

Supplement to the agenda for

Cabinet

Thursday 28 July 2022

2.30 pm

**The Conference Room, Herefordshire Council Offices, Plough
Lane, Hereford, HR4 0LE**

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Herefordshire Council

Minutes of the meeting of Cabinet held at The Conference Room, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Thursday 21 July 2022 at 2.30 pm

Cabinet Members Physically Present and voting:	Councillor David Hitchiner, Leader of the Council (Chairperson) Councillors Ellie Chowns, Gemma Davies, Diana Toynbee and Ange Tyler
Cabinet Members in remote attendance	Councillor Liz Harvey, Deputy Leader of the Council (Vice-Chairperson) <i>Cabinet members attending the meeting remotely, e.g. through video conferencing facilities, may not vote on any decisions taken.</i>

Cabinet support members in attendance Councillors John Hardwick and Paul Symonds

Group leaders / representatives in attendance Councillors Jonathan Lester, Peter Jinman, Toni Fagan and Sebastian Bowen

Scrutiny chairpersons in attendance Councillors Jonathan Lester and Phillip Howells

Officers in attendance: Chief Executive, Director of Resources and Assurance, Corporate Director - Economy and Environment, Director of Governance and Legal Services, Corporate Services, Senior Solicitor, Governance and Major Projects, Interim Delivery Director, Head of Educational Development and Service Director - Education, Skills and Learning

130. APOLOGIES FOR ABSENCE

Apologies were received from the following cabinet members: Cllr Pauline Crockett, Cllr John Harrington.

131. DECLARATIONS OF INTEREST

None.

132. MINUTES

Resolved: **That the minutes of the meeting held on 29 June 2022 be approved as a correct record and signed by the Chairperson.**

133. QUESTIONS FROM MEMBERS OF THE PUBLIC (Pages 5 - 8)

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

134. QUESTIONS FROM COUNCILLORS (Pages 9 - 10)

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

135. BROOKFIELD SPECIAL SCHOOL CAPITAL IMPROVEMENT PROGRAMME – RE-PROFILE OF SPEND

The cabinet member children and families introduced the report. She highlighted that it had taken some time to get to this stage and thanked officers for their work in negotiating

with the Department for Education (DfE). If approved by the cabinet, the Council would be asked to agree the necessary adjustments to the capital programme at its forthcoming meeting.

The service director, education, skills and learning summarised the background to the decision and the current issues with the school building. Work continued to transfer the running of the school to a new Multi Academy Trust and officers reported that assurances had been received that all places at the school would remain available for Herefordshire pupils. The transfer to the new MAT was expected to complete in January 2023 but building work could commence ahead of completion of the formal transfer. The council was also in discussion with the school about increasing the number of places in the future, but this did not form part of the decision before cabinet members.

Cabinet members welcomed the additional contribution from the DfE and recognised the importance of addressing the issues at the school to support pupils

Group leaders and representatives presented comments and queries from their respective groups. There was wide support for the recommendations and the following points were noted:

- The new buildings would meet appropriate energy efficiency standards and where buildings were being refurbished this would be done with efficiency in mind as far as possible;
- Recent weather conditions showed the importance of being able to manage excess heat, as well as being efficient to keep warm in cooler weather.

It was unanimously resolved that:

- a) On approval of Full Council of an in-year adjustment to the capital programme, the council accepts the Department for Education funding offer towards the programme of capital improvements to The Brookfield Special School as agreed by Cabinet on 28 April 2020 to be completed within a re-profiled budget of £5m;**
- b) Authority is delegated for procurement and award of contracts for the lifecycle of the project, informed by methodology advised by the council's Commercial Services, to the Corporate Director Children and Young People;**
- c) Cabinet recommends to full Council that an in-year adjustment is made to the capital programme;**
- d) Authority is delegated to the Corporate Director Children and Young People and the S151 officer to agree the final terms of the grant from the Department for Education; and**
- e) When negotiations have been concluded and terms agreed, authority is delegated to the Service Director Education, Skills & Learning to take all operational decisions necessary to implement the above.**

136. PROCUREMENT OF NEW WASTE COLLECTION SERVICE

The cabinet member commissioning, procurement and assets introduced the report. She thanked officers for their work on this and previous reports and also thanked the current waste contractor and their operatives for their work, particularly during the pandemic. The cabinet member summarised the proposals in the report and drew attention to the planned changes from the current collection system.

