



Council Executive

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

30 January 2020

A meeting of the **Council Executive** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre** on **Tuesday 4 February 2020** at **10:00am**.

For Chief Executive

BUSINESS

Public Session

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

The Chair will invite members to identify any such reports they wish to have fully considered, which failing they will be taken as read and their recommendations approved.
4. Confirm Draft Minutes of Meeting of Council Executive held on Tuesday 21 January 2020 (herewith).

Public Items for Decision

5. Scottish Government Youth Justice Standards Consultation Response - Report by Head of Social Policy (herewith)
6. Transforming your Council - Efficiencies in the Provision of Looked After Children Transport (S1) - Report by Head of Social Policy (herewith)

7. Planning Guidance - Controlling Obtrusive Lighting (Light Pollution) and Reducing Lighting Energy Consumption - Report by Head of Planning, Economic Development and Regeneration (herewith)
8. Consultation - The Replacement of European Structural Funds in Scotland post EU Exit - Report by Head of Planning, Economic Development and Regeneration (herewith)
9. The Mill Centre, Blackburn - Update - Report by Head of Finance and Property (herewith)
10. Main Street, Blackridge - Proposed Acquisition of 0.34 acre site - Report by Head of Finance and Property Services (herewith)
11. Calderwood Core Development Area - School Estate Investment Update - Report by Head of Finance and Property Services (herewith)
12. Consultation Response - Changes introduced by Bankruptcy and Debt Advice (Scotland) Act 2014 - Report by Head of Finance and Property Services (herewith)
13. 2019/20 General Services Capital Budget - Month 9 Monitoring Report - Report by Head of Finance and Property Services (herewith)
14. 2019/20 General Fund Revenue Budget - Month 9 Monitoring - Report by Head of Finance and Property (herewith)
15. UK, Scottish and West Lothian Council Budget Update - Report by Head of Finance and Property Services (herewith)

Public Items for Information

16. 2019/20 Housing Revenue Account - Month 9 Monitoring Report - Report by Depute Chief Executive (herewith)
17. 2019/20 Housing Capital Report - Month 9 Monitoring Report - Report by Depute Chief Executive (herewith)

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

CODE OF CONDUCT AND DECLARATIONS OF INTEREST

This form is to help members. It is not a substitute for declaring interests at the meeting.

Members should look at every item and consider if they have an interest. If members have an interest they must consider if they have to declare it. If members declare an interest they must consider if they have to withdraw.

NAME	MEETING	DATE

AGENDA ITEM NO.	FINANCIAL (F) OR NON- FINANCIAL INTEREST (NF)	DETAIL ON THE REASON FOR YOUR DECLARATION (e.g. I am Chairperson of the Association)	REMAIN OR WITHDRAW

The objective test is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor.

Other key terminology appears on the reverse.

If you require assistance, please ask as early as possible. Contact Julie Whitelaw, Monitoring Officer, 01506 281626, julie.whitelaw@westlothian.gov.uk, James Millar, Governance Manager, 01506 281695, james.millar@westlothian.gov.uk, Carol Johnston, Chief Solicitor, 01506 281626, carol.johnston@westlothian.gov.uk, Committee Services Team, 01506 281604, 01506 281621, committee.services@westlothian.gov.uk

SUMMARY OF KEY TERMINOLOGY FROM REVISED CODE

The objective test

“...whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor”

The General Exclusions

- As a council tax payer or rate payer or in relation to the council's public services which are offered to the public generally, as a recipient or non-recipient of those services
- In relation to setting the council tax.
- In relation to matters affecting councillors' remuneration, allowances, expenses, support services and pension.
- As a council house tenant, unless the matter is solely or mainly about your own tenancy, or you are in arrears of rent.

Particular Dispensations

- As a member of an outside body, either appointed by the council or later approved by the council
- Specific dispensation granted by Standards Commission
- Applies to positions on certain other public bodies (IJB, SEStran, City Region Deal)
- Allows participation, usually requires declaration but not always
- Does not apply to quasi-judicial or regulatory business

The Specific Exclusions

- As a member of an outside body, either appointed by the council or later approved by the council
- The position must be registered by you
- Not all outside bodies are covered and you should take advice if you are in any doubt.
- Allows participation, always requires declaration
- Does not apply to quasi-judicial or regulatory business

Categories of “other persons” for financial and non-financial interests of other people

- Spouse, a civil partner or a cohabitee
- Close relative, close friend or close associate
- Employer or a partner in a firm
- A body (or subsidiary or parent of a body) in which you are a remunerated member or director
- Someone from whom you have received a registrable gift or registrable hospitality
- Someone from whom you have received registrable election expenses

MINUTE of MEETING of the COUNCIL EXECUTIVE held within COUNCIL CHAMBERS, WEST LoTHIAN CIVIC CENTRE, on 21 JANUARY 2020.

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

Apologies – Councillors Harry Cartmill and Charles Kennedy

Absent – Councillor Frank Anderson

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTE

The Council Executive confirmed the Minute of its meeting held on 17 December 2019 as a correct record. The Minute was thereafter signed by the Chair.

3. WEST LoTHIAN ENTERPRISE LIMITED - VOLUNTARY STRIKING OFF

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration seeking authority to proceed with the voluntary winding-up of a council-owned company, West Lothian Enterprise Ltd. This formal process concludes with the voluntary striking off the business at Companies House.

The report recommended that the Council Executive:

1. Note the terms of the report; and
2. Agrees the formal voluntary winding-up and striking off process for West Lothian Enterprise Ltd.

Decision

To approve the terms of the report.

4. INTEGRATION SCHEME REVIEW

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive (Health & Social Care Partnership) ensuring compliance with the council's duty to carry out a full review of the Integration Scheme for the West Lothian Integration Joint Board in relation to statutory requirements.

The report recommended that the Council Executive:

1. Note the requirement of the Public Bodies (Joint Working) (Scotland) Act 2014 to fully review the Integration Scheme for the West Lothian Integration Joint Board every five years.
2. Note the statutory requirement for such a review process.
3. Agree the indicative review process and timeline for the review.

Decision

To approve the terms of the report.

5. APSE SCOTLAND BUILDING AND HOUSING SEMINAR 2020

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 appropriate elected member attendance at the APSE Scotland Building and Housing Seminar 2020 incorporating the Apprentice of the Year Awards.

The report recommended that the Council Executive approve the attendance of appropriate elected member attendance at the APSE Scotland Building and Housing Seminar 2020 with appropriate officer support from Housing, Customer and Building Services.

Decision

To approve the attendance of Councillors George Paul and Frank Anderson.

7. CONSTRUCTION CHARTER

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services presenting a Construction Charter for West Lothian Council

The report recommended that the Council Executive approve the Construction Charter for West Lothian Council/

Decision

To approve the terms of the report.

8. PROCUREMENT ARRANGEMENTS - PROVISION OF TAXIBUS DEMAND RESPONSIVE TRANSPORT SERVICES

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approve to commence tendering procedures for the procurement of a two-year framework agreement with an anticipated start date of 1 May 2020 and an

option to extend up to a further 24 months in total, for demand-responsive transport (DRT) services as detailed in Appendix 1, employing the methodology and criteria detailed in Section D.

The report recommended that the Council Executive approves:

1. Use an Open Procedure whereby all suppliers expressing an interest in the demand-response (DRT) services contract would be invited to tender.
2. The award criteria as set out in Section D of the report.

Decision

To approve the terms of the report.

9. PROCUREMENT ARRANGEMENTS - DIRECT AWARD TO THE CITY OF EDINBURGH COUNCIL

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 the City of Edinburgh Council for KeyComm Lothian Communication Technology Service for the provision of regional specialist service for supporting children and young people who use Augmentative and Alternative Communication.

The report recommended that the Council Executive approves a direct award to the City of Edinburgh Council for KeyComm Lothian Communication Technology Service for the funding of the regional specialist service for the period 1 April 2020 to 31 March 2021. The anticipated contract value was £31,500.

Decision

To approve the terms of the report.

10. PROPOSED 30MPH SPEED LIMIT EXTENSION A706 NORTH OF WHITBURN

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services seeking approval to initiate the statutory procedures to extend the existing 30mph speed limit on the A706 in Whitburn northwards to include Whitdale Roundabout and 132 metres of thereby of its arm toward Bathgate.

The report recommended that the Council Executive approve the initiation of the statutory procedures to extend the 30mph speed limit on the A706 northwards to include Whitdale Roundabout and its approaches.

Decision

To approve the terms of the report.

11. PETITION FOR LITTER BIN TO BE SITED ON MAIN STREET, EAST WHITBURN

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services providing details in relation to a petition requesting the siting of an additional litter bin on the main street in East Whitburn near the entrance to the Gothenburg Convenience Store.

The report recommended that the Council Executive agree that there was no requirement for an additional litter bin on Main Street, East Whitburn

Decision

To approve the terms of the report.

12. B8020 NIDDRY ROAD AND THE U18 NIDDRY FARM ROAD, WINCHBURGH - PROPOSED TRAFFIC CALMING AND EXTENSION OF THE EXISTING 30MPH SPEED LIMIT

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services seeking approval to initiate the required statutory procedures to install new traffic calming features on the B8020 Niddry Road and the U18 at Niddry Farm Cottages, Winchburgh and to extend the existing 30mph speed limit.

The report recommended that the Council Executive approve:

1. The commencement of the statutory procedures to install traffic calming features on the B8020 Niddry Road and U18 Niddry Farm Road, Winchburgh; and
2. Extend the existing 30mph speed limit on the U18 Niddry Farm Road, Winchburgh.

Decision

To approve the terms of the report.



COUNCIL EXECUTIVE

SCOTTISH GOVERNMENT YOUTH JUSTICE STANDARDS CONSULTATION RESPONSE

REPORT BY HEAD OF SOCIAL POLICY

A. PURPOSE OF REPORT

To inform Council Executive of the Scottish Government's Youth Justice Standards public consultation hosted by the Scottish Government and welcome their views and comments.

B. RECOMMENDATION

It is recommended that Council Executive considers the draft response to the consultation which is intended to be submitted to the Scottish Government.

C. SUMMARY OF IMPLICATIONS

I Council Values	<ul style="list-style-type: none">– Focusing on our customers' needs– Being honest, open and accountable– Providing equality of opportunity
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<ul style="list-style-type: none">- Social Work (Scotland) Act 1968- Criminal Procedure (Scotland) Act 1995- Scottish Government Youth Justice Strategy 2015-2020- Criminal Justice (Scotland) Act 2016- Management of Offenders (Scotland) Act 2019- Getting it right for every child (GIRFEC)
III Implications for Scheme of Delegations to Officers	N/A
IV Impact on performance and performance Indicators	N/A
V Relevance to Single Outcome Agreement	<ul style="list-style-type: none">• Making our communities safer
VI Resources - (Financial, Staffing and Property)	N/A
VII Consideration at PDSP	The report was considered by the Social Policy PDSP on 24 th January and the content was supported.
VIII Other consultations	

D. TERMS OF REPORT

Background

In 2015 the Scottish Government published a five year strategy (2015-2020) to set out the national priorities for Youth Justice. The priorities are as follows:

- Advancing a Whole Systems Approach (WSA)
- Improving Life Chances
- Developing Capacity and Improvement

In 2018 the Scottish Government Youth Justice Standards Committee highlighted the need for updated standards to support local areas to deliver the priorities mentioned above. It was stated that principles should be supported by core standards and data sets that support local and national data collection to help monitor progress, support service performance and evidence improved outcomes for children.

The standards being consulted on outline a minimum expectation for all strategic and operational delivery of service regarding youth justice in the community, secure care and young offender's institutes. The deadline for the submission of responses to this consultation is the 23rd January 2020 but the Scottish Government has agreed to an extension of the deadline until 4th February to ensure that the draft response can progress through the Council's governance structure.

Consultation response

The response has been collated involving input from social policy colleagues involved in both service delivery and strategic service development. The response states that we are generally supportive of the standards proposed however would like clearer guidance and directions regarding the consistency of data collection by external agencies, the desire to see a performance framework introductive to support the standards and the guidance on children committing both serious crimes and crimes out of the local authority area.

This consultation is a necessary part of the Scottish Governments publication of Youth Justice Standards in Scotland that aim to support those involved with Youth Justice services. The standards cover a wide range of issues in all areas of Youth Justice.

E. CONCLUSION

West Lothian Council have drafted a response to the Youth Justice Standards public consultation hosted by the Scottish Government. The draft response is being shared with the Council Executive for views and comments prior to its submission to the to Scottish Government.

F. BACKGROUND REFERENCES

Appendices/Attachments: Appendix 1 – Proposed Youth Justice Standards Consultation Response.
 Appendix 2 – Scottish Government Youth Justice Standards consultation document.

Contact Person: Tim Ward,
Senior Manager, Justice and Looked After Children
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Jo MacPherson, Head of Social Policy

Date of Meeting: 04/02/2020.

Youth Justice Standards Consultation response.

16/01/2020.

Question 1:

Do the proposed Youth Justice Standards reflect these national youth justice priorities?

Answer:

YES. (tick box)

Question 2:

Do the proposed Youth Justice Standards allow for flexibility to meet local needs?

Answer:

YES. (tick box)

Question 3:

What aspects stood out as being the most helpful?

Answer:

The Youth Justice Standards will support the flexible development of services at a local level. We believe that the Standards offer flexibility to do this.

The Standards are a good starting point to develop a meaningful and outcomes led performance Framework to ensure equity of service across Scotland.

Question 4:

What aspects stood out as being the least helpful?

Answer:

Generally the standards should better reflect an age and stage model to ensure that children are supported to meet their outcomes in a truly person centred and holistic manner.

A performance framework to ensure equity of service across Scotland would support the National standards to be delivered locally. This framework would need to be outcomes led and based on all measurable sub actions within the priorities. If an action cannot be measured it should not be included.

There are too many standards and sub actions that at times show duplication, for example the cross over between Standard 4 and sub action 6.3. Standards should be clearly defined within an area of action.

CaRM is referenced throughout the paper; this is a local system that not all local authorities use. A statement around the general use of systems that meet the reporting of outcomes may be more beneficial.

The language used around CaRM must be more consistent. Sub action 1.4 and 6.3 refer to 'CaRM processes', whereas sub action 6.4 refers to 'CaRM base protocols'. If this is intentional it would benefit a clearer explanation.

Some of the sub actions mentioned refers to stat obligations for local authorities. This should not be required in National Standards. Examples would be sub actions 5.7 and 7.3

Sub action 5.5 could offer clearer guidance on the 'earliest opportunity possible'. This language presents problematically as the actions would differ greatly if a child is detained for a serious crime or is detained in another local authority. Some clearer guidance on discharge planning for children who have committed a serious crime would be beneficial, including guidance on alternatives to secure care and custody.

Standard 8 would be greater supported by a performance Framework as stated in Question 3 and 5.

Question 5:

With reference to the core principles and data sets, will the proposed Youth Justice Standards allow for reliable local and national evaluation of services?

Answer:

A national performance Framework would be required to ensure all standards and sub actions can be measured with an outcomes focused approach.

The proposed Youth Justice Standards will allow for a national evaluation of services however there are some key challenges in doing this.

With reference to the data collection agencies in sub action 8.1, they would need to work together to establish the data in the following manner:

- All data require to be collected reported within the same timescales,
- All data must be easily assessable and understandable at a local, level
- All data must aim to support the workforce in question,
- All data must be broken down further to Local Authority level to ensure true comparisons can be made,
- All local government bench marketing tools must be considered in data collection processes.

Question 6:

Having read the background information above, do you think the current key questions are sufficient to ensure appropriate scrutiny of services provided to children involved in or at risk of offending, if no then please provide further reasoning and suggested alternatives below?

Answer:

YES (tick box).

Youth Justice Standards

Consultation

October 2019



Scottish Government
Riaghaltas na h-Alba
gov.scot

Introduction

Preventing offending is integral to our vision of Scotland as the best place to grow up – Getting it Right for Every Child in Scotland. Our vision of Scotland as the best place to grow up extends to all of our children. A preventative approach has the best chance of reducing crime, improving life chances and making good use of public resources. Timely, appropriate and effective interventions are necessary to address offending and harmful behaviour and ensure communities and children stay safe from crime.

In Scotland, we have a proud record of taking a holistic approach to the needs of our children. For those involved in offending behaviour we remain committed to tackling the causes and impact of offending behaviour together with addressing wider needs. As far as possible children should be kept out of formal measures, whether that be through the Children's Hearings System or the Criminal Justice System, with proven alternative interventions utilised to address the behaviour and its causes. Interventions must be timely, proportionate and credible to ensure victims and communities have confidence that unacceptable and harmful behaviour is being challenged.

The youth justice strategy 'Preventing Offending Getting it Right for Children and Young People', the Whole System Approach (WSA) and Getting it Right for Every Child (GIRFEC) provide the overarching policy frameworks for youth justice practice in Scotland. GIRFEC provides a consistent way for people to work with children and their families. It supports families by making sure children receive the right help, at the right time, from the right people. The aim is to help children grow up feeling loved, safe and respected so that they can realise their full potential.

The first national standards for Scotland's Youth Justice Services were published in 2002. In 2007 Audit Scotland published a performance update report which recommended that the Scottish Executive (now Scottish Government) should develop measures that capture performance and outcomes across the youth justice system. In 2012 the national standards for Youth Justice Services were updated and formed the basis of the [Guide to Youth Justice in Scotland](#), published and up-dated annually by the [Centre for Youth and Criminal Justice](#) (CYCJ).

In 2018 the [National Youth Justice Advisory Group](#) (NYJAG) highlighted the need for updated standards which provide a framework for the audit of services which support children involved in offending behaviour. It was identified that the standards should include core principles and data sets which support local and national data collection to help monitor progress, service improvement and evidence improved outcomes for children.

The United Nations Convention on the Rights of the Child (UNCRC) defines a child as any person below the age of 18 years, therefore the term child/children has been used for the purposes of these standards. It is acknowledged that whilst the UNCRC and Scottish Government policy recognises all under 18's as children, they are subject to different procedures and are afforded different supports depending on their age and legal status and the seriousness of the offence they are suspected of committing. These standards cover practice for all children under the age of 18, but

as practice in Scotland develops it may be appropriate for these standards to consider an older age range.

The Youth Justice Quality Standards outlined in this document are aimed to complement the [Health and Social Care Standards](#) which came into effect on 1 April 2018. The Health and Social Care Standards are underpinned by five principles: dignity and respect, compassion, be included, responsive care and support, and wellbeing. They are for everyone, irrespective of age or ability. As well as informing the Care Inspectorate's new inspection and scrutiny frameworks, the Health and Social Care Standards are being used to continually improve the quality of services across health, social care, early learning, childcare, children's services, social work and community justice. The Secure Care Standards will also align with the Health and Social Care Standards.

National Performance Framework

Scotland's National Performance Framework aims to create a more successful country, give opportunities to all people living in Scotland, increase wellbeing, create sustainable and inclusive growth, reduce inequalities and give equal importance to economic, environmental and social progress. This is underpinned by core values - to treat all our people with kindness, dignity and compassion, respect the rule of the law and act in an open and transparent way. The framework sets out national outcomes with progress being measured against 81 national indicators. The outcomes which are specifically relevant to youth justice are:

- We grow up loved, safe and respected so that we realise our full potential
- We live in communities that are inclusive, empowered, resilient and safe
- We are well educated, skilled and able to contribute to society
- We are healthy and active
- We respect, protect and fulfil human rights and live free from discrimination

The standards outlined in this document are aimed to complement the National Performance Framework.

Core Principles

Scotland's unique approach to youth justice builds on Lord Kilbrandon's report (1964) by responding to deeds in the context of needs. The view of Lord Kilbrandon, which led to the creation of the Children's Hearings System, was that it was not useful to categorise children based on their offending alone, but to look behind the presenting problems to find the underlying causes in the life of the individual child. He concluded that children who offend and children in need of care and protection all shared a common experience – a failure in upbringing.

We want to make Scotland the best place in the world for a child to grow up. Recognising, respecting and promoting the rights of children is essential to achieving this. The UNCRC sets out the fundamental rights of children. Article 12 clearly outlines that children who are capable of forming their own views have the right to

express their views freely in all matters affecting them. It follows that children must be supported to be heard at all stages within the youth and criminal justice system.

Work with children involved in offending behaviour must consider their overall wellbeing and be underpinned by GIRFEC principles. Approaches with children who present with offending behaviour may need to be in partnership with child protection. Many children who display offending behaviours are also highly vulnerable and may have experienced crime and trauma in their own lives. An assessment of their vulnerability as well as the risk of harm they may present to others needs to be taken into account. Work with children who display harmful behaviour needs to consider and prioritise their protection as well as tackling behaviours that can have an impact on others. Whilst this can be complex and challenging, it is critical in terms of the wellbeing of the child, the people they have (or may potentially have) harmed and the confidence the community has in relation to the support, welfare and protection of children.

All children should be included, engaged and involved in education. Exclusion should only be used as a last resort. There is an expectation that education authorities and schools use the [Included, Engaged and Involved](#) guidance when developing policies and procedures on exclusion.

Promoting children's positive mental health and wellbeing is crucial to supporting them to realise their potential. Children and their families must be supported to enable them to have good mental health and wellbeing and have access to help which is local, responsive and evidence based.

Research relating to brain development highlights that it is not until the mid-20s, and possibly later, that the brain is fully developed. Given this, it is crucial that children are supported to understand and retain important information. As stated above children's voices must be heard in relation to matters that affect them and they must be supported to be heard at all stages within the youth and criminal justice system. Supporting children with speech, language and communication needs at an early stage is essential to ensure that they are treated fairly, are clear what is expected of them and that they are included in decision making.

The Children and Young People (Scotland) Act 2014 ("the 2014 Act") outlines the duties for corporate parents across Scotland. These duties aim to ensure that collectively we focus on the task of safeguarding and promoting wellbeing, to ensure children do not face additional barriers because of care experiences. Organisations who are listed as "corporate parents" for the purposes of Part 9 of the 2014, and their practitioners who support children who engage in offending behaviour, must be clear on their corporate parenting responsibilities.

We are committed to a safer, stronger Scotland by supporting everyone's right to feel safe in their home and community. Victims, including children and adults, must have access to information, supports and opportunities to access restorative justice.

Standards

These standards outline the minimum expectations for all strategic and operational services delivering youth justice in the community, secure care and young offender's institutions (YOI). The standards will influence how services are designed and delivered and will focus on the functions of youth justice rather than processes, thus offering the opportunity for flexibility to meet local needs. These standards are recognised by the Scottish Government, National Youth Justice Advisory Group (NYJAG), Youth Justice Improvement Board (YJIB) and Justice Board and they are to be followed by those to whom they relate.

Integration and sustainability of the WSA to offending behaviour is part of the strategic planning landscape including Community Planning, Children's Service Planning and Community Justice. Local and national partners have a key role to play and will be supported by the Youth Justice Improvement Board (YJIB).

Standard 1 - Prevention and Early Intervention

Standard 2 - Children's Hearing System

Standard 3 - Alternatives to Prosecutorial Action

Standard 4 - Court

Standard 5 - Secure Care and Young Offenders Institution (YOI)

Standard 6 - Risk Assessment and Care and Risk Management

Standard 7 - Transitions

Standard 8 - Improving Outcomes

Standard 1 Prevention and Early Intervention is available to every child in Scotland who is involved in or at risk of offending.

Early and Effective Intervention (EEI) aims to respond to children who come to the attention of the Police for offending, concerning or harmful behaviour. The overall aim is to improve the outcomes of children by ensuring proportionate responses and ensuring the right response is provided for a child, at the right time. EEI is underpinned by the principles of GIRFEC and UNCRC. EEI provides options to deal with and support children who engage in low level offending, concerning or harmful behaviours. Interventions must be timely and proportionate whilst ensuring communities see unacceptable behaviour is being challenged. Children should not have increased contact with the police as a result of being cared for within a residential placement. The EEI Framework of Core Elements sets out best practice for the effective delivery of EEI, providing a shared language and where possible a commonality of processes.

1.1	Local multi-agency partnership arrangements are in place to support lawful and proportionate information sharing, planning, decision making and review mechanisms to reduce risk and meet needs.
1.2	Children must have access to supports on a voluntary basis and not require a referral to a formal system to receive the support they need. Initial denial of the crime or behaviour should not prevent the child being considered for EEI. A child who is not already subject to a compulsory supervision order in the Children's Hearings System should only be

	referred to the Children's Reporter if it is considered that they may require compulsory measures.
1.3	Support and interventions with children who are referred to the Children's Reporter are offered at the earliest opportunity and not delayed awaiting the outcome of a referral. Supports must be holistic and consider the whole family.
1.4	Prevention and early intervention supports are underpinned by UNCRC, GIRFEC, Child Protection and/or Care and Risk Management (CaRM) processes with agreed pathways for escalation where required.
1.5	Where appropriate, victims are informed of the outcome of early and effective intervention processes.
1.6	Systems are in place locally to identify outcomes for individual children to support the measurement of effectiveness of supports and interventions.
1.7	Systems are in place to collate data at a local and national level on the number of children charged with an offence, those dealt with via voluntary measures and those referred to the children's reporter and/or the Crown Office and Procurator Fiscal Services. This will provide a clear overview of the scale of offending by children and support effective targeting of resources.

Standard 2 Children referred to the Children's Reporter receive support at the earliest opportunity and those who are subject to a Compulsory Supervision Order (CSO) have a child's plan in place which is reviewed at regular intervals and supported by appropriate risk assessment tools.

2.1	Guidance on referral to the Reporter – Information for Partners must be followed when referring a child, taking into consideration all of the wellbeing indicators.
2.2	When a child continues to be in need of care and protection a CSO should not be terminated due to their non-engagement alone, or due to there being an outstanding matter or order via the Criminal Justice System in place (or pending).
2.3	All children in the Children's Hearings System, as a result of offending behaviour, have their needs and risks assessed using the GIRFEC national practice model and appropriate structured professional judgment risk assessment tools for high risk behaviours utilising the evidence base in the Risk Management Authority (RMA) Risk Assessment Tools Evaluation Directory (RATED).
2.4	High risk behaviour is assessed, managed and reviewed following the Framework for Risk Assessment Management and Evaluation (FRAME) for local authorities and partners – for children and young people under 18, which includes guidance on the CaRM process.
2.5	It is important that only cases that fall within the Lord Advocate's Guidelines are jointly reported, to prevent children who should be dealt with in the Children's Hearings System entering the criminal justice system. Guidance on Decision Making in Cases of Children Jointly Reported to the Procurator Fiscal and Children's Reporter must be considered. The presumption for all children who are jointly reported is that they will be dealt with by the Children's Reporter.

Standard 3 Where appropriate, children should be dealt with out with formal systems. Where that is not possible consideration must be given to the use of alternatives to prosecutorial action, which includes diversion.

3.1	Reports submitted by Police Scotland to the Crown Office and Procurator Fiscal Service (COPFS) must include all relevant information available to support the Procurator Fiscal to mark the case and make a decision.
3.2	Decisions made regarding children referred to COPFS should be made timeously. Any delay in criminal proceedings involving child accused should be minimised and cases dealt with as efficiently and effectively as possible.
3.3	Local services must be available to ensure person centred approaches so that, where referral to the Children's Reporter is not an option, children can be effectively diverted from prosecutorial action.
3.4	COPFS must advise children on the final outcome of the case.
3.5	National guidance on diversion must be followed.

Standard 4 All children must have access to supports when going through the Court process. To support the delivery of child centred justice all cases for a child accused should be accelerated through the court process.

4.1	Effective partnership working arrangements are in place between Scottish Courts, Crown Office and Procurator Fiscal Service, Children's Reporter, Police Scotland, third sector and local authorities to enable timely information sharing to ensure children involved in the court process are supported at the earliest opportunity.
4.2	Where a child is at risk of entering custody (either by virtue of being remanded or sentenced) their case should be heard as early as possible in the court day to support their transition into custody.
4.3	Criminal Justice Social Work Reports (CJSWR) prepared for children must follow the National Outcomes and Standards practice guidance whilst also considering each of the wellbeing indicators. Reports must be supported by relevant risk assessment tools. Reports must comment on the option of advice/remittal to a children's hearing, restriction of liberty orders and of the responsibility of Scottish Ministers if sentenced via section 205 or 208 of the Criminal Procedure (Scotland) Act 1995.
4.4	The support provided to all under 18's in the court process should provide a holistic individualised response. This includes practical supports to address identified needs, process and procedural guidance, links with justice system professionals and support until completion of the court process. Once concluded additional support should be available for the child in relation to any court disposal.
4.5	Children made subject to Court orders must be supported to understand any specific requirements and the potential consequences of not complying with these. National practice guidance on Community Payback Orders should be followed.
4.6	All Scottish Courts must have in place arrangements for children appearing from custody to minimise the use of cells, handcuffs or facilities where adult accused are being held. Courts must have access to

	information about the child including wellbeing needs, risks and vulnerabilities to assist with decision making.
4.7	Children held in secure care, YOI or appearing from police custody must be transported to and from Court using transport which is appropriate for children, minimises delays and does not put them in contact with adult prisoners or accused. The Scottish Government are responsible for transporting children sentenced via section 205 or 208 of the Criminal Procedure (Scotland) Act 1995.

Standard 5 The arrest, detention or imprisonment of a child shall be in conformity with the law and used only as a measure of last resort and for the shortest appropriate period of time (UNCRC), this includes Secure Care and Young Offenders Institutions (YOI).

5.1	The Secure Care Pathway and Standards must be adhered to.
5.2	Community alternatives must be explored and the potential suitability for this shared with key decision makers. Where these options are not pursued, the reasons should be clearly recorded.
5.3	Before a Children's Hearing makes a child subject to a Movement Restriction Condition (MRC), the hearing members should satisfied themselves that the child meets the statutory criteria for secure care and that all other community alternatives have been considered / exhausted.
5.4	Wherever practicable, appropriate and permitted by the terms of the sentencing warrant, children under 18 who are subject to a Compulsory Supervision Order (CSO) who require to be deprived of their liberty by the criminal court are to be cared for within the secure estate. Placement in a YOI is a last resort and should only be used by the court when all other alternatives are unavailable.
5.5	All children who enter secure care or custody via court will be supported at the earliest opportunity to start planning for their transition back to the community. All relevant information must be sent to the secure care provider or YOI the day the child enters. The first stage in this will be an initial custody review or a review via the Looked After Children (Scotland) Regulations 2009 .
5.6	Guidance and legislative requirements on contact with children throughout their stay in secure care or custody must be followed.
5.7	Children must have access to supports when transitioning back to the community. This includes support with accommodation, finances, education, training and employment, health and substance use and family support and should be detailed in a Transition Plan.

Standard 6 Risk assessment is a crucial step in Care and Risk Management (CaRM) to identify which children require services, the type and intensity of service provision required and in guiding appropriate care planning. Undertaking different depths of assessment in response to different levels of risk presented by children is essential.

6.1	The selection of appropriate risk instruments, which support a professional judgement approach, is the responsibility of the practitioner and the agency. The assessment tool must be appropriate for the age and
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	developmental level of the child and guided by the evidence base outlined by the Risk Management Authority (RMA) in the Risk Assessment Tools Evaluation Directory (RATED). Tools designed to be used with adults must not be used with children.
6.2	The Framework for Risk Assessment Management and Evaluation (FRAME) for children and young people under 18 must underpin practice when assessing, managing, reducing and evaluating the risks presented by offending and/or harmful behaviour.
6.3	Local partnerships must have clear protocols in place to ensure Care and Risk Management (CaRM) processes are followed when children display harmful sexual behaviour and/or behaviour involving violence or where a pattern of significant escalation of lesser behaviours suggests that an incident of a serious nature may be imminent (irrespective of the legal status of the incident).
6.4	Systems are in place to collate data at a local and national level on all children supported through CaRM based protocols. This must include referrals, nature of concerning behaviour, legal status and age, decision making as to whether CaRM meeting is necessary, review meetings and number exiting the CaRM process and reasons for this. This will provide a clear overview of the effectiveness of processes to reduce the risk of harm and will support effective targeting of resources.

Standard 7 Transitions can be stressful and challenging. It is essential that children are supported with their transition between placements, support services and systems to help them prepare and understand the transition.

7.1	Local partnerships have arrangements in place to support partnership working to ensure delivery of smooth and gradual transitions which are person centred, planned and appropriately paced, and consider needs and risks.
7.2	Local systems are in place to ensure continuity of assessment, planning and intervention for children transitioning.
7.3	Children transitioning to adult services must have an identified professional contact to take over from the lead professional.
7.4	All relevant information, including risk assessments, formulations and risk reduction plans must be shared as part of the transition planning.

Standard 8 To support improving outcomes it is expected that the quality of service provision for children involved in or at risk of offending will be measured using the standards outlined in this document.

8.1	Scottish Government will analyse and publish data from a range of sources including SCRA, Scottish Courts, Police Scotland, Crown Office and Procurator Fiscal Service and Local Authority, annually to support local and national evaluation of youth justice.
8.2	Local partnerships have arrangements in place to ensure support for victims of crime regardless of the age of the person responsible, this may include Restorative Justice.
8.3	Local partnerships have mechanisms in place to measure the impact of supports to children involved in or at risk of offending.

Responding to this Consultation

We are inviting responses to this consultation by 23rd January 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/children-and-families/youth-justice-standards>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 23rd January 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Youth Justice Team
Scottish Government
2A South
Victoria Quay
Edinburgh, EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at YouthJusticeStandards@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Youth Justice Standards: Consultation

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- ☐ Individual
- ☐ Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☐ Publish response with name
- ☐ Publish response only (without name)
- ☐ Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

☐ Yes

☐ No



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COUNCIL EXECUTIVE

TRANSFORMING YOUR COUNCIL EFFICIENCIES IN THE PROVISION OF LOOKED AFTER CHILDREN TRANSPORT (S1i)

REPORT BY: HEAD OF SOCIAL POLICY

A. Purpose of report

The purpose of this report is to provide the Council Executive with an update on the progress of the measures associated with the Transforming Your Council (TYC) efficiencies in the provision of Looked After Children (LAC) Transport (S1i).

B. Recommendation

It is recommended that the Council Executive;

1. Notes that the Council at its budget setting meeting on 13 February 2018 agreed to the measure (s1i) efficiencies in the provision of concessionary looked after children transport with a saving of £61,000 to be delivered in 2020/21.
2. Notes that the Council directed officers to present proposals for the measure to the Social Policy PDSP and Council Executive.
3. Approves the option proposed in the paper.

C. Summary of implications

I	Council Values	Focusing on customers’ needs, being honest, open and accountable, making best use of resources, working in partnership.						
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Children (Scotland) Act 1995 and associated regulatory Guidance. Children and Young People (Scotland) Act 2014. An Equality Relevance Assessment was completed as part of the budget setting process in 2018 with the outcome that no Integrated Impact Assessment was required.						
III	Implications for Scheme of Delegations to Officers	No implications.						
IV	Impact on performance and performance indicators	No implications.						
V	Relevance to Single Outcome Agreement	Local outcome – our children have the best start in life and ready to succeed.						
VI	Resources – (Financial, Staffing and Property)	Total expenditure 2018/19 was £446,040 Approved TYC measure (S1i) <table><tr><td>Year</td><td>£</td><td>FTE</td></tr><tr><td>2020/21</td><td>£61,000</td><td>0.0</td></tr></table>	Year	£	FTE	2020/21	£61,000	0.0
Year	£	FTE						
2020/21	£61,000	0.0						

VII Consideration at PDSP

Feedback as part of the Transforming Your Council (TYC) consultation was discussed at the Health and Care PDSP on 18 December 2017 and the Social Policy PDSP on 21 December 2017.

Report to Social Policy PDSP 24/01/2020.

VIII Other Consultations

N/A

D. TERMS OF REPORT

D1 Introduction

The council at their meeting of 13 February 2018 agreed the revenue budget strategy for the five years 2018/19 to 2022/23 which included efficiencies in the provision of Looked After Children Transport. Officers were directed to present a proposal detailing how this would be achieved to the Social Policy PDSP and Council Executive.

