

MINUTE of MEETING of the COUNCIL EXECUTIVE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 23 JANUARY 2018.

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

1. DECLARATIONS OF INTEREST

No declarations of interest were made.

2. ORDER OF BUSINESS

- 1) The Council Executive agreed to continue Agenda Item 18 (Sale of land at Union Rod, Linlithgow) to allow for further community consultation to be undertaken; and
- 2) The Council Executive agreed to hear five deputation requests that had been received from residents of Murieston in relation to Agenda Item 19 (Propose Footpath at Murieston Road, Livingston)

3. MINUTE

The Council Executive confirmed the Minute of its meeting held on 19 December 2017 but subject to the correction that on Page 197 was to reflect that Councillor Damian Timson voted for the motion and not Councillor David Tait who was not in attendance at the meeting.

4. PROPOSED FOOTWAY, MURIESTON ROAD, LIVINGSTON

Deputation

The Council Executive heard from Mr John Sharp and Ms Clare O'Lone in relation to their concerns on behalf of local residents for the council's proposal to install a new footpath along the length of Murieston Road.

Firstly Mr Sharp explained that the proposed footpath had been at the planning stage for quite some time and that many local residents no longer fully understood the implications if the proposal was to go ahead. He continued to explain that alternative options existed including improvements to the existing footpath in the area. He also explained that given that a further consultation had been carried out by local resident Ms Clare O'Lone (who was also in attendance at the meeting) that the community was clearly undecided about the proposal and that a further evaluation of the proposal should be considered.

Mr Sharp also expressed concern that if the proposal did go ahead then traffic travelling along the length of Murieston Road could be forced to

queue around a blind corner, as the road would require to be narrowed, and that this could cause hazardous conditions for both drivers and pedestrians.

Ms Clare O'Lone then explained to the committee members that she had recently carried out a consultation in the local area and that 42 individuals had responded to the consultation. Ms O'Lone explained that many of those who responded were concerned about queuing traffic on Murieston Road and that the proposal to narrow the road under the railway bridge could create problems that did not currently exist.

Ms O'Lone continued by advising that of those who had responded to her consultation everyone already felt safe in the area and that there was no need for an additional footpath and that the footpath that already existed was adequate for the needs of the local residents.

Mr Ron Palmer who also attended the meeting did not wish to address committee but was available to answer questions.

Mr John O'Lone and Ms Diane O'Lone also attend the meeting but did not wish to address committee and remained in the public gallery.

Report by Lead Officer, Livingston South Local Area Committee

The Council Executive considered a report (copies of which had been circulated) by the Lead Officer, Livingston South Local Area Committee, advising of the recommendations of the Livingston South Local Area Committee in regard to the proposed footway on Murieston Road, Livingston.

The report recalled that at its meeting of 15 December 2017 the Livingston South Local Area Committee considered a report, a copy of which was attached to the report, on the outcome of the public consultation on the proposed footpath on Murieston Road, Livingston.

It was reported to the local area 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%) supported the provision of a footway at the east end of Murieston Road to link to Murieston East Road. Accordingly it was officers' intention to progress the scheme to implementation by 31 March 2018.

The local area 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 officers' recommendation and agreed that the matter be referred to the Council Executive. The terms of the motion agreed by the local area committee was summarised in the report.

Therefore it was recommended that Council Executive notes the recommendation of the Livingston South Local Area Committee and that further consideration was given to the inclusion of the scheme in the capital programme.

Motion

“Council Executive instructs officers to provide a report to a future Council Executive on the implications for the funding of projects from the Cycling, Walking and Safer Streets (CWSS) grant awards if there is any change to the approved projects.

Council Executive further instructs officers to also report back to Council Executive on additional mitigation measures to improve pedestrian safety at the approved project at Murieston Road, taking into consideration those comments made during the deputation by local residents and was to also include consultation with Disability West Lothian on the proposal”.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan

Decision

To unanimously approve the terms of the motion

5. MEDICATION POLICY : SOCIAL POLICY

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy advising of 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.

