

To: Members of the Communities
Scrutiny Committee

Date: 3 March 2022

Direct Dial: 01824 712554

e-mail: democratic@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **COMMUNITIES SCRUTINY COMMITTEE** to be held at **10.00 am** on **THURSDAY, 10 MARCH 2022 VIA VIDEO CONFERENCE**.

Yours sincerely

G. Williams
Head of Legal, HR and Democratic Services

AGENDA

PART 1 - THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING

1 APOLOGIES

2 DECLARATION OF INTERESTS (Pages 5 - 6)

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

3 URGENT MATTERS AS AGREED BY THE CHAIR

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act 1972.

4 MINUTES (Pages 7 - 12)

To receive the minutes of the Communities Scrutiny Committee held on 20 January 2022 (copy attached).

5 REVIEW OF CABINET DECISION RELATING TO THE PROPOSES SCHEME OF DELEGATED DECISION MAKING FOR LAND ACQUISITION (FREEHOLD AND LEASEHOLD) FOR CARBON SEQUESTRATION AND ECOLOGICAL IMPROVEMENT PURPOSES (Pages 13 - 62)

To consider a report by the Scrutiny Co-ordinator to review Cabinet decision (copy attached).

10.10 a.m. – 11.00 a.m.

~~~~~ **BREAK (11.00 a.m. – 11.10 a.m.)** ~~~~~

**6 FLOOD RISK MANAGEMENT AND RIPERIAN LAND OWNERSHIP TASK AND FINISH GROUP (Pages 63 - 74)**

To consider a report by the Democratic Services Officer, to update the Scrutiny Committee on activities of the Task and Finish Group (copy attached).

**11.10 a.m. – 11.40 a.m.**

**7 PLANNING COMPLIANCE CHARTER (Pages 75 - 120)**

To consider a report by the Head of Planning, Public Protection and Countryside Services and the Planning Compliance Officer to provide information regarding the Planning Compliance Charter's effectiveness (copy attached).

**11.40 a.m. – 12.15 p.m.**

**8 SCRUTINY WORK PROGRAMME (Pages 121 - 140)**

To consider a report by the Scrutiny Coordinator (copy attached) seeking a review of the committee's forward work programme and updating members on relevant issues.

**12.15 p.m. – 12.30 p.m.**

**9 FEEDBACK FROM COMMITTEE REPRESENTATIVES**

To receive any updates from Committee representatives on various Council Boards and Groups.

**(12.30 p.m. – 12.40 p.m.)**

**MEMBERSHIP**

**Councillors**

Councillor Huw Williams (Chair)

Councillor Graham Timms (Vice-Chair)

Brian Blakeley

Merfyn Parry

Gwyneth Ellis  
Alan Hughes  
Hugh Irving  
Tina Jones

Anton Sampson  
Peter Scott  
Cheryl Williams

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Town and Community Councils

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## LOCAL GOVERNMENT ACT 2000

### Code of Conduct for Members

### DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a \*member/co-opted member of

*(\*please delete as appropriate)*

**Denbighshire County Council**

**CONFIRM** that I have declared a **\*personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-

*(\*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)\**

Signed

Date

\*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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# Public Document Pack Agenda Item 4

## COMMUNITIES SCRUTINY COMMITTEE

Minutes of a meeting of the Communities Scrutiny Committee held by video conference on Thursday, 20 January 2022 at 10.00 am.

### PRESENT

Councillors Brian Blakeley, Gwyneth Ellis, Alan Hughes, Hugh Irving, Tina Jones, Merfyn Parry, Anton Sampson, Peter Scott, Graham Timms (Vice-Chair), Cheryl Williams and Huw Williams (Chair).

#### Lead Members –

Councillor Brian Jones - Lead Member for Waste, Transport and the Environment  
Councillor Huw Hilditch-Roberts – Lead Member for Lead Member for Education, Children’s Services and Public Engagement

Observers – Councillors Meirick Lloyd Davies, Martyn Holland, Barry Mellor, Arwel Roberts, Tony Thomas and Emrys Wynne

### ALSO PRESENT

Head of Highways and Environmental Services (TW), Highways Asset and Risk Manager (TT), Team Leader Places (TD), Head of Finance and Property Services (SG), Scrutiny Coordinator (RhE) and Committee Administrators (SJ and RTJ)

#### 1 APOLOGIES

No apologies for absence were received.

#### 2 DECLARATION OF INTERESTS

No declarations of interests were raised.

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

No urgent matters had been raised with the Chair prior to the meeting.

#### 4 MINUTES

The minutes of the Communities Scrutiny Committee held on 9 December 2021 were submitted.

**RESOLVED** that the minutes of the meeting held on 9 December 2021 be received and approved as a correct record.

## **5 HIGHWAYS MAINTENANCE POLICIES FOR UNCLASSIFIED ROADS**

The Chair adjourned the meeting for two minutes to allow officers and Lead Members to join the meeting.

The Head of Highways and Environmental Services (HHES) guided members through the report (previously circulated). It was stressed to members that 44% of the road network observed in the authority was unclassified roads. Members were reminded that officers had continued to stress the need to invest more in the highways network. The HHES emphasised the key principle had always been to ensure that there was at least one good quality road serving any community. Members heard that at times other roads servicing a community may not be prioritised for improvement. Members were guided to the extracts from the Denbighshire Highways Code of Practice, detailing the criteria and approach to works.

The HHES stated there was two aspects to the highways work. He provided members with details of each, the first was the Capital Programme which was funds to repair to agreed roads in the authority. It was confirmed a report was to be presented to all MAG to agree the programme of works. The second aspect was the revenue funded in-house highways maintenance. Further context was provided to members on the resource available for the in-house maintenance team. In the authority there was 14 highways operatives employed, this number had reduced from previous years.

The Lead Member for Waste, Transport and the Environment felt the highways funding was extremely important and should be included within the Corporate Plan. It was the opinion of the Lead Member that the department was in a more positive position than at the start of the term.

The Chair thanked the Lead Member and the officers for the report, he also noted the pressures on officers due to the difficult work. He stressed highway maintenance had been an increasing issue to try and resolve.

In response to Committee members' questions the following details were provided by officers and the Lead Member:

- Out of the allocated budget of £2.5mil for 2021/22, £800,000 had been allocated for surface dressing. Officers stated that the majority of the surface dressing had taken place on A and B road network. Re-surfacing on B roads was scheduled. Officers stated that 50% of the budget was allocated to 80% of the network. Officers stressed that the department was managing risk and busier roads carried a higher risk and required priority if needing repair.
- £900k additional funding had been provided. An allocation of £450k had been made for rural roads. The works had been listed on the reserve list that officers had previously circulated to Member Area Groups (MAG's).
- Members heard that the inspection frequencies had changed. Town centres were done monthly; the remaining network was inspected every 4 months with rural roads inspected every 6 months. Once a pothole was identified to officers there was a policy to repair it within 10 days. In response to members questions the maximum time for a pothole to be repaired would



therefore be six months and ten days. However, if the pothole had been reported by a councillor, member of staff or the public ahead of the programmed inspection it would be repaired within 10 days of being reported. Hence the importance of everybody reporting potholes as and when they came across one.

- The HHES stated officers were always grateful and hopeful for extra funding. If funding was awarded for specific purposes it would have to be used for that reason. If funding was received it would be applied in year and the authority's funding would be carried forward to the following year.
- It was promoted that officers from the service or other areas of the council, reported any issues observed in their day to day jobs.
- Officers confirmed if layby's formed part of the adopted highway they should be maintained to the same standard as the highway.
- Every rural road was inspected twice a year. Reference was made to a scanner, which was an external contract which used lasers to consider road condition. All A, B and half of C roads were inspected using this system.
- Officers noted the significant issue of water on roads. Officers stressed the importance of clearing water to aid maintenance of the condition of the road.
- It was confirmed that a small budget had been allocated to footways. Officers stated a low number of complaints had been received regarding the condition of footpaths.
- Officers confirmed they would address members concerns in relation to matters within individual wards with members outside the meeting.

The Chair thanked the officers for the detailed responses to members concerns and questions. It was noted that highways maintenance was a difficult subject matter for all concerned.

The Committee:

***Resolved:*** - *subject to regard being given to the above observations and comments, that*

- (i) it was satisfied that the correct approach to highway maintenance was being applied, insofar that the best alignment between the risk to users and the utilisation of available funding was being achieved;***
- (ii) efforts should be made to encourage all councillors and employees to adopt and foster a 'One Council' corporate approach towards reporting problems or matters relating to the highways network; and***
- (iii) an information report be circulated to Committee members on the condition and maintenance plans for laybys adjacent to the County's highways network.***

## **6 SAFEGUARDING WELSH PLACE NAMES IN DENBIGHSHIRE**

Councillor Huw Hilditch-Roberts, Lead Member for Education, Children's Services and Public Engagement introduced Tim Dillon, Team Leader - Places Team, were welcomed to the committee meeting. The Lead Member guided members through

the report (previously circulated) stating the report presented the duties and role of the authority in safeguarding Welsh and historical place names in the county.

The Team Leader- Places Team provided members with further detail, stating the legal position was to have due regard to the guidance and Welsh heritage and language. It was not a specific duty to have strict Welsh Language naming but to have due regard to this. Members were informed that Denbighshire had very recently approved a policy in the context of street naming and numbering where the authority demonstrated above the legal requirement. Within the adopted policy it stated any new street named in the authority had to be in the Welsh Language.

The Chair thanked the Officer and Lead Member for the detailed report. The Lead Member and officer responded to members' comments, concerns and questions as follows –

- The Team Leader confirmed he would follow up concerns raised by councillors in relation to specific streets in member's wards. He requested members to contact him with details for further investigation.
- The owner of a new estate could propose names to the county for approval following the correct process and discussion.
- Praise was given to the authority for the commitment in naming street names in the Welsh language.
- Members raised concerns on the use of the word 'drive' on Welsh street names. The word 'Ffordd' was used on many street signs. It was suggested by the Team Leader to recommend to Cabinet for the policy to be amended to remove the word 'Dreif/Drive' from the list stated in the policy. The Scrutiny Co-ordinator stated it may be a Lead Member decision as it was only a slight amendment. Clarity on the correct procedure would be sought and adopted.
- Members noted the importance of the heritage behind many Welsh named roads. Local authorities had a duty to take into consideration historic Welsh names and not the literal interpretation or translation.
- The policy stated a street could not be named after an individual alive or deceased. Changing the name of an existing street would be done following the procedure set out in the street name changing policy. The Welsh Government policy would be followed for that change to take place.

The Chair brought the debate to a close and highlighted the concern regarding the amendment to the policy raised by members for consideration when formulating their resolutions. After a final discussion on the resolutions the Committee –

**Resolved: subject to the above observations –**

- (i) Confirm that it is satisfied that the Council is fully utilising all powers conferred upon it with regards to safeguarding Welsh and historical names in both the natural and built environment; and***
- (ii) That representations be made to the Cabinet Lead Member seeking him under powers delegated to him as Lead Member to approve the removal of the prefix/suffix 'Dreif'/'Drive' from the 'New Street***

***Names' list in Section B2 of Denbighshire's Street Naming and Numbering Policy January 2021.***

**7 SCRUTINY WORK PROGRAMME**

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

Discussion focused on the following –

- A decision was taken by the Chairs and Vice Charis group in November 2021 to cancel Scrutiny meetings during the pre-election period starting 18 March 2022.
- The next Communities Scrutiny meeting was scheduled for 10 March 2022. The SC advised that there were four items being discussed at the next meeting. The SC informed members she had not received confirmation that all reports would be ready for that meeting. The Task and Finish group for flood risk and riparian land ownership had also requested to report back to committee it's resolutions at the March meeting.
- The SC confirmed enquiries were being made on the Tourism Sign Strategy as it had been delayed due to Covid-19.
- Members were reminded to complete the scrutiny proposal form if there was anything members wished to examine in detail.

It was:

***Resolved: - subject to the above comments, and the outcomes of the Scrutiny Chairs and Vice-Chairs Group meeting to be held later that day, to confirm the Committee's forward work programme.***

**8 FEEDBACK FROM COMMITTEE REPRESENTATIVES**

The Chair advised the Committee that the Flood Risk Management and Riparian Land Ownership Task and Finish Group was scheduled to hold its final meeting the following day. At that meeting it would hopefully be finalising the contents and conclusions of its report with a view to presenting its recommendations to the Committee at its next meeting on 10 March 2022.

Councillor Merfyn Parry reminded members that a request for a report on the impact of the closure of Ysgol Rhewl on the community was presented to the committee. The Scrutiny Co-Ordinator confirmed that an information report had been included on the forward work programme to be circulated to members next month.

The meeting concluded at 11.47 am.

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|                             |                                                                                                                                                                                                           |
|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Report to</b>            | <b>Communities Scrutiny Committee</b>                                                                                                                                                                     |
| <b>Date of meeting</b>      | <b>10 March 2022</b>                                                                                                                                                                                      |
| <b>Lead Member/Officers</b> | <b>Councillors Julian Thompson-Hill/Brian Jones/Tony Thomas and Alan Smith &amp; Steve Gadd</b>                                                                                                           |
| <b>Report author</b>        | <b>Rhian Evans, Scrutiny Co-ordinator</b>                                                                                                                                                                 |
| <b>Title</b>                | <b>Review of Cabinet Decision relating to the Proposed Scheme of Delegated Decision Making for Land Acquisition (Freehold and Leasehold) for Carbon Sequestration and Ecological Improvement Purposes</b> |

## **1. What is the report about?**

- 1.1 A review under the Council's Scrutiny 'call-in' procedure of a decision taken by Cabinet, on 15<sup>th</sup> February 2022, on a 'Proposed Scheme of Delegated Decision Making for Land Acquisition (Freehold and Leasehold) for Carbon Sequestration and Ecological Improvement Purposes'.

## **2. What is the reason for making this report?**

- 2.1 A notice of a 'call-in' was submitted by 6 non-Cabinet councillors in accordance with the Council's Constitution. The notice (attached at Annex A) calls for a review by one of the Council's Scrutiny committees into a decision taken by Cabinet on 15<sup>th</sup> February 2022 in relation to a proposed scheme of delegated decision making for land acquisition for environmental and ecological purposes.

## **3. What are the Recommendations?**

That the Committee:

- 3.1 having considered the information in this report and its appendices, along with the representations made during the course of the discussion, determines whether to refer the decision on the 'Proposed Scheme of Delegated Decision

Making for Land Acquisition (Freehold and Leasehold) for Carbon Sequestration and Ecological Improvement Purposes’, taken on the 15<sup>th</sup> February 2022, back to Cabinet for further consideration; and

- 3.2 if it requests Cabinet to reconsider its original decision clearly identifies the reasons its seeks the review and formulates recommendation(s) it would like Cabinet to consider.

## 4. Report details

- 4.1 On the 15<sup>th</sup> February 2022 Cabinet considered a report on a ‘Proposed Scheme of Delegated Decision Making for Land Acquisition (Freehold and Leasehold) for Carbon Sequestration and Ecological Improvement Purposes’ (copy attached at Annex B).
- 4.2 At the conclusion of its discussion Cabinet resolved to:
- (a) *“approve the introduction of the new scheme of delegated decision making for land acquisition (freehold/leasehold) for carbon sequestration and ecological improvement purposes as proposed in Appendix 1 to the report,”*
  - (b) *confirms that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 2 to the report) as part of its consideration.”*
  - (c)
- 4.3 The Council’s ‘call-in’ procedure defines a process for Scrutiny to exercise its statutory powers to review or scrutinise executive decisions, and to request that the decision-maker reconsiders a decision that has been taken, prior to it being implemented.
- 4.4 Cabinet’s decision was published on the 17<sup>th</sup> February 2022. The ‘call-in’ procedure allows non-Cabinet councillors 5 working days in which to submit a notice of ‘call-in’. Councillor Merfyn Parry submitted a notice of ‘call-in’ electronically on 23 February. This request was supported (via individual e-mails) by five other non-Cabinet councillors, namely Councillors David G Williams, Melvyn Mile, Huw O Williams Rhys Thomas and Peter Evans.

4.5 The reason stated for 'calling-in' the decision is as follows:

“My Concerns are that the Council is in a position to land grab at an auction potentially out bidding any local farmers or landowner need. I understand that they are not after prime agricultural land however the decision needs to be discussed with the local Member and the local MAGs pre bidding on land without knowing local knowledge and need.”

4.6 The Council's 'call-in' procedure does stipulate that a special meeting of a scrutiny committee should be convened within 5 working days of the receipt of the Notice of Call-In of Decision unless a scrutiny committee has a scheduled meeting within that period. The procedure also states that this timeline can be extended if both the decision-maker and the chair of the scrutiny committee agree to an extension. As the decision did not require urgent implementation an extension to the timeline was agreed to enable the decision to be considered at the next available scrutiny committee meeting. Hence its presentation to the Committee at the current meeting.

4.7 After considering the Cabinet's decision and all representations made at the current meeting, Communities Scrutiny Committee must decide whether the decision should be referred back to Cabinet. If it determines that the decision merits being referred back to Cabinet the Committee needs to provide its reasons for referring it back, along with clear information on what it wants Cabinet to consider. Cabinet will consider the referral and the reasons submitted in support of the referral at its next available meeting. At that meeting Cabinet will be expected to demonstrate that appropriate consideration is given to the Scrutiny Committee's recommendations.

4.8 Cabinet will have the options to change or re-affirm its original decision.

4.9 If Communities Scrutiny Committee decides that Cabinet's decision should not be referred back to Cabinet, then the original decision can be implemented immediately.

## **5. How does the decision contribute to the Corporate Priorities?**

5.1. See Section 5 of the Cabinet report dated 15<sup>th</sup> February 2022 (Annex B).

## **6. What will it cost and how will it affect other services?**

6.1. See Section 6 of the Cabinet report dated 15<sup>th</sup> February 2022 (Annex B).

## **7. What are the main conclusions of the Well-being Impact Assessment?**

7.1. See Section 7 and Appendix 2 of the Cabinet report dated 15<sup>th</sup> February 2022 (Annex B).

## **8. What consultations have been carried out with Scrutiny and others?**

N/A. This report has been prepared under the provisions and timescales of the Council's Constitution for a 'call-in' of a Cabinet decision

## **9. Chief Finance Officer Statement**

9.1. See Section 9 of the Cabinet report dated 15<sup>th</sup> February 2022 (Annex B)

## **10. What risks are there and is there anything we can do to reduce them?**

10.1. See Section 10 and Appendix 6 to the Cabinet report dated 15<sup>th</sup> February 2022 (Annex B)

## **11. Power to make the decision**

11.1. Section 21(2) and (3) of the Local Government Act 2000

11.2. Sections 7.2.1 and 7.25 of the Council's Constitution



## ANNEX A



### **NOTICE OF CALL IN OF DECISION**

**To: Head of Legal and Democratic Services**

We, the undersigned, wish to call in the following decision (*see note 1*).

**Decision taken by** (*see note 2*): Cabinet

**Date decision was taken:** 15 February 2022

**Report Title:** PROPOSED SCHEME OF DELEGATED DECISION MAKING FOR LAND ACQUISITION (FREEHOLD AND LEASEHOLD) FOR CARBON SEQUESTRATION AND ECOLOGICAL IMPROVEMENT PURPOSES

**Decision** (*see note 3*): \_\_\_\_\_

Decisions (a) & (b) for business item 7 on the agenda:

***“RESOLVED that Cabinet –***

- (a) approve the introduction of the new scheme of delegated decision making for land acquisition (freehold/leasehold) for carbon sequestration and ecological improvement purposes as proposed in Appendix 1 to the report,”***
- (b) confirms that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 2 to the report) as part of its consideration.”***

**Reason for Call In:**

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My Concerns are that the Council is in a position to land grab at an auction potentially out bidding any local farmers or landowner need. I understand that they are not after prime agricultural land however the decision needs to be discussed with the local Member and the local MAGs pre bidding on land without knowing local knowledge and need.

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We (*see note 4*) request that according to the Council's approved 'call-in' procedure rules (*see note 5*) a meeting of the most appropriate Overview and Scrutiny Committee be held within 5 working days (*see note 6*) of the date of your receipt of this notice.

1. MERFYN PARRY (print) by e-mail (signature)
2. DAVID G WILLIAMS (print) confirmatory e-mail (signature)
3. MELVYN MILE (print) confirmatory e-mail (signature)
4. HUW O WILLIAMS (print) confirmatory e-mail (signature)
5. RHYS THOMAS (print) confirmatory e-mail (signature)
6. PETER EVANS (print) confirmatory e-mail (signature)

**Dated:** 23/02/2022

## Guidance Notes

1. Five working days are allowed for a decision to be called-in following its publication on the Council's web-site and notification to Members of the Council. Urgent decisions may proceed despite a call-in if the decision-maker has the agreement of:
  - (i) the chair of the relevant scrutiny committee, or
  - (ii) if there is no such person or that person is unable to act, the Chair of the Council, or
  - (iii) if there is no chair of the relevant scrutiny committee or Chair of the Council, the Vice Chair of the Council.
2. Please state the name of the decision maker e.g. Cabinet or the Lead Member for.....
3. If the decision contains more than one part, please state which are to be called-in, e.g. parts (a), (b), and (d) of the Resolution.
4. Signatories must be non-executive members. Councillors with a prejudicial interest in the decision may not be a signatory to the Notice of Call-in.
5. The Denbighshire Call-in Procedure Rules appear in the Council's Constitution *Part 4.5 – Scrutiny Procedure Rules*.
6. Timescales may be extended in exceptional circumstances with the agreement of the decision-maker and the chair of the relevant scrutiny committee.

### **For Office use only**

Received by:     Rhian Evans     Date: 23/02/2022

Date decision was published: 17/02/2022

Notification sent to Leader and the Decision taker (date): 23/02/2022

Notification sent to Chief Executive (date): 23/02/2022

Relevant Scrutiny Committee:     **Communities Scrutiny Committee**      
(extension to time period agreed by the Decision-Maker and Chair of the Scrutiny Committee)

Date: 10 March 2022 Time: 10am Venue: via Video Conference

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|                              |                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Report to</b>             | Cabinet                                                                                                                                                                                                                                                                                                                                          |
| <b>Date of meeting</b>       | 15 <sup>th</sup> February 2022                                                                                                                                                                                                                                                                                                                   |
| <b>Lead Member / Officer</b> | Cllr Brian Jones (Lead Member for Waste, Transport and the Environment), Cllr Tony Thomas (Lead Member for Housing and Communities), Cllr Julian Thompson Hill (Lead Member for Property & Finance) / Alan Smith (BIM Head of Service & Climate and Ecological Change Programme Senior Responsible Owner), Steve Gadd (Head of Finance & Assets) |