The purpose of this report is to explain how Social Policy plans to deliver the aforementioned efficiencies.

D2 Legislative Requirement

There has been a long standing approach within Social Policy to ensure that children who are looked after away from their home community should not be disadvantaged educationally by having to transfer temporarily to another school more local to their care placement.

To this end, transport for children in care placements is provided to facilitate continuity of education. This is consistent with Council policy of providing support to children in care placements which enhances their educational experience and with the responsibilities of local authorities within the provisions of Section 17 of the Children (Scotland) Act 1995.

The options outlined in the report retain the commitment to ensuring children and young people maintain their attendance at their home school when they are looked after in a temporary care placement.

D3 Review of Looked After Children Transport

Extensive work has been undertaken to explore the approach used to deliver Looked After Children School Transport within Social Policy.

This identified that staff across the three social work centres at Livingston, Strathbrock and Bathgate were working independently and reacting to individual requests for transport with no strategic overview or review of current contracts and journeys. This led to an inefficient and inconsistent approach to purchasing/contracting taxi provision.

This approach has resulted in transport requests being managed as individual contracts and additional pressure being placed on the budget.

During the analysis of existing journeys an exercise was completed to compare starting address, school location and for the viability of using one taxi for multiple children going to the same school. This analysis was undertaken by analysing the care placement address and reviewing the distance and time the journey would take to reach the school being attended.

This desktop exercise has identified that by combining certain routes and reducing the number of individual contracts the agreed savings can be fully achieved. There are currently 59 Looked After Children in West Lothian being provided by taxi transport to school.

Further analysis of individual client requirements will be factored in. This would include reviewing to see if an escort was required, was there a specific diagnosis that required the child to be transported on their own and so on.

D4 Efficiencies in the provision of Looked After Children Transport (S1i)

The savings will be achieved through improved, smarter and more efficient processes to ensure that existing routes and journeys are maximised with clear checks and processes when new requests for Looked After Children transport are requested.

This approach will transform the way transport is dealt with by Children's Services ensuring parity across the authority and ensure commissioned services achieve best value.

Social Policy in conjunction with Operational Services reviewed existing journeys and commissioned taxi services for Looked After Children school transport. Relationships between looked after children and existing taxi providers have been considered in this proposal in line with the current Transport framework. The Individual needs and circumstances of children will also be considered in the future transport arrangements and for some children shared transport will be appropriate and for others individual transport arrangements will continue. This information was used to develop the option below. This new way of working will deliver the saving, improve the service efficiency, cost effectiveness and ensure the service can continue to meet its legislative responsibilities.

The change to service delivery/commissioning is detailed below:

- The operational responsibility for organising/commissioning school transport for Looked after Children will transfer from Social Policy to Operational Services Transport team. Taxi firms on the existing transport framework will continue to be utilised.
- This model will utilise existing approved frameworks within Operational Services to deliver the service but the budget would continue to be managed, monitored and owned by Social Policy.
- It is not anticipated that this would be a significant increase in work for either service given the small number of contracts arranged/renewed on an annual basis.
- There will be a requirement to provide resource to establish and setup the contracts initially. Once in place there will be an additional exercise required to assess how much resource would be required on an ongoing basis.
- This ensure both Social Policy and Operational Services can manage and deliver an efficient and cost effective transport to school service for Looked After Children.

D.5 BENEFITS TO SERVICE DELIVERY

The improvements will ensure a standardised approach is adopted for all school transport requests across the Local Authority for looked after children.

There will be a single centralised process to deal with all school transport requests.

New transport requests will not be looked at in isolation. Existing routes and commissioned services will be reviewed to see if the new request can be accommodated within an existing contracted taxi.

These changes will ensure that the service delivered continues to be;

- Sustainable,
- Well Managed, and
- Reactive to Change.
- Concessionary transport spend will continue to offer best value in line with aggregate procurement rules.

E.1 CONCLUSION

This paper outlines a model that will deliver a more efficient and effective Looked After Children transport model.

This option will ensure both Social Policy and Operational Services can manage and deliver an efficient and cost effective transport to school service for Looked After Children.

This option will make use of existing frameworks and ensure a consistent standardised approach is used for all school transport.

F.1 Background References

Revenue budget 2018/19 to 2022/23 – Report by Head of Finance and Property Services to West Lothian Council on 13 February 2018

Revenue budget 2019/20 to 2022/23 – Report by Head of Finance and Property Services to West Lothian Council on 19 February 2019

Contact Person: Susan McKenzie, Senior Manager

Tel: 01506 281347

Email: Susan.McKenzie@westlothian.gov.uk

Jo MacPherson, Head of Social Policy

Date of Meeting: 05/02/2020

COUNCIL EXECUTIVE

PLANNING GUIDANCE: CONTROLLING OBTRUSIVE LIGHTING (LIGHT POLLUTION) AND REDUCING LIGHTING ENERGY CONSUMPTION

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT AND REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise Council Executive of the outcome of a consultation on draft Planning Guidance (PG) on controlling obtrusive lighting (light pollution), reducing lighting energy consumption and to seek approval of the guidance.

B. RECOMMENDATION

It is recommended that Council Executive:

1. notes the comments received on the draft guidance following consultation;
2. approves the responses to the comments received during consultation on the draft Planning Guidance; (Appendix 1);
3. approves the content of the Planning Guidance 'Controlling Obtrusive Lighting (Light Pollution) and Reducing Lighting Energy Consumption' (Appendix 2); and
4. delegates to the Head of Planning, Economic Development and Regeneration to agree and conclude a "screening determination" as to whether a SEA is required, having taken into account the views offered by the Consultation Authorities.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	New statutory Supplementary Guidance (SG) and non-statutory Planning Guidance (PG) will replace Supplementary Planning Guidance (SPG) which had previously supported the superseded West Lothian Local Plan. Going forward, new SG and PG are intended to support the Local Development Plan and the development management process.

It should however be noted that the Scottish Parliament passed the Planning (Scotland)

Bill on 20 June 2019 with one of the consequences being the repeal of Section 22 of the Town and Country Planning (Scotland) Act 1997 which enables a local planning authority to adopt and issue supplementary guidance (SG) in connection with a local development plan.

The guidance supports policies DES 1 and NRG 1 of the adopted LDP. The first seeks to ensure that new development should have no adverse impact on landscape character, built heritage, habitats or protected species and the latter promotes sustainable design and development.

It has previously been determined that the new guidance is in itself unlikely to have significant environmental effects and it is not anticipated that there will be a requirement to make it the subject of separate Strategic Environmental Assessment (SEA). The required 'screening' procedures will however be undertaken.

There are no equality, health or risk assessment issues associated with the guidance and there are no risk assessment issues.

III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None
V	Relevance to Single Outcome Agreement	<p>Outcome 3 - Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.</p> <p>Outcome 4 - We live in resilient, cohesive and safe communities.</p> <p>Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>
VI	Resources - (Financial, Staffing and Property)	This guidance has no direct financial implications for the council.
VII	Consultations at PDSP	This guidance was reported to the Development and Transport PDSP on 5 November 2019.
VIII	Other consultations	This guidance has been the subject of informal consultation with Environmental Health and Roads and Transportation.

D. TERMS OF REPORT

D1 Background

The West Lothian Local Development Plan (LDP) was adopted on 4 September 2018 and embraces a development strategy that supports sustainable planned growth up to 2024 and beyond.

An extensive suite of 'Supplementary Planning Guidance' (SPG) had supported the West Lothian Local Plan (WLLP) but when that plan was replaced in September 2018 by the LDP this guidance ceased to have formal status. The consequence is that the ongoing materiality of SPGs is diminished, particularly in relation to the determination of planning applications and when relied upon to support the council's position at planning appeals.

The council intimated it's intention (in Appendix 4 of the LDP) that it would bring forward new statutory Supplementary Guidance and non-statutory Planning Guidance to replace SPGs and to support the policies of the LDP which would at the same time be compliant with Planning Circular 6/2013: *Development Planning*, current national planning policies and the policies of the Strategic Development Plan (SDP 1).

Supplementary Guidance and Planning Guidance expand upon existing policies and proposals and are used to support the content of the LDP. This allows the LDP to focus on the overall spatial strategy and the key policies and proposals. Together, Supplementary Guidance and Planning Guidance provide additional detail on specific subject areas within development plans and in many instances explain how planning policies will be implemented.

D2 Planning Guidance – Controlling Obtrusive Lighting (light pollution) and Reducing Lighting Energy Consumption

In 2009 the council produced and adopted an SPG in support of the West Lothian Local Plan entitled 'Controlling Light Pollution and Reducing Lighting Energy Consumption'. It has since been reviewed and, having appraised its relevance and effectiveness, it has been concluded that no fundamental or significant changes are required to the document. Indeed, had it not been for the fact that the West Lothian Local Plan has been replaced by the LDP, the guidance would otherwise still be very much considered "fit for purpose".

Under these circumstances a 'refresh and re-badging' is essentially all that has been required with the opportunity being taken to update and replace references to new LDP policies (DES 1 and NRG 1), superseded legislation and websites and to correct any previous errors and omissions.

The new guidance is intended to help protect the physical and natural environment by encouraging developers, architects, and lighting designers to provide non-obtrusive and energy efficient lighting designs when preparing proposals for any development which incorporates an element of artificial outdoor lighting, irrespective of whether such works fall within the category of 'permitted development' (PD) or require planning permission in their own right.

For the most part PD rights extend to domestic properties and allow for minor light fittings on buildings whereas external lighting associated with commercial and industrial properties (including illuminated advertisements) are generally within the scope of

planning control/advertisement consent. The consolidated guidance (as proposed for approval) is attached as Appendix 2.

D3 Consultation responses

The draft guidance was the subject of public consultation over a 6 week period and has generated 3 responses (from Scottish Natural Heritage (SNH), a member of the public residing near Kirknewton and from Kirknewton Community Council). These are summarised and presented with the council's proposed responses as Appendix 1.

If approved for adoption by Council Executive, the guidance requires to be the subject of a 'screening determination' in order to test the council's assertion that it should be exempted from a separate SEA (strategic environmental assessment). It is proposed that this is delegated to the Head of Planning, Economic Development & Regeneration, to agree and conclude and after having taken into account of the views offered by the Consultation Authorities (SEPA, Scottish Natural Heritage and Historic Environment Scotland). If a SEA is required the details of the SEA will be reported to Council Executive.

E. CONCLUSION

The council has had guidance on the subject of light pollution and energy consumption in place since 2009. This has now been refreshed and repackaged and is consistent with current Scottish Government policy and policies of the SDP and the LDP. It is proposed that it should be adopted as non-statutory Planning Guidance in support of the West Lothian Local Development Plan and, unlike Statutory Guidance, does not require to be submitted to Scottish Ministers for scrutiny before adoption.

F. BACKGROUND REFERENCES

- SPG 'Controlling Light Pollution and Reducing Energy Consumption (2009)
- Adopted West Lothian Local Development Plan (2018)

Appendices/Attachments: Two

Appendix 1: Summary of Consultation Comments and Proposed Response

Appendix 2: Planning Guidance Controlling Obtrusive Lighting (Light Pollution) and Reducing Energy Consumption (2019)

Contact Person: Steve Lovell, Principal Planning Officer, Development Planning, 01506 282430,
Email: steve.lovell@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development & Regeneration

4 February 2020

APPENDIX 1**(PG) CONTROLLING OBTRUSIVE LIGHTING (LIGHT POLLUTION) & REDUCING LIGHTING ENERGY CONSUMPTION
SUMMARY OF CONSULTATION REPRESENTATIONS WITH COUNCIL'S RESPONSES**

RESPONDENT	SUMMARY OF COMMENTS RECEIVED	COUNCIL RESPONSE
Scottish Natural Heritage (SNH) <i>Vivienne Gray</i>	<p>SNH welcomes the recognition the guidance affords to the impact of obtrusive lighting on ecology and wildlife and the wider night-time landscape impacts of resulting effects such as sky glow. No amendment or revisions to the guidance are sought.</p>	<p><i>Comments noted.</i></p>
Mr John Thomas <i>(Resident)</i>	<p>The respondent is a West Lothian resident who became aware of the consultation after having seen it listed on the Planning Services 'Open Consultations' page of the council web site.</p> <p>Mr Thomas considers the consultation positive and regards the issue of artificial lighting to be a pollutant. He is particularly concerned at the adverse consequences of external lighting as it affects astronomy and while recognising that the guidance does identify the issue of 'dark skies' he suggests that this could perhaps be given greater emphasis.</p>	<p><i>The specific effect pollution of this nature has on the ability to view the stars has been explicitly referenced in the guidance and the Commission for Dark Skies has been hyperlinked in order to enable anyone with a particular interest in this subject area to find out more. It's also the case that the Commission for Dark Skies was extended an invitation to comment on this guidance. In the event however no response has been received.</i></p> <p><i>Pollution of the night sky as a consequence of artificial lighting is one of the key drivers for having prepared guidance of this nature and it is concluded that this issue is sufficiently well explained and the guidance does not therefore require additional elaboration or amendment.</i></p>

<p>Kirknewton Community Council <i>Vic Garrad</i></p>	<p>The guidance is generally commended by the community council and it is recognised as making a contribution to the council's climate change strategy.</p> <p>Attention has however also been drawn to a response received by the community council when it conducted its own consultation exercise and which queries how lighting installations that contravene the guidelines will be dealt with, illustrated with reference to an instance in Kirknewton which has created a nuisance for local residents.</p>	<p><i>Comments noted.</i></p> <p><i>In situations where works have been implemented without the necessary planning approval i.e. are 'unauthorised', the council has recourse to its powers of enforcement and is committed to investigate and seek to resolve any breaches of planning control that may have occurred.</i></p> <p><i>In the particular case of the Kirknewton example cited the council has actively engaged with the party responsible for the unauthorised installation and a remedy has been agreed. It is however noted that it has not yet been implemented and enforcement colleagues have been alerted and asked to progress matters.</i></p> <p><i>Where installations are of a nature that do not require planning permission the primary regulatory controls of Statutory Nuisances come within Part III of the Environmental Protection Act 1990, as introduced by the Public Health etc. (Scotland) Act 2008 which are administered primarily by the council's Environmental Health service.</i></p>
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CONTROLLING OBTRUSIVE LIGHTING (*Light Pollution*) AND REDUCING LIGHTING ENERGY CONSUMPTION

Consultation Draft - November 2019

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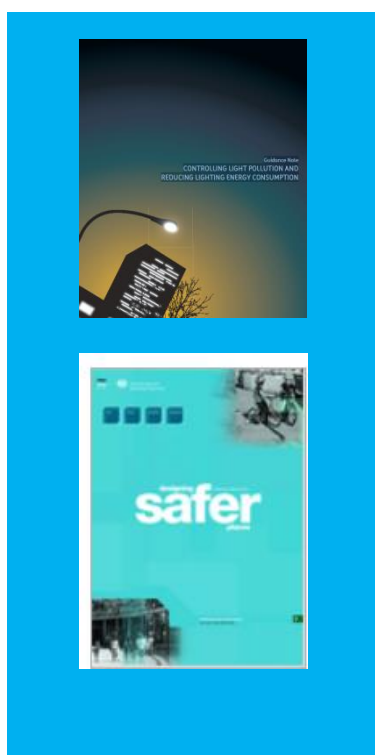
- 1.1 This non-statutory Planning Guidance (PG) is one of a series which supplements and supports the policies and proposals of the West Lothian Local Development Plan 2018 (LDP).
- 1.2 The LDP was adopted by the council on 4 September 2018 and is framed within the context of [Scottish Planning Policy \(2014\)](#); [Circular 3/2012: Planning Obligations and Good Neighbour Agreements](#); and [Circular 4/1998: The Use of Planning Conditions in Planning Permissions](#).
- 1.3 This particular guidance addresses two important environmental factors, nuisance light and energy usage with the main purposes being:
 - To help prospective developers better appreciate and understand the impacts of their external lighting proposals at the design stage and prevent it from being a nuisance;
 - To protect the physical and natural environment by encouraging developers, architects, and lighting designers to provide non-obtrusive and energy efficient lighting designs when preparing proposals for any development which incorporates an element of artificial outdoors lighting;
 - To provide detailed guidance about the manner in which the council will deal with those planning applications in which the developments proposed require exterior lighting which may have a harmful effect on the night-time character and ecology of the site and its surroundings; and
 - To provide guidance to assist officers and members in determining planning applications which include elements of exterior lighting.
- 1.4 This guidance relates to all exterior lighting situations regardless of the location of the lighting project or whether it is a stand alone project or part of an overall development. Potential developments and lighting situations include, but are not limited to:

<ul style="list-style-type: none">▪ Industrial/commercial developments▪ Retail developments▪ Housing developments▪ Transport interchanges▪ Roads and footpaths (either stand alone or as part of an overall development)	<ul style="list-style-type: none">▪ Exterior sports grounds and arenas▪ Feature lighting for civic enhancement▪ Illuminated advertisements▪ Replacement of existing installations
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- 1.5 While this PG is not part of the adopted West Lothian Local Development Plan it has been the subject of both a formal council resolution and a consultation process. It can therefore be treated as a *material planning consideration* when the council, Scottish Ministers and Reporters determine planning applications and appeals.

- 1.6 The council aims to balance the need for any lighting proposal against the negative effect it may have on the environment due to obtrusive light. It will always seek to prevent statutory nuisances where lighting forms part of a proposal submitted for planning permission and may seek to regulate lighting as part of planning conditions and obligations where appropriate to do so.
- 1.7 Applicants are encouraged to refer to this guidance at the earliest opportunity and can also make use of the council's pre-application enquiry service in order to clarify the issues to be addressed and to identify the information that will be needed to support any application for planning permission, which can in turn help minimise delays later in the planning process. Details of this service can be accessed on the [council's website](#). *Please note however that this is a chargeable service.*
- 1.8 For the avoidance of doubt, all previous guidance (known as Supplementary Planning Guidance or 'SPG') and specifically relating to the control of light pollution and reducing lighting energy consumption is superseded by this PG from the date it is approved by the council.

- 2.1 Until relatively recently there were no specific legislative controls on light nuisance in Scotland, but the Scottish Government has added artificial light nuisance to the list of Statutory Nuisances under [Part III of the Environmental Protection Act 1990](#), as introduced by the [Public Health etc. \(Scotland\) Act 2008](#) and it has become the primary regulatory control of the nuisance element of obtrusive light in Scotland. Breaching an *Abatement Notice* is a criminal offence, enabling local authorities (principally through its environmental health function) to initiate proceedings against offenders and, where appropriate, to carry out works in default of the Notice.
- 2.2 It is against this background that this PG has been prepared and one of the key objectives has been to address the external lighting component of development proposals wherever practicable at the pre-planning application stage. This is widely recognised as being the ideal time to influence the design or installation of lighting schemes and can serve to pre-empt instances of light pollution or nuisance arising, potentially reducing the council's involvement in dispute resolution and enforcement at a later date.

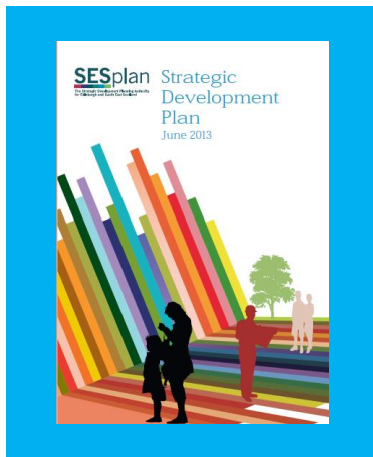
- 2.3 Planning Advice Note PAN 51: [Planning, Environmental Protection and Regulation](#) (last revised in 2006) supports the existing policy on the role of the planning system in relation to the environmental protection regimes and makes it clear that it is the responsibility of planning authorities and environmental protection bodies to collaborate in the task of protecting the environment and to apply controls so that duplication is minimised and overlap is avoided whenever possible.



- 2.4 In 2007 the Scottish Government published a Planning Guidance Note [Controlling Light Pollution & Reducing Lighting Energy Consumption](#). This provides guidance on the factors that require to be considered and the actions to be undertaken to ensure that non obtrusive and energy efficient exterior lighting installations are provided and operated throughout Scotland.

- 2.5 Planning Advice Note PAN 77: [Designing Safer Places](#) provides advice on how planning can help to create attractive well-managed environments which help to discourage antisocial and criminal behaviour. It addresses the contribution that lighting makes to creating safer places and reducing crime but at the same time recognises that it is important to ensure that lighting does not dazzle or create pockets of darkness.

2.6 *Scottish Planning Policy SPP* (2014) requires that the planning system supports resource efficient development and helps prevent future resource depletion. It should help to reduce emissions and energy use in new buildings and from new infrastructure by enabling development at appropriate locations that contributes to, amongst other things, energy efficiency.



2.7 The *Strategic Development Plan for South East Scotland* (2013) provides for the development needs of Edinburgh and south east Scotland in accordance with the principle of sustainable development and Policy 1b identifies the need for energy efficient development.

2.8 Although the adopted *West Lothian Local Development Plan* (2018) does not include an explicit policy regarding external lighting, Policy DES 1 (Design Principles) requires that new development should have no adverse impact on landscape character, built heritage, habitats or protected species as a result of light, and at the same time Policy NRG 1 promotes sustainable design and development.



- 2.9 It is important to be aware that when not an integral component of a development proposal, planning permission may not be required for lighting installations in many commercial/industrial situations where they do not materially affect the external appearance of a building or structure.
- 2.10 The installation of external lighting on a domestic property is by and large *permitted development*, i.e., exempt from formal planning control, with the notable exception of properties where an Article 4 Direction Order is in force and restricts permitted development in terms of Class 1 of the *Town and Country Planning (General Permitted Development) (Scotland) Order 1992*. Where there is any doubt as to whether planning permission is required for the installation of a lighting scheme, it is important that advice is sought from the council's Development Management team.
- 2.11 In the case of listed buildings however, consent is almost always required for external lighting. Unsympathetic light fittings can detract from the appearance of the listed building, both at night-time and during the day. While sensitive lighting and the appropriate choice of luminaires can also benefit the historic environment, it is important that the principle of external lighting and the detailed design receives careful scrutiny. Once again, the council's Development Management team should be contacted for advice.

- 2.12 By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. The council as Planning Authority is empowered to attach conditions to planning permissions for new developments that include the design and operation of lighting systems (for example, requiring energy-efficient design) and prevent light pollution and a 'model condition' which embraces such requirements is set out in Annex D for information and as an example of what developers may expect.
- 2.13 Even where planning permission is not required for external lighting installations this does not dispense with the need for developers and individuals to approach the subject with thoughtfulness and sensitivity for the environment together with an overarching ambition to minimise energy consumption. Lighting and the power it uses is a significant contributor to the carbon emissions we create and lighting schemes which have been thoughtfully designed with regard to this guidance will not only prevent/minimise light pollution but could also reduce energy wastage, offering significant cost savings to businesses and individuals. The Scottish Government encourages reduction of energy use and promotes more energy efficient lighting to reduce overall carbon emissions.
- 2.14 Whilst this guidance is primarily aimed at providing guidance for developers and those submitting planning applications for new developments there are a number of small but significant steps that can be taken by residents and public bodies to reduce obtrusive lighting at existing properties including;
- *considering the installation of low-wattage bulbs but with sufficient light intensity which is measured in lumens;*
 - *considering the installation of motion detectors on external lighting;*
 - *considering shielding or down-tilting external lights and using asymmetrical or double asymmetrical lights; and*
 - *switching off lights when not needed and installing timer switches and dimmers*
- 2.15 These measures can be implemented as part of routine maintenance when repairing or replacing light fittings and bulbs and should therefore not be unduly costly. In due course they will reduce energy wastage, save money (payback) and lead to a reduction in the incidences of obtrusive light.
- 2.16 Building Standards guidance on the efficiency of fixed external lighting is given in the Non-domestic [Building Services Compliance Guide for Scotland](#). It applies to new systems and replacement, in whole or in part, of existing systems. It also addresses improvement [work](#) to existing systems as a consequence of replacing components.

three

Light pollution and saving energy

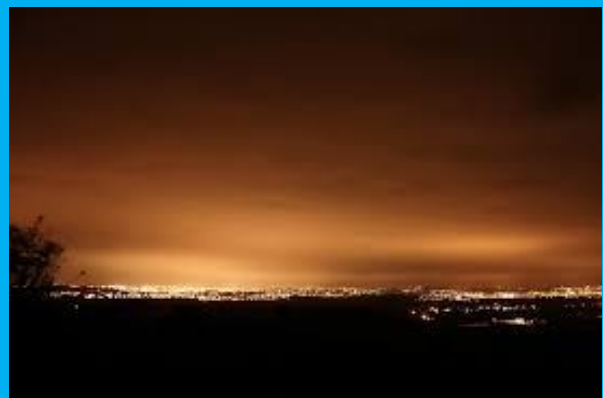
- 3.1 Artificial light is essential in our modern society and we all use it for many different things including lighting our streets and roads and helping to prevent road accidents, as a security measure to protect homes and businesses, to promote access to sport and recreation facilities outwith daylight hours, for enhancing and enlivening the night-time environment generally and for enhancing historic and architecturally important buildings. It has become an accepted and feature of day to day living and is clearly something that can be beneficial.
- 3.2 Obtrusive light (or light pollution) can however also have a profound negative impact, changing the character of a locality and significantly altering wildlife habitats and ecological patterns. On the widest scale, dark skies and unimpeded views of the stars are now becoming a thing of the past except in the most remote of rural areas.
- 3.3 Light is a type of radiation and forms part of the electromagnetic spectrum visible to the eye. It is measured in lumens (lm). A modern electric light takes in power in watts, and its efficiency can be measured in lumens per watt (lm/w). The amount of light falling on a surface is known as the illuminance and is measured in lumens per square metre or lux. This is straightforward to calculate and measure and is therefore widely used.
- 3.4 Light in itself is not a pollutant. It is only when it is obtrusive, finds its way into areas not intended to be lit and starts to have an adverse and unreasonable impact on peoples' environment and activities that it becomes problematic. If not properly designed, installed and controlled, external lighting can constitute an environmental, visual and health nuisance.

Types of light pollution

- 3.5 Light pollution is the term used to describe the unnecessary brightening of the night sky as a result of upwardly directed light which is then reflected off dust and water droplets in the sky and it is a legitimate material planning consideration. Light pollution is largely caused through a combination of poorly designed development schemes and inappropriate lighting equipment.
- 3.6 Light pollution can have many different characteristics with the most common being:

Sky glow

This is the visible pink or orange glow, mainly seen around urban areas, which occurs when stray or poorly directed light reflects off particles of water and dust in the atmosphere back toward the ground. The glow is not always localised and can be seen from many miles around, often spreading into dark rural areas and is one of the most difficult forms of light pollution to deal with. Lighting energy directed into the sky like this impedes astronomy and also wastes energy.



Glare

This is perhaps the most serious form of obtrusive light. It is the result of excessive contrast between bright and dark areas in the field of view and reduces visibility and can seriously impair human vision. It can however be avoided by the use of properly controlled and directed lighting of an appropriate brightness.



Light trespass

This is where light, direct or reflected, spills beyond the boundary of the intended illuminated subject area into neighbouring areas where it is not desired or required and becomes a nuisance. At the same time, it wastes energy and ultimately results in the unnecessary emissions of greenhouse gases.



- 3.7 While light pollution can be a problem in both urban and rural areas, residential amenity is most likely to be affected in an urban setting whilst sky glow may be the most significant consequence in a rural area and can lead to a suburban feel, losing the sense of distinctiveness associated with the countryside.
- 3.8 Lighting also need not be static to be obtrusive. The flickering of light, often used for advertising, can prove to be a distracting feature, and like glare, it can be a source of irritation and can in extreme situations be detrimental to the health of some individuals.

Common sources of light pollution

- 3.9 Problems associated with external lighting can arise from many different artificial light sources:
- inefficient street lighting which throws light upwards into the sky rather than downwards onto the road or pavement it is supposed to illuminate;
 - proliferation of road lighting, extending further out from towns and villages into the countryside;
 - all night (and sometimes daytime) floodlighting of buildings;
 - illuminated shop windows and advertising signs which are switched on overnight;
 - domestic security lighting which is inappropriately positioned and which intrudes on neighbouring properties and which can at the same time accentuate the darkness of surrounding areas;
 - temporary lighting associated with construction and engineering projects; and
 - floodlit sports facilities, such as golf driving ranges, or football pitches which bathe neighbouring land in unwelcome brightness.

Consequences of light pollution

3.10 The consequences of light pollution are extensive:

- in terms of sustainability, a significant amount of energy is wasted as a consequence of inappropriate lighting and it is therefore also a waste of money;
- the production of electricity using fossil fuels causes continued pollution of the atmosphere and is at odds with the Scottish Government's climate change policy of reducing the country's overall energy usage;
- when artificial lighting is used during the hours of darkness it is potentially damaging to human health in so far as it can infiltrate houses and disturb natural sleep patterns which in turn can lead to stress. Indirectly, glare can also contribute to road accidents;
- it can interfere with the way in which adjacent occupiers choose to use their property, diminishing their residential amenity;
- it is potentially disruptive to ecology and wildlife (e.g. some birds, bats, insects), affecting their established migration, feeding and breeding patterns; and
- it brightens the night sky to the extent that observation of the stars becomes difficult.



Control of light pollution

3.11 There is now widespread awareness of light pollution as a phenomenon and of the negative consequences associated with it. Light pollution can however be dramatically reduced by developers exercising forethought and by making informed choices about the hardware employed. At the same time significant advances can be made in tackling climate change by saving finite energy resources and ultimately helping to reduce carbon emissions.

3.12 Where an external lighting component within a development site is proposed, applicants will be required to submit supplementary information with their planning application which comprehensively details the lighting scheme and satisfactorily demonstrates that the proposed scheme is appropriate in terms of its purpose and in its particular setting.

3.13 This should include:

- a statement setting out why the lighting scheme is required;
- a report prepared by a lighting engineer which provides details of the luminaires and columns, including their type, height and location;
- a technical specification of the luminaires, including an explanation of what design attributes have been chosen to minimise light pollution; and
- a plan illustrating illuminance levels across the site and at the boundary of the property. Illuminance levels beyond the boundary of the site, together with the *downward light output ratio* of the lights may also be required.



3.14 In some cases the statement may be required to consider how the lighting scheme will be viewed against the wide landscape, both urban and rural and the potential role of landscaping in minimizing the day and night-time visual impact of the installation.

3.15 An *operational statement* should also be provided, the purpose of which is to ensure that the developer and the lighting designer have considered operational regimes that can provide energy savings.

3.16 The submission of lighting proposals will also be required in relation to temporary lighting installations, as commonly associated with construction works and site compounds.

3.17 Where the council decides to grant planning permission, it may decide to impose conditions covering such matters as:

- Hours of illumination
- No distraction to the highway
- Light levels
- Levels of impact on nearby dwellings
- Column heights
- Use of demountable columns
- Specification and colour treatment for lamps and luminaires
- The need for full horizontal cut-off
- Retention of screening vegetation
- Use of planting and bunding to contain lighting effects

3.18 The council may in some circumstances seek the erection of temporary lighting or require a review of the lighting impact following completion of the scheme.

3.19 It is recommended that applicants have regard to and make use of the lighting design process detailed in **Annex A** and it is required that all lighting proposals should be submitted with a completed Lighting Design Check List as provided in **Annex B** to this PG.

Climate change and carbon reduction

3.20 Internationally, climate change has been recognised as the greatest long-term environmental threat, posing far reaching impacts upon our lives, health and well-being, our economy and natural environment.

The [Climate Change \(Scotland\) Act 2009](#) sets out national targets for the reduction of greenhouse gas emissions of 42% by 2020 and 80% by 2050. These are the most ambitious greenhouse gas reduction targets in the world to date, meaning Scotland is a world leader in this field. Scottish Local Authorities, therefore, have a duty to put measures in place to achieve these targets.

four

Detailed design considerations

General principles for new and existing lighting schemes

- 4.1 The lighting of roads, footpaths, domestic and commercial property should be an integral element of all development proposals at the outset and not, as has sometimes been the case in the past, addressed as an afterthought.
- 4.2 There is clearly a need to balance the provision of lighting to enhance safety, help in preventing crime and the perceived risk of crime, and to allow activities like sport and recreation to take place, whilst also respecting the amenity of neighbouring land uses, protecting the natural environment, areas of biodiversity and geodiversity importance and areas whose open and landscape character qualities could be adversely affected.

4.3 When formulating proposals for an external lighting scheme or where external lighting is integral to a development proposal, the designer of the lighting scheme should have regard to the following key principles:

- Consideration of what lighting is necessary to a development should be undertaken at an early stage in the design process.
- The purpose of the artificial lighting should always be clearly defined and must be provided for a specific purpose, e.g., to illuminate a given area, to mark out pathways, to highlight obstacles or objects of interest within an area. Clearly, the effectiveness of the installation can only be measured after the purpose is defined, and this should be the starting point of any design.
- The object or area to be lit should not be viewed in isolation but should be seen as part of a larger area with its own individual lighting environment. The relative brightness, lighting style and prominence of surrounding lit elements should be taken into consideration as context for the proposal.





- The power consumption and output of a lighting scheme should be an integral part of the design process and must relate to the ambient night time levels surrounding the site to be illuminated. The lighting scheme must not exceed that which is required for the satisfactory undertaking of the task involved. This will help to ensure there is not a sharp contrast between illuminated subjects.

- Illumination should always be appropriate to the surroundings and character of the area as a whole. Five 'environmental zones' are internationally recognised, see Table 1 below, and the design will require to show that control of overspill light is limited to the level required by the particular environmental setting. The corresponding *obtrusive light limitation values* are produced as Annex C.

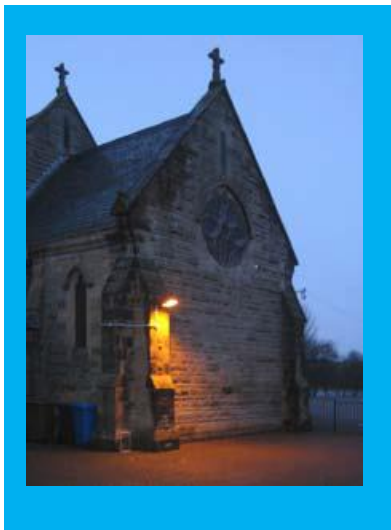
Table 1: Typical Environmental Zones in the UK

Environmental Zone	Surrounding	Night Environment	Typical Examples
E0	Protected	Dark	'Dark Sky' Parks and typically uninhabited areas e.g. National Nature Reserves
E1	Natural	Intrinsically dark	National parks, Areas of Outstanding Natural Beauty
E2	Rural	Low district brightness	Rural, small villages or relatively dark outer urban locations (industrial and residential)
E3	Suburban	Medium district brightness	Small town centres or urban locations
E4	Urban	High district brightness	Town/city centres/commercial area with high levels of night time activity

Lighting schemes for specific situations

Lighting for security

- 4.4 Domestic and commercial security lighting is usually installed with the best of intentions but often fails to meet its basic objective of providing or enhancing security. It is often assumed that a generous use of artificial lighting, whether it is street lighting or domestic security lighting, reduces the risk of crime. However, it has been shown that whilst lighting can reduce the fear of crime, poorly positioned, misdirected lights or over bright lighting can deter or hamper observation and can actually assist would-be burglars to find easy access points and can create deeply shadowed areas for concealment. In addition the type of lighting installed often consumes excessive amounts of electrical energy, causes glare and contributes to light pollution.



- 4.5 It is therefore particularly important that care is taken to ensure that the intensity and focus of security lighting, whether domestic or commercial, respects the amenity of others. At the same time, the most efficient available lamps should be employed for street lighting, to help reduce maintenance and energy costs. For most small scale domestic security lighting a 150W (2000 lumen) tungsten halogen lamp operated by a passive infra-red detector is adequate. High power lamps (300/500W) create too much glare and darker shadows, reducing security. A compact fluorescent porch light of 9W (600 lumen) is adequate for all-night lighting in most domestic situations.