The report recalled that the current Medication Management Policy was approved by Council Executive on 15 April 2014 on the basis that it would be subject to further review and revision in three years' time. Since approval of the policy the Medication Management Advisory Group had continued to oversee practice development to ensure continuing compliance with the policy.

Whilst the policy provided overarching principles for all service areas its translation into practice was via operational procedural guidance. This was customised and therefore pertinent to each service area.

The planned revision of the Medication Management Policy had been concluded with an updated draft policy, a copy of which was attached to the report at Appendix 1. The revised policy was applicable to all registered social care services and would seek to ensure best practice in all aspects of medication management.

Adherence to the policy would protect and safeguard all parties concerned incorporating what was currently viewed as best practice. Hence the contents reflected best practice in terms of regulatory requirements and previous audit recommendations. Cognisance had also been taken of insurance cover to ensure all treatments listed were compliant with and covered by the council's insurer.

The main changes contained within the revised draft policy were

summarised as follows :-

- The insertion of a glossary of definitions/interpretations
- Guidance for staff working in the community when no prescription was available
- Guidance around the safe storage of medication which required chilled conditions
- Further clarity around the use of over the counter medication
- More guidance around the safe management of medication on excursions and outings
- Details of a new requirement to 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; and
- Revised training frequency to reflect current guidance

The report concluded that the implementation of the revised policy would be overseen by operational management and would be supported by training made available via the learning and development team which would provide front line staff with greater clarity and a framework in which to work when supporting clients who were required to take medication.

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

Decision

To approve the terms of the report

6. CIH SCOTLAND 2018 HOUSING FESTIVAL

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services seeking approval for the attendance of the appropriate elected member(s) to attend the CIH (Chartered Institute of Housing) Scotland Housing Festival on 27 and 28 February 2018 at the EICC, Edinburgh.

The CIH Scotland 2018 Housing Conference "Scotland's Housing Festival" was the sector leading annual conference and exhibition and Scotland's largest social housing event

The key event would provide 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.

It was recommended that the Executive Councillor for Services for the

Community attends the CIH Scotland Housing Festival on 27 and 28 February 2018.

Decision

- 1) To approve attendance by the Executive Councillor for Services for the Community; and
- 2) To agree that officers submit a report to a future meeting of the Services for the Community PDSP which was to provide an overview of the housing conference.

7. APSE APPRENTICE AWARDS (TRADE CATEGORY) 2018

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services seeking approval for attendance of the appropriate elected member(s) to attend the APSE Scotland Building, Housing and Renewables Seminar, incorporating the Apprentice of the Year Awards trade category, taking place on 22 and 23 February 2018, Dunblane.

The purpose of the APSE seminar was to enable council officers and elected members to keep up to date with housing, construction and building service 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 would also take place at the event.

The cost associated with the full seminar attendance including the evening awards dinner was £219 plus VAT for APSE members.

It was recommended that Council Executive :-

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

Motion

To approve the terms of the report and approve attendance by the Executive Councillor for Services for the Community.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan

Amendment

To approve the terms of the report and approve attendance by the Executive Councillor for Services for the Community and Councillor Frank

Anderson

- 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

Kirsteen Sullivan

Damian Timson

Decision

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

8. PROCUREMENT ARRANGEMENTS - DIRECT AWARD TO AEBI SCHMIDT UK LTD

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to make a direct award to Aebi Schmidt UK Ltd for the servicing and maintenance of road sweepers.

The report recalled that the council had procured two Aebi Schmidt UK Ltd Swingo compact road sweepers via a Scotland Excel framework agreement in September 2017. The council was required to service the road sweepers to ensure compliance with the terms and conditions of the manufacturer's warranty.

The council was unable to service the vehicles in-house due to the requirement for specialist training and equipment. Aebi Schmidt was the only supplier capable of servicing the vehicles.

The budget for the servicing element of the road sweepers was built into the base budget for the operation of the equipment within the NETs, Land and Countryside operational budget and would cover the full amount of £77,870 for the five year life span of the vehicles.

