MINUTE of MEETING of the COUNCIL EXECUTIVE held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, on 13 AUGUST 2024.

Present – Councillors Lawrence Fitzpatrick (Chair), Kirsteen Sullivan, Tom Conn, Angela Doran-Timson, Damian Doran-Timson, Carl John (substituting for Councillor Janet Campbell), Danny Logue, Anne McMillan, Craig Meek, Pauline Orr, Sally Pattle, George Paul and Pauline Stafford

Apologies – Councillor Janet Campbell

1 DECLARATIONS OF INTEREST

Agenda Item 9 – *West Lothian Leisure - Letter of Comfort / Income Generation Investment*

Councillor Tom Conn stated that he was a council-appointed director on West Lothian Leisure Board.

Councillor Danny Logue stated that he was a council-appointed director on West Lothian Leisure Board.

Agenda Item 11 – *West Calder High School Extension – Update for Financial Close*

Councillor Craig Meek stated that his daughter attended West Calder High School; he would participate in the item of business.

Agenda Item 12 – *Young Persons Supported Housing and the Almondvale Crescent Affordable Housing Project Update*

Councillor Craig Meek stated that he was a ward member of the Open Door Accommodation Project; he would participate in the item of business.

Agenda Item 20 – *Changes to the Winter Fuel Payment*

Councillor Craig Meek stated that he worked for a housing provider that provided housing to people in the category referenced in the report; he would participate in the item of business.

2 ORDER OF BUSINESS

Council Executive agreed, in accordance with Standing Order 8(3), to ask questions on agenda items 19 (*Disposal of the Former Xcite Livingston Swimming Pool, Almondvale Parkway, Livingston*) and 20 (*Changes to the Winter Fuel Payment*), which were on the agenda for information only.

Council Executive agreed, in accordance with Standing Order 8(3), that agenda item 21 (*Action taken in terms of Standing Order 31 (Urgent*

Business) – Procurement Approval Report and Burns' Hoose Funding) was to be taken as read and its recommendations noted without any further consideration.

The Chair on behalf of the committee congratulated recently elected Members of Parliament Kirsteen Sullivan and Gregor Poynton, and expressed thanks to former MPs Martin Day and Hannah Bardell for their services to the West Lothian community.

3 MINUTES

a The Council Executive confirmed the minute of its meeting held on 26 June 2024 as a correct record. The Chair thereafter signed the minute.

b The Council Executive noted correspondence arising from previous decisions.

4 SCOTTISH FIRE AND RESCUE SERVICE - DESIGNATION OF LOCAL SENIOR OFFICER

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive appraising members of the proposed appointment of a new Scottish Fire and Rescue Service Local Senior Officer (LSO) for the Falkirk and West Lothian area following notification that the previous LSO, William Pollard had moved to a new post on 8 July 2024.

It was recommended that the Council Executive agree to support the appointment of Area Commander Ross Robison as the LSO for the Falkirk and West Lothian area.

Decision

To approve the terms of the report.

5 POLICE SCOTLAND DIVISIONAL COMMANDER

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive appraising members of the proposed appointment of a new Police Scotland Divisional Commander for the Lothian and Borders area. This role had been previously fulfilled by Chief Superintendent Catriona Paton but had become vacant as she had taken up post as the new Policing Together Assistant Chief Constable.

It was recommended that the Council Executive agree to support the appointment of Chief Superintendent Gregg Banks to the role of Divisional Commander for the Lothian and Borders area.

Decision

To approve the terms of the report.

6 COMMUNITY COUNCIL SPECIAL PROJECT GRANT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services inviting members to consider and determine an application for special project grant which had been received from Torphichen Community Council.

It was recommended that the Council Executive determine the application received from Torphichen Community Council.

Decision

To approve the terms of the report.

7 WEST LOTHIAN COMMUNITY CHOICES

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the development and delivery of Community Choices (Participatory Budgeting) in West Lothian.

