

COMMUNITIES SCRUTINY COMMITTEE

Minutes of a meeting of the Communities Scrutiny Committee held in Conference Room 1a, County Hall, Ruthin on Thursday, 18 January 2018 at 10.00 am.

PRESENT

Councillors Brian Blakeley, Rachel Flynn, Tina Jones, Anton Sampson, Glenn Swingler, Andrew Thomas, Graham Timms (Vice Chair), Cheryl Williams and Huw Williams (Chair)

Councillors Tony Thomas, Lead Member for Housing, Regulation and the Environment and Julian Thompson-Hill, Lead Member for Finance, Performance and Strategic Assets were in attendance at the Committee's request for agenda items 5 and 8 respectively

Observers – Councillors Huw Hilditch-Roberts, Martyn Holland, Hugh Irving and Richard Mainon

ALSO PRESENT

Corporate Director Economy and Public Realm (GB), Traffic, Head of Highways and Environmental Services (TW), Countryside Services Manager (HR), Programme Manager – Facilities, Assets and Housing (TB), Scrutiny Coordinator (RE) and Committee Administrator (KEJ)

WELCOME

The Chair welcomed everyone to the meeting and conveyed a special welcome to Charlotte Owen from the Wales Audit Office who was in attendance to observe proceedings as part of fieldwork for the national study on Scrutiny 'Fit for the Future'.

1 APOLOGIES

Councillors Meirick Davies and Merfyn Parry

2 DECLARATION OF INTERESTS

No declaration of interest had been raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

4 MINUTES

The minutes of the Committee's meeting held on 30 November 2017 were submitted.

Matters Arising – Page 9, Item No. 5 Tourist Direction Signs for the Vale of Clwyd – A detailed breakdown of costs associated with the Tourism Signs project as

requested by members at the last meeting had been included within the Committee's information brief (previously circulated). The next meeting of the Working Group established to progress delivery of the project had been scheduled for 19 January 2018.

RESOLVED that the minutes of the meeting held on 30 November 2017 be received and approved as a correct record.

5 DEALING WITH TREES

The Lead Member for Housing, Regulation and Environment and the Head of Highways and Environmental Services introduced the Countryside and Heritage Manager's report (previously circulated) and informed members that their views were sought on a draft procedure for managing all activities relating to trees across the county. They explained that the decision to draw up a procedure had stemmed from a recent service challenge exercise which had highlighted the need for a written procedure and guidance to assist officers across the authority to answer tree management queries. As a number of Council services had trees located in and around their premises, tree management was an authority-wide responsibility. An easily accessible and user friendly procedure was therefore needed to help officers deal with enquiries relating to their management. The existence of such a procedure would also assist the Council to fulfil its legal obligations as a landowner, its regulatory duties under Planning Acts, and to support the delivery of a number of elements within the Environment Priority of the new Corporate Plan, whilst at the same time supporting its biodiversity ambitions. The draft procedure's presentation to the Committee for members' comments formed part of the consultation process on its contents. Once approved it would be published on the Council's website and intranet, and a reader friendly Frequently Asked Questions (FAQs) document would be produced for ease of reference purposes.

Prior to inviting questions from Committee members the Chair welcomed Councillor Hugh Irving to the meeting and invited him to address the Committee, as Councillor Irving had formally requested that Scrutiny examine the need for a county-wide policy or procedure to deal with trees. In his address Councillor Irving welcomed the procedure, citing examples of problems caused by overgrown trees etc. from his experience as a councillor. He endorsed the suggestion of having an easy-read summary version of the procedure which would be useful to officers, councillors and residents alike.

Responding to members' questions the Corporate Director: Economy and Community Ambition, Head of Highways and Environmental Services and the Countryside and Heritage Services Manager –

- confirmed that the fundamental principle for having a written procedure for dealing with trees was to protect trees across the county wherever possible, by ensuring that felling a tree would be a last resort i.e. if it was causing a hazard or posing a danger. This aspect was covered in Section 15 of the draft procedure
- advised that trees deemed to be 'obstructing natural light' to a property would not be classed as a hazard and therefore would not be felled or pruned on that basis

