

MINUTE of MEETING of the COUNCIL EXECUTIVE of WEST LoTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LoTHIAN CIVIC CENTRE, on 14 FEBRUARY 2017.

Present – Councillors John McGinty (Chair), Cathy Muldoon, Frank Anderson, Tom Conn, Jim Dixon, David Dodds, Lawrence Fitzpatrick, Peter Johnston, Dave King, Anne McMillan and George Paul

Apologies – Councillor Danny Logue

1. DECLARATIONS OF INTEREST

- Agenda Item 18 (West Lothian Leisure Management Fee 2017-18)  
– Councillor Jim Dixon declared a non-financial interest in that he was a council appointed member of the West Lothian Leisure Board of Management but would participate in the item of business;
- Agenda Item 18 (West Lothian Leisure Management Fee 2017-18)  
– Councillor Dave King declared a non-financial interest in that he was a council appointed member of the West Lothian Leisure Board of Management but would participate in the item of business; and
- Agenda Item 23 (Kettilstoun Mains Linlithgow Community Development Trust) Councillor Tom Conn declared a non-financial interest in that he was a member of the Linlithgow Community Development Trust Board and therefore he would not participate in the item of business

2. MINUTE

The Council Executive confirmed the Minute of its meeting held on 17 January 2017 as a correct record. The Minute was thereafter signed by the Chair.

3. CORRESPONDENCE

The Council Executive noted correspondence arising from previous decisions of the Council Executive.

4. COUNCILLORS' CODE OF CONDUCT - CONSULTATION RESPONSE

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive advising of a consultation on changes to the Councillors' Code of Conduct.

The report advised that the Scottish Government was consulting about a change to the rules about members appointed to outside bodies

participating in council business affecting that outside body.

The report explained that the Code currently gave a “specific exclusion” to allow members appointed to particular types of outside body to take part. The appointment must be declared but there was no need to withdraw unless it was regulatory or quasi-judicial business.

The consultation stemmed from an issue concerning NESTrans who had asked the Standards Commission for a dispensation to allow their NESTrans appointed members to take part in regulatory business like this within their councils. There had been cases where NESTrans had lodged objections from its perspective as regional transport strategy and policy maker. NESTrans members were then prevented from taking part in the decision making on those planning applications.

The Commission refused the request since it would go directly against the terms of the statutory Code. The consultation covering paper made specific reference to that decision. The consultation paper and draft proposed response were contained in the appendices to the report.

The Chief Executive explained that the proposed draft response had been prepared on the basis that changes should not be made but if the changes were to be made, they should apply to all bodies otherwise covered by the specific exclusion and not just “public bodies”

The report recommended that the Council Executive approve the proposed consultation response contained in Appendix 2 for submission to the Scottish Government.

#### Decision

To approve the terms of the report.

#### 5. PROCUREMENT ARRANGEMENTS - FRAMEWORK AGREEMENT FOR CONSTRUCTION CONTRACTORS IN CONNECTION WITH THE RIVERLIFE:ALMOND AND AVON PROGRAMME

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to commence tendering for the procurement of construction contractors under a four year framework agreement, employing the evaluation methodology and criteria detailed in the report.

The report advised that the River Forth Fisheries Trust had been awarded £1.65m from the Heritage Lottery Fund to help deliver a number of projects in the central belt of Scotland within the catchments for the Rivers Almond and Avon. The programme was developed alongside communities over the past year and would be delivered over a four year period from 2016 – 2020.

The RiverLife: Almond & Avon Programme was made up of a number of projects which included the Almond Barriers Project and Bathgate Water Restoration Project.

The report went on to advise that to meet the objectives of the RiverLife Programme, the council was required to procure construction contractors to carry out the necessary works. Given the four year RiverLife Programme timescale, it was proposed that a four year framework agreement be created which would provide coverage for the construction works necessary to deliver the RiverLife Programme objectives.

A framework would be created by a single tender, which would establish a pool of suppliers that were then eligible to bid for subsequent capital construction requirements over the term of the framework agreement. Subsequent requirements would be competed for by a more efficient “mini-competition” process that would eliminate the need for repeated qualification, as the suppliers would have qualified when the framework was established.

The report continued to provide information on in-house capability, procurement issues including the proposed award criteria of 70% for price and 30% for quality, sustainability and budget implications.

The report recommended that the Council Executive approve:

1. The use of the Open Procedure whereby all suppliers expressing an interest in the framework would be invited to tender; and
2. The award criteria as set out in Section D of the report.

### Decision

To approve the terms of the report.

