

MINUTE of MEETING of the COUNCIL EXECUTIVE held within MS TEAMS VIRTUAL MEETING ROOM, on 19 JANUARY 2021.

Present – Councillors Lawrence Fitzpatrick (Chair), Kirsteen Sullivan, Frank Anderson, Harry Cartmill, Tom Conn, Damian Doran-Timson, Peter Heggie, Chris Horne, Charles Kennedy, Andrew McGuire (substituting for David Dodds), Cathy Muldoon, George Paul and Moira Shemilt (substituting for Janet Campbell)

Apologies – Councillors Janet Campbell and David Dodds

1. DECLARATIONS OF INTEREST

Agenda Item 14 (Third Sector Community Funding Update) - Councillor Harry Cartmill declared an interest in that as he was involved in a number of trusts referenced in the report he would not participate in the item of business;

Agenda Item 6 (CEC Reform of Transport Arm's Length Organisations) - Councillor Cathy Muldoon declared an interest in that she was a council appointed member to SEStran for which a specific exclusion from the Standards Commission applied but she was also a council appointed member of Lothian Buses Regional Sub Committee so would not participate in the item of business;

Agenda Item 14 (Third Sector Community Funding Update) - Councillor Frank Anderson declared a non-financial interest as Chair of the Craigshill Good Neighbourhood Network but would participate in the item of business;

Agenda Item 8 (SHIP 2021-26) - Councillor Andrew McGuire declared a financial interest in that he was employed by Canmore Housing Association so would not participate in the item of business;

Agenda Item 6 (CEC Reform of Transport Arm's Length Organisations) - Councillor Chris Horne declared an interest in that he was a council appointed member to SEStran for which a specific exclusion from the Standards Commission applied so would participate in the item of business; and

Agenda Item 14 (Third Sector Community Funding Update) - Councillor Chris Horne declared an interest in that as he was involved in a number of trusts referenced in the report he would not participate in the item of business.

2. ORDER OF BUSINESS

Council Executive noted that agenda items 15 to 19 were for information only. Councillor Frank Anderson advised that he wished officers to present the report at Agenda Item 16 (Procurement Report) and 18 (EU Exit and Trade Cooperation Agreement). Therefore, committee agreed that in accordance with Standing Order 5(3) that all other items were to be taken

as read and their recommendations approved without any further consideration.

3. MINUTE

The Council Executive approved the minute of its meeting held on 15 December 2020.

In relation to matters arising the Council Executive agreed that in relation to Minute Item 15 (pages 966 & 967) the developments set out in the Local Development Plan Action Programme would be submitted to local area committee meetings.

4. SCOTTISH PARLIAMENTARY ELECTION PREPARATIONS

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive highlighting the work being progressed to deliver the Scottish elections, scheduled to be held in May 2021, safely, effectively and transparently.

It was recommended that the Council Executive: -

1. Note the arrangements being made
2. Agree to use the polling scheme in Appendix 1
3. Agree that the Chief Executive have delegated authority to make any required changes (e.g. as a result of the loss of a polling place) in consultation with the Leader of the Council, Leaders of the other Political Groups, and local elected members.

Decision

To approve the terms of the report

5. CEC REFORM OF TRANSPORT ARM'S LENGTH ORGANISATIONS - UPDATE

Councillor Cathy Muldoon having declared an interest took no part in the following item of business.

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services providing an update on the City of Edinburgh Council's (CEC) Reform of Transport Arm's Length Organisations (ALEOs) and to seek agreement that a number of key concerns were expressed in any future engagement with CEC.

Council Executive was asked to: -

1. Note that CEC were progressing the review after considering the consultation response at Transport and Environment Committee on the 12 November 2020
2. Note that engagement with the minority shareholders in Lothian Buses was planned but has yet to commence
3. Support officers' views that any revised governance arrangements should address the following concerns;
 - i. *Any future company model (that arises as an outcome from the reform process) should operate on a commercial basis at arm's length from CEC as majority shareholder.*
 - ii. *Future transport operations and services must continue to address region wide requirements.*
 - iii. *Transition to new arrangements should seek to minimise IR, HR, legal and regulatory issues with no disruption to services.*
 - iv. *There should be minority shareholder representation in any new governance arrangements.*
 - v. *In transitioning to any new arrangements, the outcome model should build on the scale, expertise, HQ strengths and regional provision afforded by Lothian.*

Decision

To approve the terms of the report

6. WEST LOTHIAN COUNCIL OPEN MARKET AQUISITION SCHEME REVIEW

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services advising of the outcome of the Open Market Acquisition Scheme.

