

CABINET

Minutes of a meeting of the Cabinet held by video conference on Tuesday, 20 October 2020 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's Services and Public Engagement; Brian Jones, Lead Member for Waste, Transport and the Environment; Richard Mainon, Lead Member for Corporate Services and Strategic Direction; Tony Thomas, Lead Member for Housing and Communities; Julian Thompson-Hill, Lead Member for Finance, Performance and Strategic Assets, and Mark Young, Lead Member for Planning, Public Protection and Safer Communities

Observers: Councillors Meirick Davies, Hugh Irving, Alan James, Barry Mellor, Merfyn Parry, Peter Scott, Glenn Swingler, Rhys Thomas, Graham Timms, Huw Williams and Emrys Wynne

ALSO PRESENT

Chief Executive (JG); Corporate Director: Economy and Public Realm (GB); Heads of Service: Legal, HR and Democratic Services (GW), Finance and Property (SG) and Highways and Environmental Services (TW); Project Manager (PC); Programme Manager – Housing Development (MD); Property Health and Safety Manager (SW); Scrutiny Coordinator (RE); Committee Administrator (KEJ) and Managing Director Denbighshire Leisure Limited (JG)

The Local Democracy Reporter was also in remote attendance to observe proceedings.

POINT OF NOTICE

Due to the current restrictions on travel and requirement for social distancing as a result of the coronavirus pandemic the meeting was held remotely by video conference and was not open to the general public. All members had been given the opportunity to attend as observers and the Local Democracy Reporter had also been invited to observe.

1 APOLOGIES

There were no apologies.

2 DECLARATION OF INTERESTS

Councillors Bobby Feeley and Huw Hilditch-Roberts declared a personal interest in agenda item 7 – Extension of the Council's UK Leisure Framework because they were Directors of Denbighshire Leisure Limited.

3 URGENT MATTERS

At the Leader's request the Chief Executive provided an update following the Welsh Government (WG) announcement to introduce a circuit breaker across Wales to help regain control of coronavirus. In discussions with WG specific measures to protect Denbighshire's economy and citizens had been sought including support packages for businesses together with information and clear guidance, some of which had been addressed in the WG announcement. Assurances were provided that officers were working hard to ensure a safe close down of services and to put in place mechanisms to support business and vulnerable clients, and also to make as much information available as possible through communication and social media channels. Further updates would be provided in the coming days.

4 MINUTES

The minutes of the Cabinet meeting held on 22 September 2020 were submitted.

Accuracy – Page 13 Item 9 Finance Report – Councillor Mark Young asked that his comments regarding the £500 gifted to care workers be included in the minutes. He had congratulated the Welsh Government on gifting that payment to dedicated care staff and said it was a shame that the gift had been taxed by the UK Treasury.

***RESOLVED** that, subject to the above accuracy point, the minutes of the meeting held on 22 September 2020 be received and confirmed as a correct record.*

EXCLUSION OF PRESS AND PUBLIC

***RESOLVED** that under Section 100A of the Local Government Act 1972, the Press 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 and 16 of Part 4 of Schedule 12A of the Act.*

5 PROPOSED APPROACH TO TENDERING FOR PHASE 1 / ENABLING WORKS CONTRACT FOR COLOMENDY INDUSTRIAL ESTATE EXPANSION INCLUDING NEW DCC WASTE TRANSFER STATION (WTS)

Councillor Brian Jones presented the confidential report seeking Cabinet approval to undertake the proposed tendering exercise to identify a main contractor to deliver Phase 1 / Enabling Works Contract for the expansion of the Colomendy Industrial Estate in Denbigh, including Construction of a Waste Transfer Station (WTS).

Details of the proposed tender exercise had been set out within the report together with the outline timescales and anticipated contract value, including how it related to the proposed WTS (Plot 1) and enabling works to be delivered (Plots 2 – 5). Reference was made to the ongoing collaborative working on expansion of the site and delivery of the contract going forward for development. The opportunities for businesses and economic growth arising from the expansion were also acknowledged. The council was leading on the tendering exercise due to the interdependencies between the plots across the overall site. Assurances were provided that the project had regard to climate change and biodiversity elements

including protection of habitats, reducing the number of vehicle journeys for waste collection and installation of EV charging points, and consideration had also been given to hydrogen technologies in the future.