It was recommended that the Council Executive:

1. Approve the annual COSLA Participatory Budgeting Report, attached as Appendix 1 to the report, which detailed the council's participatory budgeting (PB) spend for 2023/24 against the Scottish Government's 1% target; and

2. Note the current range of projects subject to Community Choices processes, and the areas for development in 2024/25.

Decision

To approve the terms of the report.

8 WEST LOTHIAN LEISURE - LETTER OF COMFORT / INCOME GENERATION INVESTMENT

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval to provide a letter of comfort to West Lothian Leisure (WLL) to assist its auditor, Azure, with its audit opinion for 2023/24 and for WLL to undertake capital investment in gym expansions at Xcite Bathgate and Xcite Whitburn.

It was recommended that the Council Executive agree:

1. That the Head of Finance and Property Services should provide a letter of comfort to WLL, covering financial year 2024/25 only, incorporating the wording and context as set out in section D.3 of

the report; and

2. Capital investment in gym expansions at Xcite Bathgate and Xcite Whitburn financed by prudential borrowings fully funded by WLL.

Decision

To approve the terms of the report.

9 WEST LOTHIAN LOCAL CHILD POVERTY ACTION REPORT 2023/24

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services setting out the Local Child Poverty Action Report (LCPAR) 2023/24 for West Lothian.

It was recommended that the Council Executive:

1. Approve the draft LCPAR for 2023/24 as set out in Appendix 1 of the report; and

2. Note the intention to publish the report on the council website.

Motion

To approve the terms of the report.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan.

Amendment

Given the devastating and worsening levels of child poverty in West Lothian as reported in this paper Council Executive:

- agrees to write to our newly elected MPs Kirsteen Sullivan and Gregor Poynton to highlight this report and the need for them to prioritise the scrapping of the Two Child Cap. Abolishing the Two Child Cap is the quickest and most cost-effective way of lifting thousands of children in West Lothian out of poverty.

The Chief Executive of CPAG Child Poverty Action Group, Alison Garnham said recently: “Children are losing their life chances to the two-child limit now – they can’t wait for the new government to align every star before the policy is scrapped. The PM came to office pledging a bold, ambitious child poverty-reduction plan and there’s no way to deliver on that promise without scrapping the two-child limit, and fast. This is not the time for procrastination or prevarication - the futures of 1.6 million children are on the line.”

Council Executive commends the work of West Lothian’s Child Poverty Reference Group and the development of partnership working to alleviate Child Poverty. Council also acknowledges that the Scottish Child Payment

of £26.70 to every eligible child under 16 is life changing to financially struggling families in Scotland. However, council recognises that without the immediate scrapping of the Two Child cap child poverty will continue to rise putting further pressure on council services and severely damaging outcomes for West Lothian's children and young people harmed by this abhorrent policy.

- Moved by Councillor Pauline Stafford and seconded by Councillor Pauline Orr.

An electronic vote was conducted. The result was as follows:

Motion	Amendment
Tom Conn	Carl John
Angela Doran-Timson	Pauline Orr
Damian Doran-Timson	Sally Pattle
Lawrence Fitzpatrick	Pauline Stafford
Danny Logue	
Anne McMillan	
Craig Meek	
George Paul	
Kirsteen Sullivan	

Decision

Following a vote, the motion was successful by 9 votes to 4 and was agreed accordingly.

10 WEST CALDER HIGH SCHOOL EXTENSION - UPDATE FOR FINANCIAL CLOSE

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive (Education and Planning Services) and the Head of Finance and Property Services providing an update on the current status of the developer funded extension to West Calder High School, including the progress made to date and seeking approval to proceed through the financial close process to deliver the remainder of the construction phase.

It was recommended that the Council Executive:

1. Note the procurement route of delivering the extension through the existing Design, Build, Finance and Maintain (DBFM) contract for the West Calder High School, utilising the high value change mechanism within the conditions of contract;

2. Note that the capital cost was fully funded by developer contributions;

3. Note that the cost previously approved at Council Executive was

now finalised, with the DBFM companies portion of the works at £10.15 million and an overall development amount for the council of £11 million;

4. Delegate authority to the Head of Finance and Property Services to execute and deliver the high value change and associated documentation on behalf of the council;

5. Note that the facilities management and life cycle elements for the extension would be included as part of the existing DBFM contract; and

6. Note the proposed delivery timescales for the project including completion of the construction phase in August 2025 for the extension works.

