

**Minutes of the meeting of Cabinet held at The Council Chamber -
The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on
Thursday 28 September 2017 at 2.00 pm**

Present: Councillor AW Johnson (Chairman)
Councillor JG Lester (Vice-Chairman)

Councillors H Bramer, BA Durkin, DG Harlow, PD Price, P Rone and NE Shaw

Group leaders in attendance Councillors TM James, RI Matthews and AJW Powers

Scrutiny chairmen in attendance Councillors PA Andrews, CA Gandy and EJ Swinglehurst

Other councillors in attendance: Councillors J Hardwick and A Seldon

Officers in attendance: Alistair Neill, Geoff Hughes, Martin Samuels, Chris Baird, Claire Ward and Andrew Lovegrove

36. APOLOGIES FOR ABSENCE

There were no apologies from members of the cabinet.

37. DECLARATIONS OF INTEREST

None.

38. MINUTES

RESOLVED: That the Minutes of the meeting held on 14 September 2017 be approved as a correct record and signed by the chairman.

39. QUESTIONS FROM MEMBERS OF THE PUBLIC (Pages 9 - 14)

Questions received and responses given are attached as appendix 1 to the minutes.

40. QUESTIONS FROM COUNCILLORS (Pages 15 - 16)

Questions received and answers given are attached as appendix 2 to the minutes.

41. YOUTH JUSTICE PLAN 2017-2018

The cabinet member for young people and children's wellbeing introduced the report. He thanked the members of the general scrutiny committee for their work in examining the youth justice plan. The cabinet member noted that very few children were in the criminal justice system but the work done with this small group was important. The review of

2016/17 showed that the number of first time entrants was decreasing and that while the rate of reoffending had increased slightly, the overall cohort size was reducing year on year. Emphasis had been placed on avoiding children coming into the criminal justice system in the first place and on encouraging out of court options. The cabinet member noted that the figures were retrospective and that tracking would take place going forward to highlight issues in real time.

The head of service for West Mercia Youth Justice Service (WMYJS) spoke to the report. He noted that the plan had been prepared in line with the content requirements set by the Secretary of State and that 2016/17 had been a period of considerable change for the WMYJS with new assessment planning tools introduced, the move to the office of the police and crime commissioner and a restructure of staffing.

In response to queries it was noted that:

- the first time entrant figure was higher in Herefordshire than the rest of the West Mercia area but as the number of young people was very small a single person could have a disproportionate effect;
- the use of informal sanctions was encouraged for first time offenders and this had shown a positive impact;
- most of the youth justice board members had changed in the previous 18 months to 2 years and all of the team managers were new, visits by board members and managers to teams had always taken place but particular emphasis had been placed on this activity for 2017/18 to build good relations between these new personnel;
- efforts to stop reoffending concentrated on use of out of court options for minor first time offences to prevent young people being brought into the youth justice system, it was recognised that once they were in the system they were more likely to reoffend, and on tracking behaviour once young people were in the system in order to evaluate the work of the youth justice service;
- there was no evidence that authorities were 'turning a blind eye' to more minor offences and in fact detection rates were higher in Herefordshire than other areas.

Resolved that:

- (a) the Youth Justice Plan (at appendix A) is recommended to full Council for approval.**

42. TRAVELLERS' SITES DEVELOPMENT PLAN DOCUMENT

The report was introduced by the cabinet member for infrastructure. He noted that the document would be put to full council on 13 October 2017. A minor correction to the recommendation for this item was noted.

The senior planning officer spoke to the report. She highlighted that:

- the traveller's sites development plan document (DPD) was a part of the local plan development scheme and had been identified as a priority for the council as part of the examination of the Herefordshire Local Plan;
- an issues and options paper had been produced in 2014 followed by further consultation in 2016 and three separate calls for sites;
- the updated gypsy and traveller accommodation assessment had resulted in the identified need for pitches being reduced;
- the draft DPD would be published for consultation for 6 weeks before being submitted to the secretary of state for examination in public;

- there was identified need for three types of site: permanent pitches on council owned and managed sites, temporary stopping places to avoid unauthorised encampments which was supported by the police and plots for travelling showpeople with space for storage of equipment as well as living accommodation;
- there was a definition of travellers and travelling showpeople in national policy which was subject to a legal challenge, this might have an impact on the council's policy;
- nine additional permanent pitches were proposed in the DPD, all the sites were within council ownership and detailed costings were being drawn up;
- a temporary stopping place of five pitches was also proposed;
- the council would work with partners such as the highways agency in developing the detailed proposals.

