forth Ports, who operate the nearby ports at Leith, Rosyth, Burntisland and Methil, and the anchorage at South Queensferry, are the Statutory Harbour Authority and operate the pilotage of vessels in the Forth. The aim was to assess the appetite for a partnership arrangement

in relation to a new cruise port at Cockenzie. As a consequence of the Chief Executive's letter, senior representatives of Forth Ports met with Council officers on 7 September 2022 to discuss the potential for partnership and also reviewed the AECOM study and provided comments.

- 3.18 Forth Ports had given the proposal due consideration but highlighted a number of issues – ports such as Southampton get cruise calls year-round for the Mediterranean etc. cruises, but in Scotland it is a very seasonal business. This clashes with using a port for other cargo which is a year-round business. Cruise itself is a secondary market for many ports, excepting the major 'home ports' like Southampton that specialise in the cruise market. They also have the hotels and the depth of water required to accommodate these vessels. Cockenzie would be unlikely to be a home or turnaround port, more a port of call. The income from each cruise ship 'call' is not very high and the potential to grow the number of calls in the Forth will be possible but up to a realistic limit. In line with the AECOM report, therefore, the payback period on any investment would be long.
- 3.19 In terms of water depth suitability, Cockenzie would require constant management and maintenance dredging of a channel to accommodate the draught of cruise ships. It is quite possible that in order to develop a suitable channel for Cockenzie, it would be necessary to remove rock and it would be very difficult to get the consents to do this. It was also noted that there can be accumulations of pollution in the silt of the Forth, which undisturbed cause no issues; however, if this were to be disturbed by a major dredging operation, extensive sampling works would be required for suitability. It may be difficult to secure consents for any type of dredging in this location. Much of the Firth of Forth foreshore is a Special Protection Area and this is a specific designation to protect seabirds – any development proposals will have to pass stringent tests. The costs of undertaking the impact assessment required would be high. A very broad estimate to dredge a channel would be £40m.
- 3.20 The jetty required for cruise liners would also be different in construction and type from both the existing jetty, which would require significant investment and any jetty required for heavy tonnage.
- 3.21 If Cockenzie were to be used for bulk cargoes as well as cruise, the uses do not sit well together. Bulk cargoes bring issues of noise, dust etc. There are other matters of practicality to consider, for example if 4,000 people leave a ship when it calls at Cockenzie, 80 buses are needed to be ready on the quayside to take people to their visitor destination, which is likely to be the tourist attractions of Edinburgh, which will be the marketed destination for cruise operators, rather than East Lothian. If cruise ships are berthed alongside at Cockenzie, the necessary security measures would mean the John Muir Way would have to be re-routed away from the coast to the land side of the port. Thus, there seemed to be a comprehensive range of reasons why the proposed port is likely to be a very significant viability challenge, whilst not necessarily delivering economic returns for East Lothian.

- 3.22 Forth Ports followed up after the meeting, having reviewed the AECOM proposal and noted a number of matters. They noted that one option had berthing counter to the prevailing wind and tide and was likely to be weather-restricted in use – cruise vessels are noted to have a huge wind area and manoeuvring them onto and off this berth would be challenging. The other option would require the works to dredge and maintain a channel that were discussed in the meeting and set out above.
- 3.23 Turning to land-use planning matters, as noted above the Cockenzie site is not identified in the NPF4 for port use. By contrast, the document does identify the Edinburgh Waterfront as a location for new or upgraded port facilities. As the adopted document now forms part of the Development Plan for decision-making purposes, an application for a new port may be considered contrary to the Development Plan. As well as the Special Protection Area and environmental considerations, there are also practical considerations about the land area that may be suitable for port use and the proximity of the proposed port to adjoining communities.
- 3.24 Given the foregoing, Members are asked to agree that the proposals for a port at Cockenzie should not be taken further forward and the technical masterplan for the site should not plan for any port-related uses. The focus should be on employment-related, land-based development as supported by NPF4 which promotes net zero infrastructure and significant economic and employment opportunities at the site and that is the context for future delivery. Whilst the main use of the power station slab site would not be for major port/cruise use, that would not prevent any economic users or occupiers of part of the power station slab site making use of marine access to the site as it currently presents.

360 Study

- 3.25 Since the June 2022 Council report, the 360 Group has received its study from the Planning Solutions Consulting, the consultants that the group appointed, following the award of funding from the Council in November 2021. The 360 Group were supported in this process by colleagues from Economic Development. The report, lodged in the Members' Library in June 2023 (Ref: 49/23), is comprehensive and detailed, although it should be noted that the 360 Group has written to say that it is not in full agreement with the findings. Accompanying the report is a high level concept diagram and programme (Ref: 50/23). The group identifies a site area of c. 10 hectares (the entire part of the site where the main power station building was located, not including the Inchcape site) for a 'National Centre for Climate Change, an innovative green space, community park and art installation of national significance'. This will include galleries and exhibition areas and a separate learning centre with proposals for training and skills development. The aim is to work in partnership with existing education providers.
- 3.26 The National Centre for Climate Change estimated in the feasibility report to have a capital cost of £29.5m, including £6m for public art but excluding exhibits, will look to attract funding from a wide range of sources including the Scottish and UK Governments, the renewables sector, funding

streams associated with the educational offer and visitors to the attraction. It is noted, however, that the proposals are regarded as needing significant 'ongoing revenue support' as well as additional funding to refresh the attraction, which is necessary to secure repeat visitors. Using the assumptions in the report, the centre would require c. £400k per annum over the first five years in revenue support to break even. The report also mentions that a number of other attractions in the east and central Scotland area also have climate change elements, including Dynamic Earth, the other Scottish science centres, the proposed Eden Project at Dundee and a current exhibition at the National Mining Museum in Newtongrange. This demonstrates an interest in the subject matter but also a competitive landscape.

- 3.27 The study suggests that there are considerable risks and the future of the 360 centre will depend on successful engagement and partnership working with the Council, the Scottish Government, the renewable energy operators, other potential site users and the local community.
- 3.28 The 360 team has sought to confirm the basis of their proposals by submitting an application for planning permission in principle but the application could not be validated for technical reasons.
- 3.29 The current stage of the proposals for the site do not preclude this use coming forward either in whole or in part in the future and colleagues from the Sustainability and Growth and Economic Development teams have met with the 360 Group to gain a better understanding of their next steps.. 360 representatives were advised that they should look to engage Elected Members on their ambitions and ideas over the summer and a further report will be brought on this issue post-summer recess.
- 3.30 Whilst the report suggests 360 Group's proposed climate change visitor centre is economically unviable, the 2017 Cockenzie Masterplan did envisage public realm improvements throughout the site and on the seafront areas. Therefore there is overlap with the 360 Group's vision for public open space, public realm, public art and greenspace improvements to the site. Although it should be noted that the proposed concept plan that has been developed for the site does not contain any economic uses other than the visitor centre and training building and this would be contrary to the strategic reasoning behind the acquisition of the site. In the concept plan, the level of built development the former power station slab is significantly less than potentially envisaged in the 2017 masterplan for this part of the site, even though that included a significant area of the slab for public realm improvements.
- 3.31 The next steps, as set out above are first, progressing the Levelling Up project through its necessary consents, to enable the commencement of the remediation of the site to create a level platform for future development. The works are anticipated to be completed by 2025. Second, the appointment of the technical masterplanner who will work with Council officers and the local community to establish the full development potential of the site to enable it to be marketed. It is anticipated that this masterplanning process will be complete by early 2024.

