

CABINET

Minutes of a meeting of the Cabinet held in the Council Chamber, County Hall, Ruthin and by video conference on Tuesday, 19 September 2023 at 10.00 am.

PRESENT

Councillors Jason McLellan, Leader and Lead Member for Economic Growth and Tackling Deprivation; Gill German, Deputy Leader and Lead Member for Education, Children and Families; Gwyneth Ellis, Lead Member for Finance, Performance and Strategic Assets; Elen Heaton, Lead Member for Health and Social Care; Julie Matthews, Lead Member for Corporate Strategy, Policy and Equalities; Barry Mellor, Lead Member for the Environment and Transport; Win Mullen-James, Lead Member for Local Development and Planning, Rhys Thomas, Lead Member for Housing and Communities, and Emrys Wynne, Lead Member for Welsh Language, Culture and Heritage

Observers: Councillors Joan Butterfield, Karen Edwards, Pauline Edwards, Justine Evans, Bobby Feeley, Hugh Irving, Delyth Jones, Huw Hilditch-Roberts, Brian Jones, and Andrea Tomlin and Mark Young

ALSO PRESENT

Chief Executive (GB); Corporate Directors: Social Services and Education (NS), Governance and Business/Monitoring Officer (GW), and Environment and Economy TW; Heads of Service: Finance and Audit (SG); Education (GD); Children's Service (RM); Legal, Democratic and HR (LJ); Principal Manager: School Support (JC); Strategic Planning and Housing Manager (AL); Capital Programme Manager (JG); Collaborative Procurement and Framework Manager (KB), and Committee Administrators (KEJ & NPH)

BEREAVEMENT

The Leader referred to the sad news that Councillor Peter Scott's wife, Sue Scott had passed away and spoke for all in passing on their thoughts, prayers, and condolences.

1 APOLOGIES

There were no apologies.

2 DECLARATION OF INTERESTS

Councillor Gill German declared a personal interest in agenda item 6 – Ysgol Plas Brondyffryn Project because she was a Director of Denbighshire Leisure Limited

Councillor Pauline Edwards declared a personal interest in agenda item 6 – Ysgol Plas Brondyffryn Project because she was a School Governor of Ysgol Pendref

Councillor Brian Jones declared a personal interest in agenda item 5 – Rhyl BID Re-Ballot because he was a Director of Rhyl BID

Councillor Rhys Thomas declared a personal interest in agenda item 6 – Ysgol Plas Brondyffryn Project because he lived near to the Ystrad Road site and because he was a Director of Denbighshire Leisure Limited

Councillor Emrys Wynne declared a personal interest in agenda item 6 – Ysgol Plas Brondyffryn Project because he had a close personal association to persons living near to one of the sites

Councillor Mark Young declared a personal interest in agenda item 6 – Ysgol Plas Brondyffryn Project because he was a School Governor of Denbigh High School

3 URGENT MATTERS

The Leader allowed a question to be put with regard to vandalism of the 20mph speed limit road signs which had recently been rolled out.

Councillor Karen Edwards asked who would be responsible for ongoing costs associated with the 20mph scheme, for example vandalised signage, rectifying errors, and any future variations, would it be the Council or the Welsh Government?

The Corporate Director: Environment and Economy advised that the signage was Council property, and the assumption was that any costs relating to vandalism or damage would fall to the Council as it would with any other asset. The issue relating to future variations was potentially different and it was understood there would be a national review of the scheme and some revised guidance around potential exemptions in future. If there were any changes to the scheme as part of that revised guidance and future review, the Welsh Government may fund those changes, but the position would need to be confirmed at that time. Councillor Barry Mellor added that the review would likely be in March 2024 and Welsh Government had confirmed funding would be available for any other exemptions that came forward. In terms of the vandalism of the 20mph signage, the Council would rectify the damage as soon as possible, and it was also a matter for the Police.

The Leader thanked Councillor Edwards for her question and encouraged members to feedback residents' views on the 20mph speed limit to inform the future review, and the Member Area Groups would also be involved as part of that process.

4 MINUTES

The minutes of the Cabinet meeting held on 18 July 2023 were submitted.

