



Council Executive

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

17 January 2018

A meeting of the **Council Executive** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre** on **Tuesday 23 January 2018** at **10:00am**.

For Chief Executive

BUSINESS

1. Apologies for Absence
2. Declarations of Interest - Members should declare any financial and non-financial interests they have in the items of business for consideration at the meeting, identifying the relevant agenda item and the nature of their interest.
3. Order of Business, including notice of urgent business and declarations of interest in any urgent business

Public Session

4. Confirm Draft Minutes of Meeting of Council Executive held on Tuesday 19 December 2017 (herewith).

Public Items for Decision

5. Medication Policy : Social Policy - Report by Head of Social Policy (herewith)
6. CIH Scotland 2018 Housing Festival - Report by Head of Housing, Customer and Building Services (herewith)
7. APSE Apprentice Awards (Trade Category) 2018 - Report by Head of Housing, Customer and Building Services (herewith)

8. Procurement Arrangements - Direct Award to Aebi Schmidt UK Ltd - Report by Head of Corporate Services (herewith)
9. Procurement Arrangements - Vehicle Fleet and Stores Management Software System - Report by Head of Corporate Services (herewith)
10. Newton Air Quality Management Area - Draft Air Quality Action Plan - Report by Head of Planning, Economic Development and Regeneration (herewith)
11. Linlithgow Air Quality Management Area - Draft Air Quality Action Plan - Report by Head of Planning, Economic Development and Regeneration (herewith)
12. Broxburn Air Quality Management Area - Final Action Plan - Report by Head of Planning, Economic Development and Regeneration (herewith)
13. Continuation of Developer Contributions for Public Art - Report by Head of Planning, Economic Development and Regeneration (herewith)
14. SESPlan Budget Ratification 2018-19 and Strategic Development Plan 2 Update - Report by Head of Planning, Economic Development and Regeneration (herewith)
15. Proposed West Lothian Council Response to a Call for Evidence on The Planning (Scotland) Bill - Report by Head of Planning, Economic Development and Regeneration (herewith)
16. Former Broxburn Library, West Main Street, Broxburn - Proposed Sale to Broxburn Bargain Centre - Report by Head of Finance and Property Services (herewith)
17. Industrial Open Storage Land 1.18ha (2.8 acres) at Whitrigg, East Whitburn - Proposed Sale to Trustees of CPP-McCormick Trust - Report by Head of Finance and Property Services (herewith)
18. Proposed Sale of Approximately 337m² of land at Union Road, Linlithgow to Mr Martin Fleming and Mrs Dorothy Fleming - Report by Head of Finance and Property Services (herewith)
19. Proposed Footway, Murieston Road, Livingston - Report by Lead Officer, Livingston South Local Area Committee (herewith)
20. Supplementary Item - Section 7 Agreements - Sewerage (Scotland) Act 1968 - Report by Head of Operational Services (herewith)

NOTE **For further information please contact Val Johnston, Tel No.01506 281604 or email val.johnston@westlothian.gov.uk**

DATA LABEL: Public

MINUTE of MEETING of the COUNCIL EXECUTIVE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 19 DECEMBER 2017.

Present – Councillors Lawrence Fitzpatrick (Chair), Frank Anderson, Harry Cartmill, Tom Conn, David Dodds, Peter Heggie, Chris Horne, Peter Johnston, Charles Kennedy, Andrew McGuire (substituting for Kirsteen Sullivan), Cathy Muldoon, George Paul and Damian Timson

Apologies – Councillor Kirsteen Sullivan

1. DECLARATIONS OF INTEREST

Agenda Item 13 (Paediatric Services at St John's Hospital) – As an employee of Neil Findlay MSP, Cllr Andrew McGuire declared his own financial interest as an employee and his employer's non-financial interest arising from the direct involvement of both in campaigning for the service at the hospital and therefore he would not participate in the item of business.

2. ORDER OF BUSINESS, INCLUDING NOTICE OF URGENT BUSINESS

- 1) The Chair ruled in terms of Standing Order 8 and 11 that a report on the Scottish Draft Budget 2018 and Local Government Finance Settlement 2018-19 would be considered after agenda item 14 as the information had only just been provided to the council; and
- 2) The Council Executive unanimously agreed to consider Agenda Item 16 (Social Work Complaints Review Committee Recommendations) in private in terms of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

3. MINUTE

The Council Executive approved the Minute of its meeting held on 28 November 2017. The Minute was thereafter signed by the Chair.

4. PETITION - BUS SERVICE L1 & 31

The Council Executive noted the content of the petition that had been received in relation to bus service L1 and 31.

Decision

To agree to refer the petition to a future meeting of the Development and Transport Policy Development and Scrutiny Panel.

5. PETITION - TRAFFIC MANAGEMENT SYSTEM - KIRK ROAD/MARJORIBANKS STREET, BATHGATE

The Council Executive heard Mr Willie Webster, accompanied by Mr John Ball, both local residents of Majoribanks Street, speak about their concerns for the lack of traffic management on Kirk Road/Majoribanks Street, Bathgate

Mr Webster explained that as the population of Bathgate had continued to grow and with that more traffic on the local road network, drivers from the immediate vicinity were finding easier and quicker routes to get across the town. This in turn had transferred traffic from Edinburgh Road onto Kirk Road/Majoribanks Street.

Therefore most drivers with local knowledge tended to avoid using Edinburgh Road, as this road was always very busy, and were starting to use Kirk Road/Majoribanks Street instead. As a result Kirk Road/Majoribanks Street was struggling to cope with this extra demand and there were insufficient pedestrian safety measures along the length of the road to cope with the extra traffic.

Mr Webster continued to advise that he understood that the council was operating under financial constraints however a few simple measures could be introduced by the council fairly quickly to start to alleviate some of the issues he had identified. This included relocating the bus stop, introduction of a 20mph speed limit along the length of the road and the introduction of a raised table at Wallace Road.

The Chair thanked Mr Webster for his presentation.

Decision

To agree to refer the petition to a future meeting of the Environment Policy Development and Scrutiny Panel.

6. DRAFT WEST Lothian LOCAL FIRE AND RESCUE PLAN 2017

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services providing an overview of the Scottish Fire and Rescue Service Local Fire and Rescue Plan for West Lothian 2017, which was out for consultation. A copy of the draft plan was attached to the report at Appendix 1.

The report recalled that following the review of the Local Fire and Rescue Plan for West Lothian 2014-17, the Local Fire and Rescue Plan for West Lothian 2017 had been developed to a stage where it had been released for consultation with key stakeholders and members of the community in West Lothian.

There were seven priorities identified within the Local Fire and Rescue Plan for West Lothian 2017 which were as follows :-

- Local Risk Management and Preparedness
- Domestic Fire Safety
- Deliberate Fire Setting
- Non Domestic Fire Safety
- Road Safety
- Unintentional Harm and Injury
- Unwanted Fire Alarm Signals

The Council Executive was asked to support the aims and content of the current draft plan which was subject to ongoing consultation. The Council Executive was also asked to note that a final version of the plan would be presented at a future meeting of the Council Executive for approval.

Decision

To approve the terms of the report

7. NEW BUILD COUNCIL HOUSING UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services providing an update on the council's new build programme and to seek approval for a change at Deans South.

The report recalled that the council's Corporate Plan 2013-2017 committed the council to increasing the number of council houses available for rent through the New Build Council Housing Programme. Over the period 2012-13 to 2016-17 1,056 affordable homes were delivered in West Lothian details of which were summarised in the report.

In addition to the 1,056 affordable home completions over the five year period to 2016-17 there was a commitment to build a further 1,029 affordable homes over the next two years. The majority of these were part of the council's current new build programme.

192 units were complete and 704 were under construction. Details of the locations of those units completed were summarised in the report. The report also provided a narrative on progress with the 704 units under construction.

The Head of Housing, Customer and Building Services continued to advise that development had yet to start at Nelson Park, Armadale and Deans South (Eastern part of the estate). Following discussions with Lovell Partnerships it was considered that the number of units at the eastern part of the Deans South estate be reduced from 63 to 37. This would make the development of the site easier and it would avoid

developing adjacent to existing privately owned houses and would reduce the need to divert existing services.

The report concluded that progress was being made with the current new build programme and that the rate of handovers was expected to accelerate in the New Year.

It was recommended that Council Executive :-

1. Note the progress being made on the council's current new build housing programme; and
2. Approves the removal of 26 units from the Lovell Partnerships' site at Deans South and agrees to replace these with 26 Open Market Acquisitions.

Decision

To approve the terms of the report

8. PROCUREMENT ARRANGEMENTS - TWO MONTH EXTENSION TO LEGIONELLA QUICK QUOTE

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to extend the Quick Quote award to SPIE Group for Legionella Services to allow completion of a full tendering exercise.

The Head of Corporate Services explained that the council had a statutory requirement to monitor its building for legionella bacteria to ensure their staff and the public were protected.

Following the failure of the incumbent supplier the council procured the services of SPIE via the Quick Quote process for an initial six month period. Preparations to retender the contract were now underway however, in the meantime, it would be advantageous to extend the interim contract by a further two months in order that the new contract could start at the beginning of the new financial year.

The initial six month requirement was carried out via Quick Quote in accordance with Standing Orders and Procurement Procedures. To date the council had spent in the region of £6,300 per month; to extend this to eight months from the initial six would entail a total estimated cost of £50,400.

The report also advised that the frequency of testing was required by law and that due to its specialist nature the requirement could not be met in house.

It was recommended that Council Executive approves an extension to the existing contract with SPIE Group, for an additional two month period, and notes the estimated total aggregated value would thereby increase to £50,400.

Decision

To approve the terms of the report

9. PROCUREMENT ARRANGEMENTS - SUPPLY OF PORTABLE APPLIANCE TESTING (PAT TESTING)

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to commence tendering procedures for the procurement of a three year contract for portable appliance testing, employing the evaluation methodology and criteria detailed in the report.

PAT Testing was required to ensure portable appliances were safe to operate and that due to its specialist nature the requirement could not be met in house.

Therefore the requirement would be advertised in accordance with European Union Directives and it was proposed that the Open Procedure be used whereby all suppliers expressing an interest would be invited to tender.

The criteria for at the tender stage would be 70% for Price and 30% for Technical & Professional Capability.

In financial year 2016-17 the council incurred costs of approximately £110,000 on the portable applicant testing with the existing contracted supplier. The majority of the expenditure would be met from the General Fund revenue budgets.

It was recommended that the Council Executive approved the application of the evaluation methodology detailed in Section D of the report for the tendering of the contract for PAT testing services.

Decision

To approve the terms of the report

10. PROCUREMENT ARRANGEMENTS - PROVISION OF SPECIALIST PROFESSIONAL TECHNICAL SERVICES FOR CAPITAL PROJECTS

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to commence tendering procedures for the procurement of a framework agreement for specialist professional technical services.

The Head of Corporate Services advised that running parallel with in-house resources several council areas required the provision of external specialist professional technical services to undertake capital projects on an ad-hoc basis. These external specialist services included architectural, quantity surveying, building surveying, mechanical & electrical, structural

engineering and clerk of works.

The council was proposing to issue a consolidated tender document for a four year framework agreement, divided into Lots, each reflecting their own specialist requirement in order to encourage the participation of Small and Medium sized Enterprises (SME's). It was anticipated that there would be between three and five providers bidding for each Lot and providers with multi-discipline resources could be successful in securing a place on more than one Lot.

The requirement would be advertised in accordance with the European Union Directives and it was proposed that the Open Procedure would be used whereby all suppliers expressing an interest would be invited to tender. Initially suppliers would be considered on examples of work via the European Single Procurement Document. If they were considered capable their full tender would be evaluated.

A criteria of 40% for Price and 60% for Quality would be applied at the tender stage. It was anticipated that the contract would commence on 13 October 2018.

Sustainability and budget implications would also considered in the report.

It was recommended that the Council Executive approve the commencement of tendering procedures for the procurement of a framework agreement for specialist professional technical services employing the evaluation methodology and criteria outlined in Section D of the report.

Decision

To approve the terms of the report

11. PROCUREMENT ARRANGEMENTS - IMPLEMENTATION OF SUSTRANS I BIKE PROJECT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval of a direct award to Sustrans for the implementation of the Sustrans I Bike project.

The members were advised that the use of I Bike Officer support from Sustrans had been identified in the Smarter Choices Smarter Places (SCSP) report to Council Executive on 6 June 2017 and was funded solely by a grant from SCSP. The I Bike Officer worked with Education and Community Health Development Put Your West Foot Forward to support and seek to increase walking, cycling and scooting activity. The funding supported the provision of one Sustrans Officer for a period of up to 12 months.

The I Bike project worked with schools throughout Scotland to help embed a culture of active travel and create safer, happier and healthier school communities. A number of local authorities throughout Scotland had used and continued to use the I Bike project to deliver specialised

targeted support.

A key element of the I Bike project was the provision of an I Bike Officer. The I Bike Officer would deliver a structured programme of practical activities for the whole school community.

It was being recommended that a direct award be made to Sustrans to a maximum value of £59,000. The award would comprise £32,000 initially, with a maximum aggregated award of £59,000, if additional funding became available.

Sustainability and budget implications were also considered in the report.

It was recommended that Council Executive approves the proposed direct award to Sustrans up to a maximum value of £59,000 for the implementation of the I Bike Project.

Decision

To approve the terms of the report

12. PAEDIATRIC SERVICES AT ST JOHN'S HOSPITAL

Councillor Andrew McGuire having previously declared a non-financial interest in the following item of business took no part in the discussion or voting on the matter.

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive providing an update on the reduction in Paediatric Services at St John's Hospital in Livingston on 3 December 2017 and 9 December 2017.

The Chief Executive advised committee that the NHS Lothian External Communications Manager wrote to the council's Corporate Communications team by email on 1 December 2017 to advise that a decision had been taken to close the children's short stay assessment unit at St John's Hospital on Sunday 3 December 2017. The council was also notified on 7 December 2017 of a further closure to the children's short stay assessment unit on Saturday 9 December 2017.

The Chief Executive also updated the committee in that he had received a further communication from NHS Lothian on the morning on 19 December 2017 advising of further closures of the unit on the 23 and 24 December 2017 and 30 and 31 December 2017.

This followed a reduced service in Paediatric Services at St John's Hospital in 2012, 2015 and from 7 July 2017.

The Chief Executive wrote to the Deputy Chief Executive of NHS Lothian to express the council's concern at this decision and in particular the communication from NHS Lothian given the commitment by NHS Lothian at the cross-party meeting held on 4 July 2017, regarding communication with key stakeholders. A copy of the response from the Deputy Chief

Executive of NHS Lothian was attached to the report at Appendix 1.

It was recommended that the Council Executive :-

1. Notes the closure of the children's short stay assessment unit at St John's Hospital on Sunday 3 December 2017 and Saturday 9 December 2017; and
2. Decides what action should be taken by the council in relation to this issue.

Motion

"Council Executive agrees with increasing regret the further closures of the children's short stay assessment on Sunday 3rd and Saturday 9th December 2017 and fully shares the distress and anxiety caused to parents' and their children directly affected.

Council Executive agrees that this the fifth closure since 2012, with a further two closures expected over the next two weekends, 23rd and 24th and the 30th and 31st December. This underscores the Scottish Government's appalling and increasing mismanagement of our cherished NHS due to its myopic focus on centralisation and independence.

Once again Council Executive calls on Shona Robison to restate her support for option 1 as detailed by the Royal College for Paediatricians, restate her commitment to no downgrade of the children's ward service at St John's Hospital and commit to a full return of the service at the earliest possible date.

Council Executive also agrees to write to the West Lothian local MSPs and the Lothian list MSPs to support our council's position".

- Moved by the Chair and seconded by Councillor Harry Cartmill

Amendment

"Council Executive agrees with increasing regret the further closures of the children's short stay assessment on Sunday 3rd and Saturday 9th December 2017 and fully shares the distress and anxiety caused to parents' and their children directly affected.

Council Executive agrees to request an urgent all party meeting with NHS Lothian to impress upon them the necessity to maintain the current temporary provision and to return to the full 24/7 inpatient paediatric service as soon as possible."

- Moved by Councillor Peter Johnston and seconded by Councillor Frank Anderson

A Roll Call Vote was taken which resulted as follows :-

Motion

Amendment

Harry Cartmill

Frank Anderson

Tom Conn

Peter Johnston

David Dodds

Lawrence Fitzpatrick

Peter Heggie

Chris Horne

Charles Kennedy

Cathy Muldoon

George Paul

Damian Timson

Decision

Following a roll call vote the motion was successful by 10 votes to 2 and it was agreed accordingly.

13. REGAL COMMUNITY THEATRE, BATHGATE

The Council Executive considered a joint report (copies of which had been circulated) by the Head of Finance and Property Services and the Head of Education (Learning, Policy and Resources) advising of progress with the community consultation to explore the potential for a viable community use for the Regal Theatre.

The report recalled that the Regal Community Theatre in North Bridge Street, Bathgate was owned by the council. The property was leased to and managed by a registered charity named Regal Community Theatre Bathgate Limited (RCTBL). On 20 September 2017 RCTBL was placed into liquidation on the instruction of its directors resulting in the termination of their lease on the building.

Following the liquidation the council immediately put measures in place to assume responsibility for the operation of the building to allow community lets to continue without disruption. Existing staff were retained by the council on a supply basis.

Council officers were instructed to undertake consultation with the community to investigate the potential for a viable community use for the building. The council received expressions of interest from three organisations; West Lothian Leisure, Reconnect Scotland and West Lothian Music Hub. These organisations were asked to submit a brief outline business plan demonstrating how their ideas were consistent with the council's outcomes and the information provided was used to inform

the community consultation.

The consultation took the form of an electronic survey using the council's internet-based survey tool. The survey was published on the council's website and social media sites and on the Regal Theatres own website and was emailed to over 150 voluntary arts organisations in West Lothian. Community Councils were also advised of the consultation along with former users of the Regal Theatre and former Board members. Corporate Communications also issued a media release to the local press.

The consultation closed on 10 November and the council received 762 responses to the e-survey. Consultees were asked to express their preference on the available options and West Lothian Leisure was the preferred option achieving 47% of the first choice votes. Reconnect Scotland was the next most popular choice with 36% of the first choice votes.

Council officers would now engage with West Lothian Leisure and Reconnect Scotland to explore and develop ideas presented in their respective outline business plans. Consideration would also have to be given to the implications in the ministerial recommendations on the Barclay Review before a decision could be made.

It was recommended that Council Executive :-

1. Notes that the council would continue to meet the costs of managing the Regal Theatre until March 2018;
2. Notes the outcome of the community consultation;
3. Agrees that council officers should engage with West Lothian Leisure and Reconnect Scotland to explore and develop the options for future use; and
4. Agrees that a further report would be presented to Council Executive on the outcome of that engagement.

Decision

1. To approve the terms of the report; and
2. To agree that a progress report would be brought back to the Council Executive before 31 March 2018

14. SCOTTISH DRAFT BUDGET 2018 AND LOCAL GOVERNMENT FINANCE SETTLEMENT 2018-19

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update in relation to the Scottish Draft Budget presented to the Scottish Parliament on 14 December 2017 and the local government finance settlement for 2018-19 as published in Finance Circular No.5/2017 dated 14 December 2017.

The Head of Finance and Property Services explained that in overall terms Scotland's total proposed spending plans, as set out in the Draft Budget 2018-19, amounted to £40,639 million which was an increase of £1,261 million compared to the Scottish Budget 2017-18 and as update for the Budget (Scotland) Act 2017 Amendment Regulations 2017. The allocations per portfolio were set out in a table in the report.

In 2017-18 the total managed expenditure available within the local government portfolio was £10,341.1 million. This figure included general revenue and capital grant funding, specific revenue and capital grants, as well as an estimate of non-domestic rate income. There were also a number of other funding allocations linked to individual policy initiatives held within other spending portfolios and taking this into account, this resulted in a total local government settlement of £10,507 million. An allocation for Scottish Government funding to Local Government in cash terms were set out in a table in the report.

It was important to note that the 2018-19 local government funding increase included significant funding relating to new expenditure commitments. The key changes in funding were set out in the report and these were under the headings of Health & Care Social Care Funding, Early Learning & Childcare, Funding for Teachers Pay, Non Domestic Rates and Council Tax.

The report continued to provide information on Pay Award, Devolved Taxation, Welfare Changes, Scottish Economic Growth and High Level Local Government Settlement.

The Head of Property Services also provided an overview of the high level implications for West Lothian Council.

The report concluded that the Scottish Government had published the draft 2018-19 Scottish Budget and the provisional Local Government Finance Settlement for 2018-19 on 14 December 2017.

For West Lothian the reduction in revenue grant funding based on the settlement was £4.127 million. After taking account of funding provided for new spend commitments, the comparable reduction compared to 2017-18 was £7.091 million at this stage although confirmation on a number of funding streams was still required. It was however clear that the revenue funding package proposed by the Cabinet Secretary would not provide sufficient funds to meet cost pressures and increasing demands and very significant savings would be required in 2018-19 and future years.

It was therefore proposed that the Head of Finance and Property Services continued to assess the outcome of the detailed local government finance settlement, taking account of further confirmation required and the further funding streams to be clarified.

It was recommended that Council Executive :-

1. Notes the issue of the Scottish Draft Budget 2018/19, which included

departmental spending plans for 2018/19;

2. Notes the outcome of the provisional local government finance settlement in respect of revenue and capital funding for 2018/19;
3. Notes that authorities not intending to accept the offer and full package of measures included within the finance settlement must write to the Cabinet Secretary for Finance and the Constitution outlining this intention by 19 January 2018;
4. Notes that the revenue grant funding for West Lothian contained in the settlement of £304.660 million reflected a £4.127 million reduction compared to 2017/18 funding, and that £2.946 million of the 2018/19 total revenue funding related to new spending commitments;
5. Notes the general capital grant of £15.026 million, and the £245,000 grant funding for Cycling, Walking and Safer Streets in 2018/19;
6. Notes that the revenue grant funding package set out by the Scottish Government would not provide the funding required to meet unavoidable cost pressures such as pay awards, demographics and indexation and that, as a result, very significant budget savings will be required in 2018/19;
7. Agrees that the Head of Finance and Property Services should continue to assess the outcome of the detailed Local Government Finance Settlement and include in the report to Partnership and Resources Policy Development and Scrutiny Panel (PDSP) on 19 January 2018 an update on the impact of the 2018/19 revenue budget settlement as part of the council's overall five year revenue budget strategy; and
8. Agrees that the council's Head of Finance and Property Services should incorporate the capital implications of the settlement into the ten year capital strategy and provide an update in the capital budget report to Partnership and Resources PDSP on 19 January 2018.

Motion

"Council Executive agrees recommendations 1 – 8 and further demands that the Council is provided with a fully funded settlement by the Scottish Government to maintain our quality services to our community".

- Moved by the Chair and seconded by Councillor Andrew McGuire

Amendment

"Note the recommendations and look forward to the final figures being made available demonstrating an increase in local government funding in 2018".

- Moved by Councillor Peter Johnston and seconded by Councillor Frank Anderson

A Roll Call Vote was taken which resulted as follows :-

Motion

Amendment

Harry Cartmill

Frank Anderson

Tom Conn

Peter Johnston

David Dodds

Lawrence Fitzpatrick

Peter Heggie

Chris Horne

Charles Kennedy

Andrew McGuire

Cathy Muldoon

George Paul

David Tait

Decision

Following a vote the motion was successful by 11 votes to 2 and it was agreed accordingly.

15. PRIVATE SESSION

The committee resolved under Section 50(A) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 of Schedule 7A of the Act.

16. SOCIAL WORK COMPLAINTS COMMITTEE RECOMMENDATIONS

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy advising of the outcome of the meeting of the Social Work Complaints Review Committee held on 16 November 2017.

On the 16 November 2017 the committee met to consider a complaint by an individual; the focus of the complaint was communication with a service user and her carer with the regards to the assessment of need. The decision of the committee was as follows :-

- The council had recorded meetings and conversations accurately

- The council had correctly communicated with the service user; and
- The council had done nothing wrong and that the case work was diligent.

The committee agreed that the complaint was not upheld and that there were no recommendations to be made to the Council Executive as a result.

The complainer was offered the opportunity to comment on the outcome of his complaint hearing so that his views could be passed to the committee. No reply was received prior to the report being finalised.

It was recommended that Council Executive note that the Social Work Complaint Review Committee on 16 November 2017 heard a statutory complaint, decided that the grounds of the complaint were not upheld and that there were no recommendations to be made to the council.

Decision

To note the content of the report



COUNCIL EXECUTIVE

MEDICATION POLICY : SOCIAL POLICY

REPORT BY HEAD OF SOCIAL POLICY

A. PURPOSE OF REPORT

To highlight changes made during the planned revision of the Medication Management Policy to reflect the requirements of the Care Inspectorate, Best Practice Guidance and audit recommendations.