Councillor Mark Young welcomed the collaborative working and benefits it would bring and he was also keen to ensure local companies had the opportunity to bid. Assurances were provided in that regard and there was anticipated local interest in the tender with a clear preference to engage with local businesses where possible within the contract procedure rules. The contract would also provide for community benefit and local investment to further support that aim. In response to further questions officers confirmed that the cost associated with the tender would be solely officer time given that the tender was issued via Sell2Wales which was a web based tool. In view of the potential works value OJEU timescales would apply and the contract award would be subject to a further report to Cabinet.

RESOLVED that Cabinet –

- (a) *grant approval to undertake the proposed tendering exercise, and*
- (b) *note that a further report will be brought back to Cabinet (via the Strategic Investment Group) for approval of the subsequent Contract Award following the tendering exercise, which will also confirm contract management arrangements, tendered costs and contract details.*

OPEN SESSION

Upon completion of the above business the meeting resumed in open session.

6 ITEM FROM SCRUTINY COMMITTEE - REVIEW OF CABINET DECISION RELATING TO DISPOSAL OF LAND ADJACENT TO YSGOL PENDREF, DENBIGH

Councillor Huw Williams, Chair of Communities Scrutiny Committee presented the report detailing the conclusions reached by the Scrutiny Committee following consideration of the call-in of the Cabinet decision taken on 22 September 2020 to dispose of land adjacent to Ysgol Pendref, Denbigh which was surplus to council requirements on the open market for residential development.

Cabinet was advised of the detailed discussions which had taken place at the Communities Scrutiny Committee meeting in respect of the Cabinet decision. The conclusions of the Scrutiny Committee had been set out in the report together with their recommendations. In brief the Committee had recommended that Cabinet –

- acknowledges the Scrutiny Committee's conclusions and recommendations
- revisits its decision having regard to the vision for future social and affordable housing as set out in the draft new national development framework 'Future Wales – the National Plan 2040'
- delays the decision in relation to this particular site for 12 months until the new national development framework was agreed

- considers options to make the land more attractive to social landlords and smaller developers by breaking it up into smaller parcels/plots, and
- does not create an oversupply of large unaffordable homes in Denbigh which did not meet local need.

As Lead Member, Councillor Julian Thompson-Hill reminded Cabinet that the land in question had been allocated for housing in the Local Development Plan (LDP) in 2013 following all the appropriate processes and consultation stages. The land was held within the Housing Revenue Account (HRA) and therefore any capital receipt from the sale would be ring-fenced for the HRA and could not be used for other purposes. He responded to the scrutiny recommendations as follows –

- the WG's draft national development framework was still in draft form with no indication that any new funding would be provided to support the affordable housing aspirations. Whilst local authorities would be able to access the social housing grant from April 2021 the funding would be a finite amount top sliced from existing budgets for which councils would need to bid against each other and contribute financially. The 58% intervention rate for registered social landlords would be protected and the amount to councils was not expected to be sizeable
- delaying a decision on the off chance that something may happen in the future was not a sustainable way to make decisions. The capital receipt from the sale of the site had already been assumed in the HRA business plan and any delay would impact on the delivery of that plan resulting in less new build housing or less maintenance on existing stock or a combination of both, and there would be no affordable housing provided on the site for a longer period
- there were significant reasons why it would not be practical to break up the site into smaller development plots, namely the impact on the capital receipt and unit cost of the affordable housing proposed arising from the higher cost of the development and lower value of the land. Smaller plots increased costs at all stages of development and a consortium of developers would need to agree an entire programme of works prior to purchase. The council could provide the infrastructure at risk and cost with no guarantee monies could be recovered from future purchasers and it would also reduce or negate any capital receipt
- in terms of creating an oversupply of unaffordable homes not meeting local need, the proposed sale would be on the open market with a condition of 20% affordable homes which provided double the number of affordable units required under the LDP. There was an unmet demand for both affordable and market housing in Denbigh and the site would go some way to addressing that. There was an expectation under Policy BSC1 that development would provide a range of tenures to reflect the need and demand on development sites and a mixed nature of development would meet that policy. There had been some debate at scrutiny about the impact of other housing developments, particularly with regard to the former North Wales Hospital site with approximately 300 homes proposed. Those homes would be phased over a ten year period and would likely be of a different tenure from those proposed on the site in question
- by way of background there were approximately 123 new affordable units being built or already planned for Denbigh not including the 20% from this site. Reference had been made at scrutiny to SARTH (Single Access Route to Housing) data and figures for Denbigh but it was also important to bear in mind