| <b>Report author</b>         | Andrew Cutts (Climate Change Programme Manager)                                                                                                                                                                                                                                                                                                  |
| <b>Title</b>                 | Proposed scheme of delegated decision making for land acquisition (freehold and leasehold) for carbon sequestration and ecological improvement purposes                                                                                                                                                                                          |

## **1. What is the report about?**

- 1.1 This report is about introducing a new scheme of delegated decision making for land acquisition (freehold/leasehold) for carbon sequestration and ecological improvement purposes so that land can be more promptly and effectively acquired, particularly in an auction scenario, so that the Council delivers upon its Climate Change and Ecological Emergency declaration and the subsequent targets within its Climate and Ecological Change Strategy (2021/22 – 2029/30).

## **2. What is the reason for making this report?**

- 2.1 A decision is required on whether or not to introduce the new scheme of delegated decision making as proposed.

## **3. What are the Recommendations?**

- 3.1 For Cabinet to approve the introduction of the new scheme of delegated decision making for land acquisition (freehold/leasehold) for carbon sequestration and ecological improvement purposes as proposed in Appendix 1.
- 3.2 That the Committee confirms that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 2) as part of its consideration.

## **4. Report details**

- 4.1 See Appendix 3 for detail on the Council's Net Carbon Zero and Ecologically Positive 2030 targets and rationale for acquisition for the purposes of carbon sequestration and ecological improvement.
- 4.2 See Appendix 4 for detail on the Council's current approach for acquisition (freehold/leasehold) for purposes of carbon sequestration and ecological improvement and how that would look under this proposed scheme of delegated decision making.

### **4.1 Proposed scheme of delegated decision making**

- 4.1.1 An identified risk (see Appendix 6) in successfully achieving our carbon sequestration targets is around the successful acquisition of land which comes on the open market, often in an auction selling environment, with short deadlines between advertisement and final bids. This was confirmed as an issue in September 2021 when 2 sites were available for purchase via auction which would have scored highly using the land assessment matrix (Appendix 5) but were not pursued due to not being able to complete the existing scheme of delegated decision making in the time available between advert and auction.
- 4.1.2 In order to secure sites in a prompt and effective manner it is proposed a new scheme of delegated decision making is put in place for specific site acquisitions for the purposes of carbon sequestration and ecological improvement. This would involve both financial aspects under the jurisdiction of Strategic Investment Group and land use aspects under the jurisdiction of Asset Management Group as outlined in the Council's Constitution.
- 4.1.3 The proposed new scheme of delegated decision making is provided in full in Appendix 1 and a description is below.

For acquisitions up to £1m in value and having costs within the budget envelope agreed by Budget Board for the Climate and Ecological Change Programme Land Use Workstream it is proposed that:

Strategic Investment Group delegate the decision for spending of capital for specific site acquisition to / that Asset Management Group delegate decisions on proposals for specific site acquisitions to:

the Head of Finance and Property in consultation with the Section 151 Officer, Monitoring Officer and Lead Member for Property & Finance, in conjunction with the Corporate Landlord, Lead Member for Waste, Transport and the Environment (covering Net Carbon Zero Council) and Lead Member for Housing and Communities (covering Ecologically Positive Council), to negotiate the acquisition of land for purposes of carbon sequestration and ecological improvement as long as the land in question does not meet any of the stated disqualifying criteria.

## **5. How does the decision contribute to the Corporate Priorities?**

- 5.1 The approach outlined will make a direct contribution to delivering upon the Council's Climate Change and Ecological Emergency declaration which committed the Council to become Net Carbon Zero by 2030, and the subsequently adopted Climate and Ecological Change Strategy, by supporting the increase in tonnage of carbon sequestered by Council owned/operated land and at the same time directly contributing to the achievement of Ecologically Positive Council by 2030 by increasing the number of hectares of Council owned/operated land in the highest species richness categories.
- 5.2 The approach outlined will support the Council in making its contribution to the Welsh Government policy for the public sector to be carbon neutral by 2030, for Wales to meet its legally binding target of reducing emissions to Net Zero by 2050 and supports the Council's statutory duty under Section 6 of the Environment (Wales) Act 2016 to "seek to maintain and enhance biodiversity".

## **6. What will it cost and how will it affect other services?**

- 6.1 Capital costs include any costs related to the acquisition of the land e.g. purchase cost, and any costs related to converting the land into woodland e.g. tree planting, and ecological improvement interventions e.g. habitat creation, livestock fencing. External grants would be sought wherever possible to provide a funding mix alongside capital allocated to the Climate and Ecological Change Programme each year as part of the budget setting process.
- 6.2 Revenue costs include fees and charges related to acquisition of the land which cannot be capitalised and costs related to the management of the asset thereafter. For woodland creation at scale, the approach being undertaken is that of natural regeneration wherever

possible. For woodland creation within communities the approach being undertaken is that of 'right tree, right place' to avoid unnecessary tree maintenance or failure. Sites acquired are likely to be added to the Countryside Services asset portfolio and will be reviewed from an ongoing management perspective. Revenue costs may be identified and external grant will be sought to supplement management budgets across all sites.

6.3 The likely impact on other service areas are as follows:

- Strategic Assets and Legal - in relation to land acquisition negotiations.
- Climate Change Team – providing project management to assess potential land acquisitions and deliver any subsequent woodland creation and habitat enhancement activity.
- Countryside Services – providing specialist advice for carbon sequestration and ecological improvement plans; undertaking operational management and maintenance.
- Democratic services - to manage a notice of decision process to enable sufficient awareness in case Members wish to call in the executive delegated decision.

## **7. What are the main conclusions of the Well-being Impact Assessment (WIA)?**

7.1 See Appendix 2 for the full WIA.

## **8. What consultations have been carried out with Scrutiny and others?**

8.1 The Climate and Ecological Change Strategy and the targets within, including the requirement to increase carbon sequestration, was consulted widely during 2020 and was positively received. This included 2 public engagement periods in January/February and November/December 2020 as well as engagement with all Member Area Groups, Cabinet and Lead Members. The Strategy was presented and adopted by Council, by unanimous vote, in February 2021. See [23<sup>rd</sup> February 2021 Council paper](#) for further information.

8.2 The proposed approach for land use and land acquisition for the explicit purposes of carbon sequestration and ecological improvement has been developed collaboratively with support of officers from: Strategic Assets, Valuation and Estates Team, Countryside Services, AONB, and the Climate Change Team. The officer group is supportive of the proposed approach.



- 8.3 Asset Management Group reviewed a paper on the proposed scheme of delegation on 19<sup>th</sup> July 2021 and approved the recommendation to introduce the scheme. This included a statement from the Corporate Landlord which supported the recommendations (Appendix 7).
- 8.4 Strategic Investment Group reviewed a paper on the proposed scheme of delegation on 27<sup>th</sup> July 2021 and approved the recommendation to introduce the scheme but only marginally. Under the recommendation of the Monitoring Officer, it was agreed to take the decision of whether or not to introduce this new scheme of delegated decision making to Cabinet.
- 8.5 Specific engagement work has been undertaken with Denbighshire agricultural stakeholders in January 2022, including with: Coleg Cambria – Llysfasi, Jones Peckover, Farmers' Union of Wales. Positive conversations were had with all that engaged in discussion.
- 8.6 The Monitoring Officer has confirmed the delegation process and wording is sufficient.

## **9. Chief Finance Officer Statement**

- 9.1 It is clear that land use and acquisition for carbon sequestration and ecological improvement purposes form a key part of the agreed Net Carbon Zero Target Programme. It is important to note that the annual budget allocation will still be subject to reports to the Budget Board and ultimately approval by Cabinet and Council and that individual projects over £1m will still require Cabinet approval. It is the professional opinion of senior officers within property and the programme that these proposals will help to secure sites in a prompt and effective manner and help the Council to achieve the 2030 target. On that basis the proposals are supported. If not approved, then an honest appraisal of the Council's ability to meet the agreed target should be brought forward.

## **10. What risks are there and is there anything we can do to reduce them?**

- 10.1 Pertinent risks provided in Appendix 6.

## **11. Power to make the decision**

- 11.1 See Appendix 8.

**Appendix 1- Proposed New Scheme of Delegated Decision Making**

| CURRENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | PROPOSED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>As per the Officer Scheme of Delegation section of the <a href="#">Council's Constitution</a> (page 128 onward).</li> </ul> <p>To the Head of Finance and Property:</p> <ol style="list-style-type: none"> <li>In consultation with the Corporate Director: Economy and Public Realm, to negotiate the acquisition and/or disposal of land for all purposes, in conjunction with the Councils Asset Management Group and/or the Strategic Investment Group and subject to the results thereof being reported to all Members for information, where appropriate.</li> <li>To authorise investment decisions following recommendations from Strategic Investment Group and their terms of reference.</li> </ol> | <ul style="list-style-type: none"> <li>In order to secure sites for purposes of carbon sequestration and ecological improvement in a prompt and effective manner, it is proposed the following, within the Officer Scheme of Delegation section of the <a href="#">Council's Constitution</a> the following wording added:</li> </ul> <p>For acquisitions for purposes of carbon sequestration and ecological improvement the delegation is as follows:</p> <p>To the Head of Finance and Property</p> <ol style="list-style-type: none"> <li>In consultation with the Section 151 Officer, Monitoring Officer and Lead Member for Property &amp; Finance, in conjunction with the Corporate Landlord, Lead Member for Waste, Transport and the Environment (covering Net Carbon Zero Council) and Lead Member for Housing and Communities (covering Ecologically Positive Council)*, to negotiate the acquisition of land for purposes of carbon</li> </ol> |

| CURRENT                                                                                                                                                                                                                                                                                                                                                                                                                                   | PROPOSED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>c) Acquisitions of land by freehold or leasehold, up to a market value or rental commitment for the term of the lease up to £30,000 if funding is available.</p> <p>d) Acquisitions of land by freehold or leasehold, up to a market value or rental commitment for the term of the lease from £30,001 and £1,000,000; if funding is available and in consultation with the Lead Member, S.151 Officer and the Monitoring Officer.</p> | <p>sequestration and ecological improvement as long the land in question does not meet any of the stated disqualifying criteria**.</p> <p>b) Acquisitions of land by freehold or leasehold, up to a market value or rental commitment for the term of the lease up to £30,000 if funding is available.</p> <p>c) Acquisitions of land by freehold or leasehold, up to a market value or rental commitment for the term of the lease from £30,001 and £1,000,000; if funding is available and in consultation with the Lead Member, S.151 Officer and the Monitoring Officer.</p> <p>e) Subject to the results thereof being reported to the Councils Asset Management Group and/or the Strategic Investment Group at the next nearest meeting, and being reported to all Members for information, where appropriate.</p> <p>*or the relevant successor role/s</p> |

| CURRENT | PROPOSED                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         | <p data-bbox="1120 316 2047 359">**disqualifying criteria is as follows:</p> <p data-bbox="1120 399 2047 494">Property that is classed in the following LDP classifications will not be considered:</p> <ul data-bbox="1164 542 1948 678" style="list-style-type: none"><li data-bbox="1164 542 1948 590">• BSC1 Housing Allocation or Housing Commitment</li><li data-bbox="1164 630 1601 678">• PSE2 Employment Areas</li></ul> |



## **Land use and acquisition for carbon sequestration and ecological improvement purposes :**

### **Well-being Impact Assessment Report**

This report summarises the likely impact of the proposal on the social, economic, environmental and cultural well-being of Denbighshire, Wales and the world.

**Assessment Number:** 957

**Brief description:** In order to help achieve the Council's ambition to become Net Carbon Zero and Ecologically Positive by 2030.... - The concept of woodland creation on land in Council ownership - The concept of acquiring land for the purpose of carbon sequestration and biodiversity

**Date Completed:** 01/02/2022 08:32:53 Version: 1

**Completed by:** Andrew Cutts

**Responsible Service:** Business Improvement & Modernisation

**Localities affected by the proposal:** Whole County,

**Who will be affected by the proposal?** Positively - Residents - Tourism industry - Visitors - Flora and fauna (plants and animals) - Council staff Negatively - Tenants of land we own but currently lease out - Other potential buyers of land

**Was this impact assessment completed as a group?** Yes

## Summary and Conclusion

Before we look in detail at the contribution and impact of the proposal, it is important to consider how the proposal is applying the sustainable development principle. This means that we must act "in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs."

### Score for the sustainability of the approach

**3 out of 4 stars**

**Actual score : 31 / 36.**

### Summary for each Sustainable Development principle

#### Long term

Progressing land use for the purpose of carbon sequestration and ecological improvement has long term thinking at its heart. To deliver immediate benefit of reduced flood risk, recreational value, urban cooling, health and wellbeing. And over time increase its benefit in carbon sequestration and air quality improvement. To continue to score highly in this principal need to ensure maintenance and management is appropriately addressed.

#### Prevention

Woodland creation is for the purpose of increasing carbon sequestration and ecological improvement and thus reduce climate change and nature's decline. Each site will be considered on an individual basis and in relation to the wider landscape - if appropriate, tree planting will be chosen for increasing canopy coverage. However, natural regeneration of trees and woodland will be the preferred option. Added benefits around increasing wellbeing through access to nature on peoples doorsteps.

#### Integration

Multiple benefits involved in woodland creation hitting other well-being goals and corporate priorities. Other public body objectives would be- NRW for flooding; Betsi Cadwaladr for health. Compatibility of carbon sequestration and ecology goals with the LDP is an interesting one and being actively

Land use and acquisition for carbon sequestration and ecological improvement purposes explored in the developing new LDP. Main compatibility focus would be how land is classified in the county.

### Collaboration

Wide collaboration internally across multiple services and departments, including the AONB Partnership. More limited externally, but early collaboration discussions with NRW. Stakeholder engagement has taken place with members of the agricultural community.

### Involvement

Engagement has been limited with residents on woodland creation and done currently on a site by site basis e.g. the public consultation day at Maes Gwilym (Rhyl) in June 2021. This will need to be ramped up throughout the 9 years. Proposal is that a lot of engagement is done via the Member Area Groups, Lead Members and Ward Members. This could be extended to C,T&CC's too as well as direct to residents.

### Summary of impact

| Well-being Goals                                                              | Overall Impact |
|-------------------------------------------------------------------------------|----------------|
| <a href="#">A prosperous Denbighshire</a>                                     | Positive       |
| <a href="#">A resilient Denbighshire</a>                                      | Positive       |
| <a href="#">A healthier Denbighshire</a>                                      | Positive       |
| <a href="#">A more equal Denbighshire</a>                                     | Neutral        |
| <a href="#">A Denbighshire of cohesive communities</a>                        | Neutral        |
| <a href="#">A Denbighshire of vibrant culture and thriving Welsh language</a> | Neutral        |

| <b>Well-being Goals</b>                             | <b>Overall Impact</b> |
|-----------------------------------------------------|-----------------------|
| <a href="#">A globally responsible Denbighshire</a> | Positive              |

### **Main conclusions**

The proposal has a strong positive impact to the delivery of 4 out of the 7 wellbeing goals and no negative contribution (remaining 3 goals neutral impact), particularly for the delivery of a resilient Denbighshire and a globally responsible Denbighshire. It also scores high (31/36) on the sustainable development principals with "long term" and "prevention" being at the proposals heart.



## **The likely impact on Denbighshire, Wales and the world.**

### **A prosperous Denbighshire**

#### **Overall Impact**

Positive

#### **Justification for impact**

Proposal has the potential to provide additional social, environmental and economic value to Denbighshire increasing its prosperity, particular in the areas of access to green space and boosting the visitor economy.

#### **Further actions required**

Ensuring Countryside Services fleet vehicles transition early to ULEV early in the 9 year decarbonisation of fleet programme leading up to 2030.

Ensuring land use allocation in LDP is actively considered in site selection for woodland creation plus considerations around grading of agricultural land. Unproductive land prioritised for woodland creation wherever possible.

#### **Positive impacts identified:**

##### **A low carbon society**

Woodland creation and nature areas will be done by natural regeneration wherever possible and by utilising wildflower seed harvested locally or/and trees grown by our Council Tree Nursery

##### **Quality communications, infrastructure and transport**

Proposal is both safeguarding and creating new green space for the benefit of recreation, carbon sequestration, and biodiversity.

##### **Economic development**

Proposal has benefits for the tourism industry/ visitor economy as more nature sites for people to visit and enjoy.

Land use and acquisition for carbon sequestration and ecological improvement purposes

**Quality skills for the long term**

Proposal opens up opportunities for skill development in green industries.

**Quality jobs for the long term**

No direct jobs are suggested to be created by this proposal currently but likely to support the developing green industry in North Wales.

**Childcare**

n/a

**Negative impacts identified:**

**A low carbon society**

Increasing the number of woodland sites the Council owns will require staff to travel to these sites to periodically check up on them. However, Countryside Services fleet will be transitioning to EV's by 2030 reducing carbon impact.

**Quality communications, infrastructure and transport**

n/a

**Economic development**

Potential competing demands on land needing to be used for woodland creation. Land allocated for employment in LDP will not be utilised.

**Quality skills for the long term**

n/a

**Quality jobs for the long term**

n/a

**Childcare**

n/a

**A resilient Denbighshire**

**Overall Impact**

Positive

**Justification for impact**

This workstream is all about creating woodland and spaces for nature to the benefit of increasing the County's resilience to climate change and its impacts such as flooding.

**Further actions required**

Need to ensure only suitable tree species are incorporated on wetlands or marsh land which would impair that habitat in retaining water.

**Positive impacts identified:**

**Biodiversity and the natural environment**

This workstream is all about creating woodland and spaces for nature. The definition for woodland will be maximised on (i.e. 20% of square meter with tree cover) to allow for a matrix of habitat to be created to support a great species diversity. Mixed broadleaf and yew native planting progressed.

**Biodiversity in the built environment**

n/a

**Reducing waste, reusing and recycling**

n/a

**Reduced energy/fuel consumption**

Land use and acquisition for carbon sequestration and ecological improvement purposes

n/a

### **People's awareness of the environment and biodiversity**

By having more green spaces and spaces for nature accessible to people will increase peoples awareness and appreciation of environment and biodiversity. Also the wider communication on why the Council is doing this i.e. to increase the capture of carbon emissions to prevent worsening climate change.

### **Flood risk management**

Mutual benefits between carbon sequestration, ecological improvement and reducing flood risk will be maximised upon e.g. through planting of upstream catchment areas to trap more water upstream for longer.

### **Negative impacts identified:**

#### **Biodiversity and the natural environment**

n/a

#### **Biodiversity in the built environment**

n/a

#### **Reducing waste, reusing and recycling**

n/a

#### **Reduced energy/fuel consumption**

n/a

### **People's awareness of the environment and biodiversity**

n/a

### **Flood risk management**

Land use and acquisition for carbon sequestration and ecological improvement purposes

Need to ensure only suitable tree species are incorporated on wetlands or marsh land which would impair that habitat in retaining water.

## **A healthier Denbighshire**

### **Overall Impact**

Positive

### **Justification for impact**

The improvement of existing green spaces into woodland and creation of new woodlands and places for nature provide greater interest and opportunities to promote health and mental wellbeing goals as well as leisure and activity pursuits.

### **Further actions required**

Need to be careful where woodland created to avoid any feelings of 'loss' for how the land used previously.

Need to take community with us and engender a feeling of joint ownership with local people so to avoid issues of vandalism/anti social behaviour.

### **Positive impacts identified:**

#### **A social and physical environment that encourage and support health and well-being**

The improvement of existing green spaces into woodland and creation of new woodlands and places for nature provide greater interest and opportunities to promote health and wellbeing goals. Such as volunteering, connecting to the signs and sounds of nature, access to enjoy the open air.

#### **Access to good quality, healthy food**

n/a

#### **People's emotional and mental well-being**

There is a much researched and evidenced link between being outdoors amongst nature and the

Land use and acquisition for carbon sequestration and ecological improvement purposes improvement of mental well-being. The improvement of existing green spaces into woodland and creation of new woodlands and places for nature provide increased and geographically spread access.

### **Access to healthcare**

n/a

### **Participation in leisure opportunities**

The improvement of existing green spaces into woodland and creation of new woodlands and places for nature provide increased and geographically spread access to increase availability of these places for leisure.

### **Negative impacts identified:**

#### **A social and physical environment that encourage and support health and well-being**

Increased opportunity for vandalism and/or places for anti social activities to take place. However, such concerns would be addressed prior to site alterations to aim for a focus on the positive opportunity overall.

### **Access to good quality, healthy food**

n/a

### **People's emotional and mental well-being**

Need to be careful where woodland created to avoid any feelings of 'loss' for how the land was used previously.

### **Access to healthcare**

n/a

### **Participation in leisure opportunities**

Need to be careful where woodland created to avoid any feelings of 'loss' for how the land used

Land use and acquisition for carbon sequestration and ecological improvement purposes previously.

## **A more equal Denbighshire**

### **Overall Impact**

Neutral

### **Justification for impact**

A more equal Denbighshire isn't a core objective of this project but has a contribution to play and at the very least is being planned in a way that doesn't exacerbate inequalities.

### **Further actions required**

Ensure any access requirements addressed when creating woodland and spaces for nature which are open to public. Maximise on opportunities for woodland creation and spaces for nature in or close to areas affected by socio-economic disadvantage.