The vice-chairman of the general scrutiny committee was grateful to note how many of the recommendations from the scrutiny committee had been taken on.

In response to queries it was stated that:

- no privately owned sites for temporary stopping places came forward from the three calls for sites, the council had not pursued compulsory purchase as it was able to meet the identified need on land already in its ownership;
- the council was working with adjacent local authorities but no opportunities for co-location of facilities had so far come forward, the council was able to meet its own needs within the county;
- no neighbourhood development plans had identified traveller pitches.

Resolved that:

- (a) the responses at paragraph 40 to the recommendations made by General Scrutiny Committee be agreed; and
- (b) the following be recommended to full Council:
 - (i) the draft Travellers Sites Development Plan Document 2011 – 2031 at appendix 1 be approved for pre-submission consultation;
 - (ii) authority be delegated to the Programme Director Housing and Growth, following consultation with the Cabinet Member Infrastructure, to make any technical amendments required to the draft Travellers Development Plan Document and supporting documents resulting from the completion of ongoing technical work before pre-submission consultation begins;
 - (iii) authority be delegated to the Programme Director Housing and Growth, following consultation with the Cabinet Member Infrastructure, to make any minor textual or graphical amendments, prior to the submission to the Secretary of State and
 - (iv) following completion of the pre-submission publication of the Travellers Sites Development Plan Document and its supporting documents, the documents be submitted to the Secretary of State for Examination in Public.

43. THE RESCHEDULING OF DEBT REPAYMENT COSTS

The cabinet member for finance, housing and ICT introduced the report. He noted that the subject matter was technical in nature and covered the way in which the council reflected the notional costs of borrowing in the budget, as required by regulation. Unusually the regulations were not prescriptive and gave four options from which the council could choose. The proposed change would not reflect on the council's actual borrowing costs.

The chief finance officer explained how the proposed method would operate.

In response to questions raised it was noted that:

- the minimum revenue provision (MRP) was a notional sum to set aside to pay for borrowing, in reality not all of the council's capital expenditure would be funded from borrowing and the costs were therefore less than MRP;
- the approach proposed would match the cost of borrowing to the life of the asset, if an asset was disposed of in any way then an adjustment to the MRP would be required;
- prior to 2008 the cost was based on a fixed 25 year life for all assets regardless of their type, this was a blunt tool
- all of the four options available had advantages and disadvantages but the option proposed would link more closely the asset type and lifespan;
- all of the costs were written in today's terms and did not include inflation;
- the report was not about the level of borrowing or whether the council should borrow or not;
- the council had taken advice on the proposed approach, the external auditor had reviewed the proposal and had not provided any comment at this stage;
- the majority of council's across the country had opted to use the approach proposed.

Resolved that:

- (a) It be recommended to full Council that an amendment be approved to the current MRP policy within the Treasury Management Strategy to be based on the estimated life of the assets, in accordance with regulations, and the method of repayment to be through an annuity calculation (providing a consistent overall annual borrowing charge).**

44. THE INTRODUCTION OF AN OPEN FRAMEWORK FOR THE DELIVERY OF HOME CARE SERVICES (CARE @ HOME)

The cabinet member for health and wellbeing introduced the report.

The director for adults and wellbeing spoke to the report. He drew attention to previous reports in relation to home care services and the commissioning process that had been undertaken. The market had not responded to the commissioning exercise as hoped and there had been concerns about the capacity and quality of providers that had responded.

The proposal was to move from a closed framework to a dynamic framework where providers can join as and when they come forward.