the waiting times for affordable housing in the various communities with Denbigh being significantly lower than Rhyl or Prestatyn. The draft LDP also included a vastly reduced target in terms of new houses over the duration of the plan.

Having reviewed scrutiny's recommendations Councillor Thompson-Hill advised that he was unable to support them for the reasons outlined and he recommended that Cabinet reaffirm their decision to dispose of the site on the open market.

At the Leader's invitation and to provide some context to the new draft national development framework, the Corporate Director: Economy and Public Realm quoted from the notes accompanying that document on the WG website which advised that it was not a new or final version but a working document which could change following Senedd scrutiny and it must not be used as a source of policy.

Cabinet debated the merits of the scrutiny recommendations at length and there were mixed views as to whether a case had been made to warrant a different decision. Councillor Mark Young highlighted that neither the site in question nor the former North Wales Hospital site had planning permission which was subject to a separate process. He was concerned that out of 400 houses across both sites only 20 affordable homes would be delivered and believed the council had an opportunity to be more ambitious. Therefore he supported delaying the decision with a view to increasing the amount of affordable housing on the site. Cabinet raised questions regarding links to other housing development sites and affordable housing provision together with the impact of delaying the decision on future housing need and delivery of the HRA business plan. Clarification was also sought on the potential for a new school building on the site.

Councillor Thompson-Hill, Corporate Director: Economy and Public Realm and the Programme Manager – Housing Development responded to questions as follows –

- no planning permission had been granted for the site but the principle of housing was established in 2013 when the land was allocated for residential purposes in the LDP following the necessary processes and consultations
- planning permission had not yet been granted for the former North Wales Hospital site which was an enabling development (completely separate to the current site) and not predicated on bringing forward affordable housing. It was not an allocated housing site in the LDP but had been included under a specific policy to allow an enabling development in the grounds as a means to invest and protect the listed building; affordable housing was not a requirement but would be welcomed if it came forward as part of that development
- 20% affordable housing would be stipulated in the sale agreement and be legally binding. The 20% had been calculated to ensure any development was deliverable and financially viable and would generate a capital receipt to deliver the housing stock business plan. Councillor Tony Thomas confirmed that a higher than expected level of affordable housing had been delivered in the past averaging just over 30% in the last 3 years and based on past history the site could potentially deliver more than the 20% stipulated. In any event the capital receipt generated would have a positive impact on the council's housing stock
- the council's disposals protocol as applied was explained for which only the HRA indicated a requirement for the land. Although the recommendation on

sites to go forward for Band B of the 21st Century Schools Programme had only been discussed at the last Cabinet meeting, the Education Department had been fully aware of the proposals for the land and advised that they would not be looking to this particular site. Councillor Huw Hilditch-Roberts confirmed that position and further explained the assessment work carried out in respect of Band B in 2016 with a number of options in the area with regard to Ysgol Pendref which could be further explored following WG's approval of funding

- it was understood that Denbigh Member Area Group (MAG) had been consulted on the initial proposals for the site prior to its allocation in the LDP.

Councillor Richard Mainon recognised the merits of the recommendations put forward by scrutiny and expressed his frustrations with the planning policies and guidance, particularly the LDP. However he had reservations about delaying a decision based on contingent legislation.