## 6. PROCUREMENT ARRANGEMENTS - PROVISION OF TAXI AND MINIBUS SCHOOL TRANSPORT SERVICES

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to commence tendering for the procurement of a four year framework agreement for taxi and minibus school transport services, employing the evaluation methodology and criteria detailed in the report.

The report advised that the services being tendered for were the provision of taxi and minibus passenger transport services; vehicles with a capacity of 16 passenger seats or more. The majority of the contract would be generated by Public Transport Unit (PTU) for provision of home to school transport services.

The report went on to advise that at present within 2016-17 academic year, the service supported approximately 980 pupils across 297 separate contracts awarded under the current framework agreement. The four year framework agreement was in its fourth academic year of operation and was due to expire on 1 August 2017 with no scope to extend further.

The report continued to provide information on the tender process noting

that it would be broken down into two lots reflecting key differences in service :-

Lot 1 – transport services requiring driver and escort provision

Lot 2 – transport services requiring drive only provision

For Lot 1 the criteria would be 80% price and 20% quality whereas for Lot 2 the criteria would be 90% price and 10% quality.

The report also provided details on in-house capability, sustainable considerations and budget implications.

The report recommended that the Council Executive:

3. Agree the use of the Open Procedure whereby all suppliers expressing an interest in the framework agreement would be invited to tender; and
4. The award criteria as set out in Section D of the report.

#### Decision

To approve the terms of the report.

#### 7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - REVIEW OF STANDARD CONDITIONS FOR PROCESSIONS

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the outcome of the review of the council's standard conditions for processions.

The report recalled that under section 62 of the Civic Government (Scotland) Act 1982 a person proposing to hold a procession in public was required to give written notice of that proposal to the council no later than 28 days before the date on which the procession was to be held. Under section 63(1) of the 1982 Act the council may, after consulting with the Chief Constable, make an order prohibiting the holding of the procession or impose conditions on the holding of it.

Following changes to the council's procedures for processing notifications in relation to processions, the council's current standard conditions were being reviewed in order to ensure that they were fit for purpose and up to date.

A proposed framework of amended standard conditions was prepared by officers after consultation with Police Scotland and a period of consultation was undertaken. A number of specific consultees were contacted and were listed in Appendix 1 to the report.

The report went on to advise that a copy of the proposed framework of amended standard conditions was attached as Appendix 2 to the report.

Conditions 1 and 2 were proposed new standard conditions which were connected to the Safety Advisory Group (SAG). All other proposed amendments were to conditions currently in the council's standard conditions which had been renumbered. Most changes were minor and were for clarification purposes only. Appendix 3 explained the proposed changes to the conditions.

The convening of SAG for some processions was in line with what was happening in other local authority areas and best practise suggested by COSLA and was consistent with the approach being taken by Police Scotland to the organising and planning of events taking place on public roads following the tragedy at the Jim Clark rally in Scottish Borders in 2014.

The Head of Corporate Services explained that the changes to the processing of processions notifications which were already in place meant that after a SAG had taken place, Police Scotland and Roads Services would indicate to the Licensing Team which of the standard conditions they considered should be applied to the procession and in appropriate circumstances what additional conditions were required.

Following receipt of that correspondence, copies would be sent to the organisers and if they were agreeable to the conditions an Order imposing these would be granted. Alternatively if the suggested conditions were not accepted by the organiser the notification would be referred to the Licensing Committee to make a decision on which conditions should be imposed.

Appendix 4 to the report contained a summary of the consultation responses and the Licensing Team comments on these responses.

In conclusion the report advised that the council as local authority was responsible for making an order prohibiting the holding of processions or imposing conditions on the holding of them. The application of a framework of proposed standard conditions as described in the report was designed to ensure that, rather than being applied as a whole to all processions, specific conditions were applied to individual processions as appropriate on a case by case basis.

The report recommended that Council Executive:

1. Note that a consultation had been undertaken regarding proposed amended standard conditions and the comments which had been received from stakeholders; and
2. Approve the framework of amended standard conditions to be used with immediate effect.

### Decision

To approve the terms of the report.

8. UPDATE ON HOME ENERGY EFFICIENCY PROGRAMMES FOR SCOTLAND : AREA BASED SCHEMES (HEEPS:ABS) AND SEEP PROJECTS

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services seeking approval on the proposed 2017/18 HEEPS:ABS programme of energy efficiency measures to be implemented and to provide an update on the current SEEP pilot project and potential future projects.

The report advised that the 2017/18 proposed HEEPS programme would be the fifth year HEEPS funding was available to West Lothian Council. The HEEPS programme had been successfully managed in-house since 2016 following the end of the management contract with Changeworks.

