

MINUTE of MEETING of the ENVIRONMENT POLICY DEVELOPMENT AND SCRUTINY PANEL of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 5 DECEMBER 2017.

Present – Councillors Tom Conn (Chair), Alison Adamson, Diane Calder, Chris Horne, Dave King, George Paul, John McGinty substituting for Cathy Muldoon

Apologies – Councillor Cathy Muldoon

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTE

The panel confirmed the Minute of its meeting held on 3 October 2017 as a correct record. The Minute was thereafter signed by the Chair.

3. NEWTON AIR QUALITY MANAGEMENT AREA - DRAFT AIR QUALITY ACTION PLAN

The panel considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration providing an update on the progress in preparing the statutory Draft Air Quality Action Plan (AQAP) for the Newton Air Quality Management Area (AQMA) and to advise the next steps in the statutory process for developing and adopting a final Air Quality Action Plan.

The report advised that AQMA for Newton was declared in July 2017 due to exceedances of the relevant national air quality objective standards for fine particulates (PM10).

Where an AQMA had been declared, local authorities were required to develop an Action Plan (AQP) in pursuit of the achievement of air quality standards and objectives. There was no legal duty to meet the objectives but the authority must demonstrate that they were taking all reasonable steps in working towards them.

The draft action plan was now complete and had 17 strategic and direct measures to reduce emissions. Each measure had been given a short, medium or long timescale for completion and was outlined in Appendix 1 to the report.

The next step in the process would be to proceed to wider consultation with external stakeholders and members of the public. Subject to feedback from the PDSP it was anticipated that a report would be submitted to Council Executive in January 2017 requesting consent to carry out the consultation.

The report further advised that data for 2015 and 2016 had indicated that pollutant levels were below the relevant air quality objectives. Preliminary data for 2017 suggested the same. However, Scottish Government Policy encouraged a long term approach, discouraging revocation where subsequent re-declaration of an AQMA was potentially foreseeable. A unique factor in West Lothian was the significant contribution made to particulates by domestic solid fuel combustion in Newton.

The status of the AQMA would be reviewed in 2018 when 2017 data was complete and ratified. In the interim, it was considered prudent to continue the statutory action planning process.

The Head of Planning, Economic Development and Regeneration explained that once the consultation was approved, the draft action plan would be subjected to wide consultation both internally and externally. This would include transport operators, local residents, community council, local businesses and elected members. The feedback would then shape the finalised action plan and the priority given to each measure.

The finalised action plan would list the measures considered worthy of pursuit and detail timescales for their implementation and would be presented to the Linlithgow Local Area Committee and the Council Executive in late 2018.

In conclusion the report advised that domestic heating by solid fuel combustion was the main source of non-background related particulates in Newton, although homes on Main Street were equally affected by traffic related emissions.

The report recommended that the panel:-

1. Consider and comment on the report and note the intention to present the report to Council Executive with the recommendation that public consultation on the draft Air Quality Action Plan be progressed;
2. Note the draft Air Quality Action Plan would be subject to both internal and external consultation, the results of which would shape the proposed final action plan; and
3. Note that due to the size of the draft report it had not been attached however a full version was available from Environment Health and a summary of proposed actions had been provided for information.

#### Decision

To note the contents of the report and agree that its recommendations be forwarded to the next appropriate meeting of the Council Executive for approval.

#### 4. LINLITHGOW AIR QUALITY MANAGEMENT AREA - DRAFT AIR

## QUALITY ACTION PLAN

The panel considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration providing an update on the progress in preparing the statutory Draft Air Quality Action Plan (AQAP) for the Linlithgow Air Quality Management Area (AQMA) and to advise the next steps in the statutory process for developing and adopting a final Air Quality Action Plan.

The report advised that AQMA for Linlithgow was declared in April 2016 due to exceedances of the relevant national air quality objective standards for fine particulates (PM10).

Where an AQMA had been declared, local authorities were required to develop an Action Plan (AQP) in pursuit of the achievement of air quality standards and objectives. There was no legal duty to meet the objectives but the authority must demonstrate that they were taking all reasonable steps in working towards them.

The draft action plan was now complete and had 26 strategic and direct measures to reduce emissions. Each measure had been given a short, medium or long timescale for completion and was outlined in Appendix 1 to the report.

The next step in the process would be to proceed to wider consultation with external stakeholders and members of the public. Subject to feedback from the PDSP it was anticipated that a report would be submitted to Council Executive in January 2017 requesting consent to carry out the consultation.

