MINUTES of the MEETING of EAST
LOTHIAN COUNCIL held in the
COUNCIL CHAMBER, TOWN
HOUSE, HADDINGTON on 31
JANUARY 2006

Councillors Present:
Mr P O’Brien (Chair)  Mr N Murray
Mr D Costello  Mr P O’Donnell
Mr A Forrest  Mr J Ross
Mr D Grant  Mr B Shepherd
Mr N Hampshire  Mrs M Talac
Mr W Innes  Mr L Broun-Lindsay
Mr K Jarvie  Mr G Meikle
Mrs M Libberton  Mr N Rankin
Mrs A McCarthy  Mr D Berry
Mr J McNeil  Mr C Ingle
Mr R McNeill

Attending:
Mr J Lindsay, Chief Executive
Mr A McCrorie, Director of Corporate Finance and IT
Ms J Cochran, Head of Community Support
Mr A Forsyth, Head of Community Housing & Property Management
Mr J Lamond, Head of Policy and Business Management
Ms S Saunders, Head of Personnel Services
Mr T Shearer, Head of Community Wellbeing
Mr B Duncan, Policy Development Manager
Mr D Evans, Senior Environmental & Consumer Services Manager
Mrs M Ferguson, Corporate Legal Advisor
Mrs L Gillingwater, Committee & Admin Services Manager (Clerk)
Mr I Glen, Policy & Projects Manager
Ms K Kelman, Political Research Assistant
Mr K MacConnachie, Council Solicitor
Mr R Matthew, Senior Planner
Mr J McGuinnes, PPP Project Manager
Mr D Russell, Corporate Communications Manager
Mr R Sinclair, Public Relations Officer
Ms E Wilson, Housing Strategy Manager

In Attendance:
Mr David White, General Manager, East Lothian Community Health Partnership

Apologies:
Councillor P Ford
Councillor S Richardson
Prior to the commencement of business, the Provost announced that Chief Superintendent Tom Dougan was retiring from the Police Force and that this would be the last time he would attend a Council meeting in an official capacity. He informed Members that Chief Superintendent Dougan had almost 34 years’ service with the Police and that he had been the sub-division commander for East Lothian since 2004. The Provost highlighted the good working relationship between the Council and the Police, and thanked Chief Superintendent Dougan for his work in East Lothian. He wished him well in his retirement. The Provost then welcomed Martin Gordon, who would succeed Chief Superintendent Dougan.

1. COUNCIL AND COMMITTEE MINUTES

The Minutes of the Council and its Committees specified below were submitted and approved.

Cabinet – 27 October 2005

Planning Committee – 1 November 2005

East Lothian Council – 15 November 2005
Item 7: Core Policy Priorities – Councillor McCarthy commented that she felt that the Council had agreed that further consideration of the wording of some of the priorities was required.

Post-Meeting Note – further discussions involving the Provost, Council Leader, Councillor McCarthy and Chief Executive have taken place on this issue, and a revised wording agreed, but the Council’s core priorities are unchanged.

Council Committee for Education – 22 November 2005

Planning Committee – 6 December 2005

Cabinet – 13 December 2005

2. MATTERS ARISING FROM THE MINUTE OF THE MEETING OF EAST LOTHIAN COUNCIL HELD ON 15 NOVEMBER 2005

Item 14: Motion to Ban Airguns – the Council Leader advised that this issue was now being dealt with by the Scottish Executive and that there was no longer a need for the Council to pursue it.

Item 15: 40th Aubigny Twinning Celebrations between Haddington and Aubigny – Councillor Meikle made the following statement:

“I apologise for being unable to attend the Council meeting when this item was discussed.”
I would like now, on behalf of our Group to compliment Mr Keith MacConnachie, as the Monitoring Officer, for his very full inquiry and report.

Since receiving a copy of the Monitoring Officer’s report, which was in the form of a letter to Councillor Ingle, I have carried out my own inquiry and spoken at length to Council officials.

I am satisfied that no wrong-doing has taken place by any Elected Member or official of East Lothian Council in regards to travel arrangements for the twinning celebrations between Haddington and Aubigny.