The Scottish Government indicated that approximately £900,000 of funding would be made available to the council and was therefore being applied for to perform external wall insulation (EWI) on private sector homes. A programme of works details of which were summarised in the report was designed to suit this budget allocation.

The Head of Housing, Customer and Building Services advised that the council's first application for the SEEP pilot project was successful and was scheduled to commence on site at Templar Rise and the Lanthorn Community Centre in April 2017.

The Scottish Government indicated that they aimed to launch a second call for pilot projects for SEEP that would combine domestic and non-domestic properties together under one project. There would also be a separate HEEPS: ABS programme within the SEEP project which could provide funding for further EWI work.

The report concluded that the projects proposed to be performed as part of the 2017/18 HEEPS programme had changed to those detailed as part of the 2016/17 bid due to additional HEEPS funding being made available in 2016/17 which allowed projects to be completed ahead of schedule.

Additionally in 2018/19 SEEP would replace HEEPS:ABS as the funding mechanism for this type of work, however officers were not proposing specific areas of EWI work for owner-occupiers in 2018/19 as there was insufficient information from the Scottish Government to develop an approach.

The report recommended that Council Executive:-

1. Agrees that the outline 2017/18 HEEPS:ABS programme for West Lothian was considered by Services for the Community PDSP on 7 February 2017 and that the proposed programme had been altered to reflect additional progress made in 2016-17;
2. Agrees that the HEEPS:ABS budget for 2017/18 was £900,359 which was lower than the £1.224 million awarded for 2016/17;

3. Agrees that the Peveril Rise pilot project was able to be extended to the whole street in 2016/17 due to additional HEEPS funding being provided to the council and therefore would not be part of the 2017/18 programme;
4. Agree that the proposed projects for the 2017/18 programme in the Knightsridge and Armadale Areas and that the number of council houses included in the contract would depend on the level of funding for EWI to be confirmed in the 2017/18 Housing Capital Programme;
5. Agrees that should additional HEEPS:ABS funding be provided the first priority would be to use this to complete Woodend Walk and the second priority would be to offer EWI to owner-occupiers in the Howden area; and
6. Agrees that Craigshill was proposed as the designated area for a SEEP pilot project, should funding be secured to support the EWI project of Almond Housing Association.

#### Decision

To approve the terms of the report.

#### 9. SCOTTISH POLICE AUTHORITY - ANNUAL REVIEW OF POLICING 2016-17

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services advising of the Scottish Police Authority (SPA) consultation with Local Authorities on the Annual Review of Policing 2016/17.

A proposed response to the consultation was attached as Appendix 1 to the report and it was noted that the deadline date for the response was 15 February 2017.

The report recommended that the Council Executive approve the response to the consultation.

#### Decision

To approve the terms of the report.

#### 10. OBJECTIONS TO DISABLED PERSONS' PARKING PLACES ORDER (PTO-16-01) UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services advising that objections had been received in respect of 1 of the 82 proposed new enforceable parking places, identified for qualifying persons, in line with the Disabled Persons' Parking Places (Scotland) Act 2009.

The report advised that in line with decisions made at Council Executive on 24 April 2012 and 13 November 2012, the power to start the statutory legal process in relation to residential disabled parking bays had been delegated to the Head of Operational Services.

Over the period April 2016 to May 2016 the Head of Operational Services approved the commencement of the statutory procedure to provide 82 new enforceable disabled parking bays in residential areas.

During the statutory advertisement period one written objection which was contained in Appendix 1 to the report was received relating to one proposed parking bay. As there were no objections to any of the other 81 advertised new bays, the order was made in part on 5 December 2016.

The objector cited the lack of available parking and the current provision of disabled parking bays as the reason for the objection.

The report then went on to provide an officer's response in that there was no prescribed number of disabled parking bays within any given street within either the Disabled Persons' Parking Places (Scotland) Act 2009 or West Lothian Council Residential On-street Parking Places Implementation Policy.

As the applicant was a "qualifying person" as defined within the 2009 Act West Lothian Council was required to provide a disabled parking place with convenient access to the applicant's property. Consideration was given to the level of on-street parking and in addition to the marked bays within the street there were further marked parking bays in the immediate vicinity that were available for non-blue badge holders. The bay in question was not considered to be contrary to the council's duties under the Road Traffic Regulation Act (1984) as it did not impede the free movement of traffic nor obstruct access to premises.

The report concluded that during the statutory advertisement period for the provision of 82 new enforceable parking bays; the council received a total of one objection.

The report recommended that the Council Executive:-

1. Refuse to uphold the objection submitted during the statutory objection period to the making of the traffic regulation order to provide a disabled persons' parking bay in the vicinity of 137 Birkenshaw Way (1 parking bay); and
2. Note that the traffic regulation order (PTO-16-01) had been made in part to designate the remaining 81 parking bays.

