

Public Document Pack

SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the SCOTTISH COUNCIL held in Council Chamber, Council Headquarters, Newtown St. Boswells on Thursday, 2nd March, 2017 at 10.00 am

- Present:- Councillors G. H. T. Garvie (Convener), J. Brown (Vice Convener), S. Aitchison, W. Archibald, M. Ballantyne, S. Bell, K. Cockburn, M. J. Cook, A. Cranston, V. M. Davidson, J. A. Fullarton, I. Gillespie, B. Herd, G. Logan, S. Marshall, W. McAteer, J. G. Mitchell, D. Moffat, S. Mountford, A. J. Nicol, D. Parker, D. Paterson, F. Renton, S. Scott, R. Smith, G. Turnbull and T. Weatherston
- Apologies:- Councillors C. Bhatia, J. Campbell, G. Edgar, J. Greenwell, R. Stewart, J. Torrance and B White
- In Attendance:- Service Director Assets & Infrastructure, Chief Executive, Executive Director, Depute Chief Executive People, Executive Director, Service Director Regulatory Services and Chief Financial Officer

1. POLICE SCOTLAND

The Convener welcomed Chief Superintendent Ivor Marshall to the meeting. Chief Superintendent Marshall was the commanding officer of J Division which included the Scottish Borders Council area and gave Members a presentation on current policing in the area and the vision for the service going forward. He thanked the Police, Fire & Rescue and Safer Communities Board of the Council for their support. Policing covered a wide area from international matters including terrorism to local rural issues. Chief Constable Gormley had set out a 10 year Strategy 2016-2026 which was divided into a series of 1, 3 and 5 year delivery plans and he urged Members to take part in the consultation on these plans. The key elements were prevention, protection, communities, cybercrime, growth of knowledge and innovation for the service of the future. A study of how police officers spent their time had revealed that only 20% of their time was dealing with crime and the remaining 80% dealing with other issues such as sudden deaths, missing people etc. which highlighted the importance of a partnership approach. A sustainable operating model which focussed on outcomes was needed. Chief Superintendent Marshall commented on recent improvements at the Bilston Glen Centre and outlined recent activities in the force area. He then answered Members' questions on matters including the provision of statistics, future use of Hawick Police Station and the police estate review, responses following the reporting of crime, confusion over which contact number to use, and policing of social media. The Convener thanked Chief Superintendent Marshall for his presentation.

DECISION

NOTED the presentation.

2. MINUTES

The Minutes of the Meetings held on 22 December 2016 and 9 February 2017 were considered.

DECISION

AGREED that the Minutes be approved and signed by the Convener.

3. COMMITTEE MINUTES

The Minutes of the following Committees had been circulated:-

Peebles Common Good Fund
Tweeddale Area Forum

23 November 2016
23 November 2016

Berwickshire Area Forum	1 December 2016
Cheviot Area Forum	7 December 2016
Pension Fund Committee	8 December 2016
Pension Board	8 December 2016
Galashiels Common Good Fund	8 December 2016
Eildon Area Forum	8 December 2016
Teviot & Liddesdale Area Forum	13 December 2016
Lauder Common Good Fund	14 December 2016
Civic Government Licensing	16 December 2016
Local Review Body	19 December 2016
Planning & Building Standards Executive	9 January 2017
Teviot & Liddesdale Area Forum	17 January 2017
Civic Government Licensing	20 January 2017
Local Review Body	23 January 2017
Scrutiny	26 January 2017
Innerleithen Common Good Fund	26 January 2017
Executive	31 January 2017
Jedburgh Common Good Fund	1 February 2017
Kelso Common Good Fund	1 February 2017

DECISION

APPROVED the Minutes listed above subject to paragraph 3 below.

4. COMMITTEE MINUTE RECOMMENDATIONS

4.1 Tweeddale Area Forum

With reference to paragraph 3 of the Minute of the Tweeddale Area Forum held on 23 November 2016, Council was asked to approve a number of recommendations relating to the A72 Action Sub-Committee and its continuation after the Council elections in May.