The interim delivery director waste transformation & wetland project explained the background to the report including the consultation process that had taken place and how the council had responded to the concerns raised on collection from flats, dealing with nappies, promoting re-use and repair of items and educating residents on recycling.

An extension to the current contract was proposed to allow sufficient time for vehicle procurement timelines and to ensure an effective mobilisation of the new contract. Officers were recommending that the contractor be expected to procure the vehicles and were confident the procurement would attract a number of bidders.

The deputy monitoring officer explained that the appendix to the report, containing the latest draft of the council's requirements for the contract, was exempt from publication as these details needed to remain confidential until the procurement commenced.

Cabinet members discussed the report and it was noted that:

- The extension of the current contract would allow appropriate time to finalise the specification with the bidders and ensure the council was getting the best possible contract, the council would be open to innovative proposals from bidders and would need time to work through these;
- The provision of finance for the contractor to procure vehicles had been carefully considered and the Section 151 officer was satisfied this would be part of the evaluation and conversation with the successful contractor to find a mutually beneficial approach, it was intended that the contractor would own the vehicles it procured;
- Funding for the 'getting it right' campaign had been identified in previous decisions and this would pay for itself in improved recycling income;
- Alternative fuels for vehicles would be considered in discussion with the bidders, taking account of the size and rurality of the county and emerging technologies;
- It was important the contract was flexible to adapt to future changes;
- Assumptions on the financing of the contract were being built into the update of the medium term financial strategy and the council would undertake due diligence checks to ensure that the projected model would work.

Group leaders and representatives gave the views and comments of their respective groups. In response to queries it was noted that:

- It was important to communicate the changes and ways of reusing and recycling to residents and also the benefits of increased recycling;
- Methods of communication would be clear and simple, and an equality impact assessment would identify groups needing different approaches;
- There would be an impact on the volume of waste going to the energy from waste plant. Officers confirmed this had been considered, was priced in to the figures for the waste disposal contract and would be offset by increased income from recycling;
- There were insufficient facilities in the county to deal with the food waste collection so this would need to be sent elsewhere, the council would look for disposal as close to the county as possible;
- The top priority was to prevent waste in the first place, then to increase re-use and recycling;
- The council was taking steps to ensure that recycling took place as close to the county as possible;
- Further briefings for councillors could be held to discuss the proposed specification;
- Part of the council's role was to influence change and encourage waste producers to adapt and embrace new opportunities, waste needed to be seen as a resource to be used.

It was unanimously resolved that:

- a) Cabinet approve the commencement of a competitive procurement process as required and as outlined in this report to procure the future service;**

- b) Cabinet approve the inclusion and procurement of a separate cargo bike food waste collection service in the central Hereford City area;**
- c) Authority is delegated to the Director of Resources and Assurance in consultation with Corporate Director Economy and Environment to approve the finalised draft service specification, and to take all operational decisions to award and mobilise the new collection contract subject to a successful procurement process;**
- d) Authority is delegated to the Director of Resources and Assurance and the Corporate Director Economy and Environment following consultation with the Cabinet Member for Assets to negotiate an extension to the existing waste collection contract with FCC Environment until 3 June 2024, subject to securing Value for Money, in order to mitigate the risk of vehicle procurement lead times and to ensure an effective mobilisation period for the new waste collection service; and**
- e) To delegate to the Section 151 Officer, in consultation with the Corporate Director Economy and Environment authority to take all necessary steps to commence reprocurring the Waste Disposal Contract in the event that the due diligence process is incomplete or the due diligence process produces an unsatisfactory value for money outcome and to bring a further report to Cabinet in the event that is necessary.**

The meeting ended at 3.53 pm

Chairperson

PUBLIC QUESTIONS TO CABINET – 21 JULY 2022

Question 1**From: Ms E Beavan, Hereford****To: Cabinet Member, Commissioning, Procurement & Assets**

I know that many people in the county are keen to recycle and do their bit to help the environment.

However, we have seen that recycling alone just doesn't work, because plastics are just being shipped off overseas or to other areas and not actually processed properly. Many household items are also not currently easily recyclable.

What assurances can Hereford Council give that adequate funding will be attributed to ensure that real investment can be made NOT just in rubbish collection but in the PROCESSING FACILITIES as well?

Plastics stay in the environment and don't just disappear because they've been sent elsewhere and eventually end up in our water course, our food, our bodies.

We need imaginative and future proof thinking on this to ensure it will meet the need of a growing population and actually recycles our waste.