### Decision

To approve the terms of the report.

11. CONTRACTING FOR A REAL WORLD VEHICLE EMISSIONS MONITORING PILOT SCHEME

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development & Regeneration seeking approval to contract Hager Environmental & Atmospheric Technologies to deliver a pilot project monitoring real world vehicle emissions. The contract value exceeded the £50,000 limit on pilot schemes which could be authorised under delegated authority.

The report advised that the Scottish Government currently funded the East of Scotland Vehicle Emission Testing Partnership, which was delivered by staff employed by West Lothian Council to East Lothian, Midlothian and Falkirk councils. The activities focused on reducing vehicle emissions and their impact on air quality and health.

Part of the activities included the provision of testing facilities at various locations within the partnership areas, however due to changes in staffing and emphasis from single point testing to promotion and education, testing had not been carried out during a significant part of 2016/17.

The Scottish Government and partners in SEPA and Transport Scotland were keen to explore the use of real time vehicle monitoring systems which would carry out live measurements of emissions from moving vehicles. Information gathered from such monitoring would be used by partners for traffic and pollution modelling purposes, which were identified as priorities in the “Cleaner Air for Scotland – The Road to a Healthier Future” strategy.

The report explained that in terms of the council’s standing orders, a business case exemption to use a particular contractor for the trial could be obtained through existing procedures, however for expenditure in excess of £50,000 standing orders dictated that the Council Executive had to grant approval where works could not be competitively tendered.

Three potential suppliers were identified and were outlined in the Business Case exemption. Hager Environmental & Atmospheric Technologies (HEAT) was selected due to the unique capabilities of the equipment, the recent successful trial to examine the equipment’s performance by the Department of Transport and the degree to which the supplier managed the installation.

In conclusion the report advised that this was an application to incur expenditure in excess of current delegated limits within the standing orders to facilitate a trial of real time vehicle emission monitoring funded by the Scottish Government. The results of the trial would allow consideration of the value of such activities and could direct future deployments and transport and emission policies.

The report recommended that the Council Executive:-

1. Note the contributions of the pilot to both local and national objectives relating to air quality.

2. Approve the expenditure to appoint contractors to deliver the pilot.
3. Approve the business case exemption for the pilot and sole supplier.

### Decision

To approve the terms of the report.

## 12. DEVELOPER CONTRIBUTIONS TOWARDS TOWN AND VILLAGE IMPROVEMENTS IN CORE DEVELOPMENT AREAS

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of a proposal for a means of disbursing funding from developers for town and village improvements in Core Development Areas (CDAs).

The West Lothian Local Plan required developers within core development areas (CDAs) to contribute £250 per house towards town and village centre improvements within the CDA in which they were operating. Developers had the option to propose a package of equivalent value improvements or to make a financial contribution of £250 into an improvement fund, with that fund being administered by the council.

The contribution of £250 was index linked from the first quarter in 2006 so actual contributions would be in excess of £250 per house.

Developers were now making contributions into the improvement fund. However no governance arrangements for disbursing funds had been agreed by the council

The Head of Planning, Economic Development and Regeneration continued by advising that the council already provided funding for town and village improvements through its own capital programme and that the scope of works which could be funded via the existing scheme was similar to works that could be funded through developer contributions.

Therefore given the similarity of the schemes it was proposed that governance arrangements for the developer funded improvements would be based on the arrangements currently used for the council's village improvement fund. There would be a slight difference in that with the developer funded scheme it would be recognised that the council itself would have the option to develop projects. Therefore only a proportion of the improvement fund in each CDA would be available for community led projects in that CDA.

The key stages for assessing funding applications for community led projects were proposed as follows :-

1. An application, using a standard application form (as per the council village improvement fund) would be submitted to the

council's Community Planning and Regeneration Team;

2. The application would be assessed by officers, against the eligibility of the scheme whilst having regards to other projects being progressed in the CDA. Applications deemed not to meet the criteria, or those that were similar to or duplicate to other projects, would be rejected at this stage;
3. The availability of funding would be assessed by the Head of Planning, Economic Development and Regeneration having regard to the balance of the fund available for that CDA, taking account of other committed projects or projects being developed by the council;
4. The application would be reported to the relevant local area committee (LAC) indicating the Head of Services' intention with regards to the application. The LAC would have the opportunity to comment on the application; and
5. A decision on funding would be taken by the Head of Planning, Economic Development and Regeneration having regards to the view of the LAC.

Council promoted projects intended to be funded from the scheme would be set out in the council's capital programme and the Head of Planning, Economic Development and Regeneration would have regard to the likely cost of these projects when assessing the availability of funding for community led projects.