The Chair invited non-Cabinet members to speak and ask questions. Councillor Rhys Thomas stressed that the new draft national development framework had been out to consultation and was likely almost in final form and provided the council with an opportunity to benefit at an early stage. He reiterated his concerns regarding the number of houses and types of housing developments currently being built or already planned for Denbigh and also sought clarification regarding potential sites for Ysgol Pendref. Councillor Glenn Swingler elaborated upon the grounds for calling the review of the Cabinet decision and urged Cabinet to delay the decision in line with scrutiny recommendations. Councillor Merfyn Parry highlighted his concerns and supported delaying the decision; he also suggested a land swap with Jones Bros as part of the development of the former North Wales Hospital site to facilitate a new school building. Councillor Graham Timms referred to the clear emphasis in the draft new framework on the need for affordable housing and urged Cabinet to delay the decision to find out how much weight it would carry.

The relevant Lead Cabinet members and the Corporate Director: Economy and Public Realm responded to the further comments and questions raised as follows –

- confirmed consideration should be given as to how much weight to attach to the draft new national development framework given that it had yet to be adopted
- Councillor Huw Hilditch-Roberts reported upon previous discussions with Denbigh MAG on options for Ysgol Pendref with some scoping work having been carried out on existing sites when the schools amalgamated. All options would be fully scoped once the funding had been approved by WG but the site in question had not been considered a viable option for a new school building because of topography and infrastructure issues
- with regard to timescales the land had been allocated for residential purposes in the LDP in 2013 and appropriated into the HRA in 2016. HRA had been working through priorities on site acquisition on other properties and areas for development and had now reached priority to deliver on this site
- the HRA was submitted to Cabinet annually and also reported upon monthly as part of the regular finance report with £19.2m currently within the capital plan and headroom for approximately 220 new built properties in that plan
- the former tenant of the land had purchased most of the land holding he had previously rented but did not purchase this particular field and agricultural

estates did not wish to retain it as a stand-alone field; it had been let on a short term grazing licence until such time as the development was brought forward

- the 20% allocation for affordable housing would be a condition of sale and therefore the minimum amount guaranteed to be delivered from the site
- reaffirmed the proposal to dispose of the land on the open market with nothing to preclude Registered Social Landlords from purchasing the site
- the Corporate Director felt it was too early to comment on the merits or otherwise of the suggested land swap to facilitate a new school building which would need further investigation to assess its feasibility. Councillor Hilditch-Roberts added that it would also warrant discussion with local members first.

At the close of the debate Councillor Mark Young reiterated the need for more affordable housing in Denbigh and he believed delaying the decision would provide the council with the opportunity to provide more affordable housing. Consequently Councillor Young proposed the Scrutiny Committee's recommendations as set out within the report. In seconding the proposal Councillor Bobby Feeley felt that a case had been made to delay the decision based on the scrutiny committee's recommendations and conclusions and valid points put forward at the meeting.

In his final statement Councillor Huw Williams urged Cabinet to support scrutiny's recommendations and delay the decision for 12 months which would also allow the opportunity to investigate a potential land swap to facilitate a new school building.

In his closing statement Councillor Thompson-Hill reaffirmed his original decision and proposed an amendment, seconded by Councillor Tony Thomas to acknowledge scrutiny's recommendations and conclusions and to reaffirm the Cabinet decision made on 22 September in relation to disposal of the site.

Cabinet voted on the amendment as follows –

FOR – Councillors Julian Thompson-Hill, Tony Thomas, Brian Jones and Hugh Evans [4]

AGAINST – Councillors Mark Young, Bobby Feeley, Huw Hilditch-Roberts and Richard Mainon [4]

There being a tied vote the Leader used his casting vote in favour to carry the amendment. The amendment became the substantive recommendation and Cabinet members reaffirmed their previous voting position again resulting in a tied vote. The Leader used his casting vote in favour to carry the resolution.

