



## **ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE**

**MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON  
TUESDAY, 25TH JUNE 2019 AT 5.30 P.M.**

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### **PRESENT:**

Councillor D.T. Davies - Chair  
Councillor A. Hussey - Vice Chair

### **Councillors:**

M.A. Adams, A. Collis, C. Elsbury, M. Evans, A. Gair, Ms J. Gale, J. Roberts, J. Scriven,  
G. Simmonds, T.J. Williams

### **Cabinet Members:**

S. Morgan (Economy, Infrastructure, Sustainability and Wellbeing of Future Generations  
Champion), Mrs E. Stenner (Environment and Public Protection)

### **Together with:**

M.S. Williams (Interim Corporate Director of Communities), R. Hartshorn (Head of Public  
Protection, Communities and Leisure Services), M. Lloyd (Head of Infrastructure),  
C. Edwards (Environmental Health Manager), M. Godfrey (Team Leader), M. Johnson  
(Senior Engineer), D. Lucas (Team Leader Strategic and Development Planning), C. Forbes-  
Thompson (Interim Head of Democratic Services), R. Barrett (Committee Services Officer)

### **Also present:**

Councillor C. Thomas (Crumlin Local Ward Member)

### **1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors S. Kent, Mrs A. Leonard, D.W.R.  
Preece and A. Whitcombe, together with Cabinet Member N. George (Neighbourhood  
Services).

### **2. DECLARATIONS OF INTEREST**

There were no declarations of interest received at the commencement or during the course  
of the meeting.

### **3. MINUTES – 14TH MAY 2019**

RESOLVED that the minutes of the Environment and Sustainability Scrutiny Committee held on 14th May 2019 (minute nos. 1 - 10) be approved as a correct record and signed by the Chair.

### **4. CALL-IN PROCEDURE**

There had been no matters referred to the Scrutiny Committee in accordance with the call-in procedure.

### **5. ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE FORWARD WORK PROGRAMME**

Cath Forbes-Thompson (Interim Head of Democratic Services) presented the report, which outlined details of the Environment and Sustainability Scrutiny Committee Forward Work Programme (FWP) for the period June 2019 to March 2020, and included all reports that were identified at the Scrutiny Committee meeting on 14th May 2019.

Members considered the forward work programme and agreed that a 12-month progress report on Wellbeing Objective 4 (promotion of a modern, integrated and sustainable transport system) be scheduled for the meeting of 17th September 2019.

Subject to the foregoing addition, it was unanimously agreed that the Environment and Sustainability Scrutiny Committee Forward Work Programme be published on the Council's website.

### **6. CABINET REPORTS**

None of the Cabinet reports listed on the agenda had been called forward for discussion at the meeting.

### **REPORTS OF OFFICERS**

Consideration was given to the following reports.

### **7. INFRASTRUCTURE DEVELOPMENT - COMMUTED SUMS**

Councillor Sean Morgan (Cabinet Member for Economy, Infrastructure, Sustainability and Wellbeing of Future Generations Champion) presented the report, which outlined proposals relating to the charging of commuted sums payable by developers for future maintenance and associated works of eligible assets, ahead of its presentation to Cabinet.

Members were advised that in view of the current variation in the use and application of commuted sums by different services within the council, it was recommended that a consistent approach be adopted for calculating commuted sum payments from developers for the future maintenance and replacement of adopted assets. Given the increasing emphasis on providing sustainable development and sustainable places to live, local authorities and other public bodies are facing increased pressures which would normally preclude such enhanced developments from being maintained to the appropriate standard unless payment is sought from the developer for the costs involved.

