



ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE

**MINUTES OF THE MEETING HELD VIA MICROSOFT TEAMS ON THURSDAY, 1ST
OCTOBER 2020 AT 5.30 P.M.**

PRESENT:

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

Councillors:

M.A. Adams, A. Collis (by telephone), C. Elsbury, M. Evans, A. Gair, Ms J. Gale, S. Kent, B. Owen, D.W.R. Preece, J.E. Roberts, J. Scriven, A. Whitcombe, T.J. Williams

Cabinet Members:

S. Morgan (Deputy Leader and Cabinet Member for Economy and Enterprise), N. George (Cabinet Member for Waste and Public Protection), J. Ridgewell (Cabinet Member for Environment and Infrastructure)

Together with:

Mark S. Williams (Interim Corporate Director – Communities), M. Lloyd (Head of Infrastructure), P. Griffiths (Green Space Strategy and Cemeteries Manager), M. Headington (Green Spaces and Transport Services Manager), G. Mumford (Acting Senior Environmental Health Officer), T. Llewelyn (Senior Engineer), M. Jacques (Scrutiny Officer), R. Barrett (Committee Services Officer)

Also present:

Councillor K. Etheridge, Councillor N. Dix, Mrs T. Norris (Local Resident)

CHAIR'S ANNOUNCEMENT

The Chair welcomed Councillor B. Owen to his first meeting of the Environment and Sustainability Scrutiny Committee. Councillor G. Simmonds was also thanked for his contributions and service during his time on the Committee.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor A. Leonard.

2. DECLARATIONS OF INTEREST

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

3. MINUTES – 11TH FEBRUARY 2020

By way of Forms voting (and in noting there were 9 for, 0 against and 0 abstentions), it was RESOLVED that the minutes of the Environment and Sustainability Scrutiny Committee held on 11th February 2020 (minute nos. 1 - 10) be approved as a correct record and signed by the Chair.

Councillor B. Owen did not take part in the vote as he had not been present at the last meeting.

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

Mark Jacques (Scrutiny Officer) presented the report, which outlined details of the Environment and Sustainability Scrutiny Committee Forward Work Programme (FWP) for the period October 2020 to December 2020.

Members noted the reports scheduled for discussion at the next meeting on 27th October and by way of Forms voting and 1 telephone vote (and in noting there were 11 for, 0 against and 0 abstentions) unanimously agreed that the Forward Work Programme as appended to the meeting papers be published on the Council's website.

6. CABINET REPORTS

It was noted that none of the Cabinet reports listed on the agenda had been called forward for discussion at the meeting.

7. NOTICE OF MOTION - REVIEW DECISION TO SWITCH OFF STREET LIGHTS.

Consideration was given to the Notice of Motion submitted by Councillor K. Etheridge and supported by Councillors A. Farina-Childs, N, Dix, C. Elsbury, R. Gough, C. Mann, T. Parry, G. Simmonds, J. Roberts and B. Owen. The Scrutiny Committee were asked to consider the Notice of Motion as set out in paragraph 5.1 of the report and make an appropriate recommendation to Council, in accordance with Rule 11(3) of the Council's Constitution.

Councillor K. Etheridge presented his Notice of Motion which requested that the Council consider a review into the decision to adopt part-night lighting in 2018, which allowed for all street lights in the county borough (save for those at junctions and in major town centres) to be switched off between the hours of midnight and 5.30am.

Councillor Etheridge explained that the Notice of Motion had been submitted following representations made to him by residents. He outlined his reasons for requesting the review, expressing concerns that the decision has been based on historic consultation carried out in 2010 which received 1448 responses, which he considered to be disproportionate given the population of the county borough. Councillor Etheridge also believed that local communities and the public should be engaged in the review and that an updated Equalities Impact Assessment should be carried out, together with a risk assessment and safeguarding assessment for vulnerable people. In addition, he also stressed the importance of engagement with stakeholders and local communities and called for a survey in Newsline to seek views regarding any review.

In closing, Cllr Etheridge reiterated that the Notice of Motion was merely seeking a review of the policy and procedure in regards to street lighting and asked the Scrutiny Committee to consider recommending this review to full Council.

