

COMMUNITIES SCRUTINY COMMITTEE

Minutes of a meeting of the Communities Scrutiny Committee held in Conference Room 1a, County Hall, Wynnstay Road, Ruthin, LL15 1YN on Thursday, 15 December 2016 at 9.30 am.

PRESENT

Councillors Brian Blakeley, Bill Cowie, Peter Evans, Huw Hilditch-Roberts (Chair), Martyn Holland, Rhys Hughes (Vice-Chair), Bob Murray, David Simmons, Cefyn Williams and Cheryl Williams

Observers – Councillors Meirick Davies and Arwel Roberts

Cabinet Lead Members – Councillors David Smith and Eryl Williams.

ALSO PRESENT

Corporate Director: Economic and Community Ambition (RM), Head of Legal, HR and Democratic Services (GW), Head of Education (KIE), Education Planning & Resources Manager (IL), Head of Highways and Environmental Services (TW), Flood Risk Manager- Highways and Environmental Services (WH), Development Manager- Planning and Public Protection (PM), Scrutiny Co-ordinator (RE) and Committee Administrator (SJ).

Co-opted Member Kathy Jones was present for Agenda item 5.

Natural Resources Wales representative Keith Ivens attended in relation to Agenda item 6 at the Committee's invitation.

1 APOLOGIES

Apologies for absence were received from Co-opted members Debra Houghton, John Piper and Gareth Williams.

2 DECLARATION OF INTERESTS

Councillor Huw Hilditch-Roberts declared a personal interest in agenda item 5.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

4 MINUTES

The Minutes of the meeting of the Communities Scrutiny Committee held on the 27 October, 2016 were submitted:-

Matters arising:-

The following points were raised in relation to Pages 14 to 19: 'County-wide impact of the increase in car parking charges':

(i) in response to an observation that if a Head of Service disregarded recommendations made by a scrutiny committee when deciding on a policy under powers delegated to him/her as an individual, it was not an effective use of members' time to discuss the proposals. The Chair advised that, since this particular decision had been taken 'Lead Officer Delegated Decisions' were now subject to a similar process as those of a Lead Member, with the potential for Scrutiny to call-in a Lead Officer decision for scrutiny, prior its implementation. The Committee asked that the guidance on this process be circulated to members for information.

(ii) Councillor Martyn Holland advised that the statement in the minutes relating to the fact that Mold Town Council subsidised car parking charges in car parks in Mold was incorrect. The Lead Member for Public Realm advised that he had been informed that this was the case from a reliable source. Members asked the Scrutiny Co-ordinator to contact the Clerk to Mold Town Council to establish whether the Council was actually subsidising parking charges in the town; and

(iii) the Traffic, Parking and Road Safety Manager had queried the wording of resolution (x) on page 19 and had asked that it be amended to read "that a further progress report be presented to the Committee in six months' time to provide an update on the recommendations contained in Appendix A of the report submitted on 27th October 2016, along with the draft car park asset management plan for members' observations".

RESOLVED: *subject to the provision of the above information and the amendment, as drafted in (iii) above, that the minutes be approved as a true and correct record of the proceedings.*

EXCLUSION OF PRESS AND PUBLIC

RESOLVED *that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 16 of Part 4 of Schedule 12A of the Local Government Act 1972.*

PART II

5 DENBIGHSHIRE'S HOME TO SCHOOL TRANSPORT POLICY

The Chair welcomed Mrs Kathy Jones, who had recently been appointed by the Catholic Church to serve as its co-opted representative for education related matters on Scrutiny, to her first meeting.

The Lead Member for Education introduced the confidential report (previously circulated) which updated the Committee on the review of the County's Home to School Transport Policy which was currently underway. A copy of the latest version of the draft Policy was appended to the report for members' information. The Head of Education gave a brief overview of the background which had led to the decision to review the policy in 2014, and the subsequent current review of the Policy. She

advised that legal counsel had been sought on elements of the revised Policy to ensure that they conformed with the requirements which governed home to school transport as well as other legislation relating to safeguarding and well-being. Members were advised by the Head of Education and other officers that the reviewed Policy, as far as reasonably possible, had regard to points raised previously by councillors and parents during the implementation of the policy following the 2014 review, the requirements of the Learner Travel (Wales) Measure 2008, the close relationship between 'feeder' primary schools and their related high schools, hazardous routes to school policy, discretionary travel policy and also the accessibility of the appeals process for parents/guardians.

