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SCOTTISH BORDERS COUNCIL

MINUTE of MEETING of the SCOTTISH BORDERS COUNCIL via Microsoft Teams on Thursday, 16 December 2021 at 10.00 a.m.

Present:- Councillors D. Parker (Convener), S. Aitchison, A. Anderson, H. Anderson, J. Brown, S. Bell, C. Cochrane, G. Edgar, J. A. Fullarton (from paragraph 7), J. Greenwell, C. Hamilton, S. Hamilton, S. Haslam, E. Jardine, H. Laing, J. Linehan, S. Marshall, W. McAteer, T. Miers, D. Moffat, S. Mountford, C. Ramage, N. Richards, E. Robson, M. Rowley, H. Scott, S. Scott, E. Small, R. Tatler, E. Thornton-Nicol, G. Turnbull, T. Weatherston

Apologies:- Councillors K. Chapman, D. Paterson
In Attendance:- Chief Executive, Director Education and Lifelong Learning, Director Finance and Corporate Governance, Director Infrastructure and Environment, Director Resilient Communities, Director Social Work and Practice, Director of Strategic Commissioning and Partnerships, Chief Legal Officer, Chief Officer Audit & Risk, Clerk to the Council.

1. **CONVENER'S REMARKS.**

The Convener congratulated the following:-

- (a) Councillor Heather Anderson being awarded the SNP Councillor of the Year at their recent conference;
- (b) the Great Tapestry of Scotland being awarded 5 star status by VisitScotland which recognised it as a world class exhibit; and
- (c) Langlee Primary School which hosted the 2021 Christmas Card competition and the winners: Winner - Michal Tyton (P7), 2nd prize –Skye Finley (P5/6), and 3rd prize - Emily Robertson (P5/6).

DECISION

AGREED that congratulations be passed to those concerned.

2. **ORDER OF BUSINESS.**

The Convener varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

3. **MINUTE**

The Minute of the Meeting held on 25 November 2021 was considered.

DECISION

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

4. **COMMITTEE MINUTES**

The Minutes of the following Committees had been circulated:-

Local Review Body	18 October 2021
Eildon Area Partnership	11 November 2021
Executive	16 November 2021
Teviot & Liddesdale Area Partnership	16 November 2021

DECISION

APPROVED the Minutes listed above.

5. LONG TERM FINANCIAL STRATEGY

There had been circulated copies of a report by the Director Finance and Corporate Governance providing Scottish Borders Council with a newly developed Strategy to support longer term revenue financial planning over a 10 year period, as detailed in Appendix 1 to the report. The report explained that since 2013/14 the Council had adopted a 5 year approach to medium term revenue planning and a 10 year timeframe for the Capital Plan. This Long Term Financial Strategy now extended the revenue planning period over 10 years aligning revenue with capital and allowing the Council to therefore plan more effectively over a longer period. The approach to longer term financial planning was advocated as good practice by Audit Scotland. This approach had allowed the Council to deliver balanced budgets in each year since 2013/14 and to plan effectively for the financial consequences of multi-year transformational change across the Council. Since adopting a longer term planning horizon the Council had successfully delivered £63m of savings on a permanent basis, assisting significantly with financial sustainability. Adopting a consistent 10 year revenue planning horizon would further assist the Council to plan service and strategic change appropriately and ensure the financial implications of the Corporate Plan were properly considered, affordable and reflected in future budgets.

DECISION

AGREED to:-

- (a) approve the development of the Long Term Financial Strategy, as detailed in Appendix 1 to the report, to assist revenue financial planning over a 10 year period from 2022/23; and**
- (b) note that the full Long Term Financial Strategy document along with supporting financial models would be presented to Council along with the suite of financial planning papers when setting the 2022/23 budget.**