The Chair sought clarification from Councillor Etheridge as to why these concerns had not been raised when the report on "Future Lighting and Energy Saving Proposals" was considered by the Regeneration and Environment Scrutiny Committee on 30th October 2018. Councillor Etheridge explained that at the time it was felt important to trial the new policy for two years before deciding whether or not a review would be appropriate.

Councillor N. Dix was then invited to speak in support of the Notice of Motion and explained that after a period of two years a full review was now necessary to take into account the safety of residents' property and their personal well-being. He added that there was strong support from residents to review the effects of the decision on communities.

Mrs T. Norris (a local resident) was then invited to speak in support of the Notice of Motion. Mrs Norris questioned the consultation that took place prior to the decision to introduce part-night lighting and stated that the decision had been based on less than 1% of communities' views. Mrs Norris highlighted that the report presented to the Scrutiny Committee and Cabinet in 2018 had suggested that future consultation may be needed prior to implementing street lighting reductions. Mrs Norris stated that some workers had no choice but to travel at times when street lighting was switched off, such as emergency services staff, taxi drivers, social workers, hospitality workers and shift workers. Mrs Norris asked Members to consider the responsibility the Council had for any risks faced by these workers.

Mrs Norris highlighted a Wales Audit Office report into effective scrutiny and in particular the function of "enabling the 'voice' of local people and communities in decision and policy-making processes." Mrs Norris questioned the Equality Impact Assessment carried out and claimed that the information in this document, the consultation from 2010 and the study linked to the assessment for the street lighting reduction reports were all out-dated, and she queried the validity of only using data from 62 Local Authorities in the consultation given that there are 365 Local Authorities in England and Wales. Reference was also made to a Defra report published around the same time as the street lighting study which outlined the importance of public road lighting. In closing, Mrs Norris claimed that there was a lack of robust assessment of protected categories of groups in communities and also stated that in her opinion, the decision taken could undermine key council policies and objectives such as preventing domestic abuse, addressing poverty and supporting community safety.

Marcus Lloyd (Head of Infrastructure) was invited to respond to the Notice of Motion and the points raised by speakers. The Scrutiny Committee were advised that the Council had not experienced significant levels of public concern since part-night lighting was introduced. It was explained that a significant number of the 227 complaints cited in the Notice of Motion could be disregarded as they bore no relevance to part-night lighting measures. There were only 96 complaints that related to the part-night lighting change, yet only two of these were

escalated to a formal Stage 1 Complaint, and none had been escalated to a Stage 2 Complaint. Members were reminded that a key driver for the initiative is carbon reduction, with the Council recently declaring a Climate Emergency to address climate-change concerns and that significant carbon savings from this policy in the region of 2836 tonnes will be achieved which contribute to the Authority's carbon-reducing targets. It was emphasised that the initiative was never intended or requested as a trial, and Members were reminded of the significant investment in the part-night lighting measures to date, with both the part-night lighting and LED conversion schemes nearing completion.

The Scrutiny Committee were also advised that street lighting is provided for the safe passage of pedestrians and traffic on the highway, but it is certainly not a function of street lighting to ensure property safety and security. It was confirmed that appropriate Equalities Impact Assessments and risk assessments have been undertaken and assurances were given that the approach undertaken is robust and Officers are constantly monitoring the effects of the new measures introduced. There has been no significant increase detected in crime or traffic collisions or cause for concern by Gwent Police. This has been confirmed in discussions with Gwent Police and via data from Welsh Government. In conclusion, Members were advised that in the Council's view, that there is no reason to change the current operation with regard to street lighting.

Discussion took place on the Notice of Motion and it was moved and seconded that the Scrutiny Committee reject the request to review the decision to switch off Street Lights and therefore not endorse or support the Notice of Motion.

A Member queried the level of engagement around the part-night lighting proposals compared to other consultations. Officers explained that response levels to Council consultations are low in general and the response to this consultation (which was made available through Newsline and other channels) was at a similar level to other consultations despite the high level of publicity around the proposals. This has been reflected in the low level of complaints received since the implementation of the new measures. As an example, it was added that the consultation on the Sports and Active Recreation Strategy had received less responses despite having a higher profile.