- explained the process for applying a Tree Preservation Order (TPO) and advised that TPOs were not time limited. If it was deemed necessary to fell a tree protected by a TPO an application would have to be made for a revocation, or a variation, of the order. If the Council permitted the revocation/variation it could do so on the grounds that a replacement tree was planted and that the replacement tree also be subject to a TPO. The majority of trees subject to TPOs were located on private land, not on Council owned land
- confirmed that the Council's new Corporate Plan contained a strategy for addressing the lack of trees in certain areas of the county
- advised that the Planning and Public Protection Department employed a TPO officer who dealt with TPO related enquiries, whilst both the Highways and Property Services undertook risk assessments in relation to trees;
- advised that there was a 'self-service' area on the Council's Planning Service portal which residents, councillors and staff could use to check if a specific tree was the subject of a TPO. However, the Council did not have sufficient resources to regularly monitor compliance with TPOs, but if a member of the public contacted the Council expressing concerns that a TPO tree was in danger of being felled without the Council's permission, or without gaining a variation order, the Planning and Public Protection Service could serve an enforcement notice to safeguard it
- confirmed that the Council did not spray trees with pesticides. Sap etc. caused due to greenfly infestation was deemed to be an acceptable type of nuisance
- advised that a business plan was being drawn up with respect of the proposal in the Corporate Plan to plant 18,000 trees, in Denbigh and Rhyl, for submission to the Programme Board in February on how this ambition could be realised. Officers were confident that with monies available from other sources such as Natural Resources Wales (NRW) and the Welsh Government's Plant! Initiative (where a native tree is planted in Wales for every child born or adopted) this element of the priority could be delivered with minimal financial input from the Council. The Council's input would be the provision of staff to plant the trees
- informed members that as part of the work required to deliver the Environment priority contained in the Corporate Plan consideration could be given to employing a 'Tree Officer', an expert in the field, who would help manage and co-ordinate tree related work across the authority. The financial viability of the creation of this post was currently being assessed. The Council did have a 'Tree Officer' some years ago, but when the post holder retired it was decided, as part of the efficiency savings process that the post should be deleted
- confirmed that the Council had powers under the Highways Act (Dangerous Trees, 1980) to make the owners of trees causing an obstruction on the highway to remove them. If they did not comply with the Council's request the Authority would undertake the removal and charge the landowner appropriately
- advised that they could not see any benefit for the local authority from handing over responsibilities for tree management to town or community councils
- confirmed that each Council Service was responsible for trees situated on or near land or premises which they managed e.g. housing, social services, education, leisure services etc. Any remedial work carried out by Highways and Environmental Services to ensure residents and service users' safety in and around sites managed by other services would be recharged to that Service's budget. The issue of recharging services for work undertaken was a wider

debate that required to take place across the Council – the merits of having a ‘budget’ to accommodate undertaking work to keep residents and the public safe in and around Council owned premises on an as and when basis was worth exploring

- advised that for schools responsibility for the safety and maintenance of trees on their grounds may well be delegated to each individual school in line with their delegated budget
- emphasised the need for councillors or the general public who had concerns about tree safety to report it to the Council’s Customer Services Centre so that each query was recorded on the CRM system and allocated to the Service to follow-up. This would ensure that an audit trail existed for each enquiry
- advised that if there were disputes between neighbours due to hedge heights etc., these would be referred to the Planning and Public Protection Service. However, Section 3 of the draft procedure did make reference to the High Hedges Act, Part 8 of the Anti-Social Behaviour Act, 2003 and its provisions in relation to evergreen hedge growth’s impact on natural light. This section also referred people to rights under ‘Common Law’ to abate nuisances caused by encroaching trees
- confirmed that the draft procedure was currently being consulted upon internally within the Council. Consultation had not at present been extended externally to the public, neighbouring authorities or to the North Wales Trunk Road Agency (NWTRA). However, it was acknowledged that NWTRA did effectively manage trees along its network. Once the Council was happy with the procedure officers would willingly share it with NWTRA
- agreed to enquire on the number of claims made against the Council in recent years in relation to damage caused by Council owned trees and the amounts paid out to settle such claims
- officers agreed to circulate to members a link to the relevant area on the Planning portal website which referred to various legislation and guidance on TPOs, high hedges and trees, and which contained maps denoting trees which were already subject to TPOs.