- 3.32 Whilst the Council has managed to attract significant investment and funding for the site, post-levelling up works and completion of the substations the site will still need significant funding for the services and enabling works to achieve the Council's vision for the site. Therefore as a small authority, the Council will still require significant capital and revenue support from both UK and Scottish Governments for investment into the site to realise the net zero and economic development and thereafter to attract and deliver such high quality jobs, which is the main future opportunity that Council sought when acquiring the site in 2018.
- 3.33 Appendix 1 to this report sets out a strategic timeline for the site up until the end of the decade, factoring in the proposed technical studies, works and developments planned for the site and their implementation. This builds on the following achievements and work-streams since the acquisition of the site in 2018:
- National Planning Framework 3 to 4 and engagement on the review of national development plan status towards net zero infrastructure and employment uses;
 - National Transport Strategy (NTS), Strategic Transport Projects Spending Review 2 (STPR2) – engagement and shaping development of approved version to include Cockenzie;
 - Interim Regional Spatial Strategy – drafting and shaping development of approved version;
 - Regional Prosperity Framework, to shape NPF4;
 - Regional Transport Strategy and Masterplan, to nest under NTS and STPR2;
 - Completed and ongoing technical work and feasibility studies for site and surrounding area (could list, but to include all that is needed for above and more widely including STAG);
 - Ongoing commercial activities in respect of the site;
 - Planning approvals for private projects and ELC infrastructure etc.; and
 - Successful Levelling Up Fund bid

4 POLICY IMPLICATIONS

- 4.1 This report provides an update on progressing proposals for the Cockenzie site that are in line with the Council's expectations for the employment development of the site. They also accord with the approved National Planning Framework 4's expectations for the site, which are now Development Plan policy. The proposals are also in accordance with the policy intentions of the National Strategy for Economic Transformation (NSET), the Regional Prosperity Framework, the Council Plan and the 2012-2022 Economic Development Strategy. Consultants have been appointed for the replacement of the strategy and the future of Cockenzie as an employment site will be given detailed consideration as part of the development of the new strategy.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not, at this stage in the process of bringing the site forwards, affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – Actions set out in this report are contained within approved capital and revenue budgets.
- 6.2 Personnel - none
- 6.3 Other - none

7 BACKGROUND PAPERS

- 7.1 [National Planning Framework 4](#)
- 7.2 [2017 Cockenzie Masterplan](#)
- 7.3 [Report to Council June 2022 – Cockenzie Site Progress and Actions](#)
- 7.4 [Council website Cockenzie page & LUF Bid Application Form](#)
- 7.5 [Report to Council November 2021 - Cockenzie site and 360 project feasibility study](#)
- 7.6 [May 2020 Members Library Report - Aecom Study into Creation of a Cruise/Port-Related Facility](#)
- 7.7 [Report to Council February 2021 – Cockenzie Power Station Site update including finalised Aecom Cockenzie Cruise Berth Update](#)
- 7.8 [360 Feasibility Study & Concept June 2023 Members Library](#)

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DATE	13 June 2023

Annex 1: Former Cockenzie Power Station Site - Strategic Timeline

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/2030
Inchape- Substation							
LUF Approvals							
Technical Masterplan							
LUF Implementation							
Distributor Road							
Seagreen Substation							
Battery Storage							
Marketing							
Proposals & Applications for Economic Uses							
Delivery							

Studies & Planning
Physical Works

REPORT TO: East Lothian Council

MEETING DATE: 27 June 2023

BY: Executive Director for Council Resources

SUBJECT: Response to Boundary Commission Review

9

1 PURPOSE

- 1.1 To advise Council of the ongoing review of Scottish Parliamentary boundaries and seek approval of a response to be submitted as part of the consultation exercise.

2 RECOMMENDATIONS

- 2.1 To note the Boundary Commission for Scotland consultation on the proposed new Scottish Parliamentary Constituencies.
- 2.2 To approve the response to the Boundary Commission for Scotland as detailed in Appendix 1 to this report

3 BACKGROUND

- 3.1 The Boundary Commission for Scotland (known as Boundaries Scotland) commenced its second review of Scottish Parliamentary constituencies in September 2022. On 17th May 2023, it published its initial proposals, with a period of one month for responses. Given the date of this meeting, officers sought, and were granted, an extension of the deadline for a response to 30th June 2023.
- 3.2 The review is required under the terms of the Scotland Act 1998 and will recommend constituencies, and regions, of similar electorate size while also taking account of local authority areas, special geographical circumstances, maintenance of local ties and any inconveniences caused by the alteration of the existing boundaries. The review of constituencies will cover the 70 mainland constituencies. The constituencies of Na h-Eileanan an Iar (Western Isles), Orkney Islands and Shetland Islands are

protected in legislation and so excluded from this review. The review of the regions will, however, encompass all 73 constituencies at the Scottish Parliament. The overall number of MSPs (129) is fixed in legislation and will not change as a result of this review.

3.3 An electoral quota was calculated by dividing the total Scottish electorate (using population figures as at 1st September 2022, the start of the review process) by the number of constituencies with the three island constituencies excluded. Other than the island constituencies, the electorate quota is 59,902. The electorate for the current East Lothian Scottish Parliamentary constituency is 67,523, 13% above the quota of 59,902.

3.4 The legislation requires Boundaries Scotland to take account of the following factors when proposing constituency boundaries:

- Local Government area boundaries ‘Rule 1’;
- Electorate numbers should be as near to the electorate quota as practicable, having regard to Rule 1;
- Special geographic considerations, including the size, shape and accessibility of a constituency;
- Inconvenience for constituents and others as a consequence of any changes; and
- Recognising community ties that might be broken by changes in constituencies

3.5 The proposal from the Boundary Commission would see the western part of the current East Lothian constituency, including the remaining parts of Musselburgh, part of the Preston, Seton & Gosford ward area and part of the Tranent, Wallyford and Macmerry ward area, joined with part of Midlothian and part of eastern Edinburgh to form a constituency called Midlothian North and Musselburgh, with an electorate of 55,122. The remainder of East Lothian would form a constituency, still called East Lothian, with an electorate of 59,385. The proposed changes are shown on the maps forming Appendices 2 and 3 to this report.

3.6 While this proposal would undoubtedly meet the electorate number requirements, it would be contrary to Rule 1 in the statutory factors that must be taken into consideration by Boundaries Scotland. It would split the existing East Lothian Council area between two constituencies and two Regional constituencies. Just under 30,000 of the East Lothian Council electorate, over a third, would be in the Midlothian North and Musselburgh constituency. The proposed new constituency of Midlothian North and Musselburgh would be the only constituency to have electors from three local authorities, East Lothian Council, City of Edinburgh Council and Midlothian Council. In addition, the towns and villages across the area concerned form cohesive communities and are significant places within the county with Musselburgh and Prestonpans being two of the County’s

main towns. There is no history of a split in this area, as is now proposed and there is no rationale for such a division at this point in the Council area, other than the need to meet the electorate quota. If this proposal is adopted, a number of residents of East Lothian will be in different electoral areas for UK Parliamentary, Scottish Parliamentary and Local Government elections, which may lead to voter confusion and inconvenience.

- 3.7 Whilst the electoral quota is a significant factor, there may be other ways to achieve the desired figure. However, as a consequence of the very short period for consultation responses, officers have not had an opportunity engage with counterparts in our neighbouring authorities. It is hoped that this engagement can take place over the summer as it is likely that they will share concerns over possible voter confusion and the complexities caused by shared polling stations, etc in electoral administration.
- 3.8 A draft response is set out in Appendix 1 to this report. Members are asked to consider the draft response, adding any further comments if required.
- 3.9 Following receipt of responses to these initial proposals, there will be a secondary six-week consultation period, including a number of Public Hearings, which will include publication of all comments received. Should the Council agree to submit a response prior to the extended deadline of 30th June 2023, it will be invited to participate in one of the Public Hearings and it is recommended that it should so do. Following consideration of any evidence received, any revised proposals would be offered for further public consultation with final recommendations submitted to Scottish Ministers by 1 May 2025. If subsequently approved by the Scottish Parliament, the new boundaries will be effective at the next Scottish Parliament election, expected in May 2026.

4 POLICY IMPLICATIONS

- 4.1 If these proposals are accepted, the change in electoral boundaries will have impacts for representation of voters, delivery of elections and for residents, staff and Elected Members engaging with Members of Parliament.

