

## COMMUNITIES SCRUTINY COMMITTEE

Minutes of a meeting of the Communities Scrutiny Committee held via WebEx on Monday, 5 October 2020 at 10.30 am.

### PRESENT

Councillors Brian Blakeley, Mabon ap Gwynfor, Rachel Flynn, Merfyn Parry, Glenn Swingler, Andrew Thomas, Graham Timms (Vice-Chair), Cheryl Williams and Huw Williams (Chair)

Co-opted Members Kathleen Jones and Neil Roberts attended for agenda item 4 – Review of Cabinet Decision relating to 21st Century Schools Programme – Band B Proposals

**Cabinet Members** – Councillor Huw Hilditch-Roberts, Lead Member for Education, Children’s Services and Public Engagement attended for agenda item 4 and Councillor Julian Thompson-Hill, Lead Member for Finance, Performance and Strategic Assets attended for agenda item 5.

**Observers** – Councillors Joan Butterfield, Meirick Davies, Hugh Irving, Alan James, Gwyneth Kensler, Barry Mellor, Melvyn Mile, Paul Penlington, Arwel Roberts, Peter Scott, Rhys Thomas and Emrys Wynne

### ALSO PRESENT

Corporate Directors: Economy and Public Realm (GB) and Communities (NS), Heads of Service: Legal, HR and Democratic Services (GW) and Finance and Property (SG); Interim Head of Education (GD); Principal Manager – School Support (JC); Lead Officer – Corporate Property and Housing Stock (DL); Programme Manager – Housing Development (MD); Principal Chartered Valuation and Estates Surveyor (MJ), Scrutiny Coordinator (RE) and Committee Administrator (KEJ)

### 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

Councillor Paul Penlington (lead signatory to the call-in request for agenda item 4) had submitted apologies due to unavoidable work commitments. It was noted that Councillor Mabon ap Gwynfor would address the Committee in his absence.

#### 2 DECLARATION OF INTERESTS

The following members declared a personal interest in agenda item 4 Review of Cabinet Decision relating to 21st Century Schools Programme Band B Proposals –

Councillor Meirick Davies – School Governor Ysgol Cefn Meiriadog  
Councillor Huw Hilditch-Roberts – Parent Ysgol Brynhyfryd / School Governor Ysgol Pen Barras  
Councillor Hugh Irving – School Governor Prestatyn High School  
Councillor Merfyn Parry – School Governor Ysgol Bryn Clwyd and Ysgol Gellifor  
Councillor Arwel Roberts – School Governor Ysgol y Castell  
Co-opted Member Neil Roberts – School Governor Ysgol y Parc  
Councillor Peter Scott – School Governor St. Asaph VP Infants School  
Councillor Glenn Swinger – School Governor Ysgol Pendref  
Councillor Graham Timms – School Governor Ysgol Dinas Bran  
Councillor Emrys Wynne – School Governor Ysgol Brynhyfryd & Ysgol Borthyn

### **3 URGENT MATTERS AS AGREED BY THE CHAIR**

The Chair declared that he intended to include for discussion (as item 5 on the agenda) the following matter requiring urgent attention – Review of Cabinet decision relating to ‘Disposal of land adjacent to Ysgol Pendref, Denbigh’.

The item related to a second call-in request received subsequent to convening the Committee and the Chair had agreed for the matter to be discussed as an urgent item of business with a view to expediting the call-in request within the timescale set out in the Council’s Call-In Procedure Rules. The supplementary papers relating to the call-in request had been published on 1 October 2020.

### **4 REVIEW OF CABINET DECISION RELATING TO 21ST CENTURY SCHOOLS PROGRAMME - BAND B PROPOSALS**

The Chair explained that in accordance with the council’s constitution the Committee had been convened to consider a call-in request submitted in respect of a decision taken by the Cabinet on 22 September 2020 relating to ‘21st Century Schools Programme – Band B Proposals’. The Cabinet had resolved to –

- approve the commencement of projects at Ysgol Plas Brondyffryn / Denbigh High School, Denbigh; Ysgol Bryn Collen / Ysgol Gwernant, Llangollen and Ysgol Pendref, Denbigh as part of the first phase of projects for Band B of the 21st Century Schools Programme and the submission of these proposals to Welsh Government, and
- to continue to seek additional funding for the second phase of projects of Band B and to review the position in 18 months to ascertain options for the delivery of some of these projects.