I would also, at this stage, like to say that I am very disappointed at what appeared to be a deliberate, malicious attempt to tarnish the good name of East Lothian Council. This by an Elected Member whose own financial claims for travelling expenses to this Council are less than transparent.

In September last year I asked Council officials what I thought was a simple question on Councillor Ingle’s travelling expenses for journeys outwith the Council area. To date neither I nor they have received a reasonable or definitive answer.”

3. ‘A SUBSTANTIVE PARTNERSHIP’ – PRESENTATION BY MR DAVID WHITE, GENERAL MANAGER OF THE EAST LOTHIAN COMMUNITY HEALTH PARTNERSHIP

The Provost welcomed Mr David White, General Manager of the East Lothian Community Health Partnership (CHP) to the meeting.

Mr White reminded the Council that Community Health Partnerships had been introduced under the NHS Reform (Scotland) Act 2004. He advised that the main responsibilities of the CHP was to plan and deliver community health provision, and to develop new approaches and help influence the health improvement agenda.

Mr White highlighted the importance of partnership working and drew attention to the shared culture, identity and aspirations of those people working to provide health services within East Lothian.

With regard to Joint Futures, he outlined the importance of working with staff in community care, social work and housing services, and the pressures facing these services in meeting the needs of the population. He commended the positive working relationship between the Council and the NHS, drawing particular attention to the success in reducing the number of delayed discharges.

Mr White talked about the challenges facing Children’s Services, advising that the CHPs would be the principal agents for delivering objectives for Scotland’s children, and that there was a range of joint initiatives already underway in this area. He also drew attention to the importance of joint responsibilities, governance and accountability in respect of vulnerable people, commenting that East Lothian had a good record in this area.
Members were informed about changes to the infrastructure of NHS Lothian, which would see Roodlands Hospital and Herdmanflat Hospital merging within the next few years. It was noted that other areas for future co-operation were also being explored, including the replacement of residential care home beds in Musselburgh.

Mr White highlighted the importance of communication with the public, reporting that NHS Lothian was leading the way in involving patients with the design of services. He stated that the CHP had a duty to find better ways to engage and support the public.

On health promotion, Mr White advised that there was a lot of positive work ongoing in this area, including healthy living initiatives in schools, the SHAW programme, and the forthcoming legislation on smoking in public areas. He commented that community planning was an important mechanism in the linkage of policy and communication.

Mr White concluded his presentation by emphasising that a shared vision would help deliver the best possible services and opportunities to the public, and praised the efforts of the staff involved in working towards these objectives.

The Provost thanked Mr White for attending and addressing the meeting.

4. SUBMISSIONS TO THE MEMBERS’ LIBRARY SERVICE, 5 NOVEMBER 2005 – 20 JANUARY 2006

A report was submitted by the Chief Executive recording the reports submitted to the Members’ Library Service since the last meeting of the Council into the Council’s business.

Decision

The Council agreed to record the reports submitted to the Members’ Library Service between 5 November 2005 and 20 January 2006, as listed in Appendix 1 to the report, into the Council’s business.

5. POLICY & PERFORMANCE REVIEW PANEL UPDATE

A report was submitted by the Chief Executive providing the Council with an outline of the business conducted at the most recent round of meetings of the four Policy and Performance Review Panels.

The Chairpersons of each Policy & Performance Review Panel were invited to provide an update of the business discussed.
Community Services

Councillor O’Donnell reported that the Panel had received an update on the approach to long term voids. Concern had been expressed about the use of voids for homeless people. It was noted that an in principle agreement had now been reached in relation to the establishment of a dedicated voids team, and that a software upgrade was imminent.

Regarding school meals, Councillor O’Donnell advised that the Hungry for Success programme had now been rolled out to all schools. However, there were still concerns about the low uptake of free school meals. A steering group would be set up to look into this. Councillor Berry drew attention to recent press coverage about Fife Council enforcing legislation with regard to a mobile fast food outlet situated near a school. He asked if the relevance of this matter to East Lothian Council could be considered.