### **Positive impacts identified:**

**Improving the well-being of people with protected characteristics. The nine protected characteristics are: age; disability; gender reassignment; marriage or civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation**

This activity is being delivered to tackle climate change and nature's decline which impacts everyone.

### **People who suffer discrimination or disadvantage**

If existing green spaces are improved or new woodland created which includes public access that access requirements to enable all people to contribute will be pursued.

### **People affected by socio-economic disadvantage and unequal outcomes**

Woodland creation could be in locations of socio-economic disadvantage. Some external grants for woodland creation have this as a prerequisite for access to grant. This could provide volunteering opportunities to people with socio-economic disadvantage on their doorstep.

Land use and acquisition for carbon sequestration and ecological improvement purposes

**Areas affected by socio-economic disadvantage**

Woodland creation could be in locations of socio-economic disadvantage. Some external grants for woodland creation have this as a prerequisite for access to grant.

**Negative impacts identified:**

**Improving the well-being of people with protected characteristics. The nine protected characteristics are: age; disability; gender reassignment; marriage or civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation**

n/a

**People who suffer discrimination or disadvantage**

n/a

**People affected by socio-economic disadvantage and unequal outcomes**

n/a

**Areas affected by socio-economic disadvantage**

Location of sites for woodland creation will be led on land availability and the site's appropriateness (for various environmental factors) for woodland creation, it won't be led in the first instance by where areas of socio-economic disadvantage are.

**A Denbighshire of cohesive communities**

**Overall Impact**

Neutral

**Justification for impact**

A Denbighshire of cohesive communities isn't a core objective of this project but has contribution to play particularly around resilience.



Land use and acquisition for carbon sequestration and ecological improvement purposes

### **Further actions required**

Need to take community with us and engender a feeling of joint ownership for woodland created with the community so to avoid issues of vandalism/anti social behaviour. Need to think about how visitors get to sites created which are more rural if they have public access.

### **Positive impacts identified:**

#### **Safe communities and individuals**

n/a

#### **Community participation and resilience**

Woodland creation on sites close to where people live, we will engage the local population on plans for the site- seeking their views on what they want to see and seeking their views for design of the sites.

Mutual benefit of using woodland to reduce flood risk will also be maximised upon where possible and thus increase community resilience to impacts of climate change.

#### **The attractiveness of the area**

This project is about safeguarding and increasing green space for the benefit carbon absorption and biodiversity and thus increases attractiveness of area and opportunities for recreation.

#### **Connected communities**

Some people prefer to travel on foot/bike and will have greater opportunity to move through accessible and connected green spaces.

#### **Rural resilience**

Work to improve biodiversity, including diversity and abundance of insect pollinators, supports the farming industry through crop pollination. Woodland creation on non productive land gives formally low value land a higher value. Increasing woodland creation and spaces for nature could increase footfall into rural areas and opportunities for rural assets like pubs, shops, cafes.

### **Negative impacts identified:**

Land use and acquisition for carbon sequestration and ecological improvement purposes

**Safe communities and individuals**

Increased opportunity for vandalism and/or places for anti social activities to take place.

**Community participation and resilience**

n/a

**The attractiveness of the area**

n/a

**Connected communities**

n/a

**Rural resilience**

n/a

**A Denbighshire of vibrant culture and thriving Welsh language**

**Overall Impact**

Neutral

**Justification for impact**

A Denbighshire of vibrant culture and thriving Welsh language isn't a core objective of this project but has contribution to play particularly around use of any information board or incorporation of any art/sculpture into sites created.

**Further actions required**

Ensure site selection for woodland creation is considerate to any sites of cultural and heritage significance - particularly relevant for any woodland creation within the AONB area of Denbighshire.

Land use and acquisition for carbon sequestration and ecological improvement purposes

**Positive impacts identified:**

**People using Welsh**

Any signage or information relating to sites created will be bilingual.

**Promoting the Welsh language**

Any signage or information relating to sites created will be bilingual.

**Culture and heritage**

Any signage or information relating to sites which could also tell a local story about the wider place could be maximised upon e.g. Pengwern can translate to 'head of the alder (a species of tree) swamp'.

**Negative impacts identified:**

**People using Welsh**

n/a

**Promoting the Welsh language**

n/a

**Culture and heritage**

Ensure site selection for woodland creation is considerate to any sites of cultural and heritage significance - particularly relevant for any woodland creation within the AONB area of Denbighshire.

**A globally responsible Denbighshire**

**Overall Impact**

Positive

**Justification for impact**

## Land use and acquisition for carbon sequestration and ecological improvement purposes

This proposal is all about increasing woodland for carbon sequestration purposes whilst improving biodiversity and thus specifically about preventing the problem of climate and nature's decline from getting worse.

### **Further actions required**

No negatives of note. Opportunities for mutual benefit in tackling the impact of climate and ecological change already being felt will be maximised upon e.g. woodland creation to reduce flood risk, tree cover to reduce air pollution and urban heating etc.

### **Positive impacts identified:**

#### **Local, national, international supply chains**

Trees, plants, seeds will be of native provenance and sourced as locally as possible, if not grown internally at the Council's Tree Nursery.

Projects for woodland creation could provide activity for contractors working for the Council on other contracts to contribute to via Community Benefits process.

### **Human rights**

n/a

### **Broader service provision in the local area or the region**

n/a

### **Reducing climate change**

This proposal is all about increasing woodland for carbon sequestration purposes whilst improving biodiversity and thus specifically about preventing the problem of climate and nature's decline from getting worse.

Opportunities for mutual benefit in tackling the impact of climate and ecological change already being felt will be maximised upon e.g. woodland creation to reduce flood risk, tree cover to reduce air pollution and urban heating etc. Thus the proposal is likely to better prepare Denbighshire and beyond for a future with climate change.

Land use and acquisition for carbon sequestration and ecological improvement purposes

**Negative impacts identified:**

**Local, national, international supply chains**

An active 'grow your own' or buy local approach will be undertaken thus national and international supply chains will 'miss out'

**Human rights**

n/a

**Broader service provision in the local area or the region**

n/a

**Reducing climate change**

n/a

### **Appendix 3 - The Council's Net Carbon Zero and Ecologically Positive 2030 targets**

1. The Council declared a Climate Change and Ecological Emergency in July 2019 which committed the Council to become Net Carbon Zero by 2030. Subsequently the [Climate and Ecological Change Strategy](#) (CECS) was approved in February 2021 with the Net Carbon Zero by 2030 Goal and what that means in terms of carbon emission reduction and carbon sequestration increase.
2. Net Carbon Zero means the total carbon emissions (from Council buildings, fleet, waste generated in operations, business travel, staff commuting, street lighting) being equal to the total carbon absorbed by the land owned/leased in and managed by the Council by 31<sup>st</sup> March 2030. In 2019/20 the Council's carbon emissions were: 16,448 tonnes. In 2019/20 the Council's carbon sequestration was: 2,418 tonnes. Therefore, Net Carbon Zero position is: 14,030 tonnes. The goal is to reduce carbon emissions and increase carbon sequestration to get that Net Carbon Zero position to zero.
3. Whilst the Council is committed to going as far and as fast as we can to reduce the Council's carbon emissions, it is not possible to reduce the Council's carbon emissions to zero (from Council buildings, fleet, waste generated in operations, business travel, staff commuting, street lighting). Therefore, we need to increase carbon sequestration to offset the emissions we are unable to reduce/remove. The achievement pathway estimates carbon sequestration will need to increase by 4,911 tonnes to a figure of 7,329 tonnes by 2030 to meet our Net Carbon Zero goal.
4. Land eligible to be counted within the Council's carbon sequestration figures includes: land the Council owns and manages and land the Council leases from others and manages. Note: land the Council owns but then leases out to others to manage e.g. tenanted agricultural estate, cannot be included.
5. The Council is pursuing a multifaceted approach to achieving that additional carbon sequestration tonnage required including:
  - a) Improving the accuracy of our carbon sequestration data including the accounting of carbon from Council owned urban trees;
  - b) Increasing the carbon sequestration value of our existing freehold/leasehold land that we manage;

- c) Protecting our existing green spaces as much as we can from development where appropriate;
  - d) Maximising on opportunities to convert brown field sites where appropriate into woodland and/or grassland (depending on suitability);
  - e) Maximising on opportunities to bring land leased out back into Council management where appropriate and convert to woodland (if not already) or keep as grassland (depending on suitability); and
  - f) Seeking acquisition opportunities, freehold and leasehold, and convert to woodland (if not already) or keep as grassland (depending on suitability).
6. Approaches a to e listed above will not be enough to meet our carbon sequestration target of 7,329 tonnes by 2030; acquisition, freehold or leasehold, is required and due to the nature of the market and the time window in which to achieve target means that options for acquisition will need to be considered every year for the 9 years up to 2030.
7. In addition, to achieve Ecologically Positive Council by 2030 requires the Council to increase the amount of land it owns/leases and manages that is in the highest categories of species richness by at least 13% compared to 2019/20 baseline.
8. The carbon sequestration target and the species richness target as part of the Ecologically Positive Council goal are complementary. Mixed broadleaved and yew woodland is the second highest species richness category and this woodland can be created in a way that contains a mosaic of grassland and scrub patches increasing the diversity of species and ecological niches these sites contain, whilst complying with the UK Land Inventory Definition for land to be classified as forestland as follows:
- a. the land parcel must be
    - i. minimum area of 0.1 hectares;
    - ii. minimum width of 20 metres;
    - iii. tree crown cover of at least 20 per cent, or the potential to achieve it; and
    - iv. minimum height of 2 metres, or the potential to achieve it.

#### **Appendix 4 - The Council's approach for acquisition (freehold/leasehold) for purposes of carbon sequestration and ecological improvement.**

1. A scoring matrix based on various categories has been developed to assess sites for acquisition (freehold/leasehold) for the purposes of carbon sequestration and ecological enhancement (see appendix 5).
2. Land is scored for its potential to do the following:
  - a) The potential to sequester carbon – to meet our Net Carbon Zero target;
  - b) The potential to enhance biodiversity – to meet our Ecologically Positive target;
  - c) The potential to reduce flooding through planting or different management regimes;
  - d) The potential to be manageable.
3. If the land scores well at assessment and there are no immediate legal concerns discovered in the early negotiations with the seller/land agent, the current process for any land acquisition for carbon sequestration and ecological improvement purposes is as follows:
  - a) Ward Member notified
  - b) MAG consulted
  - c) Independent valuation sought
  - d) Paper to Asset Management Group (AMG), to gain approval for any acquisition (if site over £1m then requires Cabinet approval)
  - e) Paper to Strategic Investment Group (SIG), to gain approval to spend the capital.
4. Under the proposed scheme of delegated decision making and if the land scores well at assessment and there are no immediate legal concerns discovered in the early negotiations with the seller/land agent, the process for any land acquisition for carbon sequestration and ecological improvement purposes is as follows:



- a) Ward Member notified
- b) MAG consulted (if MAG meeting not scheduled, MAG chair notified)
- c) Independent valuation sought
- d) Request to the Head of Finance and Property to acquire the land under delegated authority (see appendix 1)
- e) Offer on land and negotiations concluded.
- f) Paper to Asset Management Group (AMG) at soonest opportunity to let them know about acquisition.
- g) Paper to Strategic Investment Group (SIG) at soonest opportunity to let them know about budget used.

## Appendix 5 - Land Assessment Criteria

As part of the Climate & Ecological Strategy, the matrix has been developed to assess sites:

- For consideration for acquisition for either carbon sequestration or ecological enhancement; OR
- Before disposal of existing DCC sites.

Only property that is exclusively or partly within the county of Denbighshire will be considered.

Property that is classed in the following LDP classifications will not be considered:

- BSC1 Housing Allocation or Housing Commitment
- PSE2 Employment Areas

The matrix is to be used as a guide only – not the definitive mechanism for deciding whether or not a particular property should be acquired, as other factors outside the matrix criteria may have a bearing on the suitability of a property for purchase (e.g. value of the site for curlew habitat). The matrix tries to achieve a reasonable balance between the following factors in relation to identified properties:

1. The potential to sequester carbon – to meet our Net Carbon Zero target;
2. The potential to enhance biodiversity – to meet our Ecologically Positive target;
3. The potential to reduce flooding through planting or different management regimes;

4. The potential to be manageable e.g. proximity to existing DCC sites, building liabilities, etc.
5. The occurrence of key risks/ issues e.g. presence of ash trees, ability to attract external funding, etc.

|   | Criteria                                    | Scores 0                                                                        | Scores 1                                                                         | Scores 2                                                   | Scores 3                                                                          | Scores 4                                                                                 | Scores 5                                                                                |
|---|---------------------------------------------|---------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1 | <b>Site Size</b>                            | Less than 0.5 acres                                                             | 0.5 to 1 acres                                                                   | 1 to 50 acres                                              | 50 - 200 acres                                                                    | 200 - 1,000 acres                                                                        | More than 1,000 acres                                                                   |
| 2 | <b>Agricultural Classification</b>          | Grade 1- Excellent, Grade 2- Very Good, Grade 3a - Good                         | Grade 3b - Moderate                                                              | Grade 4 – Poor                                             | Grade 5 – Very Poor                                                               | No agricultural designation                                                              | Brownfield site                                                                         |
| 3 | <b>Carbon sequestration value (current)</b> | Less than 20% existing tree crown cover. Less than 2 meters' height and not the | Less than 20% existing tree crown cover. Less than 2 meters' height but with the | Less than 20% existing tree crown cover. 2 meters' height. | Less than 20% existing tree crown cover. At least 2 meters' height with under 50% | 20% + existing tree crown cover. At least 2 meters' height with under 50% being examples | 20%+ existing cover. At least 2 meters' height with 50%+ being examples of older trees. |

|   | <b>Criteria</b>                         | <b>Scores 0</b>              | <b>Scores 1</b>                                                            | <b>Scores 2</b>                                                               | <b>Scores 3</b>                                                      | <b>Scores 4</b>                                                                              | <b>Scores 5</b>                                                                  |
|---|-----------------------------------------|------------------------------|----------------------------------------------------------------------------|-------------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
|   |                                         | potential to achieve it      | potential to achieve it                                                    |                                                                               | being examples of older trees.                                       | of older trees.<br>Under 50% Broadleaved or Yew specimens.                                   | 50% + Broadleaved or Yew specimens.                                              |
| 4 | <b>Carbon sequestration (potential)</b> | Unsuitable for tree planting | No potential for natural regeneration. Significant tree planting required. | Potential for some natural regeneration with significant additional planting. | Potential for natural regeneration with limited additional planting. | Potential for natural regeneration without planting. Some non-native rectification required. | Potential for natural regeneration without planting or non-native rectification. |
| 5 | <b>Habitat potential (connections)</b>  | Connected forestland of      | Connected forestland – 0.5 to 1 acres                                      | Connected forestland – 1 to 50 acres                                          | Connected forestland – 50 to 20 acres                                | Connected forestland –                                                                       | Connected forestland of                                                          |

|   | <b>Criteria</b>                                               | <b>Scores 0</b>                                                                                    | <b>Scores 1</b>                                                                | <b>Scores 2</b>                                                                                     | <b>Scores 3</b>                                                                                     | <b>Scores 4</b>                                                                              | <b>Scores 5</b>                                                                              |
|---|---------------------------------------------------------------|----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
|   |                                                               | less than 0.5 acres                                                                                |                                                                                |                                                                                                     |                                                                                                     | 200 to 1,000 acres                                                                           | more than 1,000 acres                                                                        |
| 6 | <b>Habitat potential (water)</b>                              | No watercourses or water bodies. Land unsuitable to create water bodies                            | No watercourses or water bodies. Land suitable to create water bodies          | No watercourses. Water bodies present.                                                              | Watercourses present. No water bodies.                                                              | Watercourses and water bodies present. Low density/ Low quality                              | Watercourses and water bodies present. High density/ High quality                            |
| 7 | <b>Habitat potential (biodiversity enhancement potential)</b> | Species/habitats of conservation concern present, on or adjacent to site, which would be harmed by | No species or habitats of conservation concern present on or adjacent to site. | Species or habitats of conservation concern present on site. No species or habitats of conservation | No species or habitats of conservation concern present on site. Species or habitats of conservation | Species or habitats of conservation concern present on and adjacent to site (poor condition) | Species or habitats of conservation concern present on and adjacent to site (good condition) |

|    | <b>Criteria</b>                               | <b>Scores 0</b>                                                                                  | <b>Scores 1</b>                                                                         | <b>Scores 2</b>                                                                                      | <b>Scores 3</b>                                                                                         | <b>Scores 4</b>                                                                                       | <b>Scores 5</b>                                             |
|----|-----------------------------------------------|--------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
|    |                                               | creation of<br>“forestland”                                                                      |                                                                                         | concern<br>adjacent to site.                                                                         | concern<br>adjacent to site.                                                                            |                                                                                                       |                                                             |
| 8  | <b>Flood<br/>Management<br/>Potential</b>     | No potential                                                                                     | Very poor<br>potential                                                                  | Poor potential                                                                                       | Good potential                                                                                          | Very Good<br>potential                                                                                | Excellent<br>potential                                      |
| 9  | <b>Manageability<br/>– Buildings</b>          | Multiple<br>buildings on the<br>site which<br>present<br>immediate<br>maintenance<br>liabilities | Single building<br>on site which<br>presents<br>immediate<br>maintenance<br>liabilities | Buildings on<br>site but low<br>confidence of<br>productive use<br>or<br>straightforward<br>disposal | Buildings on<br>site but medium<br>confidence of<br>productive use<br>or<br>straightforward<br>disposal | Buildings on<br>site but high<br>confidence of<br>productive use<br>or<br>straightforward<br>disposal | No buildings on<br>the site                                 |
| 10 | <b>Manageability<br/>– adjacent<br/>sites</b> | No existing<br>DCC<br>“countryside”                                                              | Within 3 to 10<br>miles of existing<br>DCC                                              | Within 3 miles<br>of existing DCC                                                                    | Connects to<br>existing DCC<br>“countryside”                                                            | Connects to<br>existing DCC<br>“countryside”                                                          | Connects two<br>or more<br>“countryside”<br>sites currently |

| Criteria | Scores 0                                                                                                                                          | Scores 1                                                                                                        | Scores 2                                                                                                                                            | Scores 3                                                                                                                                          | Scores 4                                                                                             | Scores 5                                                                                                 |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
|          | site within 10 miles                                                                                                                              | “countryside” site                                                                                              | “countryside” site                                                                                                                                  | sites of less than 5 acres                                                                                                                        | sites of more than 5 acres                                                                           | in DCC ownership                                                                                         |