5 INTEGRATED IMPACT ASSESSMENT

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

6 RESOURCE IMPLICATIONS

- 6.1 Financial - none
- 6.2 Personnel - none

6.3 Other - none

7 BACKGROUND PAPERS

7.1 Appendix 1 – draft response to the Boundary Commission

7.2 Appendix 2 - Map showing proposed new boundary for East Lothian Scottish Parliamentary Constituency

7.3 Appendix 3 – Map showing proposed new boundary for Midlothian North & Musselburgh Scottish Parliamentary Constituency

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Appendix 1

DRAFT RESPONSE TO BOUNDARY COMMISSION FOR SCOTLAND

SECOND REVIEW OF SCOTTISH PARLIAMENT CONSTITUENCIES PUBLIC CONSULTATION INITIAL PROPOSALS: CONSULTATION RESPONSE

I should be grateful if you could treat this letter as East Lothian Council's response to the Commission's initial proposals for the review of the Scottish Parliament Constituencies. As agreed with your office, the deadline for this response was extended to 30th June 2023, to enable it to be agreed at a meeting of East Lothian Council on 27th June. I am grateful to you for your indulgence on this matter.

I note that the proposals represent a significant change for the East Lothian constituency. The proposal that the existing East Lothian Council area and Scottish Parliamentary constituency should be significantly reduced in size, with large parts of the Preston, Seton & Gosford and Tranent, Wallyford and Macmerry Council wards, joining with Musselburgh in the new Midlothian North & Musselburgh constituency. This would break the consistency with the local authority boundary, as required in Rule 1, as set out in Schedule 1 to the Scotland Act 1998.

Given that Rule 1 has supremacy over the other requirements that drive these changes, it is difficult to see how moving over a third of the current East Lothian Council electorate to a new Scottish Parliamentary constituency would be consistent with the statutory requirements.

The Commission's proposals would create, in Midlothian North and Musselburgh, the only constituency in Scotland containing electors from three different local authorities; East Lothian Council, City of Edinburgh Council and Midlothian Council. An MSP elected to Midlothian North and Musselburgh will need to engage with three different local authorities on matters impacting their constituents, which will be a significant challenge.

In addition, these changes would split the East Lothian electorate between two different constituencies and two different Regional constituencies. The ensuing confusion for voters could only have a negative impact on voter engagement at future elections and will cause some significant issues for electoral administration.

Whilst electorate equalisation is a factor to be considered, it is also clear that any changes to Scottish Parliamentary boundaries should not be driven entirely by numbers and that the other statutory considerations should carry some weight. The proposed change to the East Lothian boundary in the west of the county breaks strong community ties, splits a cohesive community between two constituencies, and disregards the geographic, transport, business and community links between the two parts of community it proposes to split between two constituencies.

There is a strong historic and community connection between the towns and villages in the west of the county, with Prestonpans being one of the county's main towns. As a result of new development in the west of the county, the Council has undertaken extensive work with community groups to build a sense of place, including the construction of a new community school campus in Wallyford and this proposal draws an arbitrary line down the middle of the county and the communities that live there.

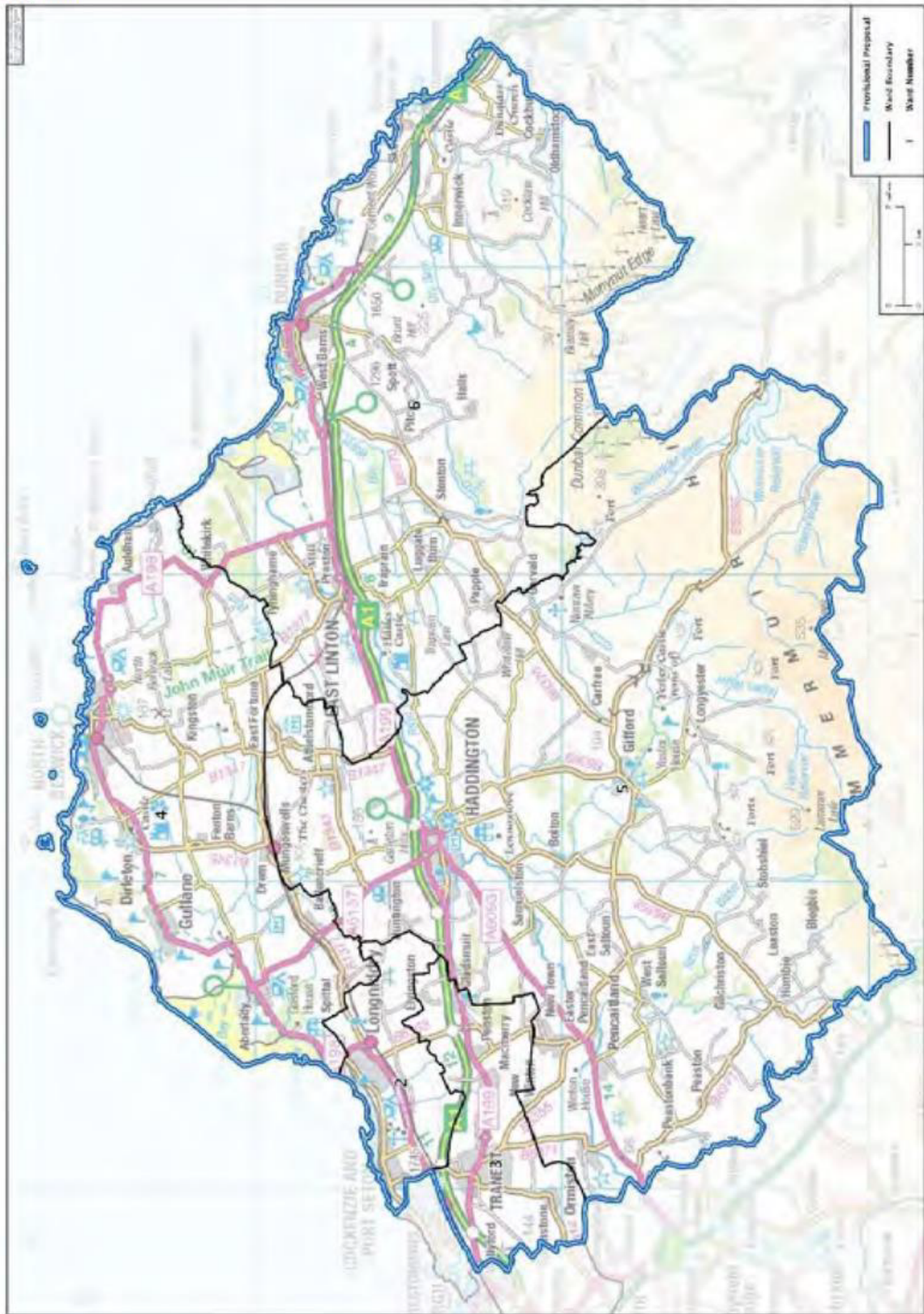
From an administrative perspective, it would be the preference for the East Lothian constituency to be wholly within the Council area allowing a more accurate route to data analysis, a simpler alignment of political representation and avoid any cross-boundary issues in electoral administration.

However, given the population changes and the electoral quota, it is appreciated that there may be a requirement for some change. The short period of time for consultation responses means that we have not had an opportunity to engage with our neighbouring authorities to develop an alternative proposal but it would be the intention of the Council to do so over the coming months.

The Council respectfully requests that this proposal be considered. We also look forward to hearing from you regarding any future public hearing where we can expand on our representations.

