

CABINET

Minutes of a meeting of the Cabinet held in the Council Chamber, County Hall, Ruthin and by video conference on Tuesday, 21 February 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, Bobby Feeley, Karen Edwards, Pauline Edwards, Huw Hilditch-Roberts, Merfyn Parry, Gareth Sandilands, Andrea Tomlin and Mark Young

ALSO PRESENT

Chief Executive (GB); Corporate Director: Environment and Economy (TW); Heads of Service: Finance and Property (SG), Education Services (GD), and Customers, Communication and Marketing (LG); Interim Head of Legal, HR and Democratic Services/Deputy Monitoring Officer (LJ); Interim Joint Head of Business and Improvement (NK); External Funding Manager (AS); Principal Manager – School Support (JC); Modernising Education Officer (LW); Climate Change Programme Manager (HVE), and Committee Administrators (KEJ & NPH [Webcaster])

1 APOLOGIES

There were no apologies.

2 DECLARATION OF INTERESTS

The following declarations of interest were made –

Councillor Rhys Thomas declared a personal interest in agenda item 5 – Ysgol Plas Brondyffryn Project because he lived on Ystrad Road close to Ysgol Plas Brondyffryn and Denbigh High School

Councillor Emrys Wynne declared a prejudicial interest in agenda item 7 – Commissioning Organisations to deliver a programme under the Shared Prosperity Fund because he was on the Cadwyn Clwyd Board of Directors

Councillor Gareth Sandilands declared a personal interest in agenda item 7 – Commissioning Organisations to deliver a programme under the Shared Prosperity Fund because he was a Denbighshire Voluntary Services Council Trustee

3 URGENT MATTERS

The Leader was sad to report that RL Davies, with whom the Council had a contract for the Waste Depot, had recently gone into administration. The Leader, Corporate Director: Environment and Economy and Lead Member Councillor Barry Mellor all expressed their sadness on hearing the news and thoughts were with the firm's employees and all affected. RL Davies had been a long standing local company who had delivered a number of excellent projects in the region over the years.

In terms of the impact on the Council, the Corporate Director: Environment and Economy advised that he had made an urgent decision, under 2.9 of the Council's constitution, to terminate the contract between the Council and RL Davies for them to act as the main contractor for the Waste Depot Phase 2 on Colomendy Estate, Denbigh. The constitution allowed for an urgent delegated decision to be made where such a decision could not wait until the first available meeting of Cabinet. The Corporate Director and Lead Member would be working together to bring a report to Cabinet Briefing and Cabinet in March, on both the decision to award the contract to RL Davies and options to complete the project. Assurances were provided that all was being done to ensure the project continued. Work continued on site with some sub-contractors currently working under the Council's direction. All members had been kept informed of the recent developments and the Leader was keen to ensure that level of engagement continued as matters progressed.

4 MINUTES

The minutes of the Cabinet meeting held on 24 January 2023 were submitted.

RESOLVED that the minutes of the meeting held on 24 January 2023 be received and confirmed as a correct record.

5 YSGOL PLAS BRONDYFFRYN PROJECT - SCHOOL ORGANISATION OBJECTION REPORT

Councillor Gill German presented the report seeking Cabinet's consideration of the objections received in response to the Statutory Notice published by the Council on the proposal to increase Ysgol Plas Brondyffryn's capacity from 116 to 220, and to consider whether or not to approve the proposal and move forward with the project.

The project was part of Welsh Government's Sustainable Communities for Learning Programme (Band B) approved in September 2020. The school delivered specialist provision for pupils with autism aged 3 – 19 on three separate sites and would move to a brand new purpose built facility to accommodate the increase in capacity and meet the needs of children on the autism spectrum. Given the specialist provision, Welsh Government would fund 75% of the build and Denbighshire 25%.

The Head of Education Services added that the review of the Objection Report was part of the legal process required before determination of the Statutory Notice. The report detailed two objections received which had focused on the location of the new build rather than the increase in capacity together with the Council's response to those concerns. The school was currently oversubscribed and there was a

predicted increased demand going forward. The proposal to increase capacity would be subject to a site being agreed, planning consent approved, funding being available and the new build being ready to accommodate the increased capacity.

The Leader reiterated that the report referred to an increase in the school's capacity and not the location of any new build which had been the focus of the objections.

Councillor Rhys Thomas raised concerns regarding recommendation 3.4 as it referred to the Wellbeing Impact Assessment (WIA) which referenced a specific site for the new build which had yet to be decided; sought clarity around the recommendation in the Objection Report in so far as it related to capacity only, and the separate process for site selection; and highlighted confusion over the two processes given that no objections had been received regarding the increase in capacity but had focused on the site of the new build.