Councillor O’Donnell informed Members that the Panel had also considered reports on the Housing Needs Assessment (which would now be considered by Council), and on the Club Golf Initiative, a Scottish Executive Funded project designed to give all 9-year-olds the opportunity to learn to play golf. Councillor Costello commended the Club Golf Initiative, and asked if the level of investment by golf clubs could be investigated to ascertain whether additional financial assistance was required.

Corporate Governance

Councillor Grant informed the Council that Communities Scotland had now approved the Regeneration Outcome Agreement (ROA), which would ensure the stability of the Tranent SIP for the next three years.

It was noted that the Audit Scotland Annual Report to Members, which had been considered by the Council on 15 November 2005, had also been considered by the Panel and that Alasdair Craik of Audit Scotland had been present at the meeting. The Panel had discussed the action points on ‘Following the Public Pound’ and unreliable statutory performance indicators, and had also given further consideration to the establishment of an Audit Committee. It had been agreed that the latter should be reviewed at a later date.

Concerns had been raised regarding the payment of invoices. It was recognised that the performance of the Council was improving, but that further work was required. A demonstration of the PECOS system would be given at the next Panel meeting.

Councillor Grant advised that the Panel had considered a report on claims made against the Council, and the steps being taken to reduce such claims.

Members were informed that the Benefit Fraud Inspectorate would be visiting the Council in the coming months, and would be working with the Council to improve the benefits service. It was noted that Internal Audit was in the process of auditing the Department’s self-assessment scoring system for monitoring housing benefit performance data.
In Councillor Ford’s absence, Councillor Forrest provided the Environment PPRP update.

On waste services, the Panel had raised concerns that the Council’s recycling and landfill targets had been based on 1995 population figures, and that it was likely that the Council would be fined for not achieving these targets, due mainly to a large increase in the population. It was noted that the frequency of residual waste collections may require to be reviewed in the future, with some other local authorities now collecting such waste on a fortnightly basis or providing smaller bins. The Panel agreed that this issue should be referred to the Policy Forum for further consideration.

Councillor Meikle asked if the Council would be fined for failing to reach recycling and landfill targets in 2006/07 and 2007/08, and if the Scottish Executive was being lobbied on this issue. The Director of Environment advised that it was unlikely that 2005/06 waste would give rise to fines in 2006/07, but that it was expected that the Council would be fined in 2007/08 (for 2006/07 waste). He added that the level of the fine would depend on the Council’s success in recycling, and that there was an appeals process whereby the Council could apply to the Minister to waive the fine. The Director of Environment also reported that the Council had previously objected to targets set on the strength of the population growth, but that the Scottish Executive had chosen not to make allowances for this. CoSLA was now taking this up with the Minister.

Councillor Forrest reported that the Head of Transportation had delivered a presentation on parking management. Several issues were considered, such as pay and display parking and controlled parking zones. To commission an in-depth study of the issues and possible implications would cost the Council £20,000-£30,000. The Panel referred the report to the Policy Forum.

Councillor Libberton advised that a review of supported transport services, conducted by Councillor Innes, had not yet been concluded, and would be reported to the Panel at a later date. Concerns were raised regarding discipline and overcrowding on school buses, and it was agreed that a report on this would be considered by the Panel at a later date.

The Council was informed that Anti-Bullying East Lothian (ABEL) had addressed the Panel with regard to the draft Anti-Bullying Policy. The Panel had agreed that schools should play a leading role in combating bullying, and that parents should be given support and information. A further report on this issue would be considered by the Council Committee for Education.

It was noted that the Panel had received a presentation on Midyis standardised testing system, which was designed to show schools whether or not pupils were meeting their potential, as well as assisting with subject choices.
Councillor Libberton reported that the Panel had welcomed a report on the community use of schools, but had expressed concern that the PPP contracts may lead to increased costs in hiring the facilities. The Panel had also agreed there was a need to publicise the charges for school facilities more widely.

**Decision**

The Council agreed to note and use, where appropriate, the contents of the report to inform future decisions made in each of the four areas covered by the Panels.

6. **POLICY & PERFORMANCE REVIEW PANELS – PROPOSED OPERATIONAL CHANGES**

A report was submitted by the Chief Executive seeking Council approval of proposed changes to the operation of the Policy & Performance Review Panels (PPRPs), and the amendment of Standing Orders required as a result of these changes.