B. RECOMMENDATION

It is recommended that the Council Executive approves the revised Medication Management Policy.

C. SUMMARY OF IMPLICATIONS

I Council Values	<ul style="list-style-type: none">• Focusing on our customers' needs• Being honest, open and accountable• Making best use of resources• Working in partnership
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 Adults with Incapacity (Scotland) Act 2000
III Implications for Scheme of Delegations to Officers	Nil
IV Impact on performance and performance Indicators	% of adults supported at home who agree they felt safe. % of adults receiving any care or support who rate it as excellent or good.
V Relevance to Single Outcome Agreement	Older people are able to live independently in the community with an improved quality of life.
VI Resources - (Financial, Staffing and Property)	No additional cost - within existing resources
VII Consideration at PDSP	The report was considered at the Health and Care PDSP on 7 th December 2017 where it was agreed that it would be submitted to the Council Executive for approval

VIII Other consultations

Medication Management Group 2017
Operational Managers I 2017
Learning and Development 2017
Finance and Property - Insurance

D. TERMS OF REPORT

Background

The current Medication Management Policy was approved by the Council Executive on the 15th of April 2014 on the basis that it would be subject to further review and updating three years thence.

Since approval of the policy the Medication Management Advisory Group which comprises of operational managers from adults and children services within the Council, plus relevant professionals from health have continued to meet to oversee practice developments and ensure continuing compliance with the policy.

Whilst the policy provides overarching principles for all service areas its translation into practice is via operational procedural guidance. This is customised and is thus pertinent to each service area and the model of service provided. This approach being viewed as effective as it offers flexibility to respond to changing circumstances whilst remaining compliant with the policy.

Current Position

The planned 3 year revision of the Medication Management Policy has been concluded with an updated draft policy having been created. The revised policy is applicable to all registered social care services and seeks to ensure best practice in all aspects of medication management.

Adherence to the policy therefore protects and safeguards all parties concerned incorporating what is currently viewed as being best practice. Hence its contents reflect best practice guidance; Regulators requirements; previous audit recommendations as well as changing service needs. Cognisance has also been taken of insurance cover, to ensure all treatments listed are compliant with and covered by the Council's Insurer.

The main changes contained within the revised draft Policy can be summarised as follows:

- The insertion of a glossary of definitions / interpretations.
- Guidance for staff working in the community when no prescription is available
- Guidance around the safe storage of medication which require chilled conditions
- Further clarity around the use of over the counter medication
- Additional guidance around the safe management of medication on excursions and outings
- Details of a new requirement by the Care Inspectorate about reporting adverse events concerning the use of controlled drugs.
- Further clarification around the need for contracted services to be compliant with the Council's Medication Management Policy.
- Revised training frequency to reflect current guidance.

E. CONCLUSION

The revised draft policy reflects changing service needs as well as legislative / practice and regulatory requirements.

Its implementation overseen by operational management and supported by training made available via the learning and development team provides front line staff with greater clarity and a framework within which to work when supporting clients who require to take medication.

F. BACKGROUND REFERENCES

Nil

Appendices/Attachments: Draft Medication Management Policy

Contact Person: Pamela Main
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Jane Kellock, Head of Social Policy

Date of meeting: 23 January 2018



SOCIAL POLICY

MEDICATION MANAGEMENT POLICY

Date	Version	Considered By	Outcome	Review Date
26 Oct 17	5	Medication Advisory Group		Oct 2020
29 Nov 17	5	SPMT		Nov 2020
7 Dec 17	5	HCPDSP		Dec 2020
23 Jan 18	5	Council Executive		Jan 2021

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1. GLOSSARY OF DEFINITIONS / INTERPRETATIONS WHICH APPLY

Providing support in relation to the management on medication includes all of the following

Prompting

Prompting of medication is reminding a person of the time and asking if they have or are going to take their medicines. The person is still in control of their medicines and may decide not to take them or to take them later.

Assisting

A person may be able to retain control of his or her medicines but needs assistance with simple mechanical tasks.

Assisting with medicines can include:

- Ordering repeat prescriptions from the GP's surgery
- Picking up medications from the GP's surgery
- Collecting dispensed medicines from pharmacy
- Bringing packs of medicines to a person *at their request* so that the person can take their medicines
- Opening bottles or packaging including multi-compartmental compliance aids at the request and direction of the person who is going to take the medicine
- Reading labels and checking the time at the request of the person who is going to take the medicine
- Ensuring the individual has a drink to take his or her medication

Administering

Administering medication is one or all, or a combination of the care worker doing the following:

- Deciding which medicine(s) have to be taken or applied and when this should be done.
- Being responsible for selecting medicines
- Giving a person medicines to swallow, apply or inhale, where the person receiving them does not have capacity to know what the medication is for or identify it
- Giving medicines even at the request of the person receiving care where a degree of skill is required to be exercised by the care worker to ensure this is given in the correct way.

Near Miss

A "near miss" - is 'an unplanned event, situation or error which took place but due to timely intervention did not result in any actual injury, illness or harm.

2. INTRODUCTION

Support with the management of medication is a key aspect for service users in a wide range of care and support services. **Where the service user is able to order/ store/ administer/ dispose of their own medication independently, they should be encouraged to do so.**

For those service users who do require staff intervention in some or all of the areas of managing their medication, this policy and the associated procedures have been designed to provide clear guidance for staff.

For the purposes of this policy, West Lothian Council (WLC) adopts the operating definition of medication used by the Care Inspectorate:

“Any substance or combination of substances presented as having properties for treating or preventing disease in human beings;

Any substance or combination of substances which may be used in or administered to human beings either with a view to restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis.”

It should be understood that such diagnosis can only be determined by a qualified medical practitioner. Similarly, the question of mental capacity/incapacity must be determined by a medical practitioner and, where incapacity is established, particular arrangements must be put in place to manage medication. These are outlined later in this Policy and the Service Procedure.

Additionally, the Policy and Procedures also address some medical *procedures* that may be undertaken by social care staff.

The Procedures are intended to encompass most medication issues arising in social care settings, but it cannot predict every situation that might arise. If in doubt about the right course of action to take, staff should always consult their line manager, the GP and/or pharmacist.

Additionally, the policy is agreed with the council’s insurers and all staff must be aware of the list of treatments and the conditions specified to ensure that no location is working outside the policy cover. Insurance cover for specific tasks out with the terms of the overarching policy can be negotiated by separate arrangement.

3. POLICY OBJECTIVES

The primary objective of the Policy and associated Procedure is to promote best practice in meeting the needs of service users through compliance with current guidance and the legislative framework.

The National Care Standards indicate that service users should be confident that staff in services will: *keep accurate, up-to-date records of all the medicines that have been ordered, taken or not taken, and disposed of; monitor medication and the condition for which it has been prescribed; seek the*

service user's permission to get medical advice if there are any changes or concerns about the medication, including side effects, or the service user's condition

For the purposes of service delivery, this Policy and the supporting Procedures are structured to address each successive stage of staff involvement in the management of service users' medication and will seek to;

- Ensure medication **ordering** is efficient and effective
- Promote **storage** arrangements that are safe and secure
- Support medication **administration** arrangements that deliver the best possible care to service users
- Provide staff with clear guidance on **recording** practice requirements
- Ensure that the **disposal** of unwanted medicines is undertaken safely and lawfully
- Advise staff on **legal requirements** in relation to the administration of medicines for service users unable or unwilling to give consent

4. **ROLES AND RESPONSIBILITIES**

CHIEF EXECUTIVE AND DEPUTY CHIEF EXECUTIVE

To oversee the strategic approach of the Policy and Framework Procedure for the management of medication in Social Policy services in West Lothian Council (WLC) and in services contracted to WLC and to approve the arrangements in place. To ensure that sufficient resourcing is available to implement the strategy.

HEAD OF SOCIAL POLICY

To oversee the development and implementation of the Policy and Framework Procedure for the management of medication in Social Policy services in WLC and in services contracted to WLC and to approve the arrangements in place.

SENIOR MANAGERS

To oversee the development and implementation of the Policy and Framework Procedure for the management of medication within their field of responsibility in Social Policy and in those services contracted to their field of responsibility and approve the arrangements in place.

GROUP MANAGERS

To oversee the implementation of the Policy and the development of Service Procedures for the management of medication for those services within their field of responsibility and approve the arrangements in place.

SERVICE MANAGERS

To oversee the implementation of the Policy by service staff and to take the lead in the development and subsequent implementation of a Service Procedure for the management of medication within their service. This oversight is to be exercised by a routine of planned auditing of the ordering/ storage/ administration/ recording/ disposal arrangements within the service. Service managers should ensure that all staff with a supervisory responsibility are aware of how they can access specialist information, including access to current British National Formulary (BNF) / Mimms reference literature.

CARE STAFF

To implement the Policy and Service Procedure for the management of medication, in line with their training and direction.

5. ASSESSMENT, CARE AND SUPPORT PLANNING

The assessment of the need for medication must be undertaken by appropriately qualified staff employed or contracted by the Health Board. Staff employed in social care settings are not authorised to determine whether medicines can or should be administered (please also see section 9 on Over the Counter Medicines and Alternative Remedies).

Social care staff should include the management of medication or medical procedures in the care plan only when medically trained staff has determined their use. In most cases, the planning of medication management will be pre-determined (e.g. a prescription will describe what the medicine is, the dosage level, and when it should be applied). In these circumstances the task for social care staff will be to support the administration of medication as directed, this may be by prompting, assisting or administering. (see definitions section).

Where there is an arrangement for Anticipatory Care Planning with local Health services, service staff will engage with health colleagues to review existing care arrangements, including current medication arrangements, and pro-actively consider service users' health requirements. This may happen on an ad-hoc basis, where the existing arrangements may need to be altered due to a change in circumstances, or it may happen on a planned basis, even where there have been no changes over the previous twelve month period.

Where an Anticipatory Care Plan does not exist, and service users have been taking medication regularly, social care staff are still encouraged to seek a review of that medication on at least an annual basis.

Please see Appendix A for details of the Treatment Table of current procedures and the appropriate level of Insurer cover. Prior to undertaking a listed procedure staff require to be trained and deemed competent by a suitably qualified person. Regular periodic refresher training should also be undertaken with ongoing competency confirmed.

6. RESPONSIBILITY FOR MEDICATION

Medication is the legal property of the person for whom it has been prescribed and dispensed. Consequently it cannot be shared with other service users, even where the medicines are identical. Care staff have a responsibility to comply with current legislation and good practice guidance issued by the Regulators, the Council, this Policy and related Procedures in managing the service user's medicine for the service user's benefit.

HEALTH CARE PROFESSIONALS with the appropriate qualifications have responsibility for prescribing medication, the form in which it comes, and assessing the interaction with other medicines. They will also be responsible for some procedures that require health training to administer (e.g. injections). They also have responsibility for determining questions of capacity/ incapacity and issuing S.47 certificates where appropriate.

The supplying PHARMACIST has legal and ethical responsibilities relating to the safe supply of medicines. These include, but are not restricted to accurate dispensing of medication and medicinal products. All dispensed items should detail: the medication including name, strength and form; the frequency of administration; any cautions or warnings. Labelling requirements also include the name of the service user; dispensing date and the details of the supplying community pharmacist. Where the supplying community pharmacy is contracted to NHS Lothian's Primary Care Contractors Organisation through a locally negotiated service to provide support and advice on the safe storage and administration of medicines, there is a requirement for the pharmacist to visit the service at least quarterly to review the arrangements for medication management.

CARE STAFF have the responsibility to administer medication in line with the prescribed/ labelled instructions and to ensure that the administration is recorded appropriately. Medication must also be administered in a way that respects the autonomy, human rights, privacy, and cultural and spiritual beliefs of the service user and takes full account, where appropriate, of the wishes of their family and carers. People with capacity must give consent (which may be written, verbal or non-verbal) before medicine is administered.

Care Plans and/or Medication Administration Records (MAR) sheets should include clear guidance on the applications of creams and ointments. The instruction should provide dosage instructions, the site of application (arms, legs etc) and a review date for treatment.

Council employees must not make clinical decisions/judgements regarding the administration of medication. The service user's doctor, and the carer or proxy (nominated person) should always be consulted. Some employees within the council are qualified nurses but are not employed within this role (with very few specific exceptions). Council insurance cover does not apply to making clinical decisions, unless staff have been explicitly employed to undertake such nursing tasks and these tasks are outlined in their job description. It is the expectation of the professional body, the Nursing and Midwifery Council, that their members have a responsibility for their own accountability. Staff should seek further advice should they be unsure of their position in this matter.

Contacts with the GP and pharmacist can be made by staff designated to do so in the Service Procedure to discuss whether different prescribing decisions, or forms of medication, are suitable for the service user that might remove or reduce the need for assistance in e.g. respite care and day support services.

West Lothian Council employees must only administer medication prescribed or approved by a medical practitioner. Medication may be dispensed in a monitored dosage compliance aid (e.g. Nomad or Dosette), which may help the safe and accurate management of medication, particularly in cases where significant quantities of medication are prescribed. In other cases, the supplying pharmacist may dispense the medication in individually labelled original packs with a calendar marking. This arrangement is explicitly approved by the Care Inspectorate and will help ensure that essential medicines are received in a container that assists staff to chart how many doses have been received and how many dispensed, giving an early alert to possible problems.

Residential care services must comply with care inspectorate guidance and must hold a copy of the medication prescription for individual service user. Community based services should comply with best practice guidance

7. REFUSAL TO TAKE MEDICATION

Any refusal to take medication should be recorded and appropriate advice sought from the GP and/or the supplying pharmacist. Council employees, when involved in providing support to service users, must only carry out duties in accordance with their authority and training.

A service user with capacity may refuse medication and that decision must be respected by care staff, although we would seek to persuade them to accept medication prescribed for their benefit. If a service user without capacity refuses the administration of medication, the following steps should be followed:

- Social Work employees must not force individuals to take their medication
- Staff have a duty to preserve life using the least restrictive means possible
- Consultation should be undertaken with an appropriate medical practitioner about the consequences of the failure to take the medication and, if required, this should be recorded in the care plan.
- The person **who has legal authority** to consent on the service user's behalf must be contacted and informed of the situation
- In an emergency, staff should phone 999.

Where possible, Protocols should be agreed in advance with the service user's medical practitioner with regards to what to do when medication is refused. The Protocol should be clearly set out in the care plan.

8. COVERT MEDICATION

Medication administered covertly could be considered an assault on the service users and should not be disguised unless on the specific instruction and guidance of the medical practitioner with the agreement of the carer and the multi-disciplinary team. Staff must have regard to the fact that some medication loses effectiveness when its form is changed – e.g. some tablets are unsuitable for crushing.

There may be circumstances in which there has been a determination for a Compulsory Treatment Order to be in place. Implementation of such an order must comply strictly with the legislation and the advice of staff in council mental health services should be sought.

The administration of covert medication is only compatible with the existence of a certificate issued by a qualified medical practitioner under Section 47 (S.47) of the Adults with Incapacity Act (see also Section 19 on Capacity/ Incapacity) and therefore medication should not be administered covertly except where such authority pre-exists.

9. RECORD KEEPING

Each service must have clear systems for maintenance of records and their eventual safe destruction to maintain confidentiality.

Personal medicine records should be incorporated into, or appended to, the service user's file. Day to day medication management records (e.g. Kardex/ Medication Administration Records (MAR's)) should be easily accessible for care staff to use daily. Sets of records must be stored in a secure place. Computerised records should be backed up at least weekly according to a schedule and method agreed with Information Services and stored off site.

Residential Care services are required to retain a copy of every prescription (GP10) that is presented to the pharmacy in order to cross reference, should the need arise. Similarly, any medicines that are returned to the community pharmacy for disposal should always be receipted by the pharmacist and the receipt retained by the residential care service for the appropriate length of time.

If no such local agreement exists for creating and maintaining a copy of the GP10 for the supported person in a community based service (e.g. support at home), then various sources of information may be used by the care service to create and maintain their own recording charts/system.

- Sight of prescription (e.g. GP10s) - may not be possible in many cases
- Communication with the GP or other healthcare prescriber
- Information from the person's usual pharmacy
- Communication with another healthcare professional involved in the person's care e.g. community nurse
- Information from the supported persons family

The care service framework procedure will need to demonstrate how it will create and maintain an up to date record of current medicines.

A worked example of the type of recording chart and any paperwork used in the service should be held in the care service framework procedure in an appendix.

“Template for Review of Medication Management Procedures in Care at Home Services”

Where medicines need to be stored in chilled conditions the drug fridge temperatures must be monitored daily using a digital fridge thermometer which shows minimum, maximum and current temperatures over a 24 hour period. These three readings require to be recorded along with any corrective actions taken if the temperature falls out with the optimum range in any 24 hour period. The temperature should be in the range 2 – 8 degrees Celsius and staff should be aware of the escalation process if temperatures are outwith these parameters. Note – the thermometer requires to be reset after each 24 hour period.

In addition to the daily checking of drug fridge temperatures the room / area in which the drug cupboard is located also requires to have its temperature checked and recorded daily to ensure the optimum temperature which is below 25 degrees is maintained at all times.

Obsolete personal records and unit medication records should be removed to the area social work office or approved depository, archived for the appropriate length of time, then treated as confidential waste and destroyed.

Where the service user requires help with medication and, subject to their consent, current medication lists can be requested from GPs if required. GP's print the list from their computer records, so the request should not generate a significant workload.

For the purposes of service development and improvement, services should also record 'near misses'. A 'near miss' can be defined as 'an unplanned event, situation or error which took place but due to timely intervention did not result in any actual injury, illness or harm.

Some examples might include: drugs found to be stored under wrong conditions; stock drugs found to be passed expiry date; error noted in drug labelling; failure to record allergy to medication identified; failure to document medication administration identified; drug trolley found to have been left unlocked'

10. OVER THE COUNTER (OTC) MEDICATION/ ALTERNATIVE REMEDIES

Some non-prescription OTC medicines are readily available and can be obtained from pharmacies, shops, supermarket or local garage without a prescription, such as paracetamol and aspirin containing pain killers, cough mixtures, indigestion remedies, herbal and homeopathic remedies etc. People with capacity, and who are mobile, can purchase and consume these products at their own discretion. Care staff are advised to encourage such service users to seek medical or pharmaceutical advice when doing so in addition to taking prescribed medication.

However, West Lothian Council employees should not purchase, recommend, assist with, or administer OTC medication to service users (with or without capacity) without seeking medical advice. The risks involved in doing so include:

- Issues with dosage
- Effects upon any other medication taken by a service user
- Unknown allergies
- Possible side effects

Unless prescribed by a medical practitioner, West Lothian Council employees should not administer such medication and this may include preparations that use alternative medicinal approaches (e.g. homeopathic remedies). There can be problems distinguishing between the effect of an error in administration and an unexpected side effect of a drug. In light of this, social care staff should avoid the potential for uncertainty and ensure that they only administer medication that has either been prescribed or approved for use following medical or pharmaceutical advice. Where appropriate some service areas may use the minor ailments service for over the counter medication, however any medication dispensed must be clearly labelled by the pharmacist and in line with West Lothian Council guidelines. These arrangements would *not* include preparations made with some household ingredients (e.g. a hot drink made with honey and lemons) and if staff are uncertain, they should consult with their manager in the first instance.

11. PRN (AS REQUIRED) MEDICATION

Some medications are prescribed to be used on an occasional basis. Pro Re Nata ("*as the thing is needed*") medications require particular attention because care staff will need to make a judgement about when that need has arisen. In order to ensure a degree of consistency in approach, care services should prepare a Protocol for the use of PRN medications. The Protocol should outline explicit guidance for staff to address three stages:

1. The circumstances under which the PRN meds should be administered, including description of the dose/ frequency. This may require setting out triggers that describe physical or behavioural conditions.
2. The expected consequence of the administration of the medication: what should happen and how long that should take
3. What action should be taken if the desired outcome has not been achieved.

Staff should record the effects/outcome of the as required medication onto the medication recording sheet

12. INVASIVE TREATMENTS

Some medications require administration inside the body, such as the administration of diazepam per rectum. West Lothian Council employees must not administer invasive treatments to a service user unless:

- a clear negotiated care and support plan is in place detailing such a requirement
- care staff have received relevant training via an appropriately qualified and competent trainer
- their training is confirmed as being up to date, by their service manager and it is documented they have been assessed as being competent

Most social care staff are not able to administer injections, although some may, *if they have been trained and are qualified to do so*. The management of Diabetes can involve the use of a Glucometer, which can provide a reading of blood/ sugar levels. Where appropriate training has been provided, social care staff may be able to use such equipment for monitoring purposes to help determine whether medical assistance needs to be sought. There are no circumstances under which social care staff will be able independently to determine a clinical response to a given situation.

Other, potentially life-saving emergency procedures have been granted approval by the Council's insurers, subject to strict conditions: The approved procedures include:

- adrenaline emergency treatment (e.g. EpiPen or Jext)
- rectal diazepam
- oral (buccal) midazolam

These procedures are used in accordance with a client's care plan provided that the member of staff has been properly trained. The service should retain records of the training sessions including who provided the training, who attended the training, the signatures of those involved and the date individual competency was confirmed plus date by which refresher training is needed. Refresher training should be carried out at intervals in accordance with best practice and similar records held.

Some treatments are presently considered too risky, rare or complex for social care staff to administer. Service users who need help with these therapies are unable to fully access certain community activities or services without the presence of a nurse.

The council shall continue to keep under review the provision by social care staff of other therapies that are currently provided by health care staff in West Lothian and by social care staff in other agencies.

13. OTHER PROCEDURES

Certain care processes and procedures do not involve the use of medication but require varying degrees of precaution and training, such as the change of stoma bags or assistance with prostheses. The policy for infection control outlines general precautions.

The self-administration of Oxygen Therapy can be supported in social care settings with staff being able to offer assistance i.e. adjusting and fitting the nasal cannula if staff have been trained to do so.

Such training can include a demonstration in its use by either medically qualified staff or equipment technicians. The administration of oxygen by social care staff however should not be undertaken.

Approval by the unit manager and instruction by an appropriately qualified health professional is required for all staff required to carry out any task involving unfamiliar procedures, complex equipment, intimate care or contact with bodily fluids. This should be supported with a written care plan, including a protocol outlining the tasks and precautions to be undertaken.

Managers and staff need to be alert to service users who may have received radiotherapy treatment and the potential for exposure to themselves. Although the likelihood of occurrence of exposure is low, the consequences, particularly where there is repeated exposure, for the individual carer and Council may be high.

14. EXCURSIONS AND OUTINGS

Responsibility and standards relating to the safe management of medication is the same as at any other times.

Planning for the management of medication during excursions and outings should always be done in advance. This should include ensuring there is sufficient medication available to last for the duration of the planned excursion / outing with extra supplies as contingency for travel delay and spoilt doses. Where possible, staff should take medication in the original container with full labelling.

In addition prior to embarking on an excursion a risk assessment should be completed for each person who is unable to manage their own medication with an agreed plan of action being in place prior to departure. Staff may want to consider taking copies of Care Plans (or extracts of care plans) for individuals for reference and guidance purposes. Mobile phones can be pre-programmed with local clinic numbers at destination and knowledge of location of clinics/hospitals may be pre-planned depending on risk.

During transportation, although the need for emergency administration is unlikely to occur, there is always a possibility. Depending on the criteria provided by the prescribing GP every effort must be made by the driver and escort to call on the assistance of the emergency service.

The risk assessment will serve to demonstrate which service users are likely to require emergency treatment and under what circumstances. The outcome must inform management action to ensure that staff are available and suitably trained to provide treatment. Escorts must be provided during transportation where there is a significant likelihood of emergency action being required.

In addition prior planning requires provision to be made for the safe keeping of medication whilst on excursions / outings e.g. locked box, container, cupboard. Records also require to be available and kept up to date.

15. RECTAL DIAZEPAM/ ORAL (BUCCAL) MIDAZOLAM

For the safety of the service user and the guidance of staff, it is essential that a Protocol is established for the use of these medications (see also Section 10 PRN Medication and take into account the occasional need for medications). The prescribing practitioner should provide clear instructions setting out when they should be used, how much should be given and any precautions necessary. Those instructions should form the basis for the Protocol and the use for these medicines.

Only members of staff trained and competent in carrying out the procedures are permitted to make the judgement as to whether it is an emergency. If there is no approved or suitably trained member of staff available the emergency services must be called. The service user's privacy and dignity must be protected as far as possible in all circumstances.

It is the responsibility of the senior care worker on duty to ensure that the service user is placed in safe and well-supervised surroundings and that any urgent medical / nursing intervention is easily accessible if necessary.

Written consent must be sought from the service user (if they have capacity) or the Welfare Guardian or Welfare Power of Attorney of a person likely to require emergency medication to control convulsions, setting out their agreement for social care staff to undertake the procedure as necessary. In the case of rectal administration, information about the preferred gender of the staff member undertaking the procedure should also be sought. For those not able to express a preference, same sex administration should apply. In an emergency, the absence of the appropriate gender staff should not delay administration.