Responding to members' questions the Lead Member, Head of Education, Head of Legal, HR and Democratic Services and the Education Resources and Support Manager (Planning and Resources) advised that:

- the Council was of the view that it was important to take legal advice on the contents of the draft policy before consulting with the public on the proposals contained within it;
- permitting parents/guardians to meet with officers as part of the Appeals process had proved extremely useful. Discussions with parents/guardians would now be built into the policy in relation to 'discretionary provisions', as it was during such discussions and face to face conversations that individual circumstances were properly explored and understood;
- the term 'nearest suitable school' did include transport to faith high schools out of the county if that was the pupil's nearest faith school;
- legal opinion had already been received on some elements of the revised policy, counsel's advice on other elements was still awaited. The opinion received to date was favourable;
- the primary aim of the revised policy was to ensure that the right pupils were receiving the transport they were entitled to receive to their 'nearest appropriate school'. Once that had been determined consideration could be given to concessionary travel applications, including clear communication to parents/guardians of pupils awarded concessionary travel on the length of time of the concessionary travel award;
- all applications for travel arrangements, statutory and discretionary, would be impact assessed;
- anomalies which had come to light under the previous review i.e. long-standing relationships with a high school in a 'feeder school' capacity would be addressed within the policy in order not to have a negative impact on specific schools and their pupils;
- every effort would be made to undertake the public consultation on the revised policy during term time to ensure that all stakeholders would have ample opportunity to submit their views;
- as part of the consultation process meetings would be held to discuss the proposed revised policy with interested parties i.e. School Governors Forum, Head teachers' Conference; all school governors etc. Reference to the revised policy and the consultation process would be included in the new Education Newsletter which was scheduled to be distributed to parents early in the new year;
- the timescale for the policy review process, including the consultation stage, was outlined in the report. It was anticipated that the public consultation

stage would commence early in the new year with a view to finalising the policy during the early summer and Council ratifying it in September 2017 for implementation in September 2018;

- it was acknowledged that there would be an impact on the Council's budget once the revised policy was implemented. The Council had a statutory obligation to provide school transport to those pupils who qualified for it, including pupils with special educational needs (SEN), therefore any additional funding would have to be found;
- it was vital to get the policy right to enable correct calculations of the actual budget required to deliver it;
- if anyone had concerns with respect to whether a particular school was delivering the curriculum in line with its category designation, those concerns should be raised with the Education Service to enable it to investigate them.

Prior to concluding the discussion the Chair thanked the Lead Member and officers for all the work that had been undertaken during the last two years with a view to developing a fair and equitable policy. It was of the utmost importance to balance the budget with Council's statutory obligations. Acknowledging that there would always be some anomalies when the rules were applied he advised that the Committee had been encouraged by the fact that discussions would be held with parents/guardians of individual pupils who appealed decisions, or who contacted the Council querying their entitlement. He emphasised the need for all county councillors to be briefed on the revised policy prior to the public consultation on it. The Committee:

RESOLVED: -

- (i) subject to the above observations to support the proposal to progress with the consultation phase in due course, once legal counsel's opinion had been received on all aspects of the revised policy referred to him/her for advice; and*
- (ii) that prior to public consultation the revised draft policy be referred back to the Committee for approval to consult.*

PART 1

6 WATER MANAGEMENT AND FLOOD MITIGATION

Mr Keith Ivens, Natural Resources Wales' (NRW) Operations Manager and the Council's Senior Engineer – Flood Risk Management were welcomed to the meeting by the Chair to facilitate a discussion on water management and flood mitigation measures in Denbighshire.

During the discussion members raised a number of concerns with respect to the maintenance of rivers, streams, ditches and cuts, enquiring on who was responsible for maintaining and clearing them.