The Chief Executive spoke to the report, reminding Members that the External Auditor’s Annual Report to Members 2004/05 had recommended that the Council should reconsider holding PPRP meetings in public. He advised that this issue had been debated at several PPRP and Council meetings, and that there was a clear consensus that the Panels should continue to operate in private to allow for greater debate, but that in order to improve the reporting process, papers for these meetings would be made available to the public. A public version of the minute would be presented to the Council, replacing the current PPRP Update reports. The Chief Executive added that the External Auditor would be invited to attend all PPRP meetings.

Councillor Berry expressed his regret that the changes were not as far reaching as he would have hoped, remarking that scrutiny was not adequately dealt with by the PPRPs.

Councillor Meikle commented that he was pleased that business was now being referred by the PPRPs to Policy Forum. He also welcomed the opportunity to question the Panel Chairs in public, but stressed that certain items of business should remain in the private domain. Councillor O’Donnell endorsed these comments, adding that holding meetings in private allowed Members to question officials about matters that would be inappropriate to raise in public.

Councillor Berry stated that he wished to register his dissent at the recommendations.

**Decision**

The Council agreed:

i. that business meetings of the Policy & Performance Review Panels should continue to be held in private;
ii. that agendas, reports and minutes of PPRP meetings should be made available to the public via CMIS after the meetings have taken place, but that the PPRPs would have the discretion to restrict access to certain items of business should they be deemed to be prejudicial to the public interest by reason of the confidential nature of the business;

iii. to the amendments to Appendix E to Standing Orders (Constitution of PPRPs) to reflect the proposed changes; and

iv. that the External Auditor should be invited to attend all meetings of the PPRPs.

7. REVIEW OF REPRESENTATION ON OUTSIDE BODIES – PHASE 1

A report was submitted by the Chief Executive updating Members on the progress of the review of the Council’s representation on outside bodies.

The Head of Policy & Business Management spoke to the report, advising that the report had come forward as a result of concerns raised by some Elected Members with respect to an imbalance of Member representation on outside bodies. He reported that Members and Chief Officers had been involved in the initial review, but that it had become clear that a more in-depth investigation would be required. The results of this additional work would be reported to Council following the 2007 Local Elections.

Councillor Murray reported that it had been his intention to significantly reduce the number of bodies requiring Council representation, but that it had only been possible to delete 13 organisations from the list. He proposed that the existing vacancies should be filled as follows: East Lothian Educational Trust – Councillor Robert McNeill; East Lothian Countryside Access Forum – Councillor Pat O’Donnell; Edinburgh Film Focus – Councillor David Berry; and Torness Local Liaison Committee – Councillor Pat O’Donnell.

Councillor Berry claimed that the balance of representation had not been redressed, in that the number of appointment for Members outwith the Majority Group had actually decreased. He also remarked that the skills of some Members were not being used to benefit the people of East Lothian. However, he agreed to represent the Council on Edinburgh Film Focus. In response to Councillor Berry’s comments, Councillor Hampshire argued that certain Members were required to serve on particular outside bodies because of their Council responsibilities. Councillor Costello added that it was also important for Members to serve on committees within their own wards.

Decision

The Council agreed:

i. to note that Phase 1 of the review of representation on outside bodies had been completed, but that further detailed work required to be undertaken and reported back to the Council following the 2007 Local Election;
ii. to approve the revised list of appointments to outside bodies;

iii. to note that, for a variety of reasons, a number of organisations/committees had been deleted from the list of outside bodies to be represented by the Council (as outlined in Appendix 2 to the report); and

iv. to approve the following appointments to vacant positions:

   East Lothian Educational Trust – Councillor Robert McNeill
   East Lothian Countryside Access Forum – Councillor Pat O’Donnell
   Edinburgh Film Focus – Councillor David Berry
   Torness Local Liaison Committee – Councillor Pat O’Donnell

8. MEMBERSHIP OF THE TENANCY SUB-COMMITTEE AND THE APPEALS SUB-COMMITTEE

A report was submitted by the Chief Executive seeking Council approval for the appointment of additional Members to the Tenancy Sub-Committee and the expansion of the use of substitute Members for the Appeals Sub-Committee.