It shall always be preferable for two staff to be present when emergency administration is being carried out. Again, however, the absence of a second member of staff should not delay the administration.

In a public place, removed from the establishment, the emergency services (ambulance) should be called out. If due to unforeseen circumstances, the situation becomes potentially life threatening, administration of rectal diazepam may be conducted within the criteria set by the GP while providing the maximum privacy possible.

At all times the necessary universal precaution (protective clothing, gloves etc) must be worn to minimise the risk of any infection.

16. SECONDARY DISPENSING

As a general rule 'secondary dispensing' is not considered good practice and should not be undertaken by staff. The exception being when staff are supporting a service user in the community who is able to understand what their medication is for but requires assistance from staff e.g. may require assistance to open medicine container due to dexterity or visual impairment. In such

instances at the request of the service user and following a risk assessment staff can remove medicines from the original packaging and leave for the service user to take later on i.e. medicine to help them sleep but they want to watch T.V. and asks the member of staff to leave for them to take later. *Note in such instances it should be recorded in the service users record “ left for self administration”.

For the avoidance of doubt, secondary dispensing is *not the same* as staff collating several medicines into a single container immediately before handing that pot to the service user for ease of handling and instant consumption.

Where possible, services should consider whether the service user is able to store and administer the medication independently. This may include the use of a monitored dosage system for storing and dispensing tablets. Systems are also available to manage liquid medication in this way too. As well as enhancing the service user’s independence, this approach reduces the need for dispensing and stock control/auditing.

Monitored Dosage Systems (MDS) can be helpful to staff in services or in the service user’s own domestic premises and support staff to reduce the need for unnecessary storage or handling arrangements.

17. CONTROLLED DRUGS (CDs)

Controlled Drugs, by their nature, require more careful management and staff are advised to ensure that all steps in the process of managing CD’s are managed jointly with a colleague wherever possible. The requirement for control is based on the potential for significant impact through use of these drugs (e.g. to induce a dependency) and/or on their toxicity. Consequently, there are special arrangements in place for the storage/ administration/ recording/ disposal of Controlled Drugs. These are set out in each service’s Medication Framework Procedure.

Activities that control the manufacture, supply and possession of controlled drugs are governed by the Misuse of Drugs Act 1971. Penalties applied to offences involving different drugs are graded according to the harmfulness attributable to a drug when it is misused. The drugs are legally defined into three classes; Class A, Class B and Class C and are medically defined into Schedules 1 - 5. Drugs included in these classes are listed in the current *British National Formulary* (BNF).

People who are authorised to supply and possess Controlled Drugs while acting in their professional capacity, and the conditions under which these activities may be carried out, are defined in the Misuse of Drugs Regulations 2001. The drugs within each schedule, and an overview of the requirements that apply, are also identified in the *BNF*.

See Appendix B for a list of Controlled Drugs. **Please note that this list is subject to change and staff should therefore be alert to the need to ensure current information is accurate.** A link to a current list is included on Appendix B.

18. NOTIFICATION ON CONTROLLED DRUGS

Services are required from the 1st of April 2015 to alert the Care Inspectorate of any adverse events and concerns involving schedule 2,3,4,5 controlled drugs used in care settings when they occur. (Care Inspectorate Publication OPS-0415-311)

19. ERRORS AND NEAR MISSES

In seeking emergency medical support (e.g. where it is suspected that medicine has been wrongly administered), staff can seek advice and assistance from: the service user's GP; NHS 24 (if out of hours); the supplying pharmacist; local NHS nurse or using the 999 system.

Mistakes and/or adverse reactions may occasionally happen for various reasons. Every employee has a duty to report any breach of this policy and the associated procedures or untoward incidents. Managers should encourage staff to report/ record all incidents, however minor. They should be dealt with in a constructive manner that addresses the underlying reason for the incident and prevents recurrence.

Health and safety Incident Report forms should be used to report all incidents of error in the management, control and administration of medication and medical processes, including near misses. In addition to meeting the Health & Safety reporting requirement, these details are fed into centrally held computer systems and will provide information to managers to assist them to take any necessary action to reduce future risks. Records should be completed as soon as possible after the event and, in all cases, before staff finish their shift.

The circumstances relating to errors should always be investigated, the level being proportionate to the individual circumstance and context. This will assist managers to differentiate between those cases where there was a genuine mistake, where the error may have resulted due to pressure of work or where reckless practice was undertaken and concealed. With regard to near misses, all instances should be recorded. Regular analysis of the outcomes of error investigations and review of near misses will assist the service to identify trends and consider what supportive or corrective interventions are required.

20. MEDICATION ADVISORY GROUP

This Policy has been prepared in conjunction with a Framework Procedure. That Framework Procedure is intended to guide all WLC social care services about the way in which the Medication Procedure for that service should be structured in order to implement the policy.

In order to maintain oversight of the Policy/ Framework Procedure/ local procedures, a Medication Advisory Group will be convened on a regular basis by a nominated Senior Manager to review the efficacy of current guidance, best practice developments and any practice issues that might benefit from detailed discussion.

21. CAPACITY AND INCAPACITY

Where a service user is managing and self administering their prescribed medication and is clearly able to do so without assistance (in any setting), there is no requirement for the intervention of West Lothian Council staff. However, there is an expectation that keyworkers will monitor the continuing ability of the service user to cope with their medicines.

If the person has the capacity but not the physical ability, the key worker should record this and provide instruction(s) with regards their medical needs. By doing this, potential risks to service users, employees and the council will be reduced.

Service users with capacity should be given information about granting a Power of Attorney to a named person or persons in the event that their condition may deteriorate, in order that their Financial or Welfare interests can be protected even when their own capacity to do so may reduce. This is normally a fairly simple process requiring input from a solicitor, and can be done at the same time as a will. Most people would prefer to name people they know and trust to take responsibility for their welfare and finances rather than leave it to the Courts to appoint someone.

Where service users have capacity and are able to provide or withhold informed consent to treatment being provided, those views and wishes of those service users must be respected.

Many of the service users in social care settings may be unable to give informed consent to medical treatment due to their condition (e.g. those suffering from a significant level of dementia). In these circumstances, the administration of medical treatment without consent may constitute an offence. The *Adults with Incapacity Act* (AWI Act) sets out in Part 5 detailed guidance regarding medical treatment and incapacity.

In circumstances where a service user is unable to give informed consent, arrangements need to be made in order for that treatment to be administered. These arrangements may include the designation of someone authorised to give consent on the service user's behalf (e.g. a Welfare Guardian or a Welfare Power of Attorney) and the arrangements may include the issuing of a certificate under Section 47 (S.47) of the AWI Act. S.47 certificates can only be issued by a qualified medical practitioner who has determined that the service user requires treatment and is unable to make an independent and informed decision about giving or withholding consent.

Any treatment administered under the AWI Act must be able to meet the principles attaching to that legislation:

- The intervention must be of **benefit** to the individual
- The intervention must be to the **minimum level** to achieve the desired outcome
- It must take account of the adult's **wishes and feelings**
- It must have involved **consultation** with significant others
- It must encourage **exercise of residual capacity** in the individual

Treatment under Part 5 is subject to exceptions. It cannot authorise certain treatments and can only authorise others subject to additional requirements. There is a standard appeals procedure under Part 5 for resolving disputes. This can be invoked by any person who is directly involved.

The service user is deemed incapable of giving consent, if he or she is incapable of:-

- acting; or
- making decisions; or
- communicating decisions; or
- understanding decisions; or
- retaining the memory of decisions

to safeguard or promote his/her interests in, his/her property, financial affairs or personal welfare, and is likely to continue to be so incapable.

Incapacity may be by reason of mental disorder or (following the exploration of all alternative forms of communication) of inability to communicate because of physical disability.

A wide range of sources can inform assessments of incapacity. Doctors have principal responsibility for assessments of capacity where formal interventions under the Act are being considered, but any assessment should involve all key members of the multi-disciplinary Team.

If a member of staff believes that an adult has areas of their life where they do not have full capacity, then they will need to examine what measures are in place to address these issues. Where there appear to be gaps this should be discussed with their appropriate line manager. Consideration should be given to the need to seek advice from the AWI/MHO team.

The AWI Act allows for intervention only in matters where the adult lacks capacity. It is necessary to consider whether the adult lacks capacity in relation to the relevant matter each time a decision or action fails to be taken.

Assessing the capability of people with *fluctuating* capacity (for example resulting from delirium or hypomanic conditions) will present particular issues. In such cases, it may be best that a S.47 certificate of incapacity should be of short duration to ensure that the patient's freedom is not restricted more than necessary. If a decision can reasonably be deferred until the adult is likely to regain sufficient capacity then in accordance with the principles of implementation set out above, it must be deferred.

Issues regarding the matter of capacity can be discussed with the AWI Team.

Social work staff should obtain a copy of the Court Order granting the Guardianship Order or Intervention Order. In the case of Welfare Attorneys, social work staff should request an authorised copy of the document conferring the power of attorney.

22. CONTRACTED SERVICES

All Service Providers (SP) contracted to work on behalf of WLC require to take cognisance and evidence they are fully compliant with the Councils Medication Management Policy, legislation and current best practice throughout the duration of their contract.

WLC will provide all relevant information in relation to the management of medication upon referral to SP's contracting with WLC to provide care and support to service users.

Complaints or concerns regarding the service provided will be channelled through the Council's formal complaints procedure. Where this involves a contracting SP, it will require to be addressed as detailed within the agreed contract terms and conditions. The SP will for the avoidance of doubt be required to provide a concluding statement outlining how the situation has been investigated and where necessary improvements made.

Services must ensure that the arrangements with contracted services for the disposal of products arising from medical treatment, including clinical waste and radioactive products ensures the safety of service users, service staff and contracted staff. Additional advice should be sought as necessary from Health services.

23. TRAINING

There are significant training and supervision implications for managers and staff in implementing the Policy and associated Procedures and achieving full compliance. A suitably experienced pharmacist should be involved in the design and delivery of all medication training. The following training needs have been identified:

ALL STAFF

General staff induction should incorporate basic medicine awareness, and an introduction to the medication procedures. A copy of this policy should be made available as part of the induction pack. Unit induction shall include a hands-on introduction to unit level documentation, protocols, and procedures appropriate for that service setting.

Staff authorised and trained to carry out specific high risk procedures e.g.:

Rectal diazepam administration- staff shall following training receive close on-the-job supervision from their line manager or trainer on the first 3 occasions where possible when the drug is administered. Refresher training will require to be undertaken every 2 years in line with current guidance.

Controlled drug administration- staff shall following training receive close on-the-job- supervision from their line manager or trainer for the first 3 months. If they have not carried out the procedure for 12 months, further close supervision should be provided and recorded in their personal development plan. Refresher training in the administration of controlled drugs is incorporated within medication administration refresher training which requires to be undertaken every 3 years.

MANAGERS, SUPERVISORY STAFF AND STAFF IN SOLE CHARGE

Advanced practitioner training in these procedures, followed by close supervision by the line manager for at least three months, is required for any staff member likely to be in a position of responsibility or sole charge, including night staff and outreach workers.

CONTINUOUS LEARNING

There should be top-up training provided in the event of any significant changes in legislation, practice, procedures or new medications. Medicine management, including a full discussion of areas for improvement, should form a regular agenda item at individual supervision and staff team meetings.

TRAINING DOCUMENTATION

All training should be properly documented with copies in the individual staff file and in the unit training file.

24. POLICY MONITORING AND REVIEW ARRANGEMENTS

The monitoring arrangements for the various aspects of this policy are set out above at Section 3 (Roles and Responsibilities).

The Head of Social Policy will have responsibility for ensuring that the policy and the associated Framework Procedure are reviewed and revised where necessary at intervals not exceeding three years. Subordinate to those arrangements, Group Managers will have responsibility for ensuring that Service Procedures are reviewed and revised where necessary at intervals also not exceeding three years.

All services will undertake a programme of internal and peer practice audit, at intervals to be agreed between the Group Manager and the Senior Manager. The audit will consider all steps in the process of acquiring, storing, administering, recording and disposal of medicines.

25. NEXT REVIEW DATE: COMPLETION BY NOT LATER THAN OCTOBER 2020

Appendix A**TREATMENT TABLE**

Procedure/Activity/Use of	Cover Available
Acupuncture	No
Anal plugs	No
Apnea monitoring	Yes – in respect of monitoring via a machine following written guidelines. There is no cover available in respect of visual monitoring
Bathing	Yes – following training and in accordance with written guidelines
Blood samples	Yes – but only by Glucometer following written guidelines
Buccal medazolam	Yes – following written guidelines
Bladder wash out	No
Catheters	Yes – following written guidelines for the changing of bags and the cleaning of tubes. There is no cover available for the insertion of tubes
Colostomy/Stoma care	Yes – following written guidelines in respect of both cleaning and changing of bags
Chest drainage exercise	Yes – following written health care plan provided under the direction of a medical practitioner
Dressings	Yes – following written health care plan for both application and replacement of dressings
Defibrillators/First Aid only	Yes – following written instructions and appropriate documented training
Denture cleansing	Yes – following appropriate training
Ear syringe	No
Ear/Nose drops	Yes following written guidelines
Enema suppositories	No
Eye care	Yes – following written guidelines for persons unable to close eyes
First Aid	Yes – Should be qualified first aiders and applies during the course of the business for the benefit of employees and others
Gastronomy tube – Peg feeding	Yes – cover available in respect of feeding and cleaning following written guidelines but no cover available for tube insertion
Hearing aids	Yes – for assistance in fitting/replacement of hearing aids following written guidelines
Inhalers, and nebulisers	Yes – for both mechanical and held following written guidelines
Injectors	Yes but only for the administering of pre packaged doses on a regular basis pre prescribed by a medical practitioner and written guidelines
Medipens	Yes – following written guidelines with a preassembled epipen
Mouth toilet	Yes
Naso-gastric tube feeding	Yes following written guidelines but cover is only available for feeding and cleaning of the tube. There is no cover available for tube insertion or reinsertion which should be carried out by a medical practitioner.
Occupational therapy	No

Version: 5

History: Agreed by MAG 26/10/2017

Oral medication	Yes - subject to being pre-prescribed by a medical practitioner and written guidelines. Where this involves children, wherever possible Parents/Guardians should provide the medication prior to the child leaving home. A written consent form will be required from Parent/Guardian and this should be in accordance with LEA procedure on medicines in schools etc
Oxygen – administration of	Similar consideration should be given when asked to administer “over the counter” medicines.
Pessaries	Yes – but only in respect of assisting user following written guidelines, i.e. applying a mask
Physiotherapy	No
Pressure bandages	Yes – following written guidelines
Rectal medazalam in prepackaged dose	Yes – following written guidelines and 2 members
Rectal diazepam in prepackaged dose	Yes – following written guidelines and 2 members of staff must be present <i>not always possible</i>
Rectal Paraldehyde	No
Splints	Yes – as directed by a medical practitioner
Suction machine	No
Syringe drivers- programming of	No
Suppositories	No other than rectal diazepam and medazalam.
Swabs – External	Yes – following written guidelines
Swabs – Internal	No – other than oral following written guidelines
Toe nail cutting	Yes – following written guidelines
Tracheostomy	No – Cover is only available for cleaning around the edges of the tube only following written guidelines
Ventilators	Yes – following written guidelines

Appendix B

An extensive (not exhaustive) list of drugs controlled under the misuse of drugs legislation and their respective classifications under both the Misuse of Drugs Act 1971 and the Misuse of Drugs Regulations 2001 can be found at

<https://www.gov.uk/government/publications/controlled-drugs-list>

There are legal requirements for the receipts, storage, recording and administration of these medicines. These requirements do not apply to every care setting and do not apply when a person looks after and takes their own medicines.

The Controlled Drug (CD) Schedules

- | | |
|--------------------|--|
| Schedule 1: | No recognised medicinal use. Possession and supply prohibited except in accordance with Home Office authority |
| Schedule 2: | For example; methadone, diamorphine, morphine, pethidine, fentanyl.
Schedule 2 Controlled Drugs are subject to safe storage requirements and should be returned to a community pharmacy for destruction |
| Schedule 3: | For example; midazolam and temazepam. Schedule 3 drugs are subject to safe storage requirements. |
| Schedule 4: | For example; diazepam. |
| Schedule 5: | For example; dihydrocodeine, co-codamol and codeine linctus |



COUNCIL EXECUTIVE

CIH SCOTLAND 2018 HOUSING FESTIVAL

REPORT BY HEAD OF HOUSING, CUSTOMER AND BUILDING SERVICES

A. PURPOSE OF REPORT

The purpose of the report is to seek approval from Council Executive for the attendance of the appropriate elected member(s) to attend the CIH (Chartered Institute of Housing) Scotland Housing Festival on the 27-28th February at the EICC Edinburgh.

B. RECOMMENDATION

It is recommended that the Executive Councillor for Services for the Community attends the CIH Scotland Housing Festival on the 27-28th February.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; developing employees; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None.
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	None.
VI	Resources - (Financial, Staffing and Property)	The cost of attendance on the 27 th and 28 th is £575.00 (excl vat).

VII Consideration at PDSP The matter has not been considered by a PDSP.

VIII Other consultations

D. TERMS OF REPORT

The CIH Scotland 2018 Housing Conference “Scotland’s Housing Festival” is the sector leading annual conference and exhibition and Scotland’s largest social housing event.

This key event provides delegates with the opportunity to learn and network, with speakers on all of the key issues affecting the sector and new developments in policy, practice and implementation.

The conference takes place at the EICC Edinburgh on 27-28 February 2018.

E. CONCLUSION

It is proposed that Executive Committee approve the attendance for one Executive Councillor at the CIH Scotland Housing Festival at the EICC on the 27-28th March 2018.

F. BACKGROUND REFERENCES

CIH Conference prospectus.

Appendices/Attachments: None.

Contact Person: Alistair Shaw 01506 281754; alistair.shaw@westlothian.gov.uk

Responsible CMT member: Alistair Shaw, Head of Housing Customer and Building Services

Date of meeting: 23rd Jan 2018.



COUNCIL EXECUTIVE

APSE APPRENTICE AWARDS (TRADE CATEGORY) 2018

REPORT BY HEAD OF HOUSING, CUSTOMER & BUILDING SERVICES

A. PURPOSE OF REPORT

The purpose of the report is to seek approval from the Council Executive for the attendance of the appropriate elected member to attend the APSE Scotland Building, Housing and Renewables Seminar, incorporating the Apprentice of the Year Awards trade category. The event will be held in Dunblane on 22nd and 23rd February.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Notes that three council Building Services apprentices have been shortlisted for the APSE Apprentice of the Year awards; and
2. Approves the attendance of an Executive Councillor at the APSE Scotland Building, Housing and Renewables Seminar on 22nd and 23rd February, incorporating the Apprentice Awards.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; developing employees; making best use of our resources; working in partnership.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None.
III	Implications for Scheme of Delegations to Officers	None.

IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	None.
VI	Resources - (Financial, Staffing and Property)	The cost of full seminar attendance including evening award ceremony is £219 + VAT plus accommodation and travel expenses.
VII	Consideration at PDSP	None.
VIII	Other consultations	None.

D. TERMS OF REPORT

The purpose of the APSE seminar is to enable council officers and elected members to further keep up to date with housing, construction and building services developments related to affordable housing, fuel poverty, apprenticeships, partnership working and use of new technology.

The 2018 Apprentice of the Year Awards for the trade categories will also take place at the event. Three Building Services apprentices have been shortlisted for the awards: Lauren Agnew (Non-Trade Category); Grant Stewart (Plasterer 2nd year category) and Allan Webster (Electrician 3rd year category). The winners will be announced at the awards event.

Associated Costs

The cost associated with full seminar attendance including evening awards dinner is £219 plus VAT (APSE members). Travel and accommodation will be an additional cost.

E. CONCLUSION

It is proposed that the Council Executive approve the attendance of one Executive Councillor to attend the APSE Scotland Building, Housing and Renewables Seminar on 22nd and 23rd February in Dunblane.

F. BACKGROUND REFERENCES

Appendices/Attachments: None.

Contact Person: Grant Taylor, Building Services Manager 01506 283640 E: grant.taylor@westlothian.gov.uk

Responsible CMT Member: Alistair Shaw. Head of Housing, Customer and Building Services

Date of Meeting: 23 January 2018.



COUNCIL EXECUTIVE

PROCUREMENT ARRANGEMENTS – DIRECT AWARD TO AEBI SCHMIDT UK LTD

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval to make a direct award to Aebi Schmidt UK Ltd for the servicing and maintenance of road sweepers.

B. RECOMMENDATION

It is recommended that Council Executive approves a direct award to Aebi UK Schmidt Ltd for the servicing and maintenance of two Swingo road sweepers at a cost of £77,870 for a period of five years.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; making best use of our resources;
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Direct awards will be made in accordance with Standing orders of West Lothian Council and the Public Contracts (Scotland) Regulations 2015.
III Implications for Scheme of Delegations to Officers	None
IV Impact on performance and performance Indicators	None
V Relevance to Single Outcome Agreement	None
VI Resources - (Financial, Staffing and Property)	The budget of £77,870 has been set over the five years to 2021/22.
VII Consideration at PDSP	None
VIII Other consultations	Operational Services was consulted to confirm the budget and other aspects of the requirement.

D. TERMS OF REPORT

D1 Background

The council procured two Aebi Schmidt UK Ltd Swingo compact road sweepers via a Scotland Excel framework agreement in September 2017.

The council requires to service the road sweepers to ensure compliance with the terms and conditions of the manufacturer's warranty.

The council is unable to service the vehicles in-house due to the requirement for specialist training and equipment. Aebi Schmidt UK Ltd is the only supplier capable of servicing the vehicles due to the requirement for specialised equipment and trained personnel on these bespoke vehicles.

D2 Budget Allocation

The budget for the servicing element of the road sweepers is built into the base budget for the operation of the equipment within the NETs, Land and Countryside operational budget and covers the full amount noted of £77,870 for the 5 year lifespan of the vehicles.

E. CONCLUSION

It is recommended that the Council Executive approve a direct award to Aebi Schmidt UK Ltd for the servicing of two Swingo compact road sweepers at a total cost of £77,870 over the lifespan of the vehicles, which is for a period of five years.

F. BACKGROUND REFERENCES

None

Peter Cameron, Category Manager, Corporate Services
Email: peter.cameron@westlothian.gov.uk
Tel: (01506) 282614

Julie Whitelaw,
Head of Corporate Services

Date: 23 January 2018.



COUNCIL EXECUTIVE

PROCUREMENT ARRANGEMENTS – VEHICLE FLEET & STORES MANAGEMENT SOFTWARE SYSTEM

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval to commence procurement for a three year contract (with options to extend for up to three further years) for Vehicle Fleet and Stores Management Software.

B. RECOMMENDATION

It is recommended that the Council Executive approves commencement of procurement for a three year contract (with options to extend for up to three further years) for Vehicle Fleet and Stores Management Software, using the evaluation methodology and award criteria set out in Section D of the report.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs Being honest, open and accountable Providing equality of opportunities Making best use of our resources Working in partnership
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Tenders will be issued, received and analysed in accordance with Standing Orders of West Lothian Council and the Public Contracts (Scotland) Regulations 2015.
III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	None.
V Relevance to Single Outcome Agreement	None.
VI Resources - (Financial, Staffing and Property)	A recurring budget of £60,000 is included within the approved 2017/18 revenue budget for Operational Services. In addition, a one-off budget of £55,000 to

cover up front costs is included within the 2017/18 budget.

VII Consideration at PDSP

None.

VIII Other consultations

The specification and evaluation criteria have been developed by Corporate Procurement Unit, Operational Services and IT Services. The Community Benefits Lead Officer was consulted on Community Benefits. The Corporate Finance Manager was consulted on budget implications.

D. TERMS OF REPORT

D1. Background

As a part of the individual service reviews in preparation for the move to the Whitehill Service Centre (WHSC), the Depot Modernisation Board requested a review of the arrangements for various IT related systems and interactions which pertain to the move. An Integrated Fleet Management System was one of these.

Key service representatives were brought together to examine the current processes and procedures in place in relation to the way fleet management and stores related activities were recorded and managed. Additionally an Internal Audit of the stores processes, variance and monitoring highlighted the need for improvements in the management of these high volume and often high value items. Further reviews into statutory safety checks also highlighted the need to standardise and streamline the council's processes and recording systems for asset-based checks, where responsibilities currently lie across different services using different programming tools.

The service meetings recommended a number of actions:

1. Procure and implement an Integrated Fleet Management System for the new WHSC.
2. Review the current processes for statutory reporting and recording of time limited functions within Fleet Management.

D2. In House Capability

The council does not have an in-house capability to provide this requirement.

D3. Procurement Issues

The requirement will be advertised in accordance with the European Union Directives. It is proposed that the Open Procedure is used whereby all suppliers expressing an interest in the contract will be invited to tender.