A call-in notice had been submitted by Councillor Paul Penlington, supported by four other councillors, calling for a review of the decision on the following grounds –

*“...I wish to call in this decision in order that the authority can properly review PHS [Prestatyn High School] need as it stands in 2020 fairly alongside other schools. As the largest secondary school in the county, and only secondary school in Prestatyn it has as good a case for improvement as others scheduled for Band B funding.”*

The Scrutiny Coordinator introduced the report (previously circulated) setting out the 'call-in' procedure rules and basis of the 'call-in' request and she also explained the procedures to be followed at the meeting. Reference had been made to the appendices to the report including the Cabinet report considered on 22 September 2020 together with a report on the 'Process for Band B Submission' which had been brought forward from the Committee's next scheduled meeting given that it contained useful information relating to the current review of the Cabinet decision.

In the absence of Councillor Paul Penlington, Councillor Mabon ap Gwynfor read out a statement on his behalf. Councillor Penlington had submitted that –

- the Cabinet decision had been based on Cabinet meetings as far back as 2017 and Prestatyn High School (PHS) had not featured at that time nor did it currently feature in any 21st Century Schools funding
- when queried earlier in the year he was told PHS may possibly be considered in 2024 which was not robust enough to meet the needs of children in Prestatyn
- councillors had not had an opportunity to scrutinise the process that led to the Cabinet decision on 22 September and had been excluded from any process that led to it over recent months, and he had been unable to join the discussion and properly ask questions at Cabinet due to council online meeting failures
- the situation within PHS had changed significantly since 2017 and the school was in urgent need of substantial improvement, if not a completely new school
- he had been advised pupil numbers were reducing which was incorrect – PHS had 1800 learners three years ago and a consistent 1500 learners since then
- Prestatyn primary schools were struggling to cope with demand and with one secondary school there was potential for significant difficulties in the near future
- the current and future financial climate was uncertain and without a definite commitment to PHS it may not receive any substantial improvement for years
- as far as he was aware PHS had been built in 1956 with few enhancements since then and no major improvements and so required swift improvement.

The Lead Member Councillor Huw Hilditch-Roberts, Interim Head of Education and Principal Manager – School Support were in attendance. The Lead Member provided some background to the 21st Century Schools Programme and Band B proposals together with previous Scrutiny and Cabinet involvement in that process over the last three years. For clarity Councillor Penlington had asked the question at Cabinet as to why Prestatyn High School (PHS) had not been included in the proposals and an explanation had been provided at that time which had been based on need and the prioritisation process. With regard to the grounds for calling the review of the Cabinet decision the Lead Member responded as follows –

- **PHS pupil numbers** – figures provided for over the last five years showed an overall decrease in pupil numbers. Year 7 intake had been around 230/240 pupils during that period and prior to opening of the new Rhyl High School building had been around 260/270 pupils. PHS share of secondary pupils across Denbighshire had reduced in relative terms from 25% to 21%
- **Prestatyn primary sector numbers** – overall there were 2037 full time primary school places across the town and surrounding areas with 1,777 pupils attending resulting in 260 surplus places [12%]. Significant investment had

been made in the primary sector in Prestatyn. The Year 7 intake for 2020 showed that 77.3% came from English medium schools in the town, 6.3% from other Denbighshire schools and 16.4% from out of county. Pupil numbers transferring from Rhyl to Prestatyn had reduced since 2016 and the new Christ the Word school would also have an impact on future pupil numbers