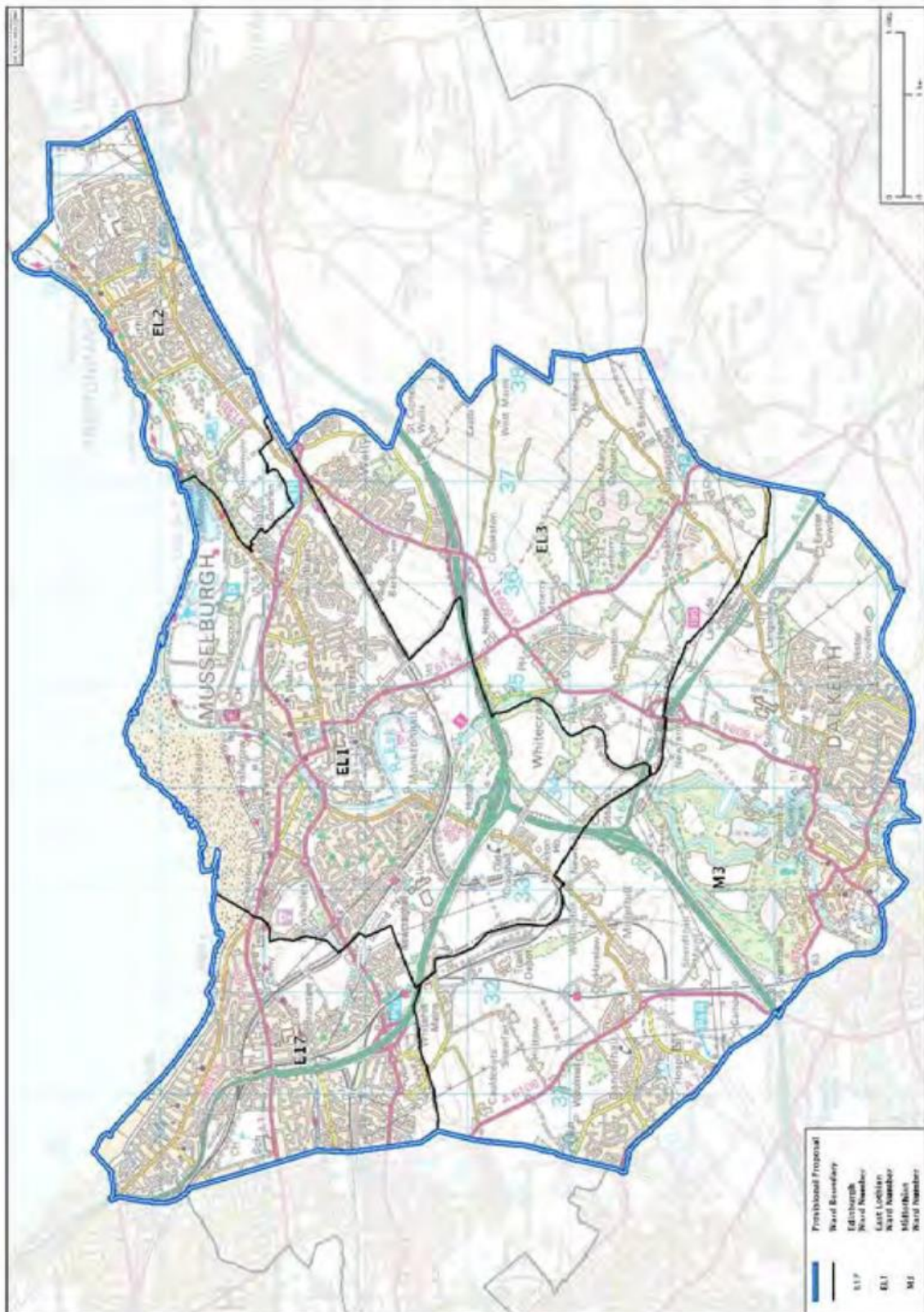
Appendix 2

East Lothian
59,385



Appendix 3

Midlothian North and Musselburgh 55,122



REPORT TO: East Lothian Council
MEETING DATE: 27 June 2023
BY: Executive Director for Council Resources
SUBJECT: Review of Standing Orders: Scheme of Administration

10

1 PURPOSE

- 1.1 To seek approval of proposed changes to the Scheme of Administration resulting from the review carried out by the Standing Orders Working Group (SOWG).

2 RECOMMENDATIONS

2.1 That the Council:

- (i) approves the proposed changes to the Scheme of Administration, as set out in Appendix 1, which reflects changes agreed by all Members on the Standing Orders Working Group;
- (ii) considers and approves a preferred option from among the following options for the future of the Homelessness Appeals Sub-Committee:
 - (a) maintain the status quo
 - (b) agree a fixed membership for this Sub-Committee, and appoint Members to the Sub-Committee should this be the preferred option
 - (c) abolish this Sub-Committee and implement an appeals process administered by officers (noting that the support of two-thirds of Members would be required to disestablish and remove this Sub-Committee from the Scheme of Administration)
- (iii) considers and approves a preferred option from among the following options for the future of the Employee Appeals Sub-Committee:

- (a) maintain the status quo
- (b) remove medical dismissals and grievances from the remit of the Sub-Committee (noting that as the Discipline and Grievance Policies are collective agreements with the Trades Unions, the support of the Trades Unions to revise the Policies would be required, which would then need to be reported back to Cabinet)
- (iv) agrees to delegate to the Head of Corporate Support to consult on the voting rights of external representatives on the Education Committee, with a report on the outcome of the consultation to be reported to Council in the autumn of 2023
- (v) notes that officers would work with Trades Union representatives on the Joint Consultative Committee (JCC) to ensure the Committee operates effectively in future, and also to consider the frequency of JCC meetings
- (vi) notes that no changes to the call-in process for Cabinet have been proposed.

3 BACKGROUND

- 3.1 At its meeting on 25 April 2023, the Council approved a number of changes to the Council's Standing Orders and Scheme of Delegation. It also noted that a further report on proposed changes to the Scheme of Administration would be submitted to Council in June 2023.
- 3.2 Since the Council meeting on 23 April, the Standing Orders Working Group (SOWG) (comprising Councillors Findlay, Gilbert, McIntosh and Ritchie, and supported by the Head of Corporate Support, the Service Manager – Governance, and the Team Manager – Democratic & Licensing) has met to consider a number of proposed changes to the Scheme of Administration, on the majority of which a consensus has been reached by the Elected Members on the SOWG. These changes are set out in Appendix 1 to the report.
- 3.3 Although there was agreement on most of the proposed changes, Members could not reach an agreed position on a small number of matters, as follows:

Homelessness Appeals Sub-Committee: there were a mixture of views expressed regarding this sub-committee. It was noted that East Lothian Council was now the only council in Scotland which had Elected Member involvement in homelessness appeals, and that the Service Manager for Homelessness had prepared a report on alternative ways of dealing with appeals (which had been shared with the SOWG). The SNP Group had indicated that they would no longer be willing to participate in homelessness appeals. Three options for the future of the Homelessness Appeals Sub-Committee were put forward for the Council to determine: (a)

maintain the status quo; (b) agree a fixed membership for the Sub-Committee, or (c) abolish the Sub-Committee and implement a suitable appeals process administered by officers.

Employee Appeals Sub-Committee: some Members felt that they were not qualified to make decisions on appeals relating to dismissals on medical grounds and proposed that they should only be involved in dismissals relating to conduct matters. Some Members also felt that they should not be involved in staff grievances, as these cases were largely concerned with operational matters and should therefore be dealt with by officers. As there was no clear consensus, the SOWG agreed that the following options should be considered by the Council: (a) maintain the status quo, or (b) remove medical dismissals and grievances from the remit of the Sub-Committee. The Head of Corporate Support had pointed out to the SOWG that as the Discipline and Grievance Policies are collective agreements with the Trades Unions, they would need to be consulted on any proposed changes, with any proposed revisions of the Policies being reported to Cabinet in due course.

- 3.4 During the review, it was requested that the future voting rights of the external representatives on the Education Committee (3 x religious representatives and 1 x Trades Union representative) should be considered. It was noted that a number of Scottish local authorities had already considered this matter and that several had now withdrawn the voting rights of external representatives. Delegated authority to the Head of Corporate Support is sought to consult on this issue with stakeholders (including the external representatives, head teachers, children and young people, and other Scottish local authorities), and to report back to Council in the autumn of 2023.
- 3.5 Over the course of the SOWG meetings, concern was expressed as to the remit, membership and effectiveness of the Joint Consultative Committee (JCC). No consensus was reached on proposed changes to the Scheme of Administration for the JCC; however, the Head of Corporate Support undertook to ensure that officers work with the Trades Union representatives on the JCC to make best use of the Committee, as well as looking at the frequency of meetings.
- 3.6 In addition to the matters outlined above and in Appendix 1, the SOWG reviewed the call-in process for Cabinet, as agreed by Council in June 2022. It was noted that this process had not been called upon to date, but there was general agreement that it remained fit for purpose.
- 3.7 If approved, the proposed changes will be incorporated into the Council's Scheme of Administration, and will take place with immediate effect. The updated Scheme will be published on the Council's website as part of Standing Orders.

