

CABINET

Minutes of a meeting of the Cabinet held in the Council Chamber, County Hall, Ruthin on Tuesday, 26 March 2019 at 10.00 am.

PRESENT

Councillors Hugh Evans, Leader and Lead Member for the Economy and Corporate Governance; Bobby Feeley, Lead Member for Well-being and Independence; Huw Hilditch-Roberts, Lead Member for Education, Children and Young People; Brian Jones, Lead Member for Highways, Planning and Sustainable Travel; Richard Mainon, Lead Member for Developing Community Infrastructure; Tony Thomas, Lead Member for Housing, Regulation and the Environment; Julian Thompson-Hill, Lead Member for Finance, Performance and Strategic Assets, and Mark Young, Lead Member for Corporate Standards

Observers: Councillors Mabon Ap Gwynfor, , Alan James, Merfyn Parry, Paul Penlington, Peter Scott, Glenn Swingler, Rhys Thomas, Huw Williams and Emrys Wynne

ALSO PRESENT

Chief Executive (JG); Corporate Directors: Communities (NS) and Economy and Public Realm (GB); Heads of Service: Legal, HR and Democratic Services (GW), Finance/S.151 Officer (RW), Facilities, Assets and Housing (JG); Lead Officer – Corporate Property and Housing Stock (DL) and Committee Administrator (KEJ)

1 APOLOGIES

There were no apologies.

2 DECLARATION OF INTERESTS

No declarations of interest had been raised.

3 URGENT MATTERS

No urgent matters had been raised.

4 MINUTES

The minutes of the Cabinet meeting held on 26 February 2019 were submitted.

Matters Arising – Page 6, Item 4 Minutes (Matters Arising) – Cabinet 30 October 2018 (Gypsy and Traveller Site Provision) – Councillor Peter Scott reported upon his meeting with the Corporate Director Communities to discuss the pre planning consultation report. He felt that the report had not been open and transparent and was concerned that important and justified public comments and objections had been dismissed with ineffectual and inappropriate mitigation proposed. Councillor Scott confirmed he would elaborate further on his concerns under the following agenda item on Gypsy and Traveller Site Provision.

RESOLVED that the minutes of the meeting held on 26 February 2019 be received and confirmed as a correct record.

5 GYPSY AND TRAVELLER SITE PROVISION

Councillor Tony Thomas presented the report updating Cabinet following the pre planning consultation exercise undertaken in respect of the provision of residential and transit Gypsy and Traveller sites and setting out the options for taking the project forward and recommendations in respect of the next phase of the project. He also took the opportunity to thank officers for their hard work in that regard.

Some background information had been provided in the report including the Council's statutory requirement to carry out an assessment of residential and transit gypsy and traveller accommodation needs and make provision for sites when need was identified. The assessment had identified the need for one residential site and one transit site and following a comprehensive site selection process Cabinet had approved the undertaking of pre planning consultation on the proposal for both sites to be located on Greengates Farm East, St. Asaph. Details of that consultation, including an analysis of responses received, had been provided within the report together with Communities Scrutiny Committee's recommendations following consideration of the pre planning consultation exercise and response analysis.

The report recommended that Cabinet agree not to progress the transit site at Greengates Farm East and that the location be determined through the formal site allocation process as part of adoption of a new Local Development Plan (LDP). It was also recommended that Cabinet consider whether or not to progress the development of a residential site at Greengates Farm East through formal planning application or through the LDP process. In any event it was recommended that the transit and residential sites not be located in close proximity to each other.

The Corporate Director Communities, via a power point presentation –

- reiterated the Council's statutory duties and relevant legislation in that regard
- provided an overview of the separate proposals for residential and transit sites
- gave an overview of the pre planning consultation process
- summarised local activity around the consultation
- highlighted the Equality concerns raised as part of the consultation
- provided an overview and breakdown of responses received and issues raised.

In closing the Corporate Director reported that it was officers' view that the material planning matters could be satisfactorily mitigated and research suggested that the perceived impacts were unlikely to materialise.

The Leader confirmed the Council's statutory responsibilities were clear in terms of providing Gypsy and Traveller accommodation and Cabinet must be satisfied that the proposed location was the right one for those sites. He added that there would be no debate on the position of families affected by the potential developments.