- 4.6 Commercial premises are more likely than domestic premises to use lighting which makes a material change to the external appearance of the building and is therefore more likely to require planning permission, particularly when introduced post construction.

Floodlighting for sports pitches

- 4.7 In an attempt to increase the viability of facilities, to enable more people to participate and give more choice and flexibility of playing time, it is increasingly common for sports clubs and schools to want to install external floodlighting. Although the apparatus associated with floodlighting is often more readily assimilated in urban areas, and the wider impact of the light generated less intrusive, particular problems can occur in respect of residential amenity. The proximity of housing and the way in which the floodlighting and use of the site impacts on the amenities enjoyed by the occupiers will be an important factor in determining the acceptability of proposals.



- 4.8 Applicants may therefore be required to commission the preparation of light scatter diagrams that will accurately predict the performance of the scheme, both inside and outside the pitch areas.
- 4.9 Generally speaking, the taller the mast the greater the scope for directing the light downwards, thereby controlling *light spillage*. The main beam angle of lights should not exceed 70° from the vertical. Light shields should be fitted to avoid both upward glare and the direct illumination of areas beyond a distance of 10 m from the pitch. The power of each lamp should normally be limited to 1kw with internal louvres fitted and asymmetric beams utilised that permit the front glazing of the unit to be kept at or near parallel to the surface being lit.
- 4.10 Strong floodlighting used for sport pitches can create a genuine disturbance to neighbours and therefore it will generally be the case that floodlights will not be used between the hours of 10.00 p.m. and 9.00 a.m.

Street lighting

- 4.11 Street lighting forms a highly visible and vital part of the urban street scene. It is principally provided to enable the safe use of roads and is one of the measures used to reduce night-time traffic collisions. It can allow pedestrians to see hazards, orientate themselves, recognise other pedestrians and feel more secure. It also has a wider social role, with the potential of helping to reduce crime and the fear of crime, and can contribute to commercial and social use at night of town centres by improving both the daytime and night-time appearance.
- 4.12 There are however environmental downsides, most notably the substantive contribution that street lighting makes towards light pollution, especially the phenomenon of 'sky glow', and the fact that street lighting can consume a great deal of energy and increases carbon emissions.
- 4.13 Legacy street lighting is largely a mixture of High Pressure Sodium (SOM) and Metal Halide lamps which are expensive to operate and not particularly energy efficient. Street lighting is therefore high on the agenda of many local authorities as a potential area for change and making efficiency savings and as part of the Climate Change (Scotland) Act 2009 there is also a legal obligation to reduce carbon emissions from all of the council's activities. The council's approved [Climate Change Strategy and Carbon Management Plan](#) identifies a target of achieving a 20% reduction in CO₂ emissions by 2020.
- 4.14 The council has already embarked upon an ambitious capital funded phased programme to upgrade and replace legacy street lighting with the key objectives being to reducing unmetered energy charges and mitigate against future cost pressures, reduce energy consumption, reduce CO₂ emissions, reduce maintenance costs over life of installation and provide efficient and effective lighting for life of installation.
- 4.15 The council began installing energy efficient LED street lighting in 2014 and, subject to budget approval, is scheduled to complete the programme by 2027. It has been facilitated by advances in modern lamp technology and electronic programmable control gear, together with the lower and variable lighting levels permissible by revised British Standards (BS 5489) and EN 13201.

- 4.16 In the case of new residential and commercial development in West Lothian street lighting is provided by the developer and is usually adopted by the council under the terms of Section 21 of the Roads (Scotland) Act 1984
- 4.17 Street lighting requirements of new development are assessed against the criteria set out in [SCOTS National Roads Development Guide](#) together with West Lothian Council Local Variations and advice is provided to the developer on the lighting classes required in order to ensure consistent outcomes. Post adoption, the council becomes responsible for all street lighting repairs, maintenance and operational energy costs, so it is particularly important that the street lighting hardware is initially specified to a standard which achieves maximum energy efficiency and durability.
- 4.18 The use of lanterns with good optical control help maximise the spacing needed for a lighting scheme, reducing the number installed and minimising energy consumed. A reduction in the number of units installed will also help to reduce light intrusion in to neighbouring properties and light pollution. Generally, the requirements are that lighting is installed to comply with statutory and other regulations, Codes of Practice, Department of Transport and British Standards, including [British Standard BS5489 – Code of Practice for the Design of Road Lighting](#), [British Standard EN13201 – Road Lighting](#) and [BS7671 Requirements for Electrical Installations](#).

Illuminated advertisements

- 4.19 Most illuminated signs require express consent under the [Town and Country Planning \(Control of Advertisements\) \(Scotland\) Regulations 1984 \(as amended.\)](#) and the two forms of advertisement that have the potential to cause problems in lighting terms are large scale outdoor illuminated hoarding and poster advertisements and internally or externally illuminated shop fascias.
- 4.20 As a general rule traditional hoarding/poster type advertisements, where illuminated, should be lit from the top down (not up-lit) using a lighting system that ensures no light spill beyond the extent of the advertisement. Integrated lighting and the use of slim LED technology is also recommended.
- 4.21 Technological innovation has heralded the introduction of large digital media screens and facades. The brightness of such signs is dependent on the luminance, its size, contrast and the observer. Overly bright signage will be resisted if it is deemed to harm amenity (light spill, light pollution, glare) or safety). Advice may be sought from the council's Roads and Transportation Service on a case by case basis in respect of proposals for large electronic signs. Night time levels of luminance should be based on the luminance of other signs and surfaces in the area. Typical values in urban areas would be in the range of 75-300Cd/m². Day time levels of luminance may need to be higher, this should be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output and ensure that it is within acceptable limits.
- 4.22 Shop fascia signage should not be significantly brighter than those of neighbouring shops. Shopfront and fascia lighting should not contribute to light pollution and sharp contrasts caused by overbright shopfronts should be avoided. Halo lighting can often be used to effectively reduce the extent of illumination by limiting it to the lettering or logo rather than the whole sign. Care must be taken to ensure that they are not positioned where they may affect the clarity of traffic signs or disturb those living close by. In commercial areas generally, advertisements and lighting should not be used simply or primarily to create a *presence* at night.

- 4.23 As the requirements for obtaining planning permission and/or advertisement consent for illuminated advertisements are not straightforward it is strongly suggested that developers obtain written confirmation from the council before such signs are commissioned.

Common lighting design problems

- 4.24 A light fitting will deliver light where it is needed, but will potentially also give four areas of unwanted, and wasted, light.
- Spill light - falls outside the area where it is needed, it can be avoided by pointing the light in the right direction.
 - Upward light - this is wasted light shining above a light fitting, it is entirely avoidable by the use of the correct light fitting. Direct the light downwards wherever possible (this can also reduce glare).
 - Upward reflected light - this is unavoidable and dependant on the reflectances of the surfaces below the light fitting, (dry tarmac will commonly reflect 7%, grass about 20-25%). This is another source of **sky glow**. Remedies are to use only as much light on the surface as is really needed, and to try to select a surface which minimises reflectance.
 - Direct glare – this is the result of seeing the bright filament of an unshielded light, troublesome and dangerous unshielded bright lighting. Direct glare is more wasted light and can be a major problem.

Careful design and planning

- 4.25 It is possible to reduce many of the negative effects of lighting through careful design and planning, using lighting only where and when necessary, using an appropriate strength of light and adjusting light fittings to direct the light to where it is required. Illumination should be appropriate to the surroundings and character of the area as a whole. Avoid *over lighting* and use shields, reflectors and baffles to help reduce light spill to a minimum. Use specifically designed equipment that, once installed, minimises the spread of light above the horizontal. (Figure 1)

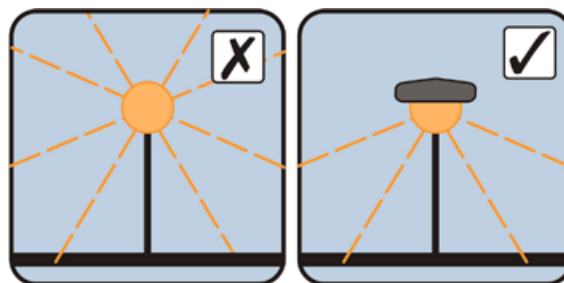


Figure 1:

Direction of light

- 4.26 Direct light downwards wherever possible to illuminate its target, not upwards. Many floodlit buildings are lit from the ground with the beams pointing into the sky. This often leads to columns of stray light pointing up into the sky creating vast amounts of light pollution and wasting energy. Provide lighting that does not glare on approach and which places light onto the ground and not into the sky where it is wasted. In other cases, simply lowering the angle of the beam will stop light from overshooting the building into the sky. (Figure 2)

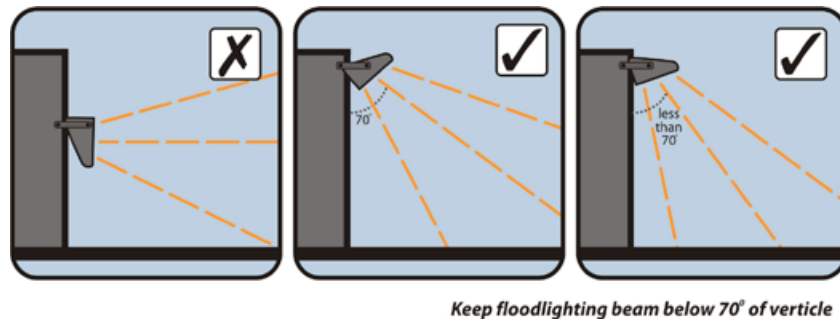
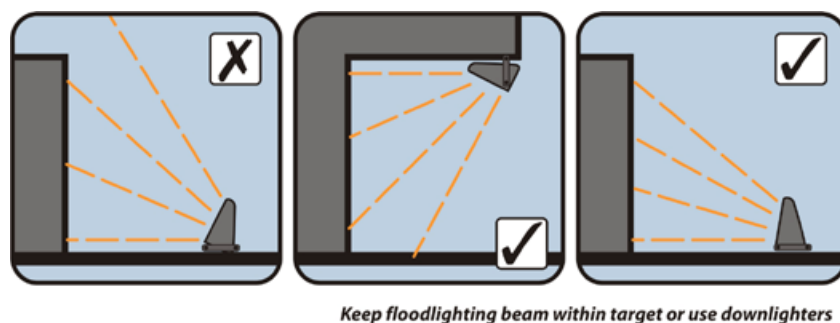
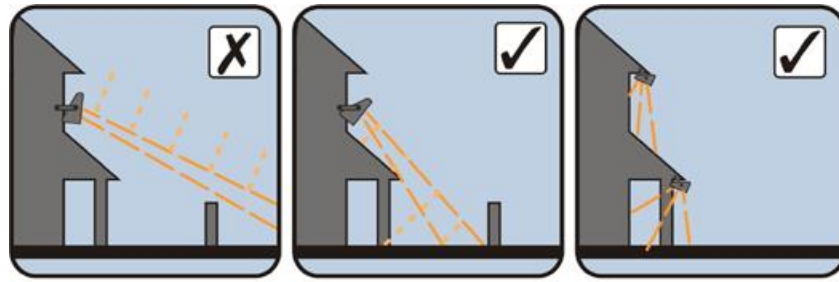


Figure 2:

- 4.27 To keep glare to a minimum, ensure that the main beam of all lights directed towards any potential observer is kept below 70°. It should be noted that the higher the mounting height, the lower the main beam angle can be. In places with low ambient light, glare can be very obtrusive and extra care should be taken in positioning and aiming. Wherever possible use floodlights with asymmetric beams that permit the front glazing to be kept at or near parallel to the surface being lit. (Figure 3)
- 4.28 If up-lighting absolutely has to be used, hoods or shields above the light should be employed, to reduce the amount of wasted upward light. Do not install equipment that spreads light above the horizontal.





Use sensor controlled lights (PIR) with the beam directed close to the property, or a low porch light

Figure 3:

Amount of light

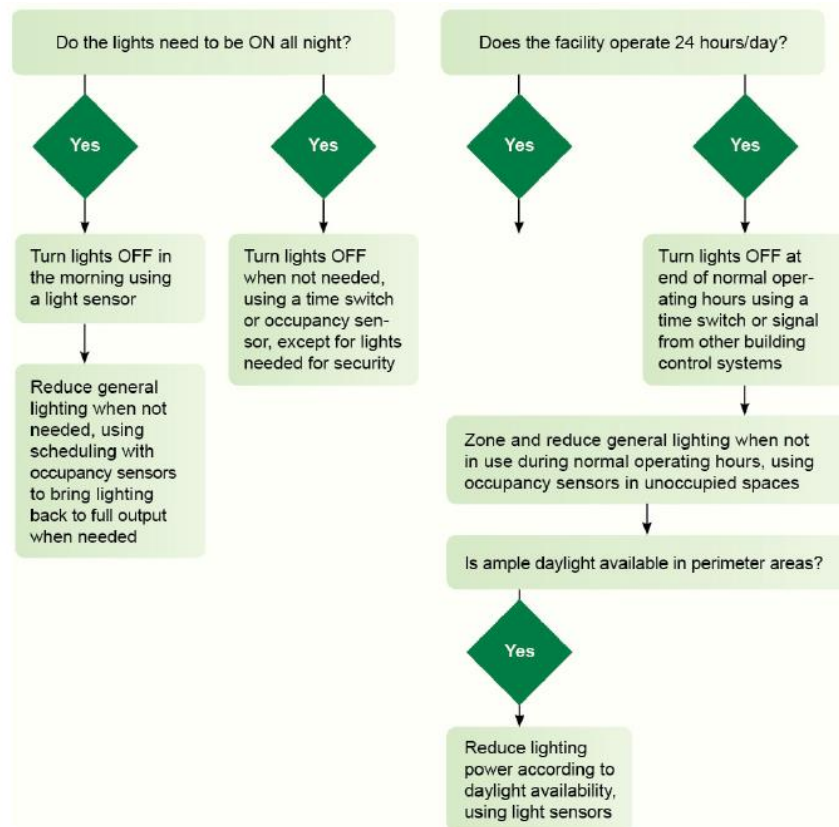
- 4.29 Rural lighting should be kept to a minimum necessary for safety. The council will be encouraged to apply this principle if building new roads in the countryside or upgrading existing installations with the use of low energy, light efficient fittings. Care should be taken where and when they are lit.

Wasted energy

- 4.30 Much energy is consumed and vast amounts of greenhouse gases are produced due to the wastefulness of all night shop advertising and display lighting, building illumination, upward floodlighting and permanent domestic and industrial security lights. Consideration should be given to the energy efficiency of fittings and a strong management policy to reduce running costs and promote sustainability.

Lighting controls (timers and motion/photo sensors)




- 4.31 Lighting controls are input/output devices/systems. The input may be manual or automatic (daylight, time, or motion), and the output may be shutoff (switching) or reduction (dimming). Lighting controls ensure that light is used only when it is needed and in the quantity needed, generating energy cost savings. For domestic and small scale security lighting the use of *Passive-Infrared sensors* (PIR) or all-night lighting at low brightness should be utilized. Generally it is good practice for exterior lighting to be capable of being turned off or for power to be reduced during times of night when it is not being used. Dimming lighting can also significantly extend the useful life of light-emitting diode (LED) lighting and thereby achieving additional financial savings. The following decisions will help minimise energy consumption by turning off or turning down lighting when it is not needed



Light bulbs and energy efficiency

- 4.32 The light bulb industry has changed radically in recent years with the gradual phasing out of incandescent filament bulbs and a range of halogen light bulbs, driven by legislation and a drive for greater energy efficiency. The older style of bulbs are being replaced by new technologies such as Light Emitting Diodes (LEDs) that require significantly less energy to produce the same brightness as the incandescent bulbs. LEDs are better value for money than incandescent and halogen light bulbs and can be used in the majority of existing fittings. LEDs use about 75% less energy than halogen light bulbs and last 5-10 times longer, greatly reducing replacement costs and the number of light bulbs ending up in landfill. The up-front cost of LEDs generally has a payback time of less than 1 year.
- 4.33 Light bulbs have traditionally been rated by their wattage however this is a measure of power rather than light intensity, more recently however manufacturers are rating bulbs in lumens. This is a measure of the total amount of “visible light” to the human eye from a light source. The higher the lumen rating the “brighter” the light will appear. The Table below demonstrates the comparison of the output in lumens contrasted with the varying wattages of the different bulb technologies. For example a 10 watt LED produces an equivalent brightness as a 60 watt incandescent bulb.

Table 2: Comparison of light bulb outputs

		 DIMMER  BRIGHTER			
LUMENS		450	800	1100	1600
MOST EFFICIENT  LEAST EFFICIENT	Standard Incandescents 	40W	60W	75W	100W
	New Halogen Incandescents  Save up to 28%*	29W	43W	53W	72W
	CFLs  Save up to 75%*	9W	14W	19W	23W
	LEDs  Save up to 77%*	8W	13W	17W	N/A

*Percentage of energy saved by replacing a standard incandescent light bulb; based on usage of approximately 796 hours annually and average residential electricity rate of \$0.15/kWh

Useful contacts

WLC Development Management

(Applications for planning permission and advertisement consent)

t: 01506 280000

e: planning@westlothian.gov.uk

WLC Development Planning

(Planning policy / development plans)

t: 01506 280000

e: dpgeneral@westlothian.gov.uk

WLC Building Standards

t: 01506 280000

e: buildingstandards@westlothian.gov.uk

WLC Environmental Health & Trading Standards

t: 01506 282500

e: environmentalhealth@westlothian.gov.uk

WLC Operational Services

(Street Lighting)

t: 01506 284815

e: neil.wilson@westlothian.gov.uk

Further technical guidance

The Institute of Lighting Professionals

e: info@theilp.org.uk

Lighting Industry Association

w: www.thelia.org.uk

The Chartered Institute of Building Services Engineers

w: <https://www.cibse.org/about-cibse/what-we-do>

Commission for Dark Skies (CfDS)

w: https://www.britastro.org/dark-skies/cfds_issues.php?topic=about

The Energy Saving Trust

w: www.energysavingtrust.org.uk

Electrical Contractors' Association

w: www.eca.co.uk

SELECT (Scotland's Trade association for the electrical industry)

w: www.select.org.uk

Annex A

Lighting design process

1	Statement of client needs/operational statement
2	Site survey
3	Critical viewpoints
4	Existing lighting conditions
5	Baseline conditions
6	Task analysis
7	Establishment environmental setting
8	Lighting design objectives
9	Lighting design methodology
10	Calculated predictions
11	Obtrusive light calculation
12	Comparing design with baseline values
13	Designers critique
14	Viewpoint visualisation
15	Virtual walkthrough
16	Surface colour schedule
17	Luminaire schedule
18	Energy usage
19	Schedule of luminaire profiles
20	Layout plan

Annex B

Lighting design checklist

General considerations

Why is external lighting required? Is it necessary at this location, could the development proceed without it and are there alternative measures which may be less intrusive?

Consider what may be affected by night time lighting e.g. neighbouring properties, sites of ecological importance or protected species etc.

Lighting design stages

Survey of surrounding night environment	
Identification of critical viewpoints	
Establishment and calculation of existing lighting conditions	
Summary of baseline measurements and/or calculations	
Analysis of task lighting level recommendations	
Establishment of environmental light control limits	
Statement of new lighting design quality objectives	
Outline of iterative lighting design methodology	
Calculated measurement of task working area(s)	
Overspill area(s)	

Obtrusive light calculation of property pollution	
Viewed source intensities	
Nominal glare assessment	
Direct upward light ratio	
Building luminance	
Combined upward illuminance grid	
Compare design achievement with baseline values	
Designer's critique of final design constraints	
Viewpoint visualisation	
Virtual walkthrough of illuminated site	
Schedule of model reflection factors	
Schedule of luminaire types, mounting height and aiming angles	
Schedule of energy usage and distribution	
Schedule of luminaire profiles	
Layout plan with beam orientation indication	

Regardless of location in designing a lighting scheme within a new development the council expects all applicants to clearly show the location of lights, type of lamps used, their lumen output and periods of night time use. New lighting should be shown on plans and additional information provided on attached schedules. The level of detail required with a planning application will depend on its scale and location.

Annex C

Obtrusive light limitation values

Environmental Zone	Sky Glow ULR (max%)(¹)	Light trespass (into windows) E _v (Lux)(²)		Source intensity I(kcd)(³)		Building Luminance Pre-curfew(⁴)
		Pre - curfew	Post - curfew	Pre - curfew	Post - curfew	
E0	0	0	0	0	0	0
E1	0	2.0	1.0**	2,500	0	0
E2	2.5	5.0	1.0	7,500	500	5.0
E3	5.0	10	2.0	10,000	1,000	10
E4	15	25	5	25,000	2,500	25

Key to Table

ULR	Upward light ratio of the installation is the maximum permitted percentage of luminaire flux for the total installation that goes directly into the sky.
E_v	Vertical illuminance in Lux and is measured flat on the glazing at the centre of the window.
I	Light intensity in Candelas (cd)
L	Luminance in Candelas per square metre (cd/m ²)
Curfew	The time after which stricter requirements (for the control of obtrusive light) will apply; often a condition of use of lighting applied by the council as planning authority. If not otherwise stated 23.00 hrs should be adopted.
**	Permitted only from public road lighting installations.
(1)	Upward light ration: some lighting schemes will require the deliberate and careful use of upward light - e.g. ground recessed luminaires, ground mounted floodlights, festive lighting - to which these limits cannot apply. However, care should always be taken to minimise any upward waste light by the proper application of suitably directional luminaires and light controlling attachments.
(2)	Light trespass (into windows): these values are suggested maxima and need to take account of existing light trespass at the point of measurement. In the case of road lighting on public highways where building facades are adjacent to the lit highway, these levels may not be obtainable. In such cases where a specific complaint has been received, the council as Roads Authority should endeavour to reduce the light trespass into the window down to the after curfew value by fitting a shield, replacing the luminaire, or by varying the lighting level.
(3)	Source intensity: this applies to each source in the potentially obtrusive direction, outside of the area being lit. The figures given are for general guidance only and for some sports lighting applications with limited mounting heights, may be difficult to achieve.
(4)	Building luminance: this should be limited to avoid over lighting, and related to the general district brightness. In this reference building luminance is applicable to buildings directly illuminated as a night-time feature as against the illumination of a building caused by spill light from adjacent luminaires or luminaires fixed to the building but not used to light an adjacent area.

NB: These notes are intended as guidance only and the application of the values given in the table should be given due consideration along with all other factors in the lighting design. Lighting is a complex subject with both objective and subjective criteria to be considered. The notes are therefore no substitute for professionally assessed and designed lighting, where the various and maybe conflicting visual requirements need to be balanced.

Annex D

Model planning condition - external lighting

Prior to the start of development on the site, an external lighting scheme shall be submitted for the consideration and written approval of West Lothian Council as planning authority. The scheme shall take into account all of the lighting needs associated with the development during operational hours and shall be the minimum required to perform the relevant lighting task. It shall be specifically designed to minimise the risk of light spillage beyond the development site boundary and into the sky and to avoid dazzle or distract drivers on nearby roads.

The scheme shall include:

- (a) A statement setting out and justifying why the lighting scheme is required;
- (b) A report, prepared by a professional lighting engineer, setting out the technical details of the luminaires and columns, including their location, type, shape, dimensions and, expected luminance output and specifically explaining what design attributes have been chosen to minimise light pollution;
- (c) A plan illustrating illuminance levels across the development site and at the boundary of the site. The level of illuminance should be appropriate to the character of the surrounding area as a whole. Four environmental zones are internationally recognised, and the design will require to show that control of overspill light is limited to the level required by the particular environmental setting. The *obtrusive light limitation values* are produced as Annex C of West Lothian Council's Planning Guidance *Controlling obtrusive lighting (light pollution) and reducing lighting energy consumption* (2019);
- (d) A plan illustrating illuminance levels beyond the boundary of the site, together with the downward light output ratio of the lights;
- (e) A statement which demonstrates how the lighting scheme will be viewed against the wider landscape and, where appropriate, the potential role of landscaping in minimizing the day and night-time visual impact of the installation;
- (f) An *operational statement*, the purpose of which is to ensure that the developer and the lighting designer have considered operational regimes that can provide energy savings; and
- (g) Details of the proposed hours of operation. (Unless explicitly agreed in writing, all external lighting luminaries shall be turned off during daylight hours and when not actively required.

Applicants should have regard to and make use of the lighting design process detailed in **Annex A** of West Lothian Council Planning Guidance (PG) *Controlling obtrusive lighting (light pollution) and reducing light energy consumption*. It is further required that all lighting proposals should be submitted with a completed *lighting design check list* as provided in **Annex B** to the aforementioned PG.

Once approved in writing, the lighting scheme shall be implemented **[APPROPRIATE TIME TO BE INSERTED]** and thereafter operated in accordance with the approved details. The council reserves the right to require periodic testing to be conducted on the lighting installations and if it is confirmed that approved levels are being exceeded the operator of the lighting scheme will be required to implement the necessary works to bring it into compliance within **[APPROPRIATE TIME TO BE INSERTED]**

Reason for condition

To ensure that the council retains control over these matters, to ensure the proper implementation of the lighting proposals in the interests of the amenity of the site and the area as a whole, to prevent light pollution and to maximise energy efficiency.

(PG) Controlling obtrusive lighting (light pollution) and reducing lighting energy consumption

Approved by West Lothian Council Executive
Subsequently adopted as Planning Guidance (PG)

DATE TO BE INSERTED
DATE TO BE INSERTED

West Lothian Council, Development Planning, Civic Centre, Howden South Road, Livingston, EH54 6FF
Tel: 01506 28 00 00 Email: dpgeneral@westlothian.gov.uk





COUNCIL EXECUTIVE

CONSULTATION – THE REPLACEMENT OF EUROPEAN STRUCTURAL FUNDS IN SCOTLAND POST EU EXIT

REPORT BY HEAD OF PLANNING ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to seek Council Executive's approval of the proposed response to the Scottish Government's consultation on the replacement of European Structural Funds in Scotland following the UK's departure from the European Union.

B. RECOMMENDATION

It is recommended that the Council Executive :-

1. Agrees this report and appendix as the council's response to the consultation which has to be submitted by 12 February; and
2. Notes that this will be the first stage in determining what the new funding structure will look like.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; developing employees; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The report itself does not raise any strategic environmental assessment, equality or health issues. However, it is conceivable that changes to the funding arrangements could have impacts in these areas.
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None
V	Relevance to Single Outcome Agreement	We make West Lothian an attractive place to do business.

		We are better educated and have access to increased and better quality learning and employment opportunities
VI	Resources - (Financial, Staffing and Property)	Changes to European funding arrangements post Brexit could have significant financial and staffing implications for the council.
VII	Consideration at PDSP	The timescales for responses to the consultation did not allow for consideration by D&T PDSP.
VIII	Other consultations	Officers have not carried out any specific consultation prior to completing this report but engagement has been carried out with the Scottish Local Authority Economic Development (SLAED) forum.

D. TERMS OF REPORT

D1 Introduction

At the end of November 2019 the Scottish Government launched an online consultation to gather views on how best to develop a replacement for existing European funding streams to meet the needs of our citizens, our businesses and our communities following Brexit. A series of consultation events were also held during January 2020

Currently there are a range of European funds that support communities and activities across Scotland, including rural development and fisheries. This consultation process only focuses on the European Regional Development Fund (ERDF) and the European Social Fund (ESF).

D2 The Current Funding Process

The Scottish Government distributes ERDF & ESF funds to lead partners, such as enterprise and skills agencies, local authorities and other public bodies. In West Lothian the council is the lead partner for ERDF which covers all the Lothian local authorities. The council is the Lead Partner for ESF for West Lothian only.

The council receives ESF and ERDF funding to support the delivery of Employability and Business Gateway support. Annually, the council receives around £2m in grant which supports delivery including the direct employment of 37 members of staff.

D3 Successor Funding

The UK Government has announced that it will roll out a successor programme to European Structural Funds called the UK Shared Prosperity Fund aimed at tackling “inequalities between communities by raising productivity, especially in those parts of our country whose economies are furthest behind”.

This consultation is the opportunity to set out how the council believes any new fund should be designed and delivered to ensure that Scotland and West Lothian has a say in the creation of a new fund which would transform how inclusive economic growth can be achieved.

There is very little information on the format and quantum of replacement funding arrangements at present from the UK Government. Therefore, the Scottish Government is keen to develop our own thinking on how any replacement funding can best meet the needs of citizens, businesses and communities.

The purpose of the consultation is to clarify:

- The aim and objectives of post EU Exit funding in Scotland.
- How to maximise its added value.
- The extent to which it should be aligned with Scottish, UK & EU policy priorities.
- Whether and how it should be concentrated thematically or geographically.
- The appropriate arrangement for monitoring and evaluation.
- And the most effective and efficient approach to governance and partnership.

The deadline for responses to the consultation is 12 February 2020. A proposed response is appended to this Report as Appendix 1. That response is informed by attendance by officers at the consultation event held on 14 January and discussions with officers from other Scottish Local Authorities.

D4 Key Issues for West Lothian in the Consultation

Within the consultation the key issues are to ensure that Local Authorities are given prioritisation in the transition from EU funding to the new fund to ensure continued delivery within our communities. In West Lothian we have 37 direct staff from Access2Employment, Business Gateway and the Advice shop working full time through the current EU programmes.

Although we welcome the new fund and opportunity to be more flexible in its delivery it is also imperative that the Scottish Government take on board the evaluation from the current programme and operating arrangements.

E. CONCLUSION

ERDF & ESF funding is a key element in supporting the delivery of employability and business support services. It is therefore vital that whatever shape the new fund takes that West Lothian can benefit from this to enable the continuation of the vital services within our communities.

F. BACKGROUND REFERENCES

None.

Appendices/Attachments: Consultation – The Replacement of European Structural Funds in Scotland Post EU – Exit.

Contact Person: Alice Mitchell, Economic Development & Regeneration Manager,
alice.mitchell@westlothian.gov.uk, 01506 283079

Craig McCorriston
Head of Planning Economic Development & Regeneration

Date of meeting: 4 February 2020

**CONSULTATION - THE REPLACEMENT OF EUROPEAN STRUCTURAL FUNDS IN SCOTLAND
POST EU-EXIT**

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- ☐ Individual
x Organisation

Full name or organisation's name

West Lothian Council

Phone number

01506 283079

Address

Economic Development & Regeneration
West Lothian Civic centre
Howden South Road
Livingston

Postcode

EH54 6FF

Email

Alice.mitchell@westlothian.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☐ Publish response with name
☐ Publish response only (without name)
☐ Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

☐ Yes

☐ No

Consultation Questions

A STRATEGIC AIMS

Objectives

Scottish Ministers want to take this opportunity to design a flexible source of additional funding that drives inclusive economic growth and makes a measurable and significant difference to the lives of people, businesses and communities across Scotland. With this in mind:

1. What are the main aims that this funding should seek to achieve?

The fund has to add value and deliver positive outcomes in alignment with Scottish Governments Economic Action Plan to support business, accelerate growth and prosperity for all.

Therefore, the main aim of the funding should be on tackling some of the long term issues facing our communities such as in work poverty, skills shortages and constraining sustainable and inclusive economic growth.

2. How could funding be used most effectively to address spatial inequalities between areas and communities in Scotland?

Ensuring that the funding is targeted locally to support local employability and business support initiatives through a joined up approach with local authorities and local third sector organisations.

The fund requires to more flexible than current arrangements to give local authorities the ability to intervene at the correct level with the right resources. The current EU structural funds programme has become far too prescriptive and constrained.

3. Geographically, at what level would the priorities for funding be best set?

The priorities would be best set at a local authority level.

Flexibility over the fund is required to ensure that it is targeted at the correct levels within our communities which should be set by individual local authorities.

Alignment with Scottish Policy and Other Funding Streams

Scotland has a set of high-level strategic documents that guide the direction of our policy development and spend. These are focussed on inclusive economic growth and include our National Performance Framework, our Economic Strategy, our

Programme for Government and our new Enterprise and Skills Strategic Board approach.

4. How could the use of future funding add value to other sources of funding focussed on similar objectives in Scotland?

Future funding should be in addition to main stream delivery to focus on those areas of need through an inclusive growth agenda.

The funding should enable and support the creation of job opportunities for a better educated and skilled community.

There is the opportunity through the replacement funding arrangements to align activity and ensure additionality and not duplication of activity and outcomes.

Alignment with UK and EU Policy

The UK Government has said that the SPF will be aligned with its Industrial Strategy and will focus on increasing productivity. At the same time, the European Union is evolving its Cohesion Policy with a structure of 5 themes: A Smarter Europe; A Greener, carbon free Europe; A Connected Europe; A More Social Europe; and A Europe closer to citizens, to create a more tailored approach to regional development in order to drive EU investments.

5. What practical value would you see in future funding in Scotland being aligned with the UK Industrial Strategy and other spatially-differentiated UK economic policies such as the City and Regional Deals or the Industrial Strategy's sectoral approach?

It is not yet clear from the UK Government what, if any, terms and conditions will be placed on the new fund although there is the understanding that this will be devolved.

However, there is a tremendous economic and social value in aligning with the UK Industrial Strategy, although not to the exclusion of some other policies. The UK industry Strategy focuses on investment as a driver of productivity. This creates opportunities and is key to a progressive, inclusive economy. This compliments the ambition of the Scottish Government's Enterprise and Skills Strategic Plan.

6. What practical value would you see in maintaining alignment with EU Cohesion Policy?

There may be some merit in also aligning with the EU Cohesion Policy. There are some elements which are complementary to the UK Industrial Strategy, such as the focus on smarter objectives around innovation, digitalisation and economic transformation as well as carbon free economy and supporting a social economy.

Evaluation and Monitoring Progress

In order to ensure that any new fund is achieving its aims and objectives, it is important that an evaluation approach is developed in parallel.

7. How could we best evaluate the success of this new fund?

There requires to be clear evidence based outcomes in order to measure the economic impact over the medium- longer term. This is consistent with Scotland's Economic Framework.

It is important that the identification of performance indicators is integrated into the programme at the development stage and not as we have seen in the past added at the end of the process and subsequently changed throughout the programme.

Measures would be around – increasing number of higher value jobs, closing the skills shortage vacancies, closing the skills gaps and increasing productivity.

The evaluation and success of the new fund also needs to recognise that the impact of the fund will not be immediate and requires to take into account the time between activity and impacts.

8. What relevant parts of the National Performance Framework should this funding be targeted towards?

The funding should be targeted at the relevant parts of the National Performance Framework relating to:

- The Economy
- Education
- Environment
- Fair work and business and
- Communities

The funding will help address the cause of in work poverty, skills gaps and social exclusion.

The use of robust evidence such as current skills shortages in high value GVA sectors such as life sciences, technology. engineering and manufacturing will support this approach.

9. Which specific aspects of the monitoring and evaluation framework from European Cohesion Policy do you consider would be beneficial to retain for any new fund?

A lot of evaluations have taken place on EU Structural Funds in Scotland. However the timing of these evaluations has been after the delivery and findings therefore have not been able to influence any outcomes. Looking at a way of more real time

evaluations would be helpful in the new fund.

B GOVERNANCE STRUCTURES OF FUTURE FUNDING

Allocation and Programme Duration

Whilst funding allocations will largely be determined by our objectives, we must make sure that our approach is developed in an appropriate manner which is sensitive to differing needs across Scotland. We also need to be clear about the timeframes over which any funding programme would operate.

10. What approach should be used to allocate the funding at programme level - including the most effective duration of the programme that would better support the identified priorities?

The approach taken by the EU on its framework – seven years should be maintained in the new fund to ensure continuity and consistency to enable the identified issues to be effectively tackled.

The approach should also be one of partnership, this is a change to the current approach where decisions have tended to be very internal to Scottish Government. A genuine partnership approach is required right through the process from design to delivery to monitoring and evaluation.