The Head of Education Services and Deputy Monitoring Officer responded to the points raised, and other follow up questions, as follows –

- the WIA had been based on the preferred site at the time and there was no presumption it would be the site for the new build which had yet to be agreed; the feasibility of another site was also under consideration and any site identified would be subject to the appropriate processes. If a different site was identified the WIA would need to be reviewed, and if a site outside Denbigh was proposed the whole process would need to recommence
- Cabinet was required to take the WIA into account as part of its consideration, but did not need to agree with all points; the WIA may not have focused sufficiently on impacts of increasing capacity and there were elements focused on location. Consequently, Councillor Rhys Thomas proposed an amendment to recommendation 3.4, seconded by Councillor Gwyneth Ellis, to clarify that the actual site had not been agreed or committed to by the Cabinet or Council
- the recommendation in the Objection Report referred to the proposal 'To alter Ysgol Plas Brondyffryn in Denbigh so that the capacity is increased from 116 to 220' and recommended the proposal be endorsed and permission given as part of Cabinet's final determination to progress to implementation stage, i.e. to issue the notice which was subject to the other processes: a site being agreed, planning consent approved, availability of funding and new build being ready. Two processes were running concurrently: (1) to alter the school's size and capacity, and (2) agreeing a site for the new build and securing the necessary permissions and funding. The process for identifying a site would be subject to a number steps, including discussion by the Modernising Education Board and Denbigh Member Area Group (MAG) as part of that process
- officers thought they had been clear in all reports that there were two separate processes but agreed there had been some confusion given the objections focused on location rather than capacity. Lessons would be learned from the process going forward. The Leader suggested that objectors to the location may have just taken the opportunity to raise those objections as part of that process which they were entitled to do. Councillor Gill German advised that there had been some consideration about whether to include objections based on location, but on balance it was felt important that those views be heard, despite not being relevant to the proposal in the Statutory Notice to increase capacity.

Officers also responded to further questions from members as follows –

- with regard to timescales the proposal was part of Band B which ran between 2019 and 2024. However, the Welsh Government had recently acknowledged that many local authorities were in the position where some of those projects may need to extend beyond 2024 and had recently published guidance about how the programme would continue, effectively providing a mechanism for local authorities who would not be able to commit their resources during the initial timeframe and for those projects to be part of a rolling programme going forward
- agreed that, whilst consultation had taken place with Denbigh MAG given the school's location, the school provided education for children across the county and information on the project could be shared with all MAGs going forward
- the school's capacity was 116 and was already oversubscribed with 136 pupils on roll and 72 young people waiting for a health assessment; much work had been undertaken to ensure the right size of the school to meet the need going forward. In 2016 47% of pupils resided out of county; as of January 2022 16% of pupils resided out of county, showing an increase in Denbighshire pupils.

The Deputy Monitoring Officer reminded Cabinet of the requirements of the School Organisation Code when determining the proposal in a fair minded way which included a number of statutory considerations. Councillor Gill German felt it had been useful to make clear that the proposal related only to the increase in capacity at the school and thanked members for their consideration and contribution to the debate. Cabinet had recognised the demand for specialist provision which continued to increase, with the school currently oversubscribed, and the merits of the proposal to increase the capacity to meet the needs of children going forward. If Cabinet was minded to approve the proposal in the Statutory Notice and accept the recommendations, the project could progress to the next stage in the process.

Upon being put to the vote it was –

RESOLVED that Cabinet –

- reviewed the Objection Report attached as Appendix 2 to the report;*
- confirmed it was satisfied that the statutory process as set out in the School Organisation Code had been followed;*
- approves the proposal as set out in the Statutory Notice with regard to increasing the capacity of Ysgol Plas Brondyffryn from 116 to 220, and*
- confirmed it had read, understood and taken account of the Well-being Impact Assessment, as detailed in Appendix 1 to the report, as part of its consideration, noting that the site location for redevelopment had not been agreed or committed to by Cabinet or Council.*

6 NORTH WALES ENERGY STRATEGY, THE ASSOCIATED ACTION PLAN AND LOCAL AREA ENERGY PLANNING IN DENBIGHSHIRE

Councillor Barry Mellor presented the report seeking Cabinet's endorsement of the North Wales Energy Strategy and Action Plan, and to note the information provided regarding the commencement of Local Area Planning in Denbighshire.

Each region in Wales had developed its own Energy Strategy and Action Plan and democratic support from each constituent local authority was now being sought.