Councillor Huw Williams, Chair of Communities Scrutiny Committee provided an overview of the scrutiny debate on the pre planning consultation exercise and feedback during the meeting on 14 March 2019 and elaborated upon the reasoning behind their recommendations to Cabinet that *“(i) the residential and transit Gypsy and Traveller sites are not developed close to each other, wherever they are located, and (ii) the location of the residential and transit Gypsy and Traveller sites are determined through the ongoing Local Development Plan process”*. As a point of clarification Councillor Brian Jones confirmed the new LDP would be adopted in 2021 for the period up to 2033. The Leader confirmed that Cabinet would carefully consider scrutiny’s position and valued their input into the decision making process.

Main areas of debate focused on the following –

- Councillor Tony Thomas reported upon the comprehensive consultation process and elaborated upon the concerns of the business community, citing evidence of cost in that regard even at this early stage of the process. He felt the approach taken to consult on both proposed sites simultaneously had created the perception that both sites would create similar problems. Having considered the consultation responses and scrutiny’s comments, and with a statement from the Minister for Housing and Local Government regarding the issue due at Easter, he supported scrutiny’s recommendation for both sites to be determined through the LDP process, in line with the approach taken by other local authorities in Wales, to enable a full discussion with all available information. He also felt that to proceed with the proposals would give the impression that the Council had not listened to the views of the public or the business community
- the Leader referred to concerns raised by the business community and asked the Corporate Director Economy and Public Realm for his viewpoint. In his view the Corporate Director considered the potential impact of the transit and residential sites on the local business community to be different – the transit site by its nature would be a short term occupancy by people unlikely to be familiar with the area or have any link to the community or affinity with it; the residential site would provide accommodation for an extended family residing in Denbighshire who were already invested in the community. Consequently he considered that the fears and concerns raised were predominately linked to the transit site given the higher risk of negative issues and it was difficult to understand what the business objections would be to the residential site. Experience had shown that concerns and fears raised at the pre planning stage often did not materialise in reality. If a planning application was pursued a business impact assessment would be undertaken as part of that process. In responding to an earlier point he advised that recent enquiries had been received about potential new investment in the Business Park
- Councillor Brian Jones provided some statistical information from Welsh Government advising that up to July 2018 unauthorised sites had increased by 32% and authorised sites had increased by 6% highlighting demand for sites may have already increased since the Gypsy and Traveller Accommodation Needs Assessment had been undertaken. He also advised that having spoken to his counterparts in other Welsh local authorities the general way forward involved the allocation of sites as part of the LDP process and collaborative working with neighbouring authorities and he also advocated that approach

- Councillor Richard Mainon acknowledged the Council's statutory duties and the hard work taken to date in order to meet those requirements. Having taken into account the current process and outcome of the pre planning consultation exercise he felt that both sites should be treated equally and supported scrutiny's recommendation that both sites be determined through the LDP process. He considered that this option would provide a more robust, open and transparent process and enable effective and meaningful consultation in order to make a fully informed decision with the involvement of all county councillors in the decision making process rather than a small number on the executive. In terms of the Wellbeing Impact Assessments he felt there should be greater differentiation between the two very different proposed development sites
- Councillor Huw Hilditch-Roberts felt that regardless of the process, given the nature of the proposed development it would attract objections wherever it was located. He was pleased to note the amount of public engagement in the pre planning consultation process and volume of responses received in order to inform the decision making process. He considered the majority of responses related to the transit site and in recognising those concerns he felt it would not be an appropriate location for a transit site given the case made in terms of impact, particularly on the business community. However he felt a case had not been made in relation to the residential site with no evidence to support a negative impact on the business economy. He also considered that the increasing need for transit provision as referred to by Councillor Brian Jones should also be taken into account when taking the project forward
- Councillor Bobby Feeley re-iterated the reasoning behind the report to Cabinet given the Council's statutory duty to assess the accommodation needs of gypsy and travellers and make provision to meet those needs and she acknowledged the comprehensive process undertaken in that regard. She also considered the process had been thorough (although she felt the finding that both sites should not be developed close to each other should have been identified at an earlier stage) and praised the work of Communities Scrutiny Committee in terms of both the initial 'call in' of the decision and analysing the consultation responses.