DECISION

AGREED:-

- (a) the Tweeddale Area Forum, or its successors, create an action group, in the next Council term, comprising of Councillors (both local and with relevant portfolios), Community Councillors, and other interested parties such as local parliamentarians, and the group should also take into account how future works on the A72 could benefit business development in Tweeddale, such as cycling tourism;**
- (b) the replacement of the existing anti-skid surfacing at the approaches to The Nest Roundabout be considered in future Road Maintenance Programmes;**
- (c) Officers be asked to investigate the provision for a crossing for cyclists on the Innerleithen Road, Peebles beyond the entrance to the Peebles Hotel Hydro to facilitate a connection with the multi-use path where it came out at Whitestone Park and that meantime, Community Councillor Tatler would liaise with the developers of the Hydro Gardens houses to ascertain if access could be provided through the estate;**
- (d) Officers explore the possible provision of a traffic island in the middle of the road where the 30 mph limit was at the west end of Clovenfords to stop vehicles speeding before leaving the village;**
- (e) Officers recognise the strategic importance of the A72 in light of the volume of traffic it carried when determining Council's roads budgets;**

- (f) the Tweeddale Area Forum, or its successors, request Officers to provide a further report on the condition of the A72 to be brought to the Area Forum, or its successors, at a future date (to be agreed), and that the report requested indicate whether the spend, or repairs, to the road infrastructure were comparable in any of the following 3 sections of the A72; West of Peebles, East of Peebles, and in Peebles;
- (g) Officers prepare an audit or review of the signage and street furniture on the A72;
- (h) the A72 Woodend – Tighnault section be given consideration in the Council's Capital Plan, as budgets allow;
- (i) the Area Forum, or its successors, consider and act on any information that may come from any forthcoming, or future investigations into vehicle collisions and vehicle related accidents on the A72; and
- (j) Officers investigate the possibility of reducing the speed limit at the junction of the A72 and the A701.

4.2 Jedburgh Common Good Fund Sub-Committee

With reference to paragraph 5 of the Minute of the Jedburgh Common Good Fund Sub-Committee, the Council was asked to approve an award of grant to Jedforest RFC towards the refurbishment of their clubrooms.

DECISION

AGREED that Jedburgh Common Good Sub-Committee award a grant of £50,000 to the Jedforest RFC towards the major refurbishment of the Clubrooms commencing May 2017.

5. **OPEN QUESTIONS**

The questions submitted by Councillors Logan, Smith, Marshall, Mountford and Bell were answered.

DECISION

NOTED the replies as detailed in Appendix I to this Minute.

6. **HAWICK FLOOD PROTECTION SCHEME**

There had been circulated copies of a report by the Depute Chief Executive Place providing an update on the development of the Preferred Scheme through the Outline Design process and seeking authority for the Scheme's Project Board to commence taking this Preferred Scheme through the statutory process under the Flood Risk Management (Scotland) Act 2009 and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010; as the Scheme required an Environmental Impact Assessment. The report explained that in 2013 the project team had obtained Council approval to develop the Preferred Scheme through the Outline Design stage and the publication of the Scheme through the statutory process. The key principles of the Preferred Hawick Flood Protection Scheme (the Scheme) had been maintained through the development of the Outline Design Process. The project team had continued to deliver the output in accordance with the programme reported in September 2016 to maintain the target of publishing the Scheme in April 2017. It was important to publish the Scheme in April 2017 so that the project team had sufficient time to resolve objection(s), to allow the Council to 'Confirm' the Scheme in September 2017. The publication of the Scheme was the most important stage of the project for determining the programme and successfully obtaining funding as it opened up the Final Outline Design to public query and challenge that could result in an objection. If the programmed objection resolution process went beyond the

estimated three months it put at risk delivering flood protection by June 2021 and the funding of the Scheme. The project team had mitigated this as far as possible with proactive engagement with statutory consultees and the community over the past two years to overcome key concerns. The project team had undertaken a robust land referencing process to identify all land owners, land occupiers, businesses, individuals, agencies and community groups that needed to be legally notified of the Scheme publication. The project team were currently undertaking a due diligence review of this information and using all reasonable endeavours to fill any gaps in owner or occupier details. This process would be complete prior to publication. Members welcomed the report, thanked officers for their work to date and expressed the hope that any objections could be resolved.