| 11       | <b>Manageability - use of naturalistic grazing animals as the primary management tool</b><br>No access from the roadside to load/unload livestock | Difficult access from the roadside to load/unload livestock, no current presence of stock proof fencing/hedging | Difficult access from the roadside to load/unload livestock, there is presence of stock proof fencing/hedging but incomplete and requires attention | Workable access from the roadside to load/unload livestock, there is presence of stock proof fencing/hedging but incomplete or requires attention | Easy access from the roadside to load/unload livestock, stock proof fencing/hedging surrounding site | Adjacent access from the roadside to load/unload livestock, stock proof fencing/hedging surrounding site |

**Appendix 6 – Risks and Mitigation**

| Title                                                                                    | Inherent Risk | Mitigating Action                                                                                                                                                                                                                                                                                                                                                                                                                                         | Residual Risk |
|------------------------------------------------------------------------------------------|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Availability of the type of land we want to purchase for increasing carbon sequestration | 2C            | <ul style="list-style-type: none"> <li>Actively monitor the market and also word of mouth for potential opportunities</li> <li>Keep abreast on the new policies post Brexit and maximise on any opportunities that might ensue</li> <li>Ensure pathway to purchase is as smooth as possible in readiness for opportunities e.g. delegated approvals in place etc.</li> <li>Ensure budget available to jump on opportunities when they come up.</li> </ul> | 2D            |
| Another buyer offers on the sites we are targeting before us and the offer is accepted   | 1C            | <ul style="list-style-type: none"> <li>Horizon scan and maximise on word of mouth for potential purchases</li> </ul>                                                                                                                                                                                                                                                                                                                                      | 1D            |



| Title                                                                   | Inherent Risk | Mitigating Action                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Residual Risk |
|-------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
|                                                                         |               | <ul style="list-style-type: none"> <li>• Complete the assessment on potential sites asap on discovering an opportunity</li> <li>• Seek ward member and MAG engagement on the potential purchase asap</li> <li>• Seek independent valuation asap on potential purchase</li> <li>• Attend AMG asap in the negotiation process</li> <li>• Develop business case as quickly as possible for SIG.</li> <li>• Seek a new delegated authority to enable purchases for the purposes of carbon sequestration and ecological improvement to happen quicker.</li> </ul> |               |
| The asking price for the sites is higher than the independent valuation | 1D            | <ul style="list-style-type: none"> <li>• n/a- accept risk</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 1D            |

| Title                                                                                           | Inherent Risk | Mitigating Action                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Residual Risk |
|-------------------------------------------------------------------------------------------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Management and maintenance of additional nature sites become a financial and operational burden | 2D            | <ul style="list-style-type: none"><li>• Ensure that initial procurement has strong focus on efficiency and low running costs for all equipment and facilities.</li><li>• Maximise on opportunities for grant funding in future years.</li><li>• Forecast additional revenue pressures and flag early through budget setting cycle.</li><li>• Maximise on land purchase opportunities (large and few) to keep management burden low, to be able to manage the land through natural regeneration and use of static livestock.</li><li>• Consider location of additional nature sites, being close to existing sites in Countryside Services portfolio wherever possible.</li></ul> | 4E            |

|            |                    |                    |            |               |             |                     |
|------------|--------------------|--------------------|------------|---------------|-------------|---------------------|
| Likelihood | A - Almost Certain | Yellow             | Orange     | Orange        | Red         | Red                 |
|            | B - Highly Likely  | Yellow             | Yellow     | Orange        | Red         | Red                 |
|            | C - Probable       | Green              | Yellow     | Yellow        | Orange      | Red                 |
|            | D - Possible       | Green              | Green      | Yellow        | Orange      | Orange              |
|            | E - Rare           | Green              | Green      | Yellow        | Yellow      | Orange              |
|            |                    | 5 -<br>Very<br>Low | 4 -<br>Low | 3 -<br>Medium | 2 -<br>High | 1 -<br>Very<br>High |
|            |                    | Impact             |            |               |             |                     |

## **Appendix 7- Corporate Landlord Statement**

It is clear that the council can only achieve its target to become Net Carbon Zero and Ecologically Positive by 2030 through a very significant increase in the amount of carbon sequestered on land it manages, and in turn that can only be achieved through a programme of land acquisition. The amount of additional land required is substantial, and our ability to deliver on this will be constrained by the amount of land that will actually come onto the market in the programme period, the cost of the land and the available budget for acquisition. A further constraint may be our ability to manage such an increased land holding, which has been referenced in the report. These constraints are recognised and are reflected in the Risk Register. In order to optimise the opportunity to purchase land as it comes onto the market, the proposed delegation process is also supported (rather than a requirement to take a Business Case to SIG for each acquisition).

## Appendix 8 - Power to make the decision

| LEGISLATION / POLICY / DUTY             | POWER                                                                                                                                                  |
|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| Local Government Act 1972               | General powers and consents to acquire and dispose of land.                                                                                            |
| Section 2, Local Government Act 2000    | The power to do anything which DCC consider is likely to achieve the promotion or improvement of the environmental well-being of their area.           |
| Section 111, Local Government Act 1972  | The power to do anything which is conducive to, or calculated to facilitate, the discharge of the Council's functions.                                 |
| Section 6, Environment (Wales) Act 2016 | Statutory duty to seek to maintain and enhance biodiversity.                                                                                           |
| Section 13.2, DCC Constitution          | All decisions of the Council will be made in accordance with the following principles: 13.2.8 having regard to tackling climate and ecological change. |

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|                        |                                                                         |
|------------------------|-------------------------------------------------------------------------|
| <b>Report to</b>       | Communities Scrutiny Committee                                          |
| <b>Date of meeting</b> | 10 March 2022                                                           |
| <b>Presented by:</b>   | Councillor Huw O Williams, Chair of the Task and Finish Group           |
| <b>Report author</b>   | Karen Evans, Democratic Services Officer                                |
| <b>Title</b>           | Flood Risk Management and Riparian Land Ownership Task and Finish Group |

## 1. What is the report about?

1.1. The report attached as appendix 1 details the scope and findings of the Flood Risk Management and Riparian Land Ownership Task and Finish Group. It explores potential methods for strengthening communication channels and building effective working relationships between all parties and organisations that have responsibilities for managing flood risk from rivers and watercourses across Denbighshire.

## 2. What is the reason for making this report?

2.1. The purpose of this report is to update the Scrutiny Committee on activities of the Task and Finish Group and ask that the Communities Scrutiny Committee consider and agree the recommendations made.

## 3. What are the Recommendations?

3.1. That a Flood Risk working group comprising of the flood risk management authorities and land owner representatives continue to meet on an annual basis for an updated position on issues and expectations.

3.2. That the Local Flood Risk Management Strategy page be re-launched including:

3.2..1. links to related Natural Resources Wales and Dŵr Cymru/Welsh Water web pages and

3.2..2. explanation of the responsibilities of Flood Risk Authorities riparian land owners.

3.3. That working in partnership with Natural Resources Wales and Dŵr Cymru/Welsh Water a generic information leaflet/letter be created on the

responsibilities of riparian land owners and distributed to properties adjacent Rhyl Cut and Prestatyn Gutter.

- 3.4. That the report presented to Communities Scrutiny Committee, upon approval by the Committee, be translated and circulated to and Town, City and Community Councils for inclusion on their websites.

## 4. Report details

4.1. The Group identified that the responsibilities for where flood risk management lies for rivers and watercourses throughout Denbighshire are as follows:

- 4.1.1 Denbighshire County Council (DCC) and Natural Resources Wales (NRW) are flood risk management authorities defined by the Flood and Water Management Act 2010.
- 4.1.2 NRW are responsible for risk management relating to flooding of main rivers whilst DCC manage the risk of flooding to other ordinary watercourses – smaller rivers, ditches, drains, sewers and culverts etc. [Natural Resources Wales / Responsibility for rivers, streams, culverts, and canals.](#)
- 4.1.3 Dŵr Cymru Welsh Water (DCWW) are responsible for the public sewerage system in Denbighshire. DCWW manages 3 different types of sewers:
- Separate foul sewer system, which is usually gravity based and drained foul flows only
  - Combined sewer system that drains foul flows and surface water (the majority of drainage systems on older developments are combined systems); and
  - Adopted Surface Water System - this is a separate drainage system for surface water only (found on newer developments).
- 4.1.4 A land owner\* whose property lies next to watercourses such as a river, stream or ditch is a 'riparian landowner'. Responsibilities of the riparian landowner include:
- maintaining river beds and banks,
  - allowing the flow of water to pass without obstruction and
  - manage their own flood risk.
  - Seeking approval from the relevant risk management authority prior undertaking works to any watercourse. Some water courses may be protected as a Site of Special Scientific Interest or Special Areas of Conservation.

\*This includes the owner of dwellings and buildings adjacent or abutting a river, stream or other watercourse (this can be an individual householder whose garden or outside space is next to one of these waterways, not necessarily a person that owns a large parcel of farm or other types of land).



- 4.2. By far the largest group associated with flood risk management would be the riparian land owners. Whilst NRW, DCC and DCWW regularly work together sharing information and practices communicating with the riparian land owner, or their representative, is generally less common place.
- 4.3. The riparian land owner representatives - National Farmers Union (NFU), Farmers Union of Wales (FUW) and the Country Landowners Association (CLA) are happy to work with the flood risk management authorities and their members regarding the sharing of information in relation to their responsibilities and Flood Risk Activity Permits via features in Farming Wales, Farming Connect and Y Tir etc.
- 4.4. This still leaves a gap in communication reaching the majority of riparian land owners in Denbighshire. A concerted effort is needed to remind riparian land owners of their own flood management responsibilities. On this basis, with a view to reminding land and property owners of their responsibilities on at least an annual basis, the Task and Finish Group has formulated the recommendations contained in the attached report and is seeking the Committee's support for those recommendations.

## **5. How does the decision contribute to the Corporate Priorities?**

- 5.1. Devising workable solutions by fostering effective working relationships with landowners, residents and other public organisations would support the delivery of the Environment corporate priority by reducing the risk to life and property from flooding whilst also empowering residents, businesses and communities to become more resilient for the future.

## **6. What will it cost and how will it affect other services?**

- 6.1. Costs associated with a leaflet drop to be sourced.
- 6.2. Assistance possibly required from the following service areas:
- ICT
  - Marketing and Communications
  - Biodiversity
  - Effects on the environment

## **7. What are the main conclusions of the Well-being Impact Assessment?**

- 7.1. A Well-being Impact Assessment is not required at this stage.

## **8. What consultations have been carried out with Scrutiny and others?**

- 8.1. This Task and Finish Group was established by the Communities Scrutiny Committee.

## **9. Chief Finance Officer Statement**

9.1. Any additional financial resources would need to be included in the budget proposals during the next budget cycle. Costs are likely to be small and should aim to be kept within existing resources.

## **10. What risks are there and is there anything we can do to reduce them?**

10.1. No risks have been identified associated with the consideration of this report. The objective of the Task and Finish Group's work is to find practical solutions and effective working practices to reduce the risk to life and property in Denbighshire from flooding.

## **11. Power to make the decision**

11.1. The Council has powers in relation of flood risk and drainage matters under the Flood and Water Management Act (2010) and the Land Drainage Act (1991).

11.2. The Committee's powers in relation to policy development and review and scrutinising the Council and other public bodies' performance are outlined in Section 21 of the Local Government Act 2000 and Section 7.4 of the Council's Constitution.

# Report of the Flood Risk Management and Riparian Land Ownership Task and Finish Group

## BACKGROUND

Communities Scrutiny Committee at its meeting on 10<sup>th</sup> December 2020, following a discussion on 'Flood Risk Management Across Denbighshire' decided that

*“ a task and finish group [should] be established to examine methods to further strengthen interaction and working relationships between public flood risk management authorities and riparian landowners across the county with a view to improving each other’s understanding of their responsibilities in relation to ensuring the unobstructed flow of water through the land they manage”.*

At the following meeting in January 2021 the Committee agreed the Task and Finish (T&F) Group’s membership and its terms of reference. Consequently, each Member Area Group (MAG) was requested to appoint a representative to serve on the T&F Group. The membership being:

| <b>Member Area Group (MAG)</b> | <b>Representative</b>     |
|--------------------------------|---------------------------|
| <b>Dee Valley:</b>             | Councillor Alan Hughes    |
| <b>Denbigh:</b>                | Councillor Merfyn Parry   |
| <b>Elwy:</b>                   | Councillor Peter Scott    |
| <b>Prestatyn:</b>              | Councillor Rachel Flynn   |
| <b>Rhyl:</b>                   | Councillor Barry Mellor   |
| <b>Ruthin:</b>                 | Councillor Huw O Williams |

The T&F Group appointed Councillor Huw O Williams as its Chair with Councillor Peter Scott as the Vice-Chair.

Specialist officer support was provided for the T&F Group from the Council’s Highways, Facilities and Environmental Services Department, the Planning Department with administrative support being provided by officers from Democratic Services. External professional support and experience was provided by representatives from Natural Resources Wales (NRW), Dŵr Cymru Welsh Water (DCWW); agents from farming unions and landowners associations (National Farmers Union (NFU), Farmers Union of Wales (FUW) and the Country Landowners Association (CLA) and from Waterco (Flood Risk Consultants and Water Engineers).

From the outset the T&F Group was aware that its remit was to explore potential methods for strengthening communication channels and building effective working relationships between all parties and organisations that have responsibilities for managing flood risk from rivers and watercourses across Denbighshire.

The Group has met on 7 occasions. At the inaugural meeting it was extremely pleasing to note that all parties indicated their desire work together and play a positive role in flood risk management. All stakeholders agreed that there was a need to educate everyone involved with riparian flood risk management of each other’s roles and responsibilities. It was also felt that the establishment of the Group was a positive step forward in attempting to build effective working relationships and

a mutual level of trust between all parties who may have traditionally been involved in a culture of blame.

## **FINDINGS**

DCC and NRW are flood risk management authorities defined by the Flood and Water Management Act 2010.

NRW are responsible for risk management relating to flooding of main rivers whilst DCC manage the risk of flooding to other (lesser) watercourses – smaller rivers, ditches, drains, sewers and culverts etc.

Key topics discussed at the meetings included:

### **NRW's regulations, policies and guidance on the dredging and clearance of rivers and watercourses.**

NRW explained their position on dredging and that it wasn't necessarily a solution for flooding. Whilst a Flood Risk Activity Permit (FRAP) should be obtained for work in, under, over or adjacent a main river only one permit had been applied for in the previous two years within DCC's administrative boundary – although there had been reports of landowners undertaking gravel removal without a permit. Confirmation on the actual number of FRAP applications received by NRW contradicted a commonly shared misconception that NRW rejected more FRAPs than it approved. NRW advised that FRAP pre-application discussions could be held to highlight constraints and site specific considerations. The Development & Flood Risk Team could be contacted by email at [floodpermitting.northmid@naturalresourceswales.gov.uk](mailto:floodpermitting.northmid@naturalresourceswales.gov.uk).

During the course of the discussion the Group learned that a land owner - an individual or entity having legal ownership of land, small or large (including gardens) that lay next to watercourses such as rivers, streams or ditches is a 'riparian landowner'. Responsibilities of the riparian landowner include:

- maintaining river beds and banks,
- allowing the flow of water to pass without obstruction and
- manage their own flood risk.

This information came as a surprise to the Group as there was a common misconception, not only within the Group but to the public in general, that NRW were owners and/or responsible for the maintenance and management of rivers and significant watercourses.

All information provided by NRW is available on their website at [A guide to your rights and responsibilities of riverside ownership in Wales](#) and downloadable as a pdf.

## **Surface water and sewerage flooding.**

DCC in its role as the Highway Authority have duties and powers vested by the Highways Act 1980 to ensure highway drainage is properly managed.

Highway drainage maintenance in urban areas is the Highway Authority's (DCC's) sole responsibility. However, in rural areas verges and grips cut into them to assist drainage from the road surface were the Highway Authority's responsibility. Whilst the roadside ditches, hedges and trees are that of the adjacent land owner.

Whilst there was no obligation for the Highway Authority to clear roadside ditches in rural areas it would do so in the interest of road safety.

There was a need for adjacent landowners to take ownership of their watercourses to increase the capacity of the overflow from ditches.

Flood Risk Assessment Wales Maps (FRAW) had been published and were now available for interested parties' / land owners to access to review their potential flood risk from different sources – river, tidal, small water courses or surface water.

Dŵr Cymru Welsh Water (DCWW) are responsible for the public sewerage system in Denbighshire. DCWW manages 3 different types of sewers:

- I. Separate foul sewer system, which is usually gravity based and drained foul flows only
- II. Combined sewer system that drains foul flows and surface water (the majority of drainage systems on older developments are combined systems); and
- III. Adopted Surface Water System - this is a separate drainage system for surface water only (found on newer developments).

Problems with flooding tend to occur when the combined system becomes overloaded by high surface water flows.

The main causes of these blockages tends to be:

- Build-up of grit / silt – entering from surface water system;
- Fats, oils and grease (FOG) disposed of via kitchen sinks etc. and
- Non-biodegradable flushing (wet wipes etc.)

DCWW are running a campaign to educate the public on sewer misuse 'Stop the Block' as a preventative course of action in conjunction with planned de-silting maintenance.

## **Natural Flood Management – the effectiveness of temporary water holding management schemes.**

In 2020 a Natural Flood Management (NFM) feasibility study was undertaken by DCC, Welsh government and Waterco Flood Risk Consultants assessing opportunities for NFM at four sites in Denbighshire.

The sites were located in flood prone areas and within agriculturally managed landscapes, providing a valuable opportunity to gain insights from landowners on the

'Payment for Public Goods' approach to NFM and gather feedback on issues of compensation, maintenance, liability and responsibility.

The following challenges had been identified:

- Lack of evidence base for NFM, particularly around sustainability
- Limited baseline data – flows of rivers and rainfall data etc.
- Persuading and co-ordinating multiple landowners across catchments to engage with the pilot projects
- Potential unclear accountability on scheme maintenance responsibilities going forward (20 or 100 years or more).
- Establishing a payment method for scheme maintenance or compensation to the riparian landowner

The main objective was to reduce flood risk at pilot sites by increased storage in the upper catchments, 'slowing the flow' and debris capture. It was anticipated that other benefits should include:

- Improved biodiversity and ecological benefits.
- Increased community involvement and engagement and
- Water quality improvements.

Lessons Learnt to date included:

- Project design needed to limit reliance on community groups as a means of maintenance or intervention. The key was to make the project sustainable at the outset.
- Initiating early engagement and support of the landowner. Their local knowledge and expertise would generate the best ideas.
- Flexibility with the local programme allowed alteration of a course of action if a better opportunity arose in the catchment.

Important considerations should include that any:

- riparian woodland established was covered contractually by an enforceable maintenance condition that would incorporate successive land owners and
- future recompense for landowners needed to be considered in line with the Single Farm Payment Scheme (due to expire between 2023 and 2025) and the subsequent new payment structure. It would therefore be key that the implications of post-Brexit national policies relating to the rural economy were closely monitored throughout the project's construction and monitoring phases to ensure that they complied with various Governments' policies and visions for rural communities whilst addressing and mitigating the effects of climate change.

Work relating to NFM is still very much in its infancy. It would therefore be sometime before the conclusions, benefits and risks associated with adopting NFM measures were fully understood.

## **The Flood Risk Assessment Process Relating to Development Land Designation and Technical Advice Note (TAN) 15**

The Group were given a detailed joint presentation by DCC and NRW on the recent soft release of the latest Technical Advice Note 15 (TAN15), which was updated to improve the resilience to flooding and due to be fully implemented on 1 December 2021.

They provided information on the:

- Flood risk assessments undertaken in relation to identifying and designating land for future development as part of the Local Development Plan (LDP) process.
- Flood risk assessments process relating to industrial, retail and residential planning applications and
- Surface water and drainage assessments undertaken as part of all planning applications.

Since then the Welsh Government had informed local authorities that the implementation date of the new TAN 15 and Flood Map for Planning had been suspended from 1 December 2021 until 1 June 2023. The Minister for Climate Change in her notification letter to local authorities had indicated that Local Planning Authorities (LPAs) should use the 18-month deferment period to consider climate change flood related planning matters, either on a local and/or regional basis, and use the information gathered to inform future flood maps.

### **Links to guidance**

The new TAN 15 -<https://gov.wales/sites/default/files/publications/2021-09/technical-advice-note-15.pdf>

The Flood Map for Planning -<https://flood-map-for-planning.naturalresources.wales>

The TAN 15 consultation report –

<https://gov.wales/sites/default/files/consultations/2021-09/tan-15-consultation-report-and-summary-of-responses.pdf>