6. SHARED INTERNAL AUDIT SERVICES AND PROPOSED WAY FORWARD 2022/23

With reference to paragraph 5 of the Minute of 29 November 2018, there had been circulated copies of a report by the Director Finance and Corporate Governance setting out an evaluation associated with the provision of Internal Audit services and proposing a way forward from 2022/23 onwards. The report explained that shared Internal Audit Services had been provided between Midlothian and Scottish Borders Councils since December 2017. Internal Audit assurance services were also provided by Midlothian Council's Internal Audit team to the Midlothian Integration Joint Board. The operating environment had changed significantly since the inception of the shared Internal Audit services arrangement, in particular over the past 20 months, which provided the opportunity for both Councils to evaluate the arrangement. The report provided details of the wider options of joint working that had been explored and the evaluation of the shared Internal Audit services arrangement. The proposed way forward for 2022/23 onwards was to opt out of the Shared Internal Audit Services at the end of 2021/22 and therefore provide leadership capacity for the application of the revised Risk Management and Counter Fraud Policies and Strategies 2021-2024, subject to their approval by Council. Members agreed that the Council would benefit from having a full-time officer going forward.

DECISION

AGREED to:-

- (a) **note the wider options of joint working that had been explored since the 12 month pilot shared Internal Audit services arrangement and the evaluation associated with the provision of Internal Audit services; and**
- (b) **endorse the proposal to opt out of the Shared Internal Audit Services at the end of 2021/22 and give an appropriate period of notice to Midlothian Council, which would provide the leadership capacity for the application of the revised Risk Management and Counter Fraud Policies and Strategies 2021-2024, as approved by Council below.**

7. RISK MANAGEMENT POLICY AND STRATEGY

With reference to paragraph 9 of the Minute of the Audit & Scrutiny Committee of 22 November 2021, there had been circulated copies of a report by the Chief Officer Audit and Risk presenting a revised Risk Management Policy statement and Risk Management Strategy 2021-2024 for approval. The report explained that effective Risk Management was one of the foundations of effective governance and was recognised in the Council's Local Code of Corporate Governance. Compliance with the principles of sound Corporate Governance required the Council to adopt a coherent and systematic approach to the management of risks that it faced every day. Better and more assured risk management would bring many benefits to the Council and the people it served. Management had the primary responsibility to systematically identify, analyse, evaluate, control and monitor risks to the achievement of the Council's objectives. Internal Audit was required to give independent assurance on the effectiveness of all internal controls and other arrangements put in place by Management to manage risk. On behalf of the Council, as set out in the Scheme of Administration, part of the Audit and Scrutiny Committee's role (Audit function) was to scrutinise the framework of internal financial control, risk management and governance throughout the Council to ensure its adequacy. A revised Risk Management Policy statement was contained in Appendix 1 to the report and 3-year Risk Management Strategy in Appendix 2 were included for approval by full Council, following their consideration and endorsement by the Audit and Scrutiny Committee on 22 November 2021. This would enable the Council to refine its approach to Risk Management and embed these key aspects into the management practices of the Council. Councillor Bell, as Chairman of the Audit and Scrutiny Committee, spoke in support of these documents and highlighted the need to remain eternally vigilant. The Chief Officer Audit and Risk emphasised that every elected Member had a role to play not just those who were Members of the Audit and Scrutiny Committee and that risk sections were included in every committee report.

DECISION

AGREED to:-

- (a) **approve the revised Risk Management Policy Statement and Risk Management Strategy 2021-2024, as contained in Appendices 1 and 2 to the report; and**
- (b) **acknowledge the role and responsibilities of the Audit and Scrutiny Committee, as set out in the Risk Management Policy, to provide Elected Member oversight on behalf of full Council.**

MEMBER

Councillor Fullarton joined the meeting.