The Committee requested that the final procedure document contain explicit reference to ownership of non-highway trees located on or in the vicinity of school grounds, leisure facilities, social care facilities or other Council run premises and the need for the ‘responsible site manager’ to ensure arrangements were made for regular health and safety risk assessments to be undertaken on trees at those sites. Members expressed concerns on whether Authority premises managers were suitably trained or qualified to undertake risk assessments on trees for public liability purposes and whether the Council or individual managers could be at risk of being open to litigation action by not having the safety of trees on these premises assessed by suitably qualified persons.

At the conclusion of the discussion the Committee –

RESOLVED that subject to the above observations and the inclusion of an explicit reference in the document that ‘the responsible site manager’ at each Council run premises be responsible for ensuring that arrangements were made to undertake regular health and safety risk assessments on all non-highway trees on or around

the site for the purpose of safeguarding site users and the general public, to support the approach outlined in the 'Dealing with Trees' procedure document.

6 SCRUTINY WORK PROGRAMME

The Scrutiny Coordinator submitted a report (previously circulated) seeking members' review of the Committee's work programme and provided an update on relevant issues.

Discussion focused on the following –

- the three items on the work programme for the Committee's next meeting were re-affirmed and it was agreed to invite the relevant Lead Cabinet Members to that meeting; it was also agreed that the meeting be webcast;
- members noted that the Scrutiny Chairs and Vice Chairs Group would be meeting that afternoon to consider a number of potential items for scrutiny which may impact on the Committee's future work programme
- reference was made to the Committee's information brief which included an update on actions from the last meeting together with further information as requested; a separate information report had also been circulated detailing the consultation process undertaken in relation to the Ruthin Primary Education Review as requested by the Committee at its meeting on 19 October 2017
- members were encouraged to attend a training session held at 9.30 a.m. on Monday 29 January 2018 in the Council Chamber, County Hall, Ruthin on scrutinising education related matters which would be facilitated jointly by the Council's Education Staff and GwE.

RESOLVED *that, subject to the above, the forward work programme as detailed in Appendix 1 to the report be approved.*

7 FEEDBACK FROM COMMITTEE REPRESENTATIVES

Committee representatives reported upon their attendance at meetings as follows –

Councillor Rachel Flynn reported upon the Community Services Service Challenge when a range of issues had been discussed including support respite for carers; connecting communities and how to further promote links; dealing with homelessness and funding issues. All present had been satisfied that issues were being well managed within the service. Formal notes of the meeting would be circulated to members in the usual manner in the Committee's information brief.

As the Chair had been unable to attend the Strategic Investment Group (SIG) meeting he asked Councillor Julian Thompson-Hill to provide some feedback. Details of SIGs recommendations for capital allocations for particular projects had been previously circulated to members and would be submitted to Cabinet prior to full Council for formal approval. Councillor Thompson-Hill referred to the work of SIG in reviewing bids for allocations highlighting that demand far exceeded the funding available with many projects being scaled back following risk assessment.

Councillor Graham Timms had attended the Schools Standards Monitoring Group and noted that the three scrutiny representatives were all former teachers and he considered that a more diverse mix of representatives may be appropriate. He also asked whether arrangements could be made to appoint substitutes in the event that representatives were unable to attend. The Scrutiny Coordinator confirmed that one substitute representative had already been appointed. It was noted that Performance Scrutiny Committee would be considering general performance issues across schools at future meetings following which school representatives may be invited to future meetings to discuss individual schools performance.

RESOLVED that the verbal reports be received and noted.

At this juncture (11.25 a.m.) the meeting adjourned for a refreshment break.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraph 14 of Part 4 of Schedule 12A of the Act.

8 CORPORATE PLAN FOR REDUNDANT SCHOOL SITES

The Lead Member for Finance, Performance and Strategic Assets introduced the Facilities, Assets and Housing Programme Manager's (Business Change) confidential report (previously circulated) which outlined how the Council proposed to manage and dispose of redundant school sites going forward. The Committee had requested the information following a discussion, at an earlier meeting, on the implementation of the recommendations which had arisen from the review of primary education in the Ruthin area.