It was recommended that Council Executive:

1. Approves the proposed changes to the policy which are intended to increase flexibility in the number and size of houses bought back by the council to meet housing demand;
2. Notes the council will adopt a 'value for money' approach based on an assessment of the combined cost of buying and bringing the house up to lettable standard, without exceeding market value as established by the properties home report valuation plus £8,500; and
3. Notes the council will consider purchasing larger properties, greater than 1 or 2 bedrooms to meet the current demand for this house type and to relieve pressure from the Homelessness service by increasing our larger house type stock

Decision

To approve the terms of the report

7. WEST LOTHIAN STRATEGIC HOUSING INVESTMENT PLAN 2021-2026

Councillor Andrew McGuire having made a declaration of interest took no part in the following item of business.

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services reporting on the main points of the West Lothian Council's Strategic Housing Investment Plan (SHIP) 2021 - 2026.

It was recommended that Council Executive:

1. Approves the Strategic Housing Investment Plan (SHIP) attached as Appendix 1;
2. Notes that over a 10-year period from 2012 to 2022, the aim was to deliver 3,000 affordable homes with the majority being council houses. The established Homes for West Lothian Partnership with Registered Social Landlords in the area will assist with the delivery of this scale of housing;
3. Notes that the level of grant funding for affordable housing delivery for the period 2020-2022 had increased from previous years and that this would facilitate new affordable housing by a variety of providers;
4. Notes the infrastructure projects identified for future consideration by Scottish Government for grant and loan funding and;
5. Approves submission of the SHIP to the More Homes Division of the Scottish Government.

Decision

To approve the terms of the report

8. 0.326 HECTARES (0.806 ACRES) AT BURNHOUSE INDUSTRIAL ESTATE, WHITBURN - PROPOSED SALE TO GROUND EQUIPMENT HIRE LIMITED

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing Council Executive with additional information relating to the proposed sale of 0.326 hectares (0.806 acres) of land at Burnhouse Industrial Estate, Whitburn to Ground Equipment Hire Limited for £82,000 as requested by the Executive at its meeting on 15 December 2020.

It was recommended that Council Executive: -

1. Notes the additional information provided by officers relating to the proposed sale of 0.326 hectares (0.806 acres) of land at Burnhouse Industrial Estate, Whitburn to Ground Equipment Hire Limited.
2. Agrees that, if appropriate, officers will present a further report to a future meeting of the Council Executive once a Ground Equipment Hire Limited planning application has been determined.

Decision

To approve the terms of the report

9. HEALTH AND SAFETY POLICY AND CORPORATE PROCEDURES - PERSONAL PROTECTIVE EQUIPMENT/CONSTRUCTION (DESIGN AND MANAGEMENT)

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services presenting a revised council wide Health and Safety Policy for approval and draft Corporate Procedures for Personal Protective Equipment and Construction (Design and Management) for noting.

It was recommended that Council Executive: -

1. Approve the revised council wide Health and Safety Policy and
2. Note the terms of the draft Corporate Procedures for Personal Protective Equipment and Construction (Design and Management) in the Appendix to the report.

Decision

To approve the terms of the report

10. PROCUREMENT APPROVAL REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to enter into contracts where committee authorisation was required by Standing Orders.

It was recommended that the Council Executive approves

1. A direct award to Bridgeall for a contract with a start date of 26 January 2021 for a period of 3 year to 25 January 2024 to the value of £15000; and
2. A direct award to Cyrenians for a contract with a start date of 1 July 2021 for a period of 1 year to 30 June 2022 to the value of £268,884.

Decision

To approve the terms of the report.

11. REVISED COUNCILLORS' CODE OF CONDUCT - CONSULTATION RESPONSE

The Council Executive considered a report (copies of which had been circulated) by the Governance Manager seeking consideration and approval of a proposed response to the Scottish Government consultation on a revision to the Councillors' Code of Conduct.

Council Executive was asked to agree the response to the Scottish Government consultation on a revision to the Councillors' Code of Conduct, a copy of which was attached to the report at Appendix 1.

Decision

To approve the terms of the report and the proposed consultation response.

12. SUPPLEMENTARY GUIDANCE - DEVELOPER CONTRIBUTIONS TOWARDS CEMETERY PROVISION, SUPPLEMENTARY GUIDANCE: PLANNING & EDUCATION AND PLANNING GUIDANCE: THE VENNEL, LINLITHGOW

The Council executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of the outcome of consultation on draft supplementary Guidance on Developer Contributions Towards Cemetery Provision and to seek approval of the guidance; to seek approval of Supplementary Guidance Planning and Education; and to note the position with regard to Planning Guidance on The Vennel, Linlithgow.

Supplementary Guidance and Planning Guidance were required to support the West Lothian Local Development Plan.