8. COUNTER FRAUD POLICY AND STRATEGY

With reference to paragraph 10 of the Minute of the Audit & Scrutiny Committee of 22 November 2021, there had been circulated copies of a report by the Chief Officer Audit and Risk presenting a revised Counter Fraud Policy statement and Counter Fraud Strategy 2021-2024 for approval. The report explained that the Council was committed to minimising the risk of loss due to fraud, theft, corruption or crime and to taking appropriate

action against those who attempted to defraud the Council, whether from within the authority or from outside. The primary responsibility for the prevention, detection and investigation of fraud rested with Management, supported by the Integrity Group. Internal Audit provided advice and independent assurance on the effectiveness of processes put in place by Management. On behalf of the Council, as set out in the Scheme of Administration, part of the Audit and Scrutiny Committee's role (Audit function) was to oversee the framework of internal financial control including the assessment of fraud risks and counter fraud controls, and to monitor counter fraud strategy, actions and resources. A revised Counter Fraud Policy statement, contained in Appendix 1 to the report and 3-year Counter Fraud Strategy, contained in Appendix 2, were included for approval by full Council, following their consideration and endorsement by the Audit and Scrutiny Committee on 22 November 2021. This would enable the Council to continue to refine its approach to tackling fraud, taking account of reducing resources, with a focus on prevention and detection and promotion of a counter fraud culture across the Council to improve its resilience to fraud. Councillor Bell commented on the increased risk of fraud during the Covid pandemic and the importance of highlighting to officers frauds suffered by other organisations.

DECISION

AGREED to:-

- (a) approve the revised Counter Fraud Policy Statement and Counter Fraud Strategy 2021-2024, as contained in appendices 1 and 2 to the report; and**
- (b) acknowledge the role and responsibilities of the Audit and Scrutiny Committee, as set out in the Counter Fraud Policy Statement, to provide Elected Member oversight on behalf of full Council.**

9. GYPSY/TRAVELLER PROVISION IN THE SCOTTISH BORDERS

- 9.1** There had been circulated copies of a report by the Director of Social Work and Practice providing information in relation to the facilities and amenities for Gypsy / Traveller families in Scottish Borders. It had become apparent that the Council needed to review the arrangements in place for this group, specifically the provision of stopping places and sites that would ensure that there was compliance with Scottish Government guidance, a copy of which was appended to the report. Experience during the COVID restrictions had confirmed existing provision was neither adequate nor flexible enough to meet the requirements. For some time the designated site for Gypsy/Travellers in Scottish Borders had been an area at the Tweedside Caravan Park, Innerleithen. Prior to the pandemic there were ten specific pitches for Gypsy/ Traveller families. However, this was reduced to five pitches in line with COVID restrictions and updated fire regulations. It was also noted that this provision was a seasonal site with restricted access during the winter months and was therefore designated as temporary provision. In 2019, Scottish Borders Council formalised the approach to Gypsy/Traveller unauthorised encampments by appointing an officer in a support role as Gypsy/ Traveller liaison officer. Based within the Safer Communities Team, this role was to ensure a consistent approach and compliance with Scottish Government guidance, contained in Appendix B to the report. That member of staff had recently moved to a new post and officers were currently in the process of progressing recruitment into the now vacant post.
- 9.2** During the COVID restrictions in 2020/21 Scottish Government issued the *COVID-19 Framework for Local Decision Making on Gypsy/Traveller Support – June 2020*. This set out the need for access to sanitation, services and healthcare while minimising unnecessary travel. An update on the guidance had been expected for some time but to date this had not been published. The LiveBorders site at Victoria Park, Selkirk had been used to temporarily accommodate the families arriving/located within Scottish Borders in line with the need for compliance with the current government guidance. Officers had been investigating alternative longer-term options for a site/s for Gypsy/Traveller families in Scottish Borders, with a view to ensuring that the Council was compliant with national

guidance and Members had already received a briefing in relation to this, which was followed by further information on potential sites.