The following award criteria will be applied at the tender stage:

Price	40%
Quality	60%

The evaluation criteria are proposed following consultation with the service areas concerned.

The tender will request bids for both council network-based and cloud-based solutions, from which the most advantageous proposal will be selected. Traditionally these systems would have been hosted on the council network, however there are now several cloud-based systems available. In general, hosted systems tend to be located on infrastructure within the organisation which users can access through a programme on their PC, whereas cloud-based systems can be accessed by authorised users from anywhere that has browser and internet connectivity.

The anticipated contract award date is April 2018.

D4.

Sustainability Considerations

In accordance with the Community Benefits in Procurement Procedure approved by the Council Executive on 4 June 2013, bidders will be required to detail any social, economic and environmental benefits which they will provide as part of their offer over the contract period.

For this contract it is proposed to incorporate a generic, non-evaluated Community Benefits clause into the contract documentation. While this element does not form part of the Quality Scoring criteria, the council will expect the successful contractor to deliver such benefits as part of the contract, and will be monitored as such.

Budget Implications

D5.

A recurring budget of £60,000 is included within the approved 2017/18 revenue budget for Operational Services. In addition, a one-off budget of £55,000 to cover up front costs is included within the 2017/18 budget.

E. CONCLUSION

It is recommended that the Council Executive approves the commencement of procurement procedures, using the process and evaluation criteria set out in section D of this report, leading to the award of a contract for Vehicle Fleet and Stores Management Software.

F. BACKGROUND REFERENCES

A copy of the specification for this contract is available on request from Corporate Procurement Unit.

Appendices/Attachments: None

Contact Person: Pauline Walker, Procurement Specialist

Email: pauline.walker@westlothian.gov.uk
tel: 01506 281812

Julie Whitelaw

Head of Corporate Services

Date: 16 January 2018



COUNCIL EXECUTIVE

NEWTON AIR QUALITY MANAGEMENT AREA – DRAFT AIR QUALITY ACTION PLAN

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT AND REGENERATION

A. PURPOSE OF REPORT

The purpose of the report is to update the Council Executive on the progress made in preparing the statutory Draft Air Quality Action Plan (AQAP) for the Newton Air Quality Management Area (AQMA) and to seek consent to carry out external consultation on the draft Air Quality Action plan.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. considers and comments upon the report;
2. approves the draft Air Quality Action Plan for external consultation;
3. note that the draft Air Quality Action Plan will be subject to both internal and external consultation, the results of which will shape the proposed final action plan; and
4. note that due to the size of the draft report it has not been attached however a full version is [available on the council web site](#) and a summary of proposed actions has been provided for information.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>Poor air quality directly and adversely affects public health. Local authorities have a statutory duty under the Environment Act 1995, part IV (Local Air Quality Management) to monitor and report on air quality. Where there is, or is likely to be, a breach of the relevant statutory air quality objectives, an Air Quality Management Area must be declared.</p> <p>Local Air Quality Management policy guidance 2016 PG(S)(16)</p> <p>Local Air Quality Management Technical Guidance 2016 (TG16)</p>

III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None
V	Relevance to Single Outcome Agreement	<p>West Lothian is an attractive place for doing business.</p> <p>People most at risk are protected.</p> <p>We live longer, healthier lives and have reduced health inequalities.</p> <p>We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>
VI	Resources - (Financial, Staffing and Property)	<p>Staff resources are required to develop and consult on the draft Action Plan and to progress the final action plan.</p> <p>Depending on the content of the Air Quality Action Plan, capital or revenue expenditure may be required to implement the measures identified as necessary in the final Action Plan. A potential bid to the capital programme may arise. Some Action Plan measures may be funded by external grant funding or developer contributions</p> <p>Ongoing real time monitoring at Newton will require to be continued.</p>
VII	Consideration at PDSP	<p>The draft Air Quality Action Plan was considered at the 5 December Environment PDSP. General Air Quality in West Lothian was considered at the Environment PDSP on 3 October 2017. The intention to declare an Air Quality Management Area for Newton was reported on 28 April 2016.</p>
VIII	Other consultations	<p>The matter was reported to the Linlithgow LAC on 21 November 2017 and previously on 15 November 2016.</p> <p>The contents of the draft Action Plan have been drawn up in conjunction with other relevant West Lothian Council Services including West Lothian Council Transportation Service; Planning Services.</p>

D. TERMS OF REPORT

D1 Introduction

An [Air Quality Management Area \(AQMA\) for Newton](#) was declared in July 2016 due to exceedances of the relevant national air quality objective standards for fine particulates (PM₁₀).

Where an Air Quality Management Area (AQMA) has been declared, local authorities are required to develop an Action Plan (AQAP) in pursuit of the achievement of air quality standards and objectives. There is no legal duty to meet the objectives but the authority must demonstrate that they are taking all reasonable steps in working towards them. The draft AQAP has been completed by representatives of relevant services, led by an externally funded advisor.

The next step in the process is to proceed to wider consultation with external stakeholders and the members of the public. Following consideration by the Environment PDSP, this report requests consent to carry out this consultation. The consultation will shape the final Action Plan, which it is anticipated will be reported to the Council Executive in late 2018.

D2 Post Declaration Assessment

Since the process was carried out for Broxburn, the requirement for a statutory 'Further Assessment' within 12 months of designating the AQMA has been removed. This provision was revoked by the Regulatory Reform (Scotland) Act 2014. Section 84(1) of the 1995 Act previously required local authorities to carry out a further assessment of existing and likely future air quality in an AQMA. Further assessments played an important role in confirming that the initial decision to declare an AQMA was still valid and to obtain more detailed information to contribute to the action plan. This information is now gathered during, rather than prior to, action plan development. A 'source apportionment' study confirmed the origin of the pollutants concerned.

D3 Draft Action Plan

The Draft Action Plan (AQAP) has been now been completed and has 17 strategic and direct measures to reduce emissions. Each measure has been given a short, medium or long timescale for completion. These are outlined at Appendix 1. The draft Action Plan also lists those currently considered unworthy of further consideration. Neither the measures proposed nor measures rejected by the Draft Action Plan are set in stone.

D4 Current Position

Data for 2015 and 2016 has indicated that pollutant levels were below the relevant air quality objectives. Preliminary data for 2017 suggests the same. However, Scottish Government policy encourages a long term approach, discouraging revocation where subsequent re-declaration of an AQMA is potentially foreseeable. A unique factor (in West Lothian) is the significant contribution made to particulates by domestic solid fuel combustion in Newton. This is directly linked to external air temperatures and recent mild winters can therefore be expected to have produced a reduction in released particulates. The status of the AQMA will be reviewed in 2018 when 2017 data is complete and ratified. In the interim, it is considered prudent to continue the statutory Action Planning process. The process itself is laid down in the [Environment Act 1995](#) and expanded upon in [Scottish Government guidance \(LAQM PG\(S\)\(16\)\)](#).

D5 Next Actions

Once consultation is approved, the draft Action Plan will be subjected to wide consultation both internal and external. This will include transport operators, local residents, community council, local businesses and elected members. The feedback from the consultation will shape the finalised action plan and the priority given to each measure.

The finalised Action Plan will list the measures considered worthy of pursuit and detail timescales for their implementation. It will come before the Linlithgow LAC and Environment PDSP in Autumn 2018 prior to consideration by the Council Executive in late 2018.

West Lothian Council will continue to review and assess air quality to monitor the situation and success of the plan. Following adoption, reports on progress of the implementation of the action plan will be submitted to the Scottish Government and SEPA on an annual basis.

Depending on the measures selected, there may be capital or revenue implications. Developer contributions may be available for certain measures and the Scottish Government grant funds certain types of measure. Approval of the Final Action Plan in late 2018 will enable Scottish Government grant funding for 2019-20 to be sought for qualifying measures.

E. CONCLUSION

Domestic heating by solid fuel combustion is the main source of non-background related particulates in Newton, although homes on Main Street are equally affected by traffic related emissions. PM₁₀ levels have decreased since 2014, potentially due to milder winters, lower emissions from newer Euro 6 standard diesel vehicles, now entering the vehicle fleet and variations in background levels. The Action Planning process will continue pending review of 2017 data in mid-2018.

F. BACKGROUND REFERENCES

Report to the Linlithgow Local Area Committee, 31 May 2016 - Newton AQMA predeclaration consultation

Report to the Environment PDSP, 28 April 2016 - Newton Air Quality Management Area

Report to the Linlithgow Local Area Committee, 15 November 2016 - Linlithgow and Newton AQMA's update

Report to the Environment PDSP, 3 October 2017 – Air Quality in West Lothian

Report to the Linlithgow Local Area Committee, 21 November 2017 – Draft Air Quality Action Plan

Report to the Environment PDSP, 5 December 2017 – Newton Air Quality Management Area, Draft Air Quality Action Plan.

[Cleaner Air for Scotland – the Road to a Healthier Future \(Scottish Government, 2015\)](#) and [Annual Progress Report 2016](#) (June 2017)

[Local Air Quality Management policy guidance 2016 PG\(S\)\(16\)](#)

[Local Air Quality Management Technical Guidance 2016 \(TG16\)](#)

Appendices/Attachments: List of proposed Action Plan measures. (the full draft Action Plan is available online at <https://www.westlothian.gov.uk/AQMAnewton>)

Contact Person: David L Brewster, Senior Environmental Health Officer, Telephone 01506 282376, e-mail <mailto:david.brewster@westlothian.gov.uk>

Craig McCorriston
Head of Planning, Economic Development and Regeneration

Date of meeting: 23 January 2018

Appendix: List of Proposed Measures included in draft Air Quality Action Plan

No	Measure	Timescale
Strategic Measures		
1	Liaise with the Scottish Government regarding the Consideration of National Measures to reduce background concentrations of PM	Short-term (in progress)
2	Liaise with Scottish Government regarding National air quality policy	Short-term (in progress)
3	Create approved SPG for Air Quality	Short-term (in progress)
Direct measures		
5	Traffic Signal Phasing and Junction Modification	Short-term
6	Encourage Private and Public Operators to Pursue Cleaner Vehicles and Abatement	Short-term
11	Provision of Information/Marketing regarding Air Quality and Promotion of Travel Options	Short-term (in progress)
15	Greening the Area with Trees	Short-term
16	Increase Monitoring Network	Short-term
17	Create a Smoke Control Area	Short-term
4	Winchburgh M9 Junction	Medium-term
7	Development/Provision of a Local/Voluntary Bus Quality Partnership	Medium-term
8	Implement ECOSTars Scheme for HGV and Bus Operators	Medium-term
10	Travel Plans for Large Institutions and Businesses	Medium-term
9	Walking and Cycle Paths Infrastructure	Long-term
12	Connect Residential Properties in Newton to the Main Gas Grid	Long-term
14	Incentives for Changes to Domestic Fuel Burning	Long-term
13	District Heating Solution	Short/Medium-term



COUNCIL EXECUTIVE

LINLITHGOW AIR QUALITY MANAGEMENT AREA – DRAFT AIR QUALITY ACTION PLAN

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT AND REGENERATION

A. PURPOSE OF REPORT

The purpose of the report is to update the Council Executive on the progress made in preparing the statutory Draft Air Quality Action Plan (AQAP) for the Linlithgow Air Quality Management Area (AQMA) and to seek consent to carry out external consultation on the draft Air Quality Action plan.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. considers and comments upon the report;
2. approves the draft Air Quality Action Plan for external consultation;
3. note that the draft Air Quality Action Plan will be subject to both internal and external consultation, the results of which will shape the proposed final action plan; and
4. note that due to the size of the draft report it has not been attached however a full version is [available on the council web site](#) and a summary of proposed actions has been provided for information.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>Poor air quality directly and adversely affects public health. Local authorities have a statutory duty under the Environment Act 1995, part IV (Local Air Quality Management) to monitor and report on air quality. Where there is, or is likely to be, a breach of the relevant statutory air quality objectives, an Air Quality Management Area must be declared.</p> <p>Local Air Quality Management policy guidance 2016 PG(S)(16)</p> <p>Local Air Quality Management Technical Guidance 2016 (TG16)</p>

III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None
V	Relevance to Single Outcome Agreement	<p>West Lothian is an attractive place for doing business.</p> <p>People most at risk are protected.</p> <p>We live longer, healthier lives and have reduced health inequalities.</p> <p>We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>
VI	Resources - (Financial, Staffing and Property)	<p>Staff resources are required to develop and consult on the draft Action Plan and to progress the final action plan.</p> <p>Depending on the content of the Air Quality Action Plan, capital or revenue expenditure may be required to implement the measures identified as necessary in the final Action Plan. A potential bid to the capital programme may arise. Some Action Plan measures may be funded by external grant funding or developer contributions</p> <p>Ongoing real time and passive diffusion tube monitoring at Linlithgow will require to be continued.</p>
VII	Consideration at PDSP	The draft Air Quality Action Plan was considered at the 5 December Environment PDSP. General Air Quality in West Lothian was considered at the Environment PDSP on 3 October 2017. The intention to declare an Air Quality Management Area for Linlithgow was reported on 18 February 2016.
VIII	Other consultations	<p>The matter was reported to the Linlithgow LAC on 21 November 2017 and previously on 15 November 2016.</p> <p>The contents of the draft Action Plan have been drawn up in conjunction with other relevant West Lothian Council Services including West Lothian Council Transportation Service; Planning Services.</p>

D. TERMS OF REPORT

D1 Introduction

An [Air Quality Management Area \(AQMA\) for Linlithgow](#) was declared in April 2016 due to exceedances of the relevant national air quality objective standards for both Nitrogen dioxide (NO₂) and fine particulates (PM₁₀).

Where an Air Quality Management Area (AQMA) has been declared, local authorities are required to develop an Action Plan (AQAP) in pursuit of the achievement of air quality standards and objectives. There is no legal duty to meet the objectives but the authority must demonstrate that they are taking all reasonable steps in working towards them. The draft AQAP has been completed by representatives of relevant services, led by an externally funded advisor.

The next step in the process is to proceed to wider consultation with external stakeholders and the members of the public. Following consideration by the Environment PDSP, this report requests consent to carry out this consultation. The consultation will shape the final Action Plan, which it is anticipated will be reported to the Council Executive in late 2018.

D2 Post Declaration Assessment

Since the process was carried out for Broxburn, the requirement for a statutory 'Further Assessment' within 12 months of designating the AQMA has been removed. This provision was revoked by the Regulatory Reform (Scotland) Act 2014. Section 84(1) of the 1995 Act previously required local authorities to carry out a further assessment of existing and likely future air quality in an AQMA. Further assessments played an important role in confirming that the initial decision to declare an AQMA was still valid and to obtain more detailed information to contribute to the action plan. This information is now gathered during, rather than prior to, action plan development. A 'source apportionment' study confirmed the origin of the pollutants concerned.

D3 Draft Action Plan

The Draft Action Plan (AQAP) has been now been completed and has 26 strategic and direct measures to reduce emissions. Each measure has been given a short, medium or long timescale for completion. These are outlined at Appendix 1. The draft Action Plan also lists those currently considered unworthy of further consideration. Neither the measures proposed nor measures rejected by the Draft Action Plan are set in stone.

D4 Current Position

Data for 2015 and 2016 has indicated that pollutant levels were below the relevant air quality objectives. Preliminary data for 2017 suggests the same. However, Scottish Government policy encourages a long term approach, discouraging revocation where subsequent re-declaration of an AQMA is potentially foreseeable. The recently installed monitor for finer PM_{2.5} particulates has yet to provide a full year's data. The status of the AQMA will be reviewed in 2018 when 2017 data is complete and ratified. In the interim, it is considered prudent to continue the statutory Action Planning process. The process itself is laid down in the [Environment Act 1995](#) and expanded upon in [Scottish Government guidance \(LAQM PG\(S\)\(16\)\)](#).

D5 Next Actions

Once consultation is approved, the draft Action Plan will be subjected to wide consultation both internal and external. This will include transport operators, local residents, community council, local businesses and elected members. The feedback from the consultation will shape the finalised action plan and the priority given to each measure.

The finalised Action Plan will list the measures considered worthy of pursuit and detail timescales for their implementation. It will come before the Linlithgow LAC and Environment PDSP in Autumn 2018 prior to consideration by the Council Executive in late 2018.

West Lothian Council will continue to review and assess air quality to monitor the situation and success of the plan. Following adoption, reports on progress of the implementation of the action plan will be submitted to the Scottish Government and SEPA on an annual basis.

The West Lothian Local Development Plan, which is currently in the final stages of the Examination into unresolved objections, identifies the potential for residential development in Linlithgow if infrastructure constraints can be overcome.

To address this issue supplementary planning guidance is being prepared and this will set out the proposed approach to securing developer contributions towards resolving these constraints. In addition to overcoming education constraints it is expected that the guidance will address proposed transportation solutions, including those set out in the Draft Air Quality Action Plan. This will allow the investigation of solutions to take place in the short term although implementation of agreed solutions may continue to be in the medium/longer term as it will take some time to secure the necessary contributions. However, forward funding solutions will be explored.

Approval of the Final Action Plan in late 2018 will enable Scottish Government grant funding for 2019-20 to be sought for qualifying measures.

E. CONCLUSION

Road traffic, principally cars, is the main source of non-background pollution in central Linlithgow. Nitrogen dioxide levels have risen since 2014, but are below both the 2013 level and the air quality objective. Rises in NO₂ levels are consistent with Broxburn in the same period and reflect increased NO₂ emissions from diesel vehicles. PM₁₀ levels have decreased since 2014, potentially due to lower emissions from newer Euro 6 standard diesel vehicles, now entering the vehicle fleet. Any developments will potentially increase traffic in Linlithgow High Street. However, any developments may also provide potential mitigation options and these will be set out in supplementary planning guidance which will be progressed in the short term. It is therefore prudent to continue the Action Planning process.

F. BACKGROUND REFERENCES

Report to the Linlithgow Local Area Committee, 09 February 2016 - Linlithgow AQMAs pre-declaration consultation

Report to the Environment PDSP, 18 February 2016 - Linlithgow Air Quality Management Area

Report to the Linlithgow Local Area Committee, 31 May 2016 - Linlithgow and

Newton AQMAs update

Report to the Linlithgow Local Area Committee, 15 November 2016 - Linlithgow and Newton AQMAs update

Report to the Environment PDSP, 3 October 2017 – Air Quality in West Lothian

Report to the Linlithgow Local Area Committee, 21 November 2017 – Draft Air Quality Action Plan

Report to the Environment PDSP, 5 December 2017 – Linlithgow Air Quality Management Area, Draft Air Quality Action Plan.

[Cleaner Air for Scotland – the Road to a Healthier Future \(Scottish Government, 2015\)](#) and [Annual Progress Report 2016](#) (June 2017)

[Local Air Quality Management policy guidance 2016 PG\(S\)\(16\)](#)

[Local Air Quality Management Technical Guidance 2016 \(TG16\)](#)

Appendices/Attachments: List of proposed Action Plan measures. (the full draft Action Plan is available online at <https://www.westlothian.gov.uk/AQMAlinlithgow>)

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Craig McCorriston
Head of Planning, Economic Development and Regeneration

Date of meeting: 23 January 2018

Appendix: List of Proposed Measures included in draft Air Quality Action Plan

No	Measure	Timescale
Strategic Measures		
1	Liaise with the Scottish Government regarding the Consideration of National Measures to reduce background concentrations of PM	Short-term (In progress)
2	Liaise with Scottish Government regarding National air quality policy	Short-term (In progress)
3	Create approved SPG for Air Quality	Short-term (In progress)
Direct measures		
8	Investigate High Street Vehicle Movement Restriction	Short-term
10	Investigate Bus Stop Relocation	Short-term
11	Idling Campaign and Enforcement of Idling with Fixed Penalty Notices	Short-term
13	Review of West Lothian and Private Sector Delivery/Refuse Vehicle Timings and High Street Road Markings	Short-term
14	Review Timings at Junctions	Short-term
15	Investigate Local Bus/Fleet Improvements	Short-term
16	School Travel Plans	Short-term
18	Install Electric Vehicle Charging Park Places	Short-term
20	Active Travel and Cycling Infrastructure	Short-term
21	Provision of Air Quality Information	Short-term Short-term (In progress)
22	Review West Lothian Council Travel Plan	Short-term
23	Create a Smoke Control Area	Short-term
24	Review Pedestrian Crossings	Short-term
25	Increase Monitoring Network	Short-term
12	Investigate Decriminalise Parking in West Lothian and Introduce High Street Parking Charges and Enforcement	Medium-term
17	Implement ECOSTars Scheme for HGV and Bus Operators	Medium-term

No	Measure	Timescale
19	Introduce Car Club	Medium-term
26	Investigate Greening the Area with Trees	Medium-term
4	Investigate Southern Distributor Link Road	Long-term
5	Investigate Edinburgh Road to Manse Road Link Road	Long-term
6	Investigate Park and Ride Facility	Long-term
7	Investigate West Access Slip Road at M9 Junction 3	Long-term
9	Investigate Incorporation of National Low Emission Framework and consideration of Low Emission Zone of High Street	Short/Medium/Long-term



COUNCIL EXECUTIVE

BROXBURN AIR QUALITY MANAGEMENT AREA – FINAL ACTION PLAN

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to seek Council Executive's approval of the final Broxburn Air Quality Action Plan and to move to adopt the plan.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. notes the feedback received during the consultation of the final Draft Action Plan;
2. notes the content of the final Air Quality Action Plan for Broxburn;
3. approves the final Air Quality Action Plan; and
4. adopts the final Air Quality Action Plan for Broxburn

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>Poor air quality directly and adversely affects public health. Local authorities have a statutory duty under the Environment Act 1995, part IV (Local Air Quality Management) to monitor and report on air quality.</p> <p>Local Air Quality Management Policy Guidance 2016 (Scottish Government / DEFRA).</p> <p>There are no Strategic Environmental Assessment, equality or risk assessment issues.</p>
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	EH046_9b.1a reports the levels of particulate matter per cubic metre of air measured at the Broxburn monitoring unit as a 3 year average.
V	Relevance to Single	SOA3 West Lothian is an attractive place for

Outcome Agreement

doing business.

SOA5 People most at risk are protected.

SOA7 We live longer, healthier lives and have reduced health inequalities.

SOA8 We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.

VI Resources - (Financial, Staffing and Property)

The final action plan and consultation have been progressed using external funding from Scottish Government. Staff resource will be met within existing budgets.

Capital and revenue expenditure will have to be considered to implement measures contained within the final action plan. Further external funding will be sought.

VII Consideration at PDSP

A report was presented to the Environment PDSP on 7 September 2017 regarding the final draft of the Air Quality Action Plan for Broxburn. Consent to carry out a public consultation was given by the Council Executive on 19 September 2017.

VIII Other consultations

A report was presented to the Broxburn, Uphall and Winchburgh Local Area Committee on the 15 June 2017. External consultation on the plan has been carried out.

D. TERMS OF REPORT

D1 Background

The declaration of the Air Quality Management Area (AQMA) in Broxburn required the local authority to develop an action plan in pursuit of the achievement of air quality standards and objectives. The first consultation on the draft plan took place between 7 March 2016 and 18 April 2016.

Subsequent to this, funding to allow for completion of the final draft of the Air Quality Action Plan (AQAP) for Broxburn by external advisors was provided by the Scottish Government. The final draft AQAP was completed and made available in February 2017. The draft was reported to the Council Executive on 19 September, when consent to public consultation was given.

A summary of the 23 measures for improving air quality proposed within the plan are included in Appendix 1 of this report. A complete copy of the final AQAP is on the Council's website at <https://www.westlothian.gov.uk/AQMABroxburn>.

D2 Completed Consultation

The consultation ran from Friday 29 September 2017 to Friday 10 November 2017. It involved both internal and external parties and included transport operators, local residents, community council representatives, local businesses and elected members.

Responses were limited, indicative of general acceptance of the proposed measures. Indeed, no concerns were raised about the measures proposed. A summary of the matters raised and relevant officer comments is attached at Appendix 2

With no issues raised relating to the suggested measures, it is not proposed to make any changes to the draft presented measures presented in September 2017.

Contextual changes have been made in line with the comment received.

D3 Approval and Adoption of Air Quality Action Plan

At the Council Executive on 19 September, it was agreed that the matter would come back directly to the Council Executive for approval and adoption.

This report therefore requests that the Council Executive approves the Air Quality Action Plan for Broxburn and adopts the Plan.

D4 Next Stages

Monitoring using both real-time automatic equipment and passive diffusion tubes will continue, to accurately assess the developing air quality position in central Broxburn. Data is fed live to www.scottishairquality.co.uk

The Air Quality Action Plan identifies and prioritises measures to improve air quality. Implementation of the identified measures will involve a number of services across the council. Where possible, external funding for action plan measures will be sought from the Scottish Government and other bid-based funding sources.