The Climate Change Programme Manager explained that Wales had a legislative target to reduce its carbon emissions to net zero by 2050. The North Wales Energy Strategy set out the key priorities and opportunities to deliver its ambitions for decarbonisation and the Action Plan translated the priorities into strategic actions and interventions. Work had been carried out over the last few years by the Welsh Government and Ambition North Wales, and with stakeholders including the Council, to produce that documentation. There were some actions where local authorities had been identified as the lead; many did not require funding but would involve staff time from across a range of services. One action was to complete a Local Area Energy Plan for each county, including Denbighshire, to provide an evidence based approach to identify the most effective route to meeting both local and national net zero target. That work commenced January 2023 and was due for completion in January 2024 with plans to be submitted to Cabinet for endorsement.

Cabinet noted the comprehensive report and the importance of an energy strategy to deliver on the region's ambitions for decarbonisation. During consideration of the report, main areas of debate focused on the following –

- Councillor Rhys Thomas raised his own concerns, and that of others on the Council, regarding the potential use of nuclear energy in the region as referenced in the Strategy. The Climate Change Programme Manager explained that nuclear had been listed as part of the technology mix, particularly in relation to renewable electricity generation in order to meet the 2050 target, and was in line with UK and Welsh Government policies. Attention was drawn to the scale of contribution the Strategy assumed nuclear would make to meeting the target alongside onshore and offshore wind, solar PV and tidal and marine energy. It was assumed that nuclear projects would be restricted to already licensed sites at Wylfa and Trawsfynydd with waste managed in situ. Councillor Rhys Thomas proposed an amendment to recommendation 3.1, seconded by Councillor Barry Mellor, to express misgivings about the use of nuclear in achieving the region's decarbonisation ambitions, with all Cabinet voting in favour of the amendment
- Councillor Gwyneth Ellis referred to Local Area Energy Planning and advocated the use of local energy schemes, such as the one in Corwen, as part of that process and commended the work in that regard. Councillor Julie Matthews was also keen to ensure local communities benefitted. It was confirmed that local ownership of renewable energy featured in the Strategy's priorities
- Councillor Barry Mellor was pleased to report on his forthcoming visit to Ysgol Tir Morfa, Rhyl and work to reduce the school's carbon emissions with new equipment commissioned by the Property Section Energy Team. UK boiler manufacturer Ideal had provided two air source heat pumps for installation at the school as part of a field trial and the Energy Team had installed a solar PV and battery storage to also support the reduction of carbon emissions on site, which would reduce fuel bills and lower carbon emissions

- Councillor Bobby Feeley was keen to ensure that sufficient funding would be made available from the Welsh Government in order to deliver the Action Plan. It was recognised that more detailed work was required to establish funding requirements and sources for any un-costed actions, and that some actions would be delivered by Denbighshire but many would fall to other sectors such as energy and transport providers etc. Reference was made to potential funding streams for such work, including growth deal projects and smart local energy projects. Both the Leader and Lead Member reported on the open dialogue with the Welsh Government through both the Welsh Local Government Association and other channels on a ministerial level with a common aim of reducing emissions. The Chief Executive added that many had a part to play in delivering on the Strategy and Action Plan, both private and public sectors, communities, and other stakeholders, at both local and national level.

RESOLVED that Cabinet –

- (a) *endorses the North Wales Energy Strategy and associated Action Plan as attached to the report, commends the vision and ambition of the strategy, but wishes to express misgivings about the use of nuclear in achieving the region’s decarbonisation ambitions, and*
- (b) *note the commencement of Local Area Energy Planning in the county.*

7 COMMISSIONING ORGANISATIONS TO DELIVER A PROGRAMME UNDER THE SHARED PROSPERITY FUND

[Having declared a prejudicial interest in this matter, Councillor Emrys Wynne left the meeting for the duration of the item. He also submitted apologies for the remainder of the meeting due to another engagement.]

Councillor Jason McLellan presented the report seeking Cabinet approval to commission Cadwyn Clwyd and DVSC to deliver a programme of work (including a grant regime or ‘Key Fund’) under certain Shared Prosperity Fund interventions.

Cabinet had previously considered reports on the UK Government’s Shared Prosperity Fund (SPF) which was part of the Levelling Up agenda. A project value of at least £250k had been agreed for UK SPF applications. The report focused on a mechanism for supporting lower value projects of less than £250k via the establishment of a grant regime (Key Funds) that would be available to communities and businesses and contribute to the outputs and outcomes of the individual interventions. In setting up the infrastructure to deliver the smaller projects it was proposed commissioning took place under the Business Support and Community Capacity Building themes and that Cadwyn Clwyd and DVSC were directly commissioned to deliver a package of support that would be available to communities and ensure people were able to maximise the benefits of the projects.