- 9.3 The report detailed the scoping that had taken place, potential sites identified thus far and indicative costs for converting these sites into suitable provision. Of note was that sites and indicative costings were difficult to quantify because of the variables in potential work that would be required due to variations on each site location. For example, there was a significant difference between the indicative costs of converting an existing Scottish Borders Council car park site compared to the cost of decontaminating a larger site that had previous industrial use. Members welcomed the report and discussed the issue in detail. Members highlighted the particular issues which had occurred in recent months, particularly in the Selkirkshire Ward, and the need for a permanent solution. Councillor Thornton-Nicol, seconded by Councillor Moffat, moved as an amendment that recommendation 2.1 (d) had the words “including researching smaller sites which would be able to accommodate six berths” added. Councillor Edgar, seconded by Councillor Aitchison, moved a further amendment that an additional recommendation be added - 2.1(g) “that subject to monies being available from the Gypsy/Traveller Accommodation Fund, the Council proceeds to implement the recommendation with a degree of urgency, and report back to Council on progress in 3 months-time”. Both amendments were unanimously accepted. Councillor Thornton-Nicol suggested that a Mr Donaldson who was a spokesperson for gypsy/travellers be invited to provide a briefing for Members and it was agreed that this should be facilitated before a final decision was taken.

DECISION

AGREED:-

- (a) to note the use of Victoria Park, Selkirk as the most viable option as a temporary Gypsy/Traveller site during the COVID response;**
- (b) the continued scoping of Ettrick Mill, Selkirk as an alternative site that may be more suitable in the short to medium term and allow for Victoria Park to be returned to a commercial site as early as possible next year;**
- (c) that the land at Galafoot, Galafoot Lane, Galashiels be subject to a full feasibility study regarding its suitability as a longer term option for the Gypsy/Traveller community;**
- (d) that officers should continue to scope alternative sites in the event that the Galafoot site costs proved prohibitive as a viable long-term option, including researching smaller sites which would be able to accommodate six berths;**
- (e) to progressing negotiations with the current tenant at Tweedside Caravan Park regarding the Scottish Housing regulators requirement for tenant rights for Gypsy/Traveller families on this site;**
- (f) to a consultation process with existing Gypsy/Traveller families and national Gypsy/Traveller representatives as part of the design process; and**
- (g) that subject to monies being available from the Gypsy/Traveller Accommodation Fund, the Council proceeded to implement the recommendation with a degree of urgency, and report back to Council on progress in 3 months-time.**

10. 20 MPH ROAD TO PERMANENCE

- 10.1 With reference to paragraph 12 of the Minute of 27 August 2020, there had been circulated copies of a report by the Director Infrastructure and Environment providing a review of the Spaces for People 20mph trial and proposing which roads within Scottish Borders settlements should remain at 20mph; which should revert back to 30mph; and

which should be set at 40mph. The report explained that the Sustrans funded Spaces for People 20mph trial had been in place since October 2020, where all roads with a 30mph speed limit were reduced to 20mph. During that time Edinburgh Napier University's Transport Research Institute had carried out an independent evaluation of the trial from 125 survey sites over 97 settlements. This evaluation concluded that vehicle speeds had reduced in almost all settlements, in some instances by 6mph, with an average reduction closer to 3mph. As part of the 20mph trial, Council Officers had also convened an evaluation group consisting of representatives from Police Scotland, Transport Scotland, Sustrans, Edinburgh Napier University, Road Safety Auditors as well as officers from East Lothian, West Lothian, Dumfries and Galloway, Highland, Shetland and Argyll and Bute Councils who had shown keen interest in the ongoing trial. The original aim of the trial was to make active travel, i.e. walking and cycling, more attractive to residents as the restrictions resulting from the Covid 19 pandemic eased. This was extremely challenging to measure and as the trial had progressed Transport Scotland had published its delivery plan for their road safety framework which stated that *"we will ensure all appropriate roads in built up areas have a safer speed limit of 20 mph by 2025"*.