RESOLVED that the minutes of the meeting held on 18 July 2023 be received and confirmed as a correct record.

5 RHYL BUSINESS IMPROVEMENT DISTRICT (BID) RE-BALLOT

Councillor Jason McLellan presented a report on proposals for a second 5-year term for Rhyl Business Improvement District (BID) and associated arrangements.

The Corporate Director: Economy and Environment introduced the report which detailed the background to the establishment of the Rhyl BID in November 2018 together with the BID development process and legalities in that regard. The first 5-year term was coming to an end and a new ballot was required if the BID was to continue. The Corporate Director: Economy and Environment was a Director of the Rhyl BID representing the Council. Cabinet was asked to consider the following –

- whether it agreed with officer recommendation that there were no grounds to veto the BID proposal. The Council could veto a BID proposal if it conflicted with any corporate DCC policy or placed a significantly disproportionate financial burden on any person or class of persons. Having reviewed the new Business Plan (attached to the report) officers considered neither provision applied, and
- how the Council (DCC) should use its votes in the ballot. The Council owned a number of properties in the Rhyl BID area and was eligible to use 20 votes. The Corporate Director's view was that BIDs could be a positive force for good and a second term would be beneficial to the ongoing regeneration of the town. The Business Plan supported the Prosperous Denbighshire theme in the Corporate Plan and the Welsh Government's view was supportive of the BID. Therefore, he hoped that the Rhyl BID continued beyond the ballot for a second term and that the business community would be supportive of the continuation of the BID.

The Leader thanked the Corporate Director for the support he had provided throughout the process. He also thanked Nadeem Ahmed, Chair of Rhyl BID and Abigail Pilling, Manager of Rhyl BID, who he had recently met with Councillor Barry Mellor, and for their attendance at Partnership Scrutiny Committee and he appreciated the work of the Committee and its Chair in scrutinising the proposals.

The Leader advised that a BID gave businesses the power to decide improvements they wanted to make in a geographical area and raise funds to deliver them. It was a very local form of democracy. Although DCC was a key stakeholder in the Rhyl BID it was independent of the Council. However, the BID had struggled to be perceived as independent given comments that it had only succeeded due to DCC having an unjust proportion of the votes. He believed the BID had the support of businesses, but it was difficult to argue against the negative narrative due to the low turnout. 99 of the 463 eligible votes were cast; the "Yes" vote won by 66 votes but 36 of those "Yes" votes had been cast by DCC. Various reasons could be attributed to the low turnout, but a larger turnout was expected in a re-ballot and that more business would be supportive given what had been delivered over the 5-year term.

The Leader agreed with officers that there were no grounds to veto the BID proposals and he asked Cabinet to carefully consider how to use DCC's votes in a re-ballot. He referred to consultations with scrutiny and others, including the recommendation of Rhyl Member Area Group (MAG) that DCC do not exercise its right to vote in the next BID round. The Leader's view was that Rhyl BID played a significant role in the town's regeneration, having delivered some positive initiatives in the first term, and Cabinet should be clear that it supported the BID and wanted to continue working in partnership for the betterment of Rhyl. However, given the negative perceptions regarding DCC's influence in the first ballot, he felt enough

votes should be secured from local businesses to win the ballot for a second term. Therefore, he proposed DCC only used one of its votes in the re-ballot.

Cabinet considered the report, including the consultations carried out, together with the Leader's views on the BID proposal and voting arrangements. Cabinet recognised the benefits of the Rhyl BID and its continuation and agreed with the Leader's views in that regard. Cabinet also agreed with the proposal for DCC to cast a single vote in support of the BID, which would demonstrate a commitment to fairness, with the outcome of the ballot being determined by the local business community. The need to ensure appropriate engagement with businesses was highlighted to raise awareness and increase voter turnout. The Corporate Director: Economy and Environment advised that Rhyl BID had already undertaken much engagement work and confirmed the Council could also undertake further work in that regard to emphasise the importance that businesses vote in the re-ballot.