Decision

To approve the terms of the report.

11 YOUNG PERSONS SUPPORTED HOUSING AND THE ALMONDVALE CRESCENT AFFORDABLE HOUSING PROJECT UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services and the Head of Finance and Property Services providing an update on the status in delivery of the Young Person's Supported Housing (YPSH) and the Affordable Housing Project, located at Almondvale Crescent, Livingston and seeking approval to proceed through the financial close process and enter into contract with Hub South East (Hubco).

It was recommended that the Council Executive:

1. Note the good progress made in relation to off-site manufacturing and early substructure works under the Letter of Intent;

2. Approve the next stage of the construction works through a Design and Build Development Agreement (DBDA) contract;

3. Delegate authority to the Head of Finance and Property Services to execute and deliver the enabling works DBDA and associated documentation on behalf of the council;

4. Approve the current projected cost for the Hubco portion of the works in the sum of £9.569 million and an overall development cost of £10.148 million; and

5. Note the proposed delivery timescales for completion of the project and the phased handover dates referred to under Section D.3 of the report.

Decision

To approve the terms of the report.

12 LOCAL AREA COMMITTEE AWARDS FROM COMMON GOOD FUNDS

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services advising members of work undertaken by officers to review the proposed £50,000 upper limit on funding awards that could be granted by Local Area Committees (LACs) to community organisations who applied for funding that might become available through Common Good Funds. The report advised Council Executive of an amended proposal relating to Common Good Fund award limits and sought approval to implement that amended proposal.

It was recommended that the Council Executive:

1. Note the work undertaken by officers to review the proposed £50,000 upper limit on awards that could be granted by LACs to community organisations who applied for funding that might become available through Common Good Funds; and

2. Agree to remove the proposed cap of £50,000 on the power of LACs to determine applications to common good funds, but with LACs having the right to refer applications to Council Executive for determination where they saw fit.

Decision

To approve the terms of the report.

13 APSE ANNUAL SEMINAR AND SERVICE AWARDS 2024 - A NEW ERA FOR FRONTLINE SERVICES

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 appropriate elected members attendance at the APSE Annual Seminar and Service Awards 2024 – A new era for frontline services. The event would be held in Bristol on 11 and 12 September 2024.

It was recommended that the Council Executive:

1. Approve the attendance of appropriate elected members at the APSE Annual Seminar and Service Awards 2024, with appropriate officer support from Housing, Customer & Building Services; and

2. Note that Fleet Services had been shortlisted as a finalist in the Best Service Team category at the awards.

Decision

1. To approve the terms of the report.

2. To agree that Councillors George Paul and Tom Conn would be the elected members attending the APSE Annual Seminar and Service Awards 2024.

14 CONSULTATION RESPONSE TO SCOTTISH GOVERNMENT'S FLOOD RESILIENCE STRATEGY PUBLIC CONSULTATION

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services informing members of the consultation that was being carried out by the Scottish Government in relation to Scottish Government Flood Resilience Strategy Public Consultation. The report suggested a council response to the consultation questions.

It was recommended that the Council Executive approve the content of the Flood Resilience Strategy proposed consultation response detailed in Appendix 1 of the report.

Decision

To approve the terms of the report.

15 PLANNING GUIDANCE: ALTERATION AND REPLACEMENT OF WINDOWS IN LISTED BUILDINGS AND IN CONSERVATION AREAS

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration seeking approval of new planning guidance 'Alteration and Replacement of Windows in Listed Buildings and in Conservation Areas'.