A Member asked about the risk assessment and consultation undertaken prior to proposing part-night lighting and suggested that dimming the lights and having twilight lighting could be a better solution. Officers gave assurances on the risk analysis carried out for each area of the county borough along with an Equalities Impact Assessment, together with details of the other measures in place to ensure public safety and explained that the results of the consultation carried out in 2010 remained valid for the part-night lighting options subsequently proposed. The Scrutiny Committee were also advised that there would be no payback achievable from a 50% dimming of street lighting and that such a measure would ultimately cost the Council money and would not deliver the necessary carbon savings.

A Member asked if crime statistics since the implementation of the measures could be supplied for each ward and Officers confirmed that they are working with Gwent Police to collate this information. Officers also confirmed that they had received feedback from Gwent police in relation to the lower Sirhowy Valley, Blackwood and Lansbury Park areas of the County Borough and that the police feedback did not indicate any increase in crime associated with the part night lighting implementation. In response to a Member's query, it was confirmed that the savings made to date since the implementation of the part-night lighting measures will be in the region of £940k per annum in addition to the significant carbon savings achieved. A Member suggested the need for a periodic review of part-night lighting given the magnitude of the new measures, and Officers explained that any review would impact on the amount of carbon savings and reduce the level of financial savings. A Member enquired as to the cost of reverting to the previous lighting measures and it was confirmed

this would cost in the order of £300k and take around a year to implement. Ongoing additional energy costs of around £300k per annum would also have to be funded which would result in savings having to be made elsewhere. In addition, the Council would also lose carbon savings in the region of 700 tonnes a year.

Members also discussed issues including the number of complaints they had personally received from residents, and the ability for residents to leave their outside lights on should they wish. Officers responded to queries on the carbon footprint for electric charging points and the technical aspects of central management system lights. Clarification was also given on the number of lighting units converted to date, which confirmed that the part-night lighting and LED conversion programmes are on course to be completed by December 2020 and £3.7m has already been spent in this regard.

Mark S. Williams (Interim Corporate Director of Communities) asked the Committee to note the Council's legal position in regards to the Highways Act 1980 and in referring to case law, cited a personal injury claim brought against Cheshire Council where it was subsequently ruled that the local authority does not owe a duty to the public to light the highway. Mr Williams highlighted sections from the Highways Act to substantiate that there is no legal requirement for the Authority to provide street lighting and explained that the Act allows Highway Authorities to alter or remove lighting that is already in existence.

In closing, the Committee also heard from the Cabinet Member for Economy and Enterprise and Cabinet Member for Environment and Infrastructure, who spoke on the Climate Emergency and the need to tackle climate change, referenced ongoing consultation processes and the low level of complaints received regarding the street lighting changes, and expressed the need for balanced perception when examining any changes in crime levels against the new measures.

Following discussion on its contents, and with it having been moved and seconded that the Notice of Motion not be supported, the Committee proceeded to the vote. By way of Forms voting and 1 telephone vote (and in noting there were 6 for, 6 against and 0 abstentions) and with the casting vote of the Chair, the vote was declared carried. It was therefore

RECOMMENDED to Council that the Notice of Motion not be supported.

Councillor T. Williams highlighted to the Committee that his Forms vote might not have registered and confirmed that he had voted not to support the Notice of Motion.

REPORTS OF OFFICERS

Consideration was given to the following reports.

8. CAERPHILLY GREEN INFRASTRUCTURE STRATEGY

The Cabinet Member for Environment and Infrastructure presented the report, which sought the views of the Scrutiny Committee on the adoption of a Caerphilly Green Infrastructure Strategy appended to the report, prior to its presentation to Cabinet for approval.