The 2017 Annual Progress Report on Air Quality identified pollutant levels in Broxburn to be below the relevant Air Quality Objectives. However, air quality modelling associated with proposed developments suggests otherwise. It is important to ensure that proposed development does not result in exceedances of the Air Quality Objectives. A full review of the position will take place in 2018, once full data for 2017 is available and has been independently ratified.

Progress against the plan will be reported in the statutory Annual Progress Report, submitted by the end of June each year. Reports will be presented to the Environment PDSP.

A duty exists for ongoing review of the relevance, applicability and accuracy of the Air Quality Action Plan. Any proposed significant changes to the measures or their priority will be reported through the Environment PDSP, prior to the required consultation with the Scottish Ministers and statutory consultees.

E. CONCLUSION

The statutory Air Quality Action Plan for the Broxburn Air Quality Management Area has now been completed, including two public consultations.

This report outlines the feedback received on the most recent consultation and the measures included in the Action Plan. The Council Executive is invited to approve and adopt the final Air Quality Action Plan for Broxburn.

F. BACKGROUND REFERENCES

Report to Council Executive 19 September 2017: Broxburn Air Quality Management Area Update

Report to Environment Policy Development and Scrutiny Panel 7 September 2017: Broxburn Air Quality Management Area Action Plan Update.

Report to Council Executive 1 March 2016 - Broxburn Air Quality Management Area: Draft Air Quality Action Plan Update

Appendices/Attachments: One

Appendix 1: List of finalised Action Plan measures.

The full final Action Plan will be available online at <https://www.westlothian.gov.uk/AQMAbroxburn> following approval.

Contact Person: David Brewster, Senior Environmental Health Officer, 01506 282376, david.brewster@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development and Regeneration

Date of meeting: 23 January 2018

Appendix 1: List of measures included in Final Broxburn Air Quality Action Plan

No	Measure	Timescale
Strategic Measures		
1	Incorporating consideration of Air Quality in the Local Transport Strategy Update	Short to Medium-term
2	Improving links with Local Planning and Development framework	Short to Medium-term
3	Integrate Air Quality with other Council Policies	Medium to Long-term
4	Liaise with Scottish Government regarding national air quality policy	Short-term
Direct measures		
5	Traffic signal phasing and junction modification	Medium to Long term
6	Changes to pedestrian crossings and junctions to reduce congestion	Medium to Long-term
7	Broxburn Distributor Road Phasing - North to West	Long term
8	Broxburn Distributor Road Phasing – North to East	Long- term
9	Winchburgh M9 junction	Medium-term
10	Winchburgh Railway Station	Medium-term
11	Provision of Local Bus Quality Partnership	Short to Medium-term
12	ECO stars scheme	Short to Medium-term

No	Measure	Timescale
13	Green Procurement (Council), fuel management and Eco-driving training policy and assessment of new technology	Short-term
14	Taxi Quality Partnership emissions	Medium-term
15	Electric Vehicle charging points	Short to Medium-term
16	Encourage Private and Public Operators to pursue cleaner vehicles and abatement	Short-term
17	Vehicle emission testing and Idling enforcement	Short-term
18	Provision of information regarding air quality	Short-term
19	Promotion of alternative modes of travel including cycling and walking	Short-term
20	Encourage Developers to include linked cycle paths and walkways	Short to Medium-term
21	Travel Plans for large institutions and businesses.	Medium-term
22	Environmental Nuisance (including dust and smoke)	Short-term
23	Home Energy Efficiency	Short-term

Appendix 2: Summary of Feedback Received during Autumn 2017 Consultation

Feedback Received	Officer Response
Time taken to develop finalised action plan (SEPA)	Concerns noted
There is no review of NO ₂ and PM ₁₀ concentrations recorded by the Broxburn automatic analyser in recent years. This would have given context to the action plan in relation to current pollution levels. Automatic monitoring for NO ₂ and PM ₁₀ at Broxburn has shown the annual mean objectives have not been exceeded for the last four years. Some justification as to the reason for progressing with a finalisation of the action plan and the council's intention to keep the AQMA due to potential air quality impact from proposed nearby residential and commercial development would have been welcomed. (SEPA)	Executive Summary amended to provide context requested and rationale for approach
LAQM Policy Guidance PG (S) 16 states that an air quality action plan must include an explanation of how the action plan will help to deliver the aims and objectives of CAFS. This is missing from the Broxburn Air Quality Action Plan (SEPA)	Explicit links between the proposed measures and the CAFS aims and objectives have been added to plan, demonstrating its alignment with CAFS.
In relation to Eco Stars the Council could consider running a Private Hire and Taxi scheme alongside the Commercial Scheme. (SEPA)	Private Hire and Taxi vehicles can be included within the scope of the proposed ECOstars measure.
The Council should be aware of other funding schemes which could assist in the delivery of the action plan measures for example Transport Scotland's Low Carbon Travel and Transport Challenge Fund. (SEPA)	Noted. We have previously worked cross service to deliver linked improvements in air quality, transport and health.
We are a little surprised at your comments about establishing a Bus Quality Partnership as we have been trying to update our existing partnership with the council. We provided a draft document early in the year we have not yet had a formal response from the council. We are certainly interested in a quality partnership and it is good to hear that the council are also supportive of this. (First Group)	Interest noted. To be followed up with Public Transport.



COUNCIL EXECUTIVE

DEVELOPER CONTRIBUTIONS FOR PUBLIC ART

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to seek approval from the Council Executive for the discontinuation of the reduced rate for developer contributions towards public art for some types of development.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. notes that the temporary changes previously agreed by Council Executive regarding developer contributions for public art came to an end on 31 December 2017, and
2. agree that the current reduced public art contributions should not be continued beyond 31 December 2017, except for those contributions from social housing and retail developments which will be continued for a further two years to 31 December 2019.

C. SUMMARY OF IMPLICATIONS

I Council Values

- Focusing on our customers' needs;
- being honest, open and accountable;
- making best use of our resources; and
- working in partnership.

II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)

The provision to seek developer contributions is set out in Section 75 of the Town & Country Planning (Scotland) Act 1997. The implementation of the West Lothian Local Plan (WLLP) 2009 requires substantial funding for infrastructure through developer contributions.

Policy IMP 17 of the WLLP indicates that "planning agreements" (now termed "planning obligations") will be entered into where appropriate and that developer contributions will be sought in accordance with Circular 3/2012). Policy COM 10 of the WLLP requires developer contributions for public art.

The West Lothian Local Development Plan (LDP) Proposed Plan is a material consideration in the determination of any planning applications for development in West Lothian and will, in time, when adopted by the council, replace the West Lothian Local Plan. The LDP continues the above policies as INF 1: Infrastructure Provision and ENV 34: Art and Development.

There are no SEA, Equality or Health & Risk Assessment issues. The LDP itself has been the subject of SEA and Equality impact.

III	Implications for scheme of delegation	None.
IV	Impact on performance and performance indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	Developer contributions for public art continue to be added to the West Lothian Public Art Fund which is overseen by the Public Art Steering Group with update reports on art projects arising from the fund reported to the Cultural & Leisure PDSP.
VII	Consultations at PDSP	Development & Transport PDSP on 17 August 2015 agreed that the level of public art contributions should be the subject of public consultation prior to being reported to Council Executive for approval. The Development & Transport PDSP of 5 December 2016 considered a report on the continuation of the reduced level of public art contributions and a continuation was approved by Council Executive on 20 December 2016 and again in April 2017.
VIII	Other consultations	Community Arts Service.

D. TERMS OF REPORT

D1 Background

West Lothian Council adopted the West Lothian Local Plan in January 2009. The plan proposes major growth and, as a consequence, substantial developer contributions are required to support the development strategy set out.

The council approved Supplementary Planning Guidance (SPG) for Public Art in June 2006. In January 2012, the Council Executive agreed a temporary reduction in the developer contribution rates for public art arising from recommendations following the Housing Recovery Conference organised by the council in 2013.

On 17 August 2015, the Development & Transport PDSP approved consultation on a continuation of the reduction in developer contribution rates for public art. The outcome of the consultation was reported to Council Executive on 8 December 2015 and the reduction in public art contributions was approved for one year until 31 December 2016 when contributions were to be reviewed again.

Development & Transport PDSP on 5 December 2016 supported the continuation of the reduced level of public art contributions and this was reported to Council Executive on 20 December for approval. Following consideration of a motion Council Executive subsequently agreed to extend the temporary changes for a short period to 31 March 2017. The Council Executive meeting in April 2017 agreed to continue the reduced contribution level till December 2017.

D2 Re-instatement of developer contributions for residential development (excluding affordable housing)

The local plan was prepared at a time of strong economic growth but, as a consequence of the recession, the strength of the national and local economy declined significantly. However, while the economy remains fragile in some areas there has been a recovery in the housing market.

While completion levels have not recovered to pre-recession levels there is evidence to suggest that completions are now in line with the most recent assessments of demand, as set out in the Housing Needs and Demand Assessment (HoNDA) prepared for the second Strategic Development Plan.

For this reason it is proposed that reduced rates for residential developments excluding affordable housing are not continued beyond 31 December 2017 and return to previously agreed rates.

D3 Proposed continuation of reduced public art contribution levels for Affordable Housing and Retail developments for another two years – till December 2019

As set out above, there is evidence through the HoNDA that house completions in West Lothian are now in line with the most recent assessment of overall demand. However, that assessment also identifies that a far greater level of demand now exists for social housing. Where a deficiency in completions exists, it is in the social housing sector, rather than the owner occupied sector.

Given this and the continued high priority by the council to the delivery of affordable housing, it is proposed that all social housing developments and other affordable housing sites delivered in accordance with the council's affordable housing policy should continue to be exempt from public art contributions for a period of two years to 31 December 2019. For the avoidance of doubt, where a development comprises mainstream private housing and affordable housing, only the mainstream private housing element will attract public art contributions and that will be at the normal SPG rate. The rates, till December 2019, are set out in Appendix 1.

Similarly, there is some evidence to suggest that the high street retail sector continues to operate in challenging economic circumstances, not least as a result of growth in on-line retailing. For this reason, it is proposed to continue the relaxation for retail developments for a further two years to 31 December 2019.

The West Lothian Public Art Fund currently sits at £230k. This sum is required to cover new projects and the maintenance of existing projects.

It is normal practice to collect public art contributions from many developments and to use these to deliver a limited number of public art developments in appropriate locations. Therefore, there is no guarantee that contributions from housing developments will be used to deliver public art within these developments. Locations for public art developments continue to be decided on a case by case basis across West Lothian as opportunities arise or where communities suggest art projects. Update reports are presented to the Cultural & Leisure PDSP on specific arts projects.

In early 2017, the council launched the second tranche of public arts related grant funding through a “Grass Roots 2” programme with £40k available from the Public Art Fund derived from developers’ contributions. Four community submissions were received and two were awarded £20k each for projects in Craigshill and Ladywell, Livingston. The other two projects in Whitburn and Kirknewton were later also awarded £20k each.

E. CONCLUSION

The proposed approach to developer contributions for public art recognises some recovery in the housing market but acknowledges that delivery in some sectors is below assessed demand. The proposed approach continues to support house building in West Lothian without changing the council’s commitment to ensure that necessary infrastructure is fully funded by the development industry.

F. BACKGROUND REFERENCES

- West Lothian Local Plan (2009).
- West Lothian Local Development Plan Proposed Plan (October 2015).
- Supplementary Planning Guidance (SPG) for Public Art (Revised 2016).
- Public Art Strategy (2008 - 2011) and related update 2014 – 2018.
- Scottish Government Circular 3 / 2012 - Planning Obligations and Good Neighbour Agreements.
- Housing Needs and Demand Assessment (HoNDA) prepared for Strategic Development Plan 2

Appendices/Attachments – One: Public Art Developer Contributions (From 1st January 2018)

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Craig McCorriston
Head of Planning, Economic Development & Regeneration

23 January 2018

Appendix 1 – Public Art Developer Contributions (From 1st January 2018)

Retail developments:

- Single development of retail floor space over 5000 m²:
*Original contribution of £15 per m² reduced to **£12 per m²** (a reduction of 20%).*
- Single development of retail floor space 1500 - 4999 m²:
*Original contribution of £10 per m² reduced to **£8 per m²** (a reduction of 20%).*
- Single development of retail floor space 500 - 1499 m²:
*Original contribution of £5 per m² reduced to **£4 per m²** (a reduction of 20%).*

Residential developments: (mainstream private housing)

- Single development of residential schemes of 50 houses or more :
*Original contribution of **£250 per unit re-instated. (No reduction).***
- Single development of residential schemes 10 - 49 units :
*Original contribution of **£150 per unit re-instated. (No reduction).***

(NB: all social housing developments and other affordable housing sites delivered in accordance with the council's affordable housing policy continue to be exempt from public art contributions for a period of two years to 31 December 2019)



COUNCIL EXECUTIVE

SESplan BUDGET RATIFICATION 2018/19 AND STRATEGIC DEVELOPMENT PLAN 2 UPDATE

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise the Council Executive of the need to ratify SESplan's 2018/19 operating budget following its approval by the SESplan Joint Committee on 27 November 2017 and to update the Council Executive on the preparation of Strategic Development Plan 2 (SDP 2).

B. RECOMMENDATION

It is recommended that the Council Executive:

1. notes the decision by the SESplan Joint Committee on 27 November 2017 to agree the updated operating budget for SESplan over the financial year 2018/19, noting that member contributions for this financial year have been set at £10,000 per member authority;
2. ratifies the updated operating budget for SESplan over the financial year 2018/19, and specifically West Lothian Council's share of the budget (£10,000), as agreed by the SESplan Joint Committee on 27 November 2017; and
3. notes progress made to date on the preparation of the second South East Scotland Strategic Development Plan (SDP 2).

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; and making best use of our resources.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Town and Country Planning (Scotland) Act 1997 The introduction of the Planning etc. (Scotland) Act 2006 gave Scottish Ministers the power to create Strategic Development Planning Authorities (SDPAs).

SDP 2 will form part of the development plan once approved. The SDP is the subject of a SEA and Equality and Human Rights Impact Assessment.

The report does not raise any equality or health issues.

III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	Preparation of strategic development plans (SDPs) and local development plans (LDPs) are statutory requirements. Progress with the preparation of the SDP and LDP are monitored by Scottish Government as a performance indicator for local authorities. Local Authorities are required to review and update plans at least every five years. SDP 2 will be a material consideration in the determining of planning applications.
V	Relevance to Single Outcome Agreement	Outcome 3 - Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business. Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	As one of six planning authorities comprising SESplan, the council makes annual budget provision to contribute towards the SESplan operating budget. The council's proposed requisition payment to SESplan in 2018/19 of £10,000 is provided for in the 2018/19 General Fund Revenue Budget.
VII	Consideration at PDSP	The report has not been considered by the Development and Transport Policy Development and Scrutiny Panel owing to the necessity to ratify the SESplan budget within a short time period and at a time when the D&T PDSP is not scheduled to convene.
VIII	Other consultations	Consultation has been undertaken with the Head of Property and Finance.

D. TERMS OF REPORT

D1 Background

The SESplan Financial Rules set out that Operating Budgets for the next financial year should be proposed by the SDP Manager, approved by the SESplan Joint Committee and that decision ratified by the member authorities by the end of the calendar year preceding the new financial year in question.

D2 SESplan Operating Budget 2017/18

In compliance with these rules, the SESplan Joint Committee at its meeting on the 24 November 2016 agreed to approve the Operating Budget for 2017/2018 in principle and that a review of SESplan expenditure and future budgets would be brought to a future meeting.

At a meeting of the SESplan Joint Committee on 13 March 2017, an amended budget of £299,000 (previously identified as £320,000) was agreed, with each of the six member authority contributing equal contributions of £44,000. This represented a reduction of £2,550 on what had been projected in December 2017 and anticipated a combination of savings in IT, staff costs, drawing on reserves and an assumption that significant economies will be achieved within the 2018/19 Operating Budget.

The latest position on the SESplan Operating Budget for 2017/2018 is included as Appendix 1. Across the entire Operating Budget for 2017/2018, the updated position as at November 2017 is a forecast underspend of £134,730.

D3 SESplan Operating Budget 2018/19

Variable costs are related to the development plan cycle. Over the first few months of the 2018/19 financial year, the work of the SESplan Core Team will be focussed on the Examination and Approval stages of SDP2 including updating the Proposed Plan with any modifications arising from the Report of Examination and preparing post approval documents such as the post adoption SEA statement, Habitats Regulation Appraisal and the Action Programme.

The Proposed Plan also proposes that Supplementary Guidance will require to be prepared, notably on Cross Boundary Transport Developer Contributions Framework and Green Network Priority Areas for Key Areas of Change South East and Edinburgh and West Lothian. Project Managers for these projects have been appointed and a technical support budget identified to accommodate this work and any other technical assessments should they be required. There will be a continuous review of all technical analysis/assessments required with resources available in-house utilised first to ensure best value and minimal spend where possible.

Staffing assumptions for 2018/19 are estimated to be in the region of £75,000 and provide for the SDP Manager (0.2FTE), Lead Officer (0.86FTE) and Graduate Planner (1FTE, temporary contract to 6 May 2018). This figure also includes allowance for additional resources to be brought into the SESplan Core Team should they be required.

For other fixed costs within 2018/2019, costs remain largely the same as 2017/2018. The largest spend is IT which includes the running and maintenance of software systems and supporting the online SESplan Consultation Portal at £12,500 and the operation and running of the SESplan email and website (£2,900). Costs for accommodation in West Lothian Civic Centre remain static.

Expenditure associated with printing/photocopying/advertising and marketing the approved SDP 2 is estimated at £8,000. Costs for technical support will add a further £65,000 and include necessary modelling/appraisal work to support the Supplementary Guidance on Developer Contributions as well as mapping/GIS or further technical analysis and/or assessments that may be required. A 10% contingency of £7,350 has also been included.

The Audited Accounts at the end of 2016/2017 show a reserve of £91,315. On the basis of the savings indicated in the updated forecast for 2017/2018, this is expected to result in a further increase of reserves at the end of 2017/2018 to £191,320.

Each member authority is liable for one sixth of the annual Operating Budget. Savings in 2017/2018 have significantly increased reserves. To manage reserves the SESplan Joint Committee agreed that contributions per member authority, for the 2018/19 year only, would be £10,000. This provides West Lothian Council with a one-off benefit of £34,000 in 2018/19 compared to the budgeted position.

SESplan Financial Rules require member authorities to ensure that their contributions are in place by the start of the next financial year (payable to Fife Council).

D4 Future Operating Budgets

Indicative Operating Budgets beyond 2018/2019 have not been set out. The consultation on the future of the Scottish planning system ([Places, People and Planning](#)) published in January 2017 proposed that SDPs should be removed from the system and proposed Regional Working Partnerships. [A Planning Bill](#) was introduced to the Scottish Parliament by the Cabinet Secretary for Communities, Social Security and Equalities, Angela Constance MSP, on 4 December 2017. In the meantime SESplan is statutorily required to prepare and keep under review an SDP and it has been intimated that an Operating Budget for 2019/2020 will be brought to a meeting in late 2018 for Joint Committee consideration.

D5 Strategic Development Plan (SDP 2) Update

Following on from the Main Issues Report 2015, SESplan published the [second Proposed Strategic Development Plan](#) (SDP 2) for consultation between 13 October and 24 November 2016 and received over 800 representations from 168 respondents.

Having reviewed all of the representations and prepared responses to them, the unresolved issues were reported to a meeting of the SESplan Joint Committee when it was subsequently agreed not to make modifications.

The plan was submitted to Scottish Ministers for examination on 26 June 2017 and a Reporter has been appointed to consider if changes should be made to the plan. The examination process is ongoing and officers have responded to a number of Further Information Requests (FIRs). The target date given by the DPEA for concluding the examination is April 2018 and it is therefore anticipated that the new SDP will be adopted in the Spring of 2018.

E. CONCLUSION

Preparation of the SDP is a statutory requirement. SDP 2 will replace the current SDP approved in 2013. SDP 2 Proposed Plan sets the direction of development to 2038 providing a long term vision for the area. SDP 2 will also set the context for the preparation of the next Local Development Plan by the council.

Funding is required to enable SESplan to continue to progress SDP 2. The expenditure which has been identified is considered necessary and proportional and the significant reduction in member contributions for financial year 2018/19 is particularly welcome at this time.

F. BACKGROUND REFERENCES

- [Adopted Strategic Development Plan](#) for Edinburgh and South East Scotland 2013 (SDP 1)
- [Second Proposed Strategic Development Plan](#) for Edinburgh and South East Scotland (SDP 2)
- Report to SESplan Joint Committee 27 November 2017

Appendices/Attachments: 1

Appendix 1 - SESplan Operating Budget 2017/2018 Forecast and Operating Budget 2018/2019

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23 January 2018

APPENDIX 1

Operating Budget 2017/2018 Forecast and Operating Budget 2018/2019

DESCRIPTION	17 / 18 Budget Approved at Joint Committee March 2017	17 / 18 Forecast at November 2017	Variance 17 / 18 Approved Budget vs. 17 / 18 Forecast	18 / 19 Operating Budget
Staff	160,931	102,000	58,931	75,000
Training	1,000	2,000	-1,000	1,000
Rent (including Service Charge)	7,487	4,292	3,195	4,292
Travel	4,200	1,500	2,700	1,500
IT (Hardware, Software and Maintenance)	15,555	15,500	55	15,500
Mobile Line Rental	102	203	-101	206
Audit / Professional Fees	3,400	3,400	0	3,400
Miscellaneous	1,500	1,500	0	1,500
Total Fixed Costs	194,175	130,395	63,780	102,398
Examination	30,000	20,000	10,000	0
Technical Support	60,000	2,500	57,500	65,000
Printing / Photocopying	1,000	4,000	-3,000	4,000
Postages / Franking	500	500	0	500
Advertising / Marketing	4,000	4,000	0	4,000
Contingency 10%	9,550	3,100	6,450	7,350
Total Variable Costs	105,050	34,100	70,950	80,850
Total Expenditure	299,225	164,495	134,730	183,248
Member Authority Contributions	264,000	264,000	0	60,000
Sales	0	0	0	0
Income / Interest on Revenue Balance	200	500	-300	0
Total Income	264,200	264,500	-300	60,000
Net	-35,025	100,005	-135,030	-123,248
Take From / Add to Reserves	-35,025	100,005		-123,248
Usable reserve balance (Reserves at 31 March 2017 £91,315)	56,290	191,320		68,072
Usable reserve as % of expenditure	18.8%	116.3%		37.1%
Target reserve (1 month's operating costs)	24,935	13,708		15,271
Shortfall on target reserve of 1 month's operating costs	31,355	177,612		52,801



COUNCIL EXECUTIVE

PROPOSED WEST LOTHIAN COUNCIL RESPONSE TO A CALL FOR EVIDENCE ON THE PLANNING (SCOTLAND) BILL

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise Council Executive of a Call for Evidence by the Scottish Government on the Planning (Scotland) Bill and to agree a response to the call for evidence.

B. RECOMMENDATION

It is recommended that Council Executive:

1. notes the terms of the report and the proposed significant changes to the operation of the planning system set out in the Planning (Scotland) Bill;
2. agrees the terms of this report as West Lothian Council's formal response to the call for evidence and to the Finance and Constitution Committee; and
3. agrees to submit the responses to the Scottish Government.

C. SUMMARY OF IMPLICATIONS

- | | |
|---|--|
| I Council Values | Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | <p>The review of the planning system in Scotland will lead to changes in legislation through amending the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006. Changes will also be required to a range of subordinate legislation and regulations.</p> <p>The proposal does not require an SEA and does not raise any specific equality or health risk issues for West Lothian.</p> |
| III Implications for Scheme of Delegations to Officers | The Bill makes specific proposals with respect to statutory schemes of delegation. However, the full impact and implications of these changes are not known at this stage. |

IV Impact on performance and performance Indicators	One of the stated aims of the Bill is to improve performance of the planning system. However, the impact on performance is not known at this stage.
V Relevance to Single Outcome Agreement	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI Resources - (Financial, Staffing and Property)	A number of the proposals in the consultation paper will have financial and staffing impacts. However, the impact on performance is not known at this stage.
VII Consideration at PDSP	This report has not been considered by the Development and Transport PDSP as a result of the short timescale for the submission of responses.
VIII Other consultations	Internal consultations with development planning and development management / enforcement.

D. TERMS OF REPORT

D1 Background and History

The Scottish Government announced in June 2015 its intention to review the planning system in Scotland. An independent panel was appointed by the Scottish Government in September 2015 and an initial consultation took place between October 2015 and December 2015. The council responded to this initial consultation on 9 December 2015.

The independent panel published its response to this consultation in May 2016 identifying recommendations under six themed outcomes: strong and flexible development plans; the delivery of more high quality homes; an infrastructure first approach to planning and development; efficient and transparent development management; stronger leadership, smarter resources and sharing of skills; and collaboration rather than conflict – inclusion and empowerment.