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

Decision

To approve the terms of the report

9. PROCUREMENT ARRANGEMENTS - VEHICLE FLEET AND STORES MANAGEMENT SOFTWARE SYSTEM

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services to commence procurement for a three year contract (with the option to extend for three further years) for Vehicle Fleet and Stores Management Software.

The report recalled that as part of the individual reviews in preparation of the move to the Whitehill Service Centre (WHSC), the Depot Modernisation Board requested a review of the arrangements for various IT systems. An integrated Fleet Management System was one of these.

Therefore key 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 highlighted the need for improvements in the management of high volume and often high value items. The Board recommended a number of actions which included :-

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

The requirement would be advertised in accordance with the European Union Directives and it was proposed that the Open Procedure was used whereby all suppliers expressing an interest in the contract would be invited to tender. It was proposed that a criteria of 40% for Price and 60% for Quality would be applied.

The tender would also request bids for both council and network-based and cloud-based solution, from which the most advantageous proposal would be selected. It was anticipated that the contract award date would be April 2018.

Sustainability and budget implication were summarised in the report noting that a recurring budget of £60,000 was included within the

approved 2017-18 revenue budget for Operational Services and in addition a one-off budget of £55,000 to cover up-front costs was included within the 2017-18 budget.

It was recommended that the Council Executive approves commencement of procurement of 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 the report.

Decision

To approve the terms of the report

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

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration providing an update on progress made in preparing the statutory Draft Air Quality Action Plan (AQAP) for the Newton Air Quality Management Plan (AQMA) and to seek consent to carry out external consultation on the action plan.

An Air Quality Management Area (AQMA) for Newton was declared in July 2016. When an AQMA was declared, local authorities were required to develop an Action Plan in pursuit of the achievement of air quality standards and objectives. There was no legal duty to meet the objectives but the authority was required to demonstrate that they were taking all reasonable steps in working towards them.

The next step in the process would be to proceed to wider consultation with external stakeholders and members of the public. The consultation would shape the final Action Plan, which it was anticipated would be reported to Council Executive in late 2018.

The draft Action Plan had now been completed and had 17 strategic and direct measures to reduce emissions. Each measure had been given a short, medium or long timescale for completion. These were outlined in Appendix 1.

Once the consultation was complete the finalised Action Plan would list the measures considered worthy of pursuit and would also detail timescales for their implementation. The Action Plan would also be reported to Linlithgow Local Area Committee and the Environment Policy Development and Scrutiny Panel prior to consideration at Council Executive in late 2018.

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

It was recommended that the Council Executive :-

1. Considers and comments upon the report;
2. Approves the draft Air Quality Action Plan for external consultation;
3. Notes that the draft Air Quality Action Plan would be subject to both internal and external consultation, the results of which would shape the proposed final action plan; and
4. Notes that due to the size of the draft report it had not been attached to the committee report however a full version was available on the council's website but a summary of proposed actions had been attached to the report at Appendix 1.

Decision

To approve the terms of the report

11. LINLITHGOW AIR QUALITY MANAGEMENT AREA - DRAFT AIR QUALITY ACTION PLAN

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration providing an update on progress made in preparing the statutory Draft Air Quality Action Plan (AQAP) for the Linlithgow Air Quality Management Plan (AQMA) and to seek consent to carry out external consultation on the action plan.

An Air Quality Management Area (AQMA) for Linlithgow was declared in April 2016. When an AQMA was declared, local authorities were required to develop an Action Plan in pursuit of the achievement of air quality standards and objectives. There was no legal duty to meet the objectives but the authority was required to demonstrate that they were taking all reasonable steps in working towards them.

The next step in the process would be to proceed to wider consultation with external stakeholders and members of the public. The consultation would shape the final Action Plan, which it was anticipated would be reported to Council Executive in late 2018.

The draft Action Plan had now been completed and had 26 strategic and direct measures to reduce emissions. Each measure had been given a short, medium or long timescale for completion. These were outlined in Appendix 1.