Officers clarified a number of points raised during discussion and also responded to questions as follows –

- officers were unaware of a forthcoming statement by the Minister for Housing and Local Government regarding Gypsy and Traveller Sites but it was unlikely to have an impact on the current legal duties unless there was a change in the law
- legislative provisions governing meetings and proceedings relating to disclosure of information were highlighted including the reasoning behind some meetings held in closed session (all county councillors had access to papers considered in closed session); agendas were published providing details of items considered and suitably redacted information had been published to ensure the public had sight of the criteria and process by which sites had been assessed
- when Cabinet received the Gypsy and Traveller Accommodation Assessment in January 2017 the recommendation of Cabinet at that point had been to prioritise the residential site over the transit site
- once the accommodation needs assessment had been approved by Welsh Government the Council had a duty to provide that accommodation; whilst no timescale had been specified, each day that accommodation had not been

provided the Council was potentially in breach of its statutory duty – the longer it took to fulfil that duty the more likely it was that a legal challenge would be made if someone was aggrieved by the breach of that statutory duty

- if an unmet need was identified following an accommodation needs assessment then the Council needed to allocate specific sites in the LDP unless those sites had already been provided through the planning process – at the time of approval of the current LDP there had not been an approved assessment of need and therefore there had been no requirement to allocate sites at that time
- the process for the new LDP (which was currently underway) was explained with the intention to submit a high level strategy to Council in May for approval following which identification and allocation of various sites would commence together with a consultation process with a view to adoption of the new LDP in 2021; details of the timescales in progressing the development through both the options of the LDP process and the formal planning process were provided.

Councillor Peter Scott (Local Member for St. Asaph West) reiterated his concerns regarding the lack of consultation and methodology used in the site selection process. He reported upon the community's grave concerns regarding the proposed location of the sites which would likely devastate the locality, including risk to community cohesion, loss of amenity, impact on businesses and the economy. The business community had voiced serious and valid concerns quoting irrevocable and lasting damage which would influence future development and there had been very limited engagement with businesses during the consultation period. The devastating impact on one particular family residing in the vicinity was also highlighted. The rights and needs of travellers was taken very seriously – however the site choice was poor and meeting those needs should not result in developments being located in an improper location. In responding to officers' comments he advised that much of their research had been reliant on outdated information; 'Business and Residents Against Indiscriminate Development in St. Asaph – BRAIDS' had been set up to share information and a drop-in session arranged to provide assistance for respondents, and objections from the Equalities and Human Rights Commission had been answered by St. Asaph City Council. Councillor Scott considered the wealth of objections had been ridiculed and dismissed as a hurdle to overcome. He asked that due consideration be given to the views of residents and urged Cabinet not to proceed with the developments on Greengates Farm East but to direct them through the LDP process to ensure suitable sites were identified for both travellers and residents. In response to questions from Cabinet, Councillor Scott considered that if separate consultations on each proposal had been undertaken the perceived impact on the community would be the same. There was no objection to the developments, only to the location proposed in St. Asaph.

The Leader referred to references regarding the site selection process which had been considered at scrutiny and previously tested with officers. Cabinet had agreed they were comfortable with that process, apart from Councillor Richard Mainon. To provide further assurance the Lead Officer – Corporate Property and Housing Stock reiterated the comprehensive and lengthy process of site selection and assessment and reasons why Greengates Farm East had been selected as opposed to other potential sites identified and discounted as part of that process. Councillor Scott advised that an alternative suitable site had been identified but the

Council did not want to lose the value of that site. Officers referred to the Council's duty to demonstrate best value and the need to consider the opportunity cost of providing sites had been taken into consideration during the assessment process.

Having considered the results of the pre planning consultation exercise and representations received and the options for taking the project forward, Cabinet considered the recommendations as detailed within the report and agreed that they be voted upon separately for clarity. Following votes on recommendations 3.1 – 3.3 within the report there was a short break. Upon reconvening there was further discussion on recommendation 3.4 relating to the options for the residential site. Councillor Huw Hilditch-Roberts advised that in the event that the development for a residential site at Greengates Farm East was not approved there was still potential for the transit site to be located there as part of the LDP process. Taking into account the pre planning consultation responses Councillor Hilditch-Roberts considered the location to be unsuitable for a transit site and, given that the determination of site allocations in the LDP was a decision for full Council, he proposed that Cabinet do not recommend the allocation of a transit site at Greengates Farm East as part of the LDP process. Cabinet subsequently considered and voted on the remaining recommendations and the new proposition.