Under the current arrangements where the council was unable to place an individual within the framework it was necessary to go outside which was often more expensive.

One of the challenges faced by the council was that although it was a substantial commissioner of home care, the council accounted for only around half of all home care purchased within the county. Many individuals procured and paid for their own care. This limited the council's ability to shape the market.

In response to questions it was stated that:

- this model had been considered previously and was used by other authorities, it was a valid and reputable model;

- the use of smaller zones had been discussed with the market prior to the commissioning exercise but many existing providers operated over large areas and there was a deliberate attempt to get a mixture of the urban and rural areas in each zone;
- work was taking place with the planning department to make connections in relation to supporting the building of annexes or adaptations to existing dwellings to facilitate individuals home care needs;
- rates of payment for care providers would be reviewed on an annual basis using a formula drawing from nationally produced figures, the formula would take full account of factors such as increases in the national living wage;
- attracting and retaining staff was acknowledged to be a difficulty, work was taking place to raise the profile of care workers and highlight career opportunities;
- the council monitored providers to ensure that appropriate hand-over time was allowed and that adequate time was allowed to provide the quality of care expected;
- work was continuing on prevention strategies to reduce the numbers of individuals needing care.

Resolved that:

- (a) an open approved list for the purchase of home care services be introduced from January 2018;
- (b) an open approved list for the purchase of supported living be introduced from January 2018;
- (c) the director for adults and wellbeing be authorised to take all operational decisions necessary to implement the above recommendations including the acceptance of providers meeting the qualification criteria onto the open approved list, the setting of the rules relating to the approved list (including amendments from time to time) and the approval of the terms and conditions to be used from time to time for services purchased from the approved list.

45. HEREFORDSHIRE INTENSIVE PLACEMENT SUPPORT SERVICE (HIPSS) AND THERAPEUTIC INTERVENTION SUPPORT SERVICE (TISS)

The cabinet member for children and young people introduce the report. He highlighted the value of the service and the benefits of placing children in home situations. He commended the work of foster carers in supporting children.

The childrens joint commissioning manager spoke to the report. He highlighted that:

- the contract had first been awarded in 2014 to action for children;
- there were two elements to the contract, the Therapeutic Intervention Support Service (TISS) provided support to front line practitioners while the Herefordshire Intensive Placement Support Service (HIPSS) worked with carers of children in the looked after system;
- the service had had a significant impact and had produced savings for the council by allowing children to be cared for in a home setting rather than in residential care;
- some efficiencies in the service had been delivered over the life of the contract;
- it was intended that the scope of the service would be enhanced based on changes in demand and the profile of need, including supporting mainstream foster carers in the interest of placement stability;

- if the contract was not renewed there would be a financial cost to the council as more children would require residential care and there was a lack of expertise in-house to replicate the services offered;
- the new contract would be for an initial period of 3 years with an optional further 2 years based on performance.

In discussion that followed it was noted that the functionality of the contract and the anticipated savings required the number of looked after children to be under control. It was acknowledged that the council currently had a high level of looked after children.

Resolved that:

- (a) the commissioning intentions (see paragraphs 9-10) for Herefordshire intensive placement support service (HIPSS) and therapeutic intervention support service (TISS) are approved;
- (b) the Interim Director for Children's Wellbeing (or the substantive director for Children's Wellbeing once appointed) be authorised to take all necessary operational decisions to implement the above recommendation, including award of contracts to a maximum value of £2.5m for up to five years, effective from 1 April 2018; and
- (c) The sufficiency of specialist in-house foster carers, who accommodate and support HIPSS children, is monitored alongside the future HIPSS / TISS contract, to be awarded to an external provider

46. HEREFORDSHIRE LOCAL FLOOD RISK MANAGEMENT STRATEGY

The cabinet member for infrastructure introduced the report. He stated that the strategy was a mandatory requirement and designed to be high level and non-technical. The completion of the document would allow access to various funding sources to assist with flood procedures.

