

COMMUNITIES SCRUTINY COMMITTEE

Minutes of a meeting of the Communities Scrutiny Committee held in Conference Room 1b, County Hall, Ruthin on Thursday, 11 October 2018 at 9.30 am.

PRESENT

Councillors Brian Blakeley, Rachel Flynn, Merfyn Parry, Anton Sampson, Glenn Swingler, Graham Timms (Vice-Chair), Cheryl Williams and Huw Williams (Chair)

Councillor Tony Thomas, Lead Member for Housing, Regulation and the Environment was in attendance at the Committee's request.

Call-in Signatories in attendance:

Councillors Peter Scott, Rhys Thomas, Alan James and Arwel Roberts

Observers:

Councillors Ellie Chard, Christine Marston, Martyn Holland, Mabon ap Gwynfor, and Hugh Irving.

ALSO PRESENT

Corporate Director: Economic and Public Realm (GB), Head of Legal, HR & Democratic Services (GW), Lead Officer, Corporate Property & Housing Stock (DL), Scrutiny Co-ordinator (RE), and Committee Administrator (SLW)

1 APOLOGIES

Apologies for absence were received from Councillors Meirick Davies, Tina Jones and Andrew Thomas

2 DECLARATION OF INTERESTS

None.

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 on the grounds that it would involve the disclosure of exempt information as defined in Paragraph 14 of Part 4 of Schedule 12A of the Act.*

3 REVIEW OF A CABINET DECISION RELATING TO GYPSY AND TRAVELLER SITE PROVISION

The Chair welcomed everyone to the meeting and explained that the Committee had been convened to consider a call-in of a recent Cabinet decision which had approved undertaking pre-planning consultation and subsequent full planning applications for the provision of both residential and transit Gypsy and Traveller sites on the Green-gates Farm East site, on the outskirts of St. Asaph.

The Scrutiny Co-ordinator introduced the Democratic Services Manager's confidential report and appendices (previously circulated) which presented the request made by five non-Cabinet members, under the Council's Call-In Procedure Rules for Scrutiny to review Cabinet's decision of the 25th September in relation to proposed sites for future gypsy and traveller provision in the county. Committee members were advised that the criteria relating to the call-in of a Cabinet decision had been met and that the basis of the call-in was that "a better site had not been considered". The call-in request included a specific example of "a better site". As the lead signatory to the request to call-in the Cabinet's decision Councillor Peter Scott was invited to address the Committee to explain the grounds for calling-in the decision and to provide additional background information relating to the request.

During his introduction Councillor Scott advised that he had attended the Cabinet meeting on 25th September 2018 in his capacity as the local member for the area where the proposed sites were to be located. He explained that at that meeting he had aired his views on why the Green-gates Farm East site was not appropriate for development as either a residential or transit site for gypsies and travellers. He also explained why he thought other sites, which in his view were better sites, had not been given due consideration by Cabinet before they reached their decision, hence his reason for initiating a call-in request to seek Scrutiny to review Cabinet's decision.

Responding to Councillor Scott's introduction, the Lead Member for Housing, Regulation and the Environment advised that the process to determine whether there was a need in Denbighshire for either a residential site, a transit site, or both, had been on-going for a number of years. Denbighshire, similar to all other local authorities, was required by law to undertake a needs assessment to determine if a need existed within the county for such sites. If a need was identified the local authority would, therefore, be legally obliged to provide such sites within its geographical boundaries. He explained that Welsh Government (WG) grant funding was available for developing both residential and transit sites provided that local authorities identified preferred sites, undertook pre-planning consultation on them and received Planning Committee approval for the developments in time to submit bids for the grant funding ahead of the closing date on 28th February 2019. If all of these were achieved the proposal would be to develop the residential site during the 2019-20 financial year and the transit site during 2020-21. The Green-gates Farm East site had already been identified and approved by Cabinet in April 2018 as the preferred site for the development of a residential site. As the WG's guidance on 'Gypsy and Traveller Capital Site Grant' was specific that both residential and transit sites should not be co-located, significant effort had been made to try and identify and secure a separate site along the A55 corridor for development as a 'transit' site. However, due to the short length of the A55 which traversed Denbighshire and the fact that sites had to be within three miles of a primary school, potential suitable locations were limited. Details of the other locations considered were included in the report to Cabinet on 25th September 2018, which was appended to the report presented to the Committee at the meeting. When it became evident that the Council would struggle to identify a suitable separate location from the Green-gates Farm East location to develop as a transit site the Lead Member had written to the WG's Minister responsible for

Equalities and co-ordination of issues relating to Gypsies and Travellers explaining the challenges faced by the Council and seeking the Government to take a flexible approach in this case for the co-location of both sites, provided that appropriate screening was erected between them and that they were both some distance from each other. The Minister had responded favourably in relation to this request on the proviso that the Council provided a reasonable amount of screening between both sites, shared plans with the WG officials and permitted residents of the residential site a period of twelve months to settle in prior the transit site becoming operational. Having received these assurances, Cabinet had therefore approved that the transit site also be developed on part of the Green-gates Farm East site.