Scottish Ministers issued an initial response to the independent panel's report in July 2016 stating their broad support for the six themed outcomes and identifying ten actions to take forward as immediate priorities with others to be addressed through a further consultation on the planning system.

A consultation paper titled 'Places, People and Planning - a Consultation on the Future of the Scottish Planning System', was published in January 2017. The consultation paper set out four 'key areas of change' and 20 proposals for improving the planning system. The four key areas of change identified are: Making plans for the future; People make the system work; Building more homes and delivering infrastructure; and Stronger leadership and smarter resourcing. The council responded to this consultation on 30 March 2017 following consideration of a proposed response by Council Executive on 28 March 2017. The report to Council Executive set out the key issues of the consultation paper and these issues have remained unchanged. See section E of the report for detail.

The Scottish Government published a Position Statement in June 2017 outlining the Scottish Ministers' views on the 20 proposals in the consultation paper following analysis of responses to the consultation paper and setting out the intention to move forward with a Planning Bill.

The Planning (Scotland) Bill was introduced to the Scottish Parliament on 4 December 2017. A call for evidence on the Bill was set out on 15 December 2017.

The Scottish Government has set out twelve questions for respondents to answer in the call for evidence. A headline summary of the detail in the four key areas is set out in the following sections and the proposed response to questions is set out in Appendix One.

D2 Development Planning

At a local level, the Scottish Government proposes that local development plans (LDPs) should be prepared on a ten year cycle. The procedure for progressing LDPs is also to be changed with the removal of the main issues report and replacement by a 'gatecheck' designed to establish if a plan and its technical evidence are sufficiently sound to be progressed. The provision for statutory supplementary guidance is removed. It is assumed that there will still be provision for supplementary planning guidance, although this is not clear from the Bill.

Action programmes which set out how the key components of LDPs are to be delivered are to be re-packaged as 'delivery programmes'. Communities will have a right to prepare their own 'local place plans' with scope for these plans to be adopted as part of the development plan. Place plans will have to accord with the development plan. The preparation of LDPs will also need to take account of Locality Outcome Improvement Plans (LOIPs).

At a regional level, it is proposed to remove strategic development plans (SDPs) and replace these with regional partnership working. However, the terms of any regional partnership working are not set out. It is suggested that regional priorities would be defined in the National Planning Framework (NPF) and that regional partnerships would act as a 'bridge' between local and central government by co-ordinating infrastructure investment and funding. The geographies of regional partnerships are proposed to be defined by local authorities.

At national level, an 'enhanced' NPF is proposed that will merge the current NPF with Scottish Planning Policy (SPP) with reviews on a ten year cycle. It is proposed that the NPF forming part of the statutory development plan setting out general policies for determining planning applications. LDPs should only produce policies that are specific to local circumstances. So in a West Lothian context the development plan will comprise the NPF and the LDP.

The proposed response supports the idea of a link to community planning, removing the Main Issues Report from the LDP process and LDPs moving to a ten year cycle. The proposed response states removing supplementary guidance may end up increasing the content of LDPs as opposed to reducing content. Greater investigation of the idea of an early 'gatecheck' for the plan preparation process is still required as this might not speed up the timescale for preparing LDPs.

The idea of removing SDPs is supported but there are concerns about the proposed regional partnerships intended to replace them as it is still not clear what the function and status of these partnerships would be. The proposed response sets out that regional working should be focused on enabling and funding of strategic matters, such as infrastructure delivery. It is still unclear what the impact of the proposed Edinburgh and South East Scotland City Region Deal would have on these regional partnerships.

The idea of giving statutory weight to a revamped NPF and making it part of the development plan is not supported. This proposal is at odds with more local involvement and would be confusing for the public. The LDP should retain its primacy in decision making as an expression of how a planning authority should determine planning applications.

The proposed response supports re-packaging action programmes as delivery programmes. These need to set out the full cost of infrastructure to deliver a site allocation and an estimated delivery timeline. However, the response makes clear funding to deliver infrastructure beyond stating figures is the key issue. Where a site is promoted in the development plan that site should be treated as effective for the whole plan period. The reason for this is that if a site does not deliver communities and the Council are not disadvantaged through other sites coming through the planning appeal process.

The proposals for local place plans (LPP) are given guarded support but they cannot be seen to be tools that can restrict development in sustainable locations and will need to be representative of an entire community. To that end, the council is of the view that hard to reach groups of people should be involved in their preparation statutorily.

The proposed response sets out that, although estimated costs for communities producing LPPs based on figures of the cost of producing neighbourhood plans in England, the financial cost to local authorities in terms of officer time spent assisting the production of LPPs is not quantified.

The initial views of officers, as set out in the proposed response, are that the reforms to development planning are unlikely to make a big difference in terms of levels of housebuilding. This is because the actual demand for housing is often lower than the overall supply of housing land. The lack of an agreed method to calculate five year housing land supply has led to inconsistencies in decision making by reporters in determining appeals for sites that are contrary to the development plan.

D3 Development Management & Enforcement

The Scottish Government proposes changes to the pre-application consultation process by stating that a valid planning application must be submitted for a major development within 18 months of a proposal of application notice (PAN). It is proposed that regulations will set out circumstances where pre-application consultation is not required where there are minor material amendments to major developments.

It is proposed to expand the range of applications that could be considered by local review bodies to include advertisement consents, certificates of lawfulness and prior approval applications.

The duration of planning permissions is proposed to be set via condition rather than a direction of 3 years. Planning authorities will have flexibility to set the duration of a given permission but the default assumption is 3 years for full planning permission and 5 years for planning permission in principle.

The Bill re-iterates and encourages the use of completion notices to force applicants to complete development once it has commenced but has not progressed within a reasonable period of time. The effect of non-compliance would be the revocation of planning permission for the remainder of the development.

Enforcement powers are proposed to be strengthened by increasing the maximum fine for non-compliance with an enforcement notice to £50,000, as well as the ability to register charging orders to the Land Register of Scotland or the Register of Sasines.

The Call for Evidence focuses on the enforcement aspect of the Bill and the council supports the enhanced enforcement measures but thinks these measures could go further. For example, a fast track process to the procurator fiscal and a statutory duty to carry out direct action in the cases of serious breaches. Encouragement of the use of completion notices is welcomed.

D4 Infrastructure Levy

An infrastructure levy is proposed to be introduced which would be a charge on most types of development. The income from the charge would be collected locally. A review of Section 75 obligations will take place, alongside further work on the proposed model of an infrastructure levy, to inform what contributions would still apply to the site specific consequences of development. As it stands in the Bill, the proposed infrastructure levy will sit alongside Section 75 agreements in the obtaining of developer contributions.

The Call for Evidence asks whether the infrastructure levy is the best way to secure infrastructure investment from developers, the potential impact on levels of development, whether there are alternatives that could raise funds for infrastructure provision and if there are lessons that can be learnt from the operations of an infrastructure levy in England.

The proposed response sets out that an infrastructure levy will not unlock development in the short term as development may not in the long term. In many cases development cannot take place without the necessary infrastructure being in place and the use of an infrastructure levy in England has not been shown to be a game changer in the provision of infrastructure. In a West Lothian context it is not clear how a levy would help to address issues such as the forward funding of new schools at Winchburgh.

In areas of high viability, the levy is unlikely to make a difference in terms of the level of development. However, in areas of lower viability the levels of developer contributions secured by legal agreements could be reduced and planning authorities faced with potential trade-offs, for example, securing funds through the levy but not being able to secure affordable housing for a development. Low levels of charging may be introduced but this may not cause much of a difference in terms of infrastructure funding for local authorities. In some areas of England where there is low viability, an infrastructure levy has not been implemented due to the impact on development viability.

The proposed response identifies that forward funding of infrastructure, or at least having sufficient contributions at the time infrastructure investment is the critical issue. The council has previously set out that it is firmly of the view that there needs to be a national agency and that the national agency should manage an infrastructure fund which is open to local authorities and the development industry. There is nothing in the infrastructure levy proposal which would suggest that this position should be reviewed. The council should be empowered to refuse applications where infrastructure improvements are necessary but these improvements have not been funded by the developer or the national infrastructure agency.

D5 Simplified Development Zones

To increase housing delivery the Scottish Government is proposing a zoned approach to housing delivery by broadening the use of Simplified Planning Zones (SPZs) to deliver housing developments and rebrand them as 'Simplified Development Zones (SDZs).

SDZs will grant planning permission for specified development within a defined zone without the need for a planning application.

The aim of SDZs is to unlock significant areas for housing development through frontloading the planning process to give greater certainty to developers and provide a supply of 'development ready land'. SDZs could also be used for business use development and town centre renewal.

The Bill proposes removing current restriction on SPZs in primary legislation, for example, in green belts and conservation areas. Restrictions on the use of the rebranded SDZs will be set out in secondary legislation.

The Call for Evidence asks whether SDZs will balance the need to enable development with enough safeguards for community and environmental interests.

The proposed response sets out concerns over the use of SDZs as a model to deliver housing. Housing sites designated SDZs would need to have infrastructure in place for development. Otherwise, there would be an infrastructure gap that could not be filled through a Section 75 agreement or a potential infrastructure levy as there would be no planning application. The Bill does not provide clarification as to whether developer contributions or the proposed infrastructure levy would apply to SDZs. The lack of a planning application would also mean a loss of revenue unless high levels of charging are introduced for SDZs.

The proposed response questions the general principle of SDZs given the existing provisions of SPZs have not been taken up for housing development. In addition, the public sector does not have the in-house skills to masterplan such schemes. The private sector will need to maximise value for new developments and it is thus questionable whether this policy will result in better design outcomes for new development.

D6 Other Matters

The Bill seeks to introduce flexibility for planning authorities to charge, reduce or waive fees for certain services. Scottish Ministers are proposed to have the ability to charge for their services.

The Bill proposes the introduction of mandatory training for members sitting on planning committees and local review bodies. Regulations will set out a requirement for attendance at such training and/or the completion of an examination. It also sets out that where the requirements for training have not been met the functions of the planning authority are to be carried out by another planning authority or the Scottish Ministers.

In terms of performance, the Bill proposes the submission of annual performance reports to the Scottish Government on a statutory basis. This measure replaces the current, voluntary submission of a planning performance framework. The Bill also makes provision for the appointment of a national performance co-ordinator.

The proposed response welcomes the proposal to introduce discretionary charging for planning authorities and the principle of moving the service to a full cost recovery basis through increased fees.

Training for elected members is supported in the proposed response.

D7 Finance and Constitution Committee

Attached at Appendix Two is the questionnaire to the Scottish Parliament's Finance and Constitution committee.

A financial memorandum has been prepared by the Scottish Government to accompany the Bill, which sets out costs and potential savings for planning authorities.

The response to the questionnaire sets out that it is difficult to comment on the accuracy, and overall financial implications for West Lothian Council, of the potential savings given the figures stated in the financial memorandum are aggregated to be Scotland-wide savings. Furthermore, costs will arise from secondary legislation in the form of regulations and, in the absence of the detail of these regulations, it is difficult to say if the costs set out are accurate.

The response to the questionnaire sets out that the Bill should be cost-neutral and any additional costs arising from the Bill should be met by the Scottish Government through revenue support or an early review of the fee structure given that the council will see further cuts in budgets over the next five financial years.

E. Key Issues

There are three key issues which should be noted from the above summary. There are significant changes proposed to the development plan and these are mainly positive.

The proposal that the National Planning Framework is to be 'enhanced' through merging it with Scottish Planning Policy and given greater weight by being part of the development plan is of concern given that it would take control away from local planning authorities. This proposal would seem to be at odds with encouraging greater involvement at a local level.

Finally, it is disappointing, and of concern, that the Scottish Government is not putting in place proposals to tackle the issue of infrastructure funding. Without such proposals, it is difficult to see how the aspiration of increasing house completions can be met.

F. CONCLUSION

The Bill provides a number of proposals the council welcomes, particularly in terms of resourcing, but its proposals do not go far enough nor do they create a coherent, infrastructure first approach that has the potential for the planning system to act as an enabler to unlock and unblock development. There is also a lack of detail in some aspects of the Bill that need to be clarified now and not through secondary legislation.

G. BACKGROUND REFERENCES

Planning (Scotland) Bill, December 2017

Planning (Scotland) Bill – Policy Memorandum, December 2017

Planning (Scotland) Bill – Financial Memorandum, December 2017

People, places and planning – Position Statement, June 2017

Proposed West Lothian Council Response to a Consultation on the Future of the Scottish Planning System, 28 March 2017

Scottish Government consultation on raising planning fees, Report to Council Executive, 14 February 2017

Places, people and planning – A consultation on the future of the Scottish planning system, January 2017

Review of Planning: Scottish Government Response, July 2016

Empowering planning to deliver great places: An independent review of the Scottish planning system, May 2016

Proposed West Lothian Council response to the Scottish Government review of the planning system, Report to Council Executive, 8 December 2015

Appendices/Attachments:

Appendix 1: West Lothian Council's Response to a Call for Evidence on the Planning (Scotland) Bill

Appendix 2: West Lothian Council's Response to Finance and Constitution Committee Questionnaire

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Head of Planning, Economic Development & Regeneration

23 January 2018

Appendix 1: West Lothian Council's Response to a Call for Evidence on the Planning (Scotland) Bill

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?

West Lothian Council Response

No.

The Bill proposes greater centralisation of the planning system and this is not supported by the council. As stated in the council response to the Consultation on the Future of the Scottish Planning System ("consultation paper"), a move to centralise policy making will move key decision making away from local communities and would seem to be at odds with the provision of other aspects of legislation such as the Community Empowerment Act.

Longer time frames for development plans are welcomed. However, in a plan led system the development plan should provide opportunities for individuals and communities to actively engage in the plan making process and, having done so, should have certainty about future scale and location of development. The current system does not provide this certainty and the Bill does not address deficiencies in the current system.

For example, developers will still have the opportunity to test the development plan through the submission of planning applications which are significantly contrary to the development plan and then appeal any refusal of the application. The council in its earlier submission called for the right of appeal to be removed where a development proposal was significantly contrary to an up to date development plan and restates that position.

Similarly the proposed Bill fails to adequately address, or indeed ignores, a number of issues in the current system which bring uncertainty to local communities. In particular, government advice calls for an effective 5 year land supply to be available at all times, but it fails to provide a definitive methodology for calculating that requirement. Failure to address this issue will continue to leave the system open to challenge from developers at the expense of local communities.

Local communities will have the opportunity to have their views formalised through local place plans (LPP). However, the production of LPPs must be representative of the whole community and the council suggests that hard to reach groups of people should be involved in their production statutorily. In addition, LPPs must not be seen as a tool that restricts development in sustainable locations.

Overall, the Bill makes the planning system more complex than currently and although the views of communities might be better accounted for through the production of local place plans, there are areas where the views of local communities are less likely to be respected.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?

West Lothian Council Response

In the council's view the Bill misses the opportunity to address the issue of infrastructure funding and delivery which is the single biggest constraint on housebuilding in West Lothian and in many other parts of Scotland. The key issue of forward funding of infrastructure has not been addressed by the Bill, despite the stated aim of promoting an 'Infrastructure First Approach'.

The council set out in its response to the consultation paper that it is firmly of the view that there needs to be a national agency and that the national agency should manage an infrastructure fund which is open to local authorities and the development industry. It seems to the council that this is a clear message, which is being sent by both local government and the housebuilding industry, and it is disappointing that the proposed changes to the operation of the planning system provide no workable solution to resolving the single biggest constraint on development.

Low levels of house building are not due to the operation of the planning system. For example, in West Lothian demand is significantly lower than that identified in the development plan but this is ignored by developers and consistently found to be 'not a material consideration' by Reporters. There is currently no legislation or guidance on re-assessing demand for housing in a local authority area but yet supply has to be re-calculated on annual basis. This means that actual demand can often be lower than the assumed demand it is being tested against. By way of an example, a Housing Needs and Demand Assessment which was confirmed as "robust and credible" by the Scottish Government was published in 2016. While this is the most up to date assessment of housing need in West Lothian, it forms no part of the land supply and demand calculation. The development planning system should be flexible enough to ensure that 'material considerations' such as an up to date assessment of housing demand form part of the assessment of development proposals.

The recent withdrawal of the Draft Planning Delivery Advice on Housing and Infrastructure has exacerbated these issues with there now being no agreed method of calculating the effective five year supply of housing land and the status of a Housing Need and Demand Assessment (HoNDA). This leads to inconsistencies in decision making by Reporters appointed to consider appeals for sites that area contrary to the development plan. Reporters can choose how they think the effective five year supply of housing land should be calculated and give what weight they wish to the HoNDA. This issue leads to public mistrust in the planning system and provides no certainty for communities and the development industry.

An agreed method of calculating the effective five year supply of housing land and the weight given to the HoNDA is critical to ensuring public confidence in the system.

3. Do the proposals in Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

West Lothian Council Response

No.

Although, the council supports the removal of Strategic Development Plan (SDP), it has concerns about incorporating a regional dimension into the NPF.

As stated in the response to the consultation paper, the council is of the view that the role of regional partnerships should be focused on establishing effective delivery mechanisms for genuinely strategic matters such as infrastructure delivery. This will need to involve partners such as Transport Scotland. Currently at regional level, there are a number of agencies as well as funding currently available e.g. regional transport agencies, Scottish Enterprise, City Deals etc. Regional partnerships should bring these agencies and various funding streams together to determine regional priorities thereby integrating planning, transport and economic development. Independent leadership is key in this context particularly where priorities clash and cannot be agreed by authorities in regional partnerships.

In order to ensure public confidence in the system and accountability of decisions makers, policy decisions which impact on the use of land in and around communities should continue to be taken at a local level rather than a regional or national level. Any joint working arrangements or regional collaboration should respect this principle.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

West Lothian Council Response

It is the council's view that LDPs are already focussed on delivery. The key issue, as stated in the council's consultation paper response, is funding of infrastructure, which is the single biggest constraint on development. If infrastructure constraints are overcome the gap between LDP proposals and development on the ground will close.

As stated in the response to the consultation paper, where a site is successfully promoted in the development plan that site should be treated as effective for the whole plan period. In other words where it is the site promoters who fail to deliver against an agreed timescale the council and local communities should not be disadvantaged through the support for alternative sites through the planning appeal process.

The removal of the Main Issues Report (MIR) stage of the development plan preparation is welcomed and the move to go straight to a draft LDP will mean engagement is more focussed and will allow communities to have a better debate about the future of their areas.

The content of development plans being reduced with the majority of policy set out in a revamped NPF will be confusing for individuals and communities as they would expect that all policies for determining the future use of land in the local authority area would be set out, as far as possible, in a single planning document. The proposed removal of supplementary guidance is likely to result in more detail being added to LDPs at the expense of readability and is not supported by the council. That said, in the council's view, the provision of Supplementary Planning Guidance has proven to be clear and understandable. Consequently, the council's view is that there is no need for supplementary guidance to be approved by Scottish Ministers.

It is vital that the LDP retains its primacy in decision making as an expression of how a local authority seeks to determine planning applications within its area.

The idea of LDPs having a 10 year cycle is supported subject to the ability to amend parts of the document in the interim should that be required to respond to changing circumstances. Plans should not be left in a constant cycle of review as this does not provide certainty for individuals or communities.

The council gives cautious support to the early gatecheck in the plan preparation process. More detail investigation is needed to demonstrate that this procedure will speed up the process of preparing LDPs.

LDPs do already complement other local authority priorities with joint working across local authority departments. The production of Local Outcome Improvement Plans (LOIPs) has meant that there is a closer alignment between the corporate aims of local authorities and planning through physical regeneration. The proposed statutory link with community planning by taking account of LOIPs will help planning further complement wider local authority aims and is supported by the council.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

West Lothian Council Response

SDZs may not provide enough safeguards in terms of environmental interests. Restrictions are to be put forward in secondary legislation but this does not give any certainty at this stage that environmental interests will be protected.

With regards to community interests, there is no clarity in Bill on how infrastructure impacts will be mitigated e.g. education capacity, transport etc. The Bill does not set out whether SDZs are going to link to a planning obligation or incur a charge under the proposed infrastructure levy. Schemes can be granted subject to conditions but where does the limit of conditions lie? Are conditions viewed in the context of meeting the six tests set out in Circular 4/1998 or can these extend to developer contributions?

The council questions the principle of re-branding the Simplified Planning Zones (SPZ) set out in the Town and Country Planning (Scotland) Act 1997 and Circular 18/1995 with an emphasis on housing. Provision for SPZs for housing currently exists in legislation and guidance and there is a lack of explanation as to why the 're-branding' will make a difference given that developers have not taken up existing provisions.

There is potential for the diluting of the planning system and a question mark over who would masterplan these schemes. The public sector does not have the in-house expertise to carry out said masterplanning but the private sector, that does have the expertise, will look to maximise value, which may come at the expense of good design outcomes. The purpose of planning is said to be to create great places and it is debatable whether this policy will achieve that aim.

Nevertheless, the council is not wholly against the concept of SDZs provided that identification of such areas is not binding on a local authority.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

West Lothian Council Response

Communities already have the opportunity to influence LDPs through submitting representations to the Proposed LDP and attending consultation events. If Local Place Plans (LPP) need to be compliant with the LDP then it is unclear how much difference this will, or indeed can, make to influencing LDPs.

Section 9 of the Bill provides no detail with regards to financial and technical support for LPPs. The accompanying financial memorandum sets out estimated costs for communities producing LPPs based on figures of the cost of producing neighbourhood plans in England. However, the financial cost to local authorities in terms of officer time spent assisting the production of LPPs is not quantified. If large numbers of communities wishing to prepare LPPs come forward at the same time then local authority staff will not be able to meet demand unless the cost of doing so is recognised in the context of full cost recovery in the planning service. The cost implications to local authorities need to be set out given the English experience has shown that neighbourhood plans have been resource intensive.

Furthermore, there is likely to be upfront costs for communities in obtaining advice on how to bid for various funding. Deprived communities may lose out as a result. To address this issue, the Scottish Government should establish a fund that can help with the costs of obtaining advice for LPPs.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?

West Lothian Council Response

In the council's view there is nothing in the Bill, over and above current powers, that will dissuade owners and developers from carrying out unauthorised works. The proposed changes will make a

small difference in a small number of cases but do not go far enough to ensure better compliance with planning control.

The public expects that the planning authority should be able to deal effectively with unauthorised works or other breaches but the reality is that current or indeed proposed arrangements do not provide a deterrent.

It is time and resource consuming for planning authorities to go to the Procurator Fiscal and the Bill does not address this matter. The council suggested in its response to the consultation paper that a fast track process to the Procurator Fiscal should be introduced in a similar vein to the Scottish Environment Protection Agency's environment crime protocol. The council is of the view that such a measure should be introduced to speed up cases being taken to the procurator fiscal.

The council's response to the consultation paper suggested a statutory duty for planning authorities to carry out direct action on serious breaches. With enhanced resources this measure would help to restore public confidence in planning control.

Fines for unauthorised works or other breaches should be recurring following non-compliance with a notice. Such a measure would need to be proportionate and if work ceases and a person can demonstrate that a breach will be rectified by a certain date fines could stop and this is agreed with the planning authority. If the breach was not rectified by an agreed date then fines could begin recurring again.

The encouragement for the use of completion notices is welcomed by the council.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

West Lothian Council Response

There will still be a gap before the infrastructure levy is introduced at national level with secondary legislation drafted, consulted on and then finalised. Following that planning authorities will need to draft, consult on and finalise charging schedules. This will take several years and thereafter it will take a considerable number of years for the levy to achieve a sufficient funding balance such that infrastructure can be supported. As stated above, a national infrastructure fund will help to address the infrastructure gap and could be introduced without delay.

In areas of high viability, levels of development are unlikely to be affected by the levy unless there are abnormal costs associated with development.

Cases where there are abnormal costs associated with development or development in areas of low viability could mean that other levels of developer contributions secured by section 75 may be reduced. This could result in trade-offs between securing monies for infrastructure and delivering, for example, affordable housing. Moreover, in some areas of low viability, the levy could have a significant impact on development. Any secondary legislation should allow flexibility for planning authorities to charge the levy in zones to account for differing land values across local authority areas.

At this stage, it is unclear how the levy will interact with planning obligations. For example, affordable housing is not likely to be funded from an infrastructure levy. A review of policy surrounding planning obligations and consultation on secondary legislation will examine this issue but it would be helpful for planning authorities and the development industry to understand what the levy is intended to fund, or not fund, before policy reviews and draft secondary legislation is published.

The use of an infrastructure levy in England has not been shown to be a game changer in the provision of infrastructure. In some areas of England where there is low viability, an infrastructure levy has not been implemented due to the effect on viability.

The council's principle concern is that an infrastructure levy is unlikely to address the real infrastructure problem which is ensuring that sufficient funding is available at the point in time where infrastructure is required.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

West Lothian Council Response

Yes, this is supported.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

West Lothian Council Response

The proposal to introduce annual performance reports and the appointment of a planning performance co-ordinator will not make a great difference to performance.

