



MINUTES OF THE SPECIAL MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 11 SEPTEMBER 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

Committee Members Present:

Provost J McMillan (Convener)
Councillor S Akhtar
Councillor L Bruce
Councillor S Currie
Councillor F Dugdale
Councillor A Forrest
Councillor N Gilbert
Councillor J Goodfellow
Councillor N Hampshire

Councillor J Henderson
Councillor W Innes
Councillor G Mackett
Councillor C McGinn
Councillor K McLeod
Councillor F O'Donnell
Councillor B Small
Councillor T Trotter
Councillor J Williamson

Council Officials Present:

Mr A McCrorie, Depute Chief Executive (Resources and People Services)
Ms M Patterson, Depute Chief Executive (Partnerships and Community Services)
Mr J Lamond, Head of Council Resources
Mr D Proudfoot, Head of Development
Mr T Reid, Head of Infrastructure
Ms F Robertson, Head of Education
Mr S Cooper, Team Manager – Communications
Ms C Dora, Executive Officer
Mr C Grilli, Service Manager – Legal and Procurement
Mr I McFarlane, Service Manager – Planning
Ms C Molloy, Project Manager – Growth Delivery
Mr A Stewart, Project Manager – Growth Delivery

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

Councillor J Findlay
Councillor S Kempson
Councillor K Mackie
Councillor P McLennan

Declarations of Interest:

None

1. EAST LoTHIAN LOCAL DEVELOPMENT PLAN 2018: UPDATE ON HABITATS REGULATION APPRAISAL

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) informing the Council that the Scottish Ministers had extended until 27 September 2018 the period for their final review of the local development the Council intends to adopt, i.e. the East Lothian Local Development Plan (ELLDP 2018) as Council decided on 29 May 2018.

The report also advised the Council:

- of the outcome of a recent European Court of Justice (ECJ) ruling in the case of *People Over Wind/Sweetman -v- Coillte Teoranta (Case C-323/17)* issued on 12 April 2018 and whether it has any effect on the Council's Habitats Regulations Appraisal (HRA) and Appropriate Assessment (AA) of the ELLDP 2018;
- that in light of the above ECJ ruling, as a precautionary measure and in collaboration with Scottish Natural Heritage (SNH), a review of the ELLDP 2018 HRA Record (the document that 'records' the Council's approach to HRA and AA) has been completed;
- that the outcome of the joint review with SNH of the ELLDP 2018 HRA Record and Appropriate Assessment is an Updated ELLP 2018 HRA Record and Appropriate Assessment (as set out in Annex 1 of this Council report).

For the avoidance of doubt, this review has not resulted in any change in the overall conclusions of the Habitats Regulations Appraisal or Appropriate Assessment, i.e. the East Lothian Local Development Plan 2018 would either have no likely significant effects on European sites, or would not adversely affect the integrity of European sites, either alone or in combination with other plans or projects. Consequently, no changes to the ELLDP 2018 would be required. This updated ELLDP 2018 HRA Record therefore confirmed that the above ECJ ruling would not affect the content of ELLDP 2018; SNH agreed with this conclusion;

The report requested that the Council agrees with and accepts the conclusions of the Updated ELLDP 2018 HRA Record including Appropriate Assessment (as set out in Annex 1) before deciding whether to finally adopt the ELLDP 2018, in accordance with the Conservation (Natural Habitats, etc.) Regulations 1994 (Habitats Regulations).

The report also requested that the Council agrees to submit the Updated ELLDP 2018 HRA Record including Appropriate Assessments to the Scottish Ministers for information only.

Iain McFarlane, Service Manager – Planning, presented the report. He drew Members' attention to the main aspects of the report in relation to the complexities of Habitats Regulations, and to the recent ECJ ruling (set out Sections 3.15 – 3.22 of the report). He advised that, as a result of the ECJ ruling, the Council and Scottish Natural Heritage had carried out a review of the Habitats Regulations Appraisal. The outcome of that review was that a number of amendments to the HRA would have to be made; however, there would be no requirement to amend the Local Development Plan. He further advised that the HRA Record would be submitted to Ministers for information and that the Scottish Government's Chief Planner would be informed of the outcome of the review.

Councils and SNH officers were thanked for carrying out the review; it was hoped that this would allow for the Local Development Plan to be progressed by Scottish Ministers.

Decision

The Council:

- i. agreed to accept the outcome of its joint review with SNH of the ELLDP 2018 HRA Record including Appropriate Assessment as well as the findings of the Updated ELLDP 2018 HRA Record and Appropriate Assessment (as set out in Annex 1 of the report) that has the full support of SNH;
- ii. having taken account of and accepted the conclusion of the Updated ELLDP 2018 HRA Record and Appropriate Assessment (as set out in Annex 1 of the report) in accordance with the Conservation (Natural Habitats, etc.) Regulations 1994, reaffirms that ELLDP 2018 should be adopted in the format the Council intends it to be adopted as the Council originally decided on 29 May 2018; and
- iii. agreed to submit the Updated ELLDP 2018 HRA Record including Appropriate Assessments (as set out in Annex 1 of the report) to Scottish Ministers for information only.

2. APPOINTMENT OF LEADER OF THE OPPOSITION

A report was submitted by the Chief Executive advising Council of the resignation of Councillor Brian Small as Leader of the Opposition, and seeking approval of the appointment of Councillor Jane Henderson as the new Leader of the Opposition.

The Clerk presented the report, advising of the change of leadership within the Conservative Group. She noted that a number of appointments to committees and outside bodies would have to be made as a result of this change (as set out in Sections 3.2 – 3.3 of the report).

A number of Members thanked Councillor Small for his support and contribution to the Council as Leader of the Opposition, and welcomed Councillor Henderson to her new role.

Decision

The Council agreed:

- i. to approve the appointment of Councillor Jane Henderson as Leader of the Opposition, with immediate effect;
- ii. to note that, in accordance with the Scheme of Administration, Councillor Henderson would replace Councillor Small on the Petitions and Community Empowerment Review Committee and the Employee Appeals Sub-Committee; and
- iii. to approve the appointment of Councillor Henderson to represent the Council on the CoSLA Convention, replacing Councillor Small.

Signed

Provost John McMillan
Convener of the Council