In response to the Committee's questions both officers advised that:

- both the local authority and NRW worked closely together to mitigate the risk to life and property of flooding from 'main' rivers;

- details of planned maintenance work on all main rivers and watercourses within NRW's jurisdiction were listed on the annual 'North Wales Routine Maintenance Programme 2016/17' on the NRW's website;
- the NRW's maintenance schedules were drawn up based on an assessment of risk and budget allocation available. Modelling work had already been programmed in for 2017-18 for the purpose of understanding if the infrastructure and maintenance of Rhyl Cut could be improved. However, Rhyl Cut was not currently considered to be a high risk area, because there were three exit points for water from the Cut, including the pumping station located there;
- indications pointed towards an increase in periods of high intensity rainfalls in recent years and this was proving difficult to both predict and manage in relation to watercourse maintenance work;
- responsibility for overseeing watercourse maintenance and management across Wales was determined by each watercourse's designation. NRW was responsible for overseeing 'main rivers' – these included main/larger rivers, streams and some smaller watercourses. Every other open watercourse, known as 'ordinary watercourses', are overseen by the local authority in its capacity and the 'Lead Local Flood Authority'. Information on watercourse designation was available on the NRW's website;
- NRW was allocated a budget that was 'ring-fenced' for the purpose of maintaining 'main rivers' for irrigation purposes and for mitigating the risk of flooding from those rivers. Local authorities (lead local flood authorities) had to finance any flood risk management work from within its non-ring-fenced budget;
- whilst NRW, local authorities and individual landowners had duties in relation to water management and flood risk these were split into two categories – responsibilities and jurisdiction. Duties which fell into the former category placed a legal responsibility on the riparian landowner to undertake flood mitigation/water management work. Whilst NRW and local authorities have legislative powers to carry out works on watercourses, they were under no obligation to do so;
- capital funding allocated to NRW tended to be towards high risk flood mitigation work e.g. flood alleviation work, whilst the revenue funding was more likely to be used for flood prevention/river maintenance work;
- Riparian landowner duties in relation to watercourses as per the Land Drainage Act 1991 extend to ensuring that the water flows through the land unimpeded;
- the pumping station by the Lyons Holiday Camp in Rhyl, which failed during a heavy rainfall event in summer 2016, was the property of Welsh Water not NRW. The Council had contacted Welsh Water to seek reassurances regarding the reliability of this pump;
- the main focus of the NRW's work was to undertake flood mitigation and management work where there was a threat to life or property. If problems were identified which did not pose a risk to life or property they would inform the riparian landowner of the problem. NRW has a guidance document available for riparian landowners, which was promoted widely via the farming unions. The Council also was in regular contact with landowners on issues of risk or concern;
- A study has been undertaken by NRW the looking at the potential effectiveness of 'natural flood risk management' i.e. the catchment area for the rivers Elwy and Clwyd. An example of natural flood risk management is NRW working in conjunction with Coed Cymru, where trees had been planted with a view to reducing the amount of water that ran downstream and slowing its flow. The

study concluded that opportunities for natural flood risk management were fairly limited in the Elwy and Clwyd catchments.

