

PERFORMANCE SCRUTINY COMMITTEE

Minutes of a meeting of the Performance Scrutiny Committee held in Conference Room 1a, County Hall, Ruthin on Thursday, 5 April 2012 at 9.30 am.

PRESENT

Councillors Gwilym Evans, Bobby Feeley (Chair) Ian Gunning, Huw Jones (Vice-Chair) and Lucy Morris

ALSO PRESENT

Councillor Bill Cowie, Councillor Meirick Lloyd Davies, Selwyn Thomas and Councillor Julian Thompson-Hill

1 APOLOGIES

Apologies for absence were received from Councillors Colin Hughes, Rhys Hughes and David Lee

2 DECLARATION OF INTERESTS

No personal or prejudicial interests in any items of business were declared.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No items were raised which in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

4 MINUTES OF THE LAST MEETING

The minutes of Performance Scrutiny Committee meeting held on Thursday, 23rd February, 2012 were submitted.

Matters arising:-

Taxi licensing

The Scrutiny Co-ordinator (SC) referred to a query raised by Councillor T.R. Hughes at the previous meeting relating to the licensing of taxis operating in Denbighshire by other local authorities. A response had been submitted by the Head of Internal Audit (included in the Performance Scrutiny Committee Information Update prepared by the SC and circulated at the meeting), which confirmed that the Council had no control over taxi drivers licensed in other areas operating in the county, but noted that the introduction of mandatory enhanced CRB checks across the UK from the end of April 2012 would go some way towards ensuring compliance with DCC standards for externally granted licenses. However, it was

conceded that no legislation existed that would compel vehicles to meet DCC vehicle checking standards for licenses granted outside of the County.

Councillor L.M. Morris asked if it was possible for to add a requirement for taxis used to transport school children to be licensed by DCC. The Head of Planning, Regeneration and Regulatory Services (HPRRS) said that this would be likely to amount to an unfair restriction of trade, but added that a further license is required to transport school children which is more stringent than the standard taxi license. Councillor I.A. Gunning suggested that CRB checks should be undertaken annually and was told that they are currently undertaken every 3 years, but that license holders are obliged to sign a form every year to confirm that they have not been found guilty of any offence. The Head of Internal Audit (HoIA) emphasised that the introduction of enhanced CRB checks for all licensed taxi drivers meant that the main issue to be resolved was with ensuring the fitness of vehicles.

The HoIA stated that his team were currently auditing taxi licensing and safeguarding and anticipated that a report of the team's findings would be available to be submitted to the Performance Scrutiny Committee in July or September.

RESOLVED – *that the Minutes be received and approved as a correct and accurate record.*

5 PLANNING APPEALS

The Head of Planning, Regeneration and Regulatory Services introduced a report, circulated prior to the meeting, which delivered an analysis of the planning appeal decisions from April 2011 to date. The report had been requested following consideration of an item on the overall performance of Planning, Regeneration and Regulatory Services at the last meeting of the Performance Scrutiny Committee, when concern had been raised about the increase in the proportion of successful planning appeals.

The HPRRS explained that approximately 10% of planning applications are rejected and since April 2011 18 appeals had been submitted against decisions to reject planning permission. Of these appeals, 7 had been allowed and 18 were dismissed. Due to the size of the sample, a small change in the pattern could significantly affect the statistics and the HPRRS suggested that the spike in successful appeals would not be automatically attributable to poor initial decision making, with the statistics for the present year now indicating a reduction in the proportion of successful appeals.