At this point the Leader opened up the debate to non-Cabinet members and a number of different views on the best way forward were expressed, including DCC totally abstaining from voting in the re-ballot and the potential pitfalls of not using its full voting allocation. There was also some debate on the previous arrangements and how they had been managed, including the decision-making process, low turnout for the initial ballot, together with issues around the collective engagement of key stakeholders and the importance of collaborative working for the benefit of Rhyl. The need for a fair and inclusive process was reiterated, and to ensure small businesses were not disproportionately affected in the difficult financial climate.

The Leader responded to the issues raised and made the following key points –

- there was confidence that a second term of the Rhyl BID would be supported by local businesses which would strengthen Rhyl BID going forward
- the stance taken by the Cabinet did not go against officer recommendation and there was no legal requirement for the Council to exercise all its votes
- it was proper that Cabinet should express a view on the re-ballot but not to use all its eligible votes with a view to influencing the outcome of the ballot
- the intention was to use the one vote which was closest to the average rateable of all DCC's eligible votes
- not exercising all its eligible votes was no reflection on the Council's commitment and support for a second term for the Rhyl BID which was clear
- it was proper that the views of Rhyl MAG be considered as they were the elected representatives for the BID area
- there appeared to be some level of disengagement in the process but there would be a concerted effort by DCC for all to work together to benefit Rhyl
- Cabinet and DCC would be working positively and collaboratively with local businesses and key stakeholders for the benefit of the area.

During the course of debate a conduct issue was raised on the basis of the meeting with Rhyl BID Representatives and alleged announcement of the Cabinet decision before today's meeting. The Leader and Councillor Barry Mellor denied any decision had been made or communicated and explained the circumstances of the meeting following an invitation from the Rhyl BID to discuss the re-ballot proposals. The Monitoring Officer confirmed no breach of the Code of Conduct. Councillor

Mellor asked that his serious concerns over the matter and breach of trust be recorded. Councillor Win Mullen-James referred to a separate allegation made during the meeting relating to comments made within Rhyl Town Council working against the BID in 2018 and asked that they be fully investigated.

Cabinet restated their support of the Rhyl BID and to cast one vote, based on an average rateable value, in favour demonstrating their support for its continuation, whilst allowing local businesses to determine the overall outcome of the re-ballot.

RESOLVED that Cabinet –

- (a) *note the contents of the BID Business Plan (Appendix 1 to the report) and support the recommendation that there are no grounds on which to veto the proposals under the BID Wales (2005) Legislation (paragraphs 4.8 and 4.9 of the report referred);*
- (b) *authorise officers to complete any necessary legal agreements required for the operation of the BID Levy, ballot and service arrangements and any other necessary matters for the proposed BID;*
- (c) *confirm that DCC will exercise one of its votes in the BID ballot in support of the BID, and*
- (d) *confirms that it has read, understood and taken account of the Well-being Impact Assessment (Appendix II to the report) as part of its consideration.*

6 YSGOL PLAS BRONDYFFRYN PROJECT - PROPOSED NEW BUILD OF SCHOOL

Councillor Gill German presented the report seeking Cabinet's endorsement of the Ystrad Road site (Site A) as the preferred site for progression of the new build for Ysgol Plas Brondyffryn and for a formal planning application to be submitted.

The project was part of the Sustainable Communities for Learning Programme (Band B) approved in September 2020. The school provided specialist provision for pupils with autism aged 3 – 19 and the proposal was to bring 3 of the 4 current sites together in a purpose-built building and increase capacity to meet demand.

Some background to the project was provided including feasibility works on the new build proposals and consultation with stakeholders on the Ystrad Road site (Site A). Main issues arising from informal planning consultation related to site selection, loss of sporting facilities and highways access, and responses/mitigation for those issues were provided. Whilst supporting the need for improved facilities, Denbigh Member Area Group (MAG) had concerns over Site A and officers were asked to review those concerns and assess alternative sites and locations. Feasibility works were undertaken on an alternative site (Site B) and legal counsel's advice was provided on the risks to the Council from a planning policy perspective. The Lead Member and officers could not support progression of Site B due to significant planning restrictions to overcome above and beyond those at Site A, and from an

educational perspective given the impact on future development plans for Denbigh High School. However, Site B remained the preferred option for Denbigh MAG.