Officers explained that it is intended for both the local authority and developers to use the commuted sum methodology, which will provide a transparent and consistent approach to the calculation of commuted sums, and will place no unacceptable burden on CCBC maintenance budgets or the public purse. The clarity of approach will help remove the uncertainty and risk for developers at an early stage in the development process, and will also provide a sustainably funded mechanism for local authority departments, enabling development to progress with much more certainty regarding the overall requirements and commitment

The Scrutiny Committee were provided with an explanation of the methodology for calculating commuted sums, which will include consideration of estimated future maintenance costs, the periodic discount rate linked to interest rates, and default time period of a development. This methodology has been developed in line with industry standard guidance prepared by the CSS (County Surveyors Society) and has also been recommended by the Welsh Government through the statutory guidance document as part of the statutory Sustainable Drainage Approval Body (SAB) function. Further details were set out in the report,

During the course of the ensuing discussion, Officers provided clarification on the differences between the Community Infrastructure Levy (CIL) and commuted sums, and it was noted that CIL funding is allocated to a central pot for community use, whereas commuted sums are ring-fenced for the future maintenance of eligible assets to be adopted for the lifetime of the development. Members were advised that the use of commuted sums is well established and should not be seen as a new funding source for the Authority. However, there is a need to introduce a consistent approach for the calculation of these sums in order to improve clarity for both developers and the various departments across the local authority.

In response to a query on the rationale for the default time period of a development, Officers explained that these are set in line with CSS guidance (generally 60 years other than significant structures which are 120 years). Members also noted the interrelationship between the rates of commuted sums, the CIL charge and the amount of affordable housing that can be secured through Section 106 agreements, and the need to strike an appropriate balance across these areas.

Following consideration of the report it was moved and seconded that the following recommendations be forwarded to Cabinet for approval. By a show of hands this was unanimously agreed.

RECOMMENDED to Cabinet that:-

- (i) a consistent approach to the calculation and implementation of charges to developers in relation to commuted sums be implemented, which will cover the future maintenance costs of all eligible infrastructure assets offered for adoption for the lifetime of the development.
- (ii) a requirement be placed on all developers entering into SAB (Sustainable Drainage Approval Body), s.38 and s.278 highway agreements, and s.106 planning agreements or any other type of legal agreement entered into with Caerphilly CBC, to be charged commuted sums for the future maintenance and replacement requirements of the works constructed by them and adopted by the Council;
- (iii) utilisation of a discount rate of 2.0% and lifetime of development of 60/120 years depending on the asset proposed for adoption, be approved;

- (iv) Officers report to the Policy & Resources Scrutiny Committee on a 6 monthly basis in relation to all commuted sums received by the Authority;
- (v) the agreed process be reviewed after 2 years of operation and where alterations are required, a future report be presented to Scrutiny and Cabinet.

## **8. HAFOD-YR-YNYS AIR QUALITY FEASIBILITY STUDY - FINAL PLAN**

Councillor Mrs E. Stenner (Cabinet Member for Environment and Public Protection) presented the report, which asked the Scrutiny Committee to consider the findings of the public consultation exercise relating to the Hafod-Yr-Ynys Air Quality Feasibility Study. Members were also asked to consider the Final Plan as appended to the report and the preferred option for achieving compliance with the Ambient Air Quality Directive at Hafod-Yr-Ynys, ahead of the report being presented to Cabinet for a decision.

It was noted that as the national nitrogen dioxide air quality objectives are being exceeded at receptor locations on Hafod-Yr-Ynys Road in Crumlin, the Council is required by Welsh Government to determine a preferred option which will achieve compliance with the Ambient Air Quality Directive limit value for nitrogen dioxide in the 'shortest possible time'. The option of purchasing and demolishing the properties on the south side of the A472 at Hafod-yr-ynys has been identified in the draft Final Plan as achieving compliance by 2022. The other option of 'Do Minimum' predicts the delivery of air quality compliance by 2025.

At its meeting on 27th March 2019, Cabinet expressed concerns at the prospect of residents being pushed into financial hardship by any compulsory purchase process, and WG subsequently confirmed that it would make funding available, including the potential for applying the value of a new similar property as opposed to the market value of the house being demolished. The draft Final Plan and proposed preferred option of 'Do Minimum' were the subject of a public consultation undertaken between 4th April 2019 and 11th June 2019. The outcome of the consultation exercise did not support the 'Do Minimum' option.

Members noted that it had since been proposed for the purchase (at 150% of the valuation) and demolition of the properties, and realignment of the footpath, to be confirmed as the preferred option, and were advised that the completed Final Plan and preferred option must be submitted to Welsh Government by 30th June 2019 at the latest.