DECISION

AGREED to:-

- (a) note the progress made on the project since the update in September 2016;**
- (b) approve the Final Outline Design for the Hawick Flood Protection Scheme that has been developed over the last two years;**
- (c) authorise the project team to commence the Statutory Approvals processes identified in the Flood Risk Management (Scotland) Act 2009 and the 2010 Regulations; and**
- (d) instruct the project team to present the Hawick Flood Protection Scheme to Council for a decision (as detailed in the Flood Risk Management (Scotland) Act 2009 and the 2010 Regulations) as soon as possible after the end of the formal 28 days objection period.**

7. COUNCIL & TENANT REPRESENTATION ON THE BOARD OF SCOTTISH BORDERS HOUSING ASSOCIATION

There had been circulated copies of a report by the Service Director Regulatory Services on proposed changes to the governance structure of Scottish Borders Housing Association (SBHA), including the removal of guaranteed places for Local Authority Members nominations and the reserved vacancies for tenant Shareholding Members of SBHA on the Board of Management. The report explained that SBHA had carried out a review to strengthen and future-proof their governance structure. The result of this review included a proposal to move away from a constituency model to a skills-based Board of Management. Community and tenant involvement would be a key part of the new skills-based Board, and Councillors and tenants would be encouraged to apply for Board Membership through the new skills-based process. The permission of the Council for this change was required as the Stock Transfer Agreement between Scottish Borders Council and SBHA stated at Schedule 2, Part A, paragraph 6.1 that: *'The Association shall - not change the Rules of the Association so as to reduce the level of Local Authority or tenant representation or the ability of tenants to participate in the running of the Association (including, without limitation, the ability of tenants to participate in direct elections for the appointment of tenant Board or Committee Members) without the Council's prior written consent.'* The Leader commented on the changes to the operation of SBHA since the stock transfer and commended this change which would still allow Councillors to apply if they wished.

DECISION

AGREED to approve the changes to SBHA's Rules to future-proof and strengthen their governance structure by moving to a skills-based Board.

DECLARATIONS OF INTEREST

Councillors Davidson, Fullarton, Herd and Mountford declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

MEMBER

Councillor Fullarton left the meeting.

8. TRIMONTIUM TRUST FUNDING

There had been circulated copies of a report by the Depute Chief Executive People on proposals developed by the Trimontium Trust to refurbish and extend their existing museum in the Ormiston Institute, Melrose and seeking approval for a £60,000 capital grant from the Emergency and Unplanned Fund and for circa £63,000 of in-kind support. The report explained that the Trimontium Trust had approached the Council for assistance to deliver a c£1.9m project to expand and improve the offer which their Trimontium Museum located in the Ormiston Institute, Melrose currently provided. The main capital project had been costed at approximately £1.2m with the balance in display and interpretation and an ambitious activity plan. The Trimontium Trust previously submitted a Heritage Lottery Fund (HLF) bid in autumn 2016 but this was unsuccessful. HLF subsequently met with the Trust and provided feedback on the initial submission. HLF indicated that for a project of this scale, and one involving a Council-administered building, they would have expected a Council contribution. HLF had also encouraged the Trust to resubmit a revised bid. The Trust was working to address the advice received from HLF and now intended to submit a new Stage 1 HLF application in early March 2017. The Trust was working with many partners, specifically Live Borders and SBC Education, to develop their submission as part of a wider scheme to develop its community outreach and grow the museum's influence beyond that achieved to date in its 25 year history. The Trust was looking for SBC to provide support in the region of 10% of the capital cost of £1.2m. It was proposed that SBC offer £63,000 of benefit in-kind, in the form of officer time, and provide a £60,000 capital contribution from the Emergency and Unplanned Fund. The benefit in-kind comprised approximately £56,000 of architectural services and £7,000 of Clerk of Works services which it was planned would be delivered internally by SBC. The total contribution therefore would be £123,000. An amended wording for recommendation was tabled at the meeting. Members welcomed the proposals.

DECISION

AGREED:-

- (a) to note the proposals that had been developed by the Trimontium Trust to expand and improve the offer which their Trimontium Museum in the Ormiston Institute, Melrose currently provided;**
- (b) to provide the project with a £60,000 capital contribution from the Emergency and Unplanned Fund and provide £63,000 of in kind support; and**
- (c) on the assumption that the stage 1 HLF application was successful, to instruct the Depute Chief Executive People to bring a progress report back to the Executive before the Trimontium Trust submitted a Stage 2 HLF application. SBC Support for the Stage 2 application would be subject to all identified funding being agreed in advance.**

9. MOTION BY COUNCILLOR RENTON

9.1 In advance of considering this item the Convener cautioned Members that they must not discuss the tragic events which occurred at the 2014 Rally nor make any statement which could be considered to influence the conduct of resolution of the Inquiry in any way.

- 9.2 Councillor Renton, seconded by Councillor Aitchison, moved the Motion, as detailed on the agenda, in the following terms:-

“This Council notes the commencement of the Fatal Accident Inquiry into the tragic deaths which occurred at the 2014 Jim Clark Rally.