Response

Thank you for raising this important issue which is something we have been progressing as part of our ambitious waste management review and our continued commitment to addressing the climate and ecological emergency.

In Herefordshire our recycling is currently collected, sorted at our jointly owned EnviroSort facility in Worcestershire and then sent for either further sorting or processing into material which can then be used in a manufacturing process. To ensure these materials are processed correctly duty of care checks are undertaken by our partner, Worcestershire County Council.

In November last year we went further by securing additional assurances on the processing of our materials and now require that Mercia and its subcontractors seek our permission, undertake environmental impact assessments and subsequent auditing of any recycling materials moving beyond the UK and European Economic Area.

On a national level, the government recently introduced a new plastic packaging tax and is currently finalising new legislation following the introduction of the Environment Act 2021 by seeking to reduce the amount of packaging waste produced and to increase recycling levels across the country.

Here we welcome the introduction of a new schemes including new Extended Producer Responsibility which supports the producer pays principle by placing additional responsibilities on the producers of packaging, and also the new Deposit Return Scheme which will introduce a financial incentive to support residents to increase the amount they recycle.

To help us stay abreast of and contribute to new innovations we are also working with Incpen Europe, which is the Industry Council for packaging and the environment, to help develop new ways to reduce waste and increase re-use and recycling.

Question 2

From: Mr P McKay, Leominster

To: Cabinet Member, Infrastructure & Transport

Thank you for advising that your aim is to make the List of Anomalies viewable online again, and may I request that you include the digitised copies of Parish Submissions showing CRF's, in-conformance with the 2017-2027 Rights of Way Improvement Plan (Draft) they being key sets of records held by HC, required to enable those raising the 2021-2041 Local Plan to make informed decision concerning duly made representations that 'Public Carriageway or Cart Road or Green Lane mainly used as footpath - CRF' that were shown as Footpaths to the detriment of other users such as people with mobility problems, cyclists and equestrians who may also use these ways, be protected greenways, with use not obstructed with kissing gates, or diverted to footpath standard, etc., not neglecting the Anomalies and CRF's for another 20 years?

Response

I can confirm that these records are available to be viewed at the Herefordshire Archive and Records Centre, Fir Tree Lane, Rotherwas, Hereford HR2 6LA. They are not currently available in digital form on-line and it may be appropriate to review how they are held and the practicalities of making them more widely available. However, resources in the team are limited and, with many other competing priorities, I am unable to say when any review might be completed.

The Local Plan will undoubtedly seek to promote greater use of sustainable modes of travel to access services and for leisure purposes, and the public rights of way network will form an important part of realising that ambition.

Supplementary question

Local Access Forum minutes April 2021 record that it would cost approximately £40m to resolve all the PRow record issues, and I note your recognition that may be appropriate to review how the supporting information is held and the practicalities of making this more widely available.

An Evidence Base could set out how this situation occurred in an informative, structured and meaningful context, so all may better understand, support funding applications, with voluntary assistance sought from parishes and user groups.

All in conformance with the objectives of the 2017-2027 Rights of Way Improvement Plan (Draft), protecting CRF greenways for a fraction of that cost.

I ask that this be put before the Local Plan 2021-2041 consultation process before that closes on 29 July enabling comprehensive informed consideration by our planners?

Response

A written response was promised.

Written response

The recent transfer of the PRow team back into Herefordshire Council means we are in a better position to review the condition of the network, the backlog of works and the prioritisation of

maintenance needs. With limited funds, this will allow us to identify the highest priorities for investment and where the valuable work of volunteers will help the most.

In addition, we are seeking the support of Jesse Norman MP for a practical way forward to address the backlog of Definitive Map applications, and I would be happy to share those ideas should they bear fruit.

The emerging Local Plan will assist in identifying a clear role for the PRoW network where it can support active travel and reduce reliance on the car. The new Local Transport Plan, expected in early 2024, will have an objective for the decarbonisation of the transport system, and will also recognise the importance of active travel and how the PRoW network can help to deliver the goals of the Local Plan.

COUNCILLOR QUESTIONS TO CABINET – 21 JULY 2022

Question 1

From: Councillor P Howells, Ledbury West ward
To: Cabinet Member, infrastructure and transport

In January 2022 Cabinet approved the insourcing of the Public Rights of Way and Traffic Regulation Order Services from the Public Realm Contract delivered by Balfour Beatty Living Places (BBLP). Could the Cabinet Member please update us on the progress made to complete the insourcing so these services are fully operational again?