During his introduction the Lead Member advised the Committee that the Council's aim when dealing with redundant schools sites was to realise maximum benefits from them for the Authority and the community, whilst at the same time ensuring that they did not become eyesore sites which incurred excessive maintenance liabilities and therefore be a drain on valuable financial resources. He also highlighted the complexities which surrounded the ownership of some school buildings and sites, including restrictive clauses and covenants, trusteeships and land ownership issues etc. Attached to the report was a plan for redundant school sites which included information on each currently redundant site, or sites which were anticipated to become redundant within the next two years, details of their ownership and the Council's current proposals for those sites. Also attached was a document outlining the approach taken by the Council once a former school was designated surplus to requirements.

Members were advised by the Lead Member that as a result of past experiences the Council now set a time limit for community use interest to be registered and for an evidenced-based business plan to be approved for the site's future use. The reason for this was that whilst the building was empty and within the Council's ownership the Authority was liable for the building and site's maintenance including

costs for making the site secure. Referring to redundant sites listed in the report that were either owned by a Trust or their ownership were still under investigation the Lead Member advised that once sufficient time had elapsed, and if the trustees or their beneficiaries were still to be traced, the site(s) would be sold and the receipts held in trust until trustee issues were resolved.

Responding to members' questions the Lead Member and officers –

- advised that in future business cases submitted as bids for new school buildings presented to the Strategic Investment Group (SIG) and Cabinet would have to include details of what the Education Service proposed to do with any redundant assets or sites resulting from the proposal
- confirmed that the County Council's Charter with town and community councils required the Council to seek expressions of interest from town and community councils in any county-owned assets which were deemed to be surplus to requirements. The County Council could offer to transfer a surplus asset to a town or community council who had a robust agreed business plan for its future use. Officers from the Business Improvement and Modernisation Service (BIMS) would be available to town and community councils or constituted community groups to help them explore potential options and draw up the required business plan. No asset would be transferred unless sufficient funding had been secured by the constituted body to operate the facility for the foreseeable future. However, if a community facility already operated within that community the Council was unlikely to agree to transfer an asset to that community for a similar purpose
- advised that once an asset was transferred to another council or constituted body the Council would not be liable for any costs associated with the asset in future. If, at any point in the future, the organisation who had acquired the building/site from the Council had no future use for it, all liabilities would lie with them. However, the Council had the powers to apply clawback covenants to any assets it transferred to other organisations, therefore if those organisations disposed of the asset within the timeframe stipulated in the transfer agreement the Council would be eligible to clawback the specified percentage rate of the capital receipt
- confirmed that if the Council built a new faith school on diocesan-owned land, if that school was deemed surplus to requirements at any point in the future the ownership of the site would revert to the Diocese. However, if it was built on council-owned land the site's ownership would revert to the Council
- advised that if all efforts to trace beneficiaries of a Trust, which had gifted land for the purpose of delivering educational activities, were exhausted and no resolution was forthcoming the Council's Legal Department would initiate discussions with the Charities Commission with a view to seeking permission to dispose of the site. Once sold and all maintenance and management costs incurred by the Council had been reclaimed the money would be held in a 'holding account' until such time as beneficiaries could be traced
- confirmed that the Council always tried to realise value for money when disposing of surplus assets. However, consideration was also given to community benefits
- confirmed that if appropriate, the Authority could apply for planning permission on a site before disposing of it, but the costs and benefits of using this approach

would need to be discussed with the Planning Department and other services dependent upon the type of planning permission being sought, i.e. if the type of permission sought had the potential to support the delivery of the Council's corporate priorities

- advised that the Council had attempted in recent years to establish and 'map' all community facilities available across the county. However, this had proved extremely difficult as a large number were operated by voluntary organisations, i.e. churches, chapels, community organisations
- explained the process for designating 'green spaces' within the Planning and Local Development Plan (LDP) processes. If a town or community wanted the Council to transfer a surplus asset to them for the purpose of being designated as a green space, they would in the first place have to explore the need for a green space as part of the LDP process, and
- advised that the Council was now required to consider community benefits, best financial value and the long-term sustainability of all decisions in the context of the provisions of the Well-being of Future Generations (Wales) Act 2015.

Prior to concluding the discussion the Committee requested that they be provided with information on how many Church schools in the county were located on Council-owned land and vice-versa, and if any of these schools became vacant/surplus to requirements who would be responsible for their maintenance and disposal.

RESOLVED that subject to the above observations to receive the information provided and support the approach taken by the Council with a view to realising maximum benefits and securing best value from redundant school sites.

The meeting concluded at 12.20 p.m.