

# SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the SCOTTISH COUNCIL held in Council Chamber, Council Headquarters, Newtown St. Boswells and Microsoft Teams on Thursday, 15th December, 2022 at 10.00 am

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Present:- Councillors W. McAteer (Convener), J. Anderson, D. Begg, P. Brown, C. Cochrane, J. Cox, L. Douglas, M. Douglas, J. Greenwell, C. Hamilton, S. Hamilton, E. Jardine, J. Linehan, N. Mackinnon, S. Marshall, D. Moffat, S. Mountford, A. Orr, D. Parker, J. PatonDay, J. Pirone, C. Ramage, N. Richards, E. Robson, M. Rowley, S. Scott, F. Sinclair, E. Small, A. Smart, Steel, R. Tatler, E. Thornton-Nicol and T. Weatherston

Apologies:- Councillors V. Thomson

In Attendance:- Acting Chief Executive, Director Education and Lifelong Learning, Director Infrastructure and Environment, Director Social Work and Practice, Director Strategic Commissioning and Partnerships, Chief Officer Health & Social Care, Acting Chief Financial Officer, Interim Chief Governance Officer, Democratic Services Team Leader.

## 1. CONVENER'S REMARKS.

- 1.1 The Convener paid tribute to Doddie Weir who had sadly passed away. A service to celebrate his life was to be held in Melrose on 19 December. The Convener expressed gratitude for the work he had done in relation to awareness and fund raising for MND research. He also expressed condolences to the family on behalf of the Council.
- 1.2 The Convener congratulated the Housing Strategy Team which had won an Energy Action Scotland Award for their Warm Borders Scheme in association with the CAB and Changeworks.
- 1.3 The Convener congratulated Jake Higgins from Wilton Primary School who had won the annual Council Christmas Card Competition.

### **DECISION**

**NOTED the Convener's remarks and agreed that congratulation be passed on as appropriate.**

## 2. MINUTE

The Minute of the Meeting held on 24 November 2022 was considered.

### **DECISION**

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

## 3. COMMITTEE MINUTES

The Minutes of the following Committees had been circulated:-

Police, Fire & Rescue and Safer Communities Board	2 September 2022
Selkirk Common Good Fund	15 September 2022
Sustainable Development	16 September 2022
Selkirk Common Good Fund	6 October 2022
Pension Fund	19 October 2022
Pension Board	19 October 2022
Chambers Institution Trust	19 October 2022
Scrutiny & Petitions	20 October 2022
Tweeddale Area Partnership	1 November 2022
Planning & Building Standards	7 November 2022
Selkirk Common Good Fund	14 November 2022
Executive	15 November 2022

#### **DECISION**

**APPROVED the Minutes listed above.**

#### **MEMBER**

Councillor Small joined the meeting.

4. **FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009: APPROVAL OF LOCAL FLOOD RISK MANAGEMENT PLANS TO BE PUBLISHED ON 31 DECEMBER 2022**