The Climate Change Allowances for Flood Consequences Assessments 2021 -

[https://gov.wales/sites/default/files/publications/2021-09/climate-change-allowances-and-flood-consequence-assessments\\_0.pdf](https://gov.wales/sites/default/files/publications/2021-09/climate-change-allowances-and-flood-consequence-assessments_0.pdf)

Sustainable Drainage (SuDS) Statutory Guidance -

<https://gov.wales/sites/default/files/publications/2019-06/statutory-guidance.pdf>

### **Maintenance arrangements for Rhyl Cut and Prestatyn Gutter**

There has been confusion for some time over the ownership and subsequent maintenance responsibility of Rhyl Cut and Prestatyn Gutter watercourses. **Those responsibilities fall to the riparian land owner – the hundreds of properties and parcels of land that abut those watercourse routes.**

NRW confirmed that issues such as the maintenance of property gardens and walls and the need to safeguard debris etc. from entering or falling into the Rhyl Cut and Prestatyn Gutter and causing blockages was a matter for the riparian landowners i.e. individual property owners.

NRW had permissive powers under the Water Resources (1991) Act to undertake work on main rivers to mitigate the risk of flooding. NRW had access points at certain locations along the Cut and Gutter to enable them to gain access to undertake the necessary maintenance work, thus avoiding the need to seek the agreement of multiple riparian landowners in order to undertake essential flood maintenance work.

Natural Resource Wales had worked with Denbighshire County Council and Dŵr Cymru Welsh Water with a view to developing management and maintenance arrangements for the Cut and Gutter.

NRW had produced a draft document setting out the proposed maintenance activities. This would be available in the near future on NRW's website. It would include:

- an overview (setting out the contents of the document and an overview plan)
- details of maintenance responsibilities (including NRW and others)
- Incident reporting and flood risk information
- Riverbed level management (with background on the approach) and
- Maintenance summary sheets for each sub reach (watercourse section).

### **Review of the Group's progress.**

At their final meeting the Group reviewed the information they had received over the course of the year to respond to the objectives that had been set out initially, which were to:

(i) examine and review the effectiveness of all public flood risk authorities' current communication channels and information sharing practices in relation to flood risk management across Denbighshire

(ii) engage with riparian landowners and tenants to seek their views on how interaction and working relationships between public flood risk management authorities and them can be strengthened in a bid to ensure that all parties understand their individual responsibilities in relation to flood risk management; and

(iii) foster a level of mutual trust between all parties, where advice and support can be easily sought and accessed in order to find practical and workable flood risk maintenance solutions, with a view to reducing the risk of flooding in future by ensuring the unobstructed flow of water through the land under their guardianship

It was apparent that the flood risk management authorities work regularly together, sharing information and practices, but that information did not appear to be shared more widely, among riparian land owners or their representatives. Traditionally land owner representatives would only be involved in discussions with the flood risk authorities under adversarial conditions. More proactive communication with riparian land owners and their representatives going forward needed to be a priority.



The Group reflected that the most surprising outcome of the process was learning about the responsibilities attributed to riparian land owners. The Group questioned:

- I. whether the riparian landowners were aware of their own responsibilities relating to watercourses, and
- II. how this important information could be shared with them?

One of the frequently asked questions from elected members during times of flooding is that of ownership / responsibility of Rhyl Cut and Prestatyn Gutter. The Group discussed the possibility of undertaking Land Registry searches in order to collate ownership details to potentially direct information on flood risk management, however the scale of the number of households involved made that exercise cost prohibitive.

Looking to achieve the Group's objectives going forward the following suggestions were made:

- Continuation of a Flood Risk working group to meet on an annual basis with the 3 flood risk authorities and land owner representatives for an updated position on issues and expectations.
- Land owner representatives to share the riparian land ownership responsibilities with their members and liaise with their members and NRW for help with Flood Risk Activity Permits etc. - e.g. with features in Farming Wales, Farming Connect, Y Tir etc.
- Proposal for circulating generic letters, in partnership with NRW and Dŵr Cymru / Welsh Water, regarding riparian land ownership responsibilities to Rhyl Cut and Prestatyn Gutter adjacent land owners.
- Dedicated contact links for officers from the various flood authorities be circulated.
- Compilation of a dedicated 'Flood' page for DCC's website with links to relevant information on NRW and DC/WW sites.
- the final report presented to Communities Scrutiny Committee, upon approval by the Committee, be translated and circulated to Town, City and Community Councils for inclusion on their websites.
- Consider a press release of the final report (highlighted on DCC's landing page) – potentially a joint release with NRW and DC/WW to maximise impact.

## **CONCLUSIONS**

The roles DCC, NRW and DCWW in flood risk management were distinct but not necessarily understood by the general public. There is a widely held erroneous belief that that NRW or DCC were responsible for the various watercourses and their maintenance.

It was not clear whether riparian land owners were aware of their maintenance and flood risk management responsibilities. A concerted effort was needed to communicate that message.

All parties agreed the willingness to work together going forward in promoting flood risk management riparian land owners and general public.

| <b>Recommendations</b>                                                                                                                                                                                                                              | <b>To be actioned by:</b>                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A Flood Risk working group comprising of the flood risk management authorities and land owner representatives continue to meet on an annual basis for an updated position on issues and expectations                                                | Denbighshire County Council.<br>Dwr Cymru / Welsh Water.<br>Natural Resources Wales.<br>Country Land Owners Association.<br>Farmers Union of Wales.<br>National Farmers Union. |
| A dedicated 'Flood' DCC web page be launched (with links to related Natural Resources Wales and Dŵr Cymru/Welsh Water web pages)                                                                                                                    | DCC's Web Team.                                                                                                                                                                |
| Working in partnership with Natural Resources Wales and Dŵr Cymru/Welsh Water a generic information leaflet/letter be created on the responsibilities of riparian land owners and distributed to properties adjacent Rhyl Cut and Prestatyn Gutter. | Denbighshire County Council.<br>Dwr Cymru / Welsh Water.<br>Natural Resources Wales.                                                                                           |
| The report be presented to Communities Scrutiny Committee, upon approval by the Committee, be translated and circulated to and Town, City and Community Councils for inclusion on their websites.                                                   | Councillor Huw Williams – Chair.<br>DCC's Democratic Services.                                                                                                                 |

|                              |                                                                                                                                                                                           |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Report to</b>             | <b>Communities Scrutiny Committee</b>                                                                                                                                                     |
| <b>Date of meeting</b>       | <b>10<sup>th</sup> March 2022</b>                                                                                                                                                         |
| <b>Lead Member / Officer</b> | <b>Councillor Mark Young, Cabinet Lead Member for Planning, Public Protection and Safer Communities</b>                                                                                   |
| <b>Report authors</b>        | <b>Emlyn Jones, Head of Planning, Public Protection and Countryside Services; and Adam Turner, Planning and Compliance Officer (Planning, Public Protection and Countryside Services)</b> |
| <b>Title</b>                 | <b>Planning Compliance Charter</b>                                                                                                                                                        |

## **1. What is the report about?**

1.1. This report examines the effectiveness of the planning compliance charter (“the Charter”), which was adopted by the Council in September 2020. The purpose of the Charter is to streamline the process of remedying alleged planning breaches by helping complainants, alleged contraveners and other interested parties understand how the Council’s planning compliance function operates.

## **2. What is the reason for making this report?**

2.1. To provide information regarding the Charter’s effectiveness.

2.2. A decision is required on whether to amend the Charter and/or increase the resources available for planning compliance across the county.

## **3. What are the Recommendations?**

3.1. That Members—

- (i) Endorse the draft Charter, entitled ‘Planning compliance in Denbighshire – Planning compliance charter’ (Appendix 1);

- (ii) Support officers' intention to present the final version of the Charter for Lead Member approval; and
- (iii) Confirm that they have read, understood and taken account of the Well-being Impact Assessment (Appendix 2) as part of their consideration.

## **4. Report details**

- 4.1. The Charter was adopted by the Council in September 2020. It was anticipated that, in providing much-needed guidance to stakeholders, the Charter should reduce demand on officers and thus improve the performance of the planning compliance function. This report sets out whether this has been achieved and what changes can be made to the Charter to improve performance further.
- 4.2. The Covid-19 pandemic has had a significant impact on the performance of the planning compliance function, while the recruitment of a second officer has had an additional, beneficial effect. It is not therefore straightforward to compare the pre- and post-Charter performance of the service. We can however rely on the experience of officers to appraise the Charter's effectiveness.
- 4.3. Officers broadly consider the Charter to be a highly effective tool for advising stakeholders how the Council investigates and remedies alleged breaches of planning control. It is especially useful in the context of managing stakeholders' expectations, which is an important aspect of maintaining an efficient service. Accordingly, complainants are directed to the Charter when their complaints are acknowledged, and alleged contraveners are directed to it as required. Importantly, these stakeholders appear less likely to challenge the contents of an officially adopted document such as the Charter than the contents of an email from an officer, for example.
- 4.4. In particular, the following activities are made more straightforward by officers' ability to refer to the Charter:
- Explaining what does and doesn't come under the control of the planning compliance function;
  - Engaging complainants in the investigation process;
  - Justifying how cases are prioritised; and

- Justifying discretionary decision-making, e.g. whether to take a case forward to formal enforcement action.

- 4.5. It is considered that certain minor changes to the Charter could improve these processes even further, and these suggested changes are highlighted in yellow in the draft Charter in Appendix 1, with proposed omissions struck through. Notably, a table has been inserted in section 2.1 of the draft Charter, to simplify the document and provide better signposting for service users.
- 4.6. In response to feedback from Members, it is also proposed to include further information within the Charter about how stakeholders are updated on the progress of cases. These specific changes are featured in section 2.4.1 of the draft Charter in Appendix 1. The Committee's views on if/how we should improve further in this regard would be welcomed. Officers are open to exploring whether additional reports to committees and Member Area Groups would be useful for Members and an efficient way for Officers to manage expectations. In the medium term, it should be possible for case-specific updates to be provided via the website directly from our database, much like the approach currently taken in relation to planning applications. This should have a beneficial effect on staff resources, and Members' views on this are also invited.
- 4.7. Lastly, further changes have been made to make the Charter more accessible and up to date (e.g. by changing reference to the Planning Inspectorate to Planning and Environment Decisions Wales).
- 4.8. While the adoption of the Charter has had tangible benefits, it is anticipated that the abovementioned changes, if adopted, should benefit the performance of the planning compliance function further. This, allied to the recent recruitment of a second compliance officer, should result in performance continuing to improve through the post-pandemic period, and allow the compliance function to continue with current resources.

## **5. How does the decision contribute to the Corporate Priorities?**

- 5.1. The adoption of the Charter will increase the efficiency of the planning compliance function, whose purpose is to support the delivery of each of the Corporate Priorities through policy-led development management.

## **6. What will it cost and how will it affect other services?**

6.1. The adoption of the changes to the Charter would not have direct financial implications, and it is not anticipated that it would have any significant implications on other services.

## **7. What are the main conclusions of the Well-being Impact Assessment?**

7.1. The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. This report on the Charter has taken into account the requirements of Section 3 'Well-being duties on public bodies' of the Well-being of Future Generations (Wales) Act 2015, and a well-being impact assessment is attached in Appendix 2.

## **8. What consultations have been carried out with Scrutiny and others?**

8.1. The Charter was adopted in consultation with the Scrutiny Committee, and the changes to it are proposed in response to dialogue between officers, Members and other stakeholders.

## **9. Chief Finance Officer Statement**

9.1. It is not anticipated there to be any costs associated costs with the adoption of the charter, any costs would be contained with existing budgets.

## **10. What risks are there and is there anything we can do to reduce them?**

10.1. There are no identifiable risks to adopting the changes to the Charter.

## **11. Power to make the decision**

11.1. Section 21 of the Local Government Act 2000.

11.2. Section 7.4.1(e) of the Council's Constitution stipulates Scrutiny Committee's right to consider the impact of policies to assess if they have made a difference,

whilst Section 7.4.2(b) outlines Scrutiny Committee's powers with respect of the Council's performance in delivering policy objectives.

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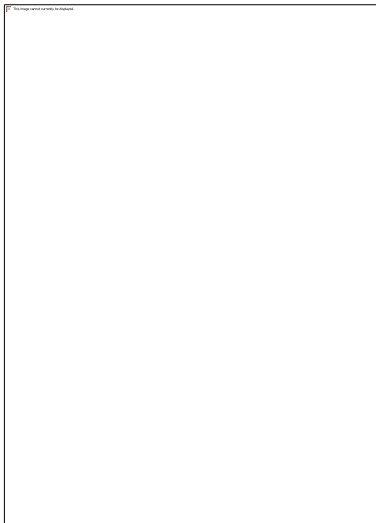
# **Planning compliance in Denbighshire**

## **Planning compliance charter**

Adopted ~~September 2020~~ **March 2022**

## Foreword

As the Lead Member for Planning, Public Protection, Safer Communities and Domestic Abuse, I welcome the production and use of this very useful charter. This has been developed in consultation with our many City, Town and Community Councils across the County and aims to guide those involved in the planning compliance process. It is vitally important that the Council continues to take a proportionate approach to regulation, aiming to balance environmental protection with business support and growth. This charter provides helpful advice to those making complaints about potential breaches of planning control and to those who may have breached planning control. The planning compliance process is a complex and often time-consuming one. I hope that this charter guides those involved and manages expectations of the Council's role therein.



Councillor Mark Young, ~~September 2020~~ **March 2022**

## Contents

|           |                                                           |          |
|-----------|-----------------------------------------------------------|----------|
| <b>1.</b> | <b>Introduction .....</b>                                 | <b>5</b> |
| 1.1       | The purpose of the compliance charter .....               | 5        |
| 1.2       | What is a breach of planning control? .....               | 5        |
| 1.3       | Development which does not need planning permission ..... | 6        |
| 1.4       | Avoiding planning compliance involvement .....            | 6        |
| 1.4.1     | Lawful development certificates .....                     | 7        |
| 1.4.2     | Pre-application advice service .....                      | 7        |
| <b>2.</b> | <b>Advice for complainants .....</b>                      | <b>8</b> |
| 2.1       | What we do and don't investigate .....                    | 8        |
| 2.1.1     | Development which is immune from enforcement action ..... | 10       |
| 2.1.2     | Speculative reports.....                                  | 10       |
| 2.1.3     | Anonymous reports .....                                   | 10       |
| 2.2       | The role of complainants .....                            | 11       |
| 2.2.1     | The role of city, town and community councils .....       | 11       |
| 2.3       | How to report an alleged breach of planning control ..... | 12       |
| 2.4       | The investigation phase.....                              | 13       |
| 2.4.1     | Site visits .....                                         | 18       |
| 2.5       | What happens once a breach has been investigated? .....   | 18       |
| 2.5.1     | Expediency.....                                           | 19       |

|           |                                                                |           |
|-----------|----------------------------------------------------------------|-----------|
| 2.5.2     | Remedial action.....                                           | 19        |
| 2.5.3     | Formal enforcement action.....                                 | 20        |
| <b>3.</b> | <b>Advice for alleged contraveners.....</b>                    | <b>21</b> |
| 3.1       | How to respond to an allegation by the Council.....            | 21        |
| 3.2       | Formal notices.....                                            | 21        |
| 3.2.1     | Enforcement Notices .....                                      | 22        |
| 3.2.2     | Listed Building Enforcement Notices.....                       | 22        |
| 3.2.3     | Breach of Condition Notices.....                               | 23        |
| 3.2.4     | Stop Notices and Temporary Stop Notices.....                   | 23        |
| 3.2.5     | Enforcement Warning Notices.....                               | 24        |
| 3.2.6     | Other notices.....                                             | 24        |
| 3.3       | Injunctions .....                                              | 24        |
| 3.4       | Submitting a planning application .....                        | 25        |
| 3.4.1     | Non-determination of retrospective planning applications ..... | 25        |
| 3.5       | Officers' right of entry onto land.....                        | 25        |
|           | <b>Contact us .....</b>                                        | <b>26</b> |

## **1. Introduction**

### **1.1 The purpose of the compliance charter**

The planning regime exists to regulate the development and use of land in the public interest. Planning policies are adopted both nationally and locally to make sure that land is used and developed in an appropriate and responsible way. Applications for planning consent are submitted to Denbighshire County Council and judged against these adopted policies.

Not everyone applies for planning consent when they should. This is where the planning compliance function comes in. This charter sets out how the Council seeks to deal with the harmful effects of unauthorised works by ensuring that planning policies are applied proportionately but robustly.

The charter's primary purpose is to help complainants, alleged contraveners and other interested parties understand how the planning compliance function operates. The Council wishes to work alongside local stakeholders to remedy unauthorised works, in the knowledge that working together is the most effective approach to dealing with breaches of planning control. Advice for complainants is provided in section 2, and advice for alleged contraveners is provided in section 3.

### **1.2 What is a breach of planning control?**

A breach of planning control is defined in the Town and Country Planning Act 1990 as:

"the carrying out of a development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted".

The term 'development' is also defined in the Act, as follows:

“the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”.

In other words, a breach of planning control is a ‘development’ which has occurred but which a) does not have planning permission, or b) is contrary to conditions imposed on a planning permission. These are the types of breach which the planning compliance function primarily deals with (see section 2.1 for more information).

It is not necessarily against the law to carry out a development without planning permission. In most cases, there is no legal obligation on developers to apply for planning consent prior to undertaking works—though it is usually simpler for all involved if they do. If they don’t, they run the risk of the Council pursuing enforcement action in order to remedy the breach. An offence may then be committed if a developer, upon receipt of an enforcement notice, fails to comply with it.

### **1.3 Development which does not need planning permission**

It is quite often the case that building works or changes of use do not need the Council’s consent in the first place. Some development, typically small in scale, is classed as ‘permitted development’, meaning that it is exempt from the requirement for planning permission. Many extensions to houses, for example, do not need planning permission. Permitted development rights can also apply to changes of use, both temporary and permanent.

Further information about permitted development rights, and whether a development requires planning permission, can be found on the Welsh Government’s website—visit [www.gov.wales/planning-permission](http://www.gov.wales/planning-permission).

### **1.4 Avoiding planning compliance involvement**

It is the responsibility of the property owner (or, in limited cases, the person carrying out works) to comply with planning regulations. To avoid the potential involvement of the planning compliance officer, prospective developers should ensure that all of the

appropriate consents are in place prior to commencing works. Developers are also advised to inform neighbours about their plans from the outset.

The Welsh Government's website provides extensive guidance in relation to common projects which may need planning consent—see [www.gov.wales/planning-permission](http://www.gov.wales/planning-permission). The Council has also published relevant advice, available via [www.denbighshire.gov.uk/planning](http://www.denbighshire.gov.uk/planning). Of this guidance, the Council's supplementary planning guidance ("SPG") documents, available via the link, are especially useful; covering a wide range of topics, they are tailored to different types of scheme. For example, business owners may find the SPG documents on advertising and shop fronts particularly useful. The documents on Listed Buildings and Conservation Areas may be of use to developers who are carrying out works on a heritage asset. More detailed guidance can be obtained from a planning consultant; a list of agents who operate within Denbighshire is also available on the Council's website.

#### **1.4.1 Lawful development certificates**

The Council does not give informal advice on the need for planning permission. Developers who are unsure as to whether their project needs planning permission are recommended instead to make an application for a lawful development certificate. This process is not the same as making an application for planning permission; it is a less onerous process which will provide formal confirmation of whether a specified use, operation or activity is lawful for planning purposes. Further information about how to apply for a lawful development certificate is available on the Council's website.

#### **1.4.2 Pre-application advice service**

The Council also offers a pre-application advice service which enables prospective developers to get an informal opinion on the acceptability of the proposed works. To arrange this service, applicants must complete a pre-application advice form which is available on the Council's website. So long as all the necessary information has been provided, we aim to provide a written response to pre-application enquiries within 21 days.

## 2. Advice for complainants

### 2.1 What we do and don't investigate

The Council's planning department investigates matters which the law gives us powers to adjudicate over—typically matters which require planning permission. We do not have control over—and do not therefore get involved in—civil matters such as property disputes, property damage and trespass. Issues such as dangerous trees, blocked drains and inconsiderate parking are best resolved directly between the interested parties, as these are not matters which are overseen by the planning department.