It was also to be noted that Supplementary Planning Guidance set out how the funding gathered in each part of the CDA would be spent in that part of the CDA. Consequently separate funds would be established for Armadale, Broxburn, East Calder, Polbeth, Winchburgh and West Calder.

It was recommended that the Council Executive :-

1. Notes the establishment of a fund for town and village improvements within the CDA's; and
2. Approves the proposed means of disbursing monies from the fund or town and village improvements within the CDAs.

#### Decision

To approve the terms of the report

### 13. SCOTTISH GOVERNMENT CONSULTATION ON RAISING PLANNING FEES

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of a Scottish Government consultation on proposed changes to planning application fees.

The Head of Planning, Economic Development and Regeneration explained that the Scottish Government had issued a consultation on some elements of planning application fees. The consultation recognised the importance of the planning system in supporting economic growth and it set out the intention to move the service towards full cost recovery.

The consultation was seeking views on a new maximum fee of £125,000 for major applications for most categories of development but also introduced a reduced unit charge for certain sizes of development. Through the consultation the Scottish Government had restated its view that any increase in fees was to be linked to sustained improvements in performance.

A summary of the proposed changes to the planning application fees were detailed in the report as follows with a full schedule of changes together with some examples of how the new fees would work in practice contained in Appendix 1 attached to the report :-

- The maximum planning application fee would be raised to £125,000;
- There was no change proposed to the current planning fee per housing unit of £401 for developments up to 50 units. Housing developments containing 50 residential units would pay £20,050 and any additional unit would be charged at £200 per unit until the fee maximum of £125,000 for 575 houses had been reached;
- There was no change proposed per hectare up to the current fees maxima and additional hectares were proposed to be charged at a lesser rate until the fee maximum of £125,000 (4.3 hectares) was reached. The introduction of a lower rate which would apply over a specified amount would help moderate the impact on major projects of the higher fee maximum; and
- For applications for planning permission in principle (PPP) similar changes per house or by 0.1 hectare were proposed. The maximum for PPP would be raised to £62,500.

A proposed response to the consultation had been prepared and this was attached to the report at Appendix 2 noting that whilst the changes to planning application fees were to be welcomed it was disappointing that the government was only suggesting changes to major applications and had not taken the opportunity to review all fees at this stage.

It was recommended that the Council Executive :-

1. Note the intention to increase some planning application fees;
2. Note that the intention at this stage was only to review the fees for major applications;
3. Note that further changes to planning application fees would be proposed as part of the forthcoming Planning White Paper; and

4. Approve the report and Appendix 2 as the council's response to the consultation

#### Decision

To approve the terms of the report

#### 14. WEST LOTHIAN LOCAL DEVELOPMENT PLAN - DEVELOPMENT PLAN SCHEME NO.9

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of an updated Development Plan Scheme No.9 for the West Lothian Local Development Plan (LDP).

The Council Executive were advised that Section 20B of the Planning, etc (Scotland) Act 2006 required planning authorities to prepare a development plan scheme (DPS) at least annually for the local development plan (LDP). The purpose of a DPS was to set out the programme for preparing, reviewing and consulting on the LDP. The DPS was to be in place by 31 March each year.

A draft DPS (No.9) had been prepared and was attached to the report at Appendix 1. This would replace the timetable for the preparation of the West Lothian DPS as previously set out in DPS No.8

The Head of Planning, Economic Development and Regeneration continued to advise the Council Executive that delays in preparing the LDP were as a consequence of the timetable for the SDP being significantly disrupted by Scottish Ministers mandating SESPlan to prepare Supplementary Guidance on housing land requirements and the LDP could not be taken forward until this issue had been resolved as it would have posed a risk to the content of the plan.

Additionally whilst the Proposed Plan, representations and the council's response had been submitted to the DPEA for examination in October 2016, the appointment of a reporter had not been confirmed until late December 2016. Furthermore it had also be intimated that the reporter would not be in a positon to commence the examination until later in January 2017 due in part to other commitments. In view of this the earliest date for adoption of the LDP was anticipated to be late 2017.

It was recommended that Council Executive approve the content of the Development Plan Scheme No.9

#### Decision

To approve the terms of the report

15. LOCAL LANDSCAPE AREAS - REVISED GUIDANCE CONSULTATION

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of a consultation by Scottish Natural Heritage and Historic Environment Scotland on draft Guidance on Local Landscape Areas (GLLA 2016).

The report advised that the Local Landscape designations were a cornerstone in the preparation of local development plans. Paragraph 197 of Scottish Planning Policy (SPP, 2014) advised that these non-statutory designations should be limited to areas designated for their local landscape value.