Cabinet welcomed the report and emphasised the importance of supporting smaller projects within communities and ensuring the infrastructure was in place to empower and support local organisations, building community engagement and capacity, and being responsive to local need. It was noted both organisations had a

direct link to communities and would be well placed to encourage smaller organisations to apply directly to them and provide the support necessary in terms of business support and community capacity building, which would also contribute to the Corporate Plan, and a fairer, and more equal Denbighshire. In response to a question regarding training and development, the Head of Customers, Communications and Marketing confirmed that the grant process itself would be an important part of the training provided to ensure the submission of strong bids and also in terms of supporting organisations to make use of all the funding streams available to them, not just SPF funding, and to enable organisations to be able to thrive with the necessary skills and expertise in a safe and sustainable way.

RESOLVED that Cabinet agrees to commission Cadwyn Clwyd and DVSC to run a programme of work combining direct delivery and a key fund for themes (which would be open for applications from Denbighshire communities, be they residential or commercial), as detailed in Appendix A and Appendix B to the report, respectively.

At this point (11.25 am) the meeting adjourned for a refreshment break.

8 RECOMMENDATIONS OF THE BUDGET BOARD - CAPITAL

Councillor Gwyneth Ellis presented the report seeking Cabinet's support of projects identified for inclusion in the 2023/24 Capital Plan as recommended by the Budget Board and detailed in Appendix 1 to the report.

Following cessation of the Strategic Investment Group a new capital approval process was currently being developed. In the interim, the Budget Board – Capital had met to consider the bids prepared by each service. Cabinet was advised of the funding available for block allocations for on-going programmes of work and work of the Budget Board in reviewing the bids for allocations. A summary of their recommendations had been provided which included a funding source for each project and the reasoning for supporting those specific projects and allocations.

The Head of Finance and Property added that the report included the day to day elements of capital expenditure such as repairs and maintenance in order to ensure assets remained fit for purpose. The prudential borrowing to maintain the £4m spend for Highways had also been included. The difficulty in meeting the rise in costs was highlighted due to the externally funded elements having either been frozen or decreased slightly over recent years due to the reduction in the Welsh Government's Capital Budget. Consequently, the Council was having to fund more of that element with capital reserves being used to help maintain the level of funding in year on those areas viewed as priorities.

RESOLVED that the projects detailed in Appendix 1 to the report for inclusion in the 2023/24 Capital Plan be supported and recommended to full Council.

9 FINANCE REPORT

Councillor Gwyneth Ellis 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 2022/23 was £233.696m (£216.818m in 2021/22)
- an overspend of £2.249m was forecast for service and corporate budgets (£2.305m overspend last month)
- highlighted current risks and assumptions relating to corporate budgets and individual service areas
- detailed service savings and fees and charges increases (£0.754m)
- provided a general update on the Housing Revenue Account, Treasury Management, Capital Plan and major projects.

Cabinet was also asked to approve the commissioning form to tender for insurance services, and approve the write off of unrecoverable Business Rates.

The Head of Finance drew attention to the following elements of the report –

- the overspend for service and corporate budgets had remained stable at a level of £2.2m – £2.3m which was affordable with the use of reserves
- due to the total estimated value of the tender for insurance services, Cabinet approval was required, and the results of the tender exercise would be reported back to Cabinet in June/July depending on progress
- the detail of unrecoverable business rates had been included as a confidential appendix to the report and required Cabinet approval as the amount exceeded the delegated limit. It was noted that it was Welsh Government income which the Council collected on its behalf, but in this case there was no possibility of collecting the debt and it was proper the debt be accounted for and written off.

RESOLVED that Cabinet –

- (a) note the budgets set for 2022/23 and progress against the agreed budget strategy;*
- (b) approve the commissioning form to tender, via one of the existing frameworks, for all classes of insurance services (except for marine and terrorism which are specialist markets) for the authority, as detailed in Section 6.8 of the report and Appendix 5 to the report, and*
- (c) approve the write off of unrecoverable Business Rates as detailed in Section 6.9 of the report and Appendix 6 to the report.*

10 CABINET FORWARD WORK PROGRAMME

The Cabinet forward work programme was presented for consideration and members noted the following additions to the March meeting –

- Contract to appoint a main contractor for the Waste Depot Phase 2
- Renew the Housing Maintenance Voids Contractor Framework

RESOLVED that Cabinet's forward work programme be noted.

The meeting concluded at 11.55 am.