In some cases—normally those involving larger schemes—a condition attached to a planning permission may control certain aspects of a development. For example, the planning department may have control over operating hours and mitigation measures, though this is not usually the case for smaller schemes. Complaints relating to the construction phase of developments should in the first instance be referred to the site developer, who may be able to resolve the situation with immediate effect. If this approach is unsuccessful, complainants may wish to consider whether the activity they are concerned about should be reported to the planning department.

The full list of matters which the planning department can investigate is as follows:

- Development (i.e. building works or a change of use of land) which requires planning permission but has proceeded without it;
- Development which has proceeded contrary to plans approved by the Council as part of a planning permission;
- Development which has proceeded contrary to conditions imposed by the Council as part of a planning permission;
- Unconsented alterations to Listed Buildings;
- Unconsented demolition of structures in a Conservation Area;
- Wilful damage to protected trees, i.e. those which are subject to a Tree Preservation Order or located within a Conservation Area;



- Uprooting of non-domestic hedgerows;
- Advertisements whose display requires consent but does not have it; and
- Untidy properties which are having a detrimental effect on the wider area.

If an issue is not listed above, it may be listed in the table below with advice on how to resolve the matter. ~~it may be the case that it is one for another department of the Council to resolve. For example, dangerous buildings are a building control issue, while the highways department may be best placed to resolve parking issues. The environmental health team can deal with nuisances such as noise, vermin and odour. Alternatively, the issue may be best referred to another agency such as Natural Resources Wales, Welsh Water, the police or the fire and rescue service.~~

**Table 1: Non-planning issues**

| Non-planning issue                  | Resolution                                                                             |
|-------------------------------------|----------------------------------------------------------------------------------------|
| Property disputes                   | Civil matter (consider assistance of a solicitor)                                      |
| Property damage                     | Civil matter (consider assistance of a solicitor)                                      |
| Trespass/theft of land              | Civil matter (consider assistance of a solicitor)                                      |
| Breaches of covenant                | Civil matter (consider assistance of a solicitor)                                      |
| Dangerous structures and buildings  | Report to the Council using the appropriate form                                       |
| Nuisances—noise, light, odour, etc. | Report to the Council using the appropriate form                                       |
| Vermin                              | Report to the Council using the appropriate form                                       |
| Fly tipping/litter accumulations    | Report to the Council using the appropriate form                                       |
| Felling of non-protected trees      | Report to Natural Resources Wales                                                      |
| Wildlife crime                      | Report to the Police                                                                   |
| Obstructions of the highway         | Report to the Police                                                                   |
| Workplace health and safety         | Report to the Health and Safety Executive or to the Council using the appropriate form |

### 2.1.1 Development which is immune from enforcement action

If a breach of planning control has existed for some time, it may have acquired immunity from remedial action. Planning law prevents the Council taking enforcement action against unauthorised development which has existed for:

- Four years in cases of building/engineering/mining operations;
- Four years in cases consisting of the change of use of any building to use as a single dwellinghouse; or
- Ten years in all other cases, including breaches of condition.

Breaches of planning control which do not involve 'development' (see section 1.3), such as breaches of Listed Building legislation or instances of untidy property, do not accrue immunity from enforcement.

### 2.1.2 Speculative reports

The planning department does not investigate speculative reports of activities which have yet to occur. This is because the resources which are available to the planning compliance function are solely dedicated to investigating and resolving unauthorised works which are ongoing or have already taken place. It is also the case that the scale and nature of a breach needs to be understood before the best course of remedial action can be identified.

### 2.1.3 Anonymous reports

The planning department does not investigate anonymous reports or reports made using a false identity. This is because we may wish to correspond with complainants in order to gain a better understanding of the alleged breach or to discuss the progress of remedial action.

All personal details are confidential and will not be made public during the investigation phase. On rare occasions—those involving serious breaches which result in an appeal or a prosecution—we may be required to give details of the complaint to the inspectorate (Planning and Environment Decisions Wales) or the Courts. These details may include the

complainant's name and address, though we would only divulge these with the complainant's express consent. Similarly, we may need to liaise with external agencies such as Natural Resources Wales, the police and the fire and rescue service in order to investigate an alleged breach effectively.

## **2.2 The role of complainants**

The planning compliance function is most successful when it works collaboratively with complainants. The planning department cannot proactively monitor every street and property in Denbighshire, and this is where members of the public come in. By providing local knowledge and 'eyes and ears' on the ground, local residents and organisations are a key component in the process of securing planning compliance.

As well as providing a monitoring presence, local residents and organisations are uniquely placed to remedy the harmful effects of breaches before they need to be escalated to the Council. It is a regrettable fact that the intervention of a planning compliance officer can sometimes be greeted with hostility by developers who are alleged to be carrying out unauthorised works. It is often the case that developers find it unnecessary and antagonistic for the Council to get involved; they will often ask why the aggrieved party couldn't have raised their concerns directly, in order to reach an amicable (and probably swifter) solution.

In order to maintain good community relations—as well as to ensure that our resources are directed at the most severe problems—the Council's involvement should be treated as a last resort. Before reporting an issue to the Council, complainants should consider whether a solution to the problem could be reached more amicably and without the use of limited Council resources.

### **2.2.1 The role of city, town and community councils**

City, town and community councils have excellent links to the places they serve, and they can use their well-established connections to bring about quick and effective resolutions to local planning issues, to the benefit of all involved. It is also a priority of the Council to work

with people and communities to build independence and resilience, involving local people and organisations in shaping their communities and improving services—and we recognise the crucial role that city, town and community councils can play in delivering these objectives.

The planning compliance function provides a regulatory mechanism through which improvements can be made to Denbighshire’s communities. Shaping communities on a wider scale takes more than reactive regulation, though. City, town and community councils which have a generalised concern about their area’s built environment should therefore consider how they can of work in partnership with the Council to proactively enhance the public realm. For example, they may wish to consider the strategic benefits of commissioning appraisals which the Council could then use to introduce new planning guidance and/or place-specific controls. Localised controls such as Conservation Areas, Areas of Special Control of Advertisements and Article 4 Direction Areas can make a real difference to the public realm, but limits to resources mean that it is not always possible for the Council to implement them unaided. It is for this reason that it is now so important for partnership organisations such as city, town and community councils to work collaboratively with the Council to stimulate regeneration and enhance the built environment.

### **2.3 How to report an alleged breach of planning control**

If other methods of remedying an alleged breach prove to be unsuccessful, complainants may wish to report the matter to the Council. We only investigate reports of alleged planning breaches which are submitted to us on the dedicated form, which can be found online by visiting [www.denbighshire.gov.uk/planning](http://www.denbighshire.gov.uk/planning) and then following the link to the enforcement section. Alternatively, a hard copy of the form can be sent out to prospective complainants by post.

By completing the form, complainants are ensuring that the planning department has all the information we need to carry out any investigation as quickly, effectively and safely as possible. Quite often, the local knowledge that complainants and local organisations can

provide on the form is what makes the difference between a successful and an unsuccessful investigation. For this reason, we may refuse to investigate an alleged breach until all of the necessary information has been provided.

Similarly, the success and speed of an investigation can hinge on the availability of corroborating evidence. Accordingly, complainants may wish to submit photographs, sound recordings, videos and activity logs. It is important for complainants to note that their reports may lead to a criminal investigation, so they must ensure that the information and evidence they provide is accurate and a true representation of the facts.

The Council will endeavour to acknowledge reports of planning breaches within ten working days. Complainants should inform the Council if they do not receive an acknowledgement within this timeframe.

## 2.4 The investigation phase

The Council receives around 250 reports of alleged planning breaches each year.

Investigations must therefore be prioritised according to the level of harm being caused.

The highest priority is given to dealing with breaches which are imminently life-threatening or irrevocably harmful, especially if they are ongoing. Immediate attention is reserved for cases where prompt intervention would prevent irreparable damage to an irreplaceable asset such as a Scheduled Ancient Monument, Listed Building or protected tree.

Thereafter, priority is usually given to breaches affecting places which are recognised for their special qualities, such as Conservation Areas and the Area of Outstanding Natural Beauty ("AONB").

~~The Council receives around 250 reports of alleged planning breaches each year.~~

~~Investigations must therefore be prioritised according to the level of harm being caused.~~

~~The highest priority is given to dealing with breaches which are imminently life-threatening or irrevocably harmful, especially if they are ongoing. Thereafter, priority is usually given to breaches affecting the places and artefacts which are recognised for their special qualities—Listed Buildings, Conservation Areas, the Area of Outstanding Natural Beauty~~

(“AONB”) and protected trees. Similarly, breaches which conflict with the Council’s Corporate Plan will usually be given priority over other cases.

Regard must also be paid to when the breach first occurred. If an unauthorised development is, owing to the passage of time, approaching immunity from enforcement (see section 2.1.1), the investigation into the matter may need to be prioritised accordingly.

The table below (continues overleaf) provides some examples of alleged breaches which the Council typically encounters, and identifies where they would normally fall in the order of priority.

**Table 2: How the Council prioritises cases**

| Priority   | Type of alleged breach                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 (Urgent) | <p>An alleged breach which is ongoing and causing severe, irrevocable damage to an irreplaceable asset, and therefore requires immediate attention.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Ongoing excavations at a Scheduled Ancient Monument</li> <li>• The ongoing demolition of a Listed Building</li> <li>• The ongoing felling of protected trees</li> </ul>                                                          |
| 2 (High)   | <p>An alleged breach which requires prompt attention, because it—</p> <p>(a) Has caused irrevocable damage to a special designated asset but is not ongoing;</p> <p>(b) Is posing an imminent risk to life; and/or</p> <p>(c) Is approaching immunity from enforcement owing to the passage of time.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• An unauthorised alteration to a Listed Building which is not ongoing</li> </ul> |

| Priority            | Type of alleged breach                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                     | <ul style="list-style-type: none"> <li>• The creation of a vehicular access onto a blind corner on a fast A-road</li> <li>• A breach of condition which has persisted without interruption for nearly 10 years</li> </ul>                                                                                                                                                                                                                                                                                                                         |
| <p>3 (Moderate)</p> | <p>An alleged breach which is having an adverse impact on a special place such as a Conservation Area or the Area of Outstanding Natural Beauty, or on a particularly prominent place, e.g. a gateway route to a town centre.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Unauthorised quarrying within the Area of Outstanding Natural Beauty</li> <li>• An unauthorised shop sign in a Conservation Area</li> <li>• A dilapidated building on a high street</li> </ul>                                                        |
| <p>4 (Low)</p>      | <p>An alleged breach which is not causing severe harm to public amenity, the environment or to the health and safety of the public, e.g. works to buildings which are not Listed, within a Conservation Area or within the Area of Outstanding Natural Beauty.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Unauthorised 'householder development' (works within the garden areas of houses)</li> <li>• Changes of use such as a bookshop which has started serving tea and coffee</li> <li>• Overgrown front gardens</li> </ul> |

| Priority     | Type of breach                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 (Urgent)   | <ul style="list-style-type: none"> <li>● <del>Ongoing works to a Listed Building or a Scheduled Ancient Monument which are causing <b>irrevocable</b> and <b>significant</b> damage to its character</del></li> <li>● <del>Ongoing works which are causing <b>irrevocable</b> and <b>significant</b> damage to a designated natural asset, e.g. a Site of Special Scientific Interest or a tree subject to a Tree Preservation Order</del></li> <li>● <del>Works which are putting people in imminent <b>danger of death</b></del></li> <li>● <del>Examples: ongoing excavations at a Scheduled Ancient Monument; the ongoing felling of a group of protected trees; the creation of a vehicular access onto a blind corner on a fast A-road.</del></li> </ul> |
| 2 (High)     | <ul style="list-style-type: none"> <li>● <del>Works which have caused <b>irrevocable</b> and <b>significant</b> damage to a Listed Building or a Scheduled Ancient Monument, but are <b>not ongoing</b></del></li> <li>● <del>Works which have caused <b>irrevocable</b> and <b>significant</b> damage to a designated natural asset, but are <b>not ongoing</b>.</del></li> <li>● <del>Examples: a Listed Building which has had stained glass windows removed; excavation works which have occurred within a SSSI; a non-domestic hedgerow which has been uprooted.</del></li> </ul>                                                                                                                                                                         |
| 3 (Moderate) | <ul style="list-style-type: none"> <li>● <del>Works which have had a <b>significant adverse effect</b> on the character of a designated heritage or natural asset, but are <b>not ongoing</b></del></li> <li>● <del>Unauthorised dwellings in the <b>open countryside</b></del></li> <li>● <del>Unauthorised, non-temporary <b>advertisements</b></del></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                             |



**Priority**

**Type of breach**

- Buildings which, owing to their lack of maintenance, are causing **significant visual harm** to the surrounding **public realm**—especially empty homes

- Breaches of conditions attached to planning permissions.

Examples: an unauthorised extension on a Listed Building; quarrying within the Area of Outstanding Natural Beauty; an unauthorised shop sign in a Conservation area; an unauthorised conversion of a barn into a dwelling; a long-term empty home which is visually harming a busy public thoroughfare; a new dwelling not being used as an Affordable Home, in breach of planning conditions.

4 (Low)

- Development which is **not causing significant harm** to public amenity, the environment or to the health, safety or wellbeing of the public

- Breaches which appear to be temporary

- Works to **non-Listed buildings** which are not within a Conservation Area or the Area of Outstanding Natural Beauty

- Unauthorised '**householder development**' (works within the garden areas of houses)

- Overgrown front gardens.

Examples: outbuildings in gardens; overheight fences; changes of use, such as a bookshop selling tea and coffee.

**2.4.1 Timeframes for investigation**

While all reports of alleged planning breaches will be recorded, those that do not meet priority status will be investigated if and when workloads allow. The Council aims to investigate 50% of **the** reports **we receive** within 10 weeks, and 80% within 12 weeks.

Cases which are complex, lacking in evidence or relatively low-priority may take more than 12 weeks to investigate.

The Council aims to provide an efficient service. The forbearance of complainants is therefore greatly appreciated, as answering regular requests for updates takes officers away from the task of investigating alleged breaches. The Council will instead endeavour to provide complainants with updates at key points during investigations, as and when they become available.

Updates will be provided by letter, email or telephone, depending on the preference of the complainant. If a case is generating significant local interest, updates may alternatively be provided on the Council's website. The Council aims to respond to any correspondence received within 10 working days.

#### **2.4.2 Site visits**

The Council does not carry out site visits in response to every complaint, but some cases will demand an on-site inspection. It is for the Council to decide whether a visit is needed as part of an investigation.

In order to make the most efficient use of resources, visits are carried out in geographical groupings. For this reason, it may be some weeks after a report has been received before a site visit is undertaken. In order to expedite matters, complainants may wish to provide evidence which would negate the need for a site visit.

### **2.5 What happens once a breach has been investigated?**

Once an alleged breach has been investigated, the Council will then pursue remedial action or close the case down. Cases will be closed down at this stage if: a) we do not have sufficient evidence of a breach; or b) a breach has been identified, but is not so harmful that the Council would find it expedient to devote further resources to remedying the matter.

### 2.5.1 Expediency

The planning compliance function is a discretionary service offered by the Council. As such, it is for the Council to decide whether to pursue remedial action in response to alleged breaches of planning control. The aim of the planning compliance function is to remedy the adverse effects of breaches, not to punish the people carrying them out.

The pivotal issue for the Council is whether the unauthorised development is unacceptably affecting public amenity. It is not an appropriate use of Council resources to take action against a trivial or technical breach which causes negligible harm to public amenity.

### 2.5.2 Remedial action

Depending on the severity of the unauthorised development, any ensuing remedial action will in most cases take one of two forms. The Council may:

- 1) Pursue the cessation of the breach, through formal enforcement action if necessary. This option is appropriate when there is adequate evidence of a harmful breach which irreconcilably conflicts with planning policy; or
- 2) Request a planning application to be submitted in retrospect. This is an appropriate method of dealing with breaches which may be harmful, but whose harm could potentially be controlled by attaching a condition to a retrospective planning permission. For example, a planning condition may mitigate noise by requiring the installation of soundproofing. It is also appropriate to request an application if the nature of the breach is such that the submission of evidence and/or the input of specialist consultees is needed in order that an informed decision about a development's acceptability can be made.

**The Council will not typically proceed with enforcement action in relation to developments which are subject to an ongoing planning application.**

In cases where a requested application turns out not to be successful—or not submitted at all—the Council may resort to pursuing the cessation of the breach, through formal enforcement action if appropriate.

### 2.5.3 Formal enforcement action

The Council has the power to serve enforcement notices which formally require recipients to undertake remedial action or otherwise face a penalty. There are different types of notice the Council can serve, depending on the nature of the breach. Certain notices may only come into effect 28 or more days after their date of issue, in order to allow the recipient the opportunity to appeal. Appeal proceedings are overseen by Planning and Environment Decisions Wales, who will either uphold, modify or quash the notice.

Notices must offer recipients a reasonable period within which to carry out the required remedial works. This period of compliance starts when the notice comes into effect or, in cases where appeal proceedings are brought, when ~~the Planning Inspectorate~~ **Planning and Environment Decisions Wales** issues its decision.

For relatively minor breaches, the service of the enforcement notice may be deemed sufficiently punitive in itself, given its effect on land valuation. In most cases, however, the response of the notice's recipient will be monitored once the period of compliance has elapsed. If the monitoring reveals that the recipient of a notice has failed to comply with its requirements, the Council may, if expedient, seek to secure further punitive action.

Penalties for non-compliance vary depending on the type of breach and the notice served (see section 3.2). Prosecution may be pursued if it is in the wider public interest to do so, and if legal advice suggests that there is a reasonable prospect of success.

The timescales needed for the complete resolution of cases can unfortunately be extensive, and often dependent on factors outside of the Council's control. The Council will nonetheless strive to resolve all priority cases in a timely manner, and, if expedient, will pursue all appropriate and reasonable avenues to do so.

### **3. Advice for alleged contraveners**

#### **3.1 How to respond to an allegation by the Council**

Those who are alleged by the Council to have carried out unauthorised works should read the correspondence they have received thoroughly. Any such correspondence will carefully set out the Council's position and provide advice about what to do next. It will state what courses of remedial action are available and, if applicable, the penalties for non-compliance. Given the costs involved, the Council may refuse to provide further advice beyond this, especially if a fee would ordinarily be levied for providing such advice to the public (as is the case with pre-application advice, for example).

In light of the above, alleged contraveners are advised to seek the assistance of a planning consultant if they are in any doubt about their obligations. A list of such agents who operate in the locality is available at [www.denbighshire.gov.uk/planning](http://www.denbighshire.gov.uk/planning). Alternatively, Planning Aid Wales, which is a charitable organisation which helps eligible individuals to participate more effectively in the planning system, provides advisory services including a helpline. Further information about the charity can be found at [www.planningaidwales.org.uk](http://www.planningaidwales.org.uk).

#### **3.2 Formal notices**

There are a number of formal notices which the Council has the power to issue in response to an alleged breach of planning control. There is no obligation on the Council to make informal attempts at resolving an alleged breach prior to issuing a formal notice.

Each type of notice has a different function. They also have different penalties for non-compliance. These vary depending on the notice served, and will be expressed on, or in an annex attached to, the notice. They most often take the form of one or more of the following:

- Prosecution, which can result in a fine;

- The Council carrying out the works required by the notice followed by action in the County Court to recover all incurred costs; and/or
- The Council carrying out the works and then registering a charge on the property with the Land Registry, recoverable should the property be sold.

Certain notices are appealable. If the recipient of a notice has this right of appeal, the details of how to exercise it will be given in an annex to the notice. Further details about the grounds under which an appeal can be raised will also be provided.

### **3.2.1 Enforcement Notices**

Section 172 of the Town and Country Planning Act 1990 gives the Council the power to issue an Enforcement Notice to require an alleged breach of planning control as defined in the Act (see section 1.2 of this document) to be remedied. The required remedial action will be identified on the notice. Once served, there is a period of no fewer than 28 days before the notice comes into effect, to allow its recipient to raise an appeal. Once the notice comes into effect, there is a further period of time to allow for compliance. This period for compliance will vary depending on the nature of the alleged breach. Failure to comply with an enforcement notice within the required timeframe is a criminal offence and can lead to a substantial fine.

