

CABINET

Minutes of a meeting of the Cabinet held in the Council Chamber, County Hall, Ruthin and by video conference on Tuesday, 28 March 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 Ellie Chard, James Elson, Karen Edwards, Huw Hilditch-Roberts, Terry Mendies, Arwel Roberts, Gareth Sandilands, Peter Scott

ALSO PRESENT

Chief Executive (GB); Corporate Directors: Governance and Business/Monitoring Officer (GW), and Environment and Economy (TW); Head of Finance and Property (SG); Project Manager (PC); Strategic Planning and Housing Manager (AL); Principal Planning Officer (LG); Principal Built Project Surveyor (AF); Lead Officer – Corporate Property and Housing Stock (DL); Property Operations Manager (MC), and Committee Administrators (KEJ & RTJ [Webcaster])

1 APOLOGIES

There were no apologies.

2 DECLARATION OF INTERESTS

No declaration of interest had been raised.

3 URGENT MATTERS

No urgent matters had been raised.

4 MINUTES

The minutes of the Cabinet meeting held on 21 February 2023 were submitted.

RESOLVED that the minutes of the meeting held on 21 February 2023 be received and confirmed as a correct record.

5 TERMINATION OF THE CONTRACT FOR A MAIN CONTRACTOR FOR THE WASTE DEPOT PHASE 2

Councillor Barry Mellor presented the report on the termination of the contract between Denbighshire County Council and R L Davies Ltd (RLD) for RLD to be the main contractor for the Waste Depot Phase 2 on Colomendy Estate, Denbigh.

The Corporate Director: Environment and Economy guided members through the report. In summary, at their last meeting (under urgent matters) Cabinet had been informed that RLD had gone into administration, and that the Corporate Director: Environment and Economy had made an urgent decision, under 2.9 of the Council's constitution, to terminate the contract between the Council and RLD 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.

In addition to formally reporting on that urgent delegated decision, the report also set out how the contract award was made, including the delegation of the decision to award the contract to the Chief Executive by Cabinet on 12 April 2022 given the impact of the local elections and timescales for awarding the contract, together with the tender process and evaluation, including the necessary financial checks, and management of risk. RLD had legitimately ranked first in the tender process and there had been no valid reason to discount it. Given the medium risk of utilising the company the contract had been monitored more closely and some of the more significant sub-contractors had been paid directly to mitigate the risk. Reference was also made to the options for taking the project forward, with submission of a report back to Cabinet in May on the preferred option for completing the construction of the project. In the meantime, work continued on the site with key sub-contractors directly appointed under the management of the Project Team. All the necessary procurement approvals would be put in place for that work.

Cabinet reiterated their sadness that RLD, a local and longstanding business, had gone into administration and thoughts were with the employees and all affected. During the ensuing debate, Cabinet sought further clarity regarding the time pressures in delivering the project, particularly the impact of any delay to Phase 2 in terms of project roll out and cost implications. Assurances were also sought regarding the continuation of work on-site in the interim period.

In response to those issues and further questions raised by members, the Corporate Director: Environment and Economy and Project Manager advised that –

- it would not be possible to roll out the new service until the depot was in place, therefore any delay in completing the depot would result in a delay in rolling out the new service. It was considered that the depot could still be delivered on schedule with no current plans to delay the roll out
- any delay in delivering the project would have cost implications both in terms of the depot build itself given the rises in inflation and the operational cost to the service. The current system also required mixed recycling to be taken to an off-site facility for sorting at an increasing cost to the Council; once the new model was introduced an income would be received from the recycling
- following termination of the contract with RLD, the Council had directly appointed key sub-contractors to ensure works continued to progress on site in

the interim to deliver the programme. A finance check had been carried out on each of the sub-contractors with all scoring above the minimum threshold applied in the tender process with no cause for concern. Prompt payments were being made directly to sub-contractors to ensure no issue with cash flow