After carefully considering the Findings of the Inquiry, and if those findings do not inhibit her from doing so, this Council asks that the Chief Executive seeks to work positively with all relevant parties to restore the Jim Clark Rally as quickly as possible.”

Councillor Renton spoke in support of her Motion which was unanimously supported.

DECISION

AGREED to approve the Motion as detailed above.

MEMBER

Councillor Cockburn left the meeting.

10. **PRIVATE BUSINESS**

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 6, 8 and 9 of Part I of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

11. **MINUTE**

The private section of the Council Minute of 22 December 2016 was approved.

12. **COMMITTEE MINUTES**

The private sections of the Committee Minutes as detailed in paragraph 3 of this Minute were approved.

13. **TWEEDSIDE NATIONAL HOUSING TRUST 2011 LIMITED LIABILITY PARTNERSHIP**

Members approved a report by the Service Director Regulatory Services on the disposal of housing stock owned by the Tweedside National Housing Trust 2011 Limited Liability Partnership.

14. **URGENT BUSINESS**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Convener was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.

15. **HAWICK ACTION PLAN**

Members approved a report by the Corporate Transformation and Services Director on the submission of a formal proposal to the Scottish Government.

The meeting concluded at 2.25 pm

**SCOTTISH BORDERS COUNCIL
2 MARCH 2017
APPENDIX I**

Question from Councillor Logan

To Executive Member for Culture, Sport, Youth and Communities

There are clear concerns in both the USA and Holland about the nature of the product used for 3G pitches.

Do you agree that the Scottish Borders Council should adopt the precautionary principles adopted by the Dutch Government and the EU. This means that no more 3g pitches should be installed pending reviews made by the Dutch Government and the EU.

If you do not agree I believe that this Council should as a precautionary measure arrange for chemical tests to be carried out to identify carcinogens on the product as it is installed and a guarantee that similar tests should be carried out on all products which are used to repair the pitches which regularly show signs of wear and need upgrading or replacement.

Reply from Councillor Davidson

We are aware of concerns and have been taking advice and following the progress of international studies carefully. Advice on this comes from the Scottish Government which itself receives specialist advice on environmental risks to health from Health Protection Scotland and Public Health England. The current advice is as follows:

A number of studies have shown that chemicals of potential concern are present in rubber-crumb products used in 3G artificial sports pitches. However, levels of exposure to these chemicals have been found to be very low.

Studies to investigate, firstly, whether these compounds are released from the material on ingestion, secondly, if biomarkers of exposure are higher in players using these pitches, or thirdly, whether extracts of the product are mutagenic within in-vitro tests, demonstrate no current health concerns related to these products.

Current estimates of cancer risk associated with worst case exposure scenarios, including to children, are below levels considered of a concern to human health. Therefore, based on both past and most recent research, artificial pitches are considered safe for use.

In terms of on-going studies:

The European Chemicals Agency, (ECA) are currently undertaking their own research on the safety of rubber crumb and we expect a draft report of their findings to be published soon. DEFRA, who have overall responsibility for the UK, are leading on this and are in contact with Sportscotland, the Scottish FA as well as governing bodies in England and Wales.

A similar study is being undertaken by the Federal Government in the USA but this is not due to be concluded until the middle of next year.

Regarding measures taken by Scottish Borders Council:

The Council uses reputable contractors and suppliers for the construction of their artificial pitches and this is controlled via procurement and construction monitoring processes. The suppliers of the rubber crumb infill undertake testing to ensure it meets the legal requirements and details of this can be obtained where considered necessary.

The Council will continue to take advice from Sportscotland and other government agencies, and will review its position following completion of the ongoing EU and USA studies.

Supplementary

Following the removal of 30 such pitches in Holland, Councillor Logan asked that the Council continue to monitor the situation. Councillor Davidson confirmed that this would be done.

Question from Councillor Smith

To Executive Member for Economic Development

Does the Member for Economic Development consider that the designation of a National Park covering a part of the Scottish Borders is required to stimulate the local economy and in particular the tourism sector?

Reply from Councillor Bell

While designating a National Park in the Scottish Borders might help Economic Development through developing tourism in the area it is highly questionable whether this would be achieved solely by such a designation and without additional investment. It is currently unclear how this additional investment would be obtained.

It should also be noted that, contrary to the negative interpretation of the state of the Tourist sector which some National Park supporters have been propagating, there has been a clear growth in this sector such that it is now the fourth largest employment sector in the Borders. This has been achieved without the complexities of new governance arrangements, the imposition of new regulations that National Park would bring, and additional costs that will be associated with the establishment and operation of a National Park.