### **3.2.2 Listed Building Enforcement Notices**

It is a criminal offence under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to alter, extend or demolish a structure subject to a Listing without Listed Building consent. A Listed Building Enforcement Notice (“LBEN”) seeks to have unauthorised works remedied by:

- a) Requiring the building to be brought back to its former state; or
- b) If that is not reasonably practicable or desirable, requiring other works to alleviate the effects of the unauthorised works; or
- c) Requiring the building to be brought into the state it would have been in if the terms of any Listed Building consent had been observed.

The Notice must specify a time period for securing compliance with its requirements. There is a right of appeal against a LBEN; the procedures are similar to those used for an appeal against an Enforcement Notice.

If works subject to a LBEN are later authorised by a retrospective application for Listed Building consent, the notice will cease to have any effect. The liability to prosecution for an offence committed before the date of any retrospective consent will remain, however. The penalty for offenders is a substantial fine, imprisonment, or both.

### **3.2.3 Breach of Condition Notices**

A Breach of Condition Notice (“BCN”) may be served when a condition attached to a planning permission has not been adhered to. Because the imposition of any given condition can be appealed at the time when the planning permission was granted, there is no right of appeal against a BCN. Failure to comply with a BCN can, upon prosecution, lead to a fine.

### **3.2.4 Stop Notices and Temporary Stop Notices**

The Council may issue a Stop Notice or a Temporary Stop Notice in order to stop a particularly harmful activity with immediate effect. These notices are typically reserved to dealing with especially severe alleged breaches—‘Priority 1’ cases (see section 2.3) which are ongoing and whose harm is irrevocable.

A Temporary Stop Notice allows the Council to stop a harmful activity in order for us to investigate the matter further and, if appropriate, issue a formal notice to have the identified harm remedied. Stop Notices may only be issued at the same time as an Enforcement Notice or after an Enforcement Notice has been served, and thus are best used to ensure that a harmful activity does not continue during appeal proceedings. Failure to comply with a Stop Notice or a Temporary Stop Notice can lead to a substantial fine.

### 3.2.5 Enforcement Warning Notices

An Enforcement Warning Notice (“EWN”) formally requires its recipient to seek to remedy an alleged breach by undertaking one of the following courses of action:

- Apply for planning permission for the unauthorised development in retrospect; or
- Cease the alleged breach.

Serving an EWN prevents an unauthorised development from potentially gaining immunity from further enforcement through the passage of time (see section 2.1.1).

The Council will often issue an EWN in relation to alleged breaches which, after an initial assessment, appear to accord with planning policy in principle. They are reserved for circumstances in which, subject to the imposition of conditions, there is a ‘reasonable prospect’ that retrospective planning permission would be granted if an application for such were to be made. They do not act as a guarantee that planning permission will be forthcoming. Failure to comply with an EWN may lead to further formal action, normally the service of a full Enforcement Notice.

### 3.2.6 Other notices

The Council has the power to issue further types of formal notice, such as those which deal with unconsented advertisements, untidy properties and unauthorised works within Conservation Areas. As is the case with the abovementioned notices, the penalties for non-compliance and the available options for raising an appeal will be expressed either on or in an annex to the notice issued.

## 3.3 Injunctions

If the Council considers a breach of planning control to be sufficiently serious, it may apply to the Courts for a restraint injunction. Those in breach of an injunction can be imprisoned.



### 3.4 Submitting a planning application

Alleged contraveners may be instructed to attempt to regularise unauthorised development by submitting a planning application. In order to ensure that the submitted application passes validation checks—that is, contains all the documentation we need in order to consult on and determine the application—applicants are advised to employ the services of a planning consultant. This can often save applicants time and money in the long run. A list of agents who operate within Denbighshire, as well as general advice on submitting planning applications, can be found at [www.denbighshire.gov.uk/planning](http://www.denbighshire.gov.uk/planning). Our support team can also provide limited assistance by email, at [planning@denbighshire.gov.uk](mailto:planning@denbighshire.gov.uk), or by phone on (01824) 706727.

#### 3.4.1 Non-determination of retrospective planning applications

The Council has the power to decline to determine retrospective planning applications for development that is subject to an enforcement notice.

### 3.5 Officers' right of entry onto land

The planning compliance officer has a right of entry onto land to:

- Ascertain whether there has been a breach of planning control;
- Determine whether and how the Council's powers should be exercised; and
- Determine whether there has been compliance.

Any person who wilfully obstructs an authorised officer acting in the exercise of a right of entry shall be guilty of an offence and will be liable to prosecution.

## Contact us

Website: [www.denbighshire.gov.uk/planning](http://www.denbighshire.gov.uk/planning)

Email: [planning@denbighshire.gov.uk](mailto:planning@denbighshire.gov.uk)

Phone: (01824) 706727

## **Planning Compliance Charter V2 (2022): Well-being Impact Assessment Report**

This report summarises the likely impact of the proposal on the social, economic, environmental and cultural well-being of Denbighshire, Wales and the world.

**Assessment Number:** 669

**Brief description:** Reviewing an agreed procedure for the planning compliance processes.

**Date Completed:** 21/06/2019 09:39:48 Version: 1

**Completed by:** Paul Mead

**Responsible Service:** Planning & Public Protection

**Localities affected by the proposal:** Whole County,

**Who will be affected by the proposal?** Complainants, contravenors, CT&CC's

**Was this impact assessment completed as a group?** No

## **Summary and Conclusion**

Before we look in detail at the contribution and impact of the proposal, it is important to consider how the proposal is applying the sustainable development principle. This means that we must act "in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs."

### **Score for the sustainability of the approach**

**3 out of 4 stars**

**Actual score : 25 / 36.**

### **Summary for each Sustainable Development principle**

#### **Long term**

The review of the Charter has not impacted the previous WBIA. The use of the Charter promotes long term sustainability and protection of the built and natural environment.

#### **Prevention**

The Charter is designed to assist in the protection of the environment.

#### **Integration**

Links well with the Climate Change and Ecological Strategy.

#### **Collaboration**

We have liaised with colleagues across the Council in terms of the key elements of sustainability and environmental protection.

#### **Involvement**

This review will be presented to Scrutiny Committee and then we will seek feedback from CT&CC's.

### **Summary of impact**

| Well-being Goals                                                              | Overall Impact |
|-------------------------------------------------------------------------------|----------------|
| <a href="#">A prosperous Denbighshire</a>                                     | Positive       |
| <a href="#">A resilient Denbighshire</a>                                      | Positive       |
| <a href="#">A healthier Denbighshire</a>                                      | Neutral        |
| <a href="#">A more equal Denbighshire</a>                                     | Neutral        |
| <a href="#">A Denbighshire of cohesive communities</a>                        | Positive       |
| <a href="#">A Denbighshire of vibrant culture and thriving Welsh language</a> | Neutral        |
| <a href="#">A globally responsible Denbighshire</a>                           | Neutral        |

### Main conclusions

The draft charter for planning compliance will evolve as CT&CC's and other groups become better prepared to take on more planning compliance work themselves. This in turn will create resilience in communities, help promote better economic conditions through improved environments , it will create cohesion within the communities by groups joining together for common goals and it will become a more sustainable approach to taking effective planning compliance action in the future.

## **The likely impact on Denbighshire, Wales and the world.**

### **A prosperous Denbighshire**

#### **Overall Impact**

Positive

#### **Justification for impact**

Better maintained communities will only benefit prosperity.

#### **Further actions required**

Not known

#### **Positive impacts identified:**

##### **A low carbon society**

Not known

##### **Quality communications, infrastructure and transport**

Will encourage greater localised preservation and enhancement of infrastructure.

##### **Economic development**

Will enable local communities to identify priorities for their towns in terms of planning compliance input. This will enhance economic outputs of town centres, for example.

##### **Quality skills for the long term**

Opportunities for CT&CC's to develop planning skills in the future.

##### **Quality jobs for the long term**

Not known

**Childcare**

Not known

**Negative impacts identified:**

**A low carbon society**

Not known

**Quality communications, infrastructure and transport**

[TEXT HERE]

**Economic development**

[TEXT HERE]

**Quality skills for the long term**

[TEXT HERE]

**Quality jobs for the long term**

[TEXT HERE]

**Childcare**

[TEXT HERE]

**A resilient Denbighshire**

**Overall Impact**

Positive

**Justification for impact**

Empowering local communities to better police their areas through involvement in the planning compliance process will only increase their resilience.

**Further actions required**

Not known at this stage

**Positive impacts identified:**

**Biodiversity and the natural environment**

Reporting local issues quicker may benefit the protection of the natural environment through more effective planning compliance action

**Biodiversity in the built environment**

Reporting local issues quicker may benefit the protection of the built environment through more effective planning compliance action

**Reducing waste, reusing and recycling**

Not known

**Reduced energy/fuel consumption**

Not known

**People's awareness of the environment and biodiversity**

This will increase as local bodies are able to focus on their local issues.

**Flood risk management**

Greater awareness as the planning legislation will deal with this in local communities

**Negative impacts identified:**

**Biodiversity and the natural environment**



[TEXT HERE]

**Biodiversity in the built environment**

[TEXT HERE]

**Reducing waste, reusing and recycling**

[TEXT HERE]

**Reduced energy/fuel consumption**

[TEXT HERE]

**People's awareness of the environment and biodiversity**

[TEXT HERE]

**Flood risk management**

[TEXT HERE]

**A healthier Denbighshire**

**Overall Impact**

Neutral

**Justification for impact**

Difficult to fully link health with planning compliance.

**Further actions required**

Not known at this stage

**Positive impacts identified:**

**A social and physical environment that encourage and support health and well-being**

Local groups taking positive action to improve their physical and natural environment will have a positive impact.

**Access to good quality, healthy food**

Not known

**People's emotional and mental well-being**

A better and more protected environment will support this.

**Access to healthcare**

Not known

**Participation in leisure opportunities**

Not known

**Negative impacts identified:**

**A social and physical environment that encourage and support health and well-being**

[TEXT HERE]

**Access to good quality, healthy food**

[TEXT HERE]

**People's emotional and mental well-being**

[TEXT HERE]

**Access to healthcare**

[TEXT HERE]

**Participation in leisure opportunities**

[TEXT HERE]

**A more equal Denbighshire**

**Overall Impact**

Neutral

**Justification for impact**

Not known

**Further actions required**

Not known at this stage

**Positive impacts identified:**

**Improving the well-being of people with protected characteristics. The nine protected characteristics are: age; disability; gender reassignment; marriage or civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation**

Not known

**People who suffer discrimination or disadvantage**

Not known

**People affected by socio-economic disadvantage and unequal outcomes**

Not known

**Areas affected by socio-economic disadvantage**

It will be easier to prioritise such areas if CT&CC's identify issues they want tackling in these locations.

**Negative impacts identified:**

**Improving the well-being of people with protected characteristics. The nine protected characteristics are: age; disability; gender reassignment; marriage or civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation**

[TEXT HERE]

**People who suffer discrimination or disadvantage**

[TEXT HERE]

**People affected by socio-economic disadvantage and unequal outcomes**

[TEXT HERE]

**Areas affected by socio-economic disadvantage**

[TEXT HERE]

**A Denbighshire of cohesive communities**

**Overall Impact**

Positive

**Justification for impact**

This is the main goal of this draft charter. There will be huge opportunities for positive community cohesion from empowering groups to target planning compliance priorities.

**Further actions required**

Not known at this stage

**Positive impacts identified:**

**Safe communities and individuals**

Targeting localised planning compliance issues will increase the feeling of safety by improving the environment for citizens.

### **Community participation and resilience**

This is all about involving the communities in how they manage their localities.

### **The attractiveness of the area**

This charter will serve to improve the attractiveness of local areas.

### **Connected communities**

There will be an opportunity to connect various groups in communities with the common goal to better police their environments.

### **Rural resilience**

Rural communities can also identify projects that will benefit them.

### **Negative impacts identified:**

#### **Safe communities and individuals**

[TEXT HERE]

#### **Community participation and resilience**

Possibility for conflicting issues within communities when it comes to planning compliance priorities.

#### **The attractiveness of the area**

[TEXT HERE]

#### **Connected communities**

[TEXT HERE]

**Rural resilience**

[TEXT HERE]

**A Denbighshire of vibrant culture and thriving Welsh language**

**Overall Impact**

Neutral

**Justification for impact**

Not known at this stage.

**Further actions required**

Not known at this stage

**Positive impacts identified:**

**People using Welsh**

Not known

**Promoting the Welsh language**

Through targeting unauthorised and non-bilingual signage.

**Culture and heritage**

Through targeting the refurbishment of traditional buildings in communities.

**Negative impacts identified:**

**People using Welsh**

[TEXT HERE]

**Promoting the Welsh language**

[TEXT HERE]

**Culture and heritage**

[TEXT HERE]

**A globally responsible Denbighshire**

**Overall Impact**

Neutral

**Justification for impact**

Not known.

**Further actions required**

Not known at this stage

**Positive impacts identified:**

**Local, national, international supply chains**

Not known

**Human rights**

Not known

**Broader service provision in the local area or the region**

Will assist in a wider interest and collective responsibility for the protection and enhancement of the environment.

**Reducing climate change**

[TEXT HERE]

**Negative impacts identified:**

**Local, national, international supply chains**

[TEXT HERE]

**Human rights**

[TEXT HERE]

**Broader service provision in the local area or the region**

[TEXT HERE]

**Reducing climate change**

[TEXT HERE]



|                        |                                           |
|------------------------|-------------------------------------------|
| <b>Report to</b>       | <b>Communities Scrutiny Committee</b>     |
| <b>Date of meeting</b> | <b>10 March 2022</b>                      |
| <b>Lead Officer</b>    | <b>Rhian Evans, Scrutiny Co-ordinator</b> |
| <b>Report author</b>   | <b>Rhian Evans, Scrutiny Co-ordinator</b> |
| <b>Title</b>           | <b>Scrutiny Work Programme</b>            |

## **1. What is the report about?**

The report seeks Communities Scrutiny Committee to review its draft forward work programme. In doing so the Committee is asked to reflect on the implications of the focus on business critical operations during the emergency phase of the COVID -19 pandemic and the programmes of work underway or being planned under the recovery phase, whilst also having regard to items of business already on its forward work programme prior to the pandemic.

## **2. What is the reason for making this report?**

To seek the Committee to review and agree on its programme of future work, and to update members on relevant issues.

## **3. What are the Recommendations?**

That the Committee

- 3.1 considers the information provided and approves, revises or amends its forward work programme as it deems appropriate; and
- 3.2 determines whether any key messages or themes from the current meeting should be publicised via the press and/or social media.

## 4. Report details

- 4.1 Section 7 of Denbighshire County Council's Constitution sets out each Scrutiny Committee's terms of reference, functions and membership, as well as the rules of procedure and debate.
- 4.2 The Constitution stipulates that the Council's scrutiny committees must set, and regularly review, a programme for their future work. By reviewing and prioritising issues, members are able to ensure that the work programme delivers a member-led agenda.
- 4.3 For a number of years it has been an adopted practice in Denbighshire for scrutiny committees to limit the number of reports considered at any one meeting to a maximum of four plus the Committee's own work programme report. The aim of this approach is to facilitate detailed and effective debate on each topic.
- 4.4 In recent years the Welsh Government (WG) and Audit Wales (AW) have highlighted the need to strengthen scrutiny's role across local government and public services in Wales, including utilising scrutiny as a means of engaging with residents and service-users. From now on scrutiny will be expected to engage better and more frequently with the public with a view to securing better decisions which ultimately lead to better outcomes for citizens. AW will measure scrutiny's effectiveness in fulfilling these expectations.
- 4.5 Having regard to the national vision for scrutiny whilst at the same time focussing on local priorities, the Scrutiny Chairs and Vice-Chairs Group (SCVCG) recommended that the Council's scrutiny committees should, when deciding on their work programmes, focus on the following key areas:
- budget savings;
  - achievement of the Corporate Plan objectives (with particular emphasis on their deliverability during a period of financial austerity);
  - any other items agreed by the Scrutiny Committee (or the SCVCG) as high priority (based on the PAPER test criteria – see reverse side of the 'Member Proposal Form' at Appendix 2);

- Urgent, unforeseen or high priority issues; and
- Supporting the Council's recovery work in relation to the effects of the COVID-19 crisis on Council services, the local economy and the county's communities

#### 4.6 Scrutiny Proposal Forms

As mentioned in paragraph 4.2 above the Council's Constitution requires scrutiny committees to prepare and keep under review a programme for their future work. To assist the process of prioritising reports, if officers are of the view that a subject merits time for discussion on the Committee's business agenda they have to formally request the Committee to consider receiving a report on that topic. This is done via the submission of a 'proposal form' which clarifies the purpose, importance and potential outcomes of suggested subjects. No officer proposal forms have been received for consideration at the current meeting.

- 4.7 With a view to making better use of scrutiny's time by focussing committees' resources on detailed examination of subjects, adding value through the decision-making process and securing better outcomes for residents, the SCVCG decided that members, as well as officers, should complete 'scrutiny proposal forms' outlining the reasons why they think a particular subject would benefit from scrutiny's input. A copy of the 'member's proposal form' can be seen at Appendix 2. The reverse side of this form contains a flowchart listing questions which members should consider when proposing an item for scrutiny, and which committees should ask when determining a topic's suitability for inclusion on a scrutiny forward work programme. If, having followed this process, a topic is not deemed suitable for formal examination by a scrutiny committee, alternative channels for sharing the information or examining the matter can be considered e.g. the provision of an 'information report', or if the matter is of a very local nature examination by the relevant Member Area Group (MAG). No items should be included on a forward work programme without a 'scrutiny proposal form' being completed and accepted for inclusion by the Committee or the SCVCG. Assistance with their completion is available from the Scrutiny Co-ordinator.

### Mistreatment of Dogs

- 4.8 A report on the above was originally scheduled for presentation at the current meeting. As officers within the Planning and Public Protection Service are still heavily involved with Covid-19 response and recovery work the Chair agreed that the report's presentation be deferred until October 2022 (see Appendix 1). However, a short information report has been circulated to members on the current extent of regulatory work involving the dog breeding and sales in Denbighshire.
- 4.9 Deferment of the above report has enabled the Committee to consider the requested review of Cabinet's decision of 15 February 2022 relating to the 'Proposed Scheme of Delegated Decision Making for Land Acquisition (Freehold and Leasehold) for Carbon Sequestration and Ecological Improvement Purpose', which is listed on the current meeting's business agenda.

### Cabinet Forward Work Programme

- 4.10 When determining their programme of future work it is useful for scrutiny committees to have regard to Cabinet's scheduled programme of work. For this purpose, a copy of the Cabinet's forward work programme is attached at Appendix 3.

### Progress on Committee Resolutions

- 4.11 A table summarising recent Committee resolutions and advising members on progress with their implementation is attached at Appendix 4 to this report.

## **5. Scrutiny Chairs and Vice-Chairs Group**

- 5.1 Under the Council's scrutiny arrangements, the Scrutiny Chairs and Vice-Chairs Group (SCVCG) performs the role of a coordinating committee. The Group met on 20 January 2022. No topics were referred from the Group to this Committee for consideration. However, the Group did reschedule some items on the forward work programme until after the local authority elections (see Appendix 1). The Group is not now scheduled to meet until the new Council term.

## **6. How does the decision contribute to the Corporate Priorities?**

Effective scrutiny will assist the Council to deliver its corporate priorities in line with community needs and residents' wishes. Continual development and review of a coordinated work programme will assist the Council to deliver its corporate priorities, improve outcomes for residents whilst also managing austere budget and resource pressures.

## **7. What will it cost and how will it affect other services?**

Services may need to allocate officer time to assist the Committee with the activities identified in the forward work programme, and with any actions that may result following consideration of those items.

## **8. What are the main conclusions of the Well-being Impact Assessment?**

A Well-being Impact Assessment has not been undertaken in relation to the purpose or contents of this report. However, Scrutiny through its work in examining service delivery, policies, procedures and proposals will consider their impact or potential impact on the sustainable development principle and the well-being goals stipulated in the Well-being of Future Generations (Wales) Act 2015.

## **9. What consultations have been carried out with Scrutiny and others?**

None required for this report. However, the report itself and the consideration of the forward work programme represent a consultation process with the Committee with respect to its programme of future work.

## **10. What risks are there and is there anything we can do to reduce them?**

No risks have been identified with respect to the consideration of the Committee's forward work programme. However, by regularly reviewing its forward work programme the Committee can ensure that areas of risk are considered and examined as and when they are identified, and recommendations are made with a view to addressing those risks.

## **11. Power to make the decision**

11.1 Section 21 of the Local Government Act 2000.

11.2 Section 7.11 of the Council's Constitution stipulates that scrutiny committees and/or the Scrutiny Chairs and Vice-Chairs Group will be responsible for setting their own work programmes, taking into account the wishes of Members of the Committee who are not members of the largest political group on the Council.

### **Contact Officer:**

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## Communities Scrutiny Committee Forward Work Plan

Note: Items entered in italics have not been approved for submission by the Committee. Such reports are listed here for information, pending formal approval.

| Meeting | Lead Member(s) | Item (description / title)                           | Purpose of report                                                                                                                                                                                                   | Expected Outcomes                                                                                                                                                                                                                                                                               | Author                                     | Date Entered                                                   |