We are particularly concerned in Ledbury that two Speed Indicator Devices which it took two years to commission and get operational, have not been in operation since the change-over and we have no indication yet when they will return – leaving the bases we have paid for lying idle. When will normal service be resumed and what have been the reasons why the service stopped (obviously presumed as just being temporary) on the handover? Is the PROW service in full operation or is it delayed similarly?

Response

The Public Rights of Way and Traffic Management team has successfully completed its transfer to Herefordshire Council from BBLP. However, the team has experienced significant personnel changes recently and still holds a number of vacancies which in turn are affecting its capacity. These posts are currently at various stages of recruitment in an effort to enhance the team and get it up to full strength.

We are keen to resume the Speed Indicator Devices programme as soon as possible and as resources allow. Our priority will be to engage with communities already involved in the SIDS programme, with a view to expanding the programme once current commitments have been addressed.

Supplementary question

Councillor Howells asked if an anticipated timescale could be provided as to when the SIDs would be operating again.

Response

The corporate director economy and environment confirmed he would be happy to speak with Cllr Howells on the matter and would also provide a formal written response.

PUBLIC QUESTIONS TO CABINET – 28 JULY 2022

Question 1

From: Mr Les Fancourt, Three Shires Building, Monkhide
To: Cabinet Member, Infrastructure & Transport

Are the council now going to commit to a confirmed release date for the long awaited and promised Phosphate credit scheme?

If so, is the amount of Phosphate credit proposed to be released going to cover the first eligible list? If not, it seems certain we are going to have to suffer another open ended, long period of extend moratorium, with no second release even on the horizon. This will be devastating for the construction industry that in some instances has already been on stop since 2019. This would be completely unacceptable in respect to the fact that the primary and biggest polluters continue virtually unchecked, and the moratorium on development has made little or no difference to the pollution problem. It is long overdue that this wrong is addressed.

Response

Thank you for your question. We agree completely more needs to be done to address pollution on the Wye and will continue to press all parties locally and nationally to play their part. As the Cabinet report, to be considered this afternoon explains, the Council has voluntarily chosen to assist developers by bringing forward a Phosphate Credit Scheme. Credits will start to be offered in August 2022 and a planning condition will ensure that new developments are only occupied when the site is actually able to deliver the Phosphate reduction. This condition is likely to be less than a year from now. Many design, engineering and environmental challenges have been overcome to get to the point in which Herefordshire Council has become the first to achieve this. At present, there are insufficient credits to meet the entire backlog and we are actively progressing further sites from which to offer credits close to Tarrington and Titley. We are also keen to learn from DEFRA whether the new support scheme announced last week will be available here. We are pleased to hear that government intends to ensure that pollution from the Water Industry must be rectified by 2030. Our Cabinet Commission on restoring the Wye will look further at what the Council can do to tackle wider pollution issues and further details of the Commission and its work will follow.

COUNCILLOR QUESTIONS TO CABINET – 28 JULY 2022

Question 1

From: Councillor J Milln, central ward

To: Cabinet Member, infrastructure and transport

I welcome the Council's wetland project at Luston, worthwhile for its own sake to remove P from poorly performing treatment plant, though this is just 40 out of 3 million excess kg overall. If this unlocks the Lugg moratorium, I am delighted for the SME building sector.

Using Luston to excuse P pollution elsewhere (the effect of trading platforms), when we need to drive reduction to 'zero P', and singling out future house-builders to pay for it when the problem is not of their making, are questionable actions.

We need to be bolder. We are all domestic polluters, so can I ask a Cabinet Commission to consider a fairer (and administratively simpler) way of funding this via a precept on the water charge or Council tax according to band or discharge type augmented by s.106 moneys as recommended by EAC?

Response

Thank you for your question, the purpose of the Commission is to look at what further the Council can do to restore the River Wye by addressing the pollution challenges using the tools it has available. There is already a significant work programme envisaged to meet the emerging terms of reference. We are all polluters as you say but the moratorium is current and credits are offered, voluntarily – both in the sense of the developer purchasing them and also the Council doing the work at its own cost to find a mitigation method because of the failure of national government to adequately fund their agencies to do their job adequately. Looking at a retrospective taxation/mitigation payment could be more than a little difficult to progress. That said, I am happy for it to be considered a regulatory and financial impact assessment and will provide this to you.