The directorate services team leader spoke to the report. He stated that Herefordshire Council was the lead local flood authority and had a duty to produce a strategy. Local flooding had a significant impact on the people and economy of the county and was predicted to increase due to climate change, increasing development and changing land use practices. The strategy set out a countywide approach for managing the risks of flooding, working in partnership with other relevant agencies.

It was reported that consultation had been undertaken which had concluded in January 2017 and the 18 responses received, including from bodies such as the Environment Agency, NFU and Woodland Trust, had been reviewed and taken into account when putting together the strategy. The strategy had also been discussed at general scrutiny committee.

The action plan to the strategy identified a programme of work to reduce local flood risk within the county and set out how the strategy would be delivered over the following 6 years. The action plan would need to be updated regularly to reflect progress made.

The vice-chairman of the general scrutiny committee was pleased to the note that the recommendations of the scrutiny committee had been taken on board. She drew attention to recommendation (f) of the scrutiny committee which had been omitted from the report to cabinet namely that:

"The statutory scrutiny officer be informed of the annual review of the action plan and following consultation with the chairman and vice-chairman consider whether there are any material matters requiring consideration by the [scrutiny] committee."

The directorate services team leader confirmed that this would take place to allow for ongoing oversight of the action plan by the scrutiny committee.

In response to a question it was noted that part of the strategy was an ongoing dialogue with partner agencies to ensure that they were held to account and that the co-ordinated approach was reinforced.

The group leader of Its Our County raised the following queries:

- whether the statement on page 50 of the strategy that "Herefordshire Council do not allocate specific sites for development within the county, but propose broad strategic directions for growth..." was accurate;
- why there were no schemes planned in Herefordshire through the Welsh Water RainScape initiative and whether the council would be pursuing funding through this scheme;
- if 'A risk-based approach must be taken when selecting sites for development and deciding on the type of development that would be considered acceptable' (non-technical summary, objective 5 paragraph 1), why the three elms site was allowed to be a strategic housing site when the hydro-geology of the site and other relevant matters were never properly evaluated.

A written response was promised to these points.

It was noted that an issue had been raised before the meeting regarding the wording of the document in relation to planning applications, specifically the use of the word 'notable' in the sentence:

"For all new developments, the developer will be required to demonstrate that the development will not cause any notable increase in flood risk to people, property or infrastructure elsewhere."

It was suggested that there could be a legal challenge regarding the use of the word and whether it could be adequately defined. The cabinet member for infrastructure felt that the word was appropriate for the context in which it was used and it was noted that simply stating that development should not cause any increase flood risk could also be open to challenge.

It was proposed that the revision of this statement be considered by officers outside of the meeting and that the cabinet member be authorised to make adjustments as necessary to address the points raised during the meeting.

Resolved that:

- (a) the cabinet member infrastructure be authorised to**
 - (i) make any amendments that he deems necessary once he has considered the points raised during the meeting and then**
 - (ii) approve the Herefordshire Local Flood Risk Management Strategy (the high level strategic document and non-technical summary at appendices 1 and 2 to this report).**

PUBLIC QUESTIONS TO CABINET – 28 September 2017**Question 1**

Mr C Rumsey, Westhope

Hereford Bypass

To: cabinet member: infrastructure

Is it not the duty of all officers of the council to inform the members fully on all matters concerning a Hereford Bypass (east or west). Why have the recommendations of the inspector, who chaired the round table meeting held twenty years ago not been sent to all members? The recommendation was for the proposed Bypass to be constructed to the far east of the Lugg meadows.

Reply

The findings of the independently chaired 'Hereford Traffic Conference' held in 1993 were sent to the secretary of state who in 1995 announced a modified preferred route (to the east) that the then Highways Agency should pursue. However in 1997 the government announced that this scheme had been withdrawn from the trunk road programme.