**Decision**

The Council agreed:

i. to approve the proposal to include all Elected Members as Members of the Tenancy Sub-Committee;

ii. to approve the proposal that the current nominated membership of the Appeals Sub-Committee would remain unchanged, but that Members unable to attend a scheduled hearing may nominate a substitute from any party/group to attend in their place;

iii. to note that, in normal circumstances, five Elected Members would be required to attend hearings of the Appeals Sub-Committee, in order that there remained a quorum (three Members) should a Member need to withdraw for any reason; and

iv. to note that Section 3 of Appendix A to the Council’s Disciplinary and Grievance procedures would be amended to reflect the changes to the Appeals Sub-Committee procedures.

9. FUNDING OF THE DEVELOPMENT OF MUSSELBURGH RACECOURSE

A report was submitted by the Director of Corporate Finance & IT advising the Council of the details and estimated costs for the Development of Musselburgh Racecourse and seeking agreement to partial funding of this development. The report
also confirmed that the proceeds of the sale of the existing stable sites at Millhill and Goosegreen would be paid into the Musselburgh Common Good Fund.

By virtue of his position as Chairman of the Musselburgh Joint Racing Committee, and in accordance with Standing Order 28, the Provost vacated the Chair during the discussion of this item. The Depute Provost assumed the Chair.

**Declarations of Interest:** Provost O’Brien declared an interest as the Chairman of the Musselburgh Joint Racing Committee. Councillors Murray, Ross and Talac declared an interest as members of the Musselburgh Joint Racing Committee.

The Council Solicitor advised that, in terms of a general dispensation by the Standards Commission, those Members who had declared an interest as members of the Musselburgh Joint Racing Committee, having been appointed by the Council, would be permitted to remain in the Chamber and vote on proceedings if required.

In response to questions by Councillor Berry, the Director of Corporate Finance & IT confirmed that, subject to the development proceeding, there would be no financial demand on the Musselburgh Common Good or on the Council. He advised that the Musselburgh Joint Racing Committee had its own income and accounts, and that it would be fully responsible for repaying the loan, which would be secured on the Racecourse assets. He added that further reports on this matter would be brought back to Council where necessary.

**Decision**

The Council agreed:

i. that subject to the development proceeding, to lend to Musselburgh Joint Racing Committee the balance of funding required by the Musselburgh Joint Racing Committee, as outlined in Section 3.4 of the report, in order to fund the development of Musselburgh Racecourse described in Section 3.3 of the report; and

ii. that the proceeds of the sale of the existing stable sites at Millhill and Goosegreen would be paid into the Musselburgh Common Good Fund.

**10. EAST LOTHIAN CULTURAL STRATEGY 2006-2009**

A report was submitted by the Head of Community Wellbeing seeking Council agreement to formally adopt the East Lothian Cultural Strategy 2006-2009.

The Head of Community Wellbeing spoke to the report, reminding Members that the draft Strategy document had been approved by Cabinet in June 2005, and that a consultation period had followed, concluding in September 2005. He advised that the Council would be one of the only local authorities in Scotland to have a Cultural Strategy, and he hoped that this would lead to increased external funding of initiatives.
Councillor Rankin congratulated the Head of Community Wellbeing and his staff for producing the Strategy document, but stressed the need for reviewing progress and the financial situation on a regular basis. He also suggested that implementation plans would be help track progress. The Head of Community Wellbeing accepted these comments and advised that there would be action plans to accompany the aims of the Strategy.

Councillor Berry commented that although he supported the intention of the document, it lacked vision. The Head of Community Wellbeing responded, arguing that the introduction to the document summarised the vision. He added that he had taken Councillor Berry’s comments into consideration during the consultation, but that he was satisfied that the introduction to the Strategy ‘painted a visionary picture’.

**Decision**

The Council agreed:

i. to approve the East Lothian Cultural Strategy 2006-2009;

ii. to note the consultation process that informed the development of the strategy;

iii. to note the main priorities of the strategy and endorse these as key developments for culture in East Lothian;

iv. to take account of national initiatives in relation to the provision of an infrastructure to support and develop culture in Scotland; and


**11. REPURCHASE OF FORMER COUNCIL HOUSES**

A report was submitted by the Head of Community Housing & Property Management setting out the criteria under which the Council would repurchase former Council houses and allow the former purchaser to remain in occupation under a Scottish Secure Tenancy.