- with regard to the contract award to RLD following the medium risk score, it had been acceptable to do so within the procurement processes in place with steps taken to mitigate any risk. RLD had legitimately won the tender with no sufficient grounds not to award the contract under the procurement procedures. Not awarding the contract meant the whole process would need to be restarted with a different approach and there remained a time pressure to deliver the project with any delay resulting in financial pressures to maintain the current model and increased construction costs. All things considered, the decision had been the reasonable and right decision to make at the time
- the financial impact on the Council as a result of RLD going into administration formed part of the assessment of options being considered for completing the project which was currently being worked on with a view to reporting back to Cabinet in May with a recommended preferred option.

Cabinet noted the complexities with the project and were pleased that work continued to progress in the interim period with the direct appointment of the sub-contractors. The environmental benefits of the new waste model and new system of separating and recycling were highlighted and supported, and the increasing cost of continuing with the current system was noted. Cabinet looked forward to receiving the options report for taking the project forward and the necessary procurement approvals required. The Leader took the opportunity to thank the Corporate Director and Lead Member for all their hard work.

RESOLVED that Cabinet note the urgent delegated decision referred to in paragraph 2.1 of the report.

6 REPLACEMENT LOCAL DEVELOPMENT PLAN PREFERRED STRATEGY - REPORT OF CONSULTATION

Councillor Win Mullen-James presented the report on the Preferred Strategy Consultation Report for the replacement Local Development Plan (LDP) and sought Cabinet's support for the LDP Preferred Strategy with the recommended changes to go forward to Council for final approval.

The Strategic Planning and Housing Manager and Principal Planning Officer attended for this item. The covering report to Strategic Planning Group on 23 February 2023 (Appendix 1 to the report) summarised the recommended changes to the Preferred Strategy. The Preferred Strategy Consultation Report (Appendix 2 to the report) set out the full details of the consultation undertaken, responses received, and recommended amendments to the LDP Preferred Strategy. The proposed amendments had been assessed via the Sustainability Appraisal and Habitats Regulations Assessment and had shaped the final proposed amendments.

In brief, key changes to the Preferred Strategy included increased prominence and emphasis on elements such as climate change mitigation, carbon reduction and active travel in the vision, objectives and key policies; reduction in the amount of

green field new Class B land use employment land to be allocated in the growth strategy following the consultants' review of the evidence base, and removal of the Bodelwyddan Strategic Site in the spatial strategy following concerns around its deliverability in view of changes to growth deal funding. It was also recommended that the affordable housing target be increased. The actual target would be informed by the Local Housing Market Assessment. Finally, reference was made to the Strategic Planning Group's work and open invitation for all members to attend.

Cabinet acknowledged the importance of progressing work on the LDP to ensure the Council had a local influence on types and location of developments across the county, and provided the opportunity to change policies and allocations to reflect new issues and areas such as climate change. Cabinet welcomed the key changes, particularly the renewed emphasis on climate change mitigation, active travel, the Welsh Language and increasing the affordable housing target. The input from councillors, professional officers, and the good response from the public consultation was also welcomed, with specific mention to the hard work of the Strategic Planning Group (SPG). As a member of the SPG, Councillor Peter Scott highlighted the hard work already undertaken and further work going forward, and he paid tribute to the hard work of officers, and fully endorsed the report.