- 10.2 Officers had met with Local Members and there appeared to be a general consensus, with some site specific reservations, to retain all settlements at 20mph with some limited 30mph and 40mph speed limit buffers as detailed in Appendix 1 to the report. These 30mph buffers were recommended where it was particularly 'painful' to drive at 20mph taking into account the surrounding environs, for instance where there were not an abundance of houses on both sides of the road and it was not immediately apparent to drivers why 20mph was the appropriate speed. In these scenarios, compliance tended to be poor and could be to the detriment of the overall ethos of lower limits. A public consultation had been held via Citizens Space and all responses had been considered. Members discussed the report and paid tribute to Ms Gilhooly and her team for their work on this project. Councillor Bell, seconded by Councillor Laing, moved that an additional recommendation (d) be added to read "acknowledges that appropriate street furniture and additional traffic calming measures lead to self-enforcing driver compliance with speed limits, and endorses officer intentions to continue to support such improvements" to help encourage further speed limit reductions. Councillor McAteer, seconded by Councillor Marshall, moved as an amendment that recommendations (a) to (c) be replaced with "that Members note the progress made by officers and that officers further analyse the views expressed by those who participated in the Citizen Space Survey and bring a report to Council that represents those views, specifically identifying locations in settlements of Scottish Borders Council where 20mph limits are proposed to be introduced" as he considered the views of the people in his Ward had not been fully addressed by the proposals. Members unanimously accepted the amendment proposed by Councillor Bell.

Vote

Councillor Edgar, seconded by Councillor Rowley, moved approval of the report with the addition of Councillor Bell's amendment.

Councillor McAteer, seconded by Councillor Marshall, moved as an amendment that recommendations (a) to (c) be replaced with "that Members note the progress made by officers and that officers further analyse the views expressed by those who participated in the Citizen Space Survey and bring a report to Council that represents those views, specifically identifying locations in settlements of Scottish Borders Council where 20mph limits are proposed to be introduced"

<i>Motion by Councillor Edgar</i>	-	<i>26 Votes</i>
<i>Amendment by Councillor McAteer</i>	-	<i>5 votes</i>

The Motion was unanimously carried.

- 10.4 Councillor Rowley commented on the abuse directed against Ms Gilhooly and her team on Social Media which officers should not have to face. Councillor Haslam supported this view and asked that the unacceptable nature of such comments should be recorded. The Convener formally thanked Ms Gilhooly and her team.

DECISION

AGREED to:-

- (a) approve the suggestion to move to a position where 20 mph is the default speed limit within settlements in the Scottish Borders;**
- (b) approve limited 30mph exceptions as detailed in Appendix 1 to the report;**
- (c) approve the changes for 40mph speed limits as detailed in Appendix 1 to the report; and**
- (d) acknowledge that appropriate street furniture and additional traffic calming measures lead to self-enforcing driver compliance with speed limits, and endorse officer intentions to continue to support such improvements;**
- (e) unanimously condemn the unacceptable comments on social media aimed at Ms Gilhooly and her team.**

11. MOTION BY COUNCILLOR ROWLEY

Councillor Rowley, seconded by Councillor Aitchison, moved his Motion as circulated with the agenda in the following terms:-

“Consequent to the resignation of Councillor Haslam last month from the role of Leader, I now propose that Scottish Borders Council approves the following reallocation of responsibilities:-

- The Executive Member for Economic Regeneration & Finance portfolio title is changed to the Executive Member for Finance and Budget Oversight
- The Scheme of Administration is amended to take account of the change in Portfolio title
- Further amending the Scheme of Administration so that the Chair of the Major Contracts Governance Group is the Executive Member for Finance and Budget Oversight
- That Councillor Haslam is appointed to the role of Executive Member for Finance and Budget Oversight, with responsibilities for Budget oversight and development.
- Establishes a new role, being the Executive Member for Homes and Housing. The role is not a Senior Councillor role as defined in the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007 and so does not affect the Scheme of Remuneration.
- Appoints Councillor Linehan to the role of Executive Member for Homes and Housing.
- Amends the Scheme of Administration to change the Constitution of the Executive Committee from 11 to 12 Members and adding to the Members list the Executive Member for Homes and Housing.
- Amends the Scheme of Administration by amending the Constitution of the Sustainability Committee from reading “Nine Members of the Council, being 5 members of the Administration and...” to read “Ten Members of the Council, being 6 members of the Administration and...”
- Appoints Cllr Rowley, as Leader, to be a Member of that Committee
- The Leader shall have responsibilities for Economic Development, Regeneration, Tourism, Inward Investment and Broadband & Digital Connectivity
- Appoints Councillor Rowley as a COSLA representative in place of Cllr Haslam.