A total of 40+ sites had initially been explored. Following detailed consideration the number of potential sites were narrowed down to 22 and after further consideration this number was reduced again to 5. Sites were discounted for various reasons i.e. remoteness from the highway network, land ownership and costs associated with purchasing land or costs and time to compulsory purchase land, site clearance/remediation costs, noise levels, risk of flooding, proximity to the local Area of Outstanding Natural Beauty (AONB) etc. A shortlist of 5 potential sites had been submitted to Cabinet in April 2018. Following further discussion and negotiations between officers and a third party, one of these sites was rendered as not viable which resulted in 4 potential sites being presented to Cabinet for consideration on 25th September. Members, via PowerPoint slides, were given an overview of the potential sites shortlisted for the provision of a transit site which were presented to Cabinet. During the presentation the Lead Member and officers briefed them on the 'pros' and 'cons' of each site.

Responding to members' questions the Lead Member, Corporate Director: Economy and Public Realm, Head of Legal, HR and Democratic Services and the Lead Officer Corporate Property and Housing Stock:

- confirmed that when a call was made for land to be put forward as potential sites for gypsy and traveller site provision no sites had been submitted, this was probably because landowners were reluctant to suggest selling their land for this purpose;
- advised that whilst the WG guidance in relation to the grant funding recommended that both the residential site and the transit site were not co-located both the WG and the family who would live on the residential site acknowledged that suitable locations along the A55 corridor were extremely scarce. Therefore, on the basis that sufficient distance would set both sites apart and that appropriate screening would be erected both parties were willing to accept the compromise;
- detailed the legislative basis which made it a requirement for local authorities to make residential and transit site provision for gypsies and travellers, and advised that the existence of a transit site for gypsies and travellers would assist the Council in future when dealing with illegal encampments;
- provided details of the legislative acts which gave local authorities and the Police powers to compel gypsies and travellers to move on from illegal encampments;
- confirmed that the family whose needs would be met by the development of the residential site were Denbighshire residents and had confirmed that the site would meet their needs and were willing to move there when developed;

- advised that assessments would be undertaken as part of the Planning application process relating to the proposed sites' impact on the area's highways network, community, business park etc. as well as other planning related considerations;
- indicated that consideration would be given when developing detailed plans for the sites for appropriate passing places to be provided on the lane that would be used to approach the site to enable vehicles towing caravans to pass oncoming traffic;
- gave indicative costs relating to the development of both sites for the purpose of providing 6 residential pitches and 5 transit pitches. The number of residential pitches had been determined on the needs assessment undertaken, whilst the number of transit pitches had been guided by the average number of caravans involved in illegal encampments in the county in recent years. A future needs assessment may identify a need for further provision, but the Council was satisfied that based on the latest needs assessment the proposed number of pitches on both sites would fulfil the identified needs;
- advised that the site would be a managed site, with a booking-in system in operation, although it was unlikely that the site would be staffed on a 24 hour basis;
- confirmed that the Green-gates Farm East site was not currently included in the Local Development Plan (LDP) for either community or residential purposes. However, Planning Committee would consider the application on the basis of the identified need, similar to an application made for an agricultural dwelling outside of a residential settlement area;
- confirmed that neighbouring local authorities had been consulted in relation to site management arrangements whilst North Wales Police and North Wales Fire and Rescue Service had been consulted in relation to the proposed locations. No issues or concerns had been raised by any of the public authorities consulted;
- advised that regardless of whether neighbouring authorities already had gypsy and traveller site provision within reasonable travelling distance from Denbighshire, if a need had been identified within the county, Denbighshire was required by law to make provision for sites within its geographical boundaries;
- confirmed that based on the needs assessment undertaken the residential site would be the first to be developed, subject to planning permission being granted. Residents on that site would be granted twelve months to settle in before the transit site would be developed;
- advised that all local authorities were, under the provisions of the Housing (Wales) Act 2014, required to undertake an 'Assessment of Accommodation Needs' with respect of Gypsies and Travellers at least once in any five year period;
- confirmed that the WG had approved Denbighshire's Needs Assessment process, undertaken during 2015, and acknowledged its conclusions in April 2017;
- advised that the needs assessment had clearly identified that the county's residential 'needs' lay within the vicinity of the A55, rather than in areas close to the other trunk road routes that traversed the county i.e. the A5 and A494.

