

MINUTE of MEETING of the ENVIRONMENT POLICY DEVELOPMENT AND SCRUTINY PANEL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 3 SEPTEMBER 2019.

Present – Councillors Cathy Muldoon, Alison Adamson, Diane Calder, Chris Horne, Dave King, George Paul, Kirsteen Sullivan (substituted for Tom Conn)

Apologies – Councillor Tom Conn (Chair)

1. DECLARATIONS OF INTEREST

Agenda Item 6 – Civic Government (Scotland) Act 1982 – Sexual Entertainment Venue Licensing – Councillor Chris Horne declared an interest in this item of business in that he was a member of the Licensing Committee.

Agenda Item 7 – Civic Government (Scotland) Act 1982 – Public Entertainment and Theatre Licensing – Councillor Chris Horne declared an interest in this item of business in that he was a member of the Licensing Committee and a council appointed member of West Lothian Leisure.

Agenda Item 8 – Low Emission Zone for the City of Edinburgh, West Lothian Council's Consultation Response – Councillor Chris Horne declared an interest in this item of business in that he was a member of Sustran.

Agenda Item 6 – Civic Government (Scotland) Act 1982 – Sexual Entertainment Venue Licensing – Councillor George Paul declared an interest in that he was a member of the Licensing Committee.

Agenda Item 7 – Civic Government (Scotland) Act 1982 – Public Entertainment and Theatre Licensing – Councillor George Paul declared an interest in that he was a member of the Licensing Committee

Agenda Item 6 – Civic Government (Scotland) Act 1982 – Sexual Entertainment Venue Licensing – Councillor Kirsteen Sullivan declared an interest in this item of business in that she was a member of the GMB which was involved in a campaign in relation to this subject.

2. MINUTE

The Panel confirmed the Minute of its meeting held on 4 June 2019 as a correct record. The Minute was thereafter signed by the Chair.

3. 2018/19 FINANCIAL PERFORMANCE - MONTH 12 MONITORING

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the

financial performance of the Environment Policy Development and Scrutiny Panel portfolio for the General Fund Revenue Budget.

The report set out the 2018-19 general fund revenue financial performance information in respect of the Environment Policy Development and Scrutiny Panel portfolio of services. It was important to note that the council's revenue budget was operationally managed at Head of Service level and the financial position included within the report was part of the overall council draft out-turn which would be reported to Council Executive.

The budget monitoring process for 2018-19 had been undertaken in line with the council's budgetary control framework and procedures, which placed particular focus on a risk based and pro-active approach to budget monitoring. The overall outturn was reported to Council Executive on 25 June 2019.

A table in the report summarised the position in relation to service expenditure and provided an update on the draft outturn. The draft out-turn indicated an overspend for the Environment portfolio of £810.000 and a slippage of £1.020 million on the capital programme.

In terms of future budget issues and risks West Lothian Council had approved a five year strategy from 2018/19 to 2022/23 including savings measures for the three years 2018/19 to 2020/21 with a further revision to the overall level of savings required approved by Council on 19 February 2019. The total level of savings approved for the five year period was £60.550 million with £41.991 million of those savings required in the first three years. In addition there were recurring pressures of £4.047 million with mitigating actions being agreed and implemented to ensure pressures were managed on a recurring basis.

In addition severe weather events such as heavy snowfall and flooding could have a significant impact on expenditure with Roads and Transportation.

It was recommended that the Panel :-

1. Notes the financial performance of the Environment portfolio for 2018-19;
2. Notes that the Environment portfolio position for the year formed part of the overall council position reported to Council Executive on 25 June 2019; and
3. Notes any actions required to be taken by Heads of Services and budget holders to manage spend within available resources.

Decision

To note the terms of the report

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - SEXUAL ENTERTAINMENT VENUE LICENSING

The Panel considered a report (copies of which had been circulated) by the Head of Corporate Services providing information with regards to legislation changes which would enable the council as a licensing authority to introduce a licensing scheme for sexual entertainment venues (SEVs).

The report advised that the Air Weapons and Licensing (Scotland) Act 2015 provided for changes to be made to the Civic Government (Scotland) Act 1982. The Air Weapons and Licensing (Scotland) Act 2015 (Commencement No.9 and Transitional Provisions) Order 2019 introduced the provisions giving local authorities a discretionary power to licence SEVs.