11. What would be the most appropriate partnership and governance structure to achieve the strategic objectives of the future funding?

The appropriate governance arrangements would be a strategic oversight at a regional level with the local economic partnerships governing operation delivery at a local authority geographical level.

The local authorities have a key role to support the local delivery to be effective and respond to the issues within local communities including business. They are also the key player with local Community Planning Partnerships and Community Empowerment process.

There is an opportunity with the fund to create a more streamlined compliance and audit process. The recent EU fund has been extremely onerous and bureaucratic often at the expense of delivery of the objectives.

12. What would be the most effective delivery model to ensure maximum leverage of funds from public and private sectors to regional investments?

The operational delivery model should be at a local authority level. Ensuring that the outcomes though are reported at a regional level and supporting the delivery of strategic programmes such as City Deals. Governance structures are already in place with City Deals.

13. What capacity-building or other support is needed to ensure the ability of local partners and communities to participate in the programme?

The strength of the West Lothian proposal is that the key economic delivery partners and operating model is already in place through the local authority and local community, partners and can be built upon to ensure participation on the programme

14. What can be learned from the design and delivery of the current and previous European Structural Fund Programmes in Scotland?

It is essential that proper governance and accountability measures are in place. However, a more flexible approach and trust in local authorities in operating the fund at a local level as that is where the detailed knowledge of what is required within our communities sits.



COUNCIL EXECUTIVE

THE MILL CENTRE, BLACKBURN - UPDATE

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to provide an update on the future of the Mill Shopping Centre, Blackburn and redevelopment proposals when the existing head-lease from the Trustees of G Dunbar and Sons (Builders) Ltd (Pension Trustees), who are the owners, expires in February 2020.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Notes that the Pension Trustees have confirmed that they intend to progress with a mixed commercial and residential redevelopment proposal on the Mill Centre site to provide affordable housing and up to five retail units;
2. Notes that the Pension Trustees are considering the viability of granting existing tenants lease extensions or new leases beyond February 2020 whilst their redevelopment proposals are progressed;
3. Agrees that, as the Pension Trustees intend to develop retail provision on the Mill Centre site, council officers should no longer progress feasibility investigations to provide council retail provision in Blackburn;
4. Notes the on-going negotiations with the Pension Trustees on dilapidations and the proposed negotiations with existing tenants on their lease end obligations;
5. Notes that the Pension Trustees development proposals include the former Community Centre site owned by the council and that the Pension Trustees have offered to purchase this site at market value as part of the wider property transaction;
6. Notes that any proposed property transactions in support of the wider regeneration of Blackburn town centre will be presented to Council Executive for consideration; and
7. Approves continued actions that facilitate and assist with bringing forward other development opportunities within Blackburn Town Centre.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Local Government in Scotland Act 2003 places obligations on the council to secure Best Value.
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	Losses incurred at the Mill Centre have adversely impacted on the annual performance of the council's property portfolio.
V	Relevance to Single Outcome Agreement	None.
VI	Resources - (Financial, Staffing and Property)	<p>There are no revenue budget resources to cover centre operating losses beyond February 2020. Funding for dilapidations will be managed within approved capital budgets.</p> <p>Any disposal or future development proposals requiring council support will be subject to consideration by Council Executive.</p>
VII	Consideration at PDSP	None.
VIII	Other consultations	The local elected members for the ward have been provided with a copy of this report for information.

D. TERMS OF REPORT

D1 Background

In June 2018 Council Executive approved the termination of the head lease interest of the Mill Centre at its contractual end date of 29 February 2020, on the basis that the original purpose of entering into the head lease arrangement in 2000 had been delivered in full and that, by not continuing the lease, annual revenue losses would be mitigated. The owners of the Mill Centre are the Trustees of G Dunbar and Sons (Builders) Ltd (Pension Trustees). The location of the Mill Centre and its existing layout is shown in Appendix 1.

On 25 June 2019 Council Executive was provided with an update on negotiations with the owners and engagement with the existing tenants on future business intentions and lease expiry obligations. In summary the report advised that:

- Offers by the council for both purchase of the Mill Centre by the council and a proposed new Head-Lease agreement were rejected on the basis that the terms offered were not considered attractive to the Pension Trustees compared to redevelopment.
- Officers would continue to engage with the owners on their development proposals.
- The Pension Trustees had served a schedule of dilapidations for the lease end that included those parts of the centre that are sub-let. The council was in the process of procuring specialist external advisors to negotiate the dilapidations and mitigate the level of claim.
- The former Petrol Filling Station site had been marketed with limited interest and that works were proposed to remove the old tanks and to improve marketability.
- The former Community Centre asset transfer application was rejected and the process to demolish the community centre would be progressed. In addition, the intention to market the cleared site for development was confirmed.
- Engagement with existing tenants on future business intentions, lease end obligations and support available would be undertaken. Engagement with the community was also advised as continuing.

On 22 October 2019 Council Executive was provided with an update on negotiations with the Pension Trustees and engagement with the existing tenants on future business intentions and lease expiry obligations. In summary the report advised that:

- The Pension Trustees had confirmed that it was their intention to proceed with redevelopment of the whole of the Mill Centre site for thirty seven affordable housing units and one retail unit identified for a pharmacy.
- The Pension Trustees would offer new short term leases to existing tenants whilst they progress their development proposals allowing the Mill centre to continue to trade after 29 February 2020.
- The council would progress with a feasibility and business case for new retail development utilising existing council land ownership.

Officers advised that an update would be provided to Council Executive on the outcome of further engagement and negotiations with the Pension Trustees. This report provides that update.

D2 Update on Negotiations with the Pension Trustees

As outlined in previous reports, the council has continued to engage with the Pension Trustees on a range of options for the Mill Centre site and considered a range of alternative wider development proposals with their representative. Officers have also engaged with the local community who have been active in their representations and support to secure future retail provision and for the wider regeneration of the town centre.

Since October 2019, the Pension Trustees have progressed, in association with a local social housing provider, a comprehensive scheme that would redevelop both the Mill Centre and the former community centre site.

D3 Revised Development Proposals

The Pension Trustees have approached the council and the community to present their revised development proposals which are as follows:

Mill Centre Redevelopment

The proposal is to refurbish the eastern section of the Mill Centre that was built in 1999 and retain the front elevation and the existing two shops (currently the Take Away and Betting Shop). Two or three new retail units would be created in what is the former Blackburn Connected premises. The sizes and occupiers will be subject to demand however, the Pension Trustees have committed to engaging with existing tenants to determine their interest in the new development. The proposal involves the Pension Trustees retaining this asset and leasing the units to individual tenants.

It is proposed that the remainder of the site is developed as twenty housing units to be delivered in partnership with a local affordable housing provider, with pedestrian walkways separating the commercial and residential premises.

An outline of the proposal is included within Appendix 2.

Former Community Centre Proposal

The proposal presented to the council by the Pension Trustees is to develop 24 residential units in partnership with a local affordable housing provider on the former community centre site which is currently being demolished and is due for completion at the end of February 2020. This development, which is to be two storeys high will provide a mix of unit sizes to accommodate between including terraced and semi-detached homes.

Car parking will be provided on the east side of the site to meet the need for car parking by users of Blackburn United's football facilities.

The Pension Trustees are aware of the councils obligations to ensure it achieves best value and therefore the council has appointed the District Valuer Service to determine the market value of this site.

An outline of the proposal is included within Appendix 3.

D4 Mill Centre Business Continuity

When the existing head-lease expires in February 2020, the Pension Trustees have indicated that it is their wish to try and keep the Mill Centre open to facilitate a smooth transfer of any existing tenant wishing to relocate into one vacant units to be created. The Pension Trustees have however, confirmed that they will not facilitate this option, if as a consequence, there is a material financial loss whilst redevelopment proposals are progressed.

Whilst the council will no longer have a direct management involvement in the Mill Centre, active engagement will be required to transfer responsibilities and ensure a smooth transition of management.

D5 Dilapidations

The council has been issued with a terminal schedule of dilapidations. Officers do not agree with its basis and content. As previously reported the council has appointed specialist professional advisers to negotiate and manage any settlement with both the Pension Trustees and the nine sub tenants who have dilapidation liabilities under their lease agreements.

The Pension Trustees redevelopment proposals will have a bearing on the measure of dilapidations due and will also reflect those elements due to the council from the sub tenants.

D6 Current Position

The Pension Trustees have indicated that the ability to progress their proposals is conditional on a detailed development appraisal being undertaken and to have provisional or in principle agreements in place with all the other parties involved including the council, potential tenant and the local housing association. The core requirements they have advised include:

1. Provisional Agreement and conclusion of dilapidations negotiations with the council;
2. Negotiation and in principle agreement of purchase terms with the council of the former Community Centre site;
3. Provisional agreement of terms with a social housing provider for the forty four residential units; and
4. Provisional agreed lease terms with tenants for letting the five shop units.

Officers will engage with the Pension Trustees to progress the matters outlined that relate to the council and will through communications with all parties retain interest on the other matters.

On those matters where there are likely to be proposed council property transactions, including dilapidations reports will be presented to Council Executive for consideration as appropriate.

D7 Council Support and Council Retail Provision Feasibility

On the basis that the Pension Trustees proposal includes retail provision that is likely to accommodate those existing retailers with a desire to relocate, it is proposed that the council no longer progress with the feasibility and business case development of providing alternative retail provision on adjacent council land.

Officers from Property Management and Development and Economic Development will aim to provide professional guidance and support in relation to lease end and dilapidation arrangements, business continuity beyond February 2020 and where appropriate, aid transition to alternative retail premises.

D8 Blackburn Town Centre Regeneration

There has been active engagement and negotiations between the parties including engagement with the community to find constructive solutions that delivers some replacement retail provision and supports the wider regeneration of Blackburn Town Centre whilst providing the Pension Trustees a financial return. The proposals if progressed by the Pension Trustees will meet these aims.

On wider regeneration aspirations, the proposals will, if progressed, see the redevelopment of the two largest sites within Blackburn Town Centre (Mill Centre and former Community Centre sites). The two other main sites are the former Petrol Filling Station Site owned by the council and the former Health Centre owned by the NHS.

The council will be removing the old tanks from the former Petrol Filling station Site enabling it to be available for development and will continue to market it. Officers will also engage with NHS counterparts on their proposals for the former Health Centre which is currently being marketed for let and has attracted some initial interest.

It remains that on 29 February 2020 when the council's head-lease expires, existing tenants who wish to remain may be granted new leases or extensions by the Pension Trustees to enable continued occupancy whilst the Pension Trustees progress with their redevelopment proposals. In progressing their development proposals, the Pension Trustees may require to obtain access and other land rights to council adjacent land holdings. Any such request will be reported to Council Executive for consideration.

Scotmid own their premises at the Mill Centre and currently have two vacant units. Officers are advised that terms have provisionally agreed for letting these units, with one to an existing tenant and the second unit to a pharmacy.

E. CONCLUSION

The current proposals from the Pension Trustees are positive and provide sufficient retail provision to meet the identified demand from existing retailers in the Mill Centre.

The proposal also facilitates the redevelopment of the remainder of the Mill Centre and the former Community Centre. This coupled with the council's proposals to remove the tanks at the former petrol filling site will address the communities concern around the loss of retail provision and the risk of having multiple vacant development sites in the centre of the town.

The council will continue to work to provide support to existing retailers on business continuity. This will include the potential for alternative retail provision should this be considered viable. Other sites owned by the council will be subject to works to enhance their marketability for development. The council will continue to promote a wider approach to regenerating the town centre. Officers will continue to engage with the community and provide updates as appropriate.

F. BACKGROUND REFERENCES

Council Executive 26 June 2018 – Mill Centre Blackburn Expiry of Lease

Council Executive 19 March 2019 - Motion Mill Centre, Blackburn

Council Executive 25 June 2019 – Mill Centre, Blackburn Update

Council Executive 22 October 2019 – Mill Centre, Blackburn Update

Appendices/Attachments:

Appendix 1 – Mill Centre, Blackburn – Location

Appendix 2 – Mill Centre redevelopment proposals

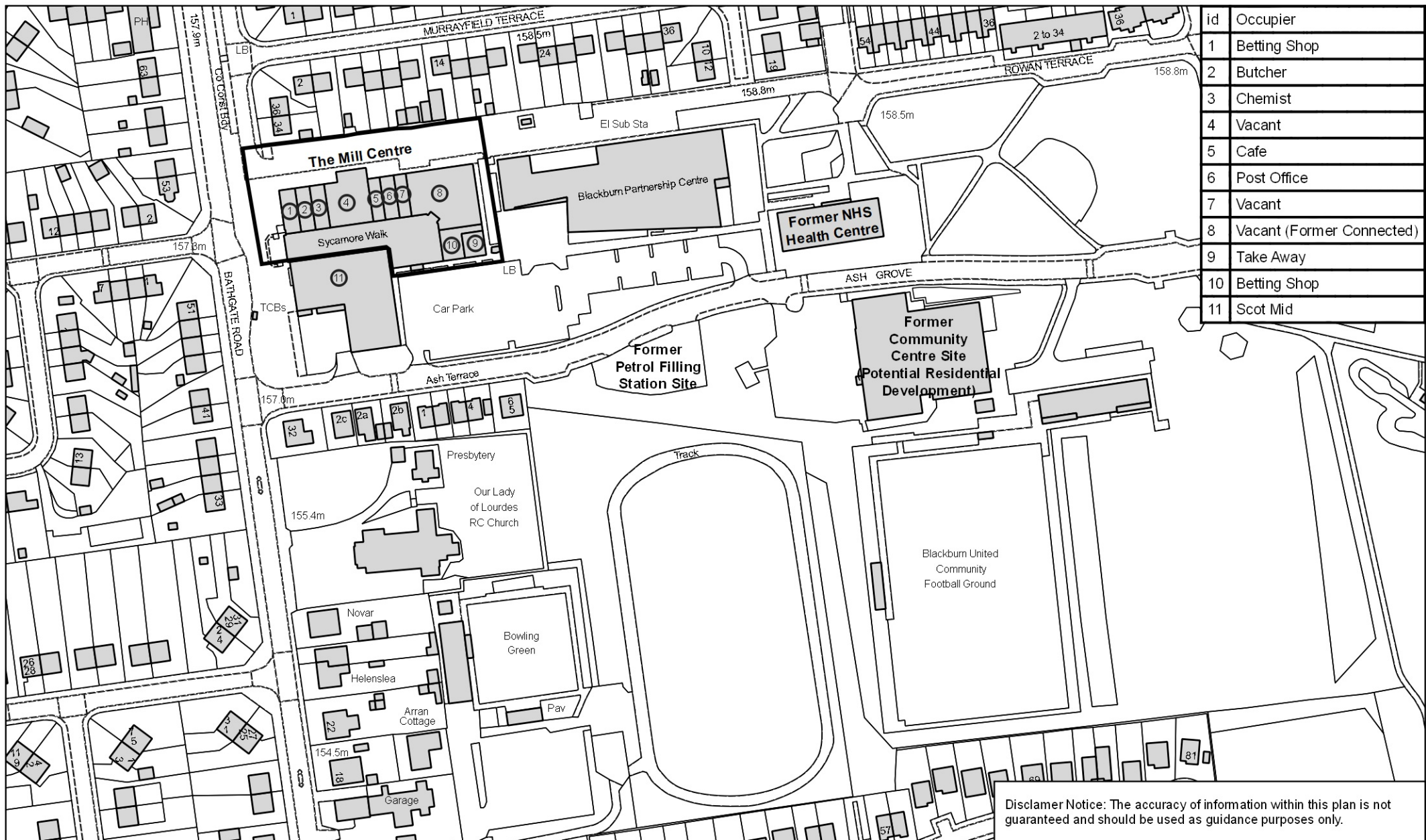
Appendix 3 – Former Community Centre development proposals


Contact Person: Paul Kettrick, Corporate Estates Manager,

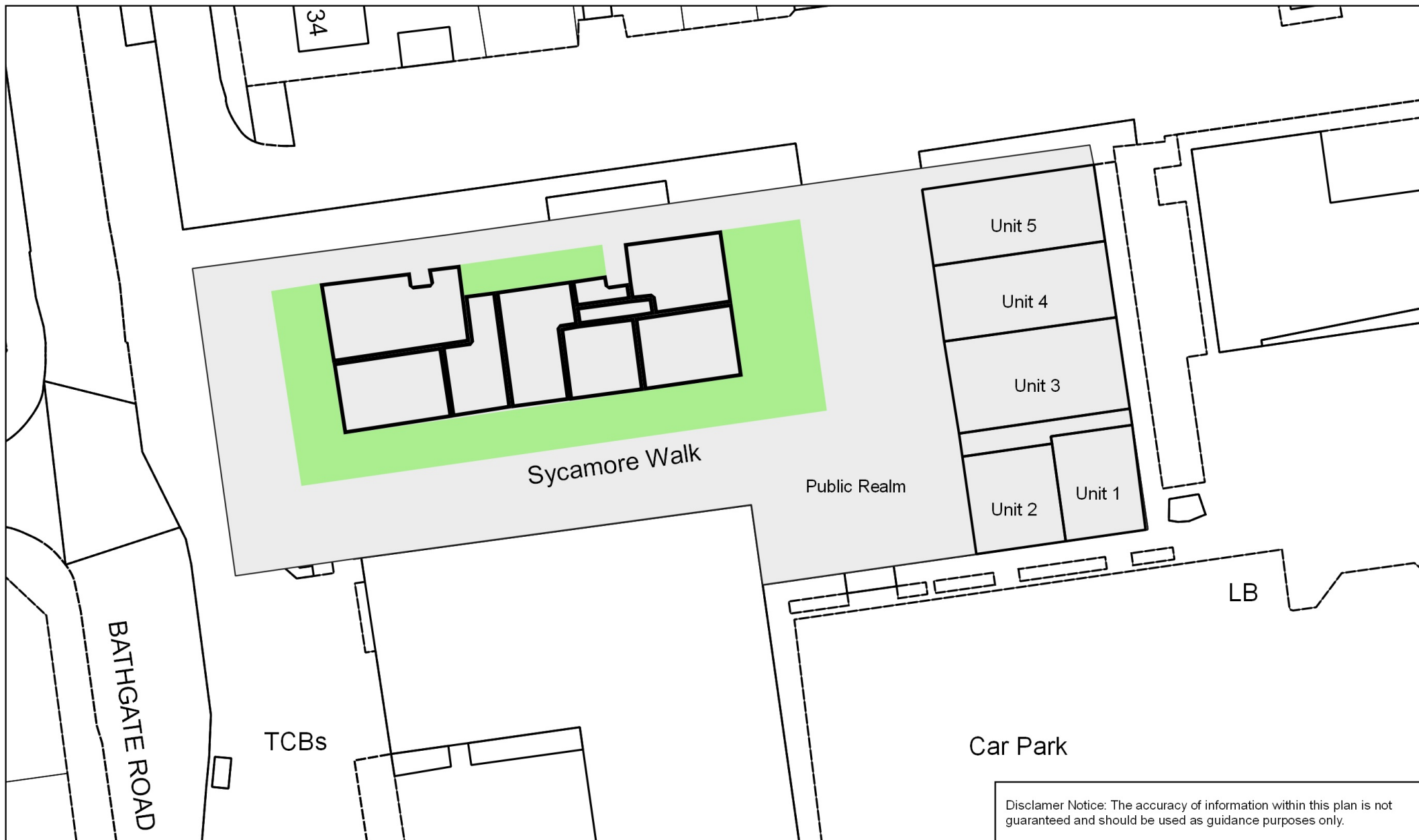
Tel: (01506) 281826 – Email: paul.kettrick@westlothian.gov.uk

**Donald Forrest,
Head of Finance and Property Services**

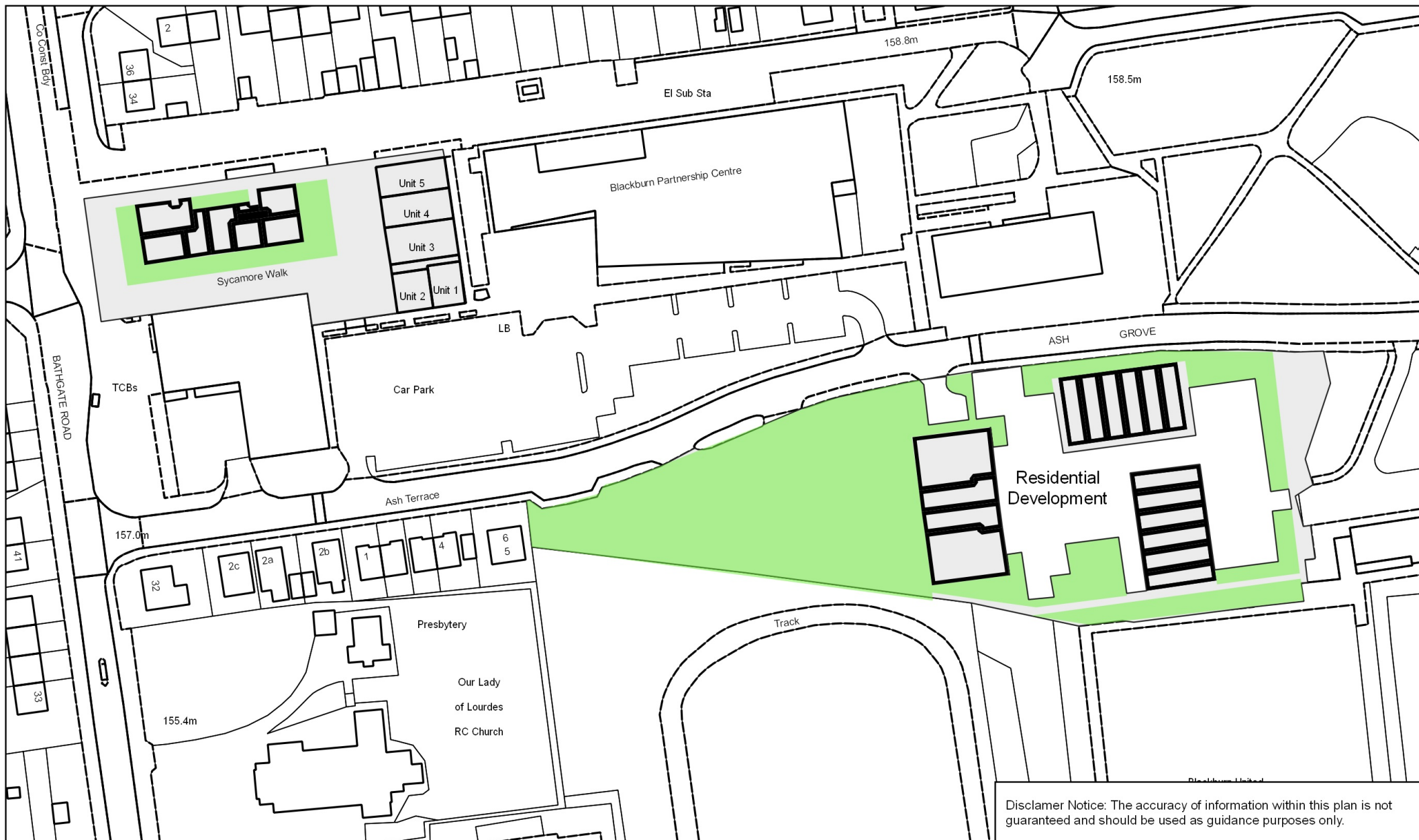
Date of meeting: 04 February 2020



	<h2>Appendix 1 - Mill Centre, Blackburn - Location and Layout</h2>	<p>1:2000</p>	<p>A4</p>	<p>N ↑</p>
<p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p>	<p>10/10/2019</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2019</p>		



	<h2>Appendix 2 - Mill Centre Redevelopment Proposal</h2>	<p>N.T.S</p>	<p>A4</p>	<p>N ↑</p>
	<p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p>	<p>27/1/2020</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2020</p>	



	<h2>Appendix 3 - Former Community Centre Site Development</h2> <p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p> <p>27/1/2020</p> <p>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2020</p>	<p>N.T.S</p>	<p>A4</p>	<p>N</p> 
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COUNCIL EXECUTIVE

MAIN STREET, BLACKRIDGE – PROPOSED ACQUISITION OF 0.34 ACRE SITE

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval for the acquisition of a 0.34 acre site at Main Street, Blackridge by the use of a Compulsory Purchase Order.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the promotion of a Compulsory Purchase Order to acquire the land shown hatched black on the plan in Appendix 1, extending to 0.34 acres (0.13 Ha.) under Section 189 of the Town and Country Planning (Scotland) Act 1997, and,
2. Grants delegated powers to the Head of Finance and Property Services and the Chief Solicitor to take forward, and conclude any negotiations regarding the payment of statutory compensation or amendments to the statement of reasons associated with the submission.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>Enabling powers available under the Town and Country Planning (Scotland) Act 1997. Compulsory acquisition of land in connection with development.</p> <p>Statutory compensation to be assessed in accordance with the land Compensation (Scotland) Acts, 1963 and 1973, as amended.</p>
III	Implications for Scheme of Delegations to Officers	The report seeks approval for granting delegated powers to the Head of Finance and Property Services and the Chief Solicitor to conclude the transaction.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	We make the most efficient and effective use of resources.

VI Resources - (Financial, Staffing and Property)	Within the General Services Capital Programme 2019/20 approved by Council on 19 February 2019 funding of £300,000 has been allocated for the delivery of the parking, drop off, access and acquisition of the site including associated fees.
VII Consideration at PDSP	Not applicable.
VIII Other consultations	Legal Services and Education. Local elected members have been provided with a copy of the report for information.

D1. TERMS OF REPORT

Background

The site is situated fronting onto the north side of Main Street, Blackridge, immediately to the south and adjacent to Blackridge Primary School. The main vehicle access for the school runs adjacent to the eastern boundary of the site and a footpath accessing the school runs along the western boundary. A plan of the site is shown in Appendix 1.

Until its demolition, the property was the site of a public house and hotel. Following the demolition of the building the site has lay derelict and became overgrown. Due to the condition of the property, it has attracted various negative comments from the Blackridge Community and the Blackridge Primary School Parent Council. Both have requested that the council acquire the site with the aim of cleaning it up in order to improve the visual and environmental amenity of the area.

Officers approached the then owners of the site with a view to negotiating terms of purchase of the property. As discussions progressed, the council commissioned an independent valuation report from the District Valuer and an informal offer to acquire the site, subject to Council Executive approval, for the sum of £85,000 was issued. This was not accepted.

This informal offer was made in good faith, however officers have since learnt that the then owners appear to have divested themselves of the property at nil consideration to another company while the discussions were ongoing with the council.

Officers have written to the new owner to advise that the council is seeking to acquire the site and in the absence of being able to agree the purchase by negotiation, that the council intend to acquire the property by way of a Compulsory Purchase Order (CPO). The new owner has met with officers and accepts that the Council will progress a CPO in parallel to negotiations to voluntarily acquire the site. Whilst the council will seek to acquire the site by negotiation it is essential that the CPO is progressed to ensure timescales for delivery of the project are not impeded.

D2. CPO Statement of Reasons

The Statement of Reasons which forms the council's case to promote a CPO is outlined in Appendix 2. In summary, planning permission was secured on 6 November 2019 for the erection of a nursery building with external play space and the formation of a MUGA pitch with associated car parking (Reference: 0639/FUL/19).

The site extending to 0.34 acres or thereby shown on Appendix 1 is included within the planning application site boundary and would enable the provision of the parking and drop off element of this education project to progress.

Within the General Services Capital Programme 2019/20 approved by Council on 19 February 2019 funding of £300,000 has been allocated for the delivery of the parking, drop off, access and acquisition of the site including associated fees.

The wider project including the nursery extension has been designed in consultation with the school and parents. The proposals are welcomed and will enable the school to deliver increased nursery capacity, future expansion of primary capacity and improve access and parking at the school. The proposals will bring the site which has been abandoned and derelict for a number of years into beneficial use.

D3. CPO Process and Timescales

Scottish Government guidance to local authorities on the use of compulsory purchase powers encourages authorities to engage with the owners in order to try and reach agreement without the need for compulsory purchase. Officers have several times attempted to conclude an acquisition by way of negotiation however the private landowner has not been forthcoming. Revised guidance encourages acquiring authorities to use compulsory purchase powers in instances where agreement by negotiation is not successful.

The council will follow the Scottish Government's process map as outlined at Appendix 3 to ensure compliance with CPO procedures for an acquiring authority. The Chief Solicitor has been engaged to support the progressing of the CPO.

Indicative timescales for the proposed CPO are as follows:

- Council Executive approval to proceed secured: 4 February 2020
- Draft CPO application submitted to Scottish Government: 28 February 2020
- Scottish Government technical check completed: April 2020
- Finalised CPO application submitted to Scottish Government: May 2020
- Statutory objection period expires: 6 April 2020
- No objections received - Scottish Government issue a decision: Not confirmed
- Objections received – Scottish Government issue a decision: Not confirmed
- Period of legal challenge – Six weeks from Scottish Government's decision.
- If no legal challenge is received, acquisition of the subjects is intended to proceed in November 2020.

E. CONCLUSION

It is considered that the acquisition of this property by Compulsory Purchase Order will allow the council to undertake the capital project in accordance with the approved planning consent to construct a new nursery adjacent to Blackridge Primary School with associated MUGA and car parking facilities, whilst improving the amenity of the area. The progressing of both a negotiated acquisition and a compulsory purchase will give more certainty on timescales for securing the land required to deliver the scheme.

F. BACKGROUND REFERENCES

None

Appendices / Attachments :

- Appendix 1 – Location Plan showing site.
- Appendix 2 – Draft Statement of Reasons
- Appendix 3 – CPO Process

Contact Person :

Darren Stenhouse, Graduate Property Surveyor, Property Management and Development

e-mail : Darren.Stenhouse@westlothian.gov.uk, Tel : (01506) 283373

Donald Forrest, Head of Finance and Property Services

Date of Meeting : 4 February 2020



Land area south of Blackridge Primary School

N.T.S

A4



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

10/1/2020

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APPENDIX 2

Proposed Compulsory Purchase by West Lothian Council of Land Extending to Approximately 0.34 Acres at Main Street, Blackridge, West Lothian

Statement of Reasons

Description of Property

The property comprises approximately 0.34 acres and is shown hatched on the attached plan. Previously it was the site of a hotel and public house however the building was demolished in 2003 following an extensive fire. The site has remained undeveloped and lain derelict ever since.

The site, which is rectangular in shape and fronts onto Main Street, Blackridge, has become overgrown with vegetation and scrub since the demolition of the buildings. While the site itself is relatively level and at street level, the general area slopes steeply upwards from the front of the site to the rear with the result that the west, east and northern boundaries of the site are marked by retaining walls.

Neighbouring properties comprise Blackridge Primary School to the rear (north) and to the west a footpath serving the school with private housing beyond that, while immediately to the east of the property is the access road to the school with private housing beyond. The surrounding area is predominantly residential in nature.

Purpose of Acquisition and Proposed Use

The purpose of the acquisition is to enable the improved accessibility of Blackridge Primary School and to support its expansion for the purposes for additional nursery capacity and future general education capacity provision.

The acquisition of the site would improve education capacity within the village of Blackridge and improve the amenity of the area which is predominantly residential in nature. Once acquired, the land will be utilised for staff parking and drop-off facilities thereby allowing scope for the extension of the school.

Description of New Rights to be Created

There will be no new rights created by the acquisition.

Enabling Act

The Council is promoting this CPO under s.189 of the Town and Country Planning (Scotland) Act 1997 as planning permission has been secured (reference 0639/FUL/19) for the site to be developed to provide car parking and drop-off facilities for the nursery to be constructed adjacent to the existing school.

Engagement with Owner(s)

The council has undertaken a search in the Land Register, and has identified that, the property is now owned by Dalmarnock Limited a Company incorporated under the

Companies Acts, (Company Number SC405057), and having their registered office at 1353 Pollokshaws Road, Glasgow, G41 3RG.

The council has been endeavouring to acquire the property since September 2015 when officers first engaged with the then owners, M & S Property Management. The owners indicated that they required £225,000 to £250,000 in order to sell the site. In turn the council obtained independent valuation advice that indicated the value of the property lay between £45,000 and £60,000. Officers subsequently offered £85,000 in an effort to reach agreement with the owner to sell the land. After ownership was transferred to Dalmarnock Limited, the offer of £85,000 was re-proposed however no response to the council's correspondence has been received.

Relevant Engagement

The Blackridge Primary School Parent Council have made representation to both their local Councillors and to council officers to discuss the potential health and environmental issues created by the derelict and overgrown nature of the site. Officers have endeavoured to engage with the landowners on numerous occasions to bring the site into council ownership. Property officers alongside Education colleagues have identified the need to construct additional nursery capacity due to Scottish Government early years changes. There is also a lack of private nursery provision and childminder services offered within the Blackridge area.

Public Benefit

The redevelopment of the site for parking and as a drop off point for the nursery school will both raise the amenity of the surrounding area and ease traffic congestion at peak times thereby benefitting nearby residents. Acquisition of the site will also future-proof the education estate within the area for anticipated increased education capacity.

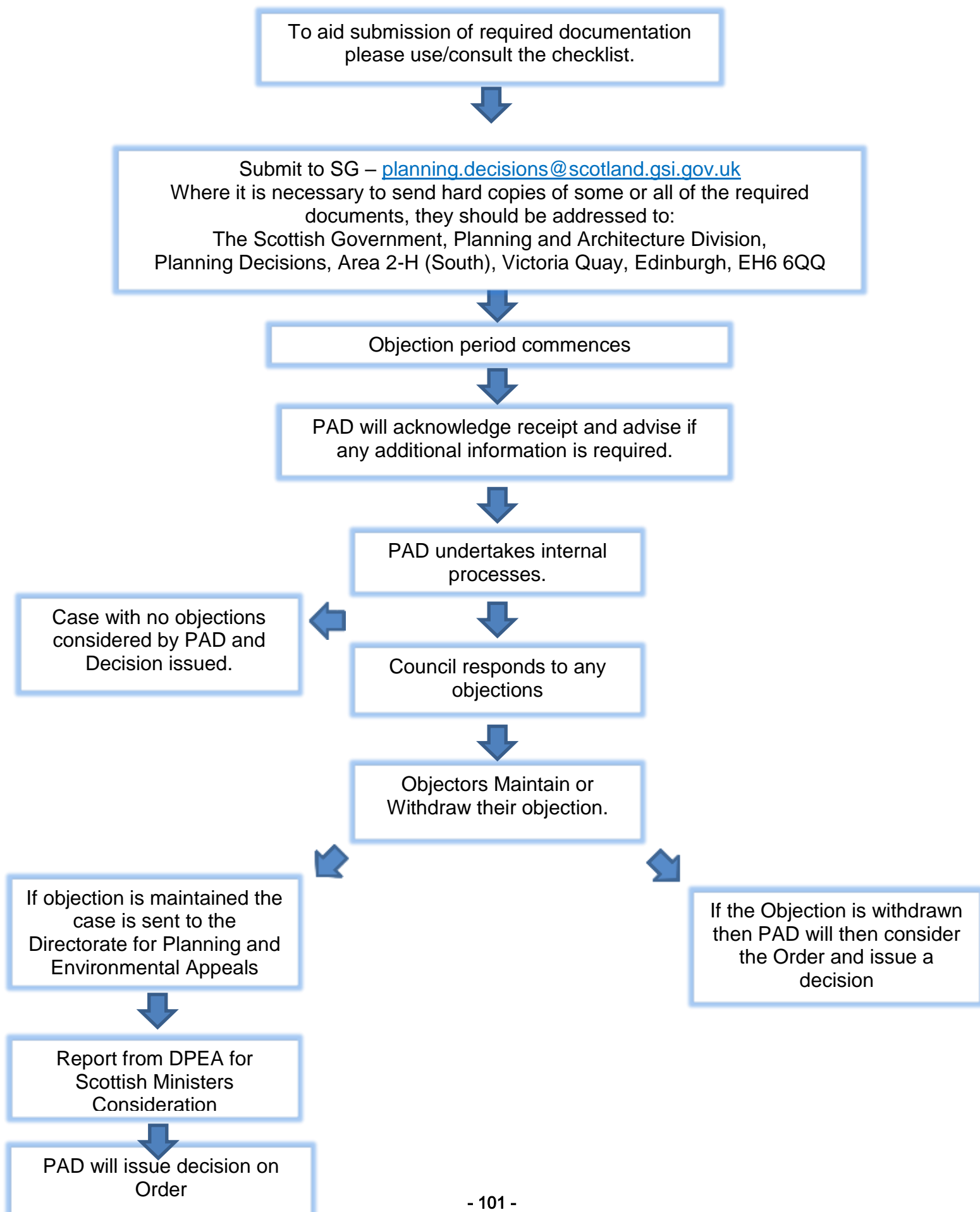
Planning

Planning permission was awarded on 6 November 2019 for the erection of a nursery building with external play space and the formation of a Multi-Use Games Area as well as car parking facilities. The site under CPO consideration would form the car parking area and falls within the red line boundary of the planning application as per the approved plans under planning reference 0639/FUL/19.