The following points were raised during the ensuing debate –

- the need for detail in the Deposit LDP on the Council's intentions, including elements relating to climate change was highlighted and officers provided assurances that further reports would be taken forward, firstly to the SPG, on the detail and wording of policies to cover those issues which would provide members with the opportunity to be involved at an early stage in that work
- the report referred to the provision for a level of growth supported by land for 3,775 new homes to meet a housing requirement of 3,275 dwellings, with the difference relating to a contingency to ensure the 3,275 dwellings were delivered. Since the start of the plan period in 2018 around 1200 dwellings of the total 3,275 had already been built, and around 1000 dwellings were either currently under construction or sites where planning permission had been granted and would likely come forward in the next few years. Therefore, land provision for around 1000 dwellings would likely be sought for new allocations
- Councillor Arwel Roberts referred to the potential for particular brownfield sites, which had been left undisturbed for some time, having high biodiversity value and Councillor Emrys Wynne agreed, also highlighting the importance of protecting the best greenfield sites for agriculture and food production, and the need for balance. There was some debate on balancing aspirations for providing affordable homes and employment land against the need to address the climate emergency, and an acknowledgement of the good work already undertaken in that regard. It was noted that the Biodiversity and Climate Change Team and Planning Team worked closely together. Officers confirmed that when looking at site allocations in the LDP there was a need to balance various key considerations, including biodiversity and agricultural land value. There would also be a requirement on sites for net biodiversity gain moving forward which was a positive step, to both protect and make improvements.

RESOLVED that Cabinet –

- (a) *confirms it had read, understood and taken account of the Well-being Impact Assessment (Appendix 3 to the report) as part of its consideration;*
- (b) *recommends the Preferred Strategy as amended by the report to Council for final approval, and*
- (c) *recommends that the approved Preferred Strategy as amended by the report forms the basis for developing the Deposit Replacement Local Development Plan for consultation.*

7 PROVISION OF A DYNAMIC PROCUREMENT SYSTEM FOR DELIVERY OF DISABLED GRANT FACILITIES

Councillor Rhys Thomas presented the report seeking Cabinet approval of the development and implementation of a Dynamic Procurement System (DPS), in partnership with Flintshire County Council, to deliver the Mandatory Disabled Facilities Grant in line with current Contract Procedure Rules (CPRs).

Local authorities were statutorily required to provide adaptations, via Disabled Facilities Grant (DFG), to vulnerable persons to enable them to live safely and independently within their own home. The current procurement of adaptation works did not accord with the Council's CPRs and therefore a DPS had been recommended, in partnership with Flintshire County Council, which would allow both local authorities to deliver DFGs across the border via a good cross section of competent contractors. The current procurement process and new DPS system was explained. The DPS was similar to an approved list of contractors but provided greater flexibility and operated as a completely electronic process which would be open throughout the validity of the purchasing system to any firm that satisfied the selection criteria. The intention was to provide a further report at the end of the procurement process with regard to implementation of the DPS.

Cabinet acknowledged the benefits of the proposed DPS which would provide greater flexibility and value for money, with a wider pool of contractors who could apply for different lots as work became available, and to best meet the needs of those requiring disabled facilities in a timelier manner. The Strategic Planning and Housing Manager and Principal Built Project Surveyor responded to questions, confirming that the annual capital allocation had increased to £1.5m given the increased cost of adaptations due to inflationary pressures. The mandatory grant remained at £36k but the amount given as a grant before a charge on the property had increased from £5k to £10k which provided greater flexibility to put in the majority of medium adaptations, such as stair lifts and ramps, that accorded with the Welsh Government's changes to means testing for disability adaptations.

The Leader was pleased to note that the internal audit had identified the improvement required and welcomed the new improved process, congratulating all those involved and the hard work undertaken in that regard to enable home adaptations for the benefit of people with disabilities and a better quality of life.

RESOLVED that Cabinet approve the development and implementation of a Dynamic Procurement System (DPS) in partnership with Flintshire County Council to deliver the Mandatory Disabled Facilities Grant in line with current Contract Procedure Rules.

8 RENEWAL OF THE HOUSING MAINTENANCE VOIDS CONTRACTOR FRAMEWORK

Councillor Rhys Thomas presented the report seeking Cabinet approval to commence a procurement and enter into a contract to appoint a number of contractors to a framework to undertake refurbishment work to empty domestic properties owned by the Council (known as voids).