It was recommended that the Council Executive:

1. Agree the council's responses to the comments submitted during the consultation on the draft Planning Guidance (Appendix 2 of the report);

2. Approve the Planning Guidance incorporating revisions (Appendix 3 of the report);

3. Approve the 'Screening Report' (Appendix 4 of the report), which was to be submitted to the SEA Gateway and the Consultation Authorities setting out the council's justification that the guidance be exempted from additional Strategic Environmental Assessment because it would not in itself have any significant or additional environmental effects not previously considered in the SEA for the LDP; and

4. Delegate authority to the Head of Planning, Economic Development and Regeneration to agree and conclude a

'Screening Determination' in the event that the SEA Gateway and the Consultation Authorities confirm their agreement that the guidance would not in itself have any significant adverse environmental effects, and thereafter to report the outcome of the SEA screening process to a meeting of the Council Executive for information.

Decision

To approve the terms of the report.

16 SCOTTISH GOVERNMENT CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 - POND INDUSTRIAL ESTATE, WHITBURN ROAD, BATHGATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration seeking approval for a response to the Consultation from the Scottish Government on application 0379/EXC/24, under Section 36 of the Electricity Act 1989, for the installation of a battery energy storage system and associated infrastructure with a generating capacity of up to 200MW on land at Pond Industrial Estate, Whitburn Road, Bathgate.

It was recommended that the Council Executive:

1. Note the contents of the consultation from the Scottish Government for the proposed installation of a battery energy storage system and associated infrastructure;

2. Agree to raise no objections to the proposal and to include draft conditions (Appendix 1 of the report) in the response that could be used, where appropriate, to cover matters raised by consultees; and

3. Note that officers intended to report to full council on 24 September 2024 to recommend that the council's Scheme of Administration be updated so that going forward the Development Management Committee would respond on behalf of the council to statutory consultations and notifications of all licence applications associated with Section 36 of the Electricity Act 1989.

Following discussion and in response to a question from members, the Governance Manager suggested that the Council Executive raise no objections to the proposal but require that any consent granted should take into account concerns raised by members; otherwise a motion would be needed to amend recommendation 2 with reasons for objections raised included in the response.

Decision

Following issues raised and questions asked, it was agreed that the matter would be continued to the next meeting of Council Executive.

17 RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION ON LONG TERM PRISONER RELEASE PROCESS

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy presenting information on the Scottish Government consultation on proposed changes to the long-term prisoner release process and seeking approval to submit the proposed response.

It was recommended that the Council Executive approve the proposed response as set out in Appendix 1 to the report to allow submission to Scottish Government by 19 August 2024.

Decision

To approve the terms of the report.

18 DISPOSAL OF THE FORMER XCITE LIVINGSTON SWIMMING POOL, ALMONDVALE PARKWAY, LIVINGSTON

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services advising that the proposed disposal of the former Xcite Livingston Swimming Pool at Almondvale Parkway, Livingston to West Coast Estates Limited was no longer proceeding and that the cleared site was to be marketed for sale in accordance with the council's approved Surplus Property Procedure.

It was recommended that the Council Executive:

1. Note that the proposed disposal of the former Xcite Swimming Pool at Almondvale Parkway, Livingston to West Coast Estates Limited was no longer proceeding;

2. Note that the now cleared site of the former Xcite Swimming Pool at Almondvale Parkway, Livingston would be openly marketed for sale in accordance with the council's approved Surplus Property Procedure and that a report on the offers received would be provided to a future meeting of the Council Executive for consideration; and

3. Note that work had been undertaken to protect the "Symbiosis" sculpture during recent demolition works and that officers were working in partnership with the West Lothian Public Art Group and other stakeholders to identify an agreed, suitable, nearby alternative location for this public artwork.

Decision

To note the terms of the report.

19 CHANGES TO THE WINTER FUEL PAYMENT

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services informing members of the changes to the Winter Fuel Payment announced by the Chancellor of the Exchequer on 29 July 2024.

It was recommended that the Council Executive:

1. Note the changes announced by the Chancellor to the Winter Fuel Payment; and

2. Note the range of local support that was available now and over the winter months.

Motion

To approve the terms of the report.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan.