It was recommended that Council Executive

1. Approves the responses to the comments which were received on the draft Supplementary Guidance on Developer Contributions Towards Cemetery provision during public consultation (Appendix 1);
2. Approves the content of the revised Supplementary Guidance 'Developer Contributions Towards Cemetery Provision' (Appendix 2);
3. Approves the responses to the comments which were received on the draft Supplementary Guidance on Planning and Education during public consultation (Appendix 3);
4. Approves the content of the revised Supplementary Guidance 'Planning and Education' (Appendix 4);

5. Approves the 'Screening Reports' for Supplementary Guidance 'Developer Contributions Towards Cemetery Provision' (Appendix 5) and 'Planning and Education' (Appendix 6) which are to be submitted to the SEA Gateway and the Consultation Authorities and which set out the council's justification that the guidance is exempted from additional Strategic Environmental Assessment because it will not in itself have any significant environmental effects and there are no additional environmental effects not previously considered in the SEA for the LDP;
6. Delegates authority to the Head of Planning, Economic Development and Regeneration to timeously issue a 'Screening Determination' for the Supplementary Guidance 'Developer Contributions Towards Cemetery Provision' and 'Planning and Education' in the event that the SEA Gateway and the Consultation Authorities confirm their agreement that the guidance will not in themselves have any significant environmental effects, and where the SEA Gateway and the Consultation Authorities agree that a SEA is required, to report matters to a future meeting of the Council Executive; and
7. Notes that following consideration by Council Executive the Supplementary Guidance on Developer Contributions Towards Cemetery Provision and Planning and Education will require to be submitted to the Scottish Government for approval as statutory supplementary guidance in support of the West Lothian Local Development Plan;
8. Notes the comments received from the Strategic Environmental Assessment (SEA) Consultation Authorities on the Screening Report for Planning Guidance for The Vennel, Linlithgow and the overall view that the guidance would have no significant environmental effects and there are no additional environmental effects not previously considered in the SEA for the LDP (Appendix 7); and
9. Notes that Planning Guidance for The Vennel, Linlithgow was formally adopted on 27 November 2020 and that the Head of Planning, Economic Development and Regeneration has subsequently issued a "Screening Determination" in relation to Planning Guidance which concluded that a separate SEA was not required and which confirmed that no separate SEA would be prepared to accompany the Planning Guidance for The Vennel, Linlithgow (Appendix 8).

Decision

To approve the terms of the report

13. THIRD SECTOR COMMUNITY FUNDING UPDATE - REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT AND REGENERATION (HEREWITH)

Councillor Harry Cartmill and Councillor Chris Horne having declared an interest took no part in the following item of business.

Prior to consideration of the report the Head of Planning, Economic Development and Regeneration apologised to committee for an incorrect figure in Recommendation 2, which should have been £168,724.40 and which had been replicated in section D2 and again at the bottom of Appendix 2.

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of recommendations from the panel on the applications received for the Third Sector Community Support Fund 2021/22 and to consider the proposed allocation of the remaining balance from the 2020/21 Modernisation and Improvement Fund.

It was recommended that the Council Executive: -

1. Notes the recommendations from the panel on allocation of funding from applications received to the £400,000 Third Sector Community Support Fund 2021/22; and
2. Approves the allocation of £168,724.60 from the Modernisation and Improvement Fund to provide additional grant support to the sector;

Motion

To approve the terms of the report.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan

Amendment

West Lothian SNP Group are dismayed to see, once again, that our Third Sector organisations have had to go through a bidding process (at short notice and during their efforts to tackle the issues of the Pandemic) which has resulted in many of them not getting the amount they had bid for, despite this Council needing this sector to help the Council achieve many of their Outcome targets. Furthermore, the SNP Group condemns the actions of Labour councillors who have opposed the many attempts to increase the funding available to support our 3rd sector. Instead of meaningless platitudes from Labour councillors about the great work which these organisations have performed during this pandemic and continue to deliver to the most vulnerable in our communities, they need to support them financially.

West Lothian SNP Group also abhors the fact that from the £400K which these organisations had to bid into, this Council will claw back approx. £150K leaving only £250K available to 'address key issues arising out of

the effects Covid-19 were having on our communities'. This in effect means that over 37% of the awarded funding is not being utilised to tackle, nor deliver, anything to our communities affected by this pandemic.

West Lothian Council SNP Group calls on Council Executive to agree the 2 recommendations in the report but goes further to show that we support our organisations in this unprecedented time and give them some financial stability going into the possibility of continuing uncertain times by,

- Not charge any rent from 3rd sector organisations in 21/22, allowing them to concentrate their finances on assisting our communities recover from this pandemic
 - Allocate the 21/22 Modernisation and Improvement Fund, £150000, to partially cover the shortfall in the amounts awarded to the groups listed in Appendix 1 and 2
 - Allocate the balance of the 20/21 Modernisation and Improvement Fund, £7686, towards the outstanding shortfall in funding awarded to the groups listed in App1/2
 - Officers to investigate and source funding, £3131, which would ensure that all groups listed in both Appendix 1 and 2 receive the total amounts for the proposed projects to 'address key issues arising out of the effects Covid-19 were having on our communities
- Moved by Councillor Frank Anderson and seconded by Councillor Moira Shemilt

The Governance Manager then advised Council Executive that in relation to bullet point 1 of the amendment the Council, at its meeting on 24 November 2020, had agreed that officer's produce a report on the impact of not charging rent for those properties rented by the third sector contained in the council's TNRP. That report was being progressed and would be reported to the Partnership and Resources Policy Development and Scrutiny Panel in February.