- whilst it had long been acknowledged that forestation was an effective method by which to reduce the amount of water flowing downstream and for stemming the speed of the flow, recent research suggested that small scale felling, such as that proposed for the Clocaenog Forest area near Cyffylliog for the purpose of erecting wind turbines, should not have a long term adverse effect on river levels and water flow in that area or further downstream. Members were sceptical of this assumption;
- no 'greening' measures, similar to those trialled in the north of England where farmers were encouraged not to dredge or open up new ditches with a view to mitigating the risk of flooding, had been undertaken in Denbighshire;
- that schemes similar to the Pontbren Farmers scheme in the Llanfair Caereinion area of north Powys may prove beneficial in other areas for agricultural, bio-diversity, water management and flood mitigation purposes;
- for large housing developments the developers, as part of the planning application, were required to demonstrate that they would not increase the rate of surface water run-off water in watercourses etc. Generally developers tended to apply to Welsh Water for permission to connect to the local sewer system. This was permitted where 'feasible'. If there was no capacity in the sewer system the developer then tended to apply for planning permission for a private treatment plant, which was an approach that NRW tended to view unfavourably;
- NRW were willing to discuss with landowners any plans they may have for dredging or managing watercourses on their land. Permits were required for the purpose of undertaking this type of work. However, the permit application process was fairly flexible and could accommodate an application for periodic permits e.g. an annual dredging/maintenance permit;
- NRW would normally not remove objects/foreign bodies from rivers unless they posed a risk to life or property, or an immediate threat of flooding;
- NRW would generally not force landowners to carry out watercourse maintenance work unless there was a risk to life or property. If it was deemed that there was such a risk the NRW could access the land to undertake the work and reduce the risk, and then subsequently charge the landowner for the work carried out. To the representative's knowledge this approach had not been utilised in recent years;
- health and safety concerns relating to bridge structures, even if the pressure on them was due to water torrents, was a matter for the local authority not for NRW as structures such as bridges were the responsibility of the local authority; and
- it was anticipated that the UK's decision to withdraw from the European Union would, in the long-term, have a detrimental effect on the NRW's funding for large capital projects, as all recent major flood alleviation/sea defence schemes had been delivered in the main with European funding;

Members asked that:

- concerns raised with respect to water run-off from hardstanding areas into local cuts in the Meliden area once developments in the Local Development Plan (LDP) are built be raised by NRW officials at their next operational meeting;
- that NRW and Council officials meet with county councillors in the Rhyl and Prestatyn area to discuss concerns with regards to flood risks in the local area; and

- due to the complexities surrounding matters relating to water and flood risk management, including different organisations' roles and responsibilities in relation to watercourses and structures spanning rivers and on riverbanks, that a presentation be given to all county councillors during a Council Briefing session on all these aspects. It was suggested that for ease of reference that illustrations be used to explain the various responsibilities, and examples used to highlight how all stakeholders work together to avoid situations escalating to serious incidents;

The Chair thanked both officers for attending and for answering members' questions. He felt that the Council had a role to play in communicating clarity about each individual stakeholder's role and responsibilities in relation to water management and flood mitigation work. It was therefore:

RESOLVED: - that

(i) a presentation be given during a Council Briefing meeting post the May 2017 local authority elections for the purpose of assisting councillors to understand both the County Council, as the Lead Local Flood Authority, and Natural Resources Wales' statutory responsibilities with respect of water and flood management, including coastal and river maintenance responsibilities, and how both organisations work together to mitigate the risk of flooding; and

(ii) in the meantime, a press release be prepared and issued for inclusion in the Farm and Country supplement of the Daily Post on how riparian landowners can apply for permits to undertake periodic maintenance work on watercourses that traverse their land.

7 SCRUTINY WORK PROGRAMME

A copy of a report by the Scrutiny Coordinator (SC), which requested the Committee to review and agree its forward work programme and which provided an update on relevant issues, had been circulated with the papers for the meeting.

A copy of the 'Member's proposal form' had been included in Appendix 2. The SC requested that any proposals be submitted to herself. The Cabinet Forward Work Programme had been included as Appendix 3, and a table summarising recent Committee resolutions and advising on progress with their implementation, had been attached at Appendix 4.

The Committee considered its draft Forward Work Programme for future meetings, Appendix 1 and the following amendments and additions were agreed:-

- The Police Chief Constable be invited to attend Communities Scrutiny Meeting held on the 2nd February 2017.
- Draft Home to School Transport report be added to 2nd February 2017.
- Draft Seagull Action Plan be moved from February's meeting to the 23rd March 2017 Agenda.
- County-wide impact of the increase in car parking charges and the draft Car Park Asset Management Plan be moved from March's meeting to the 15th June 2017 agenda.

RESOLVED that, subject to the above additions and agreements, the Forward work Programme as set out in Appendix 1 to the report be approved.

8 FEEDBACK FROM COMMITTEE REPRESENTATIVES

No reports were received

Meeting concluded at 11:55 a.m.