- **Condition of Buildings** – when the Strategic Outline Plan was submitted in 2017 PHS was considered Condition C and Suitability C. Compared to the eight secondary schools in Denbighshire – four had been identified as part of Band A (St. Brigid's subsequently opted out) leaving one Category B (Ysgol Brynhyfryd), three Category C (St. Brigid's, Ysgol Dinas Bran and PHS), and one Category D (Denbigh High School) which was seen as high priority. The long list to Welsh Government had included investment for PHS and Ysgol Brynhyfryd. On the balance of current issues of the remaining Category C schools St. Brigid's and Ysgol Dinas Bran were seen as higher priority given the limited resources when the Strategic Outline Plan was submitted
- **Development of 5 year plan** – following the decision arising from that assessment officers met with Prestatyn Member Area Group and Governors to discuss the immediate and short term needs of PHS which resulted in an agreed 5 year plan. Priority areas included Site Fencing & Security; Walkway Access Corridor; Science; Technology & Welsh and Car Park and details of the issues to be addressed and positive progress made against those priority areas were provided. Recent planned maintenance work to the value of £1.64m had taken place at the school and future work had been scheduled.

The Lead Member reiterated that the recommendation to Cabinet had been based on a prioritisation process of greatest need given the finite resources available. The Council had worked closely with PHS in developing the 5 year plan to address areas of concern and the school fully supported the partnership working approach and recognised the investment being made outside of the 21st Century Schools Programme. The Interim Head of Education added that he was in regular contact with the school and good progress was being made in progressing the 5 year plan. Whilst the obvious preference was for a new school it was recognised that there was a prioritisation process and limited resources available and on that basis the Head teacher had been satisfied with the level of investment. Councillor Hugh Irving, Chair of Governors at PHS confirmed there had been substantial investment in the school over the years and while there were obvious shortcomings it was accepted that a new school was the ideal and not possible given present circumstances. Useful discussions had taken place with lead members and officers and a five year programme of investment had been agreed as the way forward.

During the course of debate the Chair invited questions from Committee members followed by call-in signatories and other non-Committee members. Questions were raised with specific regard to PHS as referenced within the call-in notice together with other schools within the county including the condition of those schools and application of the assessment process together with the outcome of that process in terms of categorisation, rank order of priority and potential timescales for investment. Clarity was also sought regarding the funding elements of the 21st Century Schools Programme and future projects.

The Lead Member, Interim Head of Education, Principal Manager – School Support and Head of Finance responded to members' questions and comments as follows –

- confirmed 12 pupils from Prestatyn were attending Year 7 in Rhyl from this September
- explained the complexities of the PHS site given the size of the building and flow of pupils and the need to assess the impact on pupil numbers in future years taking into account the new Rhyl High School building and Christ the Word School in order to have robust data for future planning and ensure that as part of the overall process investment was made in the right schools at the right time
- reiterated that PHS Governing Body and Head teacher were in regular discussions with the Lead Member and officers and were supportive of the level of investment and commitment provided to the school at the current time
- stated that in terms of the Year 7 intake at PHS 16.4% were from out of county which equated to 39 pupils, the majority of which came from Flintshire schools
- explained the change in WG funding for the 21st Century Schools Programme and intervention rates for different schemes resulting in the need to prioritise those projects identified in the Band B proposals – based on the assessment of schools PHS had not been identified for inclusion in Band B at any point and had been earmarked for future investment
- elaborated upon the variety of works included in the 5 year plan for PHS which was currently being progressed in priority order as identified by the school and confirmed that the figures did not include external flood work
- explained the changes to the criteria for 21st Century Schools Funding over time which was now based on the condition of the school environment for learners
- further explained the prioritisation process and agreed to provide additional information and greater clarification of the schools assessment process and works required including a rank order of prioritisation for investment, but advised that it would not be possible to commit to timescales or specific projects given the future level of uncertainties in terms of criteria, finance and political decisions both at local and national level going forward
- referred to the schools maintenance programme which totalled £9m for which £2.2m was available which could also be considered alongside the 21st Century Schools Programme and provide a wider picture of school investment
- explained the reasoning behind the inclusion of Ysgol Bryn Collen and Ysgol Gwernant in the proposals and lessons learned from the projects undertaken in Band A
- provided assurances that the council would continue to lobby WG for the additional funding to complete the second phase of Band B, which included Rhyl primary provision, and report back to Cabinet thereon in eighteen months' time.