With reference to paragraph 6 of the Minute of 27 May 2021, there had been circulated copies of a report by the Director Infrastructure and Environment proposing approval of the Local Flood Risk Management Plans for the Forth Estuary Local Plan District, the Tweed Local Plan District and the Solway Local Plan District. This approval was required to allow for publication of the Local Flood Risk Management Plans in Scotland on 31 December 2022. The report explained that the Flood Risk Management (Scotland) Act 2009 (FRM Act) required the production of Local Flood Risk Management Plans covering each Local Plan District (LPD) in Scotland. Scottish Borders Council's area fell within 3 of the 14 Local Plan Districts in Scotland. These were Forth Estuary Local Plan District, Tweed Local Plan District and Solway Local Plan District. Under FRM Act there were two sets of complementary plans; the SEPA Flood Risk Management Plans, approved by Scottish Ministers and subsequently published by the Scottish Environment Protection Agency (SEPA) in January 2022 and Local Flood Risk Management Plans produced by Lead Authorities to be published 31 December 2022. Scottish Borders Council was the Lead Authority for Tweed Local Plan District. The SEPA Flood Risk Management Plans and Local Flood Risk Management Plans had been developed through collaborative partnerships between Local Authorities, SEPA, Scottish Water and other stakeholders. The SEPA Flood Risk Management Plans and Local Flood Risk Management Plans provide a framework for co-ordinating actions across catchments to deal with all sources of flooding. The plans ensured long term planning around flooding and under Section 41(2) of the FRM Act and Scottish Ministers must take them into account when allocating funding. This approach helped target investment to areas where there was the greatest risk of flooding and where communities could receive the greatest benefit. This would help to maximise the benefit of public investment. The Local Flood Risk Management Plans took the objectives and actions identified in the SEPA Flood Risk Management Plans and set out who would be responsible for delivering the action, how the action would be funded, a timetable for when the action would be delivered and how it would be co-ordinated within the second FRM Cycle 2022 - 2028. There was now a need to obtain the Council's approval of the Forth Estuary Local Flood Risk Management Plan, the Tweed Local Flood Risk Management Plan and the Solway Local Flood Risk Management Plan prior to the national publication date of 31 December 2022. Although the Council had an interest in only one Potentially

Vulnerable Area (PVA) in the Forth Estuary (PVA 02/10/28 – Berwickshire Coast) and one in Solway (PVA 02/14/04 – Newcastleton) Local Plan Districts there was a requirement through legislation for both plans to be approved in their entirety. Members welcomed the report and thanked Mr. Morrison and his team for all their work on flood prevention. However, Members commented on the increasing need for works to address more frequent flooding due to climate change. Concern was also expressed regarding the current Scottish Government funding model which was insufficient to meet the requirements for works across Scotland and it was considered that it was important to continue to lobby for funding for the Borders.

#### **DECISION**

**AGREED to approve the following FRM plans for delivery by the Council as part of the Flood Risk Management Planning Cycle 2022-2028:-**

- (a) Forth Estuary Local Flood Risk Management Plan;**
- (b) Tweed Local Flood Risk Management Plan; and**
- (c) Solway Local Flood Risk Management Plan.**

#### **5. GYPSY TRAVELLER SITE PROVISION NEEDS ANALYSIS AND CONSULTATION UPDATE**

With reference to paragraph 9 of the Minute of 16 December 2021, there had been circulated copies of a report by the Director Infrastructure and Environment providing an update on the Gypsy/Traveller needs analysis and consultation activity undertaken as part of the Local Housing Strategy 2023-2028 development process and sets out proposed next steps. This built on the reports to Council in December 2021 and June 2022 on the experience during the COVID restrictions which highlighted that existing provision was neither adequate nor flexible enough to meet requirements of the Gypsy/Traveller community. The Housing (Scotland) Act 2001 placed a duty on Local Authorities to prepare a Local Housing Strategy (LHS) supported by the assessment of need and demand for local housing provision and related services in the local area. Scottish Borders Council was currently developing its LHS for 2023-2028 and in June 2022 Council agreed to support a bespoke consultation process with Gypsy/Traveller families and national Gypsy/Traveller representatives to support this process and to better understand the potential need for future site provision. The evidence on the needs of Gypsy/Travellers would feed into the LHS priorities and action plan and inform future investment decisions for Scottish Borders Council. The needs analysis and early engagement with the Gypsy/Traveller community was now complete. The report summarised the findings from that exercise and made recommendations on proposed next steps to address the identified need. Policy HD6 "Housing for Particular Needs" in the draft Local Development Plan 2 supported future provision for the Gypsy/Traveller community where there was an identified need. The absence of any formally allocated available sites did not preclude Gypsy/Traveller provision being granted permission on any suitable (in planning policy terms) site. Members thanked officers for their work on this matter.