Councillor Anderson agreed to the removal of bullet point 1 from his amendment.

A roll call vote was taken. The result was as follows: -

Motion

Tom Conn
Damian Doran-Timson
Lawrence Fitzpatrick
Peter Heggie
Charles Kennedy
Andrew McGuire
Cathy Muldoon
George Paul
Kirsteen Sullivan

Amendment

Frank Anderson
Moira Shemilt

Decision

Following a vote, the motion was successful by 9 votes to 2, with 2 members absent and it was agreed accordingly.

14. DIRECTIONS FROM WEST LOTHIAN INTEGRATION JOINT BOARD - NEW DIRECTIONS AND PROGRESS ON COMPLIANCE

The Council Executive considered a report (copies of which had been circulated) by the Director (Health and Social Care Partnership) advising of new Directions issued to the council by West Lothian Integration Joint Board; and to inform the Executive of the progress made in complying with the existing Directions issued to the council by West Lothian Integration Joint Board (IJB).

The Council Executive was asked: -

1. To note the new Directions issued to the council by the IJB
2. To note the council's legal duty to comply with the Directions
3. To note the progress made to date in complying with the Directions

Decision

To note the content of the report

15. PROCUREMENT REPORT - 1 APRIL 2020 TO 30 SEPTEMBER 2020

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services presenting the Procurement Report for the period 1st April 2020 to 30th September 2020 attached at Appendix 1.

It was recommended that the Council Executive notes the terms of the report

Decision

To note the content of the report

16. SCOTTISH PUBLIC SERVICES OMBUDSMAN ANNUAL REPORT 2019-2020

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive updating members on the Scottish Public Services Ombudsman's annual report 2019-2020.

It was recommended Council Executive: -

1. Note the Scottish Public Services Ombudsman's (SPSO) annual report 2019-2020; and
2. Note the learning from SPSO complaints which is appended to this report for information.

Decision

To note the content of the report

17. EU EXIT AND TRADE COOPERATION AGREEMENT

The Council Executive considered a report which provided an update on the latest position in relation to the trade and cooperation agreement between the UK and EU that was announced on 24 December 2020.

It was recommended that the Council Executive: -

1. Notes the update on the EU-UK Trade and Cooperation Agreement (TCA);
2. Notes that officers will consider the implications of the TCA, as part of the risk monitoring undertaken by the Brexit Working Group.

Decision

To note the content of the report

18. ACTION TAKEN IN TERMS OF STANDING ORDER 31 (URGENT BUSINESS)

The Council Executive noted the action taken in terms of Standing Order 31 (urgent business) to provide approval for the following: -

- a) For a revision to the service delivery plans for the provision of free school meals to children eligible for the 8-day period from 6 to 15 January 2021 as recommended by the Depute Chief Executive in his report dated 22 December 2020; and
- b) For a revision to the service delivery plans for the provision of free school meals to children eligible for the 10-day period from 8 to 29 January 2021 as recommended by the Depute Chief Executive in his report dated 7 January 2021.

19. PRIVATE SESSION

The Council Executive resolved under Section 50(A) of the Local Government (Scotland) Act 1973 that the public be excluded from the

meeting during consideration of the following item of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 2 and 3 of Schedule 1A of the Act.

20. CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020 - POWERS TO INTERVENE IN CARE PROVISION - QUARTERLY UPDATE

The Council Executive considered report (copies of which had been circulated) by the Head of Social Policy providing an update on the work of the Care Home Clinical and Care Professional Oversight Group and to provide an update on the implementation of powers to intervene in care provisions, as set out by the Coronavirus (Scotland) (No.2) Act 2020

It is recommended that the Council Executive:

1. Notes the work of the Care Home Clinical and Care Professional Oversight Group for West Lothian.
2. Notes that officers continue to work in partnership with all care providers providing support and seeking assurance regarding care quality
3. Notes that it has not been necessary for powers associated with the Coronavirus (Scotland) (no.2) Act 2020 to be implemented in West Lothian.
4. Agrees that a report should continue to be made quarterly to Council Executive on the work of the Care Homes Clinical and Care Professional Oversight Group and implementation of any of the new powers.

Decision

To approve the terms of the report