Funding

A valuation report was obtained from the District Valuer in 2016 who valued the property at £50,000 (FIFTY THOUSAND POUNDS). In addition there would be an additional spend estimated at £350,000 in creating the parking and drop off point, all of which would be funded out of the capital budget.

Appendix 3 - Compulsory Purchase Orders – Process and Checklist





COUNCIL EXECUTIVE

CALDERWOOD CORE DEVELOPMENT AREA – SCHOOL ESTATE INVESTMENT UPDATE

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

The purpose of the report is to seek approval to progress the proposed new primary school and nursery at the Calderwood Core Development Area, East Calder through financial close to construction as outlined in this report.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the new layout and design of the proposed new primary and nursery school at Calderwood CDA, East Calder as set out in the report and illustrated in the appendices;
2. Approves acceptance of the finalised proposed construction cost of £14.3m against a reported affordability cap of £14.83m;
3. Notes the proposed delivery timescales and project milestones including those relating to the obtaining of statutory consents and approvals;
4. Notes that there were no objections to the proposed school as an outcome of the statutory education consultation; and
5. Delegates authority to the Head of Finance and Property Services to execute and deliver the final design and build development agreement (DBDA) and associated documentation on behalf of the Council at Financial Close.

C. SUMMARY OF IMPLICATIONS

- | | |
|---|---|
| I Council Values | Focusing on our customers' needs.
Being honest, open and accountable.
Making best use of our resources. |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | The implementation of the West Lothian Local Plan (WLLP) and the emerging Local Development Plan (LDP) require substantial funding for education infrastructure which will be funded through developer contributions. |
| III Implications for Scheme of Delegations to Officers | Recommendation 5 seeks approval to delegate authority to the Head of Finance and Property to execute and deliver the project agreement and associated documents to all the construction of the new school to |

commence.

IV Impact on performance and performance Indicators	The proposed project will support various performance measures contained in the Corporate Asset Management Strategy and Property Asset Management Plan including those relating to Compliance, Condition, Suitability, Sufficiency, Sustainability and Accessibility.
V Relevance to Single Outcome Agreement	The proposed project will support the delivery of Single Outcome Agreement objectives including: Our children have the best start in life and are ready to succeed; We are better educated and have access to increased and better quality learning and employment opportunities; and We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI Resources - (Financial, Staffing and Property)	<p>All project costs to support specifically additional housing development related increases in capacity are fully recoverable from developers.</p> <p>The revenue consequences arising from the new school are reflected in future revenue budgets forecasts.</p> <p>The project is included within the approved General Services Capital programme with funding of £14.521m allocated for 2019/20 to 2022/23.</p> <p>The project will be managed through existing staff resources and supported by funded internal posts and external technical consultants from within the projects financial resources</p>
VII Consideration at PDSP	No requirement to report to PDSP.
VIII Other consultations	Education, Planning and Financial Management Unit.

D. TERMS OF REPORT

D1 Background

The Council Executive at its meeting on 25 June 2019 agreed to progress the development of a new Calderwood Primary School to supporting new housing to be delivered through the Core Development Area (CDA) at Calderwood, East Calder. This is compatible with the implementation of the approved West Lothian Local Plan (WLLP). To support additional housing, additional education infrastructure is required. Any additional infrastructure will be fully funded through developer contributions.

At Calderwood, the additional education capacity required will consist of a new primary school which will initially have a capacity of four hundred and sixty two pupils (two stream) and nursery for one hundred and twenty eight children. The school has been designed with capability and capacity to expand beyond two streams to allow for future expansion if necessary.

This report updates Council Executive on the progress on delivery of the new school and seeks approval for the proposed design and to progress the project to financial close stage.

D2 Approved Design

This report provides indicative layouts and sets out the proposed project delivery timescales. The new school will incorporate the latest innovation in primary school design, and has been developed with all key stakeholders, including the local community and Stirling Developments Ltd, to ensure its total integration into the new Calderwood Development as an anchor landmark.

This new school accommodation has been designed taking on board the successful elements from recent secondary school projects, with innovative design which is both suitable and sustainable, ensuring the Calderwood primary school meets the same high standard obtained in the design and construction of West Calder High School.

The proposed location and layouts of the new school are shown in Appendix 1

D3 Current Projected Costs / Proposed Affordability Cap

The total projected cost of the project based on the operational dates, the current accommodation schedule and the confirmed material pallet has been advised as £14.303 million. This will form the commercial offer to the council which will be agreed at financial close.

It should be recognised that the proposed figure of £14.303m is £0.526m less than the affordability cap set out using national space / area and cost metrics for primary schools. This reduction has been achieved through rigorous market testing and economies of scale on a build of this size. Stirling Developments Ltd has carried out site remediation, preparation and servicing of utilities in advance of commencing the main construction works in March 2020. This advance works significantly de-risks the project for the council.

The report seeks approval to formally accept the proposed construction costs on the basis of the confirmed design and timescales.

It is proposed that the Head of Finance and Property Services is provided with delegated authority to conclude the appropriate commercial and legal agreements to progress the project to financial close on the basis that there is no material change in costs or timescales and any alterations continue to represent best value.

D4 Next Stages and Project Milestones

The proposed project cost and design if approved will progress in accordance with the following outline programme for delivery:

Project Stage / Milestone	Projected Date
Financial Close	10 February 2020
Construction Commencement	9 March 2020
New Calderwood Primary School Construction Completion	16 July 2021
New Calderwood Primary School Fully Operational	August 2021

D5 Education Consultation

A formal consultation period of 30 school days commenced on Thursday 26 September 2019 and continued until Friday 15 November 2019 with no expressions of opposition to proposals received. The Education Scotland report noted that 'The council's proposal provides a strong case for the proposed new school'.

E. CONCLUSION

Achieving Financial Close for the new project is a key milestone providing cost and programme certainty based on the figures and dates reported. Once Financial Close is achieved the contractor will mobilise enabling construction commencement on 9 March 2020 which will enable delivery in advance of August 2021.

The delivery of the project will enable house building at the Calderwood CDA to continue and will ensure that there is sufficient education capacity to meet demand for both nursery and primary pupils resulting from the population growth.

F. BACKGROUND REFERENCES

Calderwood Core Development Area – School Estate Investment Update - Council Executive 25 June 2019

Establishment of New Non-Denominational Primary School at Calderwood, East Calder – Education Executive 21 January 2020

Appendices/Attachments:

Appendix 1 - Proposed Site Plan and General Arrangement drawings

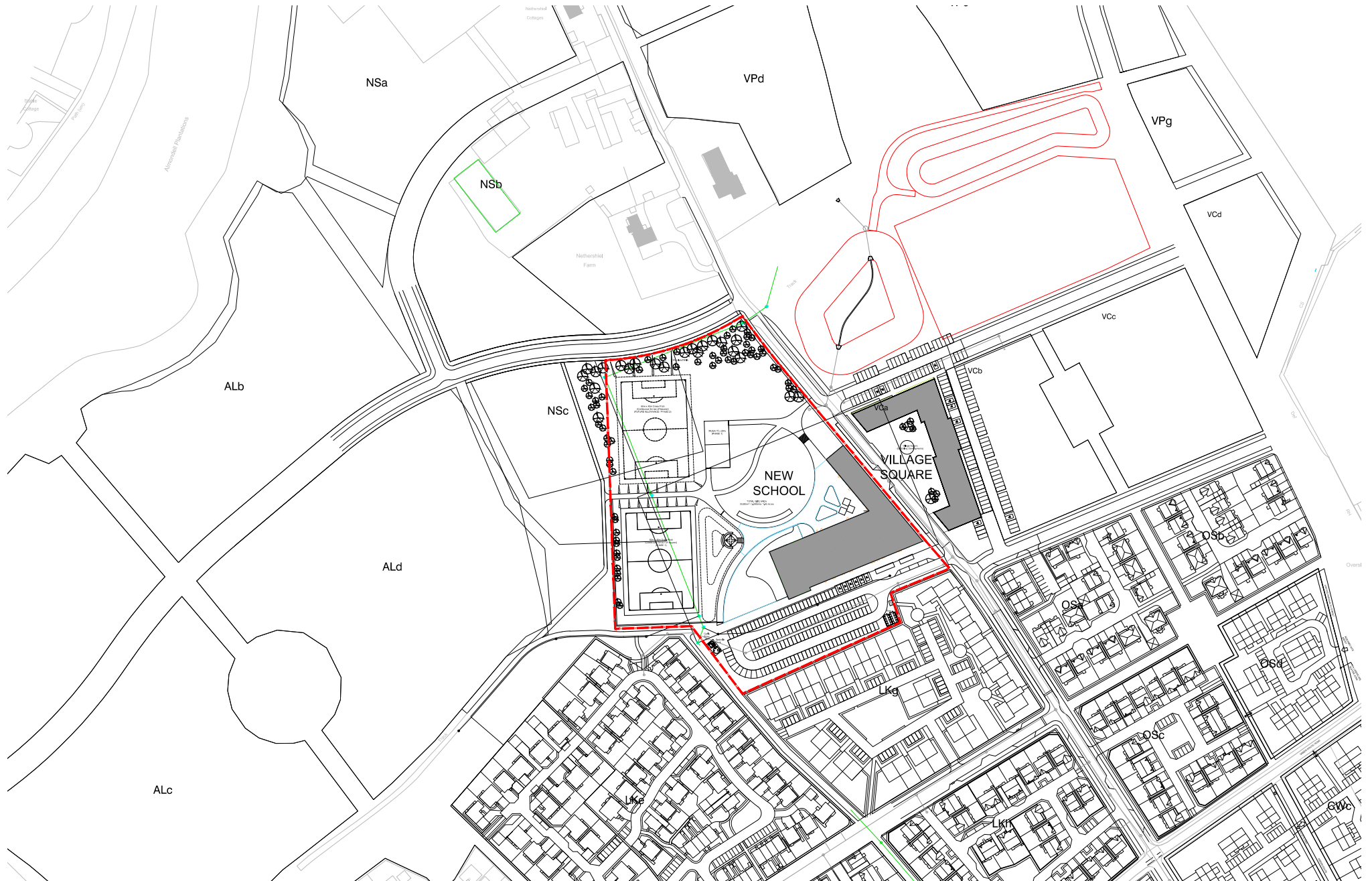
Appendix 2 – Revised Layout and Accommodation

Contact Person: Paul Kettrick, Corporate Estates Manager, Finance and Property Services

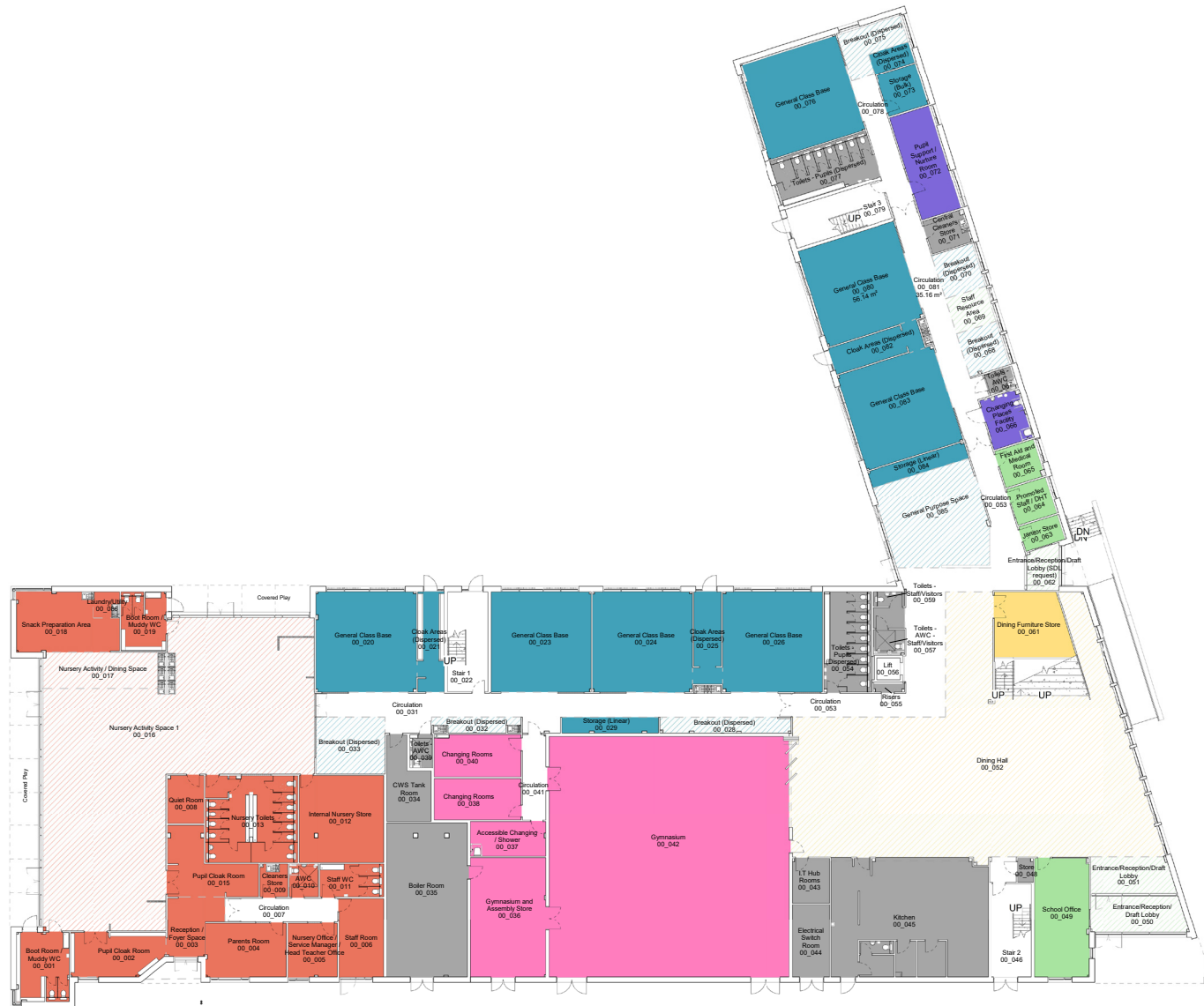
Tel: 01506 281826 e-mail: paul.kettrick@westlothian.gov.uk

Donald Forest, Head of Finance and Property Services

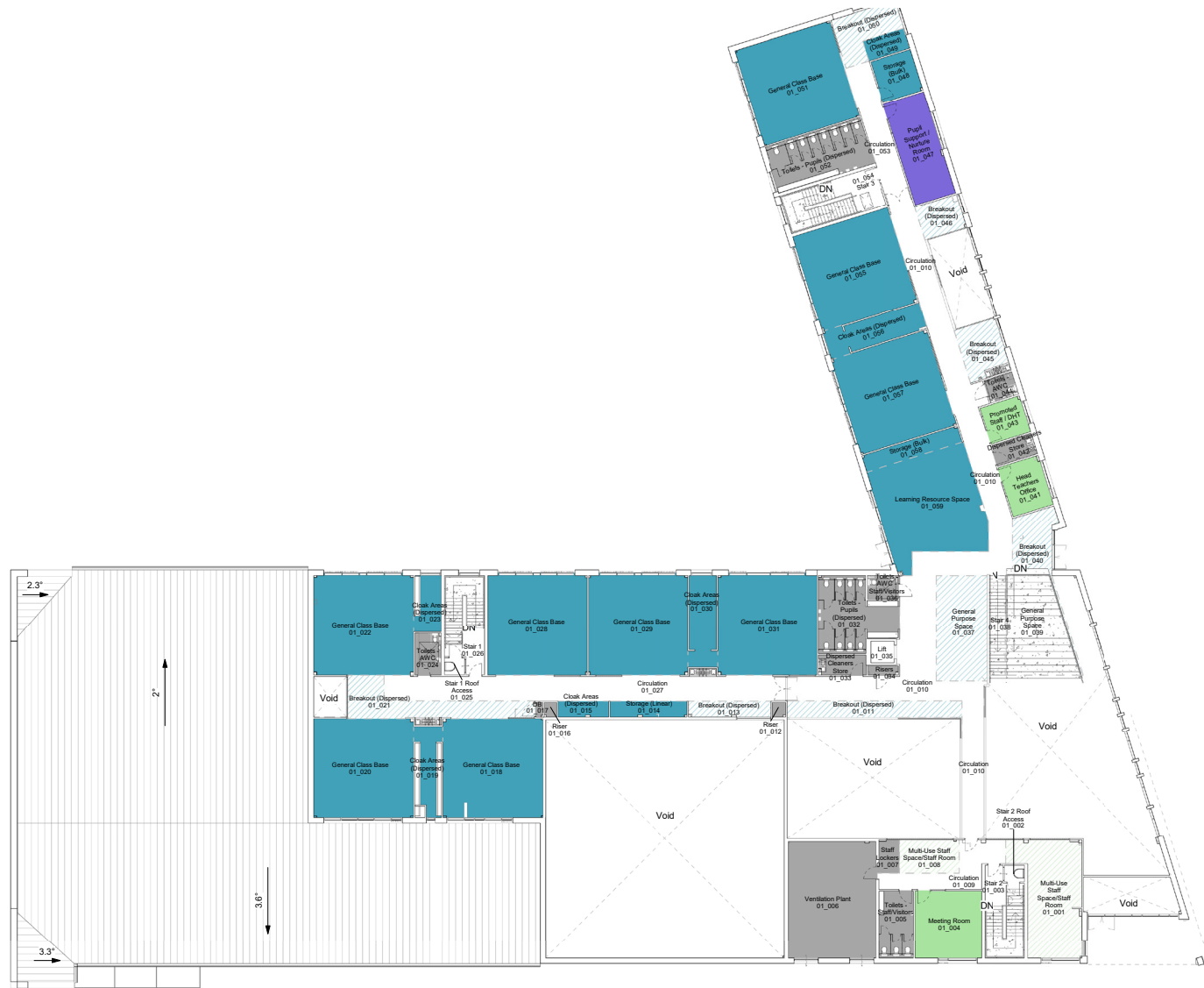
4 February 2020



Appendix 1.1: Calderwood Proposed Site Plan



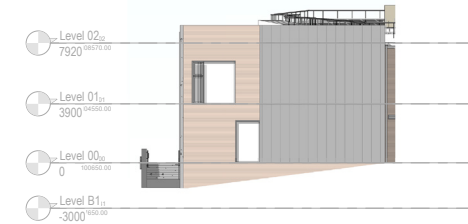
Appendix 1.2: Calderwood Proposed Ground Floor Plan



Appendix 1.3: Calderwood Proposed First Floor Plan



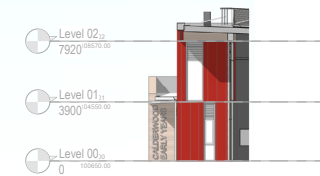
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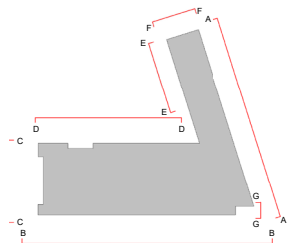
4 (00)-GA-Elevation-G-G



5 (00)-GA-Elevation-E-E



6 (00)-GA-Elevation-D-D



Appendix 1.4: Calderwood Proposed Elevations



7 (00)-GA-Elevation-C-C



Appendix 1.5: Calderwood Proposed Main Entrance View



Appendix 1.6: Calderwood Proposed Early Years Entrance View



COUNCIL EXECUTIVE

**CONSULTATION RESPONSE: CHANGES INTRODUCED BY BANKRUPTCY AND DEBT
ADVICE (SCOTLAND) ACT 2014**

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

The purpose of the report is to inform Council Executive of the Scottish Government consultation on changes introduced by the Bankruptcy and Debt Advice (Scotland) Act 2014 and to agree a response to be returned by 11th February 2020.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. Notes the content of the proposed consultation response at appendix 1; and
2. Approves the proposed consultation response to be submitted to the Scottish Government on behalf of West Lothian Council

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Reducing inequalities and poverty are key priorities set out in both the Corporate Plan 2018/19 – 2022/23 and in the Community Planning Partnership Local Outcome Improvement Plan 2013 - 2023
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 6 – We live longer healthier lives. Outcome 7 – We have tackled significant inequalities in West Lothian society. Outcome 8 – We have improved the life chances for people at risk. Outcome 13 – We take a pride in a strong, fair and inclusive society.

VI	Resources - (Financial, Staffing and Property)	None.
VII	Consideration at PDSP	Limited time is available to respond to this consultation within the timescale set by Scottish Government, therefore it has not been possible to consider at PDSP
VIII	Other consultations	Consultation responses have been collated from money advice practitioners in West Lothian who form the West Lothian Advice Network, a sub-group of the CPP Anti-Poverty Strategy 2018/19 – 2022/23.

D. TERMS OF REPORT

D1 Background

In April 2015, the Bankruptcy and Debt Advice (Scotland) Act 2014 introduced significant reforms to bankruptcy law in Scotland. Over the last year, the Accountant in Bankruptcy has sought feedback from stakeholders on the impact of these changes and gathered suggestions for potential improvements.

The Scottish Government has now launched a public consultation seeking feedback on how the April 2015 reforms have been working in practice and comment on suggestions gathered at Accountant in Bankruptcy stakeholder events.

The consultation is focused on five areas identified as requiring some improvement:

- Statutory Moratorium on Diligence
- Common Financial Tool
- Debtor Contribution Order
- Minimal Asset Process Bankruptcy; and
- Financial Education

The Scottish Government also invites comment on a further two areas which have been raised with Accountant in Bankruptcy:

- The treatment of Child Maintenance Debt in Bankruptcy; and
- The Statutory Rate of Interest applied in Bankruptcy

D2 Consultation

The consultation opened on 5 November 2019 and closes on 11 February 2020. Given the timescale, including the Christmas holiday period, it has not been possible to put forward a paper to the Partnership and Resources PDSP prior to bringing the paper to Council Executive.

Money advice practitioners who form part of the West Lothian Advice Network came together to consider the consultation paper. The consultation seeks opinion on a range of comments on raised at Accountant in Bankruptcy stakeholder events and presents suggestions in key areas identified as requiring improvement.

The majority of suggestions for improvements (see Appendix 1) centre around increasing thresholds to enter into bankruptcy and improving the protections afforded for individuals as they navigate the process of sequestration. West Lothian money advisers are in agreement that the threshold to enter into minimal asset process (MAP) bankruptcy in particular should be increased. The minimum debt level for MAP is currently fixed at £1,500, which money advisers feel is too low given that sequestration is an option of last resort and that £1,500 is a comparatively low level debt. Clients seeking to enter into MAP bankruptcy have low income and minimal assets and it is felt that a higher threshold would encourage alternative strategies such as income maximisation with a view to setting affordable and sustainable arrangements to repay debt.

Money advisers are concerned that current practice does not do enough to support and protect the most vulnerable individuals and are in agreement that protections afforded by the statutory moratorium on diligence should be extended from six weeks to 12 weeks with further consideration given to additional protections for individuals with very poor mental health. Additionally, money advisers identified that the trigger figures and lack of flexibility in the common financial tool may disproportionately impact vulnerable people with already low income. Trigger figures are used to identify when an individual's expenditure exceeds allowable levels in order to determine the level of debtor contribution. Money advisers have concluded, from their experience, that there is little flexibility afforded when an individual breaches these figures, even where a good reason for the breach is identified. For this reason, it is suggested that the common financial tool should be reviewed to allow a more flexible approach.

E. CONCLUSION

Responses have been collated from money advice organisations working in partnership in West Lothian to meet the outcomes of the Anti-Poverty Strategy. Money advisers working with clients with a wide range of circumstances have provided valuable insight into their experience of how the changes introduced by the Bankruptcy and Debt Advice (Scotland) Act 2014 are working in practice.

The Scottish Government review of these changes affords an opportunity to make comment and suggestion to make improvements with a view to protecting the most vulnerable individuals and improving their life chances.

The Council Executive is asked to agree the submission to the consultation as set out in Appendix 1.

F. BACKGROUND REFERENCES

<https://consult.gov.scot/accountant-in-bankruptcy/review-of-changes-bankruptcy-and-debt-advice/>

Appendices/Attachments:

Appendix 1: Draft consultation response on the review of changes introduced by the Bankruptcy and Debt Advice (Scotland) Act 2014

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Donald Forrest
Head of Finance and Property Services
4th February 2020

Statutory Moratorium on Diligence

The Moratorium on Diligence provides individuals struggling with debt with a period of breathing space within which creditors are prevented from instigating certain debt recovery procedures. The moratorium gives an individual six week protection from creditor enforcement action as soon as it is published on the Register of Insolvencies. Only one moratorium application is allowed in any 12 month period. An individual does not need to seek money advice to apply for this moratorium period and can apply themselves.

The moratorium is an extension of the previous intimation period under Debt Arrangement Scheme (DAS) where an individual was given this same breathing space prior to the formal application to join the scheme. The 2014 Act extended this to all insolvency and statutory debt management products administered by the Scottish Government.

Feedback received at 2018 Accountant in Bankruptcy (AiB) stakeholder sessions and other informal discussions suggests that many have welcomed the introduction of the moratorium. It has introduced a period of time to allow individuals struggling with debts to seek advice, establish their financial circumstances and seek advice as to the best solution and has been very useful. However, there has been some debate over the 6 week duration and whether this provides sufficient time to undertake all of the required information gathering and advice leading on to consideration of solutions.

This was discussed at stakeholder sessions and the views expressed have ranged from the six week period being sufficient to the recommendation it should be extended - with suggestions ranging from 8 weeks to 6 months. Relevant factors include the current pressures on the advice sector, specifically free to client advisers, which can result in appointment delays. Additionally, the evidence requirements necessitated by the Common Financial Tool could result in information being gathered over a period of time and this could impinge on the period of moratorium leaving clients exposed to creditor action. Alternative views have highlighted that a significant extension could increase misuse of the moratorium to delay rather than agree the solution, thereby preventing creditors pursuing legitimate recovery action. Money advisers have indicated that a more limited timescale would help encourage action and avoid the possibility that information already obtained as part of the advice process becoming outdated. It was noted that many creditors may automatically apply an eight week breathing space period for options to be considered where client representations have been made regarding inability to pay.

The moratorium provisions have been well received and utilised in Scotland. In recent months the UK Government has consulted on proposals for its Breathing Space and published proposals on how this mechanism will work in practice. Breathing Space will provide similar protection to the statutory moratorium. However, the proposed system includes some characteristics that can readily be included for consideration in this consultation. On the period of protection, the UK Government has proposed 60 days which is 18 days longer than the current moratorium in Scotland. Access to Breathing Space will normally be facilitated through a money advice agency. Stakeholder feedback in Scotland has suggested 15 that the current access arrangements are working well and while many of those choosing to apply for a moratorium will do so with the support and guidance of a money adviser, the flexibility for the individual to apply should be retained. Similarly, Scottish stakeholders

APPENDIX 1: CONSULTATION RESPONSE

indicated that given the limited period of moratorium protection, there should be no requirement for a mid-way check to ensure that the individual has engaged with the advice process and is seeking a debt solution.

The Breathing Space proposals include some stronger protections for debtors than the existing moratorium arrangements. While the pause on creditor recovery and enforcement actions under both schemes are similar, the UK Government proposes that the Breathing Space will introduce a pause on additional interest, default fees and charges being levied by creditors during the protection period. The Scottish moratorium does not include this restriction and the consultation will seek views on equivalent protections being introduced for the moratorium. The proposed arrangements for access to Breathing Space for those in mental health crisis have been discussed at Scottish Stakeholder events and the possibilities that may exist to introduce some alternative moratorium arrangements for those receiving mental health crisis care. The specific arrangements within Breathing Space that have been highlighted as useful additions to the current moratorium are:

- Access to a moratorium on the assessment of an Approved Mental Health Professional
- Removal of restriction to apply for one moratorium in 12 months where this is under the mental health crisis provisions
- Removal of a time limit for moratorium protections for those undergoing mental

Q1. Do you consider the current six week period of protection afforded by the moratorium process to be sufficient?

- ☐ Yes
☒ No

Q1a. If you answered “no” to Q1 what do you consider the appropriate time for a moratorium in Scotland?

- ☐ Less than 6 weeks
☐ 60 days
☐ 10 weeks
☒ 12 weeks
☐ Other

Q1b. If you selected “less than 6 weeks” or “other” in Q1a how long do you think is appropriate and please explain the reasons why?

Answer: n/a

Q2. Do you believe that interest, default fees and charges in respect of debts at the time of the moratorium application should be frozen during the moratorium period?

- ☒ Yes
☐ No

Q2a. Please provide a reason for your answer to Q2?

Answer: Increasing the period of protection afforded by the moratorium process from six weeks to 12 weeks would be in the best interests of debtors in order to allow a more realistic timeframe to engage with a debt advice service and gather relevant information.

Extending protection to allow interest, default fees and charges in respect of debts at the time of the moratorium application to be frozen would offer some protection from further financial hardship whilst engaging with appropriate debt advice and considering options for long term debt solutions.

Q3. Do you believe the Scottish Government should explore further provisions in the moratorium, similar to those in the UK Breathing Space scheme, which have a reserved competency?

- ☒ Yes
☐ No

Q3a. If you answered “yes” to Q3 which of the following areas should the Scottish Government explore?

- ☐ Stopping creditor enforcement action (excluding a commenced earnings arrestment) during the moratorium period.
☐ Preventing creditors from contacting debtors in relation to repayment of a debt during the moratorium period.
☐ Preventing deductions from benefits during the moratorium period.
☐ Preventing the forced installation of pre-payment meters, or the disconnecting of fuel supplies during the moratorium period.
☐ Preventing the eviction of debtors for unpaid debts under section 19 of the Housing (Scotland) Act 1988 during the moratorium period.
☒ All of the above

Q4. Do you believe that the Scottish Government should consider further separate provisions in the moratorium, similar to those in the UK Breathing Space scheme, for those receiving mental health crisis care?

- ☒ Yes
☐ No

Q4a. If you answered “yes” to Q4, which of the following principals for those receiving mental health crisis care should be given consideration?

- ☐ The removal of the restrictions on accessing the moratorium once within a 12 month period.
☐ The period of moratorium protection being extended.
☒ Both of the above options

Q4b. If you ticked the box for extending the period of protection how long should the period of protection last?

- ☐ Duration of mental health crisis care
☒ Other

Q4c. If you answered “other” to Q4b what period of protection should apply?

Answer: The definition of ‘mental health crisis care’ is not clearly defined in the consultation paper. Acute mental health care is often limited to very short lived, emergency intervention. Individuals discharged from acute services could still be experiencing very poor mental health and wellbeing, albeit no longer considered to be in crisis. On the other hand, long term mental health treatment can take years with patients experiencing periods of good and bad mental wellbeing. It is considered that there would need to be a mechanism to protect individuals experiencing very poor mental health and wellbeing and this may not always align with the duration of mental health treatment.

The proposed arrangement for the UK Breathing Space scheme would allow debt advice agencies to record that an individual was in crisis and could benefit from the protections of the scheme. Confirmation would then be based on an assessment by a mental health professional of an individual’s condition and status. West Lothian money advice practitioners consider that a follow up assessment by a mental health practitioner could be implemented to review an individual’s condition and status and protection should apply until the individual is assessed as well enough to cope with the impact of the protection being lifted.

Common Financial Tool

The Common Financial Tool (CFT) was introduced by the 2014 Act, supported by the Bankruptcy (Scotland) Regulations 2014. The intention of the CFT was to ensure greater consistency and transparency in relation to any determination of the contribution level a debtor might pay in respect of Scottish statutory debt solutions.

The 2014 Act made the use of the CFT mandatory in respect of all statutory debt relief and debt management solutions in Scotland. The tool is used for the assessment of an individual’s income and expenditure, thereby determining the surplus income available for the Debtor Contribution Order (DCO) in bankruptcy, DPP under Debt Arrangement Scheme (DAS) or contribution in a Protected Trust Deed (PTD).

Part of the consultation conducted prior to the drafting of the 2014 Act sought views on the concept of the CFT and the preferred tool to be adopted. The majority of respondents indicated support for the introduction of the CFT and the adoption of the Common Financial Statement (CFS), the tool operated by the Money Advice Trust and used by advisers through a licensing arrangement as the prescribed CFT.

In the main, feedback from AiB’s stakeholder events has reflected that the introduction of a consistent approach to the calculation of contributions has been a positive development. It is recognised that these reforms have brought forward much of the work that was previously undertaken post award by the trustee in bankruptcy and that full details of an individual’s circumstances must be obtained in order for appropriate advice to be provided. The general view is that the greater transparency and certainty afforded to the individual provides for advantages over the previous arrangements. Some of the concerns raised during these sessions have centred on the operational processes adopted by AiB about evidence requirements along with the approach to verifying essential expenditure and expenditure trigger figure breaches. While it is acknowledged that there does need to be sufficient information available to support the assessments provided, a commonly expressed view was that the approach taken has created onerous requirements for advisers and those anxious to secure access to statutory debt solutions.

APPENDIX 1: CONSULTATION RESPONSE

During late 2017 and 2018, AiB issued a public consultation on the future of the CFT. In particular, this consultation sought views on future developments taking account of the development and inception of the Standard Financial Statement (SFS) - a new tool operated by the Money and Pensions Service under the auspices of the SFS Governance Group - and planned to replace the CFS as the UK's foremost mechanism for determining income and expenditure for debt solutions. The Money Advice Trust had confirmed that they did not intend on continuing to routinely operate the CFS with effect from April 2020.

Draft Regulations brought forward following the consultation proposed the SFS replacing the CFS as the adopted CFT. The initial regulations were withdrawn to allow a longer implementation period between the laying of the regulations and their coming into force – this acknowledged feedback from stakeholders concerning the IT and training requirements that would need to be put in place. Revised Regulations were laid in September 2018. A number of concerns about the switch to the SFS were raised during the Parliamentary scrutiny of the Regulations. The Scottish Government therefore agreed that the CFS should continue for a further year while 19 more in- depth analysis is undertaken comparing the CFS to the SFS.

AiB's operational procedures for the CFT and the guidance which supports these has been the focus of attention during 2018/19 and recent CFT working group meetings have aimed to address some of the concerns highlighted over onerous evidence requirements highlighted above. This consultation seeks to explore issues around the CFT and views on the most appropriate model to adopt. On the basis that a common methodology is still supported as the best way to achieve consistent outcomes for debtors, the options would involve the SFS, continuation of the CFS with arrangements put in place to continue its operation or an alternative model. Choosing an alternative model would require more detailed consideration and further consultation on its effect and impact including an assessment of its compatibility with existing primary legislation.

Q5. Do you think the provision of a CFT to provide a consistent approach to the assessment of contributions remains an appropriate feature within insolvency legislation?

- ☒ Yes
☐ No

Q5a. If you answered “no” to Q5, what approach should be adopted to assess the contributions in statutory debt solutions?

Answer: n/a

Q5b. If you have answered “yes” to Q5, should the CFT be an income and expenditure tool designed to assess individual circumstances?