4 POLICY IMPLICATIONS

4.1 None

5 INTEGRATED IMPACT ASSESSMENT

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

6 RESOURCE IMPLICATIONS

6.1 Financial – none

6.2 Personnel – none

6.3 Other – none

7 BACKGROUND PAPERS

7.1 East Lothian Council Standing Orders

7.2 Report to Council in April 2023: ‘Review of Standing Orders’

[Agendas, reports and minutes | East Lothian Council](#)

AUTHOR'S NAME	Lel Gillingwater
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DATE	29 May 2023

Appendix 1

Proposed Changes to the Scheme of Administration

Audit and Governance Committee

Section B (Membership and Attendance)

Add: with the approval of the Council, the Committee may co-opt up to two independent members to provide appropriate technical expertise.

Chief Officer and Head Teacher Appointments Sub-Committee

General

Reference to Depute Chief Executive will be changed to Executive Director.

Reference to the appointment of Chief Officers will be updated to reflect that these are *permanent* appointments, as the Chief Executive has delegated authority to appoint to Acting Executive Director and Head of Service posts (in consultation with the Council Leader and relevant Cabinet spokesperson) and Acting Director of Health and Social Care (in consultation with the Chief Executive of NHS Lothian, the Council Leader, Provost and Convener of the IJB), when the postholder is likely to be absent for more than two months, or if the post is vacant.

Section A (Remit and Powers) and Section B (Membership and Attendance)

Amend: replace 'Depute Chief Executive' with 'Executive Director'

Section B (Membership and Attendance)

Amend:

4. As regards the appointment of Jointly Accountable Chief Officers, the Appointments Sub-Committee will consist of the Council members and partner members of the [Integration Joint Board \(IJB\) and the Chief Executives of East Lothian Council and NHS Lothian \(or their representatives\)](#). The Sub-Committee will be advised by the ~~Chief Executives of the organisations involved, HR advisers from those organisations~~ [Service Manager – People & Council Support](#) and, where appropriate, an independent external adviser. Note: only Councillors who have undertaken the Council's Recruitment and Selection training will be eligible to participate in the appointment of Jointly Accountable Officers.
5. As regards the appointment of Head Teachers, the Appointments Sub-Committee will consist of ~~two~~ [at least one](#) Elected Members ~~(including preferably~~ [the Convener or Depute Convener of the Education Committee, or a Ward Member, who will chair the panel](#) ~~(Chair) and; however, where possible two Elected Members will be sought~~ [usually](#), at least one from the Ward in which the vacancy arises), ~~two~~ [one or two](#) Parent Council members from the school to which the appointment is being made* and two officers nominated by the Depute Chief Executive (Resources and People Services). Where the appointment relates to a Roman Catholic school, a representative

of the Roman Catholic Church (who sits on the Education Committee) will be appointed to the panel in addition to those groups listed above. Where there is a Roman Catholic Church representative vacancy on the Education Committee, the appointment process will proceed in the absence of such a representative. All Councillors who have undertaken the Council's Recruitment and Selection training will be eligible to take part in the appointment of Head Teachers.

For Depute Head Teacher appointments, one Elected Member will be sought to participate in the recruitment process, but the Elected Member will not form part of the quorum and the panel may go ahead without their involvement.

* Where only one Elected Member is participating there will only be one Parent Council member participating. Should there be no Parent Council member(s) interested in participating in the process, the Parent Council may nominate a representative to participate on their behalf from outwith the Parent Council, but their nominee must have undertaken the Council's Recruitment and Selection Training for Head Teacher Appointments. Should the Parent Council decline the offer to participate, the recruitment process will continue in their absence.

In the event of a shared Headship, one Parent Council member from each school will be eligible to participate.

Education Committee

Name of Committee

Amend: Education and Children's Services Committee (new title to be reflected throughout the Scheme of Administration)

Section A (Remit and Powers)

Amend:

1. The development, determination and review of policy and associated matters relating to children, including education, children's social work and broader services for children and young people
2. The promotion of children's and young people's development and wellbeing as outlined in the Children and Young People's (Scotland) Act 2014
3. Matters relating to Children's Rights as determined by the United Nations Convention on the Rights of the Child
4. Meeting statutory requirements for strategic planning and reporting for education and children's services planning in accordance with the Education (Scotland) Act 2016 and Children and Young Peoples (Scotland) Act 2014
5. Matters relating to the statutory responsibilities of the Chief Education Officer and the Chief Social Work Officer with regard to education and the care and protection of children and young people
6. Determining the annual review of the Scheme of Devolved School Management
7. Determining catchment areas for primary and secondary schools

8. Determining school roll numbers for primary and secondary schools

Section B.2 (Membership and Attendance)

Amend: The membership of the Education and Children's Services Committee shall include a Convener and, if desired, a Depute Convener. It shall also include religious representatives and a trades union representatives, who shall have ~~full~~ voting rights only on matters relating to Education...

Local Review Body (Planning)

Section F.2 (Reporting Arrangements)

Amend: Minutes shall be presented to the ~~Council~~ Planning Committee for noting.

Planning Committee

Section E.3 (Meetings)

Amend: In addition to the representations outlined above, Community Councils will be given the opportunity to address the Committee, ~~where~~ whether or not they have ~~made a request to do so~~ submitted a written representation on the planning application under consideration.

REPORT TO: East Lothian Council

MEETING DATE: 27 June 2023

BY: Executive Director for Place

SUBJECT: Redetermination of Johnnie Cope's Road, Tranent

11

1 PURPOSE

- 1.1 To update Council on the outcome of the statutory and public consultation following Cabinet approval of the proposal to redetermine Johnnie Cope's Road as an active travel route.
- 1.2 To seek Council approval for the statutory procedures necessary to make a Traffic Regulation Order to prohibit and permit various types of vehicular traffic.

2 RECOMMENDATIONS

- 2.1 That Council notes the summary of responses to the consultation process as set out in Appendix C and;
- 2.2 That, notwithstanding the responses received and subject to 2.3 below, on the grounds of road safety, Council approves the statutory procedure necessary to make a Traffic Regulation Order to close Johnnie Cope's Road to vehicular traffic and redetermine it as an active travel route in accordance with the relevant legislation as listed in Appendix A; and
- 2.3 To note that, if Council approves recommendation 2.2 and unresolved objections remain outstanding, the matter will be passed to Scottish Ministers for determination (under the Stopping Up of Roads and Private Accesses and the Redetermination or Public Rights of Passage (Procedure) (Scotland) Regulations 1986).

3 BACKGROUND

- 3.1 In association with the construction of the A1, Tranent Bypass in 1986, the former Lothian Regional Council agreed to close the U226, Johnnie Cope's Road to vehicular traffic between its junction with the A199 and a

point just to the south of Bankton House Steading and to redetermine the route for pedestrian and cyclists only.

