

COMMUNITIES SCRUTINY COMMITTEE

Minutes of a meeting of the Communities Scrutiny Committee held in Conference Room 1a, County Hall, Ruthin on Thursday, 13 December 2018 at 10.00 am.

PRESENT

Councillors Brian Blakeley, Meirick Davies, Tina Jones, Merfyn Parry, Anton Sampson, Glenn Swingler, Andrew Thomas, Graham Timms (Vice-Chair) and Huw Williams (Chair)

Councillor Huw Hilditch-Roberts, Lead Member for Education, Children and Young People was in attendance for Agenda Item 5 at the Committee's request.

Councillor Tony Thomas, Lead Member for Housing, Regulation and the Environment was in attendance for Agenda item 6 at the Committee's request.

Co – Opted Members – David Lloyd and Neil Roberts

Observers - Councillor Huw Hilditch-Roberts, Councillor Tony Thomas, Councillor Emrys Wynne and Councillor Mark Young

ALSO PRESENT

Corporate Director Economy and Public Realm (GB), Strategy and Development Officer (GM), Flying Start Education Lead (NE), Performance & Business Manager (JM), Head of Planning and Public Protection (EJ), Development Control Manager (PM), Planning Officer - Career Grade (AT), Scrutiny Coordinator (RE) and Committee Administrator (SJ).

POINT OF NOTICE

In the absence of the Chair, Councillor Huw Williams, the Vice-Chair Councillor Graham Timms took the Chair for the meeting.

At Agenda item 7 – Scrutiny Work Programme – The Chair, Councillor Huw Williams was in attendance.

1 APOLOGIES

Apologies for absence were received from Councillors Rachel Flynn and Cheryl Williams

Apologies for absence were received from Co –Opted Member Kathleen Jones.

2 DECLARATION OF INTERESTS

Councillor Tina Jones declared a personal and prejudicial interest in agenda item 5 – Early Education and Flying Start Childcare Commissioning because she owned a childcare nurse and was a trustee for Wales National Day Nurseries association.

Councillor Huw Hilditch- Roberts declared a personal interest in agenda item 5 – Early Education and Flying Start Childcare Commissioning because his child attended provisions at school within Denbighshire.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters were raised.

4 MINUTES

The minutes of the Committee meetings held on the 11 October 2018 and 25 October 2018 were submitted.

11 October 2018 –

Matters Arising – Page 12, Item No. 3 Review of a Cabinet decision relating to Gypsy and Traveller site provision – Councillor Graham Timms, confirmed he had attended Cabinet to present the resolutions from the Communities Scrutiny Committee meeting on the 11th October for consideration.

25 October 2018 –

Accuracy – Page 15 and page 17, Item No. 5 Proposed new waste and recycling service design – Members noted translation errors submitted in the Welsh version of the minutes.

Page 23, Item No. 6 Tourism Progress Report – It was highlighted a translation error in the Welsh version of the minutes had been included.

Matters Arising – Page 19, Item No. 5 Proposed new waste and recycling service design – The Scrutiny Coordinator directed members to the information report for feedback received from Planning and Public Protection Service.

Page 22, Item No. Item No. 6 Tourism Progress Report – members received statistics in the information report updating members on the number of visitors to the Council's Tourist Information Centres.

RESOLVED that the minutes of the meetings held on 11 October 2018 and 25 October 2018 be received and approved as a correct record.

Prior to the commencement of the following business item Councillor Tina Jones withdrew from the meeting room for the duration of the discussion.

5 EARLY EDUCATION & FLYING START CHILDCARE COMMISSIONING

The Strategy and Development Officer introduced the report (previously circulated) which presented members with an overview of the proposed process for commissioning the childcare elements of both the Early Education and Flying Start programmes. During his introduction the officer emphasised that both these programmes had a proven track record and were widely appreciated by families, schools and other stakeholders. He explained that as part of the Council's work to

eliminate poverty these programmes had been reviewed with a view to realising maximum impact in reducing poverty and deprivation in Denbighshire.