It was emphasised by Officers that the purchase and demolition option would allow the Council to achieve compliance with the WG Directive in the shortest possible time, and that the proposal to offer 150% of the market value of the property would allow residents to buy a similar property in the borough and not be financially disadvantaged by the process.

Councillor Carl Thomas was invited to the table to make representations on behalf of those residents in his ward affected by the proposals. He expressed his thanks to the Council's Environmental Health Team for the work that had been undertaken to reach this proposal and for keeping the best interests of residents at the forefront of the process. Councillor Thomas stated that the majority of the residents in the 20 occupied houses were satisfied with the 150% proposal, although there was a question remaining around the depreciation of the house values since their purchase and the impact on the final sale price. He also extended his thanks to the Local Authority for securing the additional funding from Welsh Government to reach this outcome.

The Scrutiny Committee discussed the report and a query was received regarding the property valuations cited in the report. Officers explained that a valuation had been secured to gauge the acquisition price but that residents were encouraged to instruct their own

surveyor in this regard. Clarification was sought on how the 150% market value funding had been negotiated and Officers explained that this had been achieved following an open discussion with Welsh Government on the level of funding required to give equitable provision to those residents affected by the proposals.

Further information was sought in respect of the feedback received from residents regarding the proposals. It was explained that three of the properties were vacant and the majority of the other residents were willing to enter into voluntary purchase agreements. Members were advised that dialogue is continuing with the remainder of the households to reach mutual agreement and that an update would be given at Cabinet the following day.

A Member queried how compensation would be calculated for those private rental properties included in the proposal. Officers explained that the Council has used the compulsory purchase process as a basis, with landlords of these properties entitled to receive 150% market value and a basic loss payment, and those tenants will also be entitled to receive a disturbance claim. In response to a query on the next steps in the process subject to Cabinet approval, Officers explained that Welsh Government will assess the Final Plan and preferred option and provide verbal feedback by the end of July 2019, with written feedback from the Minister for Environment, Energy and Rural Affairs expected in early/mid August.

Following consideration and discussion, it was moved and seconded that the following recommendation be forwarded to Cabinet for approval. By a show of hands, this was unanimously agreed.

RECOMMENDED to Cabinet that the findings of the public consultation exercise, together with the Final Plan (Appendix 1) and proposed preferred option of purchase (at 150% of the valuation) and demolition of the properties at 1-20 Woodside Terrace, 1&2 Woodside Shops and Yr Adfa on the south side of the A472, together with realignment of the footpath, for achieving compliance with the Ambient Air Quality Directive at Hafod-Yr-Ynys be approved.

The Scrutiny Committee asked that their thanks to the Environmental Health Team be placed on record for all their hard work in relation to this matter,

## **9. PUBLIC PROTECTION ENFORCEMENT, UNDERAGE SALES ACTIVITY AND CONSUMER ADVICE ANNUAL REPORT 2018/19**

The Cabinet Member for Environment and Public Protection presented the report, which provided an overview of the formal enforcement activity undertaken by the Public Protection Division during 2018/19, including outcomes of investigations undertaken under the Regulation of Investigatory Powers Act (RIPA). The Scrutiny Committee were also asked to consider the Council's CCTV provision and the enforcement programme in respect of the underage sales for age-restricted products, and to note the activity in relation to Consumer Advice.

The Scrutiny Committee were reminded of the role of the Public Protection division in protecting, promoting and improving the health, safety and economic wellbeing of communities. This role includes the enforcement of numerous statutes, and in order to ensure a fair and consistent approach to enforcement responsibilities, the Public Protection division has an Enforcement Policy which requires an annual review of activity.

Members noted the information set out in the report and its appendix, which provided a broad picture of the range and number of formal enforcement actions initiated during 2018/19. This included a summary of the Public Open Space CCTV and the processes used

to monitor and react to incidents and suspicious behaviour. Members were updated on the number of RIPA authorisations obtained by Trading Standards during 2018/19 (3 cases) and the reasons for their use as detailed in the report. The Scrutiny Committee were updated on underage sales complaints and the number of test purchases carried out by Trading Standards, the legislation and penalties applied in respect of underage sales, and details of consumer complaints received by Trading Standards during 2018/19.