The Committee welcomed the investment already made in Denbighshire's schools and was pleased to note future investment plans in that regard. The Committee also considered that the clarification of the prioritisation process provided during the meeting had proved useful but felt that for greater clarity and transparency further information should be provided to all councillors on the 21st Century Schools Programme and Councillor Graham Timms put forward a proposition on that basis, seconded by Councillor Merfyn Parry. Councillor Mabon ap Gwynfor also

supported the proposition and requested a timescale for submission of the information requested. Upon being put to the vote the Committee –

**RESOLVED** that detailed information be provided to all county councillors by early 2021 on the 21st Century Schools Programme to include –

- (i) *background to the funding and the prioritisation process followed to determine which schools merited benefiting from investment and when;*
- (ii) *details of the investment already made in the county's schools and the current position, and*
- (iii) *a clear outline of future plans, subject to the availability of Welsh Government and Council funding, to make Denbighshire County Council schools fit for the 21st Century.*

Following the Committee agreeing the above resolution the signatories to the call-in request indicated their agreement that the request to review the Cabinet decision should no longer proceed.

[Councillor Paul Penlington joined the meeting at the close of debate just prior to the vote.]

At this juncture (12.15 p.m.) the meeting adjourned for a refreshment break.

## **5 URGENT MATTERS: REVIEW OF CABINET DECISION RELATING TO DISPOSAL OF LAND ADJACENT TO YSGOL PENDREF, DENBIGH**

[This item was considered as a matter of urgency, notice having been given by the Chair at the commencement of the meeting].

The Chair introduced a report (previously circulated) on the call-in request submitted in respect of a decision taken by the Cabinet on 22 September 2020 relating to the 'Disposal of land adjacent to Ysgol Pendref, Denbigh'. The Cabinet had resolved to –

- 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
- confirms it has read, understood and taken account of the Well-being Impact Assessment (Appendix B to the report) as part of its consideration.

A 'call-in' notice had been submitted by Councillor Glenn Swingler, supported by four other councillors. At the Chair's invitation Councillor Swingler set out the grounds for calling the review of the decision as follows –

1. *This is more land owned by Council being sold for a quick fix to fill budget holes.*

2. *Upper Denbigh has up to 300 houses being built on the NWH (North Wales Hospital) site and more (mostly) unaffordable housing is not required.*
3. *The land is presently farm land. We should be encouraging more people into farming. We don't yet know the effects of Brexit on food security and now would be a foolish time to dump this land.*
4. *Although it mentions the land not being suitable for a new build for Ysgol Pendref it was only a very, very short time ago Cabinet agreed to the new 21st century schools programme and to commence a scoping exercise. Has that been completed already?*
5. *Once land belonging to the people has been sold to private enterprises there is no going back. How are cabinet certain the land will not be needed in the future.*
6. *We must surely be building more social housing.*

The Lead Member Councillor Julian Thompson-Hill, Programme Manager – Housing Development and Principal Valuation and Estates Surveyor were in attendance. The Lead Member clarified the location of the site in Denbigh which related to 6.97 acres. He also responded to the grounds put forward for the call-in request as follows –

- 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 elsewhere. The HRA had three sources of income to deliver its programme of works for which capital receipts was a key element. An assumption about the sale of the land had been built into the rolling 30 year housing stock business plan so if a capital receipt could not be achieved there would be less funding available to deliver new social rented homes or maintenance on existing housing stock
- in terms of housing numbers in the current Local Development Plan (LDP) there was no inclusion for any of the enabling developments at the North Wales Hospital Site currently and the council's allocations and affordable housing policies made no assumptions of any affordable units on that particular site. This site, amongst others, had been allocated to partially address housing needs for all kinds of tenure within Denbigh and would deliver twice the number of affordable units that would be required under the terms of the LDP
- the land was not farmland having been allocated for residential purposes in the LDP in 2013 following all the appropriate processes and consultation stages. The land had been declared surplus to agricultural estates purposes in 2015 and appropriated into the HRA in 2016. Subsequent to that a Site Development Brief had been adopted approved unanimously by Planning Committee in 2017. The former tenant of the farm to which the land was previously attached had purchased most of the land holding he had previously rented but this particular land was specifically excluded from that purchase by him
- the council's disposals protocol as applied in this case 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 this land and had advised that they would not be looking to this particular site for education purposes and supported the appropriation of the land to the HRA