The Early Education childcare formed part of the statutory Foundation Phase (FP) curriculum for 3 to 7 year olds in Wales. As part of this programme the Welsh Government (WG) funded 10 hours of education per week per child in this age group following their third birthday. This education required to be delivered in a childcare setting i.e. a playgroup, Cylch or private day nursery. To qualify to apply for the funding the childcare setting was required to comply with the FP concept, framework and be in-keeping with the FP ethos. Every child in the county should from 2019 be able to access Early Education childcare provision for a further 20 hours free of charge (subject to an earnings cap). Flying Start on the other hand was a WG funded programme specifically for families with children under four years of age living in the most disadvantaged parts of Wales, including in Denbighshire parts of Rhyl, Prestatyn and Denbigh. In Denbighshire, Flying Start (FS) formed part of the Early Help services alongside the Families First (FF) programme. In addition to childcare FS also provided parenting support programmes, speech and language support, along with an intensive health visiting service. The FS scheme funded two and a half hours per day childcare, for five days a week and for 39 weeks a year from the term following the child's second birthday until the term following their third birthday. Childcare settings qualifying for this specific funding received support from the FS Advisory Teacher and Teaching Assistants (TAs).

Having regard to current arrangements, WG Guidance and its own Corporate Priorities the Council had reviewed its funding mechanisms for both the Early Education and FS childcare services. As a result it was proposing to recommission both programmes' childcare services on the basis of ensuring:

- quality care services for children
- choice for parents and families
- open and fair access to funding and
- value for money

A joint approach had been agreed between FS and Early Education, which would result in all childcare services being recommissioned through two separate but parallel processes, with all services being recommissioned during 2019. New agreements would be in place by September 2019, to align with the school year and to reduce potential disruption to children.

In response to members' questions the Lead Member for Education, Children and Young People, the Strategy and Development Officer, the Performance & Business Manager, and Flying Start Education Lead:

- advised that they had been encouraged by the number of new providers that had come forward to register an interest in becoming Early Education childcare providers;
- confirmed that the local authority was responsible for setting up the Early Education childcare scheme in the county, but any changes required would be funded by WG;
- advised that the local authority was required to fund the ten hours Early Education childcare from within its Education Budget with the remaining twenty hours being funded by WG;

- confirmed that the local authority currently had 12 settings which provided the Early Education childcare element as an intrinsic part of its FP provision. One childcare setting provided both elements of the provision but on separate sites. In all cases the funding for the provision was delegated to the school's own budget;
- advised that WG Guidance was quite specific that the Early Education provision should be delivered by a mixture of private providers and local authority FP provision;
- advised that some providers only offered the 10 hour statutory education provision. Also some families only wanted to access the 10 hours provision and did not require or want the additional 20 hours provision that was available;
- reassured the Committee that both schemes had been operating successfully for a number of years. If a child moved childcare setting the funding would follow the child to its new childcare setting. It was anticipated that with the introduction of the free childcare offer to all children of eligible age that the take-up would increase;
- advised that early pilots seemed to indicate that parents who used childcare settings which provided the 10 hour Early Education/FP element but did not provide the additional 20 hours childcare were unlikely to access the latter unless the childcare setting changed their registration to provide both elements. There were various reasons for this i.e. location of provision, extended family support, parents' earnings etc. In order to change their registration in time for when the free childcare scheme commenced the more proactive childcare settings had already applied to be registered to deliver both elements. The Council's Family Information Service (FIS) was actively providing support to both childcare providers and parents with respect of registering as a provider and accessing the scheme;
- advised that in an attempt to reduce the risk of any disruption to service provision and to parents and children caused by the changes, the application process had been redesigned on the basis of the feedback received at the stakeholder events held;
- confirmed that the 10 hour Early Education/FP element was available free of charge to all children aged 3 and above until they entered full-time statutory education. The additional 20 hours free childcare was available to the children of working parents whose earnings were below a certain threshold;
- advised that the Flying Start scheme currently funded specific projects in the county's most deprived council wards in Denbigh and Rhyl for children of two years of age until they were four years of age or attended school. Currently more than 200 children within the above age group attended Flying Start funded projects in the county. Flying Start projects were very structured and focussed on improving and enhancing a number of basic skills i.e. mathematical, social, parenting, speech and language development etc. with the aim of improving outcomes for the entire family whilst giving each child solid foundations to build upon during their statutory education phase;
- advised that it was not yet known whether the introduction of the Early Education free childcare element would have a detrimental effect on Flying Start projects. Nevertheless, officers were not anticipating any great impact as Flying Start projects in the main provided services for children and families where parents were either not in employment or working only a few hours per

week, whilst the Early Education Free Childcare Scheme was aimed at families where parents were working at least 16 hours per week. Information received from areas that had piloted the new scheme seemed to indicate very limited impact on the Flying Start scheme;