- Appoints Councillor Aitchison to the South of Scotland Regional Economic Partnership in place of Councillor Haslam
- Notes that Cllr Rowley, as Leader, is now appointed to the Joint Committee of the Edinburgh and East of Scotland City Region Deal and agrees that he can appoint any Member of the Administration to be substitute as and when required as permitted by the Joint Committee Standing Orders.
- Notes that Cllr Rowley, as Leader, is now appointed to attend the Borderlands Partnership Board and agrees that he can appoint any Member of the Administration to be the substitute as required by the Collaboration Agreement.”

Councillor Rowley spoke in support of his Motion. Councillor Bell, seconded by Councillor H. Anderson, proposed the following amendment:-

Bullet point 8: change to read –

“Amends the Scheme of Administration by amending the Constitution of the Sustainability Committee from reading ‘Nine members of the Council, being 5 members of the Administration and...’ to read “Eleven members of the Council, being 6 members of the Administration and 5 members of the Opposition.”

Bullet point 9: change to read –

“Appoints Councillor Rowley, as Leader, and Councillor Thornton- Nicol to be members of that Committee.”

Councillor Rowley accepted this amendment.

DECISION

AGREED to approve the Motion, as amended and as detailed above.

12. MOTION BY COUNCILLOR A. ANDERSON

This Motion was withdrawn.

13. OPEN QUESTIONS

The question submitted by Councillor Moffat was answered. In the absence of Councillor Paterson, his question was withdrawn.

DECISION

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

MEMBER

Councillor Marshall left the meeting.

14. 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

15. MINUTE

The private section of the Council Minute of 25 November 2021 was approved.

16. COMMITTEE MINUTES

The private sections of the Committee Minutes as detailed in paragraph 4 of this Minute were approved.

17. BRIDGE HOMES DISPOSAL STRATEGY

Members approved a joint report by the Director Finance & Corporate Governance and Director Infrastructure & Environment.

The meeting concluded at 12.55 pm

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**SCOTTISH BORDERS COUNCIL
16 DECEMBER 2021
APPENDIX I**

Question from Councillor Moffat

To the Executive Member for Sustainable Development

What action does Scottish Borders Council intend to take to reduce any pollution caused by log burners which have been identified as a significant source of pollution and a serious health hazard?

Reply from Councillor Aitchison

The Clean Air Act regulates emissions from commercial and residential premises in Smoke Control Areas. Many parts of the Scottish Borders are covered by Smoke Control Areas where you can't emit smoke from a chimney unless you're burning an authorised fuel or using exempt appliances (e.g. burners or stoves). A fine of up to £1000 can be issued if you are found to have broken this ruling. Scottish Borders Council's Environmental Health Team investigate all complaints of smoke nuisance, irrespective of whether the premises is in the aforementioned smoke control areas and offer advice to residents in respect of the law and good practice.

Additional Response

Councillor Moffat himself recognises that in rural areas in particular we have seen recently the benefits of these devices for heat, cooking and have arguably, in some areas, saved illness or worse during the prolonged electricity failures. This has also saved emergency services time. Many communities have no alternative to electricity and, until such time as there are alternatives must rely on such sources. Wood burning is not illegal although I have reservations around biomass as an alternative. Investment for such progress is required from both governments to allow these changes. I would also point out that we are working towards a "just" transition, which means the rural areas should not be adversely affected by changes to the law or availability of means of power. I have looked into the particular particle PM 2.5 referred to in correspondence. The 2.5 refers to the size of the particle in microns, which is small enough, if inhaled, to bypass human defences. Whilst studies show in Asia unfortunately this is a significant problem, in Europe levels have been falling in recent years due to various "clean air" measures and changes in old habits like e.g. the burning of heather in rural areas. In the UK, pollutant levels are monitored by the Department for Environment, Food and Rural Affairs. (DEFRA)

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