- ☒ Yes
☐ No

Q5c. If you answered “yes” to Q5b, which tool should be adopted as the CFT?

- ☐ Common Financial Statement
☐ Standard Financial Statement
☒ Other (please explain below)

Answer: Money advice practitioners in West Lothian are in agreement that an income and expenditure based tool with trigger figures to indicate excessive expenditure remains the most appropriate model for the common financial tool. It is however, considered that neither the Common Financial Statement nor the Standard Financial Statement appropriately account or allow adjustments for individual circumstances. For example, one money adviser worked with a client whose children live in Northern Ireland. He travelled by road and ferry to visit every three weeks and, as a result, breached the trigger figure for travel costs. Despite the fact that his expenditure was significantly under the trigger figures in other areas, there is currently no flexibility to accommodate his specific circumstances.

Q5d. If you answered “no” to Q5b, what model should be adopted to assess the contributions in statutory debt solutions?

Answer:

Debtor Contribution Order

The 2014 Act replaced the Income Payment Agreement and Income Payment Order with the Debtor Contribution Order (DCO). The DCO is the formal document that confirms the contribution level a debtor should pay in their bankruptcy. The Accountant in Bankruptcy (AiB) must fix a DCO in every case – including bankruptcies awarded following a debtor application and creditor petition to the court. The Common Financial Tool must be used to set the contribution in the DCO. A DCO is fixed in each bankruptcy, even if this has a nil value, with legislation providing for variation and the quashing of a DCO on a change of circumstances or where this action is appropriate. In debtor application cases, the DCO is fixed at the same time as the award of bankruptcy. In a creditor petition case, the trustee should submit their contribution proposal within 6 weeks of the award date and the AiB will make the DCO shortly after receipt of the contribution proposal.

At the stakeholder sessions, the operation of the DCO process was discussed and the general view from the money advice sector was that in debtor application cases, the switch to fixing a contribution at the award stage was seen as a positive development that provided certainty and transparency for the client. Some concerns related to the onerous evidence requirements described under the CFT section of this consultation. Additionally, insolvency professionals highlighted issues associated with the statutory 6-week timescale to submit DCO proposals to AiB in creditor petition appointments. This was problematic – particularly in cases where there were challenges in making contact with bankrupt individuals. Consequently, the Scottish Government is keen to establish views on the DCO process as it relates to creditor petition awarded bankruptcy. AiB is also considering options for additional guidance to introduce some greater flexibility for trustees in making DCO proposals where they have been unable to establish all information due to the debtor not co-operating. This revised guidance has provided for DCO proposals to be submitted to AiB using all of the information that has been obtained - with the option to re-assess the circumstances where the debtor's co-operation has been obtained.

Q6. Do you believe 6 weeks is sufficient period of time for a trustee to submit a DCO proposal to AiB in a creditor petition bankruptcy?

- ☐ Yes
☒ No

Q6a. If you answered “no” to Q6 what would be a sufficient timescale?

- ☐ 8 weeks
- ☐ 10 weeks
- ☐ 12 weeks
- ☐ No time limit (with requirement to report progress at regular intervals)
- ☒ Other

Q6b. If you answered “other”, what would be a sufficient timescale?

Answer: It is considered that it is not appropriate for debt advice practitioners to submit a response to this question as it is aimed specifically at creditors.

Minimal Asset Process (MAP) Bankruptcy

MAP access to bankruptcy was introduced to provide a simplified and lower cost route into bankruptcy for people with unsustainable debt, few assets and no available surplus income to make a contribution. The process provides a list of qualifying conditions for an individual to be able to apply including, minimum and maximum debt threshold and financial limits applied on the value of assets owned. It also comes with a lower application fee of £90 compared to a full administration bankruptcy and the individual will normally be discharged after six months. Applications for MAP bankruptcy can only be made once in every 10 years. MAP bankruptcy replaced the previous Low Income Low Asset (LILA) bankruptcy and included some key differences. In particular, the entry criteria for MAP bankruptcy is designed to take account of specific household circumstances in assessing whether a contribution can be made – the LILA criteria applied an income limit based on the national minimum wage but did not take account of the expenditure and other circumstances of the household.

The general consensus of stakeholder feedback is that MAP is a welcome development and an improvement on the previous LILA process due to increased flexibility and lower application fee. However, it has been highlighted that the process could be improved in certain areas. The maximum and minimum debt levels were considered to be already outdated and stakeholders have questioned the inclusion of student loans in the calculation of the maximum debt levels given that these normally survive bankruptcy and come with their own arrangements for repayment based on salary threshold.

Maximum and minimum debt:

The minimum debt level for MAP entry is currently fixed at £1,500 and the question has been raised to whether this is still appropriate or if it is now too low. The minimum debt level of £1,500 was fixed on the introduction of the Bankruptcy (Scotland) Act 1985 for all bankruptcies – subsequently the minimum level was increased to £3,000 for creditor petitions and full administration bankruptcy debtor applications. Bankruptcy is the last resort for someone in financial difficulty so the question is whether it is now reasonable for someone with debts at this level to enter insolvency. The level is lower than the amount fixed for creditor petition and full administration bankruptcy (currently £3,000) or for a PTD (currently £5,000). Consequently, this consultation seeks your views on whether the minimum debt allowed in a MAP should be altered. It also seeks views on the current debt threshold for full administration and creditor petition bankruptcy which has been in force since 1 April 2008.

Q7. Do you believe that the minimum debt allowed for MAP application should be increased?

- ☒ Yes
☐ No

Q7a. If you answered “yes” to Q7, what level should it be increased to?

- ☐ £2,000
☐ £2,500
☒ £3,000
☐ Other

Q7c. Should the debt threshold for creditor petition or full administration debtor application bankruptcy be increased (currently £3,000)?

- ☒ Yes
☐ No

Q7d. If you answered “yes” to Q7c, what level should it be increased to?

Answer:

Creditor Petition Debt Level: £5,000

Full Administration Debtor Application Debt Level: remain £3,000

Stakeholders have raised questions about the maximum debt ceiling allowed to enable access to bankruptcy through MAP. This ceiling was set at introduction in 2015 at £17,000 and the consultation seeks views on whether this ceiling is still appropriate. It has been highlighted that the nearest equivalent process operating in England and Wales (Debt Relief Orders) has a maximum debt ceiling of £20,000 (increased from £17,000 in October 2015) and stakeholders have highlighted that it may be more appropriate to at least match this level. This consultation seeks your views on whether the maximum debt threshold in MAP debt threshold should be increased and if so at what level it should be fixed. Some stakeholders have questioned whether the ceiling should be removed. It is generally accepted that cases with a high level of debt require the more comprehensive investigation provided by a full administration bankruptcy.

Q8. Do you think that there should still be a maximum debt threshold in a MAP application?

- ☒ Yes
☐ No

Q8a. If you answered “yes” to Q8, at what level should the debt ceiling be set?

- ☐ £17,000
☒ £20,000
☐ £25,000
☐ Other

If you answer “no” to Q8 please explain why?

Answer: n/a

Q8b If you answered “other” to Q8a what amount do you think it should be increased to?

Answer:

Student loans included in the calculation for maximum debt:

As highlighted above, student loans are not normally discharged in bankruptcy but are taken into account in calculating the maximum debt threshold level in MAP. At the 2018 stakeholder events, some stakeholders have questioned this as potentially unfair as the inclusion of a student loan debt may ultimately lead to ineligibility for MAP. This consultation seeks your views on whether a student loan debt should be taken into account in calculating the total debt owed by an individual when it comes to the maximum debt criteria in MAP.

Q9. Do you think student loan debt, that is not discharged in bankruptcy, should be excluded from the maximum debt criteria in MAP?

- ☒ Yes
☐ No

Q9a. If you answered “no” to Q9 please explain why?

Answer: n/a

MAP Bankruptcy – Maximum Asset Threshold:

The MAP bankruptcy eligibility criteria includes limits on the assets held on the date of the application. The legislation prescribes that the total value of assets (leaving out of account any liabilities) must not exceed £2,000 with a further condition that no single asset has a value exceeding £1,000. Stakeholders have highlighted that these levels should be revised and this consultation seeks views on whether the current arrangements remain fit for purpose.

Q10. Do you think the total asset and individual asset limits should be increased?

- ☐ Yes
☒ No

Q10a. If you have answered “yes” to Q10, what limit should be applied?

Combined Assets:

- ☐ £3,000
☐ £4,000
☐ Other

Individual Asset:

- ☐ £2,000
☐ £3,000
☐ Other

Q10b. If you answered “other” to either part of Q10a what amount do you think the combined and individual asset limits should be increased to?

Answer:

Financial Education

The introduction of mandatory advice and targeted referral for financial education was introduced as part of the 2015 reform package. Financial education modules have been developed by Money Advice Scotland which are available both on-line and in paper form. The 2014 Act set out the criteria determining who would be required to complete the modules and further regulations defined the process and specified that the individual would require to complete the modules, if requested to, prior to receiving discharge from bankruptcy. The modules cover the following topics:

- Budgeting and Financial Planning
- Saving
- Borrowing
- Insurances
- Understanding Tax
- Financial Life Stages (Setting up Home, Having a Baby and Redundancy)

The modules are available here: <https://www.scotlandsfinahealthservice.gov.uk/financial-education>

Stakeholder feedback obtained has highlighted that pre-bankruptcy advice is a welcome and important part of the process and that, in general, financial education referral was a useful mechanism in certain circumstances in helping to reduce the incidence of repeat bankruptcy. However, some concerns have been raised to how meaningful the content of the programmes is and whether they fulfil the initial policy intention of increasing financial and budgeting capability. A key intention of the modules is that they should create the opportunity for meaningful discussions between money adviser and client, especially where the client is willing to engage – helping build the skills to avoid falling back into unsustainable debt. International experience is that more demanding compulsory “debtor counselling” can lead to those unwilling to engage just going through the motions. Such intensive interventions are also hugely expensive. There was general consensus at the stakeholder discussions that it could be seen as too early to gain the level of user feedback and evaluation on which to propose changes to policy. However, AiB seeks your views on the current programme and the content of the modules based on current experience with clients.

Q11. Do you believe that the current content of the financial education modules is sufficient to meet the policy intention of promoting financial capability?

- ☐ Yes
☒ No

Q11a. If you answered “no” to Q11 what improvements would you suggest?

Answer:

Whilst in agreement that financial education is important, money advisers in West Lothian are concerned that the current content of the modules is insufficient to meet the needs of individuals with serious debt problems.

The modules are lengthy and involve a lot of reading with a quick quiz after each section. This type of learning is not suitable for everyone, for example people for whom English is not their first language or people with learning difficulties, poor literacy skills etc. It may be better for the modules to offer information in a more visual format such as example pay slips, bank statements with more interactive functionality. Another concern about the current financial

education modules is the fact that these are optimised for online access and a barrier is created for anyone who is digitally excluded.

If the aim of financial education is to equip individuals with the knowledge, skills and confidence to make informed decisions about money and avoid problem debt in future, it was felt that there should be a module about addressing the stigma of debt and encouraging people to talk about money worries and access support as early as possible.

Discharge of Child Maintenance Debts

The Scottish Government published a Consultation on Bankruptcy Law Reform in 2012, the results of which laid the foundations for the introduction of the 2014 Act. This consultation sought views on the treatment of child maintenance debts in Scottish bankruptcy. In Scotland, any obligation to pay child support maintenance within the meaning of the Child Support Act 1991 which remained unpaid in respect of any period before the date of bankruptcy can be included as a claim in the bankruptcy. However, any sums outstanding will be discharged on the conclusion of bankruptcy proceedings. This differs from the bankruptcy process in England and Wales where arrears of child support maintenance survive the discharge of bankruptcy with the debtor still liable for repayment. The 2012 consultation, in particular, picked up on concerns expressed by the then Child Maintenance and Enforcement Commission that children in Scotland were potentially disadvantaged. The consultation sought views on whether the existing provisions in Scottish legislation should subsist. Some respondents to the consultation thought it was important for the rehabilitation of the bankrupt individual to have a fresh start, allowing them to begin the process of paying again. They also believed in most cases it was highly improbable that the individual could afford to repay any undischarged arrears. As a result, there would be no beneficiaries to changing the current position. The majority view was that the position should remain unchanged and this is reflected in current legislation.

This issue is not straightforward and it is clear from stakeholder discussions and representations to Scottish Ministers that there are differing and strongly held views. Consequently, the matter has been included in this consultation for further consideration. Liabilities which are not currently discharged by bankruptcy in Scotland can be found in section 145 of the Bankruptcy (Scotland) Act 2016. The section of this act can be found at:

<http://www.legislation.gov.uk/asp/2016/21/section/145>.

Q12. Should the remaining balance of any outstanding child maintenance arrears be discharged following the conclusion of bankruptcy and protected trust deed procedures in Scotland?

- ☒ Yes
☐ No

Q12a. Please explain the reason for your response at Q12

Answer: Bankruptcy is an option of last resort when all other methods of dealing with debt have failed or are inappropriate to the client's circumstances. This is not an option entered into lightly and the consequences of sequestration can have a significant impact on the individual. As such, it is felt that child maintenance arrears should discharge following conclusion of bankruptcy in order to offer the individual an opportunity to regain control of their financial liabilities moving forward.

It is, however suggested that the financial education modules should stress the importance of maintaining financial accounts and detail the consequences of non-payment of liabilities such as child maintenance, rent, council tax etc.

Prescribed Rate of Interest on Dividends in Bankruptcy

Bankruptcy legislation prescribes the interest rate that may be payable to creditors on the conclusion of proceedings in the event that sufficient estate remains following payment of relevant expenses and the full settlement of preferred and ordinary debts. In these circumstances interest is payable from the date of bankruptcy to the date of payment of the debt. The rate of interest applied is prescribed in regulations and at the present time is whichever is the greater of 8% and the rate applicable to the debt apart from the bankruptcy (i.e. the commercial rate of interest). The prescribed rate of interest has generated much discussion in recent years and a commitment was made to the Scottish Parliament to include this issue in the first available consultation on bankruptcy related matters. The concerns raised highlight that the 8% rate is unrealistic, given the low rates of interest that have prevailed since 2009. As with other judicial rates, it is seen as appropriate that there is some element of penalty to reflect the fact that there has been a default on debt and that creditors have often had to wait several years for any funds to be paid. However, the Bank of England (BoE) Rate has remained at 0.5% for the bulk of this period, dropping to 0.25% between August 2016 and October 2017 before rising to its current level of 0.75% in August 2018. Against this back-drop, the 8% interest rate has been viewed as unjust and in need of review. In terms of case volumes, figures for 2018-19 highlight that of the total number of bankruptcies concluded (5,615), a dividend to ordinary creditors was paid in 18.9% of cases, with statutory interest paid following full dividend in 18.4% of these cases. This means that statutory interest has been paid to creditors in approximately 3.5% of the total bankruptcy completions.

The consultation seeks your views on the rate of interest that should apply.

On a related but more general point, civil litigation frequently ends with the court ordering one party to pay money to another. This money is usually a debt, an award of damages or the legal costs of the litigation. If the money is not paid on time interest will be added. In Scotland, if no rate of interest has been specified by the parties and if there is no other statutory provision to set a rate of interest the Scottish Courts (Court of Session and Sheriff Courts) usually apply the 'judicial rate of interest' set for post-decree interest. In Scotland the judicial rate of interest is set by Rule 7.7 of the Rules of the Court of Session 1984 No 1443. In the Sheriff Courts the rate is prescribed by section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 and may be amended by Act of Sederunt. The Lord President has the ability to change the level that the rate is set at, usually following a request to do so by the Scottish Ministers. Similarly this currently stands at 8%. In 1993, when the judgment rate was last amended across the UK to 8%, it was set at a level just over 2% above the base rate. As with the prescribed rate of interest on dividends in bankruptcy the differential is now substantially higher than has previously been experienced.

Q13. Do you consider that the currently prescribed 8% rate of interest for dividends in bankruptcy is appropriate?

- ☐ Yes
☒ No

Q13a. If you have answered “no” to Q13, what interest rate do you think should be applied?

- ☐ BoE Rate
- ☐ BoE Rate +1%
- ☒ BoE Rate +2%
- ☐ Other

Q13b. If you have answered “other” to Q13a, what alternative option would you suggest?

Answer:

Q14. Do you consider that the currently prescribed 8% judicial rate of interest remains appropriate?

- ☐ Yes
- ☒ No

Q14a. If you have answered “no” to Q14, what interest rate do you think should be applied?

- ☐ BoE Rate
- ☐ BoE Rate +1%
- ☒ BoE Rate +2%
- ☐ Other

Q14b. If you have answered “other” to Q14a, what alternative option would you suggest?

Answer:



COUNCIL EXECUTIVE

2019/20 GENERAL SERVICES CAPITAL BUDGET – MONTH 9 MONITORING REPORT

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To provide the Council Executive with a report on the financial position in relation to the General Services capital programme following the completion of the month 9 monitoring exercise.

B. RECOMMENDATIONS

It is recommended that Council Executive:

1. Notes the outcome of the month 9 monitoring exercise and the projected outturn;
2. Agrees that Asset Lead Officers and the Head of Finance and Property Services keep under review factors that impact on delivery of the approved capital programme;
3. Notes the progress on the delivery of the overall programme;
4. Agrees to the inclusion of the Historic Almondell Wall project in the capital programme.

C. SUMMARY OF IMPLICATIONS

I. Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of our resources, working in partnership.
II. Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The council's General Services capital programme is managed within the stringent requirements set out in the Prudential Code.
III. Implications for Scheme of Delegations to Officers	None.
IV. Impact on performance and performance indicators	Effective capital implementation is vital to service performance.
V. Relevance to Single Outcome Agreement	None.
VI. Resources (Financial, Staffing and Property)	Capital expenditure of £34.678 million is projected in 2019/20.
VII. Consideration at PDSP	None.
VIII. Other consultations	The capital monitoring exercise has involved consultation with Depute Chief Executives, Heads of Service, Asset Lead Officers and capital project managers.

D. TERMS OF REPORT

D.1 Background

The report provides the Council Executive with an update on the 2019/20 General Services capital programme based on the results of a comprehensive monitoring exercise. The approved 2019/20 capital budget is £34.051 million, which assumes £4 million of overprogramming.

D.2 Summary of Month 9 Financial Information

The summarised committed and projected asset expenditure at month 9 is shown below:

Asset Type	2019/20 Approved Budget £'000	Committed Expenditure at Month 9 £'000	2019/20 Projected Outturn £'000	2019/20 Projected Variance £'000
Property	18,392	17,045	20,356	1,964
Roads	11,828	8,532	11,554	(274)
Open Space	3,480	1,896	2,793	(687)
ICT	4,351	3,319	3,975	(376)
	38,051	30,791	38,678	627
Remaining Overprogramming	(4,000)	N/A	(4,000)	0
TOTAL	34,051	30,791	34,678	627

Good progress is being made on a number of projects with the committed expenditure as a percentage of projected outturn at 89%. In overall terms, the monitoring exercise indicates projected outturn is £34.678 million, assuming there is slippage of £4 million between now and the year end. This represents accelerated spend of £627,000 compared to budget. If the programme progresses with no further slippage, the outturn will be £38.678 million and the additional accelerated spend will be funded by accelerated use of agreed capital resources.

D.3 Summary of Forecasts and Pressures

A forecast is provided below for each asset type, including details of material movements and pressures that have been identified:

Property

In overall terms the monitoring exercise indicates that projected outturn expenditure in 2019/20 is £20.356 million with £17.045 million of expenditure committed to date, representing 84% of the projected outturn. A number of projects are progressing more quickly than originally anticipated resulting in a net accelerated spend of £1.964 million.

School Planned Improvements

Due to the good progress being made on a wide range of planned improvements to the school estate, net accelerated expenditure of £1 million is forecast. Works that are in progress or have been completed include, electrical and science lab works at Linlithgow Academy, roof works at St Kentigern's Academy, cladding works at Inveralmond High School and toilet refurbishments at St Ninian's, Stoneyburn and Springfield primary schools. Phase one of the new roof at St Ninian's has also been completed with phase two due to be undertaken in summer 2020.

Programmes for the replacement of heavy catering equipment and to improve communal and ancillary education areas have also progressed well.

Operational Buildings Planned Improvements

Significant works to improve energy efficiency under the non-domestic energy efficiency programme are progressing well with extensive lighting and boiler replacements, together with improved insulation works. The second phase of planned improvement works to Armadale Bowling Club have commenced with completion forecast for Spring 2020.

School General Projects

The first phase of works to reconfigure and extend Ogilvie Additional Support Needs (ASN) school have been completed. Further phases, including the extension, are now being progressed and will commence on site during summer 2020. Site remediation and platforming works by the developer have commenced at Calderwood, East Calder in preparation for the new primary school. Authority will be sought to financially close the project with the new school opening planned for August 2021.

Similarly, land remediation and platforming works by the developer are being progressed at Winchburgh for the delivery of the new Denominational and Non-Denominational Secondary Schools and new Holy Family primary school. Financial close of this project is currently programmed for April 2020.

Significant progress has been made on the delivery of Early Learning and Childcare (ELC) projects with the extension to Polkemmet primary school and a wide range of kitchen improvements completed; including those at St John the Baptist, Fauldhouse and Simpson primary schools. Extensive minor works and equipment installations have been undertaken and will continue to be progressed through to Summer 2020 in advance of the expansion of ELC to deliver 1140 hours.

As a consequence of planning conditions to retain existing trees located to the north of the proposed nursery location at Blackridge primary school, the design has required to be altered, which together with developing revised construction management arrangements and updating cost estimates, has led to a revised timescale for the project. The proposed new design will include a 1.9 metre high retaining wall to support the structure of the nursery which will require to be raised to protect the roots of the trees to be retained. The altered design and changes to the construction site arrangements, such as only being able to deliver the majority of site materials via the main school access, will lead to the incurring of approximately £200,000 of additional costs and a revised timescale for the completion of the project of up to three months later than originally planned.

The council has been successful in the application for Scottish Government Learning Estate investment for the replacement of Beattie ASN school with design and site appraisals now being progressed.

Operational Buildings Projects

The preferred site for the provision of the new temporary accommodation facility was approved by Council Executive on 17 December and the project is now progressing through the detailed design stage.

Works have also commenced on the redevelopment of the Ability Centre to create the Livingston North Partnership Centre which is due for completion in Summer 2020.

All diversion work at the new Whitburn Partnership has now been completed and works are progressing fully on site. As a result of the complexity of the diversion work identified by Scottish Power Energy Networks, the revised target completion date remains as January 2021 but ongoing programme review will be undertaken now that work is progressing in full.

Roads and Other Related Assets

Projected outturn expenditure in 2019/20 is £11.554 million, resulting in net slippage of £274,000. In terms of actual spending, £8.532 million of expenditure has been incurred at period 9, representing 74% of the 2019/20 projected outturn.

Roads and Footways

Commitment to date is currently 54% of the forecast outturn, which is less than expected at month 9. Within this category A Class, B Class roads and Adopted Footways have committed spend of 16%, 48% and 42% of projected outturn respectively, which is below the anticipated level of actual spend at this stage of the year. The Asset Lead Officer and project managers are taking actions to ensure that the forecast outturn will be achieved.

Total slippage of £823,000 has been identified at month 9 for roads and footways projects. Slippage of £96,000 is being reported for the A89 between Dechmont and Kilpunt project due to a lack of design resources available to initiate the works. The project is now programmed to commence in April 2020. Issues with resourcing have also resulted in reprofiling of the A801 Dualling, Firth Road Houston Industrial estate and the Bus passenger infrastructure projects which are reporting slippage of £54,000, £53,000 and £37,000 respectively.

Surfacing works at Main Street, East Whitburn are unable to be completed this year and slippage of £41,000 is being reported. This is due to a conflict with works that are programmed to be carried out at the roundabout at junction 4 off the M8 which were due to commence on site on 3 February. The works at Main Street will be therefore be reprogrammed to be undertaken in 2020/21.

Flood Prevention and Drainage

With regards to the Almond Barriers project, a report on the consultation that has taken place on the Mid Calder Weir will be presented to Council Executive on 25 February where approval for the preferred option will be requested. Tender documents are currently in the process of being prepared for Limefield Weir.

Road Lighting

Additional slippage of £63,000 is now being reported for the Ochiltree Area, Mid Calder lighting project with the design work completed. Works have been programmed to commence in February and these will continue until May.

The Road Traffic Signs Lit and Unlit project is highlighting slippage of £88,000 at month 9 with the preparation of the brief for the review of conditions of signs still to be undertaken. Consideration will be given to outsourcing this work.

Two schemes within the Traffic signal improvements junction project have been identified to accelerate spend to help offset the reported slippage in the road lighting category. These include; upgrading traffic signals at junctions in Main Street/Mill Road in Linlithgow and at junction A899 Clarkson road Broxburn. £105,000 of accelerated expenditure has been forecast for these two schemes.

Structures

Good progress has been made during the year with the Bathgate Branch railway bridge and Skolieburn Bridge works, Accelerated spend of £400,000 and £310,000 is forecast respectively for these two projects.

2019/20 Town Centre Fund

Following the Local Area Committee meetings and Council Executive held in October 2019, a total of 109 town centre projects were awarded funding. All applicants received an award letter and were requested to sign a conditions of grant to confirm they were able to proceed with the relevant projects. Applicants will either receive the funding directly, or the council will retain the budgets if delivering the project on behalf of the applicants. Officers are actively managing the programme recognising the timescales for delivery and an update report will be presented to Council Executive on 25 February detailing the progress made on the Town Centre Fund.

Open Space

The monitoring exercise indicates that projected outturn expenditure in 2019/20 is £2.793 million with £1.896 million of expenditure incurred to date. This represents 68% of the 2019/20 projected outturn and a net slippage position of £687,000 has been forecast at month 9.

Almondell Historic Wall

This project aims to restore the old historical “C” listed stone and mortar wall that borders two sides of the “Walled Garden” area next to the visitor centre in the Almondell and Calderwood Country Park. This wall provides a valuable link to the past but is in danger of being lost. Following severe weather in 2011/12, sections of the wall collapsed and it is now fenced off for safety.

With support from the Friends of Almondell volunteer group, this project will aim to restore the wall using traditional building methods. The project will also comprise the replanting of old orchard tree species that the walls would have originally sheltered to allow the project to benefit the park for generations to come. The council will work directly with local communities, schools and assisted needs groups, involving them closely in the development and delivery of the project. It is proposed that works commence at the end of the 2020 financial year and continue into 2021. The total cost of the project is £121,244.

External funding of £70,900 has been secured from the Heritage Lottery fund and £30,000 in developer contributions. Further funding totalling £7,050 has been secured from various external bodies, with the remaining £13,094 proposed to be funded from the Open Space capital programme. An application for funding of £6,200 has been made to Viridor which, if successful, would reduce the council’s budget contribution to £7,094.

Balbardie Park of Peace

The original project for planned improvements was scheduled for completion in 2017/18 with an approved capital budget of £112,000. However, following the completion of a community consultation exercise and the development of a masterplan for the park, it was agreed that the project would be delivered over two phases to maximise potential income opportunities from grant funders. The first phase of the project is now complete and the council successfully secured £85,000 of additional grant funding that was used to improve the footpath and drainage infrastructure within the park. With regards to the second phase, the service is slipping the remaining £60,000 of the capital budget to 2020/21 to secure a minimum of a further £60,000 of grant funding for the project. The additional funding will be used for the design and construction of a pump track. When complete, the total value of the project will have been successfully increased by £145,000 of grant funding to a total project value of £257,000.

Kettilstoun Mains

Sports Scotland and Scottish Cycling met with representatives from the council and the Linlithgow Development Trust in October 2019 and agreed a business case to deliver the proposed cycling facility. The partners are currently considering additional funding options for the inclusion of a pump track at the facility. A revised business case, including the pump track will be considered later in the year and the council’s budget contribution of £307,000 will be rolled forward to 2020/21 to allow sufficient time to consider the revised proposal.

East Calder 3G Pitch

Tender documents have now been prepared, following planning permission being granted. The project is still on track to be delivered to initially agreed timescales.

Watson Park 3G Pitch

Slippage of £170,000 has been highlighted at month 9 for this project. The project is due to commence in March, with delivery of the project spanning financial years 2019/20 and 2020/21.

ICT

Projected outturn expenditure in 2019/20 is £3.975 million, resulting in net slippage of £376,000. In terms of actual spending to date, £3.319 million of expenditure has been incurred at period 9, representing 83% of the 2019/20 projected outturn.

Slippage of £105,000 is forecast for the Social Policy Electronic Call monitoring project due to a delay in the initial roll out of the contract. This project has been rescheduled to be undertaken in 2020/21.

Slippage was reported for the Social Care Administration (SWIFT) replacement project at month 4 monitoring as the outcome of the Scotland Excel award was still awaited at that point. The current position is that the procurement process has been stopped due to challenges made by suppliers regarding basic eligibility criteria which were not being met by Scotland Excel. Concerns have been raised with Scotland Excel by officers from IT and Procurement and as a result, they will be arranging for chief officers to review the challenges and for legal representation to review the specification of tenders. As there are no other alternatives to Scotland Excel, the plan is to commence the procurement exercise again when all issues have been satisfactorily resolved.

D.4 Risks

The month 9 forecast represents all current information held on the projects being undertaken in 2019/20. There are a number of risks which can be summarised as follows:

Property Assets

There is a risk that overspends in 2019/20 projects will have an impact on the ability to deliver future agreed projects. The Asset Lead Officer is responsible for ensuring that projects are closely monitored and value engineered to help ensure projects are delivered within budget.

Roads and Other Related Assets

A risk has been identified with regards to the disposal of coal tar which has been found in the lower ground levels during a site investigation at the roundabout at junction 4 off the M8. There is now an obligation in relation to health and safety to test for coal tar within roads and footways prior to commencing works as it is a hazardous waste. Testing and treatment will have a significant impact on the cost of maintaining the council's road assets and could subsequently impact on the delivery of other capital projects.

ICT Assets

There is a general risk of deliverability within agreed timescales throughout the ICT programme. IT Services continue to monitor progress to ensure that vital business systems are not unnecessarily delayed.

D.5 Resources

Resources are closely monitored over the financial year to ensure projected spend is matched by available capital resources and that funding represents the best value for money option available. The 2019/20 capital programme is funded from a variety of sources:

Funding Source	£'000
Capital Grants	24,071
Other Grants and Contributions (Developer Contributions & Capital Fund)	8,607
Capital Receipts	2,000
Total Resources	34,678

In overall terms, officers have assessed that the resource projections are achievable, although there are various risks that require ongoing monitoring.

D.6 Developer Contribution Update

During the first nine months of 2019/20, developer contribution income of £9.937 million was received. Further details can be found in appendix 2. The balance in the developer contributions accounts at the end of month nine is £30.726 million, however the approved ten year capital investment programme includes developer funded projects totalling over £118.936 million.

D.7 Other Strategic Issues

The Prudential Code requires the council to take into account a number of factors when agreeing capital spending plans. These factors are summarised as follows:

Risk Management and Uncertainty

The budget monitoring process focuses attention on risks to the performance of the approved capital investment programme.

Long Term Affordability, Prudence and Sustainability

In overall terms, I would assess that the current capital programme remains affordable. Resource assumptions are achievable, although there are various risks that require careful management including the ability to deliver an ambitious asset disposal programme, Scottish Government grant funding, delays in receipt of contributions creating cash flow implications and movements in interest rates. The treasury forecasts are at the absolute maximum levels of affordability, with additional revenue resources potentially required in the latter years of the programme to ensure ongoing affordability. Officers continue to refine treasury planning assumptions to help ensure that the programme remains affordable and sustainable over the longer term.

Stewardship of Assets

The council's strategic approach to capital planning involves integration with asset management planning. Progress against each area of the Corporate Asset Management Plan is reported annually to elected members.

Value for Money and Best Value

All aspects of the programme are geared towards securing Best Value and are undertaken in accordance with the council's Best Value Framework.

E. CONCLUSION

Following the month 9 monitoring process, the 2019/20 outturn forecast is £34.678 million. Good progress is being made on delivery of the programme and, at the end of month 9, committed expenditure to date accounts for 89% of the projected forecast spend for the year. A number of key risks in relation to the delivery of the General Services capital programme have been identified and will continue to be managed by asset lead officers and monitored by the Council Executive.