- gave an overview of the monitoring process undertaken to evaluate the effectiveness of the Flying Start projects locally and the all-Wales benchmarking system for the Scheme;
- advised that the Additional Learning Needs and Education Tribunal (Wales) Act 2018 had introduced a legislative requirement to support all children of compulsory school age or below with additional learning needs (ALN). Denbighshire had a proactive ALN team which made every effort to identify any ALN as early as possible during a child's education in order to assess, plan and facilitate timely and effective interventions and support. The ALN team worked closely with colleagues in the Health Service with a view to securing the best pathway for each child, be it in Flying Start areas of the county or in other areas. While there were higher numbers of ALN pupils in Denbighshire's more deprived areas due to the higher population numbers, because of the deprivation levels the additional needs tended to be more complex and consequently required a higher level of support, including multi-agency support. Hence the reason why WG targeted additional financial resources in the form of the Flying Start funding for these areas. Nevertheless, children with ALNs in other parts of the county would receive the same level of support and intervention, but funding for them would be provided by the local authority;
- confirmed that the Early Years Team worked with the various Cylch/Meithrin/Playgroups operating in non-Flying Start areas of the county and consequently were able to brief primary schools on all children prior to their admission to their chosen school. Information provided by the Team to the primary schools gave an early indication of each child's ability/potential and/or additional support and needs;
- confirmed that the Council had been receiving Flying Start and Early Education funding from WG for a number of years, but with the introduction of the 20 hours free childcare from WG to complement the 10 hours Early Education entitlement already available a decision had been taken, with a view to realising value for money and maximising the schemes benefits for children and parents, to recommission both schemes through two separate but parallel processes. This approach would enable documentation to be aligned and shared wherever possible. It would also simplify the process for parents and providers;
- advised that whilst not all parents would access the additional 20 hours free childcare services, the objective of the WG offer was to encourage parents to work more than 16 hours per week;
- advised that Estyn's recent inspection report on the quality of education services in Denbighshire had referred positively to the Authority's approach to supporting the provision of education for three and four-year-old children in the county;

- confirmed that for the Flying Start Scheme the Council was looking to commission a broad variety of providers i.e. public, private and third sector organisations/not for profit organisations to deliver the Scheme in the county's most deprived wards as young children thrived in different learning and social environments, the same type of provision would not suit every child;
- advised that public sector providers were not given preferential treatment over private providers in the contract application process. Each provider would be expected to complete the same documentation when applying for funding. It was the responsibility of each individual provider to estimate its staffing and accommodation costs as part of their business planning processes. It was however disappointing that some independent businesses were unwilling to provide the services which the Council wished to deliver. Whilst the Council had 12 schools who provided the Early Education childcare provision, the majority of which were located in rural areas where no private provision was available, it also currently commissioned provision from more than 40 other non-local authority providers. In addition, new legislation had come into force that would permit private providers to claim up to £12K in business rate relief; and
- confirmed that 'credit checks' would not be undertaken on applicants expressing an interest in providing the services as the preferred process was an application process rather than a tendering process.

As a number of members had queried whether public sector providers were in a more advantageous position when applying for Flying Start and/or Early Education Childcare provision funding the Committee requested that an information report be provided to Committee members on the process to be followed.

At the conclusion of the discussion it was:

Resolved: *subject to the above observations;*

- (i) the provision of an Information Report outlining the process to be followed by potential providers when applying for Early Education and/or Flying Start Childcare provision funding and the safeguards within the process to ensure that all applicants, be they public/private/voluntary sector organisations, were given fair and equitable access to the funding and to mitigate against public sector providers being in a more advantageous position;*
- (ii) to support the decision to recommission the childcare elements of Early Education and the Flying Start Programmes through parallel formal processes*

At this juncture (11.15 a.m.) the meeting adjourned for a refreshment break.

The meeting reconvened at 11:30 am. Councillor Tina Jones re-joined the meeting at this juncture.

6 PERFORMANCE AND EFFECTIVENESS OF PLANNING COMPLIANCE

The Lead Member for Housing, Regulation and the Environment introduced the report and appendices (previously circulated) which presented the Committee with an overview of the effectiveness and performance of the Council's planning compliance function. In his introduction he emphasised that the purpose of the planning regime was to regulate development and the use of land in the public interest. It was therefore important for local planning authorities to have an effective compliance function that was equipped to timely investigate alleged breaches, and apply local and national planning policies to remedy the harmful effects of unauthorised developments. In order for the compliance service to continually improve and perform well, despite local government funding cuts, working practices would need to be refined and collaboration with other stakeholders would need to be strengthened.