Once the consultation was complete the finalised Action Plan would list the measures considered worthy of pursuit and would also detail timescales for their implementation. The Action Plan would also be reported to Linlithgow Local Area Committee and the Environment Policy Development and Scrutiny Panel prior to consideration at Council Executive in late 2018.

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

It was 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 would be subject to both internal and external consultation, the results of which would shape the proposed final action plan; and
4. Note that due to the size of the draft report it had not been attached to the committee report however a full version was available on the council's website but a summary of proposed actions had been attached to the report at Appendix 1.

Decision

To approve the terms of the report

12. BROXBURN AIR QUALITY MANAGEMENT AREA - FINAL ACTION PLAN

The Council Executive considered a report (copies of which had been circulated⁰ by the Head of Planning, Economic Development and Regeneration seeking approval of the final Broxburn Air Quality Action Plan so the plan could be adopted.

The report recalled that 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 from 7 March 2016 to 18 April 2016.

Subsequent to this, funding to allow for completion of the final draft of the Air Quality Action Plan (AQP) for Broxburn by external advisers was provided by the Scottish Government. The final draft AQAP was completed and made available in February 2017.

Following Council Executive approval on 19 September 2017, the final AQAP was sent for public consultation; this ran from 29 September 2017 to 10 November 2017. The consultation 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 and no real issues were raised by the measures proposed. A

summary of the matters raised and relevant of officer comments were summarised in Appendix 2 attached to the report.

With no issues raised related to the suggested measures it was not proposed to make any changes to the draft plan that had previously been approved by Council Executive. Therefore the draft plan had been returned to Council Executive for final approval and adoption.

The Head of Planning, Economic Development and Regeneration then provided a summary of the next stages following implementation of the action plan.

It was recommended that the Council Executive :-

1. Notes the feedback received during the consultation on 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.

Decision

To approve the terms of the report

13. CONTINUATION OF DEVELOPER CONTRIBUTIONS FOR PUBLIC ART

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration seeking approval of the continuation of the reduced rate for developer contributions towards public art for some types of development.

The report recalled that whilst the council approved Supplementary Planning Guidance (SPG) for Public Art in June 2006, in June 2012 it agreed a temporary reduction following a downturn in economic growth. This reduction was subsequently carried forward for a number of years and at the Council Executive meeting in April 2017 it was agreed that they continued to remain at the reduced rate until December 2017.

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 whilst the economy remained fragile in some areas there had been a recovery in the housing market. While completion levels had not recovered to pre-recession levels there was evidence to suggest that completions were 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.

However the assessment had identified that there was now a far greater demand for social housing. Therefore given the high priority by the council

to the delivery of affordable housing it was proposed that all social housing development and other affordable housing sites 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 comprised mainstream private housing and affordable housing on the mainstream private housing element would attract public art contributions at the normal SPG rate.

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

The Head of Planning, Economic Development and Regeneration continued to advise that it was 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 was no guarantee that contributions from housing developments would be used to deliver public art within these developments.

It was recommended that the Council Executive :-

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

Decision

To approve the terms of the report

14. SESPLAN BUDGET RATIFICATION 2018-19 AND STRATEGIC DEVELOPMENT PLAN 2 UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising 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).

The report recalled that at the 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 authorities contributing £44,000. This represented a reduction of £2,550 on what had been projected in December 2016.

The latest position on the SESPlan Operating Budget for 2017-18 was attached to the report at Appendix 1. Across the entire Operating Budget for 2017-18, the updated position as at November 2017 had a forecast underspend of £134,730.

The report then provided an overview of the variable costs which related to the development plan cycle for 2018-19 noting that the audited accounts at the end of 2016-17 demonstrated a reserve of £91,315. On the basis of savings indicated in the updated forecast for 2017-18 this was expected to result in a further increase of reserves at the end of 2017-18 to £191,320.

