

Relevant extract from the minutes of the Communities Scrutiny Committee meeting held on 10th March 2022

5. Review of Cabinet Decision relating to the Proposed Scheme of Delegated Decision Making for Land Acquisition (Freehold and Leasehold) for Carbon Sequestration and Ecological Improvement Purposes

Prior to the commencement of this business item Councillor Huw Williams vacated the Chair as he was one of the signatories to the call-in request and was therefore required to take part in the discussion. The Vice-Chair, Councillor Graham Timms, took the Chair for this item of business.

The Vice-Chair informed the Committee that a notice of a 'call-in' had been submitted by 6 non-Cabinet councillors in accordance with the Council's Constitution. The notice called for a review by one of the Council's Scrutiny Committees of a decision taken by Cabinet on 15th February 2022 in relation to a proposed scheme of delegated decision making for land acquisition for environmental and ecological purposes. He proceeded to explain that the Cabinet decision had been published on the 17th February 2022. The 'call-in' procedure allowed non-Cabinet councillors 5 working days in which to submit a notice of 'call-in' to request that Scrutiny review the decision. Once invoked the decision-maker was not permitted to implement the decision until such time as Scrutiny had reviewed it and reported back to the decision-maker on the conclusions of that review. Scrutiny was expected to hold a meeting to review the decision within 5 working days of the valid 'notice of call-in' being received. However, as there was no immediate urgency for this decision to be implemented the decision-maker, Cabinet, had agreed that the Scrutiny review could be deferred until the next available Scrutiny Committee meeting, which was the current meeting. Councillor Merfyn Parry submitted a notice of 'call-in' electronically on 23 February. The request was supported (via individual e-mails) by five other non-Cabinet councillors, namely Councillors David G Williams, Melvyn Mile, Huw O Williams Rhys Thomas and Peter Evans, all of whom had been invited to attend the Committee meeting to outline their reasons for supporting the call-in request.

The Scrutiny Co-ordinator, Rhian Evans, introduced the report and appendices (previously circulated) which explained the background to decision taken by Cabinet and the grounds on which it had been called-in to Scrutiny for review. She then proceeded to detail the procedure that would be followed at the meeting for consideration of the decision called-in for review.

Councillor Merfyn Parry, as the lead signatory for the call-in, was invited to introduce the reasons why the signatories were seeking a review of the decision. In his address he advised that they had concerns that the Council would, if the decision was confirmed, be in a position to 'land grab' at auction potentially out bidding any local farmers or landowners. Whilst, they understood that the Council would not be interested in purchasing prime agricultural land, they did however feel that decisions to purchase land for carbon sequestration and ecological improvement purposes needed to be discussed with the local Member(s) and the local Member Area Groups

(MAGs) pre-bidding, as it was important for the Authority to understand local knowledge and need prior to bidding for a parcel of land.

The Lead Member for Waste, Transport and the Environment, Councillor Brian Jones, was then invited summarise the discussion and decision taken at Cabinet on 15 February 2022. He outlined the consultation which had taken place to date and confirmed that there were no plans to purchase Grade 1 agricultural land for carbon sequestration and ecological improvement purposes.

Councillor Julian Thompson-Hill, Lead Member for Finance, Performance and Strategic Assets confirmed that the purpose of the proposed delegated decision-making process for this particular purpose was to make a small change to the current scheme to enable the Council to act quicker in future. He assured the Committee that local members would automatically be consulted in respect of each proposed acquisition as a matter of course, unless the timescale was extremely tight, and even then every effort would be made to contact the local member(s). As land could be put up for auction at any time the process needed to be handled extremely quickly. He assured the Committee that the Council could not enter an over-inflated 'bidding war' with external buyers as the District Valuer would set a limit which the Council could not exceed, as the Authority was required to demonstrate that it utilised public funds wisely. It was however emphasised that, if the Council was to achieve its net carbon zero target, it would require to purchase land in order to offset its carbon usage.

The Head of Business Improvement & Modernisation, drew members' attention to the report and the Well-being Impact Assessment which stated how local members and other local stakeholder had been consulted for land suitable for carbon sequestration and ecological purposes. To date all but one of the sites identified as potential contenders for carbon sequestration purposes had been suggested by local communities or local members.

Councillor Merfyn Parry detailed the reasons why he and fellow members had instigated the call-in of the Cabinet decision:

- they felt the proposed delegated decision process for this purpose was a means of by-passing the democratic process, for example the use of Asset Management Group (AMG) meetings to discuss potential purchases and any justification for them.
- they acknowledged the need for quicker decision-making to purchase land, however, they felt that Denbighshire County Council could possibly speed up their current processes for taking such decisions. Land auctions did not take place overnight, agents advertised parcels of land for sale for a number of weeks prior to an auction being held or tenders closing, it provided ample time for the Council to make a decision on a potential purchase. There may be the odd occasion where a private owner would place a plot of land on the market for a quick sale, but such instances were few and far between.
- the report to Cabinet and its appendices referred to the involvement of local members, Community Councils and Member Area Groups (MAGs), however some of these references stated that members would be informed not consulted. This could be interpreted that local members would be told that a purchase would take place, but that they nor the local MAG, would have any

involvement or influence in the process. Quick decisions could still be made by involving members.