The council supports the principle of moving the service to a full cost recovery basis through increased fees. In establishing the cost of delivering the service all aspects of the process need to be costed.

It is only through the proper funding of the system and the removal of constraints and barriers to development, as set out elsewhere in the council's response, that a step change in performance can be achieved.

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high-performing planning system the Scottish Government wants? If not, what needs to change?

West Lothian Council Response

The provision for discretionary charging is welcomed, as is the ability to set higher fees for retrospective applications. However, as set out in the response to question 10, it is essential that the fee structure allows for full cost recovery. The calculation of cost recovery needs to recognise the need to bring in specialist support for complex applications and the 'cost of democracy' in the council discharging its functions as planning authority.

12. Are there any other comments you would like to make about the Bill?

West Lothian Council Response

No

Appendix 2: West Lothian Council's Response to Finance and Constitution Committee Questionnaire

This questionnaire is being sent to those organisations that have an interest in, or which may be affected by, the **Planning (Scotland) Bill — Financial Memorandum (FM)**.

In addition to the questions below, please add any other comments you may have which would assist the Committee's scrutiny of the FM.

Consultation

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes.

West Lothian Council responded to the initial consultation exercise on the review of the planning system and to the consultation on places, people and planning – A consultation on the future of the Scottish planning system.

Financial assumptions were not commented on because no figures were produced at those stages. Resource implications were commented on for certain proposed policies e.g. production of local place plans.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Although the response to the consultation paper went through one less governance stage than is normal, there was sufficient time to respond.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

No.

The figures in the FM are aggregated Scotland-wide figures and do not provide information on local level spending. Without local spending stated in the FM it is difficult to comment on the overall financial implications for WLC.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

As above, it is difficult to determine the accuracy of the costs and savings when the figures stated are Scotland-wide.

To note, the section on Simplified Development Zones (SDZs) bases the assumptions for costs on two existing simplified planning zones (SPZs) for a business park and change of use in a town centre. The Bill intends to use SDZs as an approach for new housing development; however, the costs for SDZs are not based on similar development types. The accuracy of such costs is therefore questionable.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

No, the council will not be able to meet any additional costs. The Bill must be cost-neutral and any additional costs should be met by the Scottish Government given the levels of savings required to be made at local government level over the next five financial years.

Additional costs should be met either through additional revenue support or by an early review of the fee structure to ensure that the service moves to a full cost recovery basis.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

No. The FM does not provide margins of uncertainty for any of the costs set out within it.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

Costs will be incurred by planning authorities in providing support to communities in the preparation of local place plans in terms of officer time. The FM sets out the cost of preparing a local place plans through evidence of costs of preparing a neighbourhood plan in England. However, this analysis does not quantify the cost to planning authorities or other parts of local authorities that would advise in this process. All that is mentioned in the FM under the cost implications of local place plans for planning authorities is "Discretionary spend to support communities".

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The council's wider response sets out that it is difficult to fully assess the impact of the Bill as much of the detail is held over to secondary legislation. Until the full detail is known it is not possible to fully comment on the effectiveness of the measures. This applies equally to cost implications. The council would expect there to be costs associated with subordinate legislation.



COUNCIL EXECUTIVE

FORMER BROXBURN LIBRARY, WEST MAIN STREET, BROXBURN
PROPOSED SALE TO BROXBURN BARGAIN CENTRE

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval for the sale of the former Broxburn Library, West Main Street, Broxburn to Broxburn Bargain Centre.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the sale of the former Broxburn Library to Broxburn Bargain Centre for £140,000 subject to the terms and conditions set out in this report;
2. Authorises the Head of Finance and Property Services to carry out any further negotiations with the purchaser in respect of the sale of the property, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

C. SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable. Making best use of our resources.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	The sale of this property will contribute towards the council's 2018/19 capital receipts target and in doing so will assist the associated capital receipts performance indicator.
V Relevance to Single Outcome Agreement	We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI Resources - (Financial, Staffing and Property)	A capital receipt of £140,000 will be received during the 2018/19 financial year. This receipt will contribute to the budgeted receipts target for that year.

VII Consideration at PDSP	None.
VIII Other consultations	The local elected members for the ward have received a copy of this report for their information.

D. TERMS OF REPORT

Council Executive at its meeting on 29 August 2017 noted that the former Broxburn Library building was no longer required for the delivery of services following the library's relocation to Strathbrock Partnership Centre and as a consequence the property would be subject to disposal in accordance with approved surplus property procedures.

A location plan of the former library is included as Appendix 1 of this report. In addition to the former library building, the subjects include a designated car parking area to the front that served the former library, but explicitly excludes the adjoining public space.

The property was marketed from September to December 2017 and a closing date for offers of sale, lease or community asset transfer was set for 8 December 2017.

Two offers were received at that closing date, both of which were offers to purchase the property. No offers of lease or community asset transfer were received at the closing date.

The highest offer to purchase was received from Broxburn Bargain Centre (BBC) for a sum of £140,000. BBC is an established family business, trading locally in the sale of home furnishings since 1950. The business currently occupies the neighbouring commercial premises at 10 West Main Street, Broxburn and the proposed acquisition of the former library building would facilitate an expansion of the existing business.

The offer received from BBC is conditional upon planning permission being secured for a change of use from Class 10 (Non-residential institutions) to Class 1 (Retail). Preliminary discussions with Planning Services have confirmed that town centre uses (including retail) are considered suitable at this location subject to determination of any actual proposals.

The highest offer to purchase received at the closing date from BBC is considered to represent best value for the council and as such it is recommended for acceptance.

Council Executive is asked to note that in August 2017 the council received a Stage 1 asset transfer request for the property from a fledgling community group called Art at the Heart of Broxburn. Subsequent discussions with that group confirmed they had no legal structure in place, no adopted constitution and did they have sufficient membership to qualify as a "community transfer body" seeking transfer of ownership.

For those reasons, the group's asset transfer request was invalid since it did not meet the basic mandatory requirements set out in the Community Empowerment (Scotland) Act 2015 and on that basis it could not be considered by the council.

Officers are continuing to work with the group to develop its legal structure and governance arrangements and to explore alternative options that will satisfy the group's objectives.

E. CONCLUSION

It is in the council's best interests that the former Broxburn Library on West Main

Street, Broxburn be sold to Broxburn Bargain Centre for £140,000 in accordance with the terms set out in this report.

F. BACKGROUND REFERENCES

Report entitled “Former Broxburn Library, West Main Street, Broxburn – Surplus Property Report” by the Head of Finance and Property Services to Council Executive on 29 August 2017

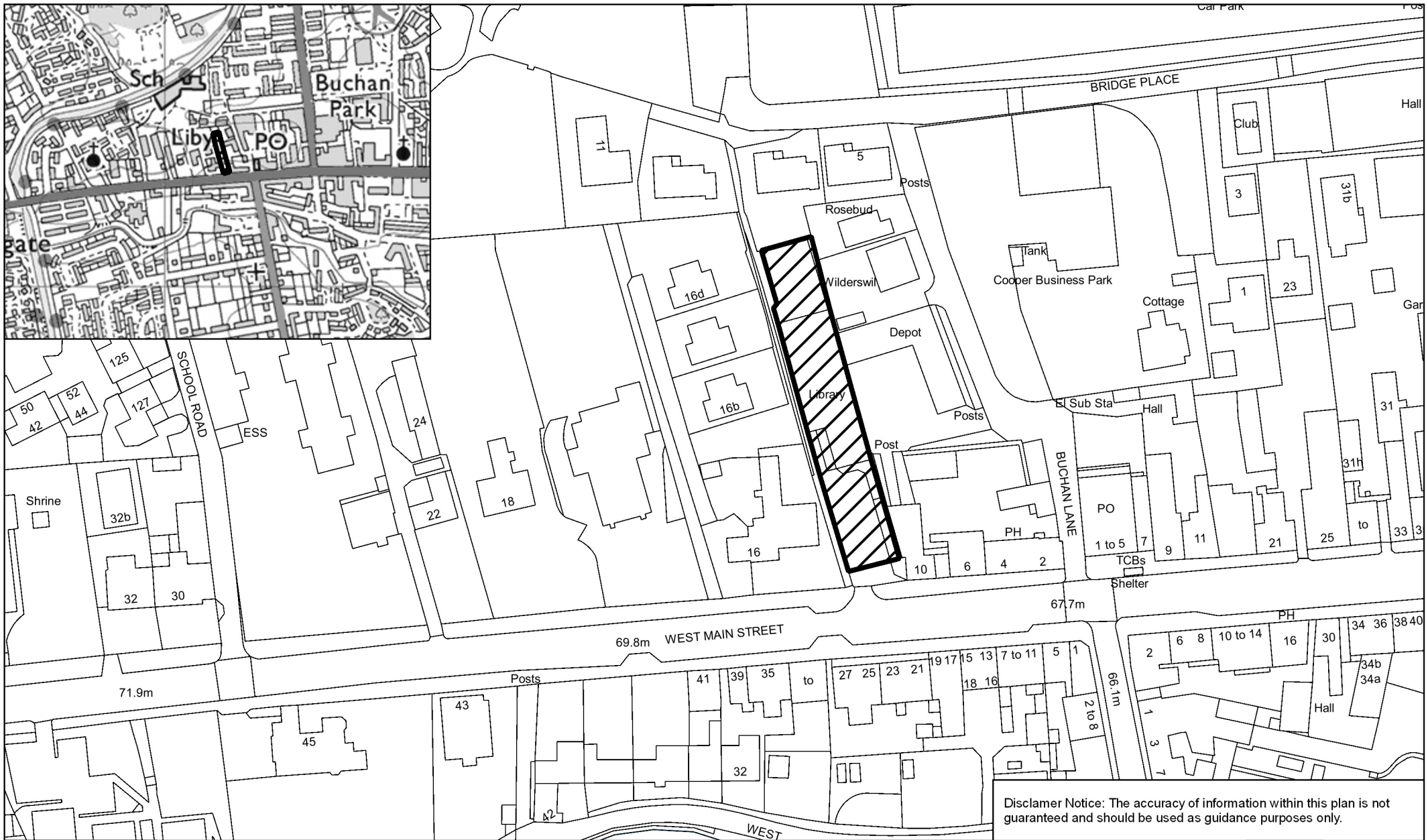
Appendices/Attachments: Appendix 1 - Location Plan

Contact Person: Darren Stenhouse, Property Assistant


Tel: (01506) 283373 email: Darren.Stenhouse@westlothian.gov.uk

Donald Forest, Head of Finance and Property Services

Date of meeting: 23 January 2018



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 <p>West Lothian Council</p>	<h1>Former Broxburn Library</h1>	<p>1:1,250</p>	<p>A4</p>	<p>N ↑</p>
<p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p>	<p>8/1/2018</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationary Office. Unauthorised reproduction infringes crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2018</p>		



COUNCIL EXECUTIVE

INDUSTRIAL OPEN STORAGE LAND 1.18HA (2.9 ACRES) WHITRIGG, EAST WHITBURN - PROPOSED SALE TO TRUSTEES OF CPP-MCCORMICK TRUST

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval for the sale of 1.18Ha. (2.9 acres) of industrial open storage land at Whitrigg, East Whitburn on revised terms.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the sale of 1.18Ha. (2.9 acres) at East Whitburn to the Trustees of CPP-McCormick Trust on the revised terms of £100,000, as set out in this report.
2. Authorises the Head of Finance and Property Services to carry out any further negotiations with the purchaser in respect of the sale of the property, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customer's needs; being honest, open and accountable; making best use of our resources; working in partnership.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	The sale of this property will contribute towards the council's 2017/18 capital receipts target and in doing so will assist the associated capital receipts performance indicator.
V	Relevance to Single Outcome Agreement	None.

VI Resources - (Financial, Staffing and Property)	Following completion of the proposed sale, a capital receipt of £100,000 will be received during the 2017/18 financial year.
VII Consideration at PDSP	None.
VIII Other consultations	The Local elected members for the ward have received a copy of this report for their information.

D. TERMS OF REPORT

Background

Council Executive at its meeting on 11 October 2016 approved the proposed sale of 1.18 Ha. (2.9 acres) of industrial open storage land at Whitrigg, East Whitburn to the Trustees of CPP-McCormick Trust (the pension scheme of the owners of Redhouse Fencing) or a sum £125,000. The extent and location of that site is shown hatched on the attached plan.

That proposed sale was subject to the purchaser being satisfied as to ground conditions. The purchaser commissioned site investigations and these have identified adverse ground conditions including localised contamination and stability issues. It is estimated that these adverse ground conditions will result in the purchaser incurring abnormal additional development costs to enable the site to be developed. Consequently, the purchaser has now confirmed they are only willing to proceed on the basis of a revised purchase price of £100,000.

It is considered that a revised purchase price of £100,000 still represents the highest potential capital receipt that can be obtained for the land given the ground conditions identified and continues to represent market value. It is therefore recommended that the proposed sale should proceed on the revised basis.

E. CONCLUSION

It is in the council's best interests to proceed with the proposed sale of 1.18Ha. at Whitrigg, East Whitburn to the Trustees of CPP-McCormick Trust for a sum of £100,000.

F. BACKGROUND REFERENCES

Report entitled "Industrial Open Storage Land 1.18Ha. Whitrigg, East Whitburn: Proposed Sale to Trustees of CPP-McCormick Trust" to Council Executive on 11 October 2016.

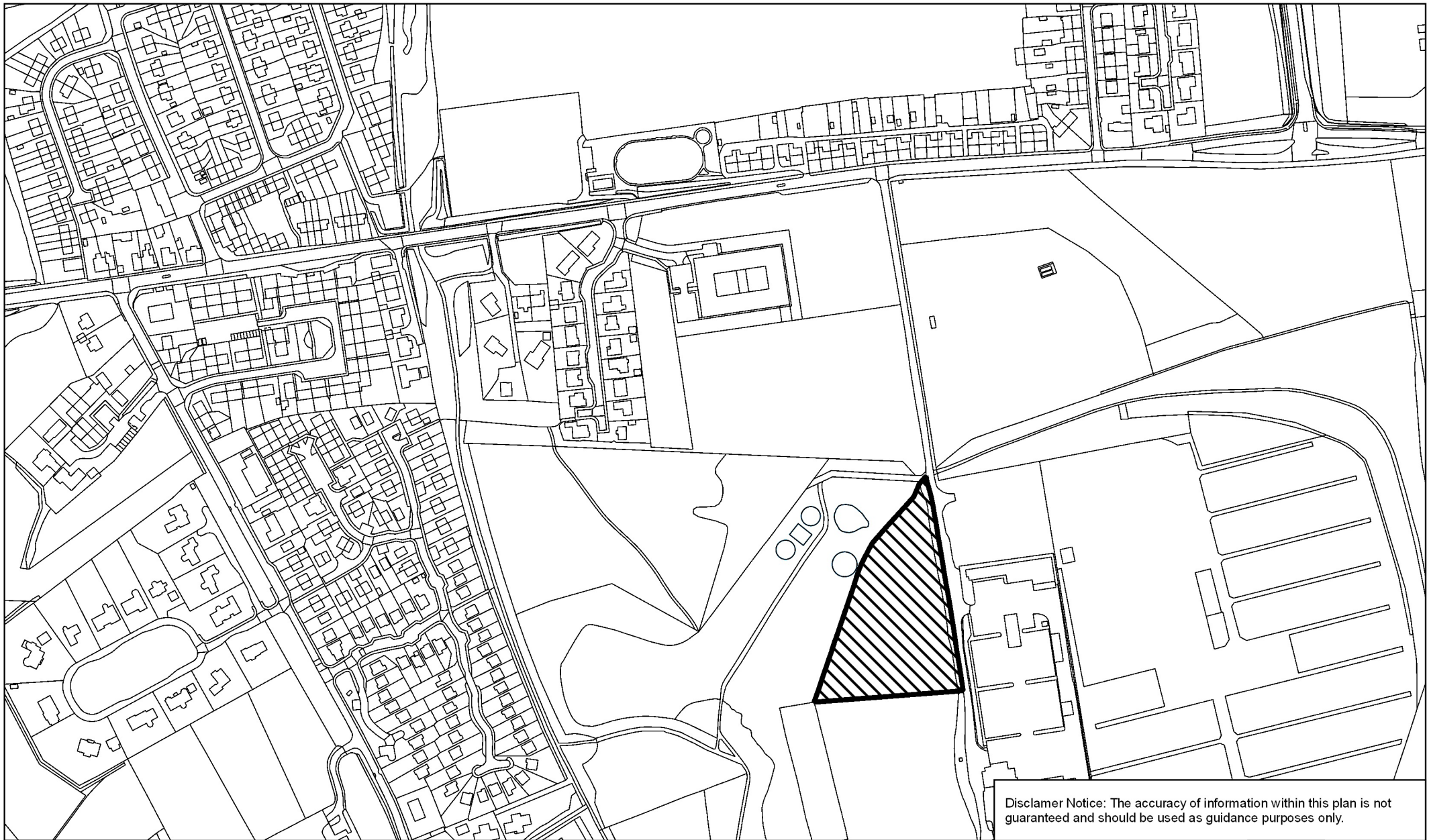
Appendices/Attachments: Location plan – 1.18Ha Site at Whitrigg, East Whitburn.

Contact Person:

Niall Carlton, Commercial Property Surveyor, Property Management and Development
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Donald Forrest, Head of Finance and Property Services

Date of meeting: 23 January 2018



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1.18 Ha Site at Whitrigg, East Whitburn

1:4,000

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Property Management, West Lothian Civic Centre, Livingston, EH54 6FF

8/1/2018

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COUNCIL EXECUTIVE

PROPOSED SALE OF APPROX. 337M² of LAND AT UNION ROAD, LINLITHGOW TO MR. MARTIN FLEMING AND MRS. DOROTHY FLEMING

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval for the sale of approx. 337m² of land at Union Road, Linlithgow to Mr. Martin Fleming and Mrs. Dorothy Fleming.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the sale of approx. 337m² of land at Union Road, Linlithgow to Mr. Martin Fleming and Mrs. Dorothy Fleming for £86,000 subject to the terms and conditions set out in this report.
2. Authorises the Head of Finance and Property Services to carry out any further negotiations with the purchaser in respect of the sale of the property, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

C. SUMMARY OF IMPLICATIONS

I Council Values	Making the best use of our resources; being honest, open and accountable.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	None.
V Relevance to Single Outcome Agreement	We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI Resources - (Financial, Staffing and Property)	A capital receipt of £86,000 will be received by Housing Revenue Account during the 2018/19 financial year.
VII Consideration at PDSP	None.

VIII Other consultations

The local elected members for this ward have received a copy of this report for their information.

D. TERMS OF REPORT

The council owns an area of undeveloped and unused land at Union Road, Linlithgow. The site extends to approx. 337m² shown outlined on the attached location plan. The land is held on the council's Housing Revenue Account (HRA).

Whilst the site does not have detailed planning permission, informal discussions with planning indicate that the land may be suitable for development as a single house plot, subject to detailed design considerations.

The property has been marketed and a number of offers were received at the closing date, the highest of which came from Mr. Martin Fleming and Mrs. Dorothy Fleming for a sum of £86,000. This is considered to represent best value for the council and as such it is recommended for acceptance.

The offer received from Mr. & Mrs. Fleming is conditional upon them securing planning permission for a single house plot. Mr. and Mrs. Fleming have prior experience of successfully developing another house plot in close proximity to Union Road and they are seeking to purify the planning sale condition and conclude the purchase summer of 2018.

E. CONCLUSION

It is in the council's best interests to sell the approx. 337m² site at Union Road, Linlithgow to Mr. Martin Fleming and Mrs. Dorothy Fleming for the sum of £86,000 in accordance with the terms of this report.

F. BACKGROUND REFERENCES

None.

Appendices/Attachments: Appendix 1 - Location Plan

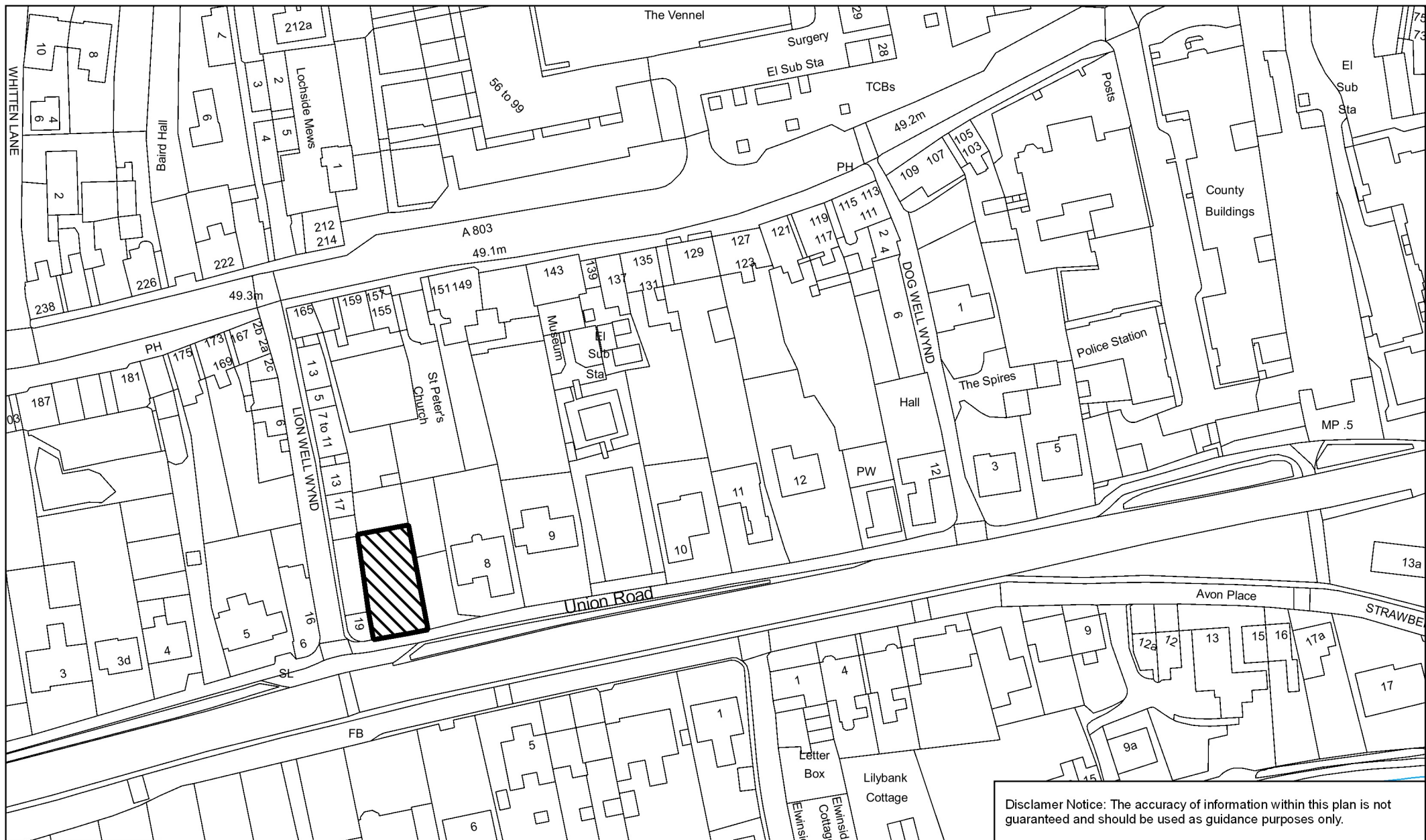
Contact Person:

Darren Stenhouse, Property Assistant, Property Management and Development

Tel: (01506) 28373 email: Darren.Stenhouse@westlothian.gov.uk

Donald Forrest, Head of Finance and Property Services

Date of Meeting: 23 January 2018



West Lothian
Council

Plot at Union Road, Linlithgow

Property Management, West Lothian Civic Centre, Livingston, EH54 6FF

12/12/2017

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COUNCIL EXECUTIVE

PROPOSED FOOTWAY MURIESTON ROAD, LIVINGSTON

REPORT BY LEAD OFFICER LIVINGSTON SOUTH LOCAL AREA COMMITTEE

A. PURPOSE OF REPORT

The purpose of the report is to advise the Council Executive of the recommendations of the Livingston South Local Area Committee in regard to proposed footway on Murieston Road, Livingston. The proposed footway is a roads scheme in the current capital programme.

B. RECOMMENDATION

It is recommended that Council Executive notes the recommendation of the Livingston Local Area Committee and that further consideration is given to the inclusion of the scheme in the capital programme.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Roads (Scotland) Act 1984 – duty to provide and maintain proper and sufficient footways for public roads as required for safety or convenience of pedestrians; power to reconstruct and alter them and determine means of public passage
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None
V	Relevance to Single Outcome Agreement	We live in resilient, cohesive and safe communities
VI	Resources - (Financial, Staffing and Property)	The provision of the footway is estimated to be £100,000 to be funded from the Cycling, Walking and Safer Streets (CWSS) grant award for 2017/18.
VII	Consideration at PDSP	None

VIII Other consultations

As outlined in the report

D. TERMS OF REPORT

At its meeting of 15 December 2017 the Livingston South Local Area Committee considered a report by the Head of Operational Services on the outcome of the public consultation on the proposed footway on Murieston Road Livingston (Appendix 1).