RESOLVED that Cabinet –

- (a) *note the analysis of the pre planning consultation exercise undertaken in respect of proposed transit and residential Gypsy and Traveller sites on the Greengates Farm (East) site in St. Asaph as outlined in Appendix 2 of the report;*
- (b) *note the recommendations of Communities Scrutiny Committee of 14 March 2019 as set out in paragraph 8.4 of the report;*
- (c) *in response to concerns raised during the pre-planning consultation regarding the proximity of the sites to each other, lack of meaningful consultation with the Travelling Community and in recognition of the priority need for the residential family, that Cabinet agree not to progress the Gypsy and Traveller transit site at Greengates Farm (East) via a formal planning application, and that the location of this proposed development site is determined through the formal site allocation process as part of the adoption of a new Local Development Plan;*
- (d) *following consideration of the options for the Gypsy and Traveller residential site agree to progress the development of the Gypsy and Traveller residential site at Greengates Farm (East) through the formal planning application process in the location indicated in Appendix 3 to the report and that the formal planning application should contain as background supporting information all statutory information together with business and residential impact assessments and suitable measures for mitigation where deemed necessary;*

- (e) *that whatever options are selected for identifying the location of the residential and transit Gypsy and traveller sites, the sites are not developed in close proximity to each other;*
- (f) *the Cabinet will not recommend the allocation of a transit site at Greengates Farm East as part of the Local Development Plan process, and*
- (g) *Cabinet confirms that it has read, understood and taken account of the Well-being Impact Assessments (Appendix 5 to the report) as part of its consideration.*

Councillor Richard Mainon voted against resolutions (a) and (c) above.

In respect of resolution (d) with regard to the residential site Cabinet considered two options detailed within the report. Option A – to progress the development through the formal planning application process in the location indicated, and Option B – not to progress Option A and the location of the development site be determined through the LDP process. Members voted as follows: Option A – Councillors Hugh Evans, Bobby Feeley, Huw Hilditch-Roberts and Mark Young; Option B – Councillors Brian Jones, Richard Mainon, Tony Thomas and Julian Thompson-Hill. Given the tied vote the Leader/Chair Councillor Hugh Evans used his casting vote for Option A to carry resolution (d) above.

6 FINANCE REPORT

Councillor Julian Thompson-Hill presented the report detailing the latest financial position and progress against the agreed budget strategy. He provided a summary of the Council's financial position as follows –

- the net revenue budget for 2018/19 was £194.418m (£189.252m in 2017/18)
- an overspend of £0.487m was forecast for service and corporate budgets
- highlighted current risks and variances relating to individual service areas, and
- provided a general update on the Housing Revenue Account, Housing Capital Plan and the Capital Plan (including the Corporate Plan element).

Cabinet was also asked to note the proposed use of service carry forwards and to approve the housing capital schemes in Aquarium Street and John Street, Rhyl as recommended by the Strategic Investment Group and detailed in the report.

The following matters were raised during debate –

- the Chief Executive provided assurances to Cabinet advising that the downward trend in terms of budget pressure over the last couple of months had been largely due to the positive action taken by senior officers in managing expenditure to ensure a more robust position going forward
- Councillor Brian Jones reported that Dawnus Construction, who sub contracted out the Pont y Ddraig bridge maintenance contract, had recently gone into administration. Assurances were provided that temporary measures had been implemented to ensure the bridge operated effectively and was properly maintained prior to the award of a formal maintenance contract

- the Head of Legal, HR and Democratic Services also advised that Dawnus Construction was one of the successful bidders on the North Wales Construction Framework and reported upon discussions with the administrators regarding their position and legalities surrounding that process and the potential exclusion of Dawnus from the framework – in the event of their exclusion Dawnus would likely be replaced by the next highest scoring supplier
- reference to an overspend relating to SC2 had been included within the report and the Head of Facilities, Assets and Housing clarified that SC2 was not overspent and explained that instead of requiring corporate cash the service had opted to subsume the entire set up costs. The provision for set up costs had been contained within the original business case and the entire service had overachieved to contain those set up costs.

RESOLVED that Cabinet –

- (a) *note the budgets set for 2018/19 and progress against the agreed budget strategy;*
- (b) *note the proposed use of service carry forwards, and*
- (c) *approve the housing capital schemes in Aquarium Street and John Street, Rhyl as recommended by the Strategic Investment Group and detailed in the report.*

7 CABINET FORWARD WORK PROGRAMME

The Cabinet Forward Work Programme was presented for consideration.

RESOLVED that Cabinet's Forward Work Programme be noted.

The meeting concluded at 12.40 hrs.