- it seemed that the Council was concerned that it could not meet its net carbon zero target to address the climate and ecological emergency challenge without purchasing parcels of land. If that was the case the Council was running the risk of being perceived as adopting an approach similar to that of certain national and international corporations in attempting to address its carbon footprint problem by purchasing land to plant trees instead, of actively adopting low carbon measure and practices.
- they were concerned that if local agents became aware that the Council had a dedicated budget for the purchase of land for this purpose that the value of such land would become inflated. If that were to happen it would be to the detriment of hill farmers who would be priced out of the market when wanting to purchase parcels of land adjacent to their holdings for the purpose of improving and extending their enterprises.
- there seemed to be very little reference in the report to the responses received from the Farming Unions and the Young Farmers Clubs to the consultation exercise. How many had responded, what were the contents of the responses received and had they been given sufficient time and information to enable them to provide comprehensive responses.

The Vice-Chair invited each of the other signatories to the call-in request to address the Committee on their concerns and reasons for calling-in the decision. As Councillor Melvyn Mile was unable to attend the meeting he had submitted a written statement which the Vice-Chair duly read out. In his statement Councillor Mile stated that:

- he appreciated the Council's need for expediting land procurement processes but had concerns that local members will not be given sufficient consultation time in the matter;
- whilst prime quality farm land would not be bought by the Council to plant trees, however food production would be just as important in future as reducing the offset of carbon so farmers need a fair opportunity to purchase land;
- local members know their localities and their residents, therefore they needed to be kept informed of any potential acquisitions in their area so that they could be involved in any pre-bidding discussions at the earliest stages.

Councillor Huw Williams stated that:

- there was a minimal amount of Grade 1 agricultural land and people needed to be aware of that;
- private farmers and landowners were already aware of their carbon sequestration and ecological duties and were themselves planting trees and supporting environmental schemes where possible;
- there was a need to speed up processes within the Council
- there was also an urgent need to raise the profile of food production and security, particularly given the potential impact of the war in Ukraine on the world's supply of grain.

Councillor Rhys Thomas stated that his concerns with the decision were:

- that the Council's carbon reduction policies were not going to work

- that it could lead to the market value of lower grade agricultural land (grades 4 and 5) being over-inflated and therefore out of the reach of local farmers;
- the potential for local member(s) and MAGs' influence being marginalised. Local councillors were residents' representatives and therefore should be involved with the decision-making process, not told the outcome of it at the end with no opportunity to influence;
- that the Council's Countryside Services did not have sufficient staff capacity to advise on potential suitable acquisitions or to support the delivery of the Council's ecological and carbon reduction ambitions.

Councillors Peter Evans and David Williams were not in attendance and had not submitted any written statements.

Prior to seeking the Committee to determine whether Cabinet should be recommended to review its original decision in light of the points made, the Vice-Chair invited the Lead Members and officers to answer the points raised.

The Lead Member for Waste, Transport and the Environment and the Lead Member for Property and Finance:

- advised that staff capacity within Countryside Services was at present sufficient to support delivery of climate and ecological work. However, potential pressures going forward had already been identified and would need to be managed through the Council's budget-setting process;
- gave further assurances that the District Valuer's involvement in the process would ensure that the Council would not be paying above market value for any land. It would also ensure that the Council was not responsible for inflating the price of any land;
- acknowledged that the report did not provide detailed information on the feedback received as part of the engagement process. Whilst the volume of responses was not high, the observations received were positive. Low response rates to consultation exercises were generally interpreted to mean that those consulted were not against the proposals put forward, people and organisations were more likely to respond if they fervently opposed or had concerns about proposals;
- advised that the AMG and the Strategic Investment Group's (SIG) involvement would generally be confined to setting the strategic direction and determining the principles in order to deliver policy, they would examine the merits of purchasing individual parcels of land. Hence the need to speed up the Council's process in relation to facilitating land purchase practices;
- confirmed that no one area of work would be sufficient by itself to ensure that the Council would achieve its net carbon zero ambition. An array of different types of schemes would be required e.g. improving the Council's fleet, carbon reduction methods within Council buildings etc. However, by the fact that the Authority had and would continue to have buildings, it would have a carbon footprint as buildings had carbon embodied within them. The need for the Authority to buy additional land for sequestration purposes had been highlighted during the Climate and Ecological Change Strategy's journey through the Council's democratic process, because without that the Council would not realise its net carbon zero objective; and