Guidance on Local Landscape Designations was published jointly by Scottish Natural Heritage and then Historic Scotland in 2006. It set out the methodology based on assessment of landscape character for reviewing, defining and designating local landscape designations.

The report recalled that in early 2013 the council employed Land Use Consultants to undertake a review of adopted local landscape designations in West Lothian. The steering group for the review included advisors from Scottish Natural Heritage. The review was completed in June 2013 and was consistent with the requirements of national guidance set out in the Guidance on Local Landscape Designations 2006 and Scottish Planning Policy 2014.

Based on the Local Landscape Designations Review and earlier work on landscape character, the council published its own revision of landscape character areas known as the West Lothian Landscape Character Classification (LCC 2014).

The Head of Planning, Economic Development and Regeneration advised that the proposed revised Guidance on Local Landscape Areas was published for consultation in December 2016 by Scottish Natural Heritage Historic Environment Scotland. The revised guidance aimed to help Planning Authorities identify or review their local landscape designations and maximise their benefits.

The report advised that in respect of the increased cultural and historic landscape weighting in the draft guidance, the council's Local Landscape Designations Review strongly supported the industrial heritage landscapes of West Lothian; however, there was no reference to or examples given. Landscape features of country estates such as policy woodland were cited as well as Historic Battlefields, Gardens and Designated Landscapes.

The revised guidance did not make reference to linkages to draft Scottish Government policy documents with potential to lead to significant impacts on local countryside, landscape and identified Special Landscape Areas. The three draft documents all released in January 2017 which should be referred to in the guidance were :-

- Scottish Government's Draft Climate Change Plan 2017 – 2032
- Scottish Government's Draft Energy Strategy; and
- Scottish Government's Draft Onshore Wind Policy Statement

Whilst addressing climate change was a global imperative, if there was a strong possibility that significant landscape impacts may result in change to local landscape designation and landscape character, particularly in upland areas and areas lacking national designations, the revised landscape guidance should make reference to the potential impact on Local Landscape Areas.

The report went on to advise that the Scottish Natural Heritage review of landscape character areas was anticipated to be made available in late 2017. Inconsistencies with the council's Local Landscape Designations Reviews could arise if changes were proposed.

In conclusion the report advised that the draft guidance raised a number of concerns given its timing shortly after many local authorities including West Lothian had concluded local landscape designation reviews using the name Special Landscape Areas for identified designations.

The report recommended that the Council Executive agrees to forward the proposed response to the consultation, as set out in Appendix 1 to the report, to Scottish Natural Heritage/Historic Environment as the council's response to the consultation.

### Decision

To approve the terms of the report.

## 16. WEST LOTHIAN LEISURE MANAGEMENT FEE 2017-18

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval of the proposed management fee for West Lothian Leisure for 2017/18, including services and facilities transferring from the council to West Lothian Leisure on 1 April 2017.

The report recalled that West Lothian Leisure was established in 1998 and was a company limited by guarantee with the council as the sole member. The organisation was managed by the senior management team and a Board comprised of volunteers who provided strategic direction.

West Lothian Leisure provided sports facilities and services across West Lothian in conjunction with partners including the council, NHS Lothian and Sportscotland, contributing to outcomes in West Lothian Community Planning Partner's Single Outcome Agreement.

On 25 October 2016 the Council Executive agreed to the transfer of

certain sports, leisure and cultural functions to the modernised trust, West Lothian Leisure on 1 April 2017. Delegated authority was granted for the Depute Chief Executive to progress and conclude all actions to ensure implementation of the transfer with the exception of the management fee and West Lothian Leisure representation on the West Lothian Leisure Board.

The Head of Finance and Property Services advised that officers from the council and West Lothian Leisure were working in partnership to finalise arrangements for the transfer of services to West Lothian Leisure on 1 April 2017. Areas discussed included staffing, property, legal and IT matters relating to the transfer of services.

The council's Revenue Budget for 2017/18 included budget savings of £532,000 relating to Non Domestic Rates following the transfer of facilities to West Lothian Leisure. The charitable status of West Lothian Leisure allowed Non Domestic Rates relief to be claimed thus allowing for the saving to be made.

The report went on to advise that the management fee which was paid to West Lothian Leisure would include the fee paid for the current provision of leisure facilities. For 2017/18 this was a total funding package of £1.985 million.

The budget transferring relating to the transfer of services to West Lothian Leisure were in respect of Lowport Outdoor centre, Howden Park centre, Polkemmet golf facilities and the sports and leisure activities at West Lothian Secondary Schools which included the community and leisure facilities in two community high schools.