The Chair observed that of the 8 decisions made by officers under delegated authority that had been appealed, 4 of these appeals had been successful, and asked if the decisions made by officers were fully informed. The Development Control Manager (DCM) acknowledged the need for officers to be fully trained, but explained that decision making was a difficult balancing act and that in contentious cases officers tended to follow the opinion of the relevant Town or Community Council. Councillor G.C. Evans commented that the influence that the Town and Community Councils had in the process encouraged their membership to believe that they had the right of decision in planning matters. There was a clear need for

town and community councils to be fully trained on planning legislation and conversant with their role in the planning application process. Councillor Evans also drew the Committee's attention to the need for members of the Area of Outstanding Natural Beauty's (AONB) Joint Advisory Committee (including their officers) to receive appropriate training in these matters and for that training to stress the importance of the AONB formulating clear, easily understood recommendations with respect to planning applications to the local planning authority. In addition Councillor Evans raised a number of issues relating to the interpretation of 'specific functions' of the Council with regard to delegated decisions, and to the use and effectiveness of 'stop notices' and of s.215 notices against untidy land under the Town and Country Planning Act, 1990. The HPRRS confirmed that only a handful of 'stop notices' had been issued since 1996.

Councillor I.A. Gunning recognised the difficulty in satisfying all parties in planning disputes, and asked whether it was possible to develop closer dialogue between residents and developers through mediation or improved engagement with local residents' associations. He also suggested that it may be useful if the training that was to be delivered to town and community councils were extended to residents associations. The HPRRS advised that a statutory process for mediation did exist, but that it would require the participation of both parties and not all developers were keen to participate in the process. The DCM added that the engagement of local residents at an early stage should have a positive impact. He suggested that once the training had been delivered to all town and community councils consideration could be given to extending it to organisations such as residents associations. Councillor S. Thomas asserted that the Town Councils were an essential aspect of the decision making process because of their proximity to their communities and local issues.

Councillor L.M. Morris asked how the performance of DCC in planning compared to national levels and the DCM said that the Council were statistically ranked in the top quartile in Wales for proportion of successful defences against appeals. The Corporate Improvement Manager (CIM) explained that national indicators had recently changed so that only broad 'strategic indicators' would apply. The 'core indicators' give more specific information but local authorities were no longer obliged to publish information against these indicators, and so relative performance measurement had been difficult to ascertain. The Chair commented that this meant that it would also be difficult for the public to determine how effective the Council's performance had been, but the CIM said that the indicators that DCC use were more important in identifying areas of weakness and prompting intervention rather than for comparative purposes and targeting.

Councillor M.L. Davies highlighted an issue with ensuring compliance with planning procedures, particularly the time taken to enforce decisions, which the HPRRS said was attributable to the statutory appeal process prolonging actions for enforcement.

RESOLVED – *that the Committee:*

a) notes the report and the results of planning appeals over the last year;

b) recommends that performance indicators which measure the effectiveness of intervention and mediation in the planning process are developed for performance monitoring purposes;

c) recommends that appropriate training is developed and delivered to members of Town and Community Councils and members of the Joint Advisory Committee for the AONB taking part in any formal recommendation process relating to planning applications to enable them to effectively carry out this role; and

d) recommends that a communications strategy is drawn-up for the purpose of engaging with residents associations and the general public with respect of planning matters.

6 FINANCIAL REPORT 2011/2012

The Lead Member for Finance and Efficiency introduced a report, circulated prior to the meeting, which gave an update of the Council's financial position at the end of February. The report had been taken to Cabinet in March and included details of the Council's revenue budget and the Housing Revenue Account budget.

The Committee was informed of recent budgetary figures which placed the Council's net under spend at £846k on services (excluding schools) and £400k on corporate budgets, with a net over spend of £505k being anticipated for schools. An allowance of 5% had been factored in to the budget setting process to allow for slippages, but as the savings target had been anticipated to be achieved in full it was agreed that the money saved would be carried forward in to the next financial year to invest in priorities for 2012/13. The allocation was agreed at £200k towards investment in the 21st Century Schools / Modernising Education project, with £100k going towards communities and the development of town plans.

