

CABINET

Minutes of a meeting of the Cabinet held in the Council Chamber, County Hall, Ruthin on Tuesday, 30 April 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 Joan Butterfield, Martyn Holland, Alan James, Barry Mellor, Merfyn Parry, 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); Planning and Public Protection (EJ); Strategic Planning and Housing Manager (AL); Framework Manager (TS) and Committee Administrator (KEJ)

1 APOLOGIES

Councillor Peter Scott had submitted apologies as he had intended to attend.

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 March 2019 were submitted.

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

5 DENBIGHSHIRE'S REPLACEMENT LOCAL DEVELOPMENT PLAN - DRAFT PREFERRED STRATEGY

Councillor Brian Jones presented the report detailing the work undertaken to date on Denbighshire's Replacement Local Development Plan (LDP) and recommendations from the Strategic Planning Group regarding the Draft Preferred Strategy for the LDP. The Replacement LDP would provide up to date planning policies and site allocations for development to address issues and needs in the county for the period 2018 – 2033. In brief, the Draft Preferred Strategy set out –

Draft Proposed Levels of Growth –

- 68ha of employment land to accommodate a forecasted land requirement of 47.6ha
- Land for 3,775 new homes to meet a housing requirement of 3,275 homes

Draft Proposed Spatial Approach –

- Focus development in Bodelwyddan Strategic Site and serviced settlements: the top three tiers in the settlement hierarchy (main centres, local centres and villages) with more limited growth in other unserviced settlements (infill & small sites within development boundaries), primarily focused on meeting local needs.

The report provided some background regarding the establishment and membership of the Strategic Planning Group (SPG) together with the development of the Draft Preferred Strategy in terms of developing growth and spatial options and setting out the context for identifying how much development land was required for housing and employment and where that development should be located. The majority of the SPG had agreed to recommend preferred growth levels, the proposed spatial approach and the complete Draft Preferred Strategy document to Cabinet and Council. The Chair and Elwy MAG representative supported the housing growth figure but not the employment land figure so by implication also did not support the spatial approach.

Cabinet considered the report and recommendations put forward by the SPG and debated focused on the following areas –

- officers acknowledged the need to make provision for a Gypsy and Traveller transit site through the LDP process which involved a number of steps and would be included in the Deposit LDP stage along with all other site allocations
- Councillor Tony Thomas referred to issues raised by some Member Area Groups (MAGs) and felt it would be prudent to defer consideration of the item to allow those issues to be addressed and also to better reflect the needs of small businesses which were vital to Denbighshire's economy. At the Chair's invitation Councillor Emrys Wynne, Ruthin MAG representative on the SPG summarised Ruthin MAG's concerns regarding the potential reduction in the amount of employment land available in Ruthin and subsequent detrimental impact on the locality which was further elaborated upon by Councillor Huw Hilditch-Roberts. Officers clarified that the employment land figures in the Draft Preferred Strategy provided a broad indication of proposed growth levels which had been based on the BE Group report who had considered the sites in some detail and the reasoning behind the recommendations was explained in terms of the Ruthin sites at Glasdir and Lon Parcwr. Assurances were provided that no

site allocations were being proposed at this stage and if the Draft Preferred Strategy was approved for consultation there would be an opportunity to feedback and inform that work going forward and requests from MAGs to revisit the allocation of employment sites would be accommodated. Prestatyn MAG had recently put forward a potential employment site for inclusion in the LDP and Councillor Julian Thompson-Hill took assurance that there was no bar to bringing additional sites forward at a later date for consideration as part of the site allocation process and therefore supported the SPG recommendations