- 3.2 To that effect a farm accommodation bridge was constructed across the bypass to allow pedestrians and cyclists to continue to use the route. Signs were sited at both the Tranent and Prestonpans ends of the road and a gate was installed. However, records show that the necessary order was never promoted and made.
- 3.3 The structure was designed for its intended use as an accommodation bridge for occasional farm access, large stock movements between fields, equine and pedestrian use only. It was never intended to take the volume and type of traffic currently using it.
- 3.4 The bridge is the responsibility of Transport Scotland and is not adopted by East Lothian Council.
- 3.5 As the bridge owners, Transport Scotland is responsible for ensuring that the bridge can support the live loads applied. Transport Scotland state that this responsibility is met and that the bridge is designed for full loading with a structural capacity up to 44 tonnes.
- 3.6 As the Roads Authority, East Lothian Council is responsible for ensuring that the road over the bridge meets the design standards for an adoptable road bridge as required by the Design Manual for Roads and Bridges (DMRB).
- 3.7 This specifies a minimum width of 7.3m plus 1.0m hard strip on either side, a total of 9.3m.
- 3.8 The actual width of the bridge is 4.5m which does not meet the DMRB standard.
- 3.9 Bridges supporting a single lane may be adoptable under DMRB on condition that certain criteria are met including width, vehicle flows and visibility. The bridge on Johnnie Cope's Road fails to meet the majority of the criteria.
- 3.10 The approaches to the bridge from both north and south negotiate sharp left-hand curves. This affords severely limited forward visibility of the bridge and of traffic currently in transit.
- 3.11 The width of the bridge creates a single track road and limits traffic to cross in one direction at a time. Any opposing traffic has to wait or, in most cases, due to the poor forward visibility, reverse off the bridge around the bend with limited rearward visibility.
- 3.12 On 12 October 2017 a three vehicle collision occurred where two vehicles travelling in opposite directions at the bridge collided and a third vehicle collided with the rear of the main collision. One casualty was conveyed to hospital.

- 3.13 On 7 February 2023 a collision occurred where a panel van reversing off the bridge due to oncoming traffic failed to see a motor cyclist behind his van. The motor cyclist was knocked off his machine and was taken to hospital with injuries.
- 3.14 In addition to these reported injury collisions, anecdotal evidence indicates a high number of damage only (and therefore unreported) collisions and near misses.
- 3.15 The bridge provides no footway or safe refuge for active travel users if a motor vehicle crosses the bridge at the same time.
- 3.16 During the afternoon of Thursday 4 May 2023, outwith peak traffic periods, a spot site visit was carried out and a series of photographs taken. These are attached at Appendix B.
- 3.17 During the site visit numerous vehicles were observed having to reverse off the bridge and around the blind bends because of opposing traffic. One vehicle was observed to collide with the nearside crash barrier.
- 3.18 Pedestrian use was also observed and, as stated at 3.15 and as can be clearly seen in the pictures, active travel users have no safe refuge area if a vehicle crosses the bridge at the same time.
- 3.19 Alternative routes for vehicular traffic between Tranent and Prestonpans are available, are more suitable for the volume and type of traffic and do not present the road safety issues found on Johnnie Cope's Road.
- 3.20 Access to properties on Johnnie Cope's Road will be maintained from the north via the junction with the B1361, Gardiner Terrace.
- 3.21 The southern section will be closed via a gate or barrier. Emergency services will have access and East Lothian Council will make arrangements for any high-sided vehicles which cannot gain access under the railway bridge at the northern end.
- 3.22 On 21 January 2020 Cabinet approved the commencement of the statutory procedures necessary to close the Johnnie Cope's Road to vehicular traffic and redetermine as an active travel route, with occasional farm access, emergency access and residential access as required.
- 3.23 This is consistent with both national and county transport strategies to prioritise active travel and also aligns with the climate change declaration aspirations.
- 3.24 Statutory consultation with stakeholders including the emergency services, Transport Scotland, elected members, community representatives and road haulage organisations took place from 23 January to 12 February 2023. No negative responses were received and the Scottish Fire and Rescue Service confirmed that standard fire tenders could access properties on Johnnie Cope's Road by passing under the rail bridge from the northern end of Johnnie Cope's Road. Only specialist vehicles would

require access through the gate at the southern end and, to date, there has never been an incident requiring the attendance of these vehicles.

- 3.25 Public consultation took place from 20 February to 24 March 2023. 152 responses were received of which 5 were supportive and 147 objecting. A summary of these responses together with comments is attached at Appendix C.
- 3.26 Notwithstanding the number of responses received, it is considered that all the points raised have been adequately addressed and there are no outstanding issues that require further investigation. The full range of consultation responses has been lodged in the Members' Library (Ref: 61/23, June 2023 Bulletin).
- 3.27 A 7-day automated traffic count was conducted on Johnnie Cope's Road from 17 to 24 November 2022 at a point just south of the accommodation bridge. A copy of the survey report is attached at Appendix D.
- 3.28 This showed average daily vehicle count of 1,156, evenly split between northbound and southbound.
- 3.29 Of these vehicles 88.6% were cars or light vans, 0.5% were medium sized goods vehicles which would have been able to access the road under the railway bridge from the north and 0.1% were large goods vehicles.
- 3.30 Road safety is the primary reason for the closure of Johnnie Cope's Road to vehicular traffic and redetermination as an active travel route. As the Roads Authority, East Lothian Council has a responsibility to ensure the safety of all road users. This cannot be achieved with the current road geometry as referenced at points 3.5 – 3.13 inclusive.
- 3.31 It is understood that this important issue for East Lothian Council and our communities generates local concern and debate. However, the consultation exercise did not reveal any substantive or significant issues that outweigh the need to ensure safe passage for both vehicular traffic and pedestrians.
- 3.26 Alternative vehicular routes exist that have capacity and Johnnie Cope's Road lends itself to become a sustainable access route for walkers, cyclists and equine users. The creation of a sustainable active travel route between Tranent and Prestonpans will provide connections between communities and link to the existing and planned active travel network including the cross-county Segregated Active Travel Corridor.
- 3.27 Through the consultation process a number of potential alternative interventions have been investigated. These have been included as Appendix E but, as they either do not address the core safety issues or are considered to be cost prohibitive, they are not recommended as viable alternatives.
- 3.28 Under the Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986, Council can now move to make the appropriate Order

to give effect to this change as long as all objections are withdrawn. In the event that any objections remain outstanding and not withdrawn, the matter must be referred to Scottish Ministers for a determination. This will be done on the basis of information submitted by the Council as Roads Authority and the regulations do not permit or require the holding of a public enquiry into this matter.

4 POLICY IMPLICATIONS

4.1 These proposals will contribute towards fulfilling the East Lothian Plan 2017-2027, in particular:

- Outcome 2.1: “East Lothian has strong resilient communities where people respect and support each other” and
- Action (k) “we will make our roads safer, including a focus on making journeys safer for cyclists and pedestrians of all ages and abilities”

4.2 The proposed changes will promote and support safe, inclusive, active and sustainable travel in line with the following policies:

- National Transport Strategy
- Local Transport Strategy
- Climate Change Strategy

4.3 A decision not to implement this proposal carries the risk of reputational damage as the decision would be in direct contravention of the Council’s own and national strategies as listed at 4.2 above

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 – Subject to council approval of the proposal external funding may be available to make enhancements to create an active travel route.

6.2 Personnel – the proposal will be managed by the current team

6.3 Other – none

7 BACKGROUND PAPERS

7.1 Cabinet report 21st January 2020

7.2 Draft redetermination order 1987

7.3 Draft redetermination order 2023

7.4 Traffic count report (full)

7.5 Members' Library Report – Consultation responses (Ref: 61/23, June 2023
Bulletin:

https://www.eastlothian.gov.uk/meetings/meeting/17041/members_library_service)

AUTHOR'S NAME	Douglas Proudfoot
DESIGNATION	Executive Director, Place
CONTACT INFO	Ian Lennox / Alan Stubbs
DATE	31/05/2023

Appendix A		
(U226, JOHNNIE COPE'S ROAD) (REDETERMINATION OF MEANS OF EXERCISE OF PUBLIC RIGHT OF PASSAGE) ORDER 2023		
Number	Location	Description
1	Johnnie Cope's Road from the junction with the A199 to a point just south of Bankton House Steading	Redetermine the road as an active travel route for the use of pedestrian, equine and cyclist traffic