Councillor German highlighted mitigation measures to address concerns over Site A. She drew attention to the Wellbeing Impact Assessment (WBIA) and accepted the overall negative impact on cohesive communities and Denbigh residents and the need for additional mitigation to address all the issues raised. Community impact had been raised by Councillor Martyn Hogg outside of the meeting and assurances had been provided that it would remain a live issue. Work would be carried out to identify opportunities and maximise benefits of other open spaces in the town in addition to the replacement of the sporting facilities. Overall, here was a net positive outcome for the proposal with beneficiaries across Denbighshire.

In closing, Councillor German confirmed that it had been a lengthy process and she had been disappointed that an outcome had not been reached to the satisfaction of all but thanked all those involved for their hard work and decorum. Consequently, she recommended progression of the Ystrad Road site (Site A) for the new build.

Councillor Rhys Thomas raised concerns that the engagement and consultation process, as set out in the School Organisation Code, had not been properly carried out, which he illustrated by drawing attention to documentation from key stakeholders, including Denbigh High School and Denbighshire Leisure Limited, notice of the Council's intention to apply for planning permission at Site A some twelve months previously, an artist's impression of the school site some six months before that, and Denbigh MAG not being included in a site meeting with developers. Councillor Emrys Wynne added that there appeared to have been a catalogue of failures over a period of longer than eighteen months and asked whether there was evidence that Denbigh High School's Governing Body had expressed a view. Councillor Gwyneth Ellis also sought further clarity on issues raised by Councillor Martyn Hogg (which he had emailed to all members) with regard to the WBIA.

The Lead Member and officers responded to the issues raised as follows –

- clarified the role of Cabinet on a strategic level to clearly authorise the submission of a planning application; it would then be a matter for the planning process and Planning Committee as to whether the application was successful
- images of potential designs of the school were for illustrative purposes only and sometimes changed significantly from the original artist impressions
- there was documented evidence of emails, face to face meetings, and telephone calls on the engagement with Denbigh High School from November 2019, spanning the previous school leadership, up to March 2023; a similar review of evidence had been carried out with other key partners, including Denbighshire Leisure Limited with an initial discussion in January 2020
- the Chief Executive had also attended a number of Denbigh MAG meetings on this topic and was satisfied that members had been appropriately engaged
- detailed Cabinet's involvement in the decision-making process relating to school projects, with approvals given in September 2020 and April 2022. Progression had been paused to allow further scrutiny of processes and options
- disagreed that there had been a catalogue of failures but accepted there was always room for improvement

- engagement had been carried out in line with other projects, including Band A
- approved minutes of Governing Body meetings were visible to the public
- referenced a joint statement issued in March 2023 by Denbigh High School and Ysgol Plas Brondyffryn in which the main priority for Denbigh High School was for a refurbished, remodelled school for the wellbeing of pupils and staff, the longer the Ysgol Plas Brondyffryn project took, the longer the uncertainty carried on; both projects must move forward because they were intrinsically linked
- confirmed Councillor Martyn Hogg had been satisfied with the responses given to the matters raised regarding the WBIA, and green space in particular
- elaborated on the development of the WBIA in line with other WBIA's and work to ensure that the document accurately reflected the views of all stakeholders which had been particularly borne out by the section on cohesive communities.

A new build with extra capacity was required to meet current and future demand for specialist provision in Denbighshire and all were in favour of increasing the school's capacity to meet those needs. The issues of concern related to the site selection process for the new build and level of engagement/consultation carried out.

In opening up the debate to non-Cabinet members the following was discussed –

- Councillor Delyth Jones stressed the importance of a successful school sitting comfortably in its community, and she revisited some of the points made with regard to the WBIA, to ensure that the view of all key stakeholders had been properly evaluated and reflected, and the need for more involvement and a broader engagement process on the impact of the proposal. Officers reiterated that the WBIA was a comprehensive, live document under constant review and guidance on its completion had been taken from the WBIA Lead Officer. It was also clarified that a meeting had been arranged specifically to address the issue of open space in Denbigh following the concerns raised by Denbigh MAG
- Councillor Mark Young appreciated the difficulties involved and advocated working together positively going forward; he sought a commitment regarding the changing room facilities and better engagement with Denbigh High School. It was confirmed that the location of the changing facilities would be considered when working with Denbigh High School as part of the overall design process. The Head of Education and Lead Member confirmed they would be willing to attend Governing Body meetings and for the topic to be a standing agenda item
- Councillor Pauline Edwards referred to the overall Band B proposals which included a project for Ysgol Pendref, which remained on two separate sites, and highlighted that project also needed to be progressed as a priority.