F. BACKGROUND REFERENCES

General Services Capital Investment Strategy 2019/20 to 2027/28 Update – Report by Head of Finance and Property Services to Council Executive 25 June 2019

Appendices/Attachments:

Appendix 1 – General Services Capital Period 9 Monitoring

Appendix 2 – Developer Contributions Period 9 Monitoring

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Donald Forrest
Head of Finance and Property Services
4 February 2020

APPENDIX 1**2019/20 GENERAL SERVICES CAPITAL BUDGET - PERIOD 9****PROPERTY ASSETS****Planned Improvements and Statutory Compliance**

	Annual Budget 2019/20 £'000	Total known commitment to year end £'000	P12 forecast 2019/20 £'000	P12 variance 2019/20 £'000	Variance Analysis	Project Status
Nursery Schools	20	1	20	0	On Budget	On Schedule
Primary Schools	591	746	813	222	Accelerated/Overspend	On Schedule
Secondary Schools	575	798	943	368	Accelerated	On Schedule
Special Schools	10	0	10	0	On Budget	On Schedule
Our Lady of Lourdes PS Blackburn - School Toilet Improvements	120	120	125	5	Overspend	On Schedule
Springfield PS Linlithgow - School Toilet Improvements	160	192	200	40	Accelerated	On Schedule
St Ninian's Primary School Livingston - Roof Replacement	310	299	310	0	On Budget	On Schedule
Winchburgh Primary School - Roof Replacement	199	220	370	171	Overspend	On Schedule
St Kentigern's Academy - Roof Replacement	133	131	133	0	On Budget	On Schedule
Stoneyburn Primary School - Cladding Replacement	100	1	10	(90)	Slippage	Behind Schedule
Other School Estate Wide Planned Improvements	1,135	1,443	1,788	653	Accelerated/Overspend	On Schedule
Social Policy	359	241	429	70	Accelerated	On Schedule
Community Centres and Halls	30	24	31	1	Overspend	On Schedule
Partnership Centres	224	222	375	151	Accelerated/Overspend	On Schedule
Miscellaneous	40	31	40	0	On Budget	On Schedule
Tenanted Non Residential Properties	198	410	416	218	Accelerated	On Schedule
General Statutory Compliance	2,450	2,919	3,355	905	Accelerated	On Schedule
Total Planned Improvements	6,654	7,798	9,368	2,714		

Property Projects**Schools General Projects**

ASN Strategy - Ogilvie School	1,500	456	500	(1,000)	Slippage	On Schedule
ASN Strategy - New Cedarbank School	200	46	200	0	On Budget	On Schedule
ELC Blackridge - New Build	800	400	400	(400)	Slippage	Behind Schedule
ELC St Mary's PS - New Build	654	800	800	146	Accelerated	On Schedule
ELC Polkemmet PS/ St Joseph's PS Refurb	200	406	410	210	Overspend	On Schedule
ELC Simpson PS - New Kitchen	200	223	260	60	Accelerated	On Schedule
Other School Projects	2,290	3,084	3,116	826	Accelerated/Overspend	On Schedule
	5,844	5,415	5,686	(158)		

Schools Projects - Developer Funded

New Secondary in Winchburgh	600	681	770	170	Accelerated	On Schedule
New Denominational Secondary in Winchburgh	400	500	500	100	Accelerated	On Schedule
New Non-Denominational PS (Single Stream/Pre-School) - Calderwood	750	508	750	0	On Budget	On Schedule
New Holy Family PS	369	250	400	31	Accelerated	On Schedule
Various Projects	182	17	112	(70)	Slippage	On Schedule
	2,301	1,956	2,532	231		

Operational Buildings

Ability Centre - Partnership Centre Livingston	294	250	250	(44)	Slippage	On Schedule
Emergency Homeless Assessment Centre	100	14	50	(50)	Slippage	Behind Schedule
Blackburn Partnership Centre - WLC Costs	150	61	280	130	Accelerated	On Schedule
Maintenance for Council Buildings operated by West Lothian Leisure	220	220	220	0	On Budget	On Schedule
Whitburn Partnership Centre	1,900	1,000	1,000	(900)	Slippage	Behind Schedule
Other Operational Buildings	414	300	490	76	Slippage	On Schedule
	3,078	1,845	2,290	(788)		

Miscellaneous Projects	515	30	480	(35)	Slippage	On Schedule
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Total Property Projects**TOTAL PROPERTY ASSETS**

	11,738	9,247	10,988	(750)		
	18,392	17,045	20,356	1,964		

APPENDIX 1**2019/20 GENERAL SERVICES CAPITAL BUDGET - PERIOD 9****ROADS AND RELATED ASSETS****Roads and Footways**

	Annual Budget 2019/20 £'000	Total known commitment to year end £'000	P12 forecast 2019/20 £'000	P12 variance 2019/20 £'000	Variance Analysis	Project Status
A Class Roads	861	161	995	134	Overspend/Slippage	On Schedule
B Class Roads	535	251	526	(9)	Saving	On Schedule
C Class Roads	333	397	398	65	Overspend	On Schedule
U Class Roads	948	434	552	(396)	Slippage/Saving	On Schedule
Non Adopted Roads & Footways	158	93	103	(55)	Saving	On Schedule
Adopted Footways	271	97	228	(43)	Saving	On Schedule
Cycling, Walking & Safer Streets/Active & Sustainable Travel	500	75	80	(420)	Slippage	Behind Schedule
Road Casualty Reduction Schemes	80	23	80	0	On Budget	On Schedule
Bus Passenger Infrastructure	38	1	1	(37)	Slippage	Behind Schedule
Disabled Parking Act Implementation	20	31	35	15	Accelerated	On Schedule
General Roads Projects	218	176	197	(21)	Slippage	On Schedule
	3,962	1,739	3,195	(767)		

Flood Prevention and Drainage

Almond Barriers	841	484	500	(341)	Slippage	Behind Schedule
Bathgate Watercourse Restoration	70	122	137	67	Accelerated	On Schedule
Broxburn Flood Prevention Scheme	85	101	128	43	Accelerated	On Schedule
Risk Management Non Domestic Premises Review	0	17	17	17	Overspend	On Schedule
Riverlife Heritage Lottery Fund	465	264	350	(115)	Slippage	On Schedule
	1,461	988	1,132	(329)		

Road Lighting

	3,115	2,094	3,052	(63)	Slippage/Overspend	On Schedule
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Structures

Adopted & Non Adopted Bridges - Backlog & Lifecycle Investment	2,834	3,030	3,494	660	Accelerated/Saving	On Schedule
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Town Centres and Villages Improvement Fund

	456	681	681	225	Accelerated	On Schedule
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TOTAL ROADS ASSET

	11,828	8,532	11,554	(274)		
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Open Space Assets

Kettilstoun Mains, Linlithgow	307	0	0	(307)	Slippage	Behind Schedule
Management and Regeneration of Woodlands	343	136	343	0	On Budget	On Schedule
Other Open Space and Sports Facility Projects	644	330	576	(68)	Slippage/Saving	On Schedule
Open Space and Sports Facility Planned Improvements	592	489	680	88	Overspend/Accelerated	On Schedule
Children's Play Areas	209	185	187	(22)	Slippage	On Schedule
East Calder 3G Pitch	582	12	100	(482)	Slippage	Behind Schedule
Other Synthetic Turf Pitches	520	448	593	73	Overspend	On Schedule
Cemeteries	186	167	186	0	On Budget	On Schedule
Land Decontamination	97	128	128	31	Overspend	On Schedule
	3,480	1,896	2,793	(687)		

TOTAL OPEN SPACE ASSET**ICT Assets**

Corporate and Modernisation	3,379	2,728	3,003	(376)	Slippage	On Schedule
School Specific Spend	972	591	972	0	On Budget	On Schedule
	4,351	3,319	3,975	(376)		

TOTAL ICT ASSET

TOTAL	38,051	30,791	38,678	627		
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Overprogramming	(4,000)	0	(4,000)	0		
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TOTAL - ALL ASSETS	34,051	30,791	34,678	627		
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APPENDIX 2 - 2019/20 DEVELOPER CONTRIBUTIONS - MONTH 9 MONITORING

A breakdown of contributions by policy is set out below.

Policy	Opening Balance 01/04/19	Income 2019/20	Draw downs 2019/20	Balance at 31/12/19	Details of Committed Funds
£	£	£	£		
Affordable Housing	198,571			198,571	Resource for council house building
Armada Academy	164	26,904		27,068	Committed to the General Services Capital programme
Denominational Secondary School Infrastructure	2,366,729	2,640,089		5,006,817	Will be used to extend/build provision for denominational secondary sector
Travel Co-ordinator	47,165			47,165	Will be used to fund travel co-ordinator post
A801 Dualling	106,560	2,643		109,203	Committed to dualling of A801
Cemetery Provision	118,028	25,488		143,516	Committed to fund costs of extending cemeteries in West Lothian to support development
Public Art	345,889	34,264		380,154	Committed to provision of public art
St Nicholas PS, Broxburn	1,449	162,572		164,021	Will be used to fund extension to St. Nicholas Primary School.
St Paul's PS, East Calder	724,209	684,180		1,408,389	Will be used to fund extension to St. Paul's Primary School
Denominational Primary Winchburgh	131,855			131,855	Will be used to build provision for denominational primary school in Winchburgh
Play Areas	547,880	255,792		803,671	Committed to providing/improving play areas at the sites for which contribution was received
St Mary's PS, Polbeth	221,178	12,270		233,448	Will be used to fund extension of St Mary's Primary School
Pumpherstons & Uphall PS	287,816			287,816	Will be used to fund the extension of Pumpherstons & Uphall Primary School
A71 Developer Contributions	60,089			60,089	Committed to A71 Works
Parkhead PS Extension	534,860	41,465		576,324	Will be used to fund the extension of Parkhead Primary School
Linlithgow Academy	208,688	3,610		212,298	Fund for extension of Linlithgow Academy
Bathgate Academy	529,569			529,569	Will be used to fund Bathgate Academy extension
Whitburn Academy	590,958			590,958	Will be used to fund Whitburn Academy extension
Kirknewton PS	39,814			39,814	Will be used to fund extension of Kirknewton
A71 Wilkieson Bypass	123,990			123,990	Committed to A71 Works
Almondell & Calderwood Country Park	34,591	114,070		148,661	Committed to improving Almondell & Calderwood Country Park
Armada Library Replacement	0	2,051		2,051	Will be used to fund the replacement of the library in Armada
East Calder Park	273,352	760,465		1,033,817	Committed to improving East Calder Park
East Calder Public Car Park	6,919	115,000		121,919	Committed to improving East Calder Public Car Park
Armada Station Park and Ride	0	4,560		4,560	Will be used to fund works for a park and ride at Armada Train Station
Public Transport	377,322	187,194		564,515	Will be used to fund Public Transportation works.
St Paul's Primary School Footpath	33,499			33,499	St Paul's Primary School Footpath
East Calder Primary School	720,514	2,598,180		3,318,693	East Calder Primary School. Mis-coded entry applied in March 2018, this was reversed in May 2018.
Town & Village Centre Policy	408,293	111,151		519,445	Town & Village Centre Policy.
Park & Ride, West Calder	77,618			77,618	West Calder Park and Ride
A71 Bus Priority Measures	15,881			15,881	Committed to A71 Bus Priority works
St Anthony's Primary School Armada	192	51,132		51,324	Will be used to fund the second phase of the extension at St Anthony's Primary School
Armada Primary School	439	105,986		106,424	Armada Primary School
Wester Inch, Bathgate	494,953			494,953	Comprises contributions for education, play areas & transportation. Is being used to extend Simpson Primary School, develop play areas, support bus route
Off site environmental works, West Mains	166,894	20,000		186,894	Will be used to fund off site works
Non-denominational Primary, Bathgate	3,294			3,294	Will be used to fund education infrastructure in Bathgate
Livingston Town Centre Variable Messaging System	92,001			92,001	Will be used to upgrade the Livingston Town Centre Variable Messaging System
Calders Non Denominational Secondary School	7,048,132	1,917,690		8,965,822	Calders Non Denominational Secondary School
Winchburgh Secondary	1,426,632	60,000		1,486,632	Will be used towards funding a new secondary school in Winchburgh
Murrayfield PS	321,583			321,583	Contributions to be used towards infrastructure costs for Redhouse Non-denominational Primary School
Our Lady of Lourdes	21,454			21,454	Contributions to be used towards infrastructure costs for Redhouse Denominational Primary School
Greendykes Junction, Broxburn	40,045			40,045	Contributions to be used towards works at Greendykes Junction, Broxburn.
Non-denominational Primary, Broxburn	30,485			30,485	Contributions to be used towards infrastructure costs for Broxburn Non-denominational Primary School
Calderwood Non Denominational Primary School	922,274			922,274	Will be used towards funding a new primary school in East Calder
Mill Roundabout, Eliburn	92,673			92,673	Will be used to fund improvements at the roundabout
Open Space Cont S69	383,461			383,461	Will be used to fund Open Space projects in various sites
Livingston Village PS S75	559,501			559,501	Will be used to fund an extension to Livingston Village Primary School
Kirknewton Park & Ride	52,128			52,128	Kirknewton Park & Ride
TOTAL	20,789,589	9,936,755	0	30,726,344	



COUNCIL EXECUTIVE

2019/20 GENERAL FUND REVENUE BUDGET - MONTH 9 MONITORING

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To provide the Council Executive with a report on the financial position in relation to the General Fund Revenue Budget, following completion of the month 9 monitoring exercise.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Notes that the outcome of the month 9 monitoring exercise is a £1.588 million underspend for the General Fund revenue budget in 2019/20, an increase of £200,000 compared to the previously reported position;
2. Notes that Council and Council Executive had previously agreed in September and November 2019 respectively to retain a projected underspend of £1.388 million and a one-off wind fall of £540,000 pending the outcome of the local government finance settlement in December 2019.
3. Notes that the Scottish Budget and local government finance settlement will now be announced on 6 February 2020 and agrees to retain the projected underspend of £1.588 million and the windfall of £540,000 until the council's 2020/21 revenue budget setting meeting.
4. Agrees that Heads of Service progress additional actions to mitigate the recurring, year on year, pressures of £1.784 million, with further detailed updates to be provided to Council Executive as part of the draft outturn report in June 2020;
5. Agrees that Heads of Service take all management action necessary to ensure that 2019/20 expenditure is managed within budgeted resources available;
6. Notes the good progress in the delivery of approved budget savings for 2019/20 to 2022/23.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of resources, working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Local Government (Scotland) Act 1973, Section 95; Local Government in Scotland Act 2003, Section 1-14.
III Implications for Scheme of Delegations to Officers	Effective budget management is an essential element of service performance. Additional financial reporting provides elected members with information to allow for proper scrutiny of performance of services.
IV Impact on performance and performance Indicators	The revenue and capital budgets provides resources necessary to help deliver the Single

Outcome Agreement. Effective prioritisation of resources is essential to achieving key outcomes.

V	Relevance to Single Outcome Agreement	None.
VI	Resources - (Financial, Staffing and Property)	The outcome of the monitoring exercise at month 9 is a forecast underspend of £1.588 million and a one-off windfall of £540,000.
VII	Consideration at PDSP	There is reporting of Financial Performance to each PDSP twice a year covering the relevant portfolio budgets.
VIII	Other consultations	Depute Chief Executives and Heads of Service

D. TERMS OF REPORT

D.1 Background

This report sets out the overall financial performance of the General Fund Revenue Budget for the period to 31 December 2019 and provides a year-end financial forecast which takes account of relevant issues identified in individual service budgetary control returns. The report also considers the position regarding the delivery of approved budget reduction measures. The risk based budget monitoring process is undertaken in line with the council's budgetary control framework and procedures and helps contribute to spend being managed within available budget resources and approved savings being fully delivered.

D.2 Month 9 Summary Financial Information for 2019/20

The table below summarises the position in relation to service expenditure following the budget monitoring exercise at month 9. Overall, the revenue budget is forecast to underspend by £1.588 million in 2019/20, an increase of £200,000 compared to the position reported at month 6. Council and Council Executive respectively agreed that the one-off £1.388 million underspend in 2019/20 at period 6 and the additional one-off windfall of £540,000 in relation to the appeals process for non-domestic rates (NDR) and the Business Rates Incentivisation Scheme should both be retained pending the announcement of the Scottish Budget and local government settlement, which at that time was intended to be on 12 December 2019. It is proposed that the projected underspend of £1.588 million and the one-off windfall of £540,000, are retained until the 2020/21 revenue budget setting meeting.

Service	2019/20 Budget £'000	Commitment at Month 9 £'000	Forecast Outturn £'000	Projected Variance Over / (Under) £'000
Education, Planning, Econ Dev & Regen				
Education	172,067	166,259	170,679	(1,388)
Planning, Econ Development & Regeneration	4,121	5,189	4,121	0
Education, Planning, Econ Dev & Regen - Total	176,188	171,448	174,800	(1,388)
Social Policy				
IJB – Adult and Elderly Services	75,166	110,256	75,166	0
Non IJB – Children's Services	35,542	41,373	34,603	(939)
Social Policy – Total	110,708	151,629	109,769	(939)
Corporate, Operational and Housing				
Operational Services	55,021	50,842	56,119	1,098
Housing, Customer and Building Services	8,209	1,817	8,378	169
Corporate Services	11,133	12,538	11,133	0
Corporate, Operational and Housing - Total	74,363	65,197	75,630	1,267
Chief Executive, Finance and Property	23,870	26,334	23,670	(200)

Service	2019/20 Budget £'000	Commitment at Month 9 £'000	Forecast Outturn £'000	Projected Variance Over / (Under) £'000
Joint Valuation Board	1,155	871	1,155	0
Service Expenditure – Total	386,284	415,479	385,024	(1,260)
Non-Service Expenditure	41,580	3,241	41,358	(222)
TOTAL EXPENDITURE	427,864	418,720	426,382	(1,482)
Funding				
AEF	(259,929)	(259,929)	(259,929)	0
Non Domestic Rates	(85,327)	(85,327)	(85,327)	0
Council Tax Funding	(82,608)	(82,714)	(82,714)	(106)
TOTAL FUNDING	(427,864)	(427,970)	(427,970)	(106)
TOTAL NET EXPENDITURE	0	(9,250)	(1,588)	(1,588)

D.3 Update on 2019/20 recurring pressures

As at month 9, the recurring pressures total £1.784 million, an increase of £46,000 from the position reported at month 6. As previously reported, these pressures mainly relate to homelessness provision within Housing, Customer and Building Services and school transportation and employee costs within Operational Services. Heads of Service have provided a summary of progress against actions and this is contained within Appendix 1.

As a result of one-off resources provided in 2019/20, these areas are forecast to overspend by £824,000 in 2019/20 and this is reflected in the overall position noted within this report. There continues to be positive reductions in the majority of these areas and further work is ongoing to reduce expenditure on a recurring basis. It should be noted that the provision of one-off budget does not eliminate the pressure on a recurring basis. It is therefore essential that previously agreed actions are implemented as planned to ensure current and future year spend in these areas is managed within available resources.

D.4 Summary of Main Issues in Service Expenditure Budgets

D.4.1 Education & Planning, Economic Development & Community Regeneration

Education

The revenue budget for Education is currently forecast to underspend by £1.388 million in 2019/20. Resources for schools are allocated in line with the approved scheme of Devolved School Management (DSM) and budgets reflect actual pupil rolls as outlined in the scheme taking account of school census numbers. DSM forecasts have been provided by schools which form part of the budget monitoring exercise for period 9. The DSM carry forward is expected to remain in the region of £845,000 at the end of the financial year. The budget for long term absence is forecast to overspend by approximately £335,000 and further analysis of spend in this area is being undertaken to consider whether this is likely to become a recurring pressure that will need to be addressed in 2020/21.

It is anticipated the Scottish Attainment Challenge funding, which includes Pupil Equity funding of £5.191 million, will be fully utilised by schools during the course of the forthcoming academic year, in line with the conditions of grant.

Plans continue to be developed to fully roll out initiatives including the increase in Early, Learning and Childcare provision to 1,140 hours per annum for all eligible two, three and four year olds by August 2020 and a school counselling service covering P6 and P7 and the secondary sector. In addition, in January 2020, the Scottish Government confirmed annual recurring funding of £585,000 to employ pupil support workers to support the additional needs

of pupils in the school environment.

Within Culture and Sports, there is a projected overspend mainly due to staff costs being over budget within Arts. Workforce planning measures have ensured that costs are now in line with available resources on a recurring basis following implementation of the new staffing structure. Other key risk areas include income generation at Burgh Halls, which will be closely monitored over the remainder of the year. The overspends noted above are being offset against staff savings within Adult Learning and Psychological Services which have arisen from vacant posts and approved savings measures delivered earlier than anticipated.

West Lothian Leisure (WLL) is currently forecasting an overspend of £76,000 in 2019/20, which is £121,000 less than the previous forecast of a £197,000 deficit, with the change mainly due to an increase in the forecast for membership income. The remaining deficit is attributable to the timing of implementation of the WLL modernisation programme. The general reserve balance, as at 31 March 2019, is £441,000. WLL have undertaken a review of their cash position and report no short term cash concerns at this time. WLL continue to implement their three year financial plan 2019/20 to 2021/22 with regular updates being provided to the WLL Advisory Committee.

Planning, Economic Development and Regeneration

A break-even position is forecast for the year. Income generation from planning applications and building warrants is anticipated to be higher than budgeted levels, however, a number of planning applications have been received in relation to Winchburgh schools and other major developments in the current year and this income will be required for future year staffing costs. A prudent estimate has been included due to the uncertainty within the construction industry. The service has now received confirmation from the Scottish Government around current suspension of reimbursement of European funding to local authorities. It has been confirmed that the Scottish Government will now accept claims for expenditure incurred but not yet claimed to progress towards payment, subject to standard verification procedures. Further clarification is required on European funding for 2020/21 onwards.

Economic Growth Fund spend to date for the current financial year is £280,000. Total remaining funding is £3.9 million, of which £3.2 million has been committed. Further work is being undertaken to determine how the uncommitted funding of £700,000 is to be spent.

D.4.2 Social Policy

The forecast for the IJB area is a breakeven position, and the forecast position for Non-IJB is an underspend of £939,000. There are however a number of pressure areas in IJB, including, as previously reported, the older people care home budget where additional costs have been incurred to cover for staff absence and internal care at home services where costs are being incurred to cover for a shortfall in care capacity provided by the external market. These pressures are being offset by early delivery of future year savings and an underspend in the forecast cost of externally purchased care at home due to capacity issues.

For Non-IJB areas, the underspend is largely due to reduced costs in Foster and Kinship Care and External Placements for Children. The underspends in these areas reflect accelerated progress towards achieving approved 2020/21 savings.

D.4.3 Corporate, Operational and Housing Services

Corporate

A break-even position is forecast. Early delivery of 2020/21 approved savings and one-off underspend on supplies and services within IT is offsetting pressures elsewhere within the service, in particular, medical fees and procurement rebates. Medical fees expenditure is a centralised budget for the council and is directly linked to sickness absence levels across the council.

Operational Services

An overspend of £1.098 million is forecast, an increase of £250,000 compared to position reported at month 6.

Pressures within Facilities Management are as a result of higher than budgeted sickness absence levels. With there being a requirement to maintain staffing ratios in catering and facilities management, further savings in these areas of expenditure are constrained. There is a risk that overtime working to cover periods of absence to meet minimum staffing ratios may increase during the remaining winter months. Mitigating actions have been identified and an action plan is being prepared to minimise the financial impact of this in the current year.

Pressures within Recycling and Waste Management reflect the current position in relation to the phasing of staffing savings for organisational changes and the requirement to maintain staffing levels during festive collections. Staffing restructures have now been implemented and staffing levels are returning to budgeted levels, however, sickness absence rates continue to be higher and contribute towards a risk that expenditure further exceeds budget.

Overall, Public Transport expenditure for the current financial year is anticipated to be within budgeted resources, taking account of one-off resources to mitigate recurring pressures. A recurring pressure of £272,000 remains for Mainstream Schools Transport. Of this recurring pressure, £192,000 relates to routes being funded by one-off resources in 2019/20 while £80,000 is considered to be the net underlying recurring pressure which will be incorporated in the proposed 2020/21 budget. Any further changes in the supported bus network or mainstream school transport could impact on this position.

Roads and Transportation expenditure is forecast to break-even, however, there is a risk of an overspend if capital work in the remainder of the year is unable to be carried out due to ground conditions. In addition, there is a risk that the impact of severe weather over the remaining winter months could affect the ability to achieve income reallocations to capital, however, at this stage an underspend on the weather emergency budget is possible if the milder weather continues for the remainder of the financial year.

Nets, Land and Countryside expenditure is forecast to break-even.

Housing, Customer & Building Services (General Fund Revenue)

An overspend of £169,000 is forecast across the service area, a reduction of £44,000 from the position reported at month 6, mainly as a result of staffing vacancies and turnover. The pressure is primarily in Homelessness as a result of the ongoing demand for temporary accommodation. The average number of clients per night accommodated in B&B has reduced from 99 during 2018/19 to 75 for the period from April to December 2019. This reduction, as well as additional one-off budget of £550,000, is mitigating the pressure in B&B spend but pressures elsewhere in the budget i.e. staffing, repairs, and void rent loss are main factors in the overspend. Homelessness transport costs have reduced following process review and removal of long standing cases but a recurring pressure of £63,000 remains to be addressed.

Funding for Rapid Rehousing Transition Plans (RRTPs) has been confirmed by the Scottish Government with £302,000 allocated for West Lothian in 2019/20 and £311,000 in 2020/21. This is significantly less than the £3 million applied for in the council's submission to the Scottish Government. The RRTP is a multi-year plan to reduce the numbers of people presenting as homeless, as well as rehousing people who are homeless quicker and reducing the length of stay in temporary accommodation and B&B accommodation. Following confirmation of the funding, priority areas have been identified and agreed with the recruitment process underway.

The council's approved Housing Capital programme includes provision for additional housing stock through the new build projects, open market acquisitions and the mortgage to rent

scheme, all of which are intended to mitigate some of the pressures on the homelessness budget as more housing stock becomes available to be let. In addition, the General Services Capital Programme includes funding for Single Person Homeless Accommodation and Assessment Centre which is anticipated to alleviate some of the pressure. However, further actions will also be required to reduce expenditure on a recurring basis and fully mitigate the budget pressure, including increasing the number of private sector lets and increasing the number of available properties via registered social landlords and a change in the allocations policy.

The forecast overspend for Homelessness is partly offset by underspends in the Community Safety Unit and Customer Service Centre. Customer and Community Services is also forecast to underspend in 2019/20 with a staffing underspend offsetting the continuing pressure in registration income. Even with increases in discretionary charges, forecast registration income is expected to be £64,000 lower than the peak of £279,000 recorded in 2016/17.

D.4.4 Chief Executive, Finance and Property Services

The revenue budget for Chief Executive, Finance and Property Services is currently forecast to underspend by £200,000 due to savings measures being delivered earlier than planned. At month 6 this budget was forecast to break-even. There are emerging pressures within Property particularly surrounding reactive repairs. Energy budgets continue to be closely monitored and there are a number of projects being undertaken to deliver agreed savings.

D.4.5 Staffing Performance Factor

A staffing performance factor saving of £2.334 million is included in the 2019/20 budget and is an annual savings target to be met within service budgets each year. Based on the position at month 9, the majority of service areas are forecasting that the staff performance factor saving will be achieved through staffing underspends although this will be closely monitored for the remainder of the financial year. Within Operational Services, the monitoring exercise has highlighted pressures within staffing costs and further action is being taken as noted within this report.

D.4.6 Joint Valuation Board

A break-even position is forecast.

D.5 Non-Service Expenditure

The Council Tax Reduction Scheme is currently forecast to underspend by £222,000, and despite pro-active work by officers on maximising take up, the roll-out of Universal Credit is reducing the level of applications for Council Tax Reduction, albeit by a relatively small amount. An Improvement Group is regularly reviewing the processes, to ensure Council Tax collection is not adversely impacted.

Following the completion of the appeals process for non-domestic rates (NDR) for a number of council properties, there was a net one off refund of £400,000 relating to NDR payments made by the council in previous years and a one off payment in the current year of £140,000 under the Business Rates Incentivisation Scheme (BRIS) due to the council exceeding BRIS income targets in 2017/18. As mentioned earlier in the report, it is proposed that these amounts are retained pending the council's revenue budget setting meeting.

D.6 Modernisation Fund

A vital element in the council's approach to proactive workforce planning is the availability of the Modernisation Fund to cover the costs associated with employee exit arrangements. To date, the Modernisation Fund has largely been used to support early retirement / voluntary severance (ERVS) costs, however the fund is also available to help manage wider changes.

Taking account of the requirement for anticipated one-off costs in future years, Council agreed on 24 September 2019 to the allocation of additional one-off funding of £1.282 million in 2019/20 for the Modernisation Fund.

Taking account of ERVS approved at month 9, ERVS expenditure totals £1.314 million, including £783,000 for WLL as agreed by Council Executive. The remaining balance of the Modernisation Fund in 2019/20 is £1.054 million. Any uncommitted monies will be available to roll forward to future years. The requirement for the fund will be kept under review.

D.7 Funding in 2019/20

The council's revenue grant is forecast to be on budget. Any additional grant funding for 2019/20 announced during the year will be reported in future monitoring reports.

Council Tax income, which was previously forecast to under recover by £50,000, is now forecast to over recover by £106,000. This movement is largely due to a comprehensive review of the level of exemptions and discounts in place.

Revenue grant funding and council tax income is supplemented by non-recurring funding of some activities such as employability, some local bus services and fixed term staff, and it is important that service spend commitments attached to this funding take account of the duration of funding available.

D.8 Approved Budget Reduction Measures

PDSPs considered updated financial planning assumptions for the three years 2020/21 to 2022/23 during the Autumn of 2019. It is proposed that any changes to the budget model and approved budget savings will be reported for consideration at the Council budget setting meeting in February 2020. In addition, as noted in the PDSP report, officers will continue to review and refine the budget model assumptions in line with established practice in advance of presenting an updated three year detailed revenue budget to Council in February 2020.

It was reported to the Partnership and Resources PDSP on 12 September 2019 that the balance of savings still to be identified after taking account of an update to the financial model was £6.730 million. This figure will be revised following update of the budget model and confirmation of Scottish Government funding for 2020/21.

Modelling of the potential impact of the Scottish Government's Deposit Return Scheme is ongoing, including any impact on approved savings from the introduction of a twin stream recycling collection service and the impact this may have on council funding and expenditure.

In line with the council's agreed budgetary control framework and procedures, a review of the delivery of budget reductions for the period 2019/20 to 2022/23 was completed by Heads of Service and has demonstrated that good progress is being made. Based on the exercise carried out for the four year period to 2022/23, 47% of reductions are categorised as green which indicates that Heads of Service consider that the saving is achieved or achievable. The remaining 53% of reductions are categorised as amber meaning that an achievable plan is still to be agreed or existing/emerging issues require additional actions to be undertaken. In some cases, further Committee approval is required to progress these reductions. No reductions are considered unachievable. A number of projects will require further development where policy changes are required and will be considered by Policy Development and Scrutiny Panels and Council Executive. Specifically for 2019/20, 100% of savings are categorised as achieved or achievable, demonstrating that good progress is being made in the delivery of approved savings.

D.9 Summarised Budget Position for 2019/20

The outcome of the month 9 monitoring exercise is a projected underspend of £1.588 million along with an additional one-off windfall of £540,000 in relation to the appeals process for non-

domestic rates (NDR) and the Business Rates Incentivisation Scheme. It is proposed to retain these one-off sums pending the council's revenue budget setting meeting.

Recurring overspends remain and are largely offset by one-off resource in the current year. There has been a positive reduction in the recurring pressures within these areas and this is anticipated to continue. Good progress is being made in delivery of budget savings with 100% of savings in 2019/20 categorised as green. No savings are currently categorised as red.

E. CONCLUSION

An underspend of £1.588 million is forecast at period 9 for 2019/20. Good progress is being made in the delivery of approved budget reductions.

F. BACKGROUND REFERENCES

Revenue Budget 2019/20 - 2022/23 - Report by Head of Finance and Property Services to West Lothian Council on 19 February 2019

2019/20 General Fund Revenue Budget – Month 4 Monitoring Report – Report by Head of Finance and Property Services to Council Executive on 10 September 2019

Update on Revenue Budget Strategy 2020/21 to 2022/23 – Budget Update and Potential Additional Saving Measures - Report by Head of Finance and Property Services to Partnership and Resources PDSP on 12 September 2019

Update on Review of the Loans Fund, Insurance Fund and Modernisation Fund - Report by Head of Finance and Property Services to West Lothian Council on 24 September 2019

2019/20 General Fund Revenue Budget – Month 6 Monitoring Report – Report by Head of Finance and Property Services to Council Executive on 12 November 2019

Appendices/Attachments:

Appendix 1

Update on Existing Recurring Budget Pressures

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Donald Forrest
Head of Finance and Property Services
4 February 2020

Appendix 1 – Update on Existing Recurring Budget Pressures

Housing, Customer and Building Services – Homelessness				
2019/20 Forecast Variance at Month 9 £'000	Recurring Pressure at Month 9 £'000	Update from Heads of Service on agreed actions at Council Executive 26 February 2019	Update on agreed actions since Month 6 update to Council Executive in November 2019	Update on actions to be taken during the remainder of 2019/20
25	525	Income from charging for bed and breakfast accommodation has been agreed and monitoring continues. The RRTP will set out a plan to reduce the numbers of homelessness people requiring accommodation. As this is a multi-year plan, additional £550,000 one-off budget has been provided in 2019/20.	<p>Agreement has been reached with the four main RSL partners on targets for percentage of social lets to homeless and is being monitored.</p> <p>The council has been advised by the Scottish Government of the RRTP funding allocation for 2019/20 and 2020/21 of £302,000 and £311,000 respectively. Priority areas have been identified and agreed with the recruitment process underway.</p>	<p>The RRTP is multi-year and additional one-off budget of £550,000 is agreed for 2019/20. The recurring pressure of £525,000 is a reduction on the £560,000 reported at month 8. Average homeless numbers per night in 2019/20 are 75 for the year to 22 December. This compares to the full year average of 99 in 2018/19. The additional one-off resource is not anticipated to mitigate the pressure in full and close monitoring will be required throughout 2019/20.</p> <p>For 2020/21, it is proposed to include one-off resource of £550,000 in the revenue budget.</p>

Housing, Customer and Building Services - Homelessness Transport				
2019/20 Forecast Variance at Month 9 £'000	Recurring Pressure at Month 9 £'000	Update from Heads of Service on agreed actions at Council Executive 26 February 2019	Update on agreed actions since Month 6 update to Council Executive in November 2019	Update on actions to be taken during the remainder of 2019/20
(137)	63	The recurring pressure has reduced as a result of a process review and reduction in long term cases. It is therefore proposed to further review existing contracts to achieve contractual savings, noting that there is no longer a requirement to amend existing policies. Additional £200,000 one-off budget has been provided in 2019/20.	The proposal to change the Homelessness Transport policy will no longer be taken forward. The recurring pressure has reduced since the start of 2019/20 as a result of a process review and removal of long standing cases. Alternative methods of transport at lower costs are provided, where suitable.	<p>It is proposed that there is no policy change at this stage but mitigation of the budget pressure will be achieved through delivery of actions from the RRTP.</p> <p>Additional, one-off budget of £200,000 is agreed for 2019/20. The additional one-off resource is expected to mitigate the pressure in full in 2019/20 but, at this point, a recurring pressure of £63,000 is forecast beyond that, an increase from the £55,000 reported at month 8.</p> <p>For 2020/21, it is proposed to include one-off resource of £50,000 in the revenue budget.</p>

Operational Services - Mainstream School Transport				
2019/20 Forecast Variance at Month 9 £'000	Recurring Pressure at Month 9 £'000	Update from Heads of Service on agreed actions at Council Executive 26 February 2019	Update on agreed actions since Month 6 update to Council Executive in November 2019	Update on actions to be taken during the remainder of 2019/20
0	272	Officers are continuing to progress actions to mitigate the pressure.	<p>The recurring pressure remains £272,000. Of this recurring pressure, £192,000 relates to routes that are being funded by one-off resources in 2019/20 while £80,000 is considered to be a recurring pressure.</p> <p>2019/20 expenditure is anticipated to be within the available budget, taking account of one-off resource of £323,000.</p>	Public Transport and Education Services to continue to liaise to discuss wider projects and potential opportunities for reviewing school transport. It is proposed to include recurring provision of £80,000 in the 2020/21 revenue budget to cover the underlying core pressure.

Operational Services – Overtime				
2019/20 Forecast Variance at Month 9 £'000	Recurring Pressure at Month 9 £'000	Update from Heads of Service on agreed actions at Council Executive 26 February 2019	Update on agreed actions since Month 6 update to Council Executive in November 2019	Update on actions to be taken during the remainder of 2019/20
159	147	Council Executive has agreed revised service standards and it is expected that the pressure will be fully mitigated by 1 April 2019 once the new standards are implemented.	<p>The 2019/20 overspend has reduced after taking account of actual working arrangements within Refuse Collection.</p> <p>On a recurring basis, there is no change to the recurring pressure as the service has seen a levelling off of sickness levels which will allow for a balancing of overtime costs. The Recycling Centre and Transfer Station are reducing overtime working requirements as a result of the timescales for implementing the new section structure and filling of the part time roles at the Recycling Centre.</p>	<p>Continue to monitor sickness absence rates and related expenditure on overtime.</p> <p>The recruitment into the part time roles within the Recycling Centres has been completed with start dates to be confirmed post medical check. All staff will be in position by the end of January 2020.</p> <p>The recurring overspend will be updated following the implementation of the part time roles within the Recycling Centre to balance the current covering from overtime and to map the remaining trend for overtime costs during 2019/20.</p> <p>Further consideration is being given to working patterns and collection arrangements over the Easter and Christmas period to ensure that there are no significant additional costs on an annual basis.</p>

Operational Services – Facilities Management Staffing Costs				
2019/20 Forecast Variance at Month 9 £'000	Recurring Pressure at Month 9 £'000	Update from Heads of Service on agreed actions at Council Executive 26 February 2019	Update on agreed actions since Month 6 update to Council Executive in November 2019	Update on actions to be taken during the remainder of 2019/20
367	367	This is a new recurring pressure from 2019/20.	There is no change to the forecast position from month 8. The variance is largely due to the levels of sickness and a limited contingency to cover for absences. Measures are in place to mitigate the value of the pressure and these include priority cleans only where there is staff absences and early delivery of a 2020/21 staffing saving.	<p>The monitoring has indicated that the situation remains consistent with high levels of sickness absence. The situation requires close monthly monitoring during the next few months.</p> <p>Mitigating actions have been identified and these include:</p> <ul style="list-style-type: none"> • New fixed term contracts are being put in place; • Early delivery of 2020/21 food and catering supplies savings; • Delay in the replacement of certain equipment. <p>Further work is being carried out to agree an action plan, however, the pressure at this stage is not anticipated to mitigate in full.</p>

Social Policy – Older People Care Homes - Absence Cover				
2019/20 Forecast Variance at Month 9 £'000	Recurring Pressure at Month 9 £'000	Update from Heads of Service on agreed actions at Council Executive 26 February 2019	Update on agreed actions since Month 6 update to Council Executive in November 2019	Update on actions to be taken during the remainder of 2019/20
410	410	This pressure has been previously reported but action was taken to address the situation. The forecast pressure has emerged in the current financial year.	This pressure was noted for the first time in November 2019. Data gathering work has commenced to inform future actions. This pressure is related to the issues in care at home and the difficulties in recruiting people to work in care	<p>Action is being taken to address the direct causes of this recurring pressure, including:</p> <ul style="list-style-type: none"> • A review of comparative rates of pay between basic pay, overtime and agency • Analysis of reasons behind difficulties in recruiting to vacant permanent positions • Work to understand choice of external care staff choosing agency work ahead of permanent positions <p>It has been identified that cover for vacancies is a major factor in the requirement to employ agency staff and to work overtime. Initial work will therefore focus on addressing this issue including:</p> <ul style="list-style-type: none"> • Appropriate recruitment to maintain staffing levels • Potential to establish 'cover hubs' where a central pool could cover vacancies across the service (not just in care homes) • Longer term work on developing a recruitment policy to attract more entrants to this market.



