



MINUTES OF THE MEETING OF THE CABINET

TUESDAY 9 MAY 2023
VIA A DIGITAL MEETING FACILITY

Cabinet Members Present:

Councillor S Akhtar	Councillor F Dugdale
Councillor A Forrest	Councillor N Hampshire (Convener)
Councillor C McGinn	Councillor J McMillan

Other Councillors Present:

Councillor L Jardine	Councillor C McFarlane
Councillor G McGuire	

Council Officials Present:

Mrs M Patterson, Chief Executive
Ms L Brown, Executive Director for Education and Children's Services
Ms S Fortune, Executive Director for Council Resources
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 & Partnerships
Ms L Byrne, Head of Children's Services
Mr C Grilli, Service Manager - Governance
Mr P Vestri, Service Manager Policy, Improvement & Partnerships
Mr P Forsyth, Project Manager – Growth & Sustainability
Mr S Cooper, Team Manager - Communications
Mr S Kennedy, Emergency Planning, Risk & Resilience Officer
Mr N Morgan, Outdoor Access Officer
Mr G Marsden, Planning Obligation Officer
Ms M Scott, Committees Officer

Clerk:

Ms F Currie

Apologies:

None

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – CABINET 14 MARCH 2023

The minutes of the meeting of the Cabinet on 14th March 2023 were approved.

2. IMPROVEMENT TO EXCELLENCE: EAST LoTHIAN COUNCIL'S CONTINUOUS IMPROVEMENT FRAMEWORK

A report was submitted by the Executive Director for Place seeking Cabinet approval for the revised Improvement to Excellence Continuous Improvement Framework.

The Service Manager – Policy, Improvement & Partnerships, Paolo Vestri, presented the report. He reminded Members that the framework had been adopted by Council in 2012 and had been reviewed and revised on a number of occasions since. The framework had been reviewed again recently to take account of the Council's new priorities set out in the Council Plan 2022-2027. Mr Vestri outlined the five key, inter-related elements of the continuous improvement framework, drawing attention to the replacement of the 'How Good Is Our Council?' (HGIOC) self-evaluation tool with the adoption of the Public Service Improvement Framework (PSIF) model. This new model had been piloted by the Council Management Team and would be rolled out to all services over a three year rolling programme. He also highlighted revisions to the annual timetable of activities to support the framework.

Mr Vestri responded to questions from Councillor Akhtar and Councillor Dugdale. He confirmed that one of the key components of the framework would be looking at the results of engagement with the public across all service areas and all feedback received would be reflected on as part of the self-evaluation process. He advised that the PSIF model contained similar questions to HGIOC but offered a better comparison of performance across services. The only exception would be schools which would continue to use the 'How Good is Our School?' self-evaluation tool.

Replying to further questions from Councillor McMillan and Councillor Jardine, Mr Vestri confirmed that staff would be directly involved with the self-evaluation and their responses, in addition to the responses on the Staff Survey, would be used to influence service plans. He explained that while PSIF would not directly evaluate performance against the One Council approach, the questions within the self-evaluation framework would reflect on how services related to each other and how they met Council objectives and the priorities in the Council Plan, all of which linked into the One Council approach.

Councillor McMillan agreed that the One Council approach was important and he welcomed the principles of the framework, including the references to partnership working. He said a lot would depend on the engagement of staff but it was important to have principles that determined the Council's culture and commitment to delivering for East Lothian.

Councillor Forrest echoed these remarks and said he was particularly pleased to note within the framework a focus on 'recognising and caring for staff'. He emphasised the importance of staff in every aspect of Council performance and he thanked them for their efforts to make East Lothian a better Council.

Councillor Dugdale welcomed the report and the revised framework which, she said, demonstrated the breadth of Council priorities. She observed that staff were committed to delivering the best services for East Lothian and referred to the development of a person-centred trauma approach as just one example. She also offered her thanks to staff for their efforts.

Councillor McGinn commented that scrutiny of the Council's performance was a crucial issue and Elected Members provided a link between constituents and the Council. Well motivated staff were also crucial and he made the point that while criticism of the Council could be swift, positive feedback didn't always make its way back to staff. He saw the framework as an opportunity for the public to better understand the work going on in the background and the pressures on Council staff.

The Convener said that East Lothian Council was a high performing local authority because of its staff. This framework would help the Council to deliver services despite the difficult financial position and to continue to do all it could to ensure that communities received high quality services.

The Convener moved to the vote on the recommendations, which was taken by roll call and approved unanimously.

Decision

The Cabinet:

- i. Approved the revised Improvement to Excellence: East Lothian Council's Continuous Improvement Framework.

3. CORPORATE RISK REGISTER 2023-24

A report was submitted by the Chief Executive presenting the Corporate Risk Register as at 24 April 2023 for discussion, comment and noting.

