

## Minutes of the meeting of Council held at Three Counties Hotel, Belmont Road, Belmont, Hereford, HR2 7BP on Friday 28 January 2022 at 10.00 am

**Present:** Councillor Sebastian Bowen (chairperson)  
Councillor Kema Guthrie (vice-chairperson)

**Councillors:** Graham Andrews, Paul Andrews\*, Polly Andrews, Jenny Bartlett, Chris Bartrum, Christy Bolderson, Tracy Bowes, Ellie Chowns, Pauline Crockett, Gemma Davies\*, Barry Durkin, Toni Fagan, Elizabeth Foxton, Carole Gandy, John Harrington, Liz Harvey, Jennie Hewitt, Kath Hey, David Hitchiner, Phillip Howells, Helen I'Anson, Terry James, Peter Jinman, Tony Johnson, Mike Jones, Jonathan Lester, Trish Marsh, Bob Matthews, Mark Millmore, Jeremy Milln, Felicity Norman, Roger Phillips, Tim Price, Probert, Paul Rone, Nigel Shaw, Louis Stark, John Stone, David Summers, Elissa Swinglehurst, Paul Symonds, Kevin Tillett, Diana Toynbee, Ange Tyler, Yolande Watson and William Wilding

\*present as a virtual attendee

**Officers:** Chief Executive, Director of governance and law and Interim Head of Legal Services

### 22. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Dave Boulter, John Hardwick, Graham Jones and Jim Kenyon.

### 23. DECLARATIONS OF INTEREST

Councillor Kevin Tillett declared an other interest in the *fireworks and animal welfare* motion at agenda item no 10; as a member of the RSPCA and a trustee of the Herefordshire branch of the RSPCA.

Councillor Elissa Swinglehurst declared an other interest in the *water protection zone for River Wye system* motion at agenda item no. 10; as the chair of the nutrient management board.

There was one further declaration of interest at the meeting, please see minutes 31 below.

### 24. MINUTES

**RESOLVED:** That the minutes of the meeting held on 8 October 2020 be confirmed as a correct record and signed by the Chairman.

### 25. CHAIRMAN AND CHIEF EXECUTIVE'S ANNOUNCEMENTS

Council noted the Chairman's and Chief Executive's announcements as printed in the agenda papers.

**26. QUESTIONS FROM MEMBERS OF THE PUBLIC** (Pages 7 - 10)

A copy of the public questions and written answers, together with supplementary questions asked at the meeting and their answers, is attached to the Minutes at Appendix 1.

**27. QUESTIONS FROM MEMBERS OF THE COUNCIL** (Pages 11 - 12)

A copy of the Member questions and written answers, together with supplementary questions asked at the meeting and their answers, is attached to the Minutes at Appendix 2.

**28. REVIEW OF THE STATEMENT OF COMMUNITY INVOLVEMENT