Councillor German thanked everyone for their contributions to a robust debate, highlighting that best endeavours had been made to address the issues raised which would continue going forward. Having considered all factors, and for the reasons outlined, she asked Cabinet to approve the report recommendations.

RESOLVED that, by majority vote, Cabinet –

- (a) *approve the preferred site for the new build of Ysgol Plas Brondyffryn as the Ystrad Road site, shown as site A on the plan attached in Appendix 2 to the report and to agree to support progression via a planning application;*

- (b) *agree that the planning application must clearly demonstrate that the loss of recreational space through development on the school playing field will be replaced by alternative outdoor provision of equivalent or greater community benefit, and*
- (d) *confirms that it had read, understood and taken account of the Well-being Impact Assessment, as detailed in Appendix 3 to the report, as part of its consideration.*

At this point (12.25 pm) the meeting adjourned for a refreshment break.

7 NORTH WALES REGIONAL PARTNERSHIP BOARD 10 YEAR STRATEGIC CAPITAL PLAN DRAFT

Councillor Elen Heaton presented the report seeking Cabinet approval of the North Wales Regional Partnership Board 10 Year Strategic Capital Plan and Denbighshire's capital priorities for improved integrated health and social care.

Some background was provided to the establishment of the Regional Partnership Board (RPB) with the aim of facilitating collaboration to improve health and social care across the region. Welsh Government required all RPBs to develop and implement strategic capital plans to reflect the 10-year view of capital investment needs in the region. All six local authorities had put forward their capital priorities in relation to integrated health and social care projects to create one regional strategy. Denbighshire's projects included the Royal Alexandra Hospital, Denbigh Health and Social Care Programme, and Gerddi Glasfryn, Denbigh. The Plan was a live document which would be reviewed and updated at least annually and allowed future projects to be added to the capital priority list over the next 10 years.

Councillor Heaton corrected an inaccuracy reported in the press over funding for the Royal Alexandra Hospital discussed at Partnerships Scrutiny Committee. The partnership element of the funding, approximately 20% of the total funding required, had not been secured. The necessary forms for the initial scoping and feasibility of the project had recently been approved which was the good news shared with the Scrutiny Committee. The next stage involved local approval of the necessary forms and if Cabinet approved the recommendations, those priorities would be submitted to the RPB for endorsement and inclusion in the Regional Capital Plan.

RESOLVED that Cabinet approve the North Wales Regional Partnership Board 10 Year Strategic Capital Plan and agree with Denbighshire's capital priorities for improved integrated health and social care to meet future needs.

8 DENBIGHSHIRE PROCUREMENT STRATEGY

Councillor Julie Matthews presented the report seeking Cabinet approval of the updated Denbighshire Procurement Strategy.

The report introduced the new and updated Denbighshire Procurement Strategy needed to reflect and support the current corporate priorities and wellbeing goals,

and to align to the upcoming UK Government Procurement Bill and the Social Partnership and Public Procurement (Wales) Act. The new legislation sought to ensure both value for money and socially responsible procurement and there were also opportunities to support the Council's corporate priorities.

The Strategy included three specific outcomes for the Council to –

- improve the contribution its procurement activity had on the local economy
- work in partnership with its supply chain to achieve a 35% reduction in carbon emissions to contribute to the aim of a net zero public sector by 2030
- achieve value for money from the goods and services it procured

The Interim Head of Legal, HR and Democratic Services and Collaborative Procurement and Framework Manager highlighted the key areas of the Strategy.

Cabinet welcomed the Strategy and positive opportunities it presented, particularly with regard to local businesses and increasing local spend, engaging in social partnerships, reducing carbon emissions, addressing the wellbeing agenda, and working with regional partners. Given the wealth of changes the Leader advocated member training and engagement. Officers agreed a Member Workshop could be arranged, which would be particularly useful for Cabinet given their responsibilities for awarding contracts, to better understand the new requirements.