A robust process was undertaken to review the budgets for transferring services and appropriate due diligence was undertaken. The budgets being transferred were equivalent to the budgets which would have remained under West Lothian Council if the transfer had not been proposed with the exception of £532,000 Non Domestic Rates saving.

Further discussions were ongoing in relation to insurance arrangements and appropriate budget transfers would be made when the lease and insurance arrangements for these facilities concluded.

In conclusion the report advised that the proposed management fee to be paid to West Lothian Leisure in 2017/18 was £2.455 million which was comprised of £1.985 million for the existing management fee arrangements and an additional £470,000 for the services and facilities transferring from the council to West Lothian Leisure on 1 April 2017.

The report recommended that Council Executive:-

1. Agree with the proposed management fee for services transferring from the council to West Lothian Leisure on 1 April 2017, as set out in section D4 of the report; and
2. Agree that delegated authority for any minor adjustments to the proposed management fee was granted to the Head of Finance

and Property Services.

Decision

To approve the terms of the report.

17. 2016-17 GENERAL SERVICES CAPITAL BUDGET - MONTH 9 MONITORING REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates providing information on the financial position in relation to the General Services Capital Programme following completion of the month 9 monitoring exercise.

The report provided an update on the 2016-17 General Services Capital Programme based on the results of a comprehensive monitoring exercise. The approved 2016-17 capital budget was £63.593 million which assumed £4 million of over programming.

Good progress was being made on the capital programme with the committed expenditure as a percentage of projected outturn at 91%. In overall terms the monitoring exercise indicated that the projected outturn was £65.479m assuming there was slippage of £4 million between now and the year end.

The report provided a summary of the forecast for each asset type and details of material movements and pressures that had been identified.

It was recommended that the Council Executive :-

1. Notes the outcome of the month 9 monitoring exercise and projected outturn;
2. Agrees that Asset Lead Offices and the Head of Finance and Property Service continue to take necessary action to deliver the overall programme;
3. Approve the inclusion of James Young High School Tennis Courts project in the capital programme.

Decision

To approve the terms of the report

18. 2016-17 GENERAL FUND REVENUE BUDGET - MONTH 9 MONITORING REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing the financial position in relation to the General Fund Revenue Budget, following completion of the 9 month monitoring exercise.

The report set out the overall financial performance of the General Fund Revenue Budget for the period to 31 December 2016 and provided a year-end financial forecast which took account of relevant issues identified in individual service budgetary control returns.

The report also provided a table summarising the position in relation to service expenditure and provided a forecast outturn. A breakeven position was forecast for 2016-17 but as part of the monitoring exercise a number of key risks and service pressures were identified and noted in the narrative for the relevant service areas.

It was recommended that the Council Executive agree that Head of Services take all management action necessary to ensure 2016-17 budgets were managed within budget and approved budget reductions were achieved.

#### Decision

To approve the terms of the report

#### 19. 2016-17 HOUSING CAPITAL REPORT - MONTH 9 MONITORING

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive, providing the financial performance in relation to the month 9 monitoring exercise as at the end of 31 December 2016.

A table contained within the report demonstrated that there had been investment of £30.119m in housing stock as at 31 December 2016. The forecast expenditure for the year was £50.337m. The report then provided a summary of the new build council house programme and planned maintenance and refurbishment programmes.

Also contained in the report were details of the capital resources available to fund the housing capital programme in 2016-17. It was to be noted that the investment programme was largely funded through a mix of borrowing and Capital Funded from Current Revenue (CFCR) with additional funding sources from council house sales, government grants and council tax on second homes and developer contributions.

With regards to house sales, this totalled £4.335m as at the end of December 2016 with sales projected to reach £6.450m for the whole year for approximately 150 properties.

The report concluded that although there had been slippage in the Housing Capital programme, material investment had been made in the Housing Capital 2016-17 programme with unprecedented expenditure in excess of £30.119m as of the end of December 2016.

It was recommended that the Council Executive note the outcome of the month 9 monitoring exercise and projected out-turn.

It was recommended that Council Executive :-

1. Note the outcome of the month 9 monitoring exercise and projected out-turn; and
2. Agrees that officers continue to take the necessary action to deliver a balanced budget.

Decision

To approve the terms of the report.

20. 2016-17 HOUSING REVENUE ACCOUNT - MONTH 9 MONITORING REPORT

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive, providing the financial performance in relation to the month 9 monitoring exercise as at the end of 31 December 2016.

The report provided a summary of the position for the main expenditure heads.

It was noted that employee costs were forecast to underspend by £203,000 mainly as a result of vacant posts and staff turnover.