In addition the majority of illegal encampments in the county in recent years had also been in the north of the county, hence the reason for determining that the transit site should also be located close to the A55;

- confirmed that, as the need for gypsy and traveller sites had been identified, the WG and/or the gypsy and traveller community could seek a legal challenge via the High Court if the Council failed in its duty to provide sites. Local residents may bring a legal challenge against the granting of planning permission in due course if they were of the view that it had been granted on unreasonable or unreliable grounds, such a legal challenge would need to be lodged within three months of the planning application being granted;
- gave assurances to the Committee that the Cabinet had been privy to detailed unbiased information in relation to all shortlisted sites when they decided on their preferred options and the Lead Member would have been consulted on the proposed recommendation that was put forward to Cabinet;
- advised that the impact of the sites' development on neighbouring properties would be assessed for planning application purposes under the same criteria as any other residential developments; and
- confirmed that an ecological study had been undertaken on the site of the proposed development and had concluded that there were no ecological reasons to hinder the sites' development

The Lead Member assured councillors that since his appointment as portfolio holder he had been briefed by officers involved with the project on a monthly basis and was, therefore, confident that due diligence had been given to every aspect of the process for identifying suitable sites.

Prior to the Committee deliberating on its conclusions and recommendations Councillor Scott was given an opportunity to sum up why he and his fellow signatories were of the view that the Committee should recommend to Cabinet to review its decision designating the Green-gates Farm East site as its preferred site for the purpose of meeting the Council's obligations in relation to gypsy and traveller site provision. He emphasised that they were firmly of the view that the Council had rushed to designate sites to enable it to secure WG funding towards the costs associated with providing the need which had been identified. In order to meet the imminent deadline they were of the view that the report presented to Cabinet on 25th September was biased towards the Green-gates Farm East site and that insufficient information had been readily available to all county councillors throughout the democratic process to enable them to be aware of which sites were under consideration along with the reasons why they were deemed suitable or unsuitable. Responding to this the Council's Monitoring Officer advised that whilst the reports to Cabinet throughout had been exempt from publication on the grounds of commercial and financial confidentiality they had been available for elected members to access.

The Chair in his summing up acknowledged that Scrutiny fully understood that the Council was legally obliged to provide sites, both residential and transit, for gypsies and travellers if a need had been identified. It was also satisfied that such a need had been identified. However, members' concerns related to the process that had led to the decision on the preferred sites. In Scrutiny's view, due to the controversial nature of the decision and the reputational risk associated with it,

members needed to be assured that all potential sites had been considered in sufficient detail and that each site had been subject to a uniform assessment process before being eliminated from the final list of potential sites presented to Cabinet on 25th September.

Having reviewed the information presented to Cabinet on 25 September Scrutiny members felt that Cabinet had not been presented with sufficient comparable information on the 'pros' and 'cons' of each site to enable it to come to an informed and balanced decision e.g. noise impact, impact on residents/employment areas, devaluation of nearby property, flood risk information, consistent financial information for remediation work etc. On this basis Cabinet should be asked to reconsider its decision of 25th September and when reviewing its decision Cabinet should be in possession of the additional comparable, 'like' for 'like' information provided to Scrutiny members at the current meeting in order for them to easily and objectively assess the proposals presented to them.

The Committee also asked that its general concerns on the availability of information on potential Cabinet decisions for non-Cabinet councillors be raised with Cabinet, as non-Cabinet members did not have access to Cabinet Briefing meeting papers, this made it difficult for non-Cabinet members to follow the decision-making process. Members were of the view that in future, all potentially contentious decisions, similar to this matter, should be presented to a Council Briefing session to ensure that all councillors were fully informed about them beforehand. If necessary proposals could be presented to a Council Briefing session for the duration of the decision making process in order to make sure that every councillor was fully versed with them.

The Chair thanked the signatories to the call-in, the Lead Member and officers for attending and answering members' questions and the Committee:

RESOLVED that subject to the above observations to recommend to Cabinet that it:-

- (i) acknowledge Communities Scrutiny Committee's conclusions and recommendations following its review of the Cabinet decisions of the 25th September;
- (ii) revisit its decision of the 25th September 2018 in relation to the proposed location of the residential and transit Gypsy and Traveller Sites in Denbighshire in light of the additional information requested by Scrutiny; and
- (iii) in future, through the provision of information at Council Briefing sessions, ensures that all county councillors are extensively briefed on potentially controversial decisions which the Council or Cabinet are expected to take.

The meeting concluded at 12.20 p.m.