RESOLVED that Cabinet –

- acknowledges Communities Scrutiny Committee's conclusions and recommendations following its review of the Cabinet decision of 22 September 2020, and*
- having reviewed their decision and taken into account the recommendations from Communities Scrutiny Committee, reaffirm the Cabinet decision made on 22 September 2020 to –*

- (i) *“approve the disposal of land adjacent to Ysgol Pendref, Denbigh outlined in red on the plan (Appendix A to the report) which is surplus to Council requirements on the open market for residential development and delegates authority to the Lead Member for Finance, Performance and Strategic Assets to approve the final sale, and*
- (ii) *confirms it has read, understood and taken account of the Well-being Impact Assessment (Appendix B to the report) as part of its consideration”*

[At this point (12 noon) the meeting adjourned for a ten minute refreshment break]

7 EXTENSION OF THE COUNCIL'S UK LEISURE FRAMEWORK

Councillor Julian Thompson-Hill presented the joint report with Councillor Bobby Feeley seeking Cabinet approval to extend the Council's UK Leisure Framework until January 2022.

Cabinet was advised that the four year term of the current UK Leisure Framework set up by the council was due to expire in January 2021. The provisions and limitations within procurement legislation as it related to the framework had been set out together with the impact of operating within the restrictions imposed as a result of the coronavirus pandemic. In the interests of the council and Denbighshire Leisure Limited (DLL), and also in fairness to all providers in the market, it was recommended that the launch of a new procurement process be delayed until next year when a planned new exercise would commence. It was noted that DLL was contracted to manage the existing framework on the council's behalf and were supportive of the extension and the current supplier, Alliance Leisure had confirmed that they would be willing to continue with the current framework.

The Leader acknowledged the benefits of the framework for both the council and DLL and in raising the prominence of leisure services beyond Denbighshire's boundaries. As Chair of DLL Councillor Bobby Feeley highlighted the difficulties faced by the new company since its inception in April and challenges to trade in difficult circumstances and she paid tribute to all the staff in that regard. The latest lockdown announcement had come as a further blow and it was hoped to resume services once the restrictions were lifted. Cabinet echoed those sentiments.

RESOLVED that Cabinet approve the extension of the UK Leisure Framework until January 2022 on the same terms as let, and in any event such extension period shall be limited to 50% of the value of the original framework agreement in accordance with Regulation 72 Public Contracts Regulations 2015.

8 ASBESTOS REMOVAL CONTRACT

Councillor Julian Thompson-Hill presented a report seeking approval to commence a procurement for a works contract with a licensed Asbestos Removal Contractor.

The current arrangements to facilitate asbestos removal in council properties via a collaborative framework was due to expire in December 2020. To facilitate a more flexible and streamlined approach a works contract was recommended involving an agreement with one contractor and fixed rates ensuring better value for money and a more tailored service. The works contract would be set up for an initial 12 months with the opportunity to extend annually to a maximum of 10 years and renewal would only occur if satisfied with the contractor's performance. Details of the contact value had been set out in the report with a total contract value up to £4m. To prevent any delay in awarding the contract it was recommended the decision to commence the procurement be implemented immediately.

Cabinet was satisfied that the recommended procurement process supported the business needs of the council and delivered value for money. It was noted that permission to award the contract to the successful tenderer would be subject to a further report to Cabinet in December.

RESOLVED that Cabinet –

- (a) *agree to commence the procurement process for this works contract with a licensed Asbestos Removal Contractor to be advertised;*
- (b) *agree that the decision above be implemented immediately in order to prevent any delay in awarding the contract, and*
- (c) *confirm that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 1 to the report) as part of its consideration.*

9 FINANCE REPORT

Councillor Julian Thompson-Hill presented the report detailing the latest financial position and progress against the agreed budget strategy as outlined below –

- the net revenue budget for 2020/21 was £208.302m (£198.538m in 2019/20)
- an overspend of £5.107m was forecast for service and corporate budgets (the overspend did not assume receipt of further 'income loss' grants or claims)
- highlighted current risks and assumptions relating to individual service areas together with the financial impact of coronavirus and Leisure ADM budgets
- detailed required savings and efficiencies of £4.448m agreed including corporate savings relating to triennial actuarial review of Clwyd Pension Fund (£2m); 1% schools savings (£0.692m); service savings (£1.756m)
- provided a general update on the Capital Plan, Housing Revenue Account and Housing Capital Plan.