The Head of Community Housing & Property Management spoke to the report, advising that, given the lack of affordable rented housing in East Lothian, in some circumstances it was considered to be a more effective use of resources to repurchase former Council houses at a price that reflected the original purchase price and allow the former owner to remain as a tenant, rather than allocating another Council house to them.

In response to Councillor Berry’s question regarding houses which had been modified, the Head of Community Housing & Property Management advised that any work done would have to comply with Council standards.
Decision

The Council agreed that former Council houses should be repurchased under the criteria set out below which would allow the former purchaser to remain in occupation under a Scottish Secure Tenancy:

i. the house and its fittings are sound and in good condition;

ii. the purchase price will be the original selling price plus an increment equal to the increase in the Retail Price Index for each full year since the sale took place;

iii. where additional money has been borrowed to upgrade the property and the improvements meet the Council’s standard, the selling price calculated under (i) above may be increased by up to a maximum of £5000 to meet some of these costs; and

iv. each party will meet its own legal costs.

12. LOTHIAN HOUSING NEEDS ASSESSMENT

A report was submitted by the Head of Community Housing & Property Management informing the Council of the final report of the Lothian Housing Needs and Market Study and highlighting the policy implications of the Study.

The Head of Community Housing & Property Management drew attention to the key points in the report and its implications for the Council’s affordable housing policy.

Councillor Meikle remarked that he was not surprised by the findings of the report, and urged the Council to do more to provide additional affordable housing.

Referring to Appendix 2, Table EL.15, Councillor Berry asked for an explanation of the need indicator for affordable housing. Councillor Innes advised that this indicator was about affordability and not cost. He added that as there was a higher level of deprivation of the west of the county, this would result in lower levels of affordability.

The Housing Strategy Manager explained that the Council now had raw data which would allow the Division to look at the affordable housing situation in greater depth.

Councillor Innes stated that the results of the housing needs assessment could be used as evidence to counter the objections of developers regarding the percentage of affordable homes required, but that it would not resolve the problem of providing the number of affordable homes within the specified timescale. He added that the local MSP had been lobbied regarding amendments to the planning bill currently going through Parliament, and called for the support of the other political parties on this issue.
Decision

The Council agreed:

i. to note the information contained within the Lothian Housing Needs and Market Study for the ongoing purpose of housing strategy and policy development; and

ii. to note that over a five year period between 2005 and 2010 the Study projects that there would be a shortfall of 2007 affordable homes.

Sederunt: Councillors Grant, R McNeill and Shepherd left the meeting.

13. EAST LOTHIAN COUNCIL AFFORDABLE HOUSING POLICY 2005

A report was submitted by the Director of Environment and the Head of Community Housing & Property Management informing the Council of the recently completed public consultation exercise on the replacement draft East Lothian Affordable Housing Policy 2005. The report set out the responses received to the consultation.

The Director of Environment spoke to the report, advising that the policy, which the Council had approved on 16 December 2003, had been reviewed as a result of Planning Advice Note 74 – Affordable Housing in Scotland, by the Scottish Executive. He reported on the most significant changes, including the use of latest Lothian Housing Needs Assessment as a basis for establishing the level of affordable housing needed, the reduction in the number of sub-areas on which affordable housing need would be calculated, and the application of a 25% affordable housing contribution to all new housing sites of five or more units (with the exception of Letham Mains, Haddington (17%) and Blindwells (30%)). He added that the terms of the policy would be applicable to all planning applications made from the date of this meeting.

Decision

The Council agreed to approve the finalised East Lothian Affordable Housing Policy 2005 as supplementary planning guidance. This would replace the 2003 Affordable Housing Policy.
14. FINALISED EAST LOTHIAN LOCAL PLAN 2005 – PROPOSED PRE-INQUIRY CHANGES

A report was submitted by the Director of Environment recommending the response the Council should make to each objection made and not withdrawn against the Finalised East Lothian Local Plan 2005. The report also recommended a number of pre-inquiry changes to the Finalised Local Plan that respond to those objections that were accepted, or are corrections, clarifications or matters arising from further consideration of the Plan.