#### **DECISION**

**AGREED:-**

- (a) to note the findings from the Gypsy/Traveller needs analysis and consultation exercise summarised in the report;**
- (b) that proposals would be developed to accommodate between 5-7 pitches initially and potentially a total of 10-14 pitches in the longer term;**

- (c) to note that as no potentially suitable sites in Council ownership had been identified a “call for sites” would be undertaken in early 2023 to help identify suitable land opportunities;
- (d) that the focus of site identification be prioritised in the central Borders area and in line with national guidance to ensure the Gypsy/Traveller community had “safe and culturally appropriate places to live and travel” with access to services and amenities, including education and health services;
- (e) that the Director Infrastructure & Environment bring back a finalised short list of potential sites as part of an options appraisal process noting that further feasibility and consultation would be required to determine viability and costings;
- (f) to note that any preferred location/s identified would be subject to full planning application/s; and
- (g) to consider an appropriate capital allocation through the budget setting process to support delivery of permanent Gypsy/Traveller provision.

6. **EXTRA CARE HOUSING UPDATE**

There had been circulated copies of a report by the Director Strategic Commissioning and Partnerships providing an overview of progress made in the delivery of the Extra Care Housing Programme of work in line with agreed strategic objectives. The report also highlighted the benefits and challenges of delivery so far and areas of the programme still to be progressed. A detailed background to the proposals to build Extra Care Housing within the Scottish Borders was provided, followed by an analysis of the benefits and challenges experienced in delivery of Extra Care Housing to date. The report also outlined the financial implications of the Extra Care Housing programme of work for the Council as well as highlighting the risk and mitigations associated with the delivery of Extra Care Housing in the Scottish Borders. Members welcomed the report and highlighted the importance of this type of provision to allow people to stay at home for as long as possible. In response to a question on the new provision at the former Kelso High School, the Director confirmed that there was already a waiting list for the homes.

**DECISION**

**AGREED to:-**

- (a) note the progress to date in the delivery of the Extra Care Housing developments in line with the Older Peoples Housing Strategy of 2018-2028;
- (b) note the benefits realised and challenges experienced in delivery to date; and
- (c) continue to support the delivery of the three outstanding Extra Care Housing developments in line with the Integrated Strategic Plan for Older People’s Housing, Care and Support 2018-2028.

7. **PROPOSALS RE-PROVISIONING THE NIGHT SUPPORT SERVICE**

There had been circulated copies of a report by the Director Strategic Commissioning and Partnerships proposing that following the successful re-

provisioning of the Peebles Night Support Service Pathfinder, the re-provisioning of the Night Support Service across the Borders be taken through a full consultation with service users and members of the public. The report explained that a Pathfinder for the re-provisioning of the Night Support Service took place in Peebles during September 2022. All service users were consulted and offered alternative support by way of differently timed visits (late evening/early morning) or the use of technology. The evaluation showed no adverse impact on service users and no increase in risk. Service users reported that they benefited from not being disturbed throughout the night. Families were supportive and raised no concerns. Staff were fully consulted and operated within St Ronan's Care Home for the duration of the Pathfinder period. They also responded to any alarm activations (13 activations for one client – 12 due to incorrect settings on the bed sensor). In the Peebles Team, there had been no indication of potential for staff redundancies, so if this was duplicated across the Borders the potential staff saving would be in the region of £451,642. In addition to this saving there would be approximately £7,000 saving on fuel and a reduction in staff mileage of 13,000 miles. Members supported the proposals but highlighted the importance of a detailed consultation process given the small number of service users covered by the pilot. The Director confirmed that the needs of service users would be fully considered as part of the consultation process and ensure that nobody ended up in full-time care as a result of any changes to the service.