More recent options appraisals of routes both east and west have informed the decision taken. Those appraisals took into account current planning and environmental policies and regulations rather than historic proposals. All these reports are available on the council's website

Question 2

Mr R Palgrave, How Caple

Flood Risk Strategy

To: cabinet member: infrastructure

Page 51 of the Strategy (Planning Application Process) says, "For all new developments, the developer will be required to demonstrate that the development will not cause any notable increase in flood risk to people, property or infrastructure elsewhere." The qualifier "notable" is meaningless and immeasurable. Why does the strategy not require that developers should demonstrate that there will be no increase to flood risk?

Reply

The Local Flood Risk Management Strategy (LFRMS) sets out the broad approach and is not an adopted statutory planning document. Individual planning decisions will be taken in accordance with the National Planning Policy Framework (NPPF) which sets out the requirements for developers to follow.

Question 3

Mr E Morfett, Breinton

Flood Risk Strategy

To: cabinet member: infrastructure

Please explain why the updated Yazor brook hydrogeological modelling and flood impact assessment of proposed Core Strategy Housing Development at Three Elms is not included in the Strategic Flood Risk Management Strategy.

Reply

The Local Flood Risk Management Strategy (LFRMS) details how flood risk will be dealt with at a strategic level it is not intended to provide flood risk assessments for specific sites or watercourses.

Question 4

Ms J Wise, Breinton

Flood Risk Strategy

To: cabinet member: infrastructure

I seek assurance that due consideration has been given to the risk of flooding which may arise if a bypass were to be constructed to the west of Hereford. Contingent on this also is the viability of house construction where no study of the drainage from such development has been undertaken. Lessons should have been learned from the unfortunate deficiencies which occurred in the Furlongs development.

Reply

I can confirm that the design and route selection for the bypass, and planning determinations in relation to development will follow appropriate guidance and will take into account flood risk.

Question 5

Mrs W Steel, Lower Breinton

Flood Risk Strategy

To: cabinet member: infrastructure

Given that there is a deadline to get a flood risk management strategy to the government to support this proposal and, as such, you have a meeting on 28th September to finalise this, have Herefordshire Council carried out any proper analysis on the area proposed for the bypass up until this point? If so can full details be provided.

Reply

Route assessment work for the bypass is currently underway and reports will be published in due course. The design and route selection will follow appropriate guidance and will take into account flood risk.

Question 6

Dr P Ronan, Breinton

Flood Risk Strategy

To: cabinet member: infrastructure

Please explain why Herefordshire Council is planning to build on flood plains given the mandate not to build on flood plains subsequent to the disastrous flooding experienced in the North of England in recent years?

Reply

When considering planning applications for development of land within flood plains, the council will consider policies contained with the Herefordshire Local Plan Core Strategy and any neighbourhood development plan for that area. It will also have regard to the guidance contained within the National Planning Policy Framework, specifically paragraphs 100 – 104, and the technical guidance on flood risk which supports that framework.

Question 7

Mr K Farnes, Hereford

Flood Risk Strategy

To: cabinet member: infrastructure

Why does the Strategy (Planning Application Process) not require developers to demonstrate that there will be NO increase in flood risk to people, property or infrastructure?

Reply

I refer to the answer given in response to public question number 2.

Question 8

Dr N Geeson, Hereford

Flood Risk Strategy

To: cabinet member: infrastructure

New developments must “comply with strict run off control measures to ensure they do not worsen existing run off rates”. But can you provide assurance that sufficient data (such as from hydro-geological surveys) and local knowledge will be collected to determine the extent of necessary measures accurately and be made publicly available?

Reply

The council requires developers to submit for approval their drainage strategies and designs to ensure there is no increase in runoff rate. Parameters used in these calculations are selected on the basis of site investigation information. Hydro-geological surveys are not appropriate for the majority of developments, as they will impact on groundwater movements. Instead developments typically have soakaway tests undertaken to ensure water can

dissipate. Drainage flood risk reviews and approvals related to planning applications are uploaded to the council website as correspondence against each planning application.

Supplementary question

How can the short, single page, Herefordshire Council Action Plan 2016-2022 (Appendix A-1) in the Local Flood Risk Management Strategy possibly be effective while it remains vague and limited in relation to essential implementation details and delivery dates?