Whilst real benefits have been delivered in other National Parks, it is unclear whether these would necessarily be replicable in a Borders National Park. The current proposal is at a very early stage and it is not yet possible to confidently say what economic benefits might be achieved. There is not clarity on the potential boundary; on the scope and therefore the costs of establishing and running a National Park; on the essential nature and heritage conservation objectives; or on the public and particularly the agricultural sector's support or concerns.

I understand that a feasibility study is being completed by the promoters. We await the findings of that study before we can consider these issues further and establish what a National Park might be able to contribute to growing our economy. Such a designation might help part of the Borders to thrive; but it would certainly not be an essential component of overall economic growth.

Supplementary

Councillor Smith asked what the economic downside of a park could be. Councillor Bell advised that he had looked at the Cairngorms National Park's 3 objectives of visitor experience, rural development, and conservation. It was important that the appropriate tourism structure was in place for a National Park. As regards rural development, the view that it would increase house values could have a negative impact on the availability of affordable housing. As regards conservation, he was unable to speculate on what those important objectives for the Park might be and looked forward to receiving the feasibility study on a National Park in the Borders.

Question from Councillor Marshall

To Executive Member for Environmental Services

Can the Executive Member for Environmental Services explain what if any effective changes have been made to the dog fouling strategy specifically with regard to the role of the Dog Wardens given levels of complaint concerning what many consider to be very poor levels of performance.

Reply from Councillor Paterson

Neighbourhood Services have confirmed that they have not received any complaints regarding the poor levels of performance of the Enforcement Officers.

The Council agreed a pilot, for a period of a year, with a third party provider which will run until 31st May 2017. A full evaluation of the pilot, and the wider responsible dog ownership strategy, will be undertaken and reported to Council at a later date.

The work of the Enforcement Officers is targeted based on the intelligence held by the Council and the provider. Their work is overseen by one of the Neighbourhood Managers who is analysing incident reports on a weekly basis and ensuring that the resource is used to best effect.

Getting accurate and detailed information on offenders is key to enforcement activity and I would urge everyone to provide as much detail as possible when reporting offenders.

Supplementary

Councillor Marshall asked how many fixed penalty tickets for dog fouling had been issued in Hawick. Councillor Paterson undertook to provide this information but highlighted that a large part of the strategy included the education of dog owners and the promotion of responsible dog ownership.

Question from Councillor Mountford

To Executive Member for Environmental Services

How much has fly tipping cost Scottish Borders Council in each of the last 3 years including the disposal of the dumped waste?

Reply from Councillor Paterson

Neighbourhood Operations deal with the removal of fly-tipping as part of their varied daily duties. Due to the generic and responsive nature of their work, costs relating to fly-tipping are not specifically calculated and recorded. I am therefore unable to provide this information.

I can however confirm the numbers of fly-tipping incidents dealt with in the last 3 years.

2014 (557)

2015 (640)

2016 to date (602).

These incidents cover a range of things such as single black bags through to white goods

Supplementary

Councillor Mountford asked if the Council would consider introducing a zero tolerance policy which operated in other areas. Councillor Paterson undertook to raise this with officers.

Question from Councillor Bell

To the Executive Member for Social Work

This Administration set an ambitious target to complete 100 new affordable homes per year. Given that the exciting and successful filling of the Innerleithen 'gap site' and associated developments, opened by you on Monday, have added a further 9 new affordable homes. What do you anticipate will be the performance against target over the 5 years of this Administration?

Reply from Councillor Renton

Thank you for your question.

I was delighted to be invited to open the new development in Innerleithen this week which has not only provided 9 excellent new affordable homes but has also filled a gap site and removed an unsightly building from the middle of the village.

This is of course just the latest in a series of new affordable housing developments to be delivered by the Council and its partners.

Members will be aware that this Administration set a target of delivering 110 affordable housing units per year. With little over a month to go until end of the financial year, I am pleased to note that over the period of the Local Housing Strategy 2012-17 we are on track to deliver an estimated 591 affordable homes , which means around 118 per year. This is quite some achievement, and exceeds the Administration targets.

Supplementary

Councillor Bell noted that the next plan included 1192 affordable homes and asked if there were any specific concerns regarding what needed to be put in place to achieve this. Councillor Renton agreed it was an ambitious target but if land was available in the right areas, funding coming down from Scottish Government, and houses built in the areas of greatest need, then this target could be achieved.