Councillor L.M. Morris observed that the figures in Appendix 6 indicated that DCC had one of the highest figures for debt per head of population in regard to prudential borrowing and asked whether this was sustainable. The Principal Management Accountant (PMA) explained that this was largely for the purpose of bringing its housing stock up to the Welsh Housing Quality Standard (WHQS) 2012 under the Housing Stock Business Plan for 2011/12. This was a necessary expenditure following the Council's decision to retain its housing stock, and whilst Denbighshire no longer had any significant backlog of housing stock maintenance work that had not been factored into its budget, other authorities were yet to commence this major piece of work.

The cost of servicing the debt was placed at about 7% of the Council's income, which was said to be comfortably manageable and well within the borrowing limits that the Council had set. It was reiterated that DCC would not borrow beyond its means, and that the WAO's assessment of the Council's borrowing arrangements had not raised any concerns. The PMA added that if the Government's austerity measures were to have any impact on the Council's ability to repay the debt due to a reduction in revenue that the Council would be able to review the arrangements for repaying the debt.

Councillor G.C. Evans questioned whether the needs of communities were still being met with the reduction in services. The Lead Member for Finance and Efficiency, Councillor J. Thompson-Hill said that the delivery of services was the responsibility of Heads of Service, and that Councillors would have to accept that the projected impact of the Service Challenges would be as the Heads of Service had specified. If some service delivery targets of the Service Challenges could not be delivered, Councillor Thompson-Hill said that there would be some opportunity to adapt plans, as had already been the case.

It was recognised that services could only be re-organised so much and that a time would come when difficult decisions would need to be made, such as potentially outsourcing some services. Councillor H.L. Jones proposed that at the next round of Service Challenges that Heads of Service should give details of what action had been taken to date and how successful these changes had been as a means of introducing the process and its achievements to new councillors who would be engaging with the process and the Services for the first time.

Councillor Evans also proposed that the figures presented in the financial report could be looked at in more detail by a separate group, with the Chair suggesting the possibility of a member of the Performance Scrutiny Committee offering a scrutiny perspective in this respect by attending meetings of the new Audit Committee.

A number of matters were also raised in respect of the following:

- The need for the Strategic Investment Group (SIG) to be given full information in order to inform decision making and for Scrutiny's representatives on that Group and other groups, such as the Service Challenge Groups, to regularly feedback decisions/recommendations to scrutiny via the standing agenda item available on all committee business agendas.
- Concern that finance reports are not being given as thorough consideration as necessary due to consistently being scheduled at the end of meeting agendas.
- Questions of whether the notable variance in expenditure for Leisure, Libraries and Community Development would put the service at risk.
- The need for effective communication to residents to explain why savings are required to be made and to allay concerns that service provision will be scaled back.
- Discussion of how savings and budget surpluses could be most effectively reinvested in the following financial year.

RESOLVED – *that the Committee:*

a) receives and notes the Finance Report and the Council's financial position against its budget strategy and its Medium Term Financial Plan (MTFP);

b) recommends that full details of efficiency measures taken to date and an analysis of their effectiveness are given by Heads of Service at the commencement of the next round of Service Challenge meetings;

c) recommends that an effective communication strategy is introduced to inform residents of the Council's efficiencies agenda and the impact on the services that the Council provides; and

d) recommends that the Revenue Budget and Capital Programme Reports are, are least periodically, given a higher precedence on the agenda of full Council meetings in order to facilitate detailed debate on their contents.

7 SCRUTINY WORK PROGRAMME

The Scrutiny Coordinator introduced a report, circulated prior to the meeting, seeking members' review of the Committee's Forward Work Programme and providing an update on relevant issues. A draft forward work programme (Appendix 1), the Cabinet's forward work programme (Appendix 2), and a table charting progress made against the Committee's resolutions (Appendix 3) had been attached to the report.

The Committee was notified that a report detailing the Planning Enforcement team's performance and financial resources that had been requested at a previous meeting would not be available as the Head of Legal and Democratic Services wanted a more comprehensive report on how the Legal department and Planning Enforcement could work together more closely. The Chair had agreed to defer consideration of the report to a future meeting.