#### **DECISION**

##### **AGREED that:-**

- (a) a full consultation on the re-provisioning of the Night Support Service would be undertaken, gaining feedback from current service users and members of the public;**
- (b) a full IIA would be completed based on the findings of the consultation; and**
- (c) the findings of the consultation and the IIA be shared with Council prior to any further re-provisioning work being undertaken.**

#### **8. COMMUNITY CONVERSATIONS SUMMER 2022 FEEDBACK**

There had been circulated copies of a report by the Acting Chief Executive providing an update on the feedback gathered from the 11 separate community conversations which took place over the summer of 2022 with Elected Members, senior officers and members of the public, and to seek approval on the next steps. The feedback from the events captured from a series of individual conversations was attached as an appendix to the report and the main issues arising from the feedback had been captured along with the proposed response. The Leader advised that the events had provided a great opportunity to speak to communities and lessons learned would be used to develop these events in future to make them even better in future. He also suggested that partners such as the RSLs and Live Borders also be invited to be represented at future events. It was proposed to hold the next events in Spring 2023. Members agreed that the events had been useful and that improvements could be made. It was also suggested that more detailed analysis of the responses would be useful.

#### **DECISION**

##### **AGREED that:-**

**(a) the issues raised needed to be considered as part of the budget process and realistic, prioritised plans would have to be developed to assist involving Community Councils and Area Partnerships;**

**(b) the feedback should be shared with each Area Partnership and Community Council, and a co-productive process be developed to produce action plans for each community. These plans would require to be prioritised, risk assessed and be specific about resource requirements and time scales;**

**(c) consultation would be required with Community Councils and Area Partnerships over the winter period with the aim of forming plans to be enacted in the spring of 2023; and**

**(d) plans were to be developed for a further series of community conversations to take place during 2023.**

#### **DECLARATION OF INTERESTS**

Councillors Brown, Richards and Weatherston 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.

#### **9. SPORT AND LEISURE TRUSTS - FINANCIAL PRESSURES**

There had been circulated copies of a report by the Acting Chief Executive setting out a proposal to help mitigate the challenges facing the three sport, leisure and culture Trusts funded by the Council, all of whom operated swimming pools. The Trusts had all seen significant increases in their cost base due to rising energy costs and reduced income. The paper sought approval from Members to provide financial assistance to Berwickshire Recreation and Education Sports Trust (BREST) of £127,000 from the Council's recovery fund for the 2022/23 financial year to assist with the costs of a programme of energy efficiency works that would significantly reduce running costs at the Duns facility by an estimated £62,000 per annum and reduce their carbon footprint by 130 tonnes of CO<sub>2</sub> per annum. Discussions were ongoing with Live Borders, and would now also be taken forward with the Jedburgh Sport and Leisure Trust, to ascertain how the Council could assist them with similar programmes of works and the costs of their continuing operations. With increasing energy costs in recent years, the three Leisure Trusts operating in the Borders had seen increasing costs of running their facilities. This increase in costs had been especially felt in those leisure centres operating swimming pools. Pools had faced particular challenges in continuing to operate while keeping their costs of admission affordable to users. Live Borders was the largest of the three charitable trusts commissioned by SBC for the delivery of sport, leisure and cultural services. Live Borders currently operated 6 swimming pools on behalf of the Council in Eyemouth, Galashiels, Hawick, Kelso, Peebles and Selkirk, with one pool, Peebles, currently closed following a malicious fire earlier this year. The other two Borders based Trusts operating swimming pools in the Borders were Jedburgh Leisure Facilities Trust, which operated Laidlaw Memorial Pool, and Berwickshire Recreation Educational Sports Trust, which operated Duns Swimming Pool. Sport, physical activity and cultural activities played a vital role in delivering the Council Plan and Community Plan priorities and outcomes, in particular the priority of 'Good Health & Wellbeing', where the people of the Scottish Borders would be "enabled and supported to take control of their health and wellbeing, and enjoy a high quality of

life” so that the Borders would have “more people in good health, leading an active lifestyle at every age and stage of life.” Swimming pool buildings consumed significantly more energy per sq. m. than most other building types; careful design and the operation of pools to conserve energy was therefore of fundamental importance in ensuring their continued viability. Without sufficient funding to assist Trusts to reduce their energy usage and their carbon footprint, the financial viability of swimming pools in the Borders was at risk. This in turn risked the delivery of the corporate priorities associated with Health and Wellbeing, and the important community benefits they delivered. Members supported the proposals and commended the work the Berwickshire Trust had carried out to help minimise their cost increases.