It was reported to the Committee that there was a split in the community in relation to the need for an alternative route to that through the wooded area west of Murieston Road. However, the majority of participants (54.2%) support the provision of a footway at the east end of Murieston Road to link to Murieston East Road. Accordingly it was officers' intentions to progress the scheme to implementation by 31 March 2018.

The Committee heard representations from two local residents and the Community Council on their view of the merits or otherwise of the scheme. The Committee did not agree with the officer recommendation and agreed the following motion to be reported to the Council Executive.

1. That the Council does not proceed with the Scheme
2. That the resources be used to improve the quality and safety of the current footpath, including the footpath surface, lighting and the cutting back of foliage along the route.
3. That, should the Wellhead development go ahead resulting in a significant increase in traffic using Murieston Road, the Council should reconsider a scheme on this location and engage with developers with regards their intention to pay for the cost of a scheme.

E. CONCLUSION

Council Executive should consider the implications of the recommendations of the Livingston South Local Area Committee for the implementation of an approved scheme in the capital programme.

F. BACKGROUND REFERENCES

None

Appendices/Attachments:

Appendix 1 - Proposed Footway Murieston Road, Livingston, Report by Head of Operational Services

Appendix 2 - Consultation letter

Appendix 3 - Online survey

Appendix 4 – Detail Plan

Contact Person: James Cameron, Lead Officer, Livingston South Local Area Committee

Telephone: 01506 281680

Email: james.cameron@westlothian.gov.uk

Date of meeting: 23 January 2018



LIVINGSTON SOUTH LOCAL AREA COMMITTEE

PROPOSED FOOTWAY MURIESTON ROAD, LIVINGSTON - CONSULTATION

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to provide feedback on the recent consultation exercise carried out for the proposed new footway provision on Murieston Road, Livingston.

B. RECOMMENDATION

It is recommended that the LAC notes the report and agree with the officer's recommendation to progress the scheme.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None
V	Relevance to Single Outcome Agreement	The project will contribute to outcome agreement: "We live in resilient, cohesive and safe communities".
VI	Resources - (Financial, Staffing and Property)	The provision of the footway is estimated to be £100,000 and will be funded from the Cycling, Walking and Safer Streets (CWSS) grant award for 2017/18.
VII	Consideration at PDSP	None
VIII	Other consultations	As detailed in the report.

D. TERMS OF REPORT

D.1 Background

At its meeting on 13 October 2017, the Local Area Committee noted the report presented by officers on the progress of the proposed footway on Murieston Road, Livingston and officers intention to carry out a formal consultation exercise with residents in the vicinity of the path. It was also agreed that LAC members be included in the consultation exercise and that arrangements be made for LAC members to visit the site.

D.2 Consultation

The consultation exercise was carried out to ascertain the views of residents in the area of the proposed footway and the wider community. Those invited to participate included:

- Murieston Community Council;
- emergency services;
- Network Rail;
- normal statutory consultees (freight transport, road haulage, bus operators, etc.);
- residents in the vicinity of the proposed footway and the roads off Murieston Road up to Murieston Green;
- ward members; and
- the wider community.

The consultation was undertaken between 9 November and 23 November 2016.

A copy of the consultation letter which was distributed to residents is attached. Notices with information about the consultation were also erected along the footpath through the wooded area to the west of Murieston Road.

A survey was placed on the council's internet site and facebook page to reach the wider community. A copy of the online survey is attached. The survey sought to identify:

- people who use the Murieston Road;
- by what means (drive, walk or cycle);
- why people travel along Murieston Road;
- if people would use the proposed footway;
- if people use the footpath through the wooded area during the hours of darkness;
- if people would use the proposed footway in preference to the existing footpath through the wooded area; and
- if people supported the proposal to provide a new footway.

Participants were also asked for any other comments they wished to make.

D.3 Summary of Survey Results

A total of 90 people participated in the survey.

Question	Yes, daily	No, occasionally	Never
Do you have reason to travel along Murieston Road, and if so, how regularly?	82.2%	16.7%	1.1%
	Yes, daily	Yes, occasionally	Never
If a footway was provided at the east end of Murieston Road to link to Murieston East Road, would you use it?	14.6%	39.3%	46.1%
Do you currently use the existing footpath through the wooded area during the hours of darkness?	18.8%	50.6%	30.6%

Participants were asked to identify the main way they travel along Murieston Road, the results were as follows:

Car	78.4%
On foot	13.6%
Other	5.7%
By bike	2.3%

Participants were asked to pick the reasons for traveling along Murieston Road, the results were as follows:

Travel to shops or local services (e.g. health)	69.7%
For leisure, creation or fitness	66.3%
Travel to visit friends and family	61.8%
Travel to work	47.2%
Travel to railway station	46.1%
Travel to education or training	14.6%
Other	9.0%

Question	Yes	No
Would you use a footway at the east end of Murieston to link to Murieston East Road in preference to the existing footpath through the wooded area?	45.2%	54.8%
Do you support the provision of a footway at the east end of Murieston Road to link to Murieston East Road?	54.2%	45.8%
Do you live in Murieston South?	90.6%	9.4%

The gender split was 51.8% male and 48.2% female.

There were a number of participants in favour of the proposal to provide a footway along Murieston Road. In summary they raised the following points:

1. Participants stated that they did not like using the footpath through the wooded area during the hours of darkness as it is poorly lit, muddy and they do not feel safe.
2. The proposed footway would provide a safer alternative to walking on the road.
3. The existing path through the wooded area was not suitable for people with mobility issues. The proposed footway would provide a suitable alternative route.

However, participants also raised the following concerns:

1. A number of participants did not see the need for providing a footway along Murieston Road, as they felt that the existing footpath through the wooded area was adequate and provided a more direct route. However, the lighting could be improved and foliage cut back along the route.
2. Others raised concern regarding the safety in relation to pedestrians using the proposed footway and the priority system required at the railway bridge.
3. Participants also stated that the proposed housing development in Murieston would result in a significant increase in traffic using Murieston Road.
4. The cost of the proposal was raised with participants stating that they thought that it was a waste of money.

In response to the concerns raised:

1. The footpath through the wood is maintained by the council and any requirements to ensure the lighting is working and that foliage is trimmed back will be dealt with by the relevant maintenance teams in accordance with their maintenance plans.
2. The proposal for the footway and priority system has been designed to current design standards. Also, a road safety audit has been carried out on the design and no significant concerns were raised.
3. A traffic impact assessment was submitted to the council as part of the planning application for the housing development. The increase in the volume of traffic identified through this assessment will not have a significant impact on the current road network or on the proposals required for the provision of the footway on Murieston Road.

4. The provision of the footway will ensure that there is an alternative route available to those members of the public who do not feel safe walking through the wooded area or have difficulty with mobility.

E. CONCLUSION

The survey results have shown that there is a clear split in the community in relation to the need for an alternative route to that through the wooded area west of Murieston Road. However, the majority of participants (54.2%) support the provision of a footway at the east end of Murieston Road to link to Murieston East Road.

In view of this, it is officers' intentions to progress the scheme to implementation by 31 March 2018.

F. BACKGROUND REFERENCES

Council Executive Committee on 3 April 2012 – Cycling, Walking and Safer Streets
Grant Proposed Programme 2012/13 – 2014/15

Livingston South Local Area Committee on 13 October 2017 - Proposed Footway
Murieston Road, Livingston

Appendices/Attachments: Online survey
 Consultation letter

Contact Person: Ronald Fisher, Design Engineering Manager, Tel: 01506 282330

Jim Jack
Head of Operational Services
15 December 2017



West Lothian Council

Provision of a New Footway at Murieston Road, Livingston - your views

Provision of a New Footway at Murieston Road, Livingston - your views

Council officers have developed proposals to provide a new footway at the east end of Murieston Road to link to Murieston East Road. This has been identified as a missing link and its provision would deliver a route for pedestrians between the south east area of Murieston and the train station area. It would provide a more open alternative and safer route to the existing route through the wooded area, particularly during the dark winter months and during commuting start / end periods.

The proposed footway is in keeping with the council's Active Travel Plan for West Lothian that aims to support people to walk and cycle for everyday journeys where possible by encouraging people in the community who may not wish to use the footpath route through the wooded area. (www.westlothian.gov.uk/activetravel).

The proposal for the footway has already been approved by the Council Executive Committee but consideration has been given to whether the footway should be located on the east or west side of Murieston Road. Both options require the road to be narrowed at the railway bridge by building the footway out into the carriageway. This is to ensure that there will be adequate width provided for pedestrians when passing under the railway bridge.

- Constructing the footway/build-out on the east side raises safety issues, as adequate sightlines cannot be achieved for vehicles approaching from the south. Also, as the existing footway network is on the west side of Murieston Road, pedestrians would be required to cross the carriageway twice.
- Constructing the footway/build-out on the west side removes these issues and therefore is deemed to be the preferred option.

How do I input to this consultation on Provision of a New Footway at Murieston Road, Livingston?

You can offer your feedback by:

- Completing this questionnaire; or
- Writing directly to martin.wilkinson@westlothian.gov.uk

First some questions about your travel habits.

1. Do you have reason to travel along Murieston Road, and if so, how regularly?

- ☐ Yes, daily
- ☐ No, occasionally
- ☐ Never

2. If yes, thinking about all the journeys you make along Murieston Road, what is your main way of travelling?

- ☐ Car
- ☐ On foot
- ☐ By bike
- ☐ Other (please specify)

3. If you travel along Murieston Road, what is the reason for those journeys? Pick all that applies.

- ☐ Travel to work
- ☐ Travel to the railway station
- ☐ Travel to education or training
- ☐ Travel to shops or local services (e.g. health)
- ☐ Travel to visit friends and family
- ☐ For leisure, creation or fitness
- ☐ Other (please comment)

Turning to the proposal to provide a footway on Murieston Road

4. If a footway was provided at the east end of Murieston Road to link to Murieston East Road, would you use it?

- ☐ Yes, daily,
- ☐ Yes, occasionally
- ☐ Never

Comments

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5. Do you currently use the existing footpath through the wooded area during the hours of darkness?

- ☐ Yes, daily
- ☐ Yes, occasionally
- ☐ Never

Comments

6. Would you use a footway at the east end of Murieston Road to link to Murieston East Road in preference to the existing footpath through the wooded area?

- ☐ yes
- ☐ no

Comments

7. Do you support the provision of a footway at the east end of Murieston Road to link to Murieston East Road?

☐ yes

☐ no

Comments

Further Comments

8. Do you have any other comments you would like to offer on proposal to provide a footway on Murieston Road?

Please provide your home postcode

10. Do you live in Murieston South?

- ☐ yes
- ☐ no

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Finally, some information about you to help us understand if our survey has reached a representative sample of the population

11. Please indicate your age by selecting the appropriate category

- ☐ 18 or under
- ☐ 19 - 29
- ☐ 30 - 49
- ☐ 50 - 64
- ☐ Over 65

12. Please indicate your gender

- ☐ Male
- ☐ Female

13. Is your day to day activity (specifically your mobility) limited in any way by a disability or long-term health issue?

- ☐ Yes
- ☐ No
- ☐ Partially

You have completed the survey. Thank you very much for your participation.

You can now close the window.

Ref: TP/B604/PC/MRW

Email: martin.wilkinson@westlothian.gov.uk

9 November 2017

Dear Sir/Madam,

PROPOSED FOOTWAY PROVISION MURIESTON ROAD, LIVINGSTON

I write to advise you that the council is considering proposals to provide a new footway at the east end of Murieston Road to link to Murieston East Road. This has been identified as a missing link and its provision would deliver a route for pedestrians between the south east area of Murieston and the train station area. It would provide a more open alternative and safer route to the existing route through the wooded area, particularly during the dark winter months and during commuting start / end periods.

The proposed footway is in keeping with the council's Active Travel Plan for West Lothian that aims to support people to walk and cycle for everyday journeys where possible by encouraging people in the community who may not wish to use the footpath route through the wooded area.

The proposal for the footway has already been approved by the Council Executive Committee but consideration has been given to whether the proposed footway should be located on the east or west side of Murieston Road. Both options require the road to be narrowed at the railway bridge by building the footway out into the carriageway. This is to ensure that there will be adequate width provided for pedestrians when passing under the railway bridge.

- Constructing the footway/build-out on the east side raises safety issues, as adequate sightlines cannot be achieved for vehicles approaching from the south. Also, as the existing footway network is on the west side of Murieston Road, pedestrians would be required to cross the carriageway twice.
- Constructing the footway/build-out on the west side removes these issues and therefore is deemed to be the preferred option.

A plan of the proposed footway can be viewed at:

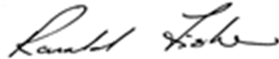
<https://www.westlothian.gov.uk/article/6171/New-Road-Footpath-and-Cyclepath-Improvements>

Should you have any comments to offer please do not hesitate to contact Martin Wilkinson before Friday 24 November 2017 using the contact details above.

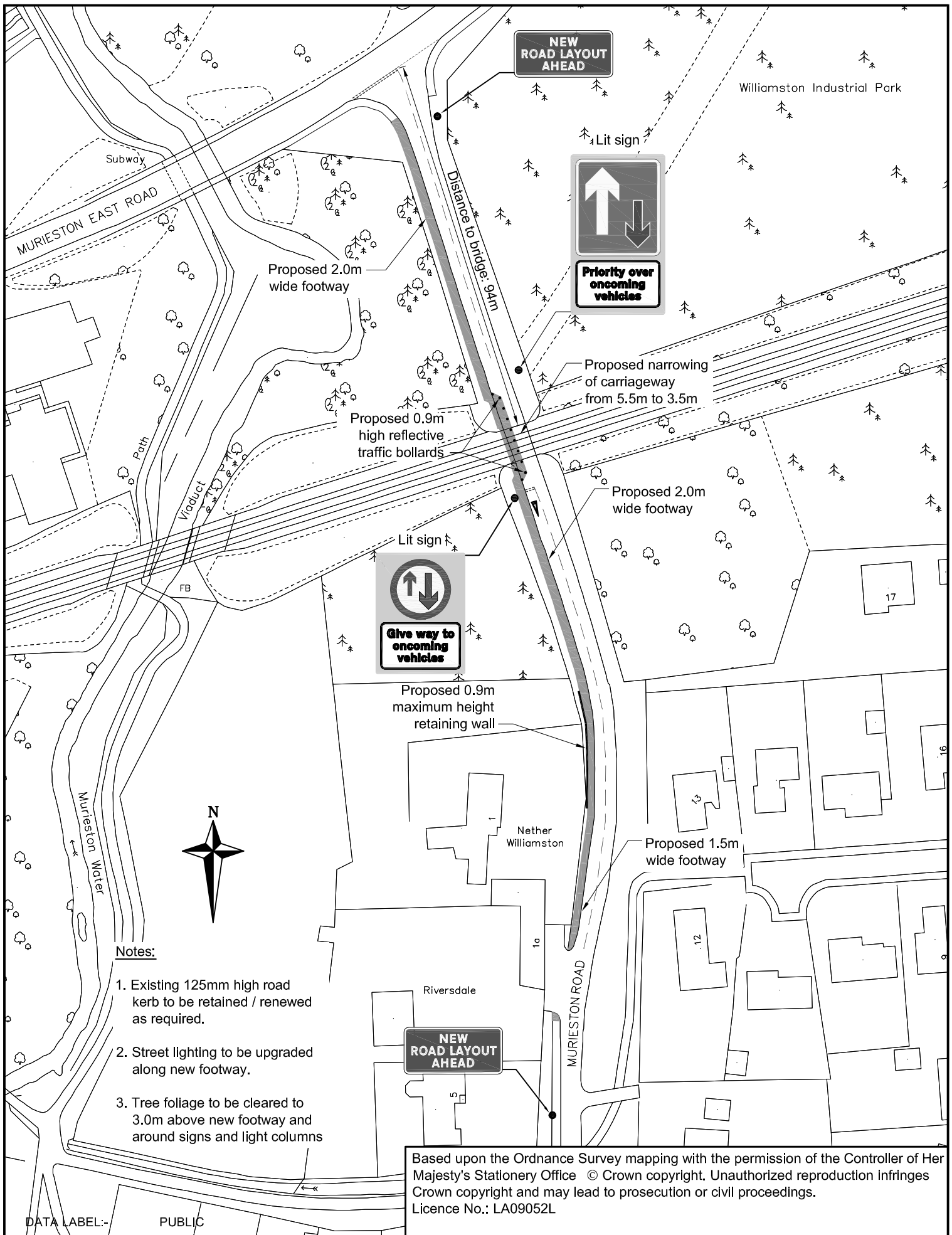
Alternatively, you can provide a response by completing a short questionnaire that can be found by using the following link:

<https://www.esurveycrator.co.uk/s/6475cf0>

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Ronald Fisher', written in a cursive style.

**RONALD FISHER
DESIGN ENGINEERING MANAGER
ROADS AND TRANSPORTATION**



WEST LOTHIAN COUNCIL OPERATIONAL SERVICES		MURIESTON ROAD AT MURIESTON EAST ROAD PROPOSED FOOTWAY AND ROAD NARROWING	
ROADS & TRANSPORTATION MANAGER WHITEHILL HOUSE WHITEHILL INDUSTRIAL ESTATE BATHGATE EH48 2HA TEL : 01506 282351	TRANSPORTATION PROJECTS TEAM	DATE:- JANUARY 2018 SCALE:- NTS	DRAWN BY:- MRW CHECKED BY:- RF
Drq. No.:- A4 DETAIL PLAN			



COUNCIL EXECUTIVE

SECTION 7 AGREEMENTS - SEWERAGE (SCOTLAND) ACT 1968

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to advise the Council Executive that an invitation has been received from Scottish Water, 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, to provide background information and seek authority to negotiate with Scottish Water.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. Notes the invitation from Scottish Water; and
2. authorises officers to negotiate further with Scottish Water on the basis that a further report will be tabled at a later date seeking approval for what is proposed.

C. SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources: and working in partnership.

II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)

Policy - The approved Local Flood Risk Management Plan commits the Council and Scottish Water to work together to bring 'legacy' sustainable drainage systems located in Potentially Vulnerable Area (PVA)10/27 into public ownership.

Legal - The Sewerage (Scotland) Act 1968, as amended, provides powers to Scottish Water to enter into an agreement with roads authorities to share in the maintenance of drainage systems.

The Council is a Responsible Authority under the Water Environment & Water Services (Scotland) Act 2003. This requires the council

to carry out its statutory duties in a way which adheres to the principles of the European Water Framework Directive.

The Flood Risk Management (Scotland) Act 2009 places a duty on the council, as a Responsible Body under the Act, work together with Scottish Water and SEPA to reduce overall flood risk, act in the way best calculated to manage flood risk in a sustainable way and promote sustainable flood management.

III	Implications for Scheme of Delegations to Officers	Not applicable.
IV	Impact on performance and performance Indicators	Not applicable.
V	Relevance to Single Outcome Agreement	<p>SOA 3. Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business;</p> <p>SOA 4. We live in resilient, cohesive, safe communities;</p> <p>SOA 5. People most at risk are protected and supported to achieve improved life chances;</p> <p>SOA 7. We live longer, healthier lives and have reduced health inequalities; and</p> <p>SOA 8. We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>
VI	Resources - (Financial, Staffing and Property)	<p>Financial: The proposal that local authorities enter into an agreement with Scottish Water to share in the maintenance of future sustainable drainage systems on new development sites would have revenue implications for the Council. Although the Council has been provided with a whole-life cost calculator for sustainable drainage systems, doubt has been cast on the accuracy of the values it provides.</p> <p>Staffing: From within the existing resources.</p> <p>Property: Not applicable</p>
VII	Consideration at PDSP	A similar report was considered at the

Environment PDSP on 05 December 2017. The Panel agreed that the report and its recommendations be forwarded to the next appropriate meeting of the Council Executive for approval

VIII Other consultations

Finance, Housing, Legal, NETs, Land & Countryside and Planning Services.

D. TERMS OF REPORT

D1 Introduction

Scottish Water has invited the Council, as roads authority, 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. The invitation is made under Section 7 of the Sewerage (Scotland) Act 1968 and would require the council to maintain the landscape component of above ground sustainable drainage systems involving grass cutting, litter picking etc. whilst Scottish Water vested below ground structures. The letter from Scottish Water is counter-signed by officials from the Scottish Government and the Society of Chief Officers of Transportation in Scotland (SCOTS).

D2 Background

The report is tabled in a context in which officers had been resistant to the principal of sharing what was then considered a Scottish Water responsibility. This followed difficulties securing the vesting of drainage systems associated with new social housing sites, an increase in the number of flooding incidents associated with neglected sustainable drainage systems in West Lothian and the cost implications exacerbated by the disproportionately large number of these systems within the council's area.

D3 What has been done?

Scottish Water is proposing that an agreement be entered into. Legal advice was sought. Section 7 of the Sewerage (Scotland) Act 1968, as amended makes provision for such an agreement. Providing it is in reasonable terms, the Council cannot unreasonably refuse to enter into such an agreement. The other options are (i) to take the dispute to the Secretary of State or (ii) to ensure the provision of and meet the full cost of maintaining separate drainage systems for roads on new developments. The council's Legal Services team provided clarity in terms of section 7 and the outcome of a dispute from case law. In summary, Scottish Water is responsible for maintaining SUDS systems but has the power to share this responsibility by entering into an agreement with roads authorities. If the Council wished to argue that this was unreasonable, it would have to make its case to the Secretary of State. (Scottish Water may also take the issue to the Secretary of State in any event if the Council were to refuse to agree). 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.

Whole-life costs, prepared by an independent organisation, were provided to the council for a prescribed maintenance regime. These were reviewed by the NETS, Land and Countryside Services Manager. Scottish Water officials have since confirmed that there is potentially scope for local authorities to move away from the prescribed regime that had been costed on condition that any alternative maintenance regime did not result in detriment i.e. obstruction of drainage infrastructure which Scottish Water has vested.

In correspondence which has passed between officers and Scottish Water officials, since the invitation was received, Scottish Water's Chief Executive, Douglas Millican, acknowledged the current challenging financial situation. He outlined the fact that the proposal was the result of collaborative work between representatives from the Scottish Government, The Society of Chief Officers for transportation in Scotland (SCOTS) and Scottish Water and was aimed at minimising costs to roads authorities. Scottish Water and developers presented by the alternatives whereby road drainage would be conveyed and treated separately by means of additional drainage infrastructure. Scottish Water officials have since indicated that if no decision or a negative decision were forthcoming from local authorities, it may require all developers in that authority's area to construct separate drainage systems to convey treat and attenuate road runoff.

Through SCOTS, officers have received position statements from a number of other authorities. At the time, officers from South Lanarkshire Council advised that it had agreed to enter into an agreement, and were expecting to advise Scottish Water formally in due course. It has also begun discussions with Scottish Water to pilot the principles for a few of its upcoming developments. Officers from Clackmannanshire Council were also understood to be preparing to pilot the sharing of maintenance of three development sites. It is expected, given the revenue implications, that the matter would need to be put to its full council. An officer from Stirling Council indicated that it would not be signing up immediately as there were cost implications which would need to be presented to committee before any decision could be confirmed. Officers from Fife Council intended to recommend the signing of the Memorandum of Understanding with Scottish Water to elected members but they also intended to be explicit about the potential, long-term revenue implications.

Way forward

In the context of legal advice, there is not thought to be sufficient legal grounds to justify continued resistance to enter into a collaborative agreement in the form of a Memorandum of Understanding (MoU) for working together with Scottish Water to 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. Its officials have also been involved, resolute and consistent in their support for this outcome.

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 is not considered sustainable, fair to developers or cost-effective for the Council, as roads authority, to maintain in perpetuity.

In order to better understand how these agreements are going to work and the potential cost implications to the Council, further dialogue is considered necessary a way of working needs to be determined and a pilot study considered.

- E.** Scottish Water, with the support of the Scottish Government and SCOTS, has invited the Council, as roads authority, 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 on new development sites.

Despite such an agreement having the potential to represent a significant cost pressure over time, there is not considered sufficient legal grounds to refuse. Additional, separate, designated road drainage systems in new developments have long been resisted by officers on the grounds of cost, fairness and sustainability.

It is therefore recommended that the Council Executive authorise officers to enter into negotiations with Scottish Water on the basis that a further report will be tabled at a later date seeking approval for what is proposed.

F. BACKGROUND REFERENCES

None

Appendices/Attachments: None

Contact Person: Graeme Hedger, Senior Professional Officer – Flood Risk Management
01506 776926

Jim Jack, Head of Operational Services

23 January 2018