Prior to the above commencement order there was no legal requirement for SEVs to be licensing in Scotland. However premises not used for the sale of alcohol would have required a public entertainment licence for any adult entertainment taking place within premises.

In considering the new powers the council was obliged to take account of the guidance issued by the Scottish Government. The guidance stated that the new licensing regime would allow local authorities to consider local circumstances in setting the number of venues able to operate within their areas and to exercise appropriate control and regulation of these venues.

Therefore in considering whether to pass a resolution to licence SEVs in West Lothian the council should consider whether it would wish to control SEVs either now or in the future. If there is no resolution in place, then no licence would be required to operation a SEV.

The report went on to advise that where a local authority opted to licence SEVs the provisions at Section 45A of the 1982 Act required a licence for premises operated as a SEV where sexual entertainment was performed live, was for the direct or indirect financial benefit of the organiser and was for the sole or principle purpose of sexual stimulation of members of the audience. However premises where sexual entertainment was provided on no more than three occasions in a twelve month period were not to be treated as SEVs.

The Scottish Government indicated that local authorities were best placed to reflect the views of the communities they serve and to determine whether sexual entertainment establishments should be licensed within their areas, and if so, under what conditions.

The report advised that to introduce a SEV licensing scheme the council must pass a resolution. In order to pass a resolution the council must:-

- Consider the impact of licensing of SEVs in West Lothian having regard in particular to the licensing objectives of preventing public nuisance and crime and disorder, securing public safety, protecting

children and young people from harm and reducing violence a reducing violence against women.

- Consult such persons or bodies as they consider appropriate
- Determine the appropriate number of SEVs for West Lothian
- Prepare a SEV policy statement taking into account the licensing objectives and publish that at the same time as the resolution.

The policy statement could not contain a restriction on the number of SEVs based on moral reasons alone.

The report recommended that the Panel note the new legislative power for the council as Licensing Authority to introduce a licensing scheme for SEVs and that the Council Executive would be asked to consider undertaking a consultation and evidence gathering process to establish views on the following:

1. whether SEVs in West Lothian should be licensed;
2. if licensed, what the appropriate number of SEVs for West Lothian should be; and
3. if licensed, what should be included in a SEV policy statement

Decision

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

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PUBLIC ENTERTAINMENT AND THEATRE LICENSING

The Panel considered a report (copies of which had been circulated) by the Head of Corporate Services advising of changes to legislation regarding theatre licensing which would impact on the public entertainment licensing scheme.

The report advised that the Air Weapons and Licensing (Scotland) Act 2015 provided for changes to be made to the Civic Government (Scotland) Act 1982. The Air Weapons and Licensing (Scotland) Act 2015 (Commencement No.9 and Transitional Provisions) Order 2019 introduced the provisions which would lead to the repeal of the Theatres Act 1968 and allow theatre licensing to be included in the council's public entertainment licensing resolution.

Theatres were currently licensed under the Theatres Act 1968 but all licences granted under that Act would come to an end on 27 January 2021. West Lothian currently had three premises permanently licensed under the 1968 Act. In addition over the years there had been a number

of applications for temporary theatre licences for particular events.

The new legislation would allow councils to consider licensing theatre premises under the public entertainment licensing provision of the 1982 Act. Due to other legislative changes the council's public entertainment resolution which set out the various types of activities would require to be amended to delete adult entertainment as a new scheme for licensing sexual entertainment venues had been introduced.

These changes would also allow the council an opportunity to fully review the terms of the current public entertainment resolution.

The report recommended that the Panel note:

1. The legislative changes to theatre licensing;
2. The requirement for the council to amend the public entertainment licensing resolution due to other new legislation; and
3. That as a result of these changes the Council Executive would be asked to consider authorising the Chief Solicitor to undertake a full review of the council's public entertainment licensing scheme including public consultation regarding proposed changes to the terms of the resolution, licensing conditions and application fees.

Decision

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

6. LOW EMISSION ZONE FOR THE CITY OF EDINBURGH: WEST LOTHIAN COUNCIL'S CONSULTATION RESPONSE

The Panel considered a report (copies of which had been circulated) by the Head of Operational Services and the Head of Planning, Economic Development and Regeneration outlining the City of Edinburgh's Low Emission Zone (LEZ) proposal for the City and to recommend a formal response to the Council Executive.