**Appendix B
Photographs**

Northbound approach



Southbound approach







Appendix C

Johnnie Copes Road

Summary of objections

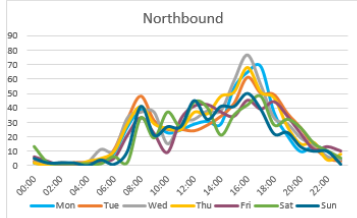
Number	Detail of objection	Response
1, 4, 9, 11, 19, 22, 23, 24, 32, 34, 35, 37, 39, 40, 49, 51, 54, 55, 56, 58, 59, 60, 61, 62, 67, 68, 71, 75, 79, 83, 84, 86, 88, 90, 91, 98, 99, 100, 102, 104, 110, 111, 112, 113, 114, 117, 118, 119, 122, 129, 130, 133, 134, 136, 137, 138, 139, 140, 146, 147, 148, 150, 151, 153, 155, A2, A3,	Congestion on alternative routes including Meadowmill roundabout	<i>The alternative routes, including the A199 and the A1 have adequate capacity. It may also be found that congestion reduces if some of those currently travelling between Tranent and Prestonpans station choose to use Wallyford with its large car park.</i>
2, 6, 7, 11, 22, 24, 25, 29, 30, 33, 34, 35, 40, 43, 47, 48, 50, 51, 55, 58, 59, 62, 65, 66, 67, 71, 72, 74, 77, 78, 83, 89, 92, 98, 99, 101, 102, 108, 110, 111, 115, 119, 121, 130, 132, 134, 139, 140, 149, 152, 154, A3	Access to railway station	<i>There are suitable alternative routes. Improvements to the drainage under the bridge have reduced the flood risk. There may be some ponding when there is significant, intense rainfall but this dissipates naturally.</i>
2, 14, 15, 16, 117, 137, A4,	Access for deliveries and tankers to empty septic tanks	<i>Vehicles under 3.5m in height can travel under the rail bridge. For larger vehicles access will be facilitated via contact with ELC Roads Services.</i>
2, 13, 14, 15, 16, 21, 34, 35, 37, 40, 42, 43, 47, 49, 50, 56, 61, 62, 66, 75, 76, 77, 78, 83, 85, 91, 102, 103, 104, 110, 117, 121, 122, 123, 125, 127, 129, 134, 136, 140, 142, 143, 145, 147, 151, A4,	Access / short cut for emergency service vehicles	<i>Emergency services were consulted regarding the TRO and raised no issues/objections. Scottish Fire and Rescue Service Fire confirm a standard fire appliance can fit under the bridge to access Bankton Steading so all police and ambulance response vehicles will also fit. Only specialist fire appliances would require access through the gate / barrier for which all responders have keys. Fire service report that there has never been an incident on JCR requiring these appliances</i>
8, 13, 14, 15, 18, 21, 23, 25, 26, 27, 28, 30, 33, 39, 42, 43, 44, 48, 50, 51, 52, 53, 55, 63, 64, 66, 72, 74, 75, 78, 79, 84, 86, 89, 90, 101, 102, 104, 109, 115, 116, 123, 125, 126, 128, 132, 134, 137, 141, 142, 143, 145, 146, 152, 154, A3	Increased journey times / vehicle emissions	<i>It may also be found that congestion reduces if some of those currently travelling between Tranent and Prestonpans station choose to use Wallyford with its large car park. The proposal will facilitate active travel between Tranent and Prestonpans and reduce reliance on motorised travel.</i>
3, 8, 21, 25, 26, 31, 32, 37, 57, 64, 73, 117, 128, 130, 141,	Motivation is cost saving not safety	<i>The main reason the road is being closed to vehicular traffic is on the grounds of "Road Safety". The structure over the A1 was not designed to take the volume of traffic using it. It was built as an accommodation bridge for the farmer and it was always intended to be closed to vehicular traffic. There are alternative more appropriate roads within close proximity. The proposal to redesignate the road to permit pedestrian and cyclists only will provide a safer environment for those users while still allowing essential access for emergency services, residents and farming activities.</i>

<p>4, 5, 6, 7, 11, 12, 13, 14, 15, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 31, 35, 39, 40, 44, 45, 47, 50, 53, 54, 62, 64, 65, 70, 71, 77, 83, 95, 98, 99, 102, 104, 105, 106, 109, 110, 112, 116, 117, 121, 123, 124, 127, 129, 131, 135, 136, 137, 139, 140, 141, 142, 145, 148, 149, 153, 154, 155, A1,</p>	<p>Road should be repaired / upgraded</p>	<p><i>The road and geometry do not lend itself for the volume and type of traffic using it. It is a single track road with severely limited forward and rearward visibility and no street lighting. It has no footway or safe refuge area for active travel users.</i></p> <p><i>The bridge is a single track accommodation bridge and its intended use was for occasional farm access, large stock movements between fields, equine and pedestrian use.</i></p>
<p>9, 10, 17, 20, 26, 31, 36, 38, 46, 69, 70, 80, 87, 93, 94, 96, 97, 107, 120, 122, 143, A1, A4,</p>	<p>Non-specific or other objection</p>	

Appendix D Traffic count report dashboard



Client: East Lothian Council
 Project: 4188-SCO East Lothian Various ATCs Nov 2022
 Site: 01 - Johnnie Cope's Road
 Start Date: Thursday 17 November 2022
 Speed Limit: 60
 Lat/Long: 55.94884, -2.97098

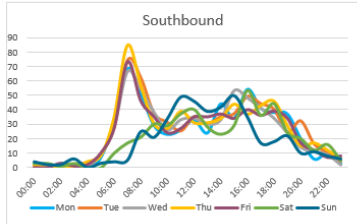
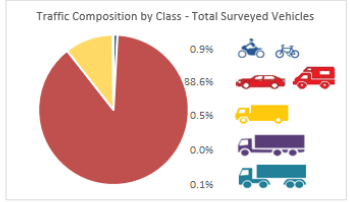


Direction	7-Day Average Speed	7-Day 85th %ile Speed
Northbound	23.8	29.0
Southbound	23.4	29.2
Combined	23.6	29.1



On a 7-day average		
0.0%	0.0%	0.0%
0.0%	0.0%	0.0%
0.0%	0.0%	0.0%

of vehicles are travelling over posted speed limit (PSL) of vehicles are traveling 10% +2 over PSL (68mph) of vehicles are 15mph over PSL (75mph)



Direction	Weekday Average Total Traffic	7-Day Average Traffic	Weekly Traffic Total
Northbound	552	531	3718
Southbound	604	566	3962
Combined	1156	1097	7680



Incidents/Observations
 No incidents or observations during the survey period

Appendix E

Summary of alternative interventions identified

Item	Alternative intervention	Officer analysis
	Part A	Proposed interventions that fall short of addressing the Core Safety Issue
1	Making the road one way	<p>The issue with the road geometry would remain and it would still be necessary to realign the road to create appropriate sight lines.</p> <p>The bridge would also have to be replaced as it cannot safely accommodate vehicles, pedestrians and bicycles together in its current format (see below).</p>
2	Resurface circa 1km of road	<p>Does not address road safety issues</p> <p>Indicative cost £200k</p>
3	Installation of traffic signals	<p>Traffic signals could be installed.</p> <p>Indicative cost £150 – 200k plus provision of an electrical supply</p> <p>However, active travel users would still have no safe refuge area and, given the length of the bridge, the inter-green (safe) phase would be lengthy. This could encourage frustration and result in drivers breaching the signals with the increased potential of accidents.</p> <p>To mitigate this hazard the geometry of the road leading to the accommodation bridge on both sides of the bridge would need to be realigned so as to have the appropriate sight lines and safe stopping distances.</p> <p>This would require acquisition of land (see below)</p>
4	Traffic calming over 1km of road	<p>While this may manage excess speed it does not address the core safety issue which is not speed related.</p> <p>Indicative cost £75-100k</p>
5	Street lighting over 1km of road	<p>Required for traffic calming but does not address core issue</p> <p>Indicative cost £150k plus provision of an electrical supply</p>

	Part B	Proposed interventions that are considered cost prohibitive
1	Upgrade the Accommodation Bridge to a road bridge with a shared cycleway	<p>Transport Scotland would need to agree to upgrade/modify and/or replace the existing single track accommodation with a road bridge.</p> <p>Transport Scotland have been contacted and have advised ELC that they would not be in a position to provide any financial contribution towards modifying the bridge.</p> <p>Estimated cost £4 – 6 million</p>
2	Upgrade existing road including realignment	<p>The geometry of the road leading to the accommodation bridge on both sides of the bridge does not meet statutory requirements on safety and would need to be realigned so as to have the appropriate sight lines.</p> <p>This would require the procurement of land either through a capital purchase at an agreed price or through a compulsory purchase order if deemed applicable.</p> <p>Minimum cost £250k but could be considerably more</p>
3	Construct new pedestrian/cycle bridge alongside accommodation bridge	<p>Land acquisition would be required for the bridge construction. The conflict with pedestrians/cyclists and equine users along the majority of the road would remain unless an active travel route was constructed alongside JCR which would require land acquisition (see below).</p> <p>Depending on the type of bridge structure the estimated cost is £2 – 5 million</p>
4	Land acquisition to create shared use active travel route alongside JCR	Estimated cost £0.5 – 1 million.