Some background was provided which included the Council's approach to improve the quality of empty properties before re-letting which did impact on turnaround times and increased costs. The Property Operations Manager explained that the current framework had been established following an internal audit in 2017 but was due to expire in September 2023. Given its success, the intention was to re-tender the framework, going back out to the market to ensure best value. Cabinet was advised that the provision of a framework would reduce costs and time in respect of undertaking works on void housing units, and increase income into the Housing Revenue Account while maintaining the exceptional standard that has been set in terms of quality housing for the Council's housing tenants.

Cabinet acknowledged the need to reduce costs and turnaround times for empty properties given current housing pressures, but also advocated the need for appropriate works to be undertaken to ensure fit for purpose, quality homes were re-let which in turn would be respected and well looked after by tenants, and members were pleased that quality housing was considered a priority. Cabinet was also pleased to note the expected increase in void turnaround times as part of the new framework and the opportunities for local businesses and small traders in Denbighshire. In terms of the 'buying back' of council housing, it was confirmed that the framework itself was not specifically for 'buy backs' but contractors on the framework could be utilised for works required on purchased properties.

RESOLVED that Cabinet –

- (a) *approves the re-tendering of the voids framework, and*
- (b) *confirms that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 1 to the report) as part of its consideration.*

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 £2.846m was forecast for service and corporate budgets (£2.249m 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 match-funding requirement for the Clwyd West Levelling Up Grant programme together with the 'Four Great Highways' project as part of the Clwyd South Levelling Up Grant programme.

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

- the £0.6m increased overspend for service and corporate budgets had been due to additional pressures in Children's Services (most of the pressure related to children's placements which were projected to continue longer than previously predicted) and Highways and Environmental Services (where service reserves had been used to mitigate the overspend). Options to fund the overspend included base level and earmarked reserves and the budget mitigation reserve; recommendations would be made when the final outturn position was known
- the Clwyd West bid for Levelling Up funding and the required match-funding had previously been agreed by Cabinet. Following approval of the bid by the UK Government, Cabinet was asked to formally approve the match-funding requirement as previously committed by the Council amounting to £1,038,108. The Clwyd South Levelling Up programme and the required funding had been previously approved in principle by Cabinet. Following a review of the business case by the Budget Board for the 'Four Great Highways' project it was recommended that Cabinet approve the project which exceeded £1m. The principle of both bids had already been approved and both business cases had been reviewed and supported by the Budget Board. Future business case reviews would be undertaken by the new Capital Scrutiny Group. The Leader confirmed that, together with Ruthin Members, he had met with David Jones, MP for Clwyd West to discuss governance issues and spend to deliver projects.

Councillor Gill German referred to the Education and Children's Services element of the report, emphasising the high need in Children's Services with projections that need would continue. She reported on feedback from the service and schools and her own first-hand experience of the impact post pandemic and rise in mental health issues, with a disproportionate impact on children from low income backgrounds. Whilst there was an obvious budgetary pressure, Children's Services had a crucial role in dealing with those issues and supporting health colleagues.

RESOLVED that Cabinet –

- (a) *note the budgets set for 2022/23 and progress against the agreed budget strategy;*

- (b) *approve the match-funding requirement for the Clwyd West Levelling Up Grant programme as detailed in Section 6.8 of the report and Appendix 5 to the report, and*
- (c) *approve the 'Four Great Highways' project as part of the Clwyd South Levelling Up Grant programme, 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 amendments –

- Phase 2 of the Waste Depot in Colomendy, Denbigh – moved from April to May
- National Eisteddfod of Wales (Expression of Interest) – added to April
- North Wales Construction Framework 3rd iteration – added to May
- Long Term Empty and Second Homes Premium – added to May and July
- Welsh Language Strategy – added to June

The Leader referred to the process of progressing the projects for the Clwyd West Levelling Up funding programme and it was agreed to discuss those arrangements at Cabinet Briefing. Councillor Emrys Wynne was keen to clarify the process and those involved to ensure the projects were delivered efficiently and effectively.

RESOLVED that *Cabinet's forward work programme be noted.*

The meeting concluded at 11.30 am.