Amendment

Just a month after being elected the new UK Labour Government are already demonstrating their incompetence in their managing of the economy. Prior to the election in July, Keir Starmer and many in Labour stated there would be no tax increases should they be in Government. Already Labour politicians are referring to having to increase taxes in the Autumn Budget.

Alongside this, Labour have made the atrocious decision of cutting around 10 million pensioners from the winter fuel payment by introducing means testing for this allowance. The charity Age UK believe around 2 million pensioners will be at risk of being unable to pay their energy bills as a result.

Also, it is feared pensioners will be hospitalised as a result of not being able to heat their homes sufficiently.

Labour are also considering rising taxes on pensions further hitting pensioners and pushing more into poverty.

Whilst this allowance is devolved to the Scottish Government, this decision by the Chancellor will negatively impact Barnett consquentials to Scotland.

Therefore, the Chief Executive of West Lothian Council is to write to the Chancellor of the Exchequer stating the dismay of West Lothian Council with this decision and request that it is reversed:

and, to write to the First Minister, John Swinney requesting that funds are found to continue this payment in Scotland.

- Moved by Councillor Damian Doran-Timson and seconded by Councillor Angela Doran-Timson.

Councillor Damian Doran-Timson, who had moved the amendment, and Councillor Pauline Stafford, who would have moved a second amendment, intimated that they would be willing to agree a composite amendment. The Chair then called an adjournment to allow parties to agree a composite amendment. Thereafter, the following composite amendment was moved:

Composite Amendment

Just a month after being elected the new UK Labour Government are already demonstrating their incompetence in their managing of the economy. Prior to the election in July, Keir Starmer and many in Labour stated there would be no tax increases should they be in Government. Already Labour politicians are referring to having to increase taxes in the Autumn Budget.

Alongside this, Labour have made the atrocious decision of cutting around 10 million pensioners from the winter fuel payment by introducing means testing for this allowance. The charity Age UK believe around 2 million pensioners will be at risk of being unable to pay their energy bills as a result.

Also, it is feared pensioners will be hospitalised as a result of not being able to heat their homes sufficiently.

Labour are also considering rising taxes on pensions further hitting pensioners and pushing more into poverty.

Whilst this allowance is devolved to the Scottish Government, this decision by the Chancellor will negatively impact Barnett consquentials to Scotland.

Therefore, the Chief Executive of West Lothian Council is to write to the Chancellor of the Exchequer stating the dismay of West Lothian Council with this decision and request that it is reversed:

and, to write to the First Minister, John Swinney requesting that all efforts are made to identify if funds can be found to continue this payment in Scotland.

If the cut goes ahead they must lobby to ensure that a comparable amount to the estimated £180 million that the Scottish Government currently receives through Barnett consequentials relating to the Winter Fuel Payment continues to be paid in order that the Scottish Government can adequately fund the Pension Age Winter Heating Payment following the planned for devolution of these powers.

- Moved by Councillor Damian Doran-Timson and seconded by Councillor Pauline Stafford.

An electronic vote was conducted. The result was as follows:

Motion	Amendment	Abstain
Tom Conn	Angela Doran-Timson	Craig Meek
Lawrence Fitzpatrick	Damian Doran-Timson	
Danny Logue	Carl John	
Anne McMillan	Pauline Orr	
Sally Pattle	Pauline Stafford	
George Paul		
Kirsteen Sullivan		

Decision

Following a vote, the motion was successful by 7 votes to 5, with one abstention, and it was agreed accordingly.

20 ACTION TAKEN IN TERMS OF STANDING ORDER 31 (URGENT BUSINESS) - PROCUREMENT APPROVAL REPORT AND BAIRNS' HOOSE FUNDING

To note action taken in terms of Standing Order 31 (Urgent Business) to approve an exemption from Contract Standing Orders for a direct award to Children 1st for the value of £141,000 to support the development of Bairns' Hoose in West Lothian and to proceed to apply Scottish Government funding for the project to provide Children 1st with the funds.