MOTION TO EAST LOTHIAN COUNCIL
27 June 2023 (continued from 25 April 2023)

Motion: Johnnie Cope Road

That East Lothian Council:

Notes that there has been a significant community response following the launch of the consultation on the closure of the Johnnie Cope Road between Prestonpans and Tranent;

Understands that there has been a lot of opposition to the closure of the road from various community sources including, but not limited to, Prestonpans Community Council and Tranent and Elphinstone Community Council;

Believes that the connections between the communities in East Lothian are vital, particularly in the areas where our county is growing most rapidly;

Calls for the current consultation and legal process to be paused to allow for more detailed and robust research into any potential negative impacts closing this road might have on local communities and to explore alternative proposals, such as the installation of traffic lights at the bridge on Johnnie Cope Road, to happen and be reported back to Council;

Further notes that the bridge on the A1 is in the ownership of Transport Scotland and the Scottish Government, and requests that the Chief Executive and Leader of East Lothian Council write to Transport Scotland and the relevant Scottish Government ministers to request support to upgrade the bridge over the A1 on Johnnie Cope Road and to request a cross-party meeting with ministers to discuss the various infrastructure needs of East Lothian given the proposed scale of housing growth.

Proposed by (name): Councillor Lachlan Bruce
Date: 10 April 2023

Seconded by (name): Councillor Jeremy Findlay
Date: 11 April 2023

Received by (name of officer): Lel Gillingwater, Team Manager, Democratic and Licensing
Date: 11 April 2023

12

MOTION TO EAST LOTHIAN COUNCIL
27 June 2023

Motion: Appeal to UK Government on Engagement Process for Bank Branch Closures

13

East Lothian Council:

Notes, with significant concern, the recent announced closures of Royal Bank of Scotland in Tranent and Bank of Scotland in Dunbar.

Notes individual institutions have sought the input of the UK Finance Cash Action Group, through LINK, in assessing the impact on cash availability in each locality.

Notes that LINK and UK Finance Cash Action Group are represented by banking and finance industry only and are not required to engage with strategic economic development bodies or representative community organisations in making an assessment on the existing and future requirements of distinct communities.

Notes the extensive and understandable concern raised by communities in both Tranent and Dunbar at the closure of the last bank building in each town with associated impacts for business trade and those reliant on in-person banking transactions and assistance.

Therefore instructs the Leader of the Council to write to the UK Government expressing the Council's concern at lack of local business and community interests in assessing future requirements to banking in distinct communities and call on steps to be introduced to compel the banking industry to include engagement with local authorities and community representatives in assessing the impact of future planned closures of bank branches.

Proposed by (name): Councillor Lyn Jardine
Date: 13 June 2023

Seconded by (name): Councillor Neil Gilbert
Date: 13 June 2023

Received by (name of officer): LeI Gillingwater, Team Manager, Democratic and Licensing
Date: 13 June 2023

MOTION TO EAST LOTHIAN COUNCIL
27 June 2023

Motion: Support for ‘Guarantee Our Essentials’ Campaign

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East Lothian Council:

Notes the significant increase in assistance being provided by foodbanks across East Lothian and commends all the staff and volunteers who support the most complex and vulnerable lives in our communities.

Notes that 90% of low-income households receiving Universal Credit are going without at least one essential like food, a warm home or toiletries, all of which evidences that the increased costs of living are not adequately reflected in uprating to social security support.

Supports the promotion of the joint Trussell Trust and Joseph Rowntree Foundation Campaign calling on the UK Government for an ‘essentials guarantee’ to make sure the basic rate of Universal Credit is sufficient to afford the basics each of us needs to live for which more details are available at: <https://www.trusselltrust.org/get-involved/campaigns/guarantee-our-essentials/>

Therefore instructs the Leader of the Council to write to the Trust/Rowntree Foundation to express the Council’s support for their campaign and also to the UK Government to express the Council’s support for the campaign, highlighting what we know of poverty, the efforts being coordinated across East Lothian and the extent to which this still does not meet the needs within our communities, and call for the basic rate of Universal Credit to be enough to afford the essentials we all need, such a food, energy and basic household goods – and that deductions can never pull people below this line.

Proposed by (name): Councillor Lyn Jardine
Date: 13 June 2023

Seconded by (name): Councillor Cher Cassini
Date: 14 June 2023

Received by (name of officer): Linda Gillie, Team Manager, Democratic and Licensing
Date: 14 June 2023

REPORT TO: East Lothian Council

MEETING DATE: 27 June 2023

BY: Executive Director for Council Resources

SUBJECT: Submissions to the Members' Library Service,
7 April – 11 June 2023

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 7 April and 11 June 2023, 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 officers in conjunction with Councillors, or
 - (b) background papers linked to specific committee reports.
- 3.2 All public reports submitted to the Members' Library are available on the Council website.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

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

6 RESOURCE IMPLICATIONS

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

7 BACKGROUND PAPERS

- 7.1 East Lothian Council's Standing Orders – 3.4

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager – Democratic Services & Licensing
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DATE	12 June 2023

**MEMBERS' LIBRARY SERVICE RECORD FOR THE PERIOD
7 April to 11 June 2023**

Reference	Originator	Document Title	Access
32/23	Head of Communities	Funding for Communities 2023-24	Public
33/23	Head of Infrastructure	North Berwick High Street: Safety and Access – Design Options	Public
34/23	Executive Director for Place	North Berwick Parking: Economic Impact Assessment	Public
35/23	Executive Director for Place	North Berwick Parking Management Strategy: Consultation Report	Public
36/23	Executive Director for Place	Wallyford Learning Campus Hard & Soft FM	Private
37/23	Head of Corporate Support	Establishment Changes for April 2023	Private
38/23	Executive Director for Place	Response to the Scottish Government's Consultation on Community Wealth Building in Scotland	Public
39/23	Executive Director for Place	Staffing Report for the Creation of a Dunbar CARS Project Officer Post within Economic Development	Private
40/23	Head of Corporate Support	Customer Feedback Reporting – Q4	Public
41/23	Head of Infrastructure	Small Land Sale, Tranent	Private
42/23	Executive Director for Place	Service Review – Transfer of Transformation Team from Policy, Improvement and Partnerships to the Finance Service	Private
43/23	Executive Director for Education and Children's Services	Staffing Report for the Amendment to the Nursery Nurse Job Description and Job Title	Private
44/23	Head of Children's Services	Children's Services Section 10 Funding 2023/24	Public
45/32	Executive Director for Place	Creation of an Income & Accruals Officer within Property Maintenance	Public
46/23	Head of Corporate Support	Establishment Changes for May 2023	Private
47/23	Head of Finance	Bad Debt and Credit Balance Write Offs	Public
48/23	Head of Infrastructure	Electric Vehicle Charging Tariff Update	Public
49/23	Executive Director for Place	Feasibility Study for National Climate Change Centre at Cockenzie	Public
50/23	Executive Director for Place	Feasibility Study for National Climate Change Centre at Cockenzie – Concept & Programme	Public
51/23	Head of Infrastructure	Sale of land at Cockburn Drive, Ormiston	Private
52/23	Head of Infrastructure	Sale of land at Abbot's View, Haddington	Private
53/23	Executive Director for Place	Transport Infrastructure in New Developments – Report & Appendix 1	Public
54/23	Executive Director for Place	Transport Infrastructure in New Developments – Appendix 2	Public

11 June 2023