- Councillor Huw Hilditch-Roberts challenged the proposed employment growth figure and basis of the calculations made by the BE Group, particularly with regard to the use of past completion rates which would not compare favourably in Ruthin, and considered that allocations should be based on need, reiterating his concerns regarding the potential loss of employment land available in Ruthin with no changes proposed in other areas. Officers advised of the requirement to undertake an employment land review and identify requirements and allocate sites in the LDP which was part of the next stage, consequently the BE Group had reviewed current availability and recommended land to carry forward. It was reiterated that the site allocation details and recommendations were not part of the current stage in the process but would be considered in detail at the next stage – none of the sites were being ruled in or out at this point. The Preferred Strategy identified the needs in Denbighshire and more detailed discussion on individual areas would take place at a later stage
- some discussion focused on the robustness of the process used to engage members which had involved the establishment of the SPG chaired by Councillor Brian Jones (Lead Member) and included the Chair of Planning Committee and one representative from each MAG to report and feedback contributions together with two all member briefings. Councillor Mark Young asked for confirmation in terms of the SPG recommendations and it was noted that the Group had voted in favour of the recommendations by 5 votes to 2 – the Chair and the Elwy MAG representative did not support the employment land figures. Councillor Brian Jones reported upon the SPG meetings and wealth of evidence considered together with his personal view regarding economic growth and the importance of small businesses. Councillor Hilditch-Roberts felt it was important for the Lead Member and other members to be comfortable with the recommendations and queried the timetable for delivery and whether there was scope to further address outstanding issues prior to submission of the document to Council. The Leader pointed out that apart from Elwy MAG all other MAG representatives on the SPG had voted in favour of the recommendations and there would be a further opportunity to deal with the issues raised regarding site allocations at a later stage and review the employment land figures following the consultation period. Officers also referred to the Delivery Agreement setting out the tight timetable for producing the Replacement LDP which had been approved by Council and subsequently Welsh Government
- Councillor Richard Mainon reiterated the importance of ensuring the correct outcome at this stage and queried how feedback from the earlier consultation had influenced the growth plan and allocation of employment land given that the initial steer had been for Option 2. He challenged the subsequent change in direction and impact on the Bodelwyddan Key Strategic Site, particularly given the introduction of the BE Group report at a relatively late stage within the process which had a significant effect on the growth figures presented. Officers

explained the initial work undertaken by a statistician from Conwy County Borough Council based on growth scenarios and options linked to jobs growth and subsequent land requirement calculations to provide a basic needs level for household growth options. The BE Group had undertaken a different piece of work with regard to an employment land review which involved consultation with agents and businesses and reported a strong desire for further growth requirements. The evidence base for the proposed growth level calculations relating to employment land had been detailed within the BE Group report which had been made available to all members.

The Leader invited submissions/questions from non-Cabinet members –

- Councillor Rhys Thomas, Denbigh MAG Representative on the SPG reported that the Group had worked hard together to benefit the whole of Denbighshire and individual ward area issues could be addressed at a later stage in the process. He added that there would be aspects of the LDP with links to the North Wales Growth Deal which should be discussed during the consultation process. The Leader respected the work of the SPG and in terms of the regional growth deal he confirmed the potential for massive investment
- Councillor Arwel Roberts, Elwy MAG Representative on the SPG referred to his late involvement in the Group and at a recent Elwy MAG meeting discussion focused on the housing requirement in Bodelwyddan and concerns regarding the potential 26ha of land for industrial use and whether other sites in the Elwy MAG area had been considered. Officers explained that Bodelwyddan currently had outline planning permission to March 2021 for various uses including 26ha of employment land recommended to be carried forward to the next LDP; there was permission for 1715 homes in Bodelwyddan which had not yet expired. In meeting housing needs outline planning permission which may come forward had been considered and with that an allowance for 400 units had been considered a reasonable assessment as to what could be delivered by 2033
- Councillor Graham Timms, Dee Valley MAG Representative on the SPG confirmed that the SPG had considered a vast and complex amount of information and he agreed with Councillor Brian Jones regarding the importance of small businesses and the need for investment in that area across Denbighshire including the Dee Valley. The Corporate Director Economy and Public Realm confirmed that there was potential for future funding arising from the North Wales Growth Deal to fund employment sites in the Dee Valley area and reiterated assurances that there would be opportunity to bring forward sites as part of a future stage in the process to enable that investment to take place
- Councillor Martyn Holland queried the potential for Welsh Government (WG) intervention given their involvement in the last LDP process. Officers confirmed they had confidence in the figures provided which had been based on the best information available. The current emphasis of WG was based on deliverability and feedback from WG would be sought as part of the consultation process.