A Member referred to the low level of fly tipping prosecutions for 2018/19 (9 cases) and asked if there was anything that could be done to increase this number. Officers explained that the enforcement team will respond to reports of fly tipping and ascertain in the first instance if any evidence can be found to link the waste to the offender. It was explained that the Council has used covert surveillance in problem areas but this is not always possible in some locations. Members were encouraged to continue to contact the Public Protection team in regards to any fly tipping issues.

In response to a query on the reason for a drop in monitoring requests from Gwent Police when compared to 2016/17 and 2017/18, Officers gave assurances that there had been no change to process in this regard. However, they confirmed that they would make enquiries regarding the reasons for this decrease and circulate any details to the Scrutiny Committee following the meeting.

Having considered the contents of the report, Members noted the details of the annual review of Public Protection enforcement policy (including underage sales), the details of the Council's CCTV provision, and the activity in relation to Consumer Advice.

## **10. WELLBEING OBJECTIVE 5 - 2018/19 END OF YEAR PROGRESS UPDATE**

The Cabinet Member for Economy, Infrastructure, Sustainability and Wellbeing of Future Generations Champion presented the report, which provided a progress update at the end of 2018/19 against Wellbeing Objective 5 'Creating a county borough that supports a healthy lifestyle in accordance with the Sustainable Development Principle within the Well-being of Future Generations (Wales) Act 2015'.

Members were advised that the Wellbeing Objective has 2 outcomes, namely aim to reduce inequalities in health across the county borough, and creating a place that supports a healthy lifestyle. Following a review of outcomes at this stage of the 5-year plan, the Objective is judged to be progressing well, and the Scrutiny Committee were asked to consider the content of the report and satisfy themselves that this progress is being made.

Officers referred to the wide range of services covered by the Objective and highlighted areas that have performed well against the Objective. Full details were set out in the report and its appendix and highlighted the progress made through Flying Start, the Sport and Active Recreation Strategy 2019-29, Sports Development, the social inclusion programme Positive Futures and the Elite Caerphilly Scheme 2018 in delivering this Objective. Other areas of note include an increase in the number of recorded visits to country parks, continued uptake of the Healthy Hearts initiative, and the implementation of the Council's Tree Strategy to ensure that green and public spaces are accessible and safe.

Officers also referred to areas requiring improvement and explained that resourcing interventions that will result in a positive shift in population health outcomes is always likely to be a challenge. However, work is continuing to ensure the best and fairest distribution of resources and to maximise collaborative opportunities with partner agencies. The Council continues to promote proof of age cards to deter underage sales, but no longer facilitate these in schools due to changes in requirements associated with GDPR. The attainment of

every child swimming 25m by age 11 continues to be a challenge, and the service has adopted an intervention at an earlier stage, with the role of schools being vital to support the further development of this aspect.

It was explained that it is difficult to demonstrate impacts on health outcomes on a year to year basis, but we are able to demonstrate good levels of service user and community participation across a broad range of interventions and initiatives. Feedback from families engaged in Flying Start is very positive and has highlighted their increased awareness of support available to families through the health team

During the course of the debate, a Member queried the reasons for the drop in the percentage of children at 11 years who can swim 25 meters compared to previous years (46% in 2018/19). Officers outlined the challenges around encouraging school involvement to meet this target (such as limitations on school budgets and potential curriculum changes) and explained that the provision of swimming during curriculum time is a decision for each individual school. Discussion also took place regarding sports participation and the split by gender, and Officers explained that this is now becoming less noticeable due to the realm of PE activities being made available to children (such as girls football/rugby).

Following consideration of the report and its appendix, Members noted the report contents and unanimously agreed that progress has been made against the outcomes at the end of the first year of the 2018-2023 Wellbeing Objective assessment.

The meeting closed at 6.35 p.m.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 17th September 2019, they were signed by the Chair.

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CHAIR