The report recalled that in June 2018, the Scottish Government introduced the Transport (Scotland) Bill to the Scottish Parliament and was currently at Stage 2. The Bill set out provisions to enable the introduction of Low Emissions Zones (LEZ) in Scotland's four largest cities.

The Bill would enable the creation and civil enforcement of LEZs by local authorities, and would allow the Scottish Government to set consistent national standards for a number of key aspects including, but not limited to, vehicle emissions, penalties, certain exemptions and parameters for grace periods for LEZs. It was anticipated that the Bill and associated regulations will be finalised early in 2020.

The report went on to advise that an LEZ was a geographical area within which polluting vehicles were not permitted. Unless otherwise exempt, polluting vehicles that enter the area were subject to a penalty. Enforcement would utilise Automatic Number Plate Recognition (ANPR) cameras linked to a national vehicle licensing database, to detect vehicles entering an LEZ which did not comply with the minimum standards.

Edinburgh's proposed phasing approach was similar to that adopted in many other cities. The proposed boundaries of each zone were set out in Appendix 1 and had been informed by analysis of the baseline model produced by SEPA. Over the summer the city undertook a city wide traffic data collection survey to update and analyse the baseline air quality model.

The report went on to provide the implications for West Lothian and the consultation response.

In conclusion it was recognised that environmental and health pressures associated with petrol and diesel vehicles were increasing. The Scottish Government's desire to have the four major Scottish cities introduce Low Emission Zones by 2020 was a commitment to improving air quality in the most populated areas.

The report recommended that the Panel note the contents of the report and recommends to Council Executive that it supports the introduction of the City of Edinburgh's Low Emission Zone in principle, but requests clarification to the questions outlined within Section D4 of the report.

Decision

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

7. WEST LOTHIAN PARKING STRATEGY: CONSULTANCY BRIEF

The Panel considered a report (copies of which had been circulated) by the Head of Operational Services providing a consultancy brief which would underpin the necessary preparation work for a West Lothian wide parking strategy.

The report recalled that on 5 February 2019, the Council Executive agreed that car parking charges were not to be introduced in the 5 year period ending 2022/23 and that officers should undertake a wider parking review on that basis. The report highlighted the key requirements necessary to develop a West Lothian wide strategy.

The development of a parking strategy was a significant undertaking and required a wide knowledge and skill set. Within the council's Roads & Transportation service there were insufficient staff resources to undertake this work in-house. It was therefore the intention of the service to appoint

specialist consultants.

The proposed consultancy brief was detailed in Appendix 1 and would form the work package. It was vital that the brief reflected the needs of the council and that it was agreed by Council Executive before being issued for pricing.

The report recommended that the Panel note and consider the consultancy brief for a West Lothian Parking Strategy and recommend it to the Council Executive for approval.

Decision

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

8. LITTER BIN PLAN

The Panel considered a report (copies of which had been circulated) by the Head of Operational Services providing details of the proposed Litter Bin Plan that would provide criteria for the type, size and location of litter bins across the area. Appendix 1 to the report contained details of the proposed Litter Bin Plan.

The report advised that presently the installation and provision of public litter bins throughout West Lothian was provided based on a demand driven service. This led to over provision of bins in inappropriate areas that was both inefficient and ineffective in dealing with issues of littering.

A review of all existing litter bins would therefore be undertaken to ensure that the type, size and locations were correct to meet community needs and that bins meet the criteria as set out in the proposed Litter Bin Plan. It was proposed to use new technology when undertaking the review by placing electronic sensors in bins that wirelessly communicates with the services asset management software. This would enable the service to accurately monitor and evidence the usage of litter bins and would also provide trend analysis to accurately monitor and evidence the usage.

The aim of the review was to provide a more co-ordinated approach to the placement of litter bins to suit demand across the authority ensuring bins were provided in more suitable locations.

In conclusion the report advised that the adoption of the Litter Bin Plan would provide a more focused and efficient provision of litter bins in the area and would be designed to augment and support the prevention of littering.

Decision

1. To note the contents of the report.

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

9. WORKPLAN

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

Decision

To note the workplan and to agree to include an item on Climate Change.