- in terms of social housing there was a 30 year business plan with headroom to build 220 additional properties (170 within the lifetime of the current Corporate Plan). There was insufficient headroom in the business plan for the council and social landlords to meet all social housing needs which was a common situation not unique to Denbighshire. The number and location of additional housing developments were determined following an analysis of the single housing register making allowances for any schemes underway and the condition and suitability of existing housing stock. Denbigh accounted for approximately 10% of the overall need and a recent contract was awarded for 22 social rented homes on land adjacent to Tan y Sgubor. Soft market testing had determined 20% affordable inclusion would be viable on the land proposed for disposal which would address part of the identified need and also deliver a capital receipt to support the business plan for new build and maintenance. It was emphasised that a maximum of 10% affordable housing could be enforced and any amount above that would need to be achieved through negotiation.

In summary the Lead Member reiterated that the site was an isolated piece of land, not required by the former tenant farmer which was surplus to requirements from an agricultural estates purpose, and had been appropriated to the HRA and allocated for residential purposes in the LDP following due process. A Site Development Brief had also been approved by the Planning Committee and therefore the principle of housing development on the land had been well established. The council was extremely unlikely to have the capital to build a scheme of 100 homes as a stand-alone development but in a developer role could utilise public and private sector partners which was a common practice of the council on various developments. The Programme Manager – Housing Development added that the sale of the site would help deliver the housing development plan and a balanced approach had been taken to ensure that the properties delivered were the right type in the right place. Given the limited resources available for delivering the housing stock business plan, the capital receipt from the site and social rented homes it would deliver would go towards delivering that plan.

The Chair invited questions from Committee members followed by call-in signatories and other non-Committee members. Questions were raised regarding the number of houses and types of housing developments currently being built or already planned for Denbigh, particularly in terms of affordable and social rented housing and needs of local residents. Councillor Rhys Thomas referred to the draft new national development framework 'Future Wales – the National Plan 2040' and implications for future housing developments and meeting affordable and social housing needs. He was keen for those ambitions to increase delivery of affordable and social housing together with the funding to drive delivery to be progressed for the benefit of local residents in Denbigh, particularly given the specific housing needs of the area.

The Lead Member and Programme Manager – Housing Development responded to members' questions and comments as follows –

- disposal on the open market had been recommended given the potential value of the land and the price could be verified independently to ensure best value



- enquiries had been received from social landlords about the development and there was nothing to preclude social landlords making an offer for the site
- whilst the current requirement for affordable homes was 10% there had been occasions when a higher percentage had been agreed through negotiation
- due to the need to put infrastructure into the site such as highways, utilities etc. it would be more cost effective if one developer was to take on the initial opening up of the site rather than breaking the land down into smaller plots – potentially the developer could pass on smaller blocks to other social landlords
- the site did not have outline planning permission but a Site Development Brief had been approved by Planning Committee in 2017, and the reports to Planning Committee and more recently Cabinet had prompted developer interest
- confirmed any developer could approach the council at any time but in order to ensure best value it was usual to first undertake market testing of the site
- the proposal was for around 20 social rented homes on the site and a contract had recently been awarded for a further 22 social rented homes on adjacent land at Tan Y Sgubor thereby totalling 42 additional social rented homes for the ward let through the council's HRA
- local authorities would be able to access Welsh Government's (WG) social housing grant from April 2021 but the funding would be top sliced from existing budgets and would be a finite amount for which local authorities would bid against each other and would also likely need to contribute financially. The intervention rate of 58% for social landlords would be protected and the amount to local authorities was not expected to be sizeable and would be a variable intervention rate depending upon the viability of each individual development – there was no new funding announced by WG in relation to any commitment to increasing affordable housing. It was also understood that references within the new national development framework to affordable housing led development sites would only apply to future allocations and not to this site because it was an existing allocation
- given that the intention was to use the capital receipt from the sale of the land to fund the housing stock business plan any delay would reduce the number of properties which could be delivered as a consequence
- the proposal would benefit the ward by delivering twice as many social rented homes as would normally be the case through the planning system. Even if properties were not in the affordable category they still brought benefits to the area in terms of trade, spend and jobs and reference was made to the approach in Rhyl West where part of the regeneration activity involved a mix of tenures
- if the sale of the land did not proceed there would potentially be the loss of 20 affordable units and given previous approvals the housing stock business plan had assumed a capital receipt for reinvestment in new build and renovations which if not received would have a negative impact on its delivery
- there was an unmet demand for both affordable and non-affordable housing in Denbigh and Denbighshire as a whole and the programme of work that had been developed and agreed was proportionate to the need and the location.
- the SARTH (Single Access Route to Housing) figures referred to should be read in context given that applicants could register for multiple areas
- it was accepted that the entire social housing need could not be met and the approach taken was to deliver as many social rented properties throughout the