The report further advised that data for 2015 and 2016 had indicated that pollutant levels were below the relevant air quality objectives. Preliminary data for 2017 suggested the same. However, Scottish Government Policy encouraged a long term approach, discouraging revocation where subsequent re-declaration of an AQMA was potentially foreseeable. A unique factor in West Lothian was the significant contribution made to particulates by domestic solid fuel combustion in Newton.

The status of the AQMA would be reviewed in 2018 when 2017 data was complete and ratified. In the interim, it was considered prudent to continue the statutory action planning process.

The Head of Planning, Economic Development and Regeneration explained that once the consultation was approved, the draft action plan would be subjected to wide consultation both internally and externally. This would include transport operators, local residents, community council, local businesses and elected members. The feedback would then shape the finalised action plan and the priority given to each measure.

The finalised action plan would list the measures considered worthy of pursuit and detail timescales for their implementation and would be presented to the Linlithgow Local Area Committee and the Council

Executive in late 2018.

In conclusion the report advised that road traffic, principally cars was the main source of non-background pollution in central Linlithgow. Nitrogen dioxide levels had risen since 2014, but were below both the 2013 level and the air quality objective. Any developments would potentially increase traffic in Linlithgow High Street. However, any developments may also provide potential mitigation options. It was therefore prudent to continue the Action Planning process.

The report recommended that the panel:-

1. Consider and comment on the report and note the intention to present the report to Council Executive with the recommendation that public consultation on the draft Air Quality Action Plan be progressed;
2. Note the draft Air Quality Action Plan would be subject to both internal and external consultation, the results of which would shape the proposed final action plan; and
3. Note that due to the size of the draft report it had not been attached however a full version was available from Environment Health and a summary of proposed actions had been provided for information.

#### Decision

To note the contents of the report and agree that its recommendations be forwarded to the next appropriate meeting of the Council Executive for approval.

#### 5. WEST LOTHIAN RECYCLING - ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 DECEMBER 2016

The panel considered a report (copies of which had been circulated) by the Depute Chief Executive providing an update on the business and activities of West Lothian Recycling for the year ending 31 December 2016.

The report advised that on 29 June 2010, the Council Executive decided that the activities of certain outside bodies should be reported within the council to ensure elected members were aware of the business of those bodies and to help ensure that their activities were more effectively scrutinised.

In accordance with that decision the business of West Lothian Recycling was being reported through the production of their Annual Report and Financial Statements for the year ending 31 December 2016.

Members were asked in particular to take note of the following;

- West Lothian Recycling had a net profit after taxation of £5,559 for

the year ending December 2016 which compared to a net profit after taxation of £79,472 for year ending December 2015.

- Over the same period, total sales were £471,493 in 2015 and £463,531 in 2016.
- The reduction in profit was largely due to increasing costs of processing waste material at the recycling site.
- During the year, a dividend of £100,000 was declared for the year ending 31 December 2016. 50% of the dividend was attributable to West Lothian.
- The annual accounts for the year ending December 2016 had been reviewed by the company's independent auditor. The company received an unqualified audit report.

The Depute Chief Executive explained that in 2016 the council collected 8,580 tonnes of brown bin waste which was 1,400 tonnes lower than 2015. The council also collected 2,015 tonnes of green waste via its Community Recycling Centres, which was a decrease of 500 tonnes compared to the previous year.

Nets Land and Countryside collected 2,740 tonnes of green waste for composting at West Lothian Recycling. Road & Transportation Services delivered 3,700 tonnes of excavated soil, stones, mixed concrete and bituminous material to West Lothian Recycling.

The report recommended that the panel note the terms of the annual report of West Lothian Recycling dated 31 December 2016 and in particular the independent auditor's statement and the financial statements.

#### Decision

To note the contents of the report.

### 6. REAL TIME VEHICLE EMISSIONS PILOT PROJECT

The panel considered a report (copies of which had been circulated) by the Head of Planning, Economic Development & Regeneration providing the panel with the outcome of the pilot project to monitor real time vehicle emissions within West Lothian.

The report advised that East Central Scotland Vehicle Emissions Partnership (ECSVEP) was formed in 2004 using Scottish Government and annual grant funding. The partnership was administered by West Lothian Council and involved East Lothian, Midlothian and Falkirk councils. The partnership was established to increase awareness of vehicle emissions' contribution to poor air quality and its effects on human health.