#### **DECISION AGREED:-**

- (a) to provide one-off financial support to Berwickshire Education and Recreation Sports Trust in the current year of £127,000 from the recovery fund to part fund a programme of energy improvement works identified by the Trust;**
- (b) to note the extraordinary financial challenges facing the leisure sector, primarily as a result of increasing energy costs and reduced income levels;**
- (c) to instruct officers to continue to engage with Live Borders and the Jedburgh Leisure Facilities Trust to identify a package of similar support measures to help manage energy costs, decarbonise buildings and to assist with reduced income;**
- (d) that these Trusts played a vital role in the successful delivery of Council Plan priorities and that, as such, work was also to be undertaken as part of the budget process 2023/24 to identify ways to assist the three Leisure Trusts with their ongoing financial viability. This may include payments for new services, for example social prescribing to help deliver Health and Wellbeing outcomes; and**
- (e) that as part of the budget process, and in recognition of any increased funding contribution, that the Trusts would be required to work with the Council to improve Governance oversight and demonstrate they were delivering the outcomes expected by Members, could evidence good value for money, and an ability to follow the public pound.**

#### **MEMBERS**

Councillors Brown, Richards and Weatherston re-joined the meeting.

#### **10. INDEPENDENT INQUIRY ACTION PLAN UPDATE**

With reference to paragraph 11 of the Minute of 24 November 2022, there had been circulated copies of a report by the Acting Chief Executive providing the third formal update from the Inquiry Review Group which was established to progress the work identified following the independent investigation into the Council’s handling of concerns raised about a former Scottish Borders Council employee. The report brought forward a number of reporting templates relating to a number of actions and sought Council approval to consider these actions as complete. The report also sought approval to alter the frequency of reporting in response to the level of progress and the number of completed actions now achieved. It was explained that there were 14 actions which remained to be brought before Council to be approved as completed. As detailed in the report, these were either time dependant on

collective work with other authorities or linked to actions which were time dependant, subject to legal determinations or awaiting audit activity. It was proposed therefore than in order to afford responsible officers the time to complete this small number of actions to a satisfactory conclusion, that reporting verbally at each Council meeting was ceased and that a written report be brought to Council with comprehensive updates on a quarterly basis. It was intended that the final approvals would be brought to Council by the end of April 2023. Members welcomed the progress to date.

#### **DECISION**

##### **AGREED:-**

- (a) to approve the actions contained in Appendix 1 to the report as being complete;**
- (b) that the Inquiry Action Plan Group meet on a monthly basis rather than fortnightly;**
- (c) to approve the proposal for communication with stakeholders at the conclusion of all actions and request that this plan be shared with Council for approval in the next report; and**
- (d) that reporting to Council would be undertaken by written report on a quarterly basis and monthly verbal updates would cease.**

#### **11. MID YEAR TREASURY MANAGEMENT REPORT 2022/23**

There had been circulated copies of a report by the Acting Chief Financial Officer presenting the mid-year report of treasury management activities for 2022/23, in line with the requirements of the CIPFA Code of Practice, including Prudential and Treasury Management Indicators, and sought approval by Council following consideration of the report by the Audit and Scrutiny Committee on the 12<sup>th</sup> December 2022. The report was required as part of the Council's treasury management control regime. It provided a mid-year report on the Council's treasury activity during the six month period to 30 September 2022 and demonstrated that Treasury activity in the first six months of 2022/23 had been undertaken in full compliance with the approved Treasury Strategy and Policy for the year. Appendix 1 to the report contained an analysis of the performance against the targets set in relation to Prudential and Treasury Management Indicators, and proposed revised estimates of these indicators in light of the 2021/22 out-turn and experience in 2022/23 to date for Council approval.