The Head of Planning and Public Protection and the Development Manager (Planning and Public Protection Service) outlined to the Committee the day to day work of the Compliance Service, its overall performance and an overview of how performance indicators were evolving nationally. They highlighted the need going forward for a consistent approach to be adopted in conjunction with local stakeholders if effective proactive monitoring work which delivered significant improvements was to continue, as the Service had only one dedicated Planning Compliance Officer who investigated alleged breaches. On average this officer investigated circa 240 complaints per annum. Due to the lack of resources available to investigate alleged breaches cases had to be prioritised on a degree of harm basis, therefore alleged breaches which affected listed buildings, conservation areas, the county's Area of Outstanding Natural Beauty (AONB), protected trees as well as those that contravened the Council's Corporate Plan priorities would generally be given precedence over other alleged breaches. A temporary part-time Planning Compliance Project Officer had recently been appointed with a view to securing the delivery of the Rhyl Town Centre Masterplan through proactively addressing the extensive number of existing planning control breaches in the town. It was anticipated that adopting this approach would boost efforts to regenerate the town centre and reduce deprivation levels in the area. The Project Officer was keen, as part of the Business Improvement District (BID) programme, to work with local businesses in the town drawing to their attention their role in ensuring that all businesses conformed with planning requirements and engaged with the environmental improvement work to improve the town's general appearance.

The Service worked closely with other Council services i.e. Licensing, Housing Services, Environmental Health Service and other public services e.g. Police, Fire and Rescue Service in relation to non-compliance matters, as investigations into one alleged breach often uncovered other non-compliance matters. Therefore all services could support and complement each other's efforts in relation to non-compliance and any associated remedial work. Effective partnership working with all services and agencies and the adoption of a proactive rather than a reactive approach to compliance work had the potential to reap both financial and environmental benefits for the Council and for residents within current financial and human resource levels. Another potential method for enhancing the proactive approach would be through the development of a charter between the County Council and the county's city, town and community councils seeking their agreement

to inform the County Council's Planning Compliance Service of any potential planning control breaches or issues of concern within their communities as soon as they were brought to their attention. If such a charter could be drawn-up and all councils agreed to its adoption it could potentially act as an 'early warning system' to the County Council's Planning Compliance Service enabling it to proactively engage with the individuals/businesses/organisations who were at risk of breaching planning conditions at a very early stage with a view to remedying any breaches and avoiding them escalating into costly non-compliance matters and a protracted enforcement process.

Responding to members' questions the Lead Member for Housing, Regulation and the Environment, Corporate Director: Economic and Community Ambition, Head of Planning and Public Protection, Development Manager (Planning and Public Protection) and the Planning Compliance Officer:

- advised that the number of alleged planning control breaches were not increasing significantly. However, if the cases required detailed investigation or related to complex breaches they would take some considerable time to resolve and with limited resources this meant that other cases were not being investigated. Hence, the reason why a proactive approach and seeking cross-service co-operation and information sharing would be more effective as it could enable the Planning Compliance Service to engage with those at risk of breaching conditions at an earlier stage and recommend any remedial actions necessary. This 'soft' approach to enforcement was generally better for all parties;
- confirmed that the Planning Compliance Service worked closely with the Council's Building Control Service. Both services were co-located, regularly shared information, and relied heavily on each other's knowledge;
- advised that officers were currently reviewing the fees relating to planning advice and applications as Service operating costs exceeded any income received from fees and charges. This loss in income was generally due to the reduction in planning applications in recent years;
- confirmed that the performance data contained in Appendix 2 to the report was the latest comparative data published by the Welsh Government(WG);
- advised that more proactive intervention work was required in certain areas of the county than in others. This was particularly true in areas of high deprivation, where local residents' aspirations and perceptions of their local environment tended to be lower than in other more affluent areas. Hence the decision to focus on Rhyl Town Centre with a view to boost the regeneration work in the area by targeting important historic buildings to avoid them being lost forever. In the county's more affluent towns and villages residents were far more likely to raise concerns relating to unsightly buildings to the Council's attention at an early stage, before they deteriorated further, as the example in Appendix 1 to the report illustrated;
- confirmed that current Performance Indicators (PIs) relating to the number of enforcement notices issued and complied with were at present geared towards recording the number of investigations concluded with a formal resolution. However, this was about to change as a recent open letter from WG to Chief Planning Officers had indicated that "formal enforcement action" should no longer be viewed as a last resort and the resolution of breaches would no longer be fully monitored. Local Planning Authorities

would from now on be permitted to determine when an investigation had been completed and a resolution reached, which could be at any stage when a 'positive' result had been achieved;