It was recommended that Council Executive :-

1. Note the outcome of the month 9 monitoring exercise and projected out-turn; and
2. Agrees that officers continue to take the necessary action to deliver a balanced budget.

Decision

To agree the terms of the report.

21. KETTLISTOUN MAINS - LINLITHGOW COMMUNITY DEVELOPMENT TRUST

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive providing an update on the proposal by the Linlithgow Community Development Trust (LCDT) to deliver a multi-sport community sports facility at Kettilstoun Mains, Linlithgow.

The report recalled that Council Executive had previously considered a petition which was requesting support from the council for a 1km cycle circuit in Linlithgow which was being planned by LCDT. As officers were already in discussion with representatives of LCDT it was agreed to await the outcome of those discussions. Council Executive also noted that the

council had invested significant resources at the Kettilstoun Mains site over the years allocating £390,000 in 2011-12 to enable road access works to be undertaken in order for the site to be developed and more recently the council had delivered new football facilities in partnership with sportscotland and West Lothian Leisure at a site adjacent to Kettilstoun Mains.

The report continued by providing an overview of LCDT and how they had been seeking to develop a multi-sports community facility since its formation back in 2012. This project had evolved over time and in 2014 LCDT had produced a masterplan for the creation of new facilities for cycling, athletics, football and skateboarding at the Kettilstoun Mains site. In 2015 LCDT produced a business plan which proposed a phased delivery of new facilities for regional and community cycling, athletics and skateboarding as the first phase in the delivery of community sports facilities.

A revised business case, costed at approximately £969,000 excluding VAT was submitted to the Council in December 2015. The funding package for the project was based on three main sources; the council, sportscotland and external funders. In assisting the LCDT to develop the masterplan and business case, resources were allocated from the £390,000 capital budget on the understanding that the resources available from the council were fixed at the level of the original budget. The current outstanding level of available resources was £312,000.

LCDT advised that approximately £350,000 would be available from sportscotland which when combined with the £312,000 would require a further £300,000 to be raised from external funders. Sportscotland and the external funders had also indicated that LCDT would need to have security of tenure on the site in the form of a lease from the council.

In June 2016 LCDT submitted a Stage 2 Asset Transfer Application to the council advising that they had decided to explore alternative methods of procuring and delivering the project and sought to discuss a number of issues with the council; these were summarised in the report. Officers met with LCDT representatives to discuss the detail of the Stage 2 Asset Transfer Application and to request additional information in support of the proposal. A key aspect of the discussions related to project funding, VAT costs and affordability.

In August 2016 LCDT advised that they had reviewed the project scope and were now proposing a revised project costed at approximately £650,000 excluding VAT and professional fees. The revised project would focus on delivering the core cycle track and LCDT would progress a separate fund raising strategy at a later date to secure funds to deliver the athletics and skatepark elements of the original proposal. The revised business case was also modelled on the basis that operating costs for the facility would be met from income generated at the facility and it was also being proposed by LCDT that West Lothian Leisure would manage the facility similar to the existing arrangements for the football pitch.

Further discussions have confirmed that the funding from sportscotland

would be capped at a percentage of the overall capital cost and as such the maximum funding was likely to be £250,000 and not the £350,000 associated with the higher project cost. Consequently the minimum funding gap on the revised project, excluding the council budget was estimated at round £100,000. LCDT had recently confirmed that they would now seek the council to procure and deliver the project, for the facility to be managed by West Lothian Leisure with external funding provided via the LCDT.

The report concluded that the project had reached a stage where the LCDT required each of the prospective funders to provide a commitment to enable the project to move forward to the next stage and LCDT were now seeking a letter of support from the council confirming that it was prepared to undertake the procurement and delivery of the project and to provide security of tenure in the form of a lease of the site. However there remained a number of risks associated with the project and these were detailed in the report.

Further discussions would therefore be required with LCDT to finalise the terms of a detailed legal agreement before the council could commit to procure and deliver the project. It was also to be noted that by diverting the £312,000 budget there would be no other council funds available to undertake any works required to enable any road access required to the site.

It was recommended that the Council Executive :-

1. Note the update on the proposal by LCDT to deliver a multi-sport community sports facility at Kettistoun Mains, Linlithgow; and
2. Agree any further action to be taken.

#### Decision

1. To agree that officers continue negotiations with LCDT with regards to the lease of the site at Kettistoun Mains;
2. To agree that the existing capital budget of £312,000 could be used as support funding for the project;
3. To instruct officers to continue a dialogue with LCDT and the West Lothian Clarion Cycling Club with regards to the provision of external funding resources; and
4. To report back to a future meeting of the Council Executive with a progress report.