#### **DECISION**

##### **AGREED:-**

- (a) to note that treasury management activity in the six months to 30 September 2022 was carried out in compliance with the approved Treasury Management Strategy and Policy; and**
- (b) to note that the Audit Committee had scrutinised this report on 12 December 2022.**

#### **12. WINTER PREPAREDNESS - GENERATOR PROPOSAL**

There had been circulated copies of a report by the Acting Chief Executive seeking approval for the purchase and maintenance of a stock of small portable generators for use in communities during power outages. The report explained that during Storm Arwen, which struck large parts of the UK between 25 and 29 November



2021, a series of large scale and prolonged power outage situations were created in the Scottish Borders. After Storm Arwen, a number of post incident de-briefs were commissioned to harvest learning outcomes and build resilience for any future events. One of the issues identified was that many of the village halls in the Borders that were used as general areas for communities to pull together and support each other, did not have any backup generators and were vulnerable should the hall become subject to a power outage. The Emergency Planning team had been carrying out a series of work, both internally and externally with partner agencies to ensure that a robust and cohesive response to winter incidents could be delivered in the Scottish Borders. Scottish Power Energy Networks (SPEN) was responsible for delivering electricity to c.2million consumers across central and southern Scotland but had made it clear that when communities were subject to a planned power outage situation, they would not supply any generators. While it was not possible to provide every hall in the Borders with a generator, it was proposed that a small stock of 15 of the largest output KWH (Kilowatt Hour) small portable generators would be purchased. These could then be taken to a village hall or other building being used by a community during power outages. Extension cables could be run from the generator to power small electric appliances, such as electric 1KW/2KW heaters, table lights, kettles, etc. which would give enough power to heat and light a smaller room as opposed to the main hall area of a building. Allocation of the generators to communities needed to be on a needs/risk assessed basis. In the event of power outages, it was proposed that an Allocation team be established, comprising officers from Social Work, Emergency Planning, the Communities and Partnership team, and any other staff who could assist in the assessment of the needs and risks posed to the community. The generators would be stored in Roads depots and delivery of generators would be undertaken by the Roads teams or any other Service with access to a suitable vehicle large enough to transport the equipment. It was further proposed that when each generator was deployed, it would be sent out with enough spare fuel for one refill. To prevent the wrong fuel being added to the generators (which could be costly), it was proposed that SBC staff would refuel the fuel containers and ensure these were topped up when the generators were deployed. Maintenance of the generators would be carried out by engineers in the Roads depots. Members welcomed the proposals and agreed that community resilience groups should also be encouraged to acquire generators for use in their communities. Members expressed concern regarding the Scottish Power Energy Networks statement that they would not provide assistance and asked that they be written to and asked to reconsider their position. The Director of Social Work and Practice reassured Members that a database of vulnerable people shared with the NHS was kept and updated twice weekly.

## **DECISION**

### **AGREED:-**

- (a) to purchase 15 small portable generators and associated extension leads for deployment to local communities during power outages;**
- (b) that the deployment of the generators be managed through an Allocation team comprising officers from Social Work, Emergency Planning, the Communities & Partnerships team, and any other relevant staff who could assist in the assessment of the needs and risks posed to the community;**
- (c) that the cost of the generators and extension leads be funded from Council Reserves; and**
- (d) that the Council write to SPEN asking that they reconsider their position regarding the provision of generators.**

13. **OPEN QUESTIONS**

The questions submitted by Councillors Sinclair, Ramage, Smart, Parker, Anderson, M. Douglas and Robson were answered.

**DECISION**

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

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. **COMMITTEE MINUTES**

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

***The meeting concluded at 12.15 pm***