- advised that whilst employing additional staff to undertake Planning Compliance work would be advantageous in an ideal world, current public services budgetary constraints meant that this was not a viable option unless another Service was cut or withdrawn to fund the cost of additional staff;
- advised that it would in future be advisable for the Service to request that allegations of breach of planning conditions should be substantiated by evidence e.g. photographs etc. prior to an investigation being instigated as this should help expedite the investigatory work;
- outlined the extent of a potential Planning Compliance Charter which could be drawn-up between the County Council and local city, town and community councils. The Charter could potentially cover giving the councils powers to undertake initial investigations into alleged breaches of Planning matters, training and educating officials to undertake this work etc.;
- confirmed that the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and other ancillary legislation conferred powers and duties on local authorities in relation to planning compliance work;
- the Planning Compliance function's role in supporting the Council's work to deliver its Corporate Plan related in particular to the housing, environment and resilient communities corporate priorities; and
- advised that amending the Scheme of Delegation to permit officers to issue formal non-compliance notices without having to seek Planning Committee's permission first had proved effective. Whilst the serving of a breach notice in itself did not necessarily solve the matter immediately it did instigate a dialogue with the property owner/manager which could potentially result in a satisfactory resolution in due course.

Committee members agreed that amending the Scheme of Delegation had helped streamline the process and expedite resolutions to non-compliance matters. However, they felt that local members were no longer informed on progress in relation to non-compliance matters within their wards. With a view to keeping members informed of progress with non-compliance matters the Development Manager agreed to provide councillors with a six-monthly update progress report in relation to them.

Councillors representing Rhyl commended the work being undertaken by the Planning Compliance Service in relation to non-compliance matters in Rhyl town centre, and supported the proposed future approach to be instigated there in a bid to accelerate the town's regeneration.

At the conclusion of an in-depth discussion it was:

Resolved: - *subject to the above observations*

- (i) *to receive the report on the performance and effectiveness of the Planning Compliance function;*

- (ii) *to acknowledge the value and importance of the Service to the county and its residents and recommend that every effort be made to protect the function when setting future Council budgets;*
- (iii) *that a Planning Compliance Charter be drawn up between Denbighshire County Council and its city, town and community councils for the purpose of supporting compliance work through early prevention and intervention work; and*
- (iv) *that the draft Charter be presented to the Committee for consultation prior to being issued to city, town and community councils for consultation*

7 SCRUTINY WORK PROGRAMME

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

The Chair stated the disappointment felt by members following the presentation of the Committee's observations and recommendations to Cabinet following its consideration of the call-in of the decisions relating to proposed Gypsy and Traveller Proposed Sites. Whilst members acknowledged that the Committee's observations and recommendations had been presented to Cabinet in accordance with the Council's Call-in Procedure Rules, they felt that in confirming their original decisions immediately at the end of the debate they had not given due consideration to the points raised by Communities Scrutiny Committee. In order to address the concerns raised and to receive a further update from the Lead Member for Housing, Regulation and the Environment it was agreed;

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 13 of Part 4 of Schedule 12A of the Act.*

Members discussed the process that had occurred to date. It was discussed that officers had begun to categorise objections received and were working to analyse the objections received. It was confirmed additional officers had been tasked with the work load. Following completion of the analysis, a report would be presented to Cabinet.

Members discussed the concern regarding timescales and proposed Welsh Government funding. Committee members requested that a report analysing the feedback received to the pre-planning consultation exercise be scheduled on the Committee's Forward Work Programme for pre-decision scrutiny prior to the report being presented to Cabinet. Members were of the view that adopting this approach would benefit all stakeholders.

OPEN SESSION

Upon completion of the above business the meeting resumed in open session.

Discussion focused on the following –

- the item on the work programme for the Committee's next meeting relating to Ysgol Llanbedr Dyffryn Clwyd was, in view of the Welsh Government Minister for Education's recent decision, no longer required for discussion. Consequently the Committee requested an information report on the matter and its implications for federated partner school;
- it was agreed to invite the relevant Lead Cabinet Members to the next meeting;
- an report on the Gypsy and Traveller proposed site be added to the January Committee forward work programme;
- it was agreed to reschedule the report relating to the closure of Ysgol Rhewl to the March's Communities Scrutiny Committee meeting;
- it was highlighted that a special meeting had been arranged for the 21 February 2019 to discuss the issues arising from the Llantysilio Mountain Fire.

RESOLVED that, subject to the above, the forward work programme as detailed in Appendix 1 to the report be approved.

8 FEEDBACK FROM COMMITTEE REPRESENTATIVES

Committee representatives reported upon their attendance at meetings as follows –

Councillor Huw Williams had attended the Service Performance Challenge for the Planning and Public Protection Service Challenge Group. Councillor Huw Williams confirmed the meeting had been positive and beneficial.

The meeting concluded at 13:00 p.m.