The Director of Environment and the Policy & Projects Manager spoke to the report, summarising the main issues and objections which had been made. It was noted that the pre-inquiry changes would now be published and advertised, and that a period of 3-4 weeks would be allocated for the submission of objections to the changes. A further report would be submitted to Council setting out the grounds on which the public inquiry (scheduled to begin in June 2006) would be held.

Councillor Berry pointed out that the report did not include any statements about settlements, and asked if this could be included. He also believed that the Council was not doing enough to encourage business development, and suggested that this should be given more consideration. The Policy & Projects Manager responded, advising that the allocation of business land was guided by advice from the Economic Development Division, adding that the result of a recent study had suggested that there was insufficient demand for new businesses in North Berwick.

Decision

The Council agreed:

i. to approve the responses recommended to each objection to the Finalised Local Plan, as detailed in the accompanying report entitled ‘Response to Objections to Finalised Plan’; and

ii. to approve the proposed pre-inquiry changes to the Plan, as detailed in the accompanying report entitled ‘Proposed Pre-Inquiry Changes’.

15. APPLICATION OF THE SMOKE FREE LEGISLATION IN EAST LOTHIAN

A report was submitted by the Director of Environment informing the Council of the Smoke Free legislation which would come into effect from 6.00 am on 26 March 2006, and seeking approval for the enforcement approach to be taken by Environmental Health staff.

The Senior Environmental & Consumer Services Manager spoke to the report, commenting that this legislation was the most important public health measure to be introduced in recent years, and would affect c.2500-3000 businesses and organisations throughout East Lothian. He advised that that it would be enforced via fixed penalties, with the legislation being implemented by the Environmental Health staff.
from the Council. He added that a working group had been set up to look at the implications for the legislation on residential care homes and domiciliary visits, etc., and that further reports would come forward on this.

Councillor Hampshire drew attention to the increased workload to Council staff as a result of the legislation, and advised that it may take some time for it to ‘bed in’. He raised concerns about people standing outside licensed premises smoking and the implications this may have on the licensee, and asked if ways to manage this could be identified.

**Decision**

The Council agreed:

i. to note the report and support the implementation of the smoking ban legislation in East Lothian;

ii. to endorse the enforcement approach to be taken by Environmental Health staff, as outlined in Sections 3.6 and 3.7 of the report; and

iii. to delegate authority to the Director of Environment to appoint authorised officers under Section 7 of the Smoking, Health & Social Care (Scotland) Act 2005.

**16. AMENDMENT TO SCHEDULE A TO STANDING ORDERS**

A report was tabled by the Chief Executive seeking Council approval to add to Schedule A to Standing Orders in order to delegate to the Director of Environment the authority to exercise the statutory functions identified in the Appendix to the report, in respect of the Smoking, Health and Social Care (Scotland) Act 2005 and Regulation 4 of the Food Hygiene (Scotland) Regulations 2006.

The Council Solicitor spoke to the report, explaining that it was necessary to table this report due to the introduction of the legislation outlined above.

Referring to the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006, Councillor Rankin asked for confirmation that the powers of authority would not be operational prior to the regulations being approved by the Scottish Parliament. The Council Solicitor confirmed that this would be the case, and did not anticipate any substantial changes to the guidance being presented to the Parliament.

**Decision**

The Council agreed to add to Schedule A to Standing Orders delegated authority in respect of statutory functions identified in Appendix A to the report.
17. SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Council unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraphs 1, 6 and 11 (information relating to particular employees of the Authority, information concerning the financial or business affairs of any particular person other than the Authority, information relating to consultations or negotiations in connection with any labour relations matters) of Schedule 7A to the Local Government (Scotland) Act 1973.

(a) Personnel Matters

Two reports, one submitted by the Chief Executive and one submitted by the Head of Community Housing & Property Management, concerning personnel matters were approved.

(b) Property Matters

A report submitted by the Chief Executive concerning property matters was approved.