county to reflect that need within the resources available and capital receipts were a vital part of providing the funding necessary to address those issues

- explained the naming and numbering policy adopted by the authority and elaborated upon the biodiversity elements associated with the proposal
- there was currently no buyer for the site and the current process involved seeking Cabinet's permission to sell the site on the open market.

In summing up Councillor Swingler supported delaying the sale of the land pending clarity on the Welsh Government's new national development framework in order to best meet local housing needs for residents and ensure the right type of housing for the area or alternatively to ensure best future use of the land for other purposes.

In his closing statement the Lead Member reiterated that the site had been through the necessary approvals and consultations and had been allocated for housing in the LDP. Not selling the site would impact on the resources available to deliver the housing stock business plan and he strongly recommended that the sale proceed with no benefits to be gained from delaying the sale. Any changes to legislation coming forward for future sites would be complied with and if any additional funding was made available it would be welcomed. Proceeding with the sale would likely deliver twice the amount of affordable housing stipulated in the LDP and market testing had indicated that 20% affordable housing would be viable and deliverable and it would go some way to addressing housing needs within the county.

Having considered the information presented and representations made during the meeting, including the grounds given for calling-in the decision, the Committee acknowledged that the land had been declared surplus to requirements by the council's agricultural estate a number of years previously. It also acknowledged that any capital receipt realised from the sale of land or any other asset could not lawfully be used to finance the authority's revenue spend or any revenue shortfall. However the Committee felt there was merit to request Cabinet to review its decision to dispose of the land on the basis of the number of houses and types of housing developments currently being built, or already planned for Denbigh in the next few years.

The Committee had concerns that the developments would render the town with an oversupply of large unaffordable houses and an insufficient supply of affordable housing and social housing units to meet the needs of local residents. Members were of the view that developing the land adjacent to Ysgol Pendref would further exasperate the problem. Whilst acknowledging that some social housing would be built on this plot of land as part of any future development, it was felt that the number of affordable and social housing units proposed for the development were insufficient given that this particular plot of land was located in one of the most deprived council wards in Wales, and therefore the majority of the houses built there would be unaffordable for local residents.

The Welsh Government had recently published its draft new national development framework 'Future Wales – the National Plan 2040' which was currently undergoing scrutiny in the Senedd, prior to being adopted in 2021. Once adopted this framework would set the direction for development across Wales until 2040. Whilst

the Committee acknowledged that this was still a working draft it did however have a clear emphasis on the need for more affordable housing across Wales.

Councillor Graham Timms put forward a proposition on the basis of the conclusions of the Committee, seconded by Councillor Glenn Swingler, and upon being put to the vote the Committee –

**RESOLVED** to recommend to Cabinet that it –

- (a) *acknowledges the Communities Scrutiny Committee's conclusions and recommendations following its review of the Cabinet decisions of 22 September 2020;*
- (b) *revisits its decision of 22 September 2020 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';*
- (c) *delays the decision in relation to this particular site for 12 months until the new national development framework was agreed;*
- (d) *considers options to make the land more attractive to social landlords and smaller developers by breaking it up into smaller parcels/plots, and*
- (e) *does not create an oversupply of large unaffordable homes in Denbigh which do not meet the local need.*

The meeting concluded at 1.45 p.m.