It was advised that understanding of vehicle emissions had changed

significantly. Euro 5 vehicle emission standards failed to deliver the improvements in air quality intended, whilst use of diesel powered vehicles continued to rise. Report appeared showing that car manufacturer emissions testing regimes produced misleading results. It had also become increasingly clear that emissions from real world driving conditions were significantly higher than those obtained under the laboratory conditions used for type approval. These factors demonstrated a greater need to gather information which would give a better understanding of real world emission levels from vehicles using the roads.

Since the inception of the project, air quality policy in Scotland had moved significantly. This was outlined in the report to the Environment PDSP on Air Quality in West Lothian.

The report went on to advise that the Scottish Government had announced plans to have four “Low Emissions Zones” in place to address air quality in the country by 2020 with the first to be established by the end of 2018 in Glasgow. Low Emissions Zones were also expected to be established in Edinburgh, Aberdeen and Dundee. From 2023 all Air Quality Management Areas would include a Low Emissions Zone option.

The real time vehicle emissions testing project commenced on the A8 at Maybury on 20 March 2017 and deployment on the A89 at Broxburn commenced on 27 March 2017. Following the receipt of funding by the Scottish Government, North Lanarkshire Council secured a two week end on deployment on the A725 Whifflet. The combined effect was the largest deployment to date in the UK and the first in Scotland. Prior to commencement, Transport Scotland organised an informative multi-disciplinary meeting on 24 February 2017 which brought together some of the best technical expertise on the subject, including the supplier and the installation contractor.

The most significant outcome was that during the two week trial period, over 73,000 recordings were gathered compared to less than 100 per annum using the previous approach. This alone validated the value of the trial and demonstrated the efficiency of such an approach. A number of considerable differences were found between real world and “specified” emissions for vehicles which were detailed within the report. There were no specific outcomes for West Lothian however; the outcomes for Scotland were significant.

Low Emission Zones work by excluding certain types or classes of vehicle. Most commonly this was done by excluding vehicles of certain Euro standards; however the project data showed that in some cases older vehicles were less polluting than newer ones.

Longer term deployment would enable the same vehicle to be monitored a number of times. Where a vehicle had persistent elevated emissions levels, it could be identified for informal intervention.

The report went on to advise that a clear outcome of the pilot was that the more modern generation of vehicle was not necessarily cleaner than its predecessor. The pilot provided the first UK large scale use of the

equipment. The UK and devolved administrations now had statistically significant data on which to base any future policy.

It was noted that there were no plans to carry out further surveys using this approach within West Lothian. The West Lothian trial would inform wider considerations. Future use of such installations may be associated with Low Emission Zones projects.

The report concluded that the project was the first large scale deployment of real time vehicle emissions equipment in Scotland and had proven that:-

- The use of such technology produced significantly higher volume of data than manual testing within a given time frame;
- Real world driving produced more pollutants than laboratory type testing would anticipate;
- No diesel vehicle type met the required standard for pollutants;
- Older vehicles were not necessarily more polluting than their Euro 5 equivalents;
- A significant proportion of delivery vans operated below temperature, producing higher emissions;
- Euro 6 vehicles could be a significant improvement on Euro 5 when operating correctly, but a minority appear defective, producing elevated emissions;
- Tackling the worst 5% of vehicles would secure approximately 10% reduction in emissions; and
- To be effective, future regulation associated with Low Emission Zones would need to be more sophisticated than simply preventing access by older Euro class vehicles.

The report recommended that the panel note the content of the report and the value of the data gathered to the delivery of better air quality standards across the UK.

#### Decision

To note the contents of the report.

#### 7. SECTION 7 - PILOT SITE PROPOSALS - REPORT BY HEAD OF OPERATIONAL SERVICES (HEREWITH).

The panel considered a report (copies of which had been circulated) by the Head of Operational Services advising that Scottish Water had invited the council to enter into a collaborative agreement in the form of a Memorandum of Understanding (MoU) for working together to treat and convey road drainage and surface water from the roofs and curtilage of

buildings in future, shared drainage systems.

Section 7 of the Sewerage (Scotland) Act 1968, as amended made provision for such an agreement. Providing it was in reasonable terms, the council could not unreasonably refuse to enter into such an agreement.

Other options were to:-

1. Take the dispute to the Secretary of State: or
2. Ensure the provision of and meet the full costs of maintaining separate drainage systems for roads on new developments.