The Emergency Planning, Risk and Resilience Officer, Scott Kennedy, presented the report. He notified Members of minor amendments to risk CR9, which had occurred following the update on 24 April 2023. He outlined the background and monitoring arrangements in place for the register and the evaluation of risks; advising that the current version of the register contained 8 Very High risks, 5 High risks, 7 Medium risks and 1 Low risk. He highlighted that recent updates to individual risks were shown in red within the document and he provided Members with more detailed updates on risks CR1 and CR5. He confirmed that the Very High and High risks within the Corporate Risk Register would be subject to closer scrutiny by the Audit & Governance Committee at its meeting on 13 June.

The Head of Housing, Wendy McGuire, responded to questions from Councillor Forrest. She advised that the Housing Options Team remained in business continuity measures as a result of staff vacancies. She added that significant legislative and policy changes over the last three years, compounded by the situation in Ukraine, had placed significant pressure on the Team. However, she was working to develop capacity going forward. On the issue of recruitment of trades' staff, she confirmed that there were challenges in recruiting across all trades at present. While the Council had had some success in appointing joiners, it had been unsuccessful in recruiting electricians which was impacting on repairs and void properties.

The Head of Communities & Partnerships, Sharon Saunders, replied to a question from Councillor McMillan outlining the framework and strategy for evaluating and reviewing risks within the Corporate Risk Register. She said that a close eye was kept on risk factors at global, national and local level to assess their impact on delivery of Council services and that the Corporate Risk Register fed into the individual service risk registers which each had similar monitoring arrangements.

In response to a question from Councillor Dugdale, Ms Saunders explained that service areas were required to deliver all services within available resources. Business continuity measures

allowed service areas to focus on elements of work pre-identified as crucial, and prioritise tasks and resources within that service. These elements of work were generally statutory or risk-based in nature. She stated that the current financial situation meant that no additional resources were available at present.

The Executive Director for Council Resources, Sarah Fortune, said that the Council continued to take financial pressures into account when managing risks. However, she reminded Members that the management of the current financial environment was the highest level of risk ever reported to Council and presented a continuing challenge. Financial resources were being focussed on key statutory and risk priorities and the Finance Team was one of the service areas currently having to prioritise its efforts and resources to manage these ongoing challenges.

The Convener responded to a question from Councillor Akhtar on actions to address the pressures facing the Council as result of significant population growth and relative under funding. He advised that he would be meeting the following day with the Local Government Minister and he had also written to the Cabinet Secretary for Finance to request a meeting to discuss these pressures and the likelihood that, without an increase in funding allocations, the Council would struggle to deliver on priorities in future.

Ms Fortune added that officers continued to raise the Council's unique challenges at all opportunities, including with partner bodies such as SOLACE and CoSLA, and through meetings with Audit Scotland.

Councillor Forrest welcomed the report and acknowledged the amount of work which had gone into preparing and maintaining the register and mitigating the risks identified. He welcomed any engagement with Ministers as a positive step and noted that the Council's challenges were not helped by a reduction in its housing grant.

Councillor McMillan highlighted the need to scrutinise and assess risk and he thanked Ms Saunders for her response to his question. He said that it was this management of complex elements, backed by solid professional work, which allowed the Council to continue to deliver services for East Lothian.

Councillor McGinn observed that global events trickled down to affect communities, citing the examples of emergencies which had significantly impacted communities and Council services, and which continued to do so. He said these events had demonstrated how proactive staff and services were and how they were able to balance responding to emergencies with the wider requirements of each service.

Councillor Akhtar acknowledged the role of staff in managing risks while also getting on with their jobs. She said it was important to show that Members were advocating strongly at the highest level and to raise questions with the Scottish Government about funding priorities. She welcomed the announcement of a delay in the implementation of a National Care Service and said she would continue to lobby to keep services local, to better meet the needs of local communities.

The Convener echoed his colleagues' remarks. He thanked officers for the report and their management of risks across the Council. He said he would like to see this information given to local MSPs so that they might better understand the pressures facing the Council. He referred to current and future challenges such as the new Local Development Plan, and government priorities which placed added pressure on resources and communities. He also noted the significant workforce challenges around recruitment and retention, pay and the ongoing impact of the cost of living crisis. He said it was important for the Council to continue to do all it could to support families across the county. He referred to his letter to Scottish Government ministers and stated that without additional funding or changes to funding

arrangements the Council was heading for a serious crisis. He thanked staff for their continuing efforts across all services.

The Convener moved to the vote on the recommendations, which was taken by roll call and approved unanimously.

Decision

The Cabinet agreed:

- i. To note that this live document would be reviewed by the CMT, SMT, individual risk owners and the Corporate Risk Management Group on a regular basis and reported back to Council as and when required;
- ii. that the current relevant risks had been identified;
- iii. that the significance of each risk was appropriate to the current nature of the risk;
- iv. that the total profile of corporate risk could be borne by the Council at this time in relation to the Council's appetite for risk but in the context of the planned mitigations; and,
- v. recognised that, although corporate risks required close monitoring and scrutiny over the next year, many were long term risks for the Council that were likely to be a feature of the risk register over a number of years.

4. THE EAST LOTHIAN COUNCIL (SCOTTISH OPEN, THE RENAISSANCE CLUB) (EXEMPTION) ORDER 2023

A report was submitted by the Executive Director for Place for Cabinet to approve the making of an Order under Section 11 of the Land Reform (Scotland) Act 2003, to facilitate the holding of the Genesis Scottish Open 2023 Golf Championship, at the Renaissance Club, Dirleton, East Lothian.