Cabinet discussed various aspects of the Strategy with officers who elaborated on the advantages of local procurement and initiatives such as “Meet the Buyer” event in order to engage with local businesses to build capacity and confidence in the local market and ensure they were best placed to bid for and win contracts. In addition, the new legislation provided a flexible procedure which would enable the Council to support the local supply chain and ensure it placed local suppliers in the best position possible to bid. Cabinet was also pleased to note that the Strategy would support a number of themes in the corporate plan, including a prosperous Denbighshire, a greener Denbighshire, and a well-run, high performing Council. Councillor Gill German was proud that the Welsh Government had taken the lead in this process with the Social Partnership and Public Procurement (Wales) Act.

RESOLVED that Cabinet –

- (a) confirms that it had read, understood and taken account of the Well-being Impact Assessment (Appendix 2 to the report) as part of its consideration, and*
- (b) approves the updated Procurement Strategy (Appendix 1 to the report) that supports Denbighshire's priorities and wellbeing goals, and its role in Denbighshire's preparation for upcoming public procurement regulations changes.*

The Head of Finance and Audit presented the report updating Cabinet on the performance of the treasury management function and demonstrating compliance with treasury limits and Prudential Indicators during 2022/23.

The Head of Finance and Audit highlighted the main points in terms of borrowing and investment activity. There had been a number of maturing loans and £30m of new borrowing, that amount would significantly increase the following year when borrowing on behalf of the Welsh Government who would be funding the repayments for the coastal defence schemes. Investment activity was all short term and related to cash waiting for expenditure which was borrowed just before it was needed. Members were also guided through those prudential indicators detailed in Annex B confirming appropriate ratios of financing costs and borrowing levels within limits. The ratio of financing costs to net revenue stream was just below 7% which would likely change in future given the Council's future borrowing commitments and the expected low level of settlements going forward.

Cabinet noted that Governance and Audit Committee monitored the treasury management function and had scrutinised the report. The Head of Finance provided a summary of the matters raised during that debate. He also reported on a training session in the autumn aimed specifically for Governance and Audit Committee on treasury management, but all members were encouraged to attend.

RESOLVED that Cabinet –

- (a) *note the performance of the Council's Treasury Management function during 2022/23 and its compliance with the required Prudential Indicators as reported in the Annual Treasury Management Report 2022/23 (Appendix 1 to the report), and*
- (b) *confirms it has read, understood and taken account of the Wellbeing Impact Assessment (Appendix 2 to the report) as part of its consideration.*

10 FINANCE REPORT

The Head of Finance and Audit presented the report detailing the latest financial position and progress against the agreed budget strategy.

A summary of the Council's financial position was provided as follows –

- the net revenue budget for 2023/24 was £250.793m (£233.696m in 2022/23)
- an overspend of £3.119m was forecast for service and corporate budgets
- highlighted current risks and assumptions relating to corporate budgets and individual service areas
- detailed savings and efficiencies and increases in fees and charges (£8.172m)
- provided a general update on the Housing Revenue Account, Treasury Management, Capital Plan and major projects.

The increase in the forecasted overspend on service and corporate budgets from £2.395m last month to £3.119m was highlighted. The report included an assumed £700k income around waste financing which would need to be removed as it had

since been confirmed that funding would not be received in the current financial year. Spend on other items, such as school transport, would be known next month which would provide a clearer picture overall. Services were reviewing their expenditure and income to mitigate the impact of the overall budget spend and other in-year action was being taken including exercising greater controls over recruitment, details of which had been shared with all members. Whilst the budget mitigation reserve could be used to cover the overspend in the current year, it would reduce the resources available to meet unforeseen pressure in future years.

The Leader was grateful to the Head of Finance and Audit for the report which outlined the very difficult position facing the Council and difficult decisions ahead.

RESOLVED that Cabinet note the budgets set for 2023/24 and progress against the agreed strategy.

11 CABINET FORWARD WORK PROGRAMME

The Cabinet forward work programme was presented, and members noted an extra item for November relating to the Re-tendering of Support Living Contracts.

RESOLVED that Cabinet's forward work programme be noted.

The meeting concluded at 1.15 pm.