Each member authority was liable for one sixth of the annual Operating Budget. Savings in 2017-18 had significantly increased reserves. To manage reserves the SESPlan Joint Committee, at its meeting on 27 November 2017, agreed that contributions per member authority for 2018-19 would only be £10,000. This would provide West Lothian Council with a one-off benefit of £34,000 in 2018-19 compared to the budgeted position.

Indicative Operating Budgets beyond 2018-19 had not yet been set out. This was because a consultation on the future of the Scottish planning system published in January 2017 was proposing that SDP's be removed from the system and was proposing Regional Working Partnerships instead. In the meantime SESPlan was statutorily required to prepare and keep under review a SDP and it had intimated that an Operating Budget for 2019-2020 would be brought to a meeting in late 2018 for the Joint Committee to consider.

With regards to Strategic Development Plan 2, following on from the Main Issues Report 2015, the second Proposed Strategic Development Plan (SDP2) was out for consultation between 13 October and 24 November 2016. 800 representations were received from 168 respondents.

Having reviewed all the representations and prepared responses to them the unresolved issues were reported to a meeting of the SESPlan Joint Committee where it was subsequently agreed not to make any further modifications. The plan was then submitted to Scottish Ministers for examination on 26 June 2017 and a Reporter appointed to consider if changes should be made to the plan. The examination was ongoing and officers had also responded to a number of requests for further information. The target date by the DEPA to conclude the examination was April 2018 and therefore it was anticipated that the new SDP would be implemented in the Spring of 2018.

The report concluded that the SDP 2 Proposed Plan would set the direction of development to 2038 providing a long term vision for the area and that funding was required to enable SESPlan to continue to progress SDP 2.

It was recommended that 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 had 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 Strategic Development Plan (SDP 2).

Decision

To approve the terms of the report

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

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of a Call for Evidence by the Scottish Government on the Planning (Scotland) Bill and to agree a response to the call for evidence.

The report recalled that 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 independent panel published its response under six themed outcomes. Scottish Ministers issued an initial response to the panel's report in July 2016 stating their broad support for the six themed outcomes and identified ten actions to take forward as immediate priorities with others to be addressed through a further consultation.

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 council responded to that consultation on 30 March 2017. The Scottish Government published a position statement in June 2017 setting out its intention to move forward with a Planning Bill. The Planning Bill was then introduced to the Scottish Parliament on 4 December 2017 and a Call for Evidence was set out on 15 December 2017.

The main areas set out in the Call for Evidence included Development Planning, Development Management & Enforcement, an Infrastructure Levy, Simplified Development Zones and other matters; a narrative was provided in the report on each of the topics.

Also attached to the report was the council's proposed response to the Call for Evidence and the council's proposed response to the Parliament's Finance and Constitution Committee Questionnaire, which concerned the Financial Memorandum of the Planning (Scotland) Bill.

The Head of Planning, Economic Development and Regeneration concluded that there were three key issues which were to be noted in the proposed bill. Firstly the significant changes proposed to the development plan which were mainly positive, secondly the proposal that the National Planning Framework was to be enhanced which was at odds with encouraging greater involvement at a local level and thirdly it was disappointing that the Scottish Government was not putting in place proposals to tackle the issue of infrastructure funding.

It was 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 the 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 response to the Scottish Government.

Decision

To approve the terms of the report

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

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the sale of the former Broxburn Library, West Main Street, Broxburn to Broxburn Bargain Centre.

The report recalled that Council Executive had been advised at its meeting on 29 August 2017 that the former Broxburn Library building was no longer required for the delivery of services following the library's relocation to Strathbrock Partnership Centre. Therefore the property would be disposed of in accordance with the approved surplus property procedures.

In addition to the former library building the subject included a designated car parking area to the front that served the former library, but explicitly excluded the adjoining public space.

The property was marketed from September to December 2017 and at the time of the closing date two offers had been received which were offers to purchase the property. No offers to lease or community asset

transfer were received by the closing date.

The highest offer to purchase was received from Broxburn Bargain Centre (BCC) for a sum of £140,000. The offer received from BCC was 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 had confirmed that town centre uses including retail were considered suitable at the location in question.