Reply to supplementary

The action plan is an action plan on a strategic document and I think your question relates to actual developments when they come along which is to deal with the specifics of a planning application. What I think is confusing you is the action plan of a strategic document as against an action plan of a development when a development comes along that will be dealt with as part of that application specific to the drainage and water issues. I think we are a little bit at odds over what the action plan refers to in relation to a developer who is wanting to develop a planning application.

The strategy is around how growth happens and how we go forward with applications from developers our strategic growth as to how we deal with preventing flooding from getting worse. The action plan is as it is and if we need to review in due course no doubt we will do so.

Question 9

Ms J Smith, Hereford

Flood Risk Strategy

To: cabinet member: infrastructure

Yazor Brook designated SINC
Environmental and Hydrogeological concerns
Huntington Hamlet Conservation Area on a Flood Plain, especially considering extreme weather (especially rainfall) conditions associated with Climate Change.

How to resolve the problems of flooding, land drainage, etc.
Revised FRA not completed by Developers

Herefordshire Council have not included the Updated Yazor Brook Hydrogeological Modelling and Flood Impact Assessment in the FRAS.

WHY HAS IT NOT BEEN INCLUDED IN THE FRAS?

Reply

I refer to the answer given in response to public question number 3.

Supplementary Question

In your report you mention the sustainable urban drainage system (SUDS), mentioning soakaways where the BRE365 test has been mentioned. Normal procedures say an oil inception test should be carried out and also a geotechnical assessment which identifies where the site surrounding area susceptible to inundation and settlement effects on ground slopes, on downhill waterlogging and ground instability. We also know that not all sites are suitable for attenuation basins, infiltration trenches are used instead. I see no mention in the SUDS anything about infiltration trenches, which is part of the SUDS.

Reply

I will take your comments on board. I will ensure that officers are aware and get a detailed written answer in due course.

Further written response

The LFRMS is a high level strategic document and so does not address this level of technical detail. Please note that infiltration trenches, their use and the policies associated with them will be covered in detail in the soon to be published Herefordshire SuDS Manual.

Question 10

Mr J Trimble, Hereford

Flood Risk Strategy

To: cabinet member: infrastructure

Please explain why Hereford Council is planning to build on flood plains when the consensus is not to build on flood plains subsequent to the disastrous flooding experienced in the North of England in recent years.

Reply

I refer to the answer given in response to public question number 6.

Questions 11

Mr B Lunt, Lower Breinton

Flood Risk Strategy

To: cabinet member: infrastructure

Floodplains provide vital protection against damaging flooding. I am concerned that the council proposes to build a Western Bypass crossing the river Wye and floodplain with a road and elevated bridge. Heavy machinery, concrete foundations, building materials and steel sections will compact and cause great damage to the floodplain and its ability to prevent flooding. What steps will the council take to prevent damage to the floodplain?

Reply

Any temporary works during construction and permanent works constructed within and around the flood plains will be subject to a detailed flood risk assessment and environmental impact assessment. These will inform the construction and design of the bypass to avoid, minimise or mitigate environmental impacts. Both the temporary and permanent works will be subject to agreement with the Environment Agency.

COUNCILLOR QUESTIONS TO CABINET – 28 SEPTEMBER 2017

Question 1

Councillor PP Marsh

Welfare Assistance Scheme

To: cabinet member heath and wellbeing

Please give figures for the last 4 years for the size of Council's welfare assistance scheme to provide support for vulnerable low income families (of whom the county has many) hit by emergencies. If it is shut where are people now referred to?

Reply

The authority's local welfare provision is still functioning. It operates during normal working hours plus since the majority of those in need of this provision may also have a housing need, the service is accessible 24 hours a day through the housing solution service. The budget for this small but important scheme were and are:

Financial year	Budget	Spend
2014-15	£25,000	£23,661
2015-16	£25,000	£21,054
2016-17	£20,000	£11,470*
2017-18	£20,000	£6,859 to date

* the scheme was transferred to the housing solutions service in this year enabling a wider operational response to meeting presenting need