- acknowledged that land prices may rise by having the Council as an extra potential buyer in the market, but it would not be the only extra buyer in the market. Commercial buyers would also be entering the market, and if prices were driven up, public authorities would be the first ones to be driven out of the pricing structure as they were not permitted to spend over the market value;

The Head of Business Improvement and Modernisation; the Countryside and Heritage Services Manager; the Head of Finance and Property, and the Lead Officer Corporate Property and Housing Stock (the Council's Corporate Landlord):

- confirmed that whilst the consultation/engagement exercise on the proposals had not generated a great volume of responses, officers were currently contacting people individually to seek their views on the proposals;
- advised that one of the encouraging features of the responses received was that they welcomed the Council's participation in land management because they viewed public ownership of land as responsible stewardship.
- acknowledged that more work was required in relation to engaging with the stakeholders and with local communities on what they want, what works well for them and what practical decisions need to be taken.
- appreciated members' concerns about capacity within Countryside Services for managing the emerging agenda. A number of discussions had already taken place at the Climate Change and Ecological Emergency Board on the matter and there were no capacity issues at present, although the position would be monitored going forward;
- confirmed that the Council had acknowledged that additional resources would be required every year for 9 years in order to deliver the programme. As part of the budget setting process for 2022/23 additional staffing had been approved for the purpose of delivering the building efficiencies aspect of the programme. The programme's delivery would be a feature of the Council's budget setting process for the programme's lifetime;
- provided assurances that there was a matrix in place which would deter purchase of quality agricultural land for tree planting purposes. The Corporate Landlord's role in relation to land purchases was to ensure that there was valid justification and grounds for purchasing it using public funds. It was anticipated that the majority of proposed sites for purchase would be put forward by Countryside Services. The Scheme of Delegation would only be used as and when a need arose, any major purchases would need Cabinet approval. The spirit of the proposed delegated decision scheme was to enable the Council to purchase the right type of land, for the right reasons, when it needed to do so; and
- the Council was exploring the potential of establishing a focus group with the farming unions and the Federation of Young Farmers Clubs as a means of engaging with them on various issues.

Committee members and observers were given an opportunity to ask supplementary questions to Lead Members and officers to which the following responses were given:

- the Head of Legal, HR and Democratic Services/Monitoring Officer confirmed that there would not be a need to change the Council's Constitution for the purpose of enabling emergency/extraordinary MAG meetings, as MAGs were not decision-making committees, they were discussion and consultation fora;

- the Countryside and Heritage Services Manager, advised that there were 6 agricultural land quality classifications, ranging from 1 (excellent) to 5 (very poor) – there were two grade 3 classification (3a – good to moderate and 3b – moderate).

The Vice-Chair thanked all signatories to the call-in request for outlining their reasons for seeking a review of the Cabinet decision, the Lead Members and officers for responding and answering the points raised during the discussion, before proceeding to ask the Committee to determine whether, having listened to representations made whether it wished to refer the decision back to Cabinet seeking it to reconsider its original decision. He emphasised that if it was the Committee's wish that Cabinet be requested to reconsider its original decision members needed to clearly identify the reasons why it should be reviewed.

Councillor Gwyneth Ellis was of the view that, due to the strength of feeling amongst Committee members that Cabinet should be asked to review the decision taking into account members' concerns with regards to member consultation, seeking assurances that local members will be properly consulted as part of the process, and making sure that land acquisition for carbon sequestration purposes is the proper thing to do and not used as a means to plug gaps in the Council's own carbon reduction measures. Councillor Ellis proposed that the decision be referred back to Cabinet for reconsideration, the proposal was seconded by Councillor Merfyn Parry. Further discussion then took place on the final wording of the recommendations to Cabinet, prior to Councillor Merfyn Parry proposing the wording, seconded by Councillor Huw Williams.

Following an in-depth discussion, the Committee having considered all the information presented to it, unanimously:

Resolved: to seek Cabinet at its next appropriate meeting to reconsider its original decision relating to the 'Proposed Scheme of Delegated Decision Making for Land Acquisition (Freehold and Leasehold) for Carbon Sequestration and Ecological Improvement Purposes. With a view to expediting the decision-making process for purchasing land -

- (i) that prior to reviewing its decision Cabinet should work with the Farming Unions and the Federation of Young Farmers Clubs to seek comprehensive responses from those organisations in relation to the Proposed Scheme;***
- (ii) that Cabinet amend the wording within the Proposed Scheme of Delegated Decision Making (and any associated documentation) as it relates to liaising with local councillors and Member Area Groups (MAGs) to read 'consult/consultation' rather than 'notify/notification';***
- (iii) that at the appropriate time a review is undertaken of staffing resources within the Council's Countryside Service to ensure that it has sufficient capacity to deal with the additional duties that will be placed on the Service in future in connection with carbon sequestration and ecological improvement work; and***
- (iv) that detailed information on agricultural land grading in Denbighshire (including illustrative maps) are provided to the decision-maker when reviewing the decision.***