The report outlined the need for a Green Infrastructure Strategy for the county borough and the methodology used to prepare the strategy, and Members were advised of the importance of the document in view of changing legislation and a shift in the significance of green infrastructure. Each step in the process is outlined and concludes with a template for the preparation of a 5-year integrated action plan. The value of the Strategy lies in the data sets

that underpin it as these allow for more informed and targeted actions that will increase the value of and contribution that green space makes within the County borough. It was explained that the Strategy has not been developed in isolation and provides a good fit with other developing environmental strategies of neighbouring authorities and other public sector bodies, notably Natural Resources Wales (NRW). If approved, the Strategy would be used as the core Green Space development and management tool for CCBC.

During the course of the ensuing debate, a Member referred to a new school building being built and asked if they would be using mechanisms set out in the Strategy such as rain-water harvesting via Sustainable Drainage Systems and if the Strategy is linked to other regeneration strategies. Officers explained that it is standard practice to incorporate rain-water harvesting on new developments of this type, and also that the Strategy will not operate in isolation and will apply to urban areas and urban fringes where biodiversity is under threat. The Strategy will also work across all regeneration strategies, particularly in terms of topographical themes which includes regeneration. Members were also advised that the Strategy will blend and tie into the ethos for a greener environment and will encourage people to take a more proactive approach to environmental matters.

A query was received regarding biodiversity in regards to wildflower growth and cutting regimes on highways. Officers advised that at a strategic level, the Strategy identifies those roadside verges which are particularly important in terms of green corridors and connectivity and that the Council is in discussion with neighbouring authorities to discuss how landscaping continuity across county borough boundaries can be achieved. With regards to the management of individual verges, Members were advised that a full report on trial areas for a revised mowing regime will be presented to Scrutiny and Cabinet for consideration and approval prior to the 2021/22 grass cutting season.

Following consideration and discussion, it was moved and seconded that the following recommendation be forwarded to Cabinet for approval. By way of Forms voting and 1 telephone vote (and in noting there were 11 for, 0 against and 0 abstentions) this was unanimously agreed.

RECOMMENDED to Cabinet that the Caerphilly Green Infrastructure Strategy as appended to the report be approved and used as the core guidance document for Green Space development and management within the county borough.

9. PUBLIC SPACES PROTECTION ORDER - DOG CONTROL ON SPORTS PITCHES

The Cabinet Member for Waste and Public Protection presented the report, which sought the views of the Scrutiny Committee on the draft Public Spaces Protection Order (PSPO) (appended to the report) to include the exclusion of dogs from marked sports pitches, prior to presenting the outcome of a 10 week public consultation to Cabinet.

Public Spaces Protection Orders were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 and can be used to regulate activities in particular public places to ensure enjoyment of public spaces from anti-social behaviour, and provide an opportunity to enhance the Council's enforcement ability to respond to public opinion regarding dog fouling. The existing PSPO excludes dogs from all enclosed children's play and multi-use games areas, requires dogs to be kept on leads in enclosed memorial gardens, requires dog owners to remove dog faeces in public places and have an appropriately receptacle for dealing with the waste, and requires dogs to be put on a lead when directed to do so by an authorised officer on any public land where the dog is considered to be out of control or causing harm or distress to prevent a nuisance.

In addition to the decision to proceed with the above proposals, Cabinet also resolved on 18th January 2017 that the proposal to exclude dogs from all council owned marked sports/playing pitches on a seasonal basis should be omitted at that stage of the process, and be reviewed after a period of 12 months or once the impact of the above provisions can be established. Originally it was proposed that the ban of dogs on sports pitches should only be seasonal, allowing dog walkers to use the pitches off season. However the eggs and worms that cause infections in humans can last for years in soil and therefore the seasonal ban would be ineffective.

At its meeting on 29th October 2019, the Environment and Sustainability Scrutiny Committee considered a report on this matter and recommended to Cabinet that a formal public consultation exercise be undertaken regarding the proposal to amend the Public Spaces Protection Order 2017 to include a provision to exclude dogs from marked sports/playing pitches; to apply the proposed exclusion on a year round basis; for the proposed amendment to include a requirement for dogs to be kept on leads in areas near to sports pitches; and signage be clearly displayed in relation to the PSPO around sports/playing pitches.