|---------|----------------|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------------------------|
| 30 July | <b>TBA</b>     | 1. <i>New Waste and Recycling Model (timing tbc)</i> | <i>To detail the outcomes of the pilot projects in West Rhyl (use of microchips in waste containers), Bron y Crêst (communal bin service change) and the Elected Members Recycling Experience initiatives (tbc)</i> | <i>Following assessing the lessons learnt from the pilot projects and initiatives to make recommendations that will support the effective roll-out and delivery of the new waste and recycling with a view to enhancing the benefits of the project for the Council and for local residents</i> | <i>Tony Ward/Tara Dumas</i>                | <i>December 2021</i>                                           |
|         | <b>Leader</b>  | 2. <i>Rhyl Regeneration Programme</i>                | <i>To examine the effectiveness of the Programme Board's work in delivering the regeneration programme</i>                                                                                                          | <i>Identification of any barriers or slippages and the formulation of recommendations to try and address them and sustain the delivery of the programme to secure the regeneration of Rhyl to benefit the economy and the lives of the town's residents and the county in general</i>           | <i>Emlyn Jones/Nicola Caie</i>             | <i>January 2021 (rescheduled January 2022)</i>                 |
|         | <b>TBA</b>     | 3. <i>Second Homes and Short-Term Holiday Lets</i>   | <i>To examine the planning requirements in relation to these types of properties/dwelling</i>                                                                                                                       | <i>Determination on whether the requirements of Planning legislation in relation to these types of properties are sufficiently robust and are effectively applied to ensure that local residents are not deprived of the availability of affordable properties to</i>                           | <i>Emlyn Jones/Paul Mead/Angela Loftus</i> | <i>By SCVCG September 2021 (rescheduled Jan 2022 by SCVCG)</i> |

## Communities Scrutiny Committee Forward Work Plan

| Meeting     | Lead Member(s) | Item (description / title) |                                  | Purpose of report                                                                                                                                                                                                                                                                          | Expected Outcomes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Author                                   | Date Entered                                   |
|-------------|----------------|----------------------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|------------------------------------------------|
|             |                |                            |                                  |                                                                                                                                                                                                                                                                                            | <i>buy or rent in Denbighshire. This will support the delivery of the Council's Corporate Priority relating to Housing</i>                                                                                                                                                                                                                                                                                                                                                                                               |                                          |                                                |
| 8 September | <b>TBA</b>     | 1.                         | <i>Wildflower Meadow Project</i> | To:<br>(i) evaluate the effectiveness of the steps taken to improve engagement and increase publicity with all stakeholders in relation of the project;<br>(ii) consider the progress made to date in delivering its expected benefits; and<br>(iii) seek members' support for the Project | (i) To secure the delivery of the expected outcomes which will support the realisation of the Council's corporate priority relating to the Environment as well as contributing towards the delivery of its Ecological and Climate Change Strategy; and<br>(ii) Re-inforce elected members' support for the project and its aims and objectives to enable them to explain to residents the rationale behind the project and how it contributes towards the wider national environmental, health and well-being objectives | <i>Tony Ward/Emlyn Jones/Joel Walley</i> | <i>September 2021</i>                          |
| 20 October  | <b>TBA</b>     | 1.                         | Mistreatment of Dogs             | To examine the extent of legal and illegal dog sales within Denbighshire (particularly during the COVID-19 pandemic) –                                                                                                                                                                     | Determination of whether working relationships need to be strengthened or improved in order to deal with any problems or deter future problems in relation to this matter with a view to supporting the viability of properly licensed traders to operate thus reducing the suffering of the animals                                                                                                                                                                                                                     | Emlyn Jones/Gareth Roberts/Glesni Owen   | By SCVCG September 2021 (rescheduled Feb 2022) |



## Communities Scrutiny Committee Forward Work Plan

| Meeting        | Lead Member(s) | Item (description / title) |                                                | Purpose of report                                                                                                                                      | Expected Outcomes                                                                                                                                                          | Author                                  | Date Entered        |
|----------------|----------------|----------------------------|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|---------------------|
|                |                |                            |                                                | including the number of complaints received, investigated and substantiated and how various agencies work together to tackle any problems are reported |                                                                                                                                                                            |                                         |                     |
| 8 December     |                |                            |                                                |                                                                                                                                                        |                                                                                                                                                                            |                                         |                     |
| June/July 2023 | <b>TBA</b>     | 1.                         | <i>Llangollen Car Park Tariff Pilot Scheme</i> | <i>To outline the effectiveness of the pilot scheme for varying car park tariffs in Llangollen</i>                                                     | <i>Identification of lessons learnt from the pilot scheme's implementation and operation in readiness for the introduction of similar schemes in other areas in future</i> | <i>Emlyn Jones/Mike Jones/Peter Lea</i> | <i>January 2021</i> |

## Communities Scrutiny Committee Forward Work Plan

## Future Issues

| Item (description / title)                                   | Purpose of report                                                                                                                                                                                | Expected Outcomes                                                                                                                                                                                                                                                                                                                                                                                                     | Author                            | Date Entered                                                                                          |
|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------------------------------------------------------------------------------------------------|
| <i>All for rescheduling in the new Council Term</i>          |                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                       |                                   |                                                                                                       |
| <i>Draft Tourism Signage Strategy for Denbighshire (tbc)</i> | <i>To examine the draft Tourism Signage Strategy for the county developed by the Working Group including potential funding sources and the anticipated timescale for the Strategy's delivery</i> | <i>The development of a tourism signage strategy that complements trunk road signage and technological innovations in the field of tourism, takes into account the aims of 'The Wales Way' project, attracts visitors and increases the value of tourism spend in the county in line with the corporate priority relating to the Environment, and in-keeping with the outcomes of Denbighshire's Tourism Strategy</i> | <i>Mike Jones/Peter McDermott</i> | <i>March 2020 (rescheduled due to COVID-19 (Sept &amp; Dec 20, Sept 2021 &amp; Jan 2022 by SCVCG)</i> |
|                                                              |                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                       |                                   |                                                                                                       |

## For future years

|  |  |  |  |  |
|--|--|--|--|--|
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## Communities Scrutiny Committee Forward Work Plan

**Information/Consultation Reports**

| <b>Information / Consultation</b>                                                                                   | <b>Item (description / title)</b>                                    | <b>Purpose of report</b>                                                                                                                                            | <b>Author(s)</b>            | <b>Date Entered</b> |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|---------------------|
| <b>INFORMATION</b><br>(for circulation March 2022 <i>once COVID-19 restrictions permit the work to take place</i> ) | Community Impact Assessment on the communities of Rhewl and Llanynys | To present the findings of the community impact assessment undertaken following the closure of Ysgol Rhewl as agreed as part of the modernising education programme | Geraint Davies/James Curran | December 2020       |

**Note for officers – Committee Report Deadlines**

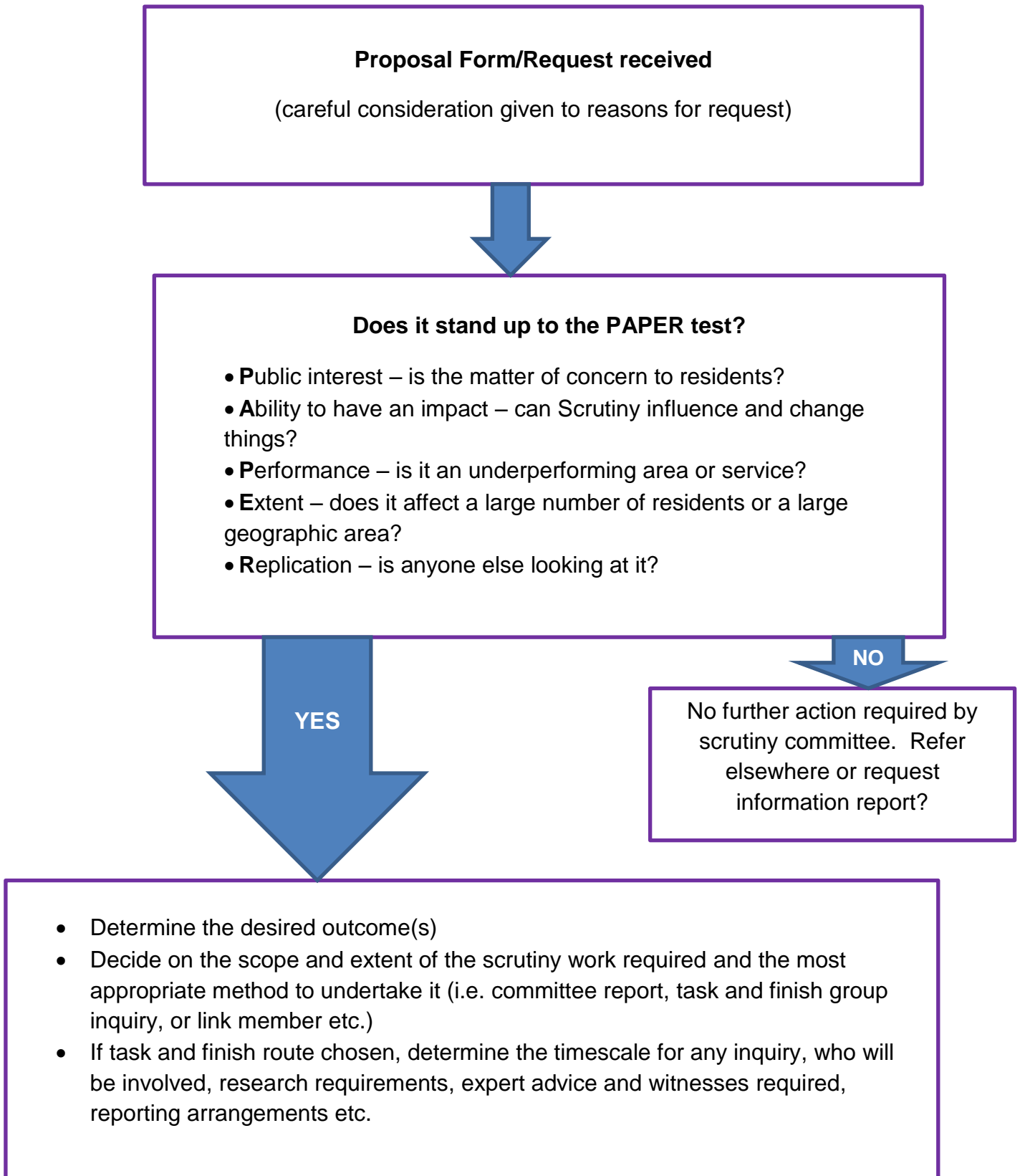
| Meeting | Deadline       | Meeting     | Deadline         | Meeting    | Deadline         |
|---------|----------------|-------------|------------------|------------|------------------|
| 30 July | <b>16 July</b> | 8 September | <b>25 August</b> | 20 October | <b>6 October</b> |

24/02/2022 RhE

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| <b>Member Proposal Form for Scrutiny Forward Work Programme</b>                                                                                                                        |               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| <b>NAME OF SCRUTINY COMMITTEE</b>                                                                                                                                                      |               |
| <b>TIMESCALE FOR CONSIDERATION</b>                                                                                                                                                     |               |
| <b>TOPIC</b>                                                                                                                                                                           |               |
| <b>What needs to be scrutinised (and why)?</b>                                                                                                                                         |               |
| <b>Is the matter one of concern to residents/local businesses?</b>                                                                                                                     | <b>YES/NO</b> |
| <b>Can Scrutiny influence and change things?</b><br>(if 'yes' please state how you think scrutiny can influence or change things)                                                      | <b>YES/NO</b> |
| <b>Does the matter relate to an underperforming service or area?</b>                                                                                                                   | <b>YES/NO</b> |
| <b>Does the matter affect a large number of residents or a large geographical area of the County</b><br>(if 'yes' please give an indication of the size of the affected group or area) | <b>YES/NO</b> |
| <b>Is the matter linked to the Council's Corporate priorities</b><br>(if 'yes' please state which priority/priorities)                                                                 | <b>YES/NO</b> |
| <b>To your knowledge is anyone else looking at this matter?</b><br>(If 'yes', please say who is looking at it)                                                                         | <b>YES/NO</b> |
| <b>If the topic is accepted for scrutiny who would you want to invite to attend e.g. Lead Member, officers, external experts, service-users?</b>                                       |               |
| <b>Name of Councillor/Co-opted Member</b>                                                                                                                                              |               |
| <b>Date</b>                                                                                                                                                                            |               |

## Consideration of a topic's suitability for scrutiny



## Cabinet Forward Work Plan

| Meeting                                     |   | Item (description / title)                                                                                             | Purpose of report                                                                                                                     | Cabinet Decision required (yes/no) | Author – Lead member and contact officer                               |
|---------------------------------------------|---|------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|------------------------------------------------------------------------|
| <b>15 March (rescheduled from 22 March)</b> | 1 | Contract Award approval for Phase 2 Construction Works – DCC Waste Transfer Station to support new Waste Service Model | To award the contract for Phase 2 construction works                                                                                  | Yes                                | Councillor Brian Jones / Tony Ward / Peter Clayton                     |
|                                             | 2 | Contract Award approval for new Waste Fleet to support new Waste Service Model                                         | To award the contract for the new Waste Fleet                                                                                         | Yes                                | Councillor Brian Jones / Tony Ward / Chris Brown / Joanne Taylor       |
|                                             | 3 | Queens Market Phase 1 – award construction contract                                                                    | To seek approval to award a contract for the delivery of Phase 1 of the Queens Building Rhyl                                          | Yes                                | Councillor Hugh Evans / Russell Vaughan                                |
|                                             | 4 | Contract Award - Renovation of terraced houses at 2-16 Aquarium Street in Rhyl                                         | To award a construction contract for housing development                                                                              | Yes                                | Councillors Tony Thomas and Julian Thompson-Hill / Mark Dixon          |
|                                             | 5 | Reactive Maintenance Framework for Schools and Non School Properties                                                   | To seek approval for the award of successful contractors onto the Reactive Maintenance Framework for Schools and Non-school buildings | Yes                                | Councillor Julian Thompson-Hill / David Lorey / Mark Cassidy           |
|                                             | 6 | Ysgol Plas Brondyffryn Project-School Organisation formal consultation proposal and draft                              | To seek approval to proceed with the School Organisation process in respect to relocate                                               | Yes                                | Councillor Huw Hilditch-Roberts / Geraint Davies / James Curran / Lisa |

## Cabinet Forward Work Plan

| Meeting                       | Item (description / title)                                                                         | Purpose of report                                                                                                                                              | Cabinet Decision required (yes/no) | Author – Lead member and contact officer |
|-------------------------------|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|------------------------------------------|
|                               | Strategic Outline Case                                                                             | Ysgol Plas Brondyffryn to a new site in Denbigh and increase its capacity from 140 to 220 from September 2024                                                  |                                    | Walchester                               |
|                               | 7 Items from Scrutiny Committees – Eradication of Non-Recyclable Goods in School Catering Services | To seek Cabinet to lobby the Welsh Government to provide sufficient financial support to eradicate the use of non-recyclable goods in School Catering Services | Tbc                                | Scrutiny Coordinator                     |
| <b>26 April<br/>CANCELLED</b> |                                                                                                    |                                                                                                                                                                |                                    |                                          |
| <b>7 June</b>                 | 1 Council Performance Self-Assessment                                                              | To consider the Council's self-assessment of its performance in delivering against the council's strategic plan and services                                   | Tbc                                | Iolo McGregor                            |
|                               | 2 Finance Report                                                                                   | To update Cabinet on the current financial position of the Council                                                                                             | Tbc                                | Steve Gadd                               |
|                               | 3 Items from Scrutiny Committees                                                                   | To consider any issues raised by Scrutiny for                                                                                                                  | Tbc                                | Scrutiny Coordinator                     |



## Cabinet Forward Work Plan

| Meeting        | Item (description / title) |                                   | Purpose of report                                                                                                                                                                     | Cabinet Decision required (yes/no) | Author – Lead member and contact officer                                   |
|----------------|----------------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------------------------------------------------------------------|
|                |                            |                                   | Cabinet's attention                                                                                                                                                                   |                                    |                                                                            |
|                |                            |                                   |                                                                                                                                                                                       |                                    |                                                                            |
| <b>26 July</b> | 1                          | North Wales Consultancy Framework | To seek approval of the Business Case to set up a regional Consultancy Framework to be used by the six North Wales authorities with Denbighshire County Council as the lead authority | Yes                                | Councillor Julian Thompson-Hill / Gary Williams / Tania Silva / Sion Evans |
|                | 2                          | Finance Report                    | To update Cabinet on the current financial position of the Council                                                                                                                    | Tbc                                | Steve Gadd                                                                 |
|                | 3                          | Items from Scrutiny Committees    | To consider any issues raised by Scrutiny for Cabinet's attention                                                                                                                     | Tbc                                | Scrutiny Coordinator                                                       |
|                |                            |                                   |                                                                                                                                                                                       |                                    |                                                                            |

**FUTURE ITEMS**

|               |                                                |                                                                                                       |               |
|---------------|------------------------------------------------|-------------------------------------------------------------------------------------------------------|---------------|
| <b>22 Nov</b> | Council Performance Update – July to September | To consider the Council's performance in delivering against the council's strategic plan and services | Iolo McGregor |
|---------------|------------------------------------------------|-------------------------------------------------------------------------------------------------------|---------------|

Note for officers – Cabinet Report Deadlines

## Cabinet Forward Work Plan

| <i>Meeting</i> | <i><b>Deadline</b></i> | <i>Meeting</i> | <i><b>Deadline</b></i> | <i>Meeting</i> | <i><b>Deadline</b></i> |
|----------------|------------------------|----------------|------------------------|----------------|------------------------|
|                |                        |                |                        |                |                        |
| <i>March</i>   | <i><b>1 March</b></i>  | <i>April</i>   | <i><b>8 April</b></i>  | <i>June</i>    | <i><b>20 May</b></i>   |

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Cabinet Forward Work Programme.doc

## Progress with Committee Resolutions

| Date of Meeting | Item number and title                                   | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Progress                                                                                                                                               |
|-----------------|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20 January 2022 | 5. Highways Maintenance Policies for Unclassified Roads | <p><b><u>Resolved:</u></b> - <i>subject to regard being given to the above observations and comments, that</i></p> <p>(i) <i>it was satisfied that the correct approach to highway maintenance was being applied, insofar that the best alignment between the risk to users and the utilisation of available funding was being achieved;</i></p> <p>(ii) <i>efforts should be made to encourage all councillors and employees to adopt and foster a 'One Council' corporate approach towards reporting problems or matters relating to the highways network; and</i></p> <p>(iii) <i>an information report be circulated to Committee members on the condition and maintenance plans for laybys adjacent to the County's highways network.</i></p> | The Lead Member and officers have been informed of the Committee's recommendations and the information report on layby maintenance has been requested. |

|  |                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                |
|--|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p><b>6. Safeguarding Welsh Place Names in Denbighshire</b></p> | <p><b><u>Resolved:</u></b> <i>subject to the above observations –</i></p> <p>(i) <i>Confirm that it is satisfied that the Council is fully utilising all powers conferred upon it with regards to safeguarding Welsh and historical names in both the natural and built environment; and</i></p> <p>(ii) <i>That representations be made to the Cabinet Lead Member seeking him under powers delegated to him as Lead Member to approve the removal of the prefix/suffix ‘Dreif’/‘Drive’ from the ‘New Street Names’ list in Section B2 of Denbighshire’s Street Naming and Numbering Policy January 2021.</i></p> | <p>(i) Lead Member and officers informed of the Committee’s recommendations.</p> <p>(ii) A request has been made to the Business Improvement and Modernisation Service for it to facilitate a Lead Member Delegated Decision in relation to the Committee’s recommendation</p> |
|--|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|