The Outdoor Access Officer, Nick Morgan, presented the report. He outlined the background to the order, the period during which it would take effect and the reasons for the application. He confirmed that a consultation had taken place and that there had been no concerns or objections raised.

Councillor McMillan acknowledged the important work of the Local Access Forum, including Mr Morgan, and the efforts of all staff to support this event. He said it would bring significant benefits for the local economy and help to deliver on the Council's aspirations in relation to tourism and being the best food and drink destination in the country.

Councillor McGinn echoed these remarks and noted the high standard maintained year round on the course. He said it reflected well on East Lothian that it could attract such tournaments, and world famous golfers, and the order would ensure the safety of the event.

The Convener moved to the vote on the recommendations, which was taken by roll call and approved unanimously.

Decision

The Cabinet agreed to approve the making of The East Lothian Council (Scottish Open, The Renaissance Club) (Exemption) Order 2023.

5. THE NEW MAINS, DIRLETON RIGHT OF WAY

A report was submitted by the Executive Director for Place seeking approval for officers to undertake any of the processes outlined to ensure public access was maintained along a route through Dirleton New Mains between the John Muir Way and the access road to Yellowcraig. The preferred option would be to undertake a right of way diversion order along a proposed new route but if this was not possible, then to explore options for the constitution of new public access rights along the proposed new route, or to enter into a path agreement with the landowner along the new route. It was noted that the preferred option would only be available if the original right of way was in existence. If this were found not to be the case, either of the other options would be required.

Mr Morgan presented the report outlining the background to the right of way and the issues around ensuring continued public access via a suitable route. He confirmed that any future actions would continue to be informed by appropriate legal advice.

Councillor McMillan said this highlighted the importance of landowners working with the Council. It also typified the work done by officers, and local groups, year after year to ensure that rights of way remain open and continue to provide safe access.

Councillor McGinn said that routes like this supported people to remain active. He acknowledged the continuing work of staff to maintain rights of way and their work with landowners to ensure open and safe access.

The Convener echoed his colleagues' remarks. He considered the route proposed by the landowner to be an improvement and he hoped officers could work through the legal issues to put access in place. He then moved to the vote on the recommendations, which was taken by roll call and approved unanimously.

Decision

The Cabinet agreed to officers pursuing the processes outlined to ensure that public access rights remained along a route through Dirleton New Mains between the John Muir Way and the access road to Yellowcraig:

- i. a diversion of the current right of way along a proposed new route under Section 208 of the Town and Country planning (Scotland) Act 1997, to enable the development of the steading at New Mains, Dirleton, East Lothian;
- ii. the constitution of new public access rights along the proposed new route;
- iii. the option to enter into a path agreement with the landowner along the new route.

6. MARKLE MAINS ROAD – STOPPING UP OF PUBLIC ROAD AND DIVERSION OF PUBLIC RIGHTS OF WAY

A report was submitted by the Executive Director for Place seeking approval to start the statutory procedures necessary to stop up the Markle Mains Road at Markle Level Crossing and divert the public rights of way (PRoW) in accordance with Sections 207 and 208 of the Town and Country Planning (Scotland) Act 1997.

The Planning Obligation Officer, Graeme Marsden, presented the report. He outlined the background to the proposals and confirmed that planning permission had been granted for the

replacement bridge and diversionary road. He advised that the report sought approval for the public notification process and, if no objections were received, the Order would be confirmed. The delivery of the replacement crossing was part of the wider delivery of the new station at East Linton.

Mr Marsden responded to questions from the Convener and Councillor Jardine. He advised that the barriers could be down at the level crossing for up to 45 minutes in any one hour; creating a bridge would alleviate driver frustration caused by the crossing. He also outlined the statutory period for consultation on the proposed Order.

The Project Manager – Growth & Sustainability, Peter Forsyth, provided additional details about the timeframe for the proposed work and how it fitted with the timeframe for delivery of the station. He noted that there were constraints, for example in relation to car parking, but that officers were working to overcome these issues. He added that alternatives for the crossing were also being looked at, to ensure that any delay in completing the bridge would not impact on the opening of the station.

The Convener welcomed the work moving forward and noted that the residents were keen to see progress and for the station to be completed. The current crossing was dangerous and the proposals in the report represented a significant improvement to safety.

The Convener then moved to the vote on the recommendations, which was taken by roll call and approved unanimously.

Decision

The Cabinet:

- i. approved the initiation of the statutory procedure necessary to stop up the U159 Markle Mains Road at Markle Level Crossing and divert public rights of way (LE159 and LE160) under sections 207 and 208 respectively of the Town and Country Planning (Scotland) Act 1997; and
- ii. if no objections were received during the 28 day notification period, or they were withdrawn before the end of the period or subsequently resolved, authorised officers to issue the orders for the actual stopping up of the level crossing and road and diversion of the footpaths.

Signed

Councillor Norman Hampshire
Council Leader and Convener of Cabinet