As the Public Spaces Protection Order 2017 was due to expire in October 2020, a six-week consultation has been undertaken with a view to extending it by one year. This will enable adequate time for a full and proper consultation to be carried out on this proposal to amend the Public Spaces Protection Order to include a provision to exclude dogs from marked sports/playing pitches when it becomes possible.

At its meeting on 22nd July 2020, Cabinet received a report presenting a review of the current position regarding dog fouling since implementation of the original Order including the results of an informal consultation undertaken with sports clubs across the county borough. 88% of those who responded agreeing that dogs should be prohibited from marked sports pitches and an overview of the consultation responses was attached to the meeting papers. At their 22nd July 2020 meeting Cabinet resolved to undertake a 10 week public consultation exercise on the proposal to amend the Public Spaces Protection Order 2017 to include a provision to exclude dogs from marked sports/playing pitches when it becomes possible to carry out meaningful consultation with the public and relevant stakeholders.

The Interim Corporate Director of Communities expanded on the position of the existing PSPO implemented in 2017 which was due to expire in October 2020. In order to allow time for a meaningful consultation, a brief consultation has been carried out to extend the existing PSPO by one year and this is now in place. The Scrutiny Committee were advised that the proposal before them sought to alter the existing PSPO to exclude dogs from marked sports pitches, together with associated additions. They were asked to be mindful that a meaningful consultation would typically take at least ten weeks, and given the current pandemic, it may not be a suitable time to carry out this out, which is why the existing PSPO has been extended by 12 months to allow the Council time to carry out meaningful consultation. Therefore the Scrutiny Committee were advised that the proposal before them is the first stage in that consultation and the report was seeking views on the amended PSPO to exclude dogs from marked sports pitches to come into effect in a year's time

During the course of the ensuing debate, Members expressed their support for the proposal to exclude dogs from marked sports pitches, and suggested that the health risks arising from dog waste be publicised in the consultation. Members asked how the amended PSPO would be enforced given the wide number of pitches and pavilions across the county borough, and enquired how many fixed penalty notices have been issued since the implementation of the current PSPO. Officers confirmed that the Council has 5 Enforcement Officers together with a number of Community Safety Wardens who also have powers to issue penalty notices for dog fouling, and enforcement would take the form of targeted patrolling, routine inspections and random checks. It is anticipated that there will be a lesser need for enforcement once

the new PSPO requirements become established. Officers also confirmed that as of Summer 2020, 39 fixed penalty notices have been served on individuals allowing their dogs to foul and 59 notices served on those without the appropriate means to pick up their dog waste.

A query was received regarding spectators and other walkers at sport pitches with dogs on leads and Officers confirmed that it is only the marked areas of sports fields from which dogs would be excluded. A Member asked if dogs could be excluded from unmarked land on which children might play, and also asked if amendments could be made to memorial gardens listed in the draft PSPO. Officers explained that playgrounds and memorial gardens are already included in the existing PSPO, but that open ground is more difficult to enforce and that the other PSPO powers (such as requiring the carrying of a waste receptacle) could be utilised if needed. The Member requested that the Aber Valley Windsor Colliery be added to the list of memorials listed in Appendix 1 of the draft PSPO and two pitches at Senghenydd Cricket Club to be added to the list at Appendix 3, and Officers confirmed that this could be arranged.

Having expressed their support for the proposal to amend the PSPO, it was moved and seconded that subject to minor amendments to the sites listed in Appendix 1 and 3 of the draft PSPO as discussed at the meeting, the following recommendation be forwarded to Cabinet for approval. By way of Forms voting and 1 telephone vote (and in noting there were 13 for, 0 against and 0 abstentions) this was unanimously agreed.

RESOLVED that subject to minor amendments to the sites listed in Appendix 1 and 3 of the draft PSPO being reflected, the support of the Scrutiny Committee on the draft PSPO be passed to Cabinet as part of the consultation process on the proposal to amend the PSPO to include the exclusion of dogs from marked sports pitches.

The meeting closed at 7.20 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 27th October 2020, they were signed by the Chair.

CHAIR