The report advised that legal advice was sought which provided clarity in terms of section 7 and the outcome of a dispute in case law. In summary, Scottish Water was responsible for maintaining SUDS systems but had the power to share this responsibility by entering into an agreement with a roads authority. If the council wished to argue that this was unreasonable it would have to make its case to the Secretary of State. It was not possible to predict whether such an argument would be successful. However it was noted that if it were successful, it would be difficult to see the purpose of that section of the Act.

In the context of legal advice there was not thought to be legal grounds sufficient to justify continued resistance to enter into a collaborative agreement in the form of a Memorandum of Understanding for working with Scottish Water treat and convey road drainage and surface water from the roofs and curtilage of buildings in shared drainage systems.

Recourse in the form of an appeal to the Secretary of State would appear fruitless given that the Scottish Government was a signatory to the original letter from Scottish Water inviting the council to enter into such an agreement.

The alternative of promoting three-pipe systems in future new developments, which effectively separate the treatment and conveyance of road runoff into a designated additional drainage system was not considered sustainable, fair to developers or cost-effective for the council as roads authority to maintain in perpetuity .

It was therefore suggested that a counter-proposal be made to Scottish Water to enter into an interim, time-limited agreement in the form of a letter to work together and pilot collaborative working on three future and representative development sites to determine how it would work and better understand the costs to the council and other practical implications.

Specific provision was to be made from within existing resources to fund the council's share of the pilot for a maximum period of two years at a cost not exceeding £20k and for a further, final report to be presented to the Environment PDSP on expiry of the pilot detailing costs and other implications.

The report recommended that the panel note:-



1. The invitation from Scottish Water; and
2. Commends to the Council Executive that the council enter into an interim time and cost-limited agreement to pilot collaborative working with Scottish Water on three future development sites on the basis that a further report would be presented to the panel on expiry of the pilot detailing costs and other implications.

#### Decision

To note the contents of the report and agree that the report and its recommendations be forwarded to the Council Executive for approval.

#### 8. NATIONAL HIGHWAYS AND TRANSPORT CUSTOMER SATISFACTION SURVEY 2017

The panel considered a report (copies of which had been circulated) by the Head of Operational Services providing the panel with an update on the recent National Highways and Transport Customer Satisfaction Survey results for 2017.

The report advised that the National Transport Customer Satisfaction Survey collected public perspective on the importance of, and satisfaction with, roads and transportation service in local authority areas.

The survey dealt with a wide range of themes including, accessibility, public transport, walking and cycling, congestion, road safety and roads maintenance.

The survey was conducted by Ipsos MORI and supported by Measure 2 Improve, the Highways Maintenance Efficiency Programme (HMEP) and the University of Leeds Institute for Transport.

Questionnaires were sent to 3300 households in each participating local authority area. In total, 112 authorities took part in the survey of which 5 were in Scotland.

The report went on to outline the key positive areas within West Lothian Council's approach to roads and transportation and the target areas for improvement within the sector.

The report included a number of tables which showed the results of the latest 2017 survey in comparison to the other 112 participating authorities. The tables also provided West Lothian's ranking in Scotland.

In conclusion, the report advised that West Lothian Council had achieved an excellent result in this year's survey having been ranked 2<sup>nd</sup> out of 112 authorities that participated UK-wide. Furthermore West Lothian was ranked first in Scotland and the overall satisfaction of respondents was 6% above the national average.

The key outcomes were accessibility, road safety and walking and cycling whilst areas for improvement were public transport, tackling congestion and highway maintenance.

The report recommended that the panel note the positive outcomes as detailed in the report and areas of improvement as advised through the public responses.

#### Decision

To note the contents of the report.

### 9. THE USE OF GLYPHOSATE FOR WEED CONTROL WITHIN WEST LOTHIAN

The panel considered a report (copies of which had been circulated) by the Head of Operational Services providing an update on the ongoing situation regarding the Glyphosate approval licence for continued use beyond June 2018, and the trial results looking at alternative methods of weed control in public open spaces.

The report advised that in 2016, NET's Land and Countryside Service became aware of both national and local discussions surrounding the use of Glyphosate for weed control, and the debate regarding possible health issues relating to its use.

At the Environment PDSP on 15 December 2016 it was agreed that NET's Land and Countryside Services would conduct trials to look at alternative methods of weed control to minimise and phase out the use of Glyphosate in future years.