Cabinet considered the recommendations of the SPG as detailed within the report and whether to recommend them to Council. It was agreed that each recommendation be voted upon separately for clarity and it was subsequently –

RESOLVED that Cabinet recommend to Council the Strategic Planning Group recommendations regarding the Draft Replacement LDP Preferred Strategy as follows –

(a) **Draft Proposed Levels of Growth:**

68ha of employment land to accommodate a forecasted land requirement of 47.6ha

Land for 3,775 new homes to meet a housing requirement of 3,275 homes

(b) **Draft Proposed Spatial Approach:**

Based on Option 3 – focus development in Bodelwyddan Strategic Site and serviced settlements: the top three tiers in the settlement hierarchy (main centres, local centres and villages) with more limited growth in other unserviced settlements (infill & small sites within development boundaries), primarily focused on meeting local needs

(c) *to recommend the Draft Preferred Strategy (Appendix 2 to the report) in its entirety to Council, and*

(d) *confirms that it has read, understood and taken account of the Well-being Impact Assessments (Appendix 3 to the report) as part of its consideration.*

The votes for each of the above recommendations were recorded as follows –

(a) Councillors Hugh Evans, Bobby Feeley, Brian Jones, Julian Thompson-Hill and Mark Young – IN FAVOUR
Councillor Richard Mainon – AGAINST
Councillors Huw Hilditch-Roberts and Tony Thomas – ABSTAINED

(b) Councillors Hugh Evans, Bobby Feeley, Huw Hilditch-Roberts, Julian Thompson-Hill and Mark Young – IN FAVOUR
Councillor Richard Mainon – AGAINST
Councillors Brian Jones and Tony Thomas – ABSTAINED

(c) Councillors Hugh Evans, Bobby Feeley, Huw Hilditch-Roberts, Brian Jones, Tony Thomas, Julian Thompson-Hill and Mark Young – IN FAVOUR
Councillor Richard Mainon – AGAINST

(d) ALL IN FAVOUR.

At this juncture (11.30 a.m.) the meeting adjourned for a refreshment break.

6 IMPLEMENTATION OF AN ALTERNATIVE DELIVERY MODEL (ADM) FOR VARIOUS LEISURE RELATED ACTIVITIES/FUNCTIONS

Councillors Bobby Feeley and Julian Thompson-Hill presented the joint report seeking Cabinet's consideration of the draft Business Case (confidential appendix attached to the report) for establishing a Local Authority Trading Company (LATC)

for a range of previously agreed “in scope” leisure related activities/functions together with associated authorisations prior to formally reporting to Council so that the anticipated savings could be achieved from financial year 2020/21.

Councillor Feeley reiterated the value and importance of the Council’s leisure service provision in terms of people’s health and wellbeing and highlighted the significant investment in those facilities in recent times. The reasoning behind the establishment of an Alternative Delivery Model (ADM) was explained in order to provide significant savings for the Council in the current financial climate whilst also enabling the service to trade more commercially to help sustain facilities for the future. The model would allow a more flexible, innovative and entrepreneurial approach to commercial leisure whilst also allowing the Council to retain complete control with robust governance arrangements proposed. Reference was made to other Councils who were already using similar ADMs to deliver a range of functions together with lessons learnt and an overview was provided as to how the proposed LATC would operate in practice. Councillor Julian Thompson-Hill reported upon the financial considerations which had been comprehensively detailed within the report highlighting both the significant savings and operational costs incurred for the new company together with financial management responsibilities going forward. In brief the savings were estimated at £1,107k with the net annual saving in the first year estimated at £800k. Councillor Mark Young asked for confirmation of staff terms and conditions for those who would be transferred over to the new company as after meetings with unions it had been raised as a question. It was confirmed that staff affected would be transferred to the new LATC under TUPE regulations and be subject to the same terms and conditions. Cabinet was also advised that, whilst the current model related to particular leisure related activities/functions there were potential opportunities to add other activities/functions in the future as appropriate.

Cabinet noted the significant financial savings arising from the proposal together with longer term benefits to help secure the financial viability and quality of leisure services going forward together with future opportunities for growth. Questions were raised regarding various financial aspects arising from the report together with governance arrangements which were considered a key element in contributing to the future success of the LATC. Assurances were also sought in terms of managing identified risk and safeguarding staff terms and conditions both upon transfer and in the future.

The Lead Members and officers responded to questions as follows –

- Councillor Mark Young asked how the new business would be cash flowed. The Head of Finance confirmed in terms of ensuring sufficient cash flow in the initial stages and going forward the intention was for the Council subsidy to be paid in advance which would allow the LATC working capital to manage its affairs and also to transfer a cash reserve to enable the company some freedom around minor investment – it was not anticipated that the company would go over budget but in that event the net savings figure would be reduced accordingly in line with that amount
- assurance could be taken regarding the robust governance arrangements proposed with two separate boards (1) Operational Board to manage the day to

day running of the company, and (2) Strategic Governance Board to provide strategic oversight. A 10 year contract would be agreed, along with a new leisure strategy. Both boards would be in addition to the Council's established reporting mechanisms on delivery and performance, and the service would also be subject to the service challenge process