The Scrutiny Coordinator explained that due to the local election in May and the convention not to schedule Council meetings in August, the next two meetings of the Performance Scrutiny Committee scheduled for 28th June and 6th September each had more items to consider than the optimum number of four items. The Scrutiny Chairs and Vice-Chairs Group had suggested that an additional meeting be held in July to help items to be distributed more easily, and the Committee agreed that a meeting will be arranged for 26th July.

After consideration the Committee decided to make the following changes to the Forward Work Programme:

- 28th June – Addition of a report on the 'Review of Taxi Licensing and Safeguarding'.
- 26th July – 'Planning Enforcement', 'Financial Report 2011/12 and Update 2012/2013' and 'Monitoring of the Capital Programme' transferred to this meeting.
- 6th September – Addition of a report on the 'Service Challenge Process Update'.

It was noted that there could potentially be two changes to the statutory education co-opted membership on Scrutiny committees during 2012, as the term of office of two of the members was coming to an end.

RESOLVED that, subject to the amendments referred to above, the Forward Work Programme as detailed in Appendix 1 to the report be approved.

8 FEEDBACK FROM COMMITTEE REPRESENTATIVES

Apologies for absence were received from Councillors Colin Hughes, Rhys Hughes and David Lee

9 MONITORING OF THE CAPITAL PROGRAMME

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 14 of Part 4 of Schedule 12A of the Local Government Act 1972.

PART II

The Principal Management Accountant presented a confidential report, circulated prior to the meeting, which provided the Committee with an updated Capital Plan for 2011/12 – 2014/15, including the projects approved by Council on 28th February 2012, to be incorporated in to the 2012/13 Capital Plan. The report gave details of recent developments in regard to the Capital Plan's major projects, property acquisitions and demolitions.

Councillor L.M. Morris asked how the capital budget related to the timeframes that had been set, and the PMA explained how there had been some slippage in scheduling but that the budget allowed for a degree of flexibility. It was explained that the majority of the major capital programme schemes were either funded by grants or by prudential borrowing schemes, so scheduling of works was consequently based on assumptions of when grant funding would be available to draw down. In some cases funding would depend on projects being able to meet deadlines so it was noted that slippage in adherence to plans could end up costing the Council some considerable amounts of money if not properly managed. Some delays could not be avoided but the PMA emphasised that capital works would not be scheduled if there was not a reasonable prospect of them being achieved.

Members of the Committee raised a number of issues with the Lead Member for Finance and Efficiency and the PMA, and during the discussion consideration was given to the following:

- Contingency plans in the event of a project under the Capital Plan faltering.
- The need to purchase materials prior to completion of the final design as a 'calculated risk' to enable deadlines to be met.
- A lack of clarity regarding the School Workplace Transport Works referenced in the Appendix detailing the outturn of Modernising Education.
- Concern on whether, if the flood prevention scheme in Corwen was delayed for 12 months, the capital allocation for the scheme could be put at risk;
- Discussion of how profits from the sale of DCC property were reinvested

RESOLVED that, subject to the above observations, the Committee notes the latest position on the Capital Plan for the period 2011/12 to 2014/15.

Councillor Thompson-Hill informed the Committee that the Principal Management Accountant, Richard Weigh, had recently been formally appointed to the role of Principal Management Accountant and Deputy Section 151 Officer on a permanent basis, for which the Committee offered their congratulations.

Members of the Committee expressed their gratitude to Councillor Thompson-Hill for his regular attendance at Scrutiny Committee meetings and commended his enthusiasm and aptitude in his role as Lead Member for Finance and Efficiency. They also expressed their appreciation to him for willingly engaging with scrutiny without attempting to hinder or interfere with the scrutiny process.

As this was the final meeting of the Committee prior to the local elections, the Chair wished the departing Councillors luck in the future and wished the other members of the Committee good luck in their electoral campaigns.

The meeting concluded at 12:15pm.