COUNCIL EXECUTIVE

UK, SCOTTISH AND WEST LOTHIAN COUNCIL BUDGET UPDATE

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To provide the Council Executive with an update in relation to the UK and Scottish Government Budgets.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. Notes the Chancellor's announcements set out in Spending Round 2019;
2. Notes that the UK Budget 2020 will be set out on 11 March 2020;
3. Notes the Scottish Budget and local government finance settlement will be announced on 6 February 2020;
4. Notes the statutory responsibilities of the council with regard to budget setting;
5. Agrees that the Head of Finance and Property Services should report to Council Executive on relevant UK and Scottish Government funding and spending announcements, including a report to Council Executive on 25 February 2020 on the Scottish Budget and local government finance settlement, and continue to provide quarterly horizon scan reports to Partnership and Resources Policy Development and Scrutiny Panel (PDSP).

C. SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable, making best use of our resources.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The council is required to approve a balanced revenue budget for each financial year. Audit Scotland and Chartered Institute of Public Finance and Accountancy (CIPFA) best practice guidance recommends financial plans are prepared for at least five years in duration, and detailed budgets are prepared for at least three years.
III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	Ongoing restraint in relation to government funding inevitably has implications for the council's budget and performance.
V Relevance to Single Outcome Agreement	Government funding provides the resources necessary to help deliver the Single Outcome Agreement, Corporate Plan priorities and council activities. Effective prioritisation of resources is essential to achieving key outcomes.

VI Resources - (Financial, Staffing and Property)

Spending decisions made by the UK Government impact on the Scottish Government's budget through the Barnett formula. This in turn has implications for available resources for the council through the local government finance settlement received from the Scottish Government. Previous Scottish Government funding has not been sufficient to meet increasing costs and demand for services.

The economic and fiscal position outlined in the announcement emphasises the importance of proactive financial planning, linked to priorities and outcomes, to address public spending challenges.

VII Consideration at PDSP

Quarterly horizon scan reports on the latest economic indicators and announcements and the council's estimated revenue budget position are considered by Partnership and Resources PDSP.

VIII Other consultations

This report is part of the ongoing process of briefing elected members on issues relating to future year funding and the council's financial strategy to 2022/23.

D. TERMS OF REPORT

D.1 Introduction

The Chancellor of the Exchequer delivered his UK Spending Review to the House of Commons on 4 September 2019. The Spending Round 2019 was to be followed up with a full UK Budget in November 2019, however due to the general election this was cancelled and as a result there have been a number changes to the normal budgeting process. These changes have impacted on the timing of the Scottish Budget and therefore the availability of funding information for the council. This report provides an update on the funding announcements as well as the current personal tax allowances and summarises the latest position for the budget processes for both the UK and Scotland.

D.2 UK Government Public Spending

Spending Round 2019 Announcements

Whilst noting that these announcements may be subject to change in the UK Budget to take place on 11 March 2020, the main spending commitments made in the Spending Review for 2020/21 announced in September 2019 were in line with previous statements made by the Prime Minister, including resource budget increases of:

- £6.2 billion for Health - The Spending Round 2019 reaffirmed the five-year settlement for the NHS in England with an additional £33.9 billion more per year by 2023/24 compared to 2018/19 budgets.
- £1.5 billion for Social Care in England - An additional £1 billion for adult and children's social care. In addition, the UK government will consult on a 2% Adult Social Care precept that will enable councils in England to access a further £0.5 billion. This funding could support local authorities in England to meet rising demand and continue to stabilise the social care system.
- £3.8 billion for Education - The UK government's commitment to a £7.1 billion increase in funding for schools in England by 2022/23 (£4.6 billion above inflation), compared to 2019/20 funding levels. Ahead of that, the schools budget will rise by £2.6 billion in 2020/21 and £4.8 billion in 2021/22, compared to 2019/20 funding levels.

- £1.7 billion for Capital - Departments and the devolved administrations already have capital budgets for 2020/21, which were set at the Spending Review in 2015. This Spending Round largely left these capital budgets unchanged.
- £2 billion for Brexit - This Spending Round confirms £2 billion of core funding provided to departments for Brexit in 2019/20 will be continued into 2020/21. This money intended to be used to help pay for the costs of establishing a new relationship with the EU.

Overall plans included increasing 2020/21 spending by £13.8 billion across all departments. A commitment was made that every UK department will have its day to day spending budget increased by at least inflation with the increased funding to be funded by borrowing rather than tax increases. Spending Round 2019 set out the fastest planned real growth in day-to-day departmental spending in 15 years. The spending plans would mean that from 2019/20 to 2020/21, day-to-day departmental spending will grow at 4.1 per cent in real terms.

NHS, Social Care and Education are devolved to the Scottish Government, meaning that the Barnett Consequential, as a result of UK Government announcements, for Scotland will be allocated by the Scottish Government.

UK Government Other Key Announcements

Personal Allowance

In 2018 the UK Government announced the personal allowance for 2019/20 as £12,500, the basic rate tax limit to be £37,500 and the higher rate threshold as £50,000. The government confirmed that these rates would remain the same for 2020/21 and from 2021/22 onwards the personal allowance and basic rate limit will be indexed to the consumer price index (CPI).

It should be noted that the Scottish Government has devolved powers to set the Scottish Income Tax basic rate limit and higher rate threshold.

Additional NHS Funding

The UK Government announced in August 2019 that an additional £1.8 billion would be made available to the NHS in England, this is in addition to the £33.9 billion more, in cash terms, per year by 2023/24 compared to 2018/19 budgets.

National Living Wage

In December 2019 the UK Government announced a 6.2% in the National Living Wage for 2020/21. This is an increase from £8.21 to £8.72 per hour for over 25 year olds from 1 April 2020.

National Minimum Wage

The UK Government also announced in December 2019 a rise in the National Minimum Wage across all age groups:

- 21-24 year olds – A 6.5% increase from £7.70 to £8.20 per hour.
- 18-20 year olds – A 4.9% increase from £6.15 to £6.45 per hour.
- Under 18s – A 4.6% increase from £4.35 to £4.55 per hour.
- Apprentices – A 6.4% increase from £3.90 to £4.15 per hour.

The increase in hourly rates was following a review by the Low Pay Commission which recommended updated rates.

UK Budget 2020

The Chancellor of the Exchequer announced that the UK Budget 2020 will take place on 11 March 2020 and that the budget will set out plans for the future with up to £100 billion additional investment in infrastructure. The Chancellor is expected to set out plans in the budget to:

- Plan ahead for the next ten years
- Deliver the UK government's tax promises, which are anticipated to result in tax reductions, including reducing the cost of living for people in work.
- Update the Charter for Fiscal Responsibility with new rules

D.3 Main Implications for Scotland

Spending Round 2019

Based on previous announcements, Scotland will receive an additional £1.1 billion in Barnett Consequentials in 2020/21, plus £0.1 billion related to capital spend and a further £160 million for Scottish farmers. Comparing 2020/21 to 2019/20, the Scottish resource budget rises by 2.1% or £600 million in real terms. A 2.1% real terms increase in the block grant is higher than has been observed in previous years and will take the resource block grant to £29.4 billion next year.

Although the resource block grant could increase by 2.1%, the outlook for the Scottish budget also depends on devolved revenues. The Fraser of Allander Institute (FAI) has reported that the latest tax forecasts imply that the Scottish budget overall might increase by somewhat less than 2%. The Scottish Fiscal Commission (SFC) is forecasting the Scottish Budget will face a deduction of £204 million in 2020/21 as a result from revisions to the Scottish and UK income tax revenues, resulting in a negative reconciliation in relation to 2017/18.

Taking into account the performance of the economy, the impact of the negative income tax reconciliation for 2020/21 and continued spending commitments for the Scottish Government, the Fraser of Allander Institute (FAI) has concluded that unprotected areas of the budget should avoid a real terms cut in 2020/21 but should not expect a large increase in budgets.

UK Budget 2020

The UK budget process has a significant bearing on the Scottish Budget process, not only the block grant but also the forecasts for the tax revenues which are issued by the Office for Budget Responsibility at the same time as the UK Budget. The UK Budget 2020 will be announced on 11 March 2020.

The Scottish Government confirmed on 13 January 2020 that the Scottish Budget 2020 will be announced on 6 February 2020, with an indicative timetable for the scrutiny process concluding with the stage 3 debate on 5 March 2020.

The Scottish Government has previously indicated that it will allocate funding to reflect the UK announcements on health spending, but the proposed use of other funding will not be confirmed until 6 February 2020.

The initial Scottish Budget announcement will also include the local government finance settlement for 2020/21 which provides local authorities with their grant allocations for the year.

D.4 Main Implications for West Lothian Council

Statutory Obligations and Legal Requirements

The council must approve council tax for the upcoming year by 11 March to comply with the Local Government Finance Act 1992. The Local Government Finance Act 1972 requires council tax to be set to achieve a specified purpose, which is a defined portion of total estimated expenditure. On that basis the council cannot set council tax without explicitly outlining total estimated expenditure (i.e. the council's net budget).

Audit Scotland has issued advice to external auditors regarding revenue budget setting and council tax. Audit Scotland has advised that while there is no explicit requirement to set the budget at the same time as setting council tax, it is an implicit requirement as it is an integral part of setting the council tax and hence achieving a

balanced budget. It is Audit Scotland's expectation that that the level of council tax flows from the budget process meaning that council tax and the revenue budget have to be agreed at the same meeting.

In terms of revenue budget and council tax setting, Friday 28 February 2020 is the latest practical date for the Council to agree council tax for 2020/21 to allow council tax billing to be undertaken. Not setting council tax levels by this date would mean that 2020/21 demands could not be processed and distributed by the end of March, breaching the Council Tax (Administration and Enforcement) Regulations 1992. The latest date for agreeing HRA rents is Thursday 20 February 2020.

Budget Announcement Implications

With the Scottish Budget 2020/21 being announced on 6 February 2020, the council will have a detailed Local Government Finance Settlement (LGFS) prior to preparing the council budget. This is helpful and will enable funding assumptions in the revenue budget to be based on a finance circular from the Scottish Government. However the timescales for the availability of the LGFS information and the preparation of the council's budget are very tight and challenging to ensure that the council can agree council tax by the latest practical date of 28 February 2020.

The council has complied with best practice by agreeing a long term financial plan for five years and detailed revenue budgets for 2019/20 and 2020/21. The plan is based on a number of income and expenditure assumptions, providing a framework to deliver local services required to support the Corporate Plan and bridge the anticipated budget gap. This approach provides a sound foundation to deliver services, allowing the council to be clear regarding its future financial and corporate planning assumptions. Agreement of the long term financial plan has allowed the council to respond proactively to the magnitude of the challenge in delivering essential services whilst financial resources are constrained.

In line with other local authorities, and as outlined in the council's approved five year financial plan to 2022/23, West Lothian Council continues to face substantial budget challenges. The council has an approved financial plan but there remains uncertainty regarding the future financial position. In addition to Brexit potentially impacting on economic growth, and therefore public sector funding, there are a number of specific risks related to the assumptions in the budget model. In particular, developments such as increased pay awards, recurring service budget pressures and greater than anticipated increases in energy costs could all have a substantial negative impact on the council's financial position.

Following the Scottish Budget and local government finance settlement in early February, a report outlining the Budget and the implications for the council will be reported to the Council Executive on 25 February 2020. In addition, a report will be presented to the Council Executive after the UK Budget on 11 March 2020.

E. CONCLUSION

A number of funding announcements have been made by the UK Government out with the last spending publication in September 2019, which have an impact on the Scottish block grant and forecast tax revenues.

The Chancellor has confirmed that the UK Budget will be announced on 11 March 2020 and the Cabinet Secretary has confirmed that the Scottish Budget and local government finance settlement will be announced on 6 February 2020. This will enable the grant position for 2020/21 to be based on a confirmed circular from the Scottish Government, rather than an estimate. The continued uncertain economic outlook, and its effect on public sector expenditure, emphasises the importance of the council having a robust financial strategy. This strategic and integrated approach to corporate and financial planning helps the council to ensure that outcomes are achieved and balanced budgets are delivered.

F. BACKGROUND REFERENCES

Spending Round Statement 2019 – Published on HM Treasury website

Fraser and Allander Institute briefing on 2020/21

Fraser of Allander Institute commentary on The Outlook for the Scottish Budget 2020/21

Appendices/Attachments: None.

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Donald Forrest
Head of Finance and Property Services
4 February 2020



COUNCIL EXECUTIVE

2019/20 HOUSING REVENUE ACCOUNT – MONTH 9 MONITORING REPORT

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To provide the Council Executive with a report on financial performance following the month 9 monitoring exercise.

B. RECOMMENDATION

It is recommended that Council Executive notes the outcome of the month 9 monitoring exercise and the projected outturn for 2019/20.

C. SUMMARY OF IMPLICATIONS

I. Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of resources, working in partnership.
II. Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None.
III. Implications for Scheme of Delegations to Officers	None.
IV. Impact on performance and performance Indicators	None.
V. Relevance to Single Outcome Agreement	None.
VI. Resources - (Financial, Staffing and Property)	A breakeven position is predicted at this stage.
VII. Consideration at PDSP	Not applicable.
VIII. Other consultations	Head of Finance & Property Services.

D. TERMS OF REPORT

D.1 Introduction

The council approved a £50.724 million Housing Revenue Account (HRA) budget on 19 February 2019. This report provides information on the financial position in relation to the HRA as at 31 December 2019 and provides a projection to the year end.

D.2 Summary of Month 9 Financial Information

The table below summarises the position for the main expenditure headings and provides a projected outturn:

	2019/20 Budget £'000	Committed Expenditure to 31 Dec £'000	2019/20 Projected Outturn £'000	2019/20 Projected Variance £'000
Employee Costs	4,746	4,511	4,477	(269)
Premises Costs	16,546	11,992	16,546	0
Transport Costs	135	112	135	0
Supplies & Services	3,294	2,973	3,116	(178)
Third Party Payments	110	140	127	17
Transfer Payments	1,386	1,281	1,708	322
Support Services	2,552	1,914	2,552	0
Capital Financing	15,760	10,710	14,280	(1,480)
CFCR	6,195	6,698	8,931	2,736
Total Expenditure	50,724	40,331	51,872	1,148
Income	(50,724)	(40,031)	(51,872)	(1,148)
Net Expenditure	0	300	0	0

Employee Costs

Employee costs are forecast to underspend by £269,000, mainly as a result of vacant posts and staff turnover. There are a number of staff within the HRA currently on secondment and backfill arrangements have been determined based on operational and business need, which has resulted in some short term savings within the area. There have also been a number of vacancies due to staff turnover, which have resulted in one off savings during the recruitment period to fill these posts.

Premises Costs

Based on current information, premises costs are anticipated to breakeven. Expenditure on repairs is a key risk area as it is demand led and reactive to customer requirements, and any adverse weather can also materially impact on expenditure. This will require the budget to be closely monitored during the remainder of 2019/20.

Supplies & Services

Supplies and Services are forecast to underspend by £178,000 due to a combination of savings across a number of budget headings, including IT, legal and consultancy costs.

Transfer Payments

Transfer payments are comprised of void losses, irrecoverable rents and bad debt provision for rents. The forecast overspend of £322,000, down from the £345,000 overspend forecast at month 6, is principally due to void losses. Increased void losses are partly as a consequence of additions to council housing stock through new build and open market acquisitions and the secondary lets generated.

Capital Financing & Capital Funded from Current Revenue (CFCR)

Capital financing costs incurred by the HRA consist mainly of loans fund principal repayments and interest charges on outstanding debt. The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 stipulate that local authorities must operate a loans fund, which is a way for the council to recognise the amount of capital expenditure that is being financed by borrowing each year and also the amount of this borrowing that is being repaid each year and charged to the revenue account.

All borrowing undertaken to fund the capital programme must be repaid through the loans fund on a prudent basis. A prudent repayment of a loans fund advance is one which is reasonably commensurate with the period and pattern of benefits provided to the community from the capital expenditure funded by the borrowing.

Following the introduction of the new regulations, a review of both the general fund and HRA loans fund advance repayments was carried out, and discussions held with the council's treasury advisors, Link Asset Services. The review was undertaken in order to ensure that the council continues to make a prudent provision each year for the repayment of loans fund advances.

Changes to the way that current and future loans fund advances are calculated were approved by Council as part of the Annual Treasury Management Plan on 19 February 2019. On 24 September 2019, Council further approved changes to the method of repaying historic loans fund advances meaning that they will also be repaid over a longer period of time, to ensure that the payments can be assessed as prudent and to ensure that the repayments reasonably reflect the period over which the community receives the economic benefit of assets that are now lasting longer than originally assumed.

This ensures consistency of approach in that all loans fund advances, both historic and future advances, will be repaid over the same period and at the same rate, and means that loans fund repayments have effectively been over provided for in prior years and therefore an under provision will be made in future repayments to offset previous over provision.

The debt repayments on prior year loans fund advances have been recalculated following the decision of Council on 24 September 2019, resulting in a forecast underspend of £1.480 million in loans fund principal repayments in 2019/20. As reported at month 6, the level of CFCR was increased by the same amount to reflect this updated forecast.

The CFCR is the amount of income raised through the housing revenue account that is not spent directly on revenue costs, but is earmarked to fund capital works, mainly consisting of refurbishment and upgrade programmes to maintain and improve the housing stock. The mix between borrowing and CFCR is largely dependent on the required level of borrowing and associated capital financing charges as well as the level of CFCR affordable to the HRA.

The level of CFCR is also subject to confirmation dependant on other movements within the HRA revenue account, principally in relation to expenditure on reactive repairs and levels of housing rent. At this stage, it is proposed that the CFCR contribution be increased from £8.666 million, reported at month 6 to £8.931 million at month 9, due to revised income and expenditure forecasts.

Income

Income budgets for 2019/20 relate to the estimated level of rent and other miscellaneous charges due to the HRA. Forecast income has been projected based on the latest information relating to housing stock, taking account of new build completions. Based on the 2018/19 rental income outturn, and factoring in stock changes during 2019/20, achievable income is forecast to be £1,148,000 over budget.

The change to the benefits system means that those tenants who are entitled to housing benefit now receive the housing cost element of their entitlement directly as part of their lump sum Universal Credit payment rather than this being paid directly to the council, which has resulted in uncertainty in relation to rent payments. It is possible to partly mitigate this through tenants applying for Managed Payments or Scottish Flexibilities, however the council has no control over these as ongoing financial arrangements and the tenant can cancel the arrangements at any time.

The change to the system has also meant that the council is no longer involved in benefit claim processing for tenants claiming Universal Credit, meaning that there is no knowledge of new claims until tenants begin to accumulate arrears. Staff had previously assisted with the claim process, and ensured that the housing cost elements of the claim were correct, verified and evidenced. This change has had the effect of delaying early advice and support for tenants struggling to manage their finances, with the service continuing to reshape processes to enable these interventions as early as possible where arrears occur.

Both of these factors directly caused by the implementation of Universal Credit have impacted on rent collection rates and the level of current tenant arrears.

The value of current tenant arrears at the end of December 2019 was £2.983 million (5,562 cases), with the equivalent position in 2018/19 of £2.540 million (5,440 cases). Arrears and their impact on the financial position of the HRA will continue to be closely monitored.

The committed income noted above at month 9 includes house rent, garage rent, insurance recoveries, factoring income and other general recoverable charges, and is an assessment of the total income due to 31 December 2019. The £40.343 million in rental income collected in cash to date exceeds the £38.401 million of rental income collected in cash at the same stage in 2018/19, and equates to a cash collection rate of 97% at month 9.

E. CONCLUSION

A breakeven position is forecast on the basis of the information available.

Appendices/Attachments: None

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Graeme Struthers
Depute Chief Executive
4 February 2020



COUNCIL EXECUTIVE

2019/20 HOUSING CAPITAL REPORT – MONTH 9 MONITORING REPORT

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To provide the Council Executive with a report on the financial position in relation to the Housing Capital Programme following the completion of the month 9 monitoring exercise.

B. RECOMMENDATION

It is recommended that Council Executive note the outcome of the month 9 Housing Capital monitoring exercise and the projected outturn for 2019/20.

C. SUMMARY OF IMPLICATIONS

I. Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of our resources, working in partnership.
II. Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The council's Housing Capital Programme is managed within the stringent requirements set out in the Prudential Code.
III. Implications for Scheme of Delegations to Officers	None.
IV. Impact on performance and performance Indicators	None.
V. Relevance to Single Outcome Agreement	"Outcome 10 – We live in well designed, sustainable places where we are able to access the services we need."
VI. Resources - (Financial, Staffing and Property)	Council Executive approved a revised four year capital programme of £118.771 million for 2019/20 to 2022/23 on 25 June 2019. The 2019/20 revised budget is £36.398 million.
VII. Consideration at PDSP	Not applicable.
VIII. Other consultations	Consultation has taken place with Housing Customer and Building Services, tenants and Finance & Property Services.

D. TERMS OF REPORT

D.1 Introduction

The council approved a four year programme for housing capital investment in February 2019. An updated 2019/20 housing capital investment programme of £36.398 million was approved by Council Executive on 25 June 2019, taking account of the 2018/19 outturn and updated phasing profiles. This report contains detail of expenditure to date in the housing capital programme and provides a projected outturn for the financial year.

D.2 Summary of Month 9 Financial Information

The summarised position for actual and projected expenditure is shown below. The table shows actual investment of £22.162 million in the housing stock to 31 December 2019. The forecast expenditure for the year is £34.436 million. The investment programme comprises the creation of new build social housing and refurbishment of existing stock, which includes large scale housing projects, energy efficiency works and planned programmes, much of which is undertaken by Building Services.

Table 1	2019/20 Revised Budget £'000	Actual Expenditure at Month 9 £'000	2019/20 Projected Outturn £'000	2019/20 Projected Variance £'000
New Housing Supply	16,489	9,973	14,863	(1,626)
Major Refurbishment	1,815	868	1,375	(440)
Major Elemental Upgrades	3,724	2,699	3,606	(118)
Planned Programmes	3,247	1,909	3,328	81
Environmental Upgrading	829	349	573	(256)
Compliance Works	9,957	6,015	10,286	329
Miscellaneous	337	349	405	68
Total	36,398	22,162	34,436	(1,962)

New Housing Supply

Significant resources continue to be invested in the creation and acquisition of new homes, with budgeted resources of £16.489 million in 2019/20. New housing supply includes increasing the existing council housing stock through new builds, open market acquisitions and mortgage to rent properties. Good progress is being made, with many of the new build projects on site and progressing, and projected spend for 2019/20 is £14.863 million. To date in 2019/20, 314 new build council houses have been completed. The council has also acquired 23 houses through the Open Market Acquisitions scheme.

A number of the new build sites were completed during 2018/19, and further sites have now been completed in 2019/20 at Deans South in Livingston, Drumshoreland in Pumpherston, Kirkhill in Broxburn, Almondvale Stadium in Livingston and the former Vion development in Broxburn. Wester Inch in Bathgate has handed over 85 of its 86 units.

The 33 units at Brucefield in Livingston commenced in July 2019 with initial handovers planned for summer 2020 and, although the site is progressing well, slippage against budgeted expenditure for 2019/20 of £400,000 is now forecast due to revised cash flow forecasts and the manner in which the stage payments are structured.

A contractor for the Standhill site in Bathgate was appointed in 2018 and a start date on site in summer 2019 was originally projected. As reported at month 6, delays in the contractor starting on site, principally due to issues in securing sub-contractors for the project, has resulted in slippage being expected in this project for 2019/20. A further revision to the start date for the project has resulted in the slippage forecast being updated from £600,000 to £1.5 million for 2019/20.

Major Refurbishments

Major refurbishment works include planned works on streets, beyond traditional roof and render renewal works. Expenditure of £1.375 million is expected on these projects during 2019/20. As reported at month 6, a saving of £440,000 is anticipated at Bathville Flats, due to a redesign of the project to remove the new build element and due to design changes in phase three and phase four of the project.

Major Elemental Upgrades

Planned expenditure of £3.606 million is expected on major elemental upgrades in 2019/20. Projects largely include roof and roughcasting work undertaken, or managed, by Building Services.

Major works in the Glebe Road and Jubilee Road area of Whitburn have progressed ahead of schedule and are now complete. Works to properties located in the Lanrigg area of Fauldhouse and the Balbardie area of Bathgate are progressing well, with both projects on schedule for completion for the financial year end. Works have commenced on the Dedridge, Livingston and Race Road, Bathgate upgrades, with both projects progressing well. The Race Road project is expected to be complete by March 2020, with the Dedridge Area, Livingston program being a multi-year upgrade programme with good progress recorded to date.

Planned Programmes

Planned programmes maintain the safety of houses and components, with expenditure of £3.328 million expected across the programme during 2019/20. This includes new kitchens and bathrooms, window and door refurbishments and renewals, stair upgrades, fencing programmes and high value repairs. The programme consists of approximately: 150 kitchens and bathrooms, external painting and internal decoration to a combined total of 1,918 properties, rhone cleaning and upgrading to 1,618 properties and various common stair upgrades such as painting and new security entrance doors in 24 blocks.

Based on current levels of demand, an overspend is anticipated at month 9 in planned reactive projects and window and door refurbishment due to the volume of works that have been identified. This overspend will be offset by forecast underspends in other demand led projects where levels of demand have been lower than previously expected, mainly kitchens and bathrooms and fencing works.

Environmental / External Upgrading

Forecast expenditure of £573,000 is anticipated on environmental programmes and external upgrading in 2019/20. These works encompass a range of environmental, street improvement and drainage projects, planned in conjunction with tenants and other council services, and works are progressing well at various sites throughout West Lothian. Forecast slippage in tenant environmental works has increased from the position reported at month 6 and bin store improvement works are now expected to proceed during 2020/21 following consultation with residents.

Compliance Works

Compliance works to housing stock include asbestos management works, legionella upgrades, periodic testing and electrical upgrades and a number of energy efficiency projects aimed at meeting the requirements of Scotland's Energy Efficiency Standard for Social Housing (EESH) regulations by the end of December 2020. These works include central heating upgrades, enhanced investment in external wall insulation and PV panels. The programme consists of approximately: 803 central heating replacements, periodic testing of 2,460 houses and the installation of hard wired smoke detectors in 6,740 properties.

As an integral part of the council's Energy Efficiency Standard for Social Housing Programme (EESH), an air source heat pump project is to be undertaken in all none gas areas to improve energy efficiency, which will include over 100 properties being fitted with new air source heat pump heating systems. PV Panel installations will continue in Westfield, in conjunction with programmed roof and render repair works. External Wall Insulation (EWI) is being progressed in 220 council houses in the Knightsbridge area of Livingston, with works being carried out in conjunction with the HEEPS:ABS programme.

The month 6 monitoring exercise identified accelerated spend in the ongoing projects to install hard wired smoke detectors and to carry out periodic testing and electric upgrades, with some of the works now being aligned to the gas servicing contact to facilitate access to properties. Accelerated spend is now also anticipated in asbestos management, central heating installations and projects to renew walls and footpaths.

Miscellaneous

Works are ongoing in various miscellaneous projects throughout West Lothian, which includes feasibility studies, the home safety service and home security for older people, with anticipated spend of £405,000 in 2019/20.

D.3 Capital Resources

The table below shows the capital resources available to fund the housing capital programme in 2019/20. It should be noted that the investment programme is largely funded through a mix of borrowing and Capital Funded from Current Revenue (CFCR), with additional funding sources from government grants, developer contributions and council tax on second homes.

The CFCR is the amount of income raised through the housing revenue account that is not spent directly on revenue costs, but is earmarked to fund capital works, mainly consisting of refurbishment and upgrade programmes to maintain and improve the housing stock. The mix between CFCR and Borrowing is largely dependent on the required level of borrowing and associated capital financing charges as well as the level of CFCR affordable to the Housing Revenue Account, and is subject to confirmation at the end of the financial year.

Table 2	2019/20 Revised Budget £'000	2019/20 Income to Month 9 £'000	2019/20 Projected Outturn £'000	2019/20 Projected Variance £'000
CFCR	6,195	6,698	8,931	2,736
Borrowing	28,108	17,557	23,409	(4,699)
Government Grants	1,760	1,186	1,760	0
Developer Contributions	250	0	250	0
Council Tax (Second Homes)	85	86	86	1
Total Income	36,398	25,527	34,436	(1,962)

CFCR

At this stage, the contribution of Capital Funded from Current Revenue (CFCR) is anticipated to be £8.931 million. This is due to an increased forecast level of rental income within the Housing Revenue Account, based on latest estimates of stock changes, and also due to revised capital financing charges resulting from a review of loans fund operations. Following the introduction of new capital finance and accounting regulations, a review of both the general fund and HRA loans fund advance repayments was carried out, and discussions held with the council's treasury advisors. Changes to the way that current and future loans fund advances are calculated were approved by Council as part of the Annual Treasury Management Plan on 19 February 2019. On 24 September 2019, Council further approved changes to the method of repaying historic loans fund advances meaning that they will also be repaid over a longer period of time.

As reported at month 6, the debt repayments on prior year loans fund advances have been recalculated following the Council's decision, resulting in a forecast underspend of £1.480 million in loans fund principal repayments in 2019/20. The level of CFCR has been increased by the same amount to reflect this updated forecast. This underspend, generated from the recalculation of loans fund principal repayments, will be retained within the approved four year capital budget and, as approved by Council on 24 September 2019, proposals to utilise this saving will be developed through the normal HRA budget governance route. As such, proposals will be brought to the Services for the Community Policy Development and Scrutiny Panel for discussion before being presented to full Council for approval.

It should be noted the final contribution can be subject to capital borrowing requirements and related costs, as well as affordability within the Housing Revenue Account, subject to pressures such as rent arrears and reactive repair costs, and the anticipated CFCR contribution will continue to be reviewed throughout the year.

Borrowing

The programme approved in June 2019 outlined anticipated borrowing requirements of £28.108 million. At this stage it is anticipated that £23.409 million of borrowing will be required to meet projected 2019/20 expenditure levels, taking into account the forecast increase in CFCR noted above.

E. CONCLUSION

Progress is being made in the 2019/20 housing capital programme. Within the new housing supply projects, there have been a number of completions and construction work is progressing well on a number of sites.

Significant investment is also being made in the housing stock to both improve the overall standard of the stock, meet energy efficiency standards and to increase the number of available houses for West Lothian residents. Much of the focus of this work in 2019/20 continues to be on work undertaken, where possible and within the terms of the Best Value framework, by Building Services. All project budgets will continue to be closely monitored and the position managed by appropriate lead officers.

Appendices/Attachments: One

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Graeme Struthers
Depute Chief Executive
4 February 2020

West Lothian Council
Housing Capital Programme Month 9 Monitoring
Council Executive

APPENDIX 1

EXPENDITURE	Annual Budget 2019/20	Actual to Date 2019/20	Projected Outturn 2019/20	Projected Variance 2019/20	Variance Analysis
NEW HOUSING SUPPLY					
New Build (1,000 Houses)	4,803	4,199	4,778	(25)	Slippage
New Build (250 units)	6,945	3,193	5,344	(1,601)	Slippage
Open Market Acquisition Scheme	4,591	2,549	4,591	0	On budget
Mortgage to Rent	150	32	150	0	On budget
NEW SUPPLY TOTAL	16,489	9,973	14,863	(1,626)	
REFURBISHMENT AND INVESTMENT					
Major Refurbishment					
Bathville Flats, Armadale	1,300	780	860	(440)	Saving
Harrison Houses - Loch Scheme, Whitburn	515	88	515	0	On budget
	1,815	868	1,375	(440)	
Major Elemental Upgrades					
57-117 Lower Bathville	30	40	43	13	Overspend
Auldhill Crescent, Bridgend	28	43	43	15	Overspend
Balbardie Av & Cres, Bathgate	700	463	620	(80)	Saving
Bedlormie/Ogilface, Blackridge	810	536	790	(20)	Saving
Dedridge Area, Livingston	700	361	700	0	On budget
Glebe Rd, Union Rd & Dr, Armadale Rd, Jubilee Rd, Whitburn	600	618	630	30	Overspend
Lanrigg Area, Fauldhouse - Ogilvy Crescent & Scott Place	400	399	463	63	Overspend
Race Road & Glasgow Road, Bathgate	300	91	161	(139)	Saving
Strathlogie, Westfield	156	148	156	0	On budget
	3,724	2,699	3,606	(118)	
Planned Programmes					
Assisted Decoration & Internal Upgrade Scheme	350	101	350	0	On budget
Common Access Door Upgrades	136	2	136	0	On budget
Common Stair Upgrades	100	22	100	0	On budget
Fencing	100	39	40	(60)	Saving
Kitchens and Bathrooms	807	403	620	(187)	Saving
Painting	180	176	182	2	Overspend
Planned Reactive / HIO Investment	974	391	1,260	286	Overspend
Rainwater Goods Testing & Upgrading	200	115	200	0	On budget
Windows & Doors Refurbishment / Renewal	400	660	440	40	Accelerated spend
	3,247	1,909	3,328	81	
Environmental / External Upgrading					
Aerial Upgrades	50	31	50	0	On budget
Almondell, Broxburn	72	80	85	13	Overspend
Bin Store Improvements	79	0	0	(79)	Slippage
Play Areas	83	62	83	0	On budget
Programmed Drainage	150	26	122	(28)	Saving
Tenant Environmental Projects	395	150	233	(162)	Slippage
	829	349	573	(256)	
Compliance Works					
Aids and Adaptations - Building Services	428	254	400	(28)	Saving
Aids and Adaptations - Occupational Therapists	250	129	250	0	On budget
Asbestos Management	690	535	900	210	Accelerated spend
Central Heating	2,350	1,811	2,435	85	Accelerated spend
Energy Efficiency/PV Panels	1,449	476	1,449	0	On budget
Energy Performance Certificates	310	14	55	(255)	Slippage
External Wall Insulation	2,336	951	2,336	0	On budget
Firewalls	43	30	43	0	On budget
Hard wired smoke detectors	800	1,113	1,250	450	Accelerated spend
Legionella Upgrades	20	1	1	(19)	Saving
Orlit Remedial Upgrades	200	0	15	(185)	Slippage
Periodic testing and electrical upgrades	762	585	920	158	Accelerated spend
Renewal of walls and footpaths	119	116	227	108	Accelerated spend
The Vennel Remedial Works	200	0	5	(195)	Slippage
	9,957	6,015	10,286	329	
Miscellaneous					
Deans South, Livingston	50	31	55	5	Overspend
Feasibility Surveys	20	23	20	0	On budget
Home Safety Service	178	170	170	(8)	Saving
Home Security for Senior People	20	21	21	1	Overspend
IT	69	104	139	70	Overspend
	337	349	405	68	
REFURBISHMENT & INVESTMENT TOTAL	19,909	12,189	19,573	(336)	
TOTAL HOUSING CAPITAL INVESTMENT PROGRAMME	36,398	22,162	34,436	(1,962)	

On Budget	11,129	5,120	11,129	0
Slippage	12,932	7,556	10,430	(2,502)
Accelerated Spend	5,121	4,820	6,172	1,051
Saving	4,793	2,763	3,784	(1,009)
Overspend	2,423	1,903	2,921	498
	36,398	22,162	34,436	(1,962)