- the reasoning behind the draft business case not being published was explained given that it contained confidential elements relating to exempt information as defined in the Local Government Act 1972 – Councillor Huw Hilditch-Roberts felt there would be merit in removing the confidential elements to allow the rest of the business case to be published given that it was a positive report
- assurances were provided that staff transferred would be subject to the same terms and conditions and employment policies, including the pension scheme, which would continue in the future – those terms would also apply to any new staff employed by the company, and the contractual obligations and retention of control by the Council provided the necessary safeguards in that regard
- it was acknowledged that no project was without risks, many of which in this case would still be in place whether the service was in-house or external. The proposal had been through the usual project methodology which included a risk register in order to mitigate identified risks as far as possible and the proposal was still considered the best option to deliver the service going forward. Officers elaborated upon the key risks identified which had been detailed in the business case which included future changes in legislation, inadequate governance arrangements, and changes to the leisure market and delivery/supply costs – in the worst case scenario the assets would revert back to the Council
- confirmed that during the implementation and post implementation phase of the project there would be work undertaken by staff acting on behalf of the Council and the LATC and Chinese wall protocols would be developed and implemented to ensure a separation of advice and where a department of the Council acted on behalf of both parties, different officers would be allocated – those arrangements would need to be put in place for implementation following approval of the business case by Council.

RESOLVED that Cabinet recommend that Council –

- support the final Business Case for the Project (this will include refinements to the draft business case attached at Appendix A to the report);*
- support the establishment of a not for profit Local Authority Trading Company limited by Guarantee (LATC);*
- support the appointment of the Corporate Director: Economy and Public Realm to the Board of the LATC;*
- support the retention of the current name 'Denbighshire Leisure' for the LATC, and*
- that Cabinet confirms that it has read, understood and taken account of the Well-being Impact Assessments (Appendix B, Ref no 564 to the report) as part of its consideration.*

7 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 underspend of £0.287m 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 as detailed within the report.

Cabinet was advised that most of the major capital projects remained on budget and on target. With regard to Ysgol Llanfair the building works on site were on target to be completed within the contract period. However the Council was in the process of agreeing an easement for the access to the foul drain within third party land to provide the foul connection to the new school site. The easement had been signed by the Council and was currently with the trustees of the land owner for review. Until the easement was completed, works remaining to be carried out could not be planned into the construction programme or submitted to Welsh Water. Consequently there was a potential delay with the project due to those external circumstances which were largely outside the Council's control. Councillor Huw Hilditch-Roberts hoped for a quick resolution to the third party negotiations to avoid any potential delay with the project.

The Leader referred to the Rhyl Queens Market Redevelopment and thanked Welsh Government for the financial support provided to enable purchase of the site for future development and regeneration in Rhyl.

RESOLVED that Cabinet –

- (a) note the budgets set for 2018/19 and progress against the agreed budget strategy, and
- (b) note the proposed use of service carry forwards.

8 CABINET FORWARD WORK PROGRAMME

The Cabinet Forward Work Programme was presented for consideration and members noted the following amendments –

- North Wales Growth Bid Governance Agreement 2 – to be moved from May
- Denbighshire County Council Framework for Housing Voids Works – to be added for May

RESOLVED that Cabinet's Forward Work Programme be noted.

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.

9 CHANGES TO THE APPOINTMENT OF CONTRACTORS TO THE NORTH WALES CONSTRUCTION FRAMEWORK 2 (NWCF2)

Councillor Julian Thompson-Hill presented the confidential report detailing changes to the outcome process of the North Wales Construction Framework 2 (NWCF2) and recommended appointment of contractors to be used for major construction works over £250k.

Cabinet had approved the appointment of named contractors to the North Wales Construction Framework 2 on 26 February 2019. Since then one of the contractors had been excluded from the procurement process and consequently approval was sought to appoint the next ranked contractor to the place that had become vacant in Lot 3 as detailed within the report. Cabinet considered the changes to the outcome of the procurement process and noted that whilst there was a different contractor proposed the same conditions would apply and the impact on the Council was the same. Consequently it was –

RESOLVED that the change to Lot 3 be approved and the named contractor as detailed in paragraph 3 of the report be appointed to the North Wales Construction Framework 2.

The meeting concluded at 12.55 hrs.