The council's use of Glyphosate was reduced by 35% between 2015 and 2016 and was reduced by a further 20% in 2017 by hand weeding and mulching some shrub bed areas. A total reduction of 55% in Glyphosate use since 2015.

The report advised that Glyphosate was currently approved for use until June 2017, however the European Parliament was due to vote on the approval process in December 2017, and make a decision on whether the current approval licence would be extended beyond the summer of 2018.

A site was arranged within Balbardie Park, Bathgate to conduct the trials along with some specific sites to test the logistics of applying some of the alternative working methods. The trials were conducted over the period of a full growing season which started on 18 April 2017 with weekly monitoring until the end of September 2017, and consisted of the following alternative methods:-

- Thermal Treatment (hot water)
- Acetic acid (vinegar)

- Flame
- Glyphosate

The findings of the trial confirmed that Glyphosate was the most cost effective method of control costing £185,034 to complete two cyclical visits of weed control.

The trial also identified Thermal Hot Water Treatment as the most effective method of the alternatives although this method required four cyclical visits per year to achieve the same standard of weed control as Glyphosate at a cost of £3,380,944 increasing the council annual expenditure on weed control by £3,195,910. A summary of the alternative methods was contained in the report.

Whether Glyphosate was approved for future use or not it was recommended that an Integrated Pest Management (IPM) Strategy was developed, considering a revision of current services standards and tolerance levels for weed presence in all communities, ensuring the council remained committed to looking at alternative methods of weed control.

A meeting with representatives from PANUK had been arranged for December 2017 to discuss the development of an IPM and to consider any other alternative control methods that could be trialled in future.

A report seeking approval for the continued use of Glyphosate as the main method of weed control would be reported to the Council Executive once a decision was taken by the European Parliament on the extension of the current licence.

Information with regard to the European Parliament's decision on whether to extend the licence for the use of Glyphosate was not available at the time of writing the report however the officer was able to confirm that the licence for the use of Glyphosate had been extended for a further five years until 2022.

The report recommended that the panel note the council's use of Glyphosate was reduced by a further 20% in 2017; the results of the trials for alternative methods of weed control and support the proposal to continue using Glyphosate as the main method of weed control, subject to its continued approval.

### Decision

To note the contents of the report.

## 10. PERFORMANCE REPORT

The Panel considered a report (copies of which had been circulated) by the Head of Operational Services advising of current levels of performance for all indicators which were the responsibility of the

### Environment Policy Development and Scrutiny Panel.

The Head of Operational Services advised that the council's performance management system, Covalent, measured the performance of service activities through the use of key performance indicators (KPI's). Covalent used a simple traffic light system to show if progress was on target (green), in danger of falling behind target (amber) or below target (red).

The report advised that there were currently 29 High Level Key Performance Indicators under the remit of the panel and were categorised as follows:-

- 18 green
- 6 amber
- 5 red

Appendix 1 to the report contained full details of each indicator.

In conclusion it was advised that the report informed the panel of the performance of the wide range of activities within Operational Services. The information contained in the report and appendices would allow the panel to focus on the issues that services currently faced and included indicators where services performance was currently below target.

It was recommended that the Panel note the performance information

### Decision

To note the contents of the report

## 11. ROADS SAFETY INSPECTION MANUAL - 2017 REVIEW

The panel considered a report (copies of which had been circulated) by the Head of Operational Services providing an update on the review of the roads safety inspection procedure and manual.

The report advised that the council as Roads Authority had powers and duties to maintain public roads within its boundary. The establishment of a cost-effective regime of inspections provided the information for addressing the core objectives of road maintenance, provided data for the development of maintenance programmes and the roads asset management plan and helped the council to demonstrate compliance with its statutory duties.

On 8 December 2015, the Council Executive approved the Roads, Safety Inspection Manual which set out the council's approach to safety inspections on public roads. The manual came into operation on 1 January 2016. The intention was to review the manual every two years and so a review had been undertaken this autumn and was now the subject of this report.

The review identified the requirement for some minor amendments to the manual which were detailed in the report.

In conclusion the report advised that a review of the Roads Safety Inspection Manual was being undertaken and it was planned that a revised manual would be considered by the PDSP in summer 2018.

The report recommended that the panel note the content of the report.

Decision

To note the contents of the report.

12. WORKPLAN

The panel considered a list of items that would form the basis of the panel's work over the coming months.

Decision

To note the contents of the workplan.