Councillor Thompson-Hill elaborated upon the latest financial position in detail, particularly with regard to the financial impact of Covid-19, including grant funding secured to date and the position on claims for the council.

The following issues were raised during the ensuing debate –

- it was clarified that following a better than expected settlement from WG the reduction in school savings from 2% to 1% had been approved by Council in February 2020 in recognition of schools net deficit balances
- the draft budget settlement would be issued in December with the final settlement to be announced in March 2021 but there had been no indication as to what it would entail. Due to the late announcement few changes were expected from the draft settlement and it was likely that the council would need to set the budget before the final settlement was issued
- no announcement had been made in terms of additional funding for local government with specific regard to the forthcoming lockdown period and it was assumed that claims for loss of income and additional costs incurred as a result would be claimed from the £264m fund previously announced by WG
- Councillor Bobby Feeley felt that WG should provide specific funding for the leisure sector given that was a vital service in terms of health and wellbeing and continued to face an uncertain and difficult trading position. It was noted that the claim for loss of income relating to Leisure for Quarter 1 had been paid and the claim for Quarter 2 was currently being prepared but uncertainty remained over Quarters 3 and 4. The Leader reported upon regular meetings and positive discussion with WG who were aware of the pressures facing local government including leisure services. However the growing financial pressures on WG may well pose a risk to local government, particularly in terms of future settlements
- Councillor Mark Young queried how the financial deficit would be addressed if WG funding was not forthcoming and sought assurances that the council continued to work with businesses and residents in terms of business rates and council tax given the current financial challenges. The Head of Finance reported that the council had been prudent with its reserves with earmarked reserves and a budget mitigation reserve which could be used if necessary and any recommendations in that regard would be brought before Cabinet. He was confident the council would remain solvent for the current financial year but there were concerns regarding the next financial year onwards; the main uncertainty related to council tax and WG's ability to fund local government at a level they would like given the financial impact of Covid-19. In terms of recovering council tax and business rates Councillor Thompson-Hill gave assurances that individuals were dealt with as sensitively as possible
- Councillor Huw Hilditch-Roberts thanked the Leader for his statement to WG calling for urgent information ahead of the circuit breaker announcement, including a support package for businesses and furlough scheme, which he believed had an impact on the information shared by WG in their announcement and had been appreciated by businesses. He felt the statement provided a real reflection of Denbighshire's situation and hoped that in addition to support for those sectors closed during the lockdown, support would also be available for essential businesses that continued to trade but with significantly less income. The Leader confirmed it was a significant issue that had been acknowledged by WG and it was hoped that they would be able to respond in financial terms
- in response to questions from Councillor Emrys Wynne regarding the availability of information and guidance to businesses ahead of the lockdown Councillor Mark Young confirmed he was working with the Head of Planning and Public Protection to provide communications and press releases as the information became available. Councillor Williams was also directed to the information currently available on the WG website which could also be accessed via a link

on the council's website and assurances were provided that information was shared with businesses and residents as it was received. The importance of relevant, timely information and guidance was acknowledged and had instigated the Leader's statement to WG ahead of the circuit breaker announcement

- in response to questions from Councillor Meirick Davies it was confirmed that the pay award to staff was an average of 2.5% with larger increases for the lowest paid and the increase for councillors had been just over 1%. With regard to the new Waste Service Model Councillor Brian Jones confirmed that the new vehicles would run on diesel however consideration had been given to future technologies on the site as they developed such as hydrogen.

RESOLVED that Cabinet note the budgets set for 2020/21 and progress against the agreed budget strategy.

10 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 13.05 hrs.