The offer from BCC was considered to represent best value for the council and as such it was being recommended for acceptance.

Council Executive was further advised that in August 2017 the council did receive a Stage 1 asset transfer request for the property from a fledgling community group called Art at the Heart of Broxburn. Subsequent discussions with the group confirmed that they had no legal structure in place, no adopted constitution and did not have sufficient membership to qualify as a “community transfer body” to seek transfer of ownership. For those reasons the group’s asset transfer was invalid since it did not meet the basic mandatory requirements as set out in the Community Empowerment (Scotland) Act 2015.

It was recommended that Council Executive :-

1. Approved the sale of the former Broxburn Library to Broxburn Bargain Centre for £140,000 subject to the terms and conditions set out in the report; and
2. Authorises the Head of Finance and Property Service 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 represented the achievement of best value for the council.

Decision

To approve the terms of the report

17. INDUSTRIAL OPEN STORAGE LAND 1.18HA (2.8 ACRES) AT WHITRIGG, EAST WHITBURN - PROPOSED SALE TO TRUSTEES OF CPP-MCCORMICK TRUST

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the sale of 1.18ha (2.9 acres) of industrial open storage land at Whitrigg, East Whitburn on revised terms.

The report recalled that Council Executive at its meeting on 11 October 2016 approved the proposed sale of 1.18ha (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) for a sum of £125,000.

The proposed sale was subject to the purchaser being satisfied as to the

ground condition. The purchaser commissioned site investigations and these had identified adverse ground conditions including localised contamination and stability issues. It was estimated that these adverse ground conditions would result in the purchaser incurring abnormal additional development costs to enable the site to be developed. Subsequently the purchaser had now confirmed that they were only willing to proceed on the basis of a revised purchase price of £100,000.

It was considered that the revised purchase price of £100,000 still represented the highest potential capital receipt that could be obtained for the land given the ground conditions identified and continued to represent market value.

It was 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 the report; and
2. Authorises the Head of Finance and Property Service 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 represented the achievement of best value for the council.

Decision

To approve the terms of the report

18. SECTION 7 AGREEMENTS - SEWERAGE (SCOTLAND) ACT 1968

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services advising of an invitation received from Scottish Water to enter into a collaborative proposal to work together to treat and convey road drainage and to seek authority to negotiate with Scottish Water.

The committee was advised that Scottish Water had 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 roofs and curtilage of buildings in future, shared drainage systems. The invitation was 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.

Officers had previously been resistant to the principal of sharing what had been considered a Scottish Water responsibility. Following legal advice, Section 7 of the Sewerage (Scotland) Act 1969 made provision for such an agreement providing it was in reasonable terms and the council could not unreasonably refuse to enter into such an agreement. If the council wished to argue that the agreement was unreasonable it would have to make its case to the Secretary of State and it was not possible to predict

whether such an argument would be successful.

Whole-life costs which had been prepared by an independent organisation for a prescribed maintenance regime for the council and these had been reviewed by council officers. Scottish Water officials had since confirmed that there could be scope to move away from a prescribed maintenance regime on the condition that any alternative scheme was not to the detriment of the drainage infrastructure which Scottish Water had vested.

Through SCOTS officers had received position statements from a number of other local authorities including South Lanarkshire, Clackmannanshire, Stirling and Fife. These varied in nature from signing the Memorandum of Understanding with Scottish Water to preparing to pilot the sharing of maintenance of three development sites.

Therefore in the context of legal advice and that recourse in the form of an appeal to the Secretary of State appeared to be fruitless in order to better understand how these agreements were going to work and the potential cost implications for the council, further dialogue was considered necessary to determine needs of those parties involved and for a pilot study to be considered.

It was recommended that Council Executive :-

1. Note the invitation from Scottish Water; and
2. Authorises officers to negotiate with Scottish Water on the basis that a further report would be tabled at a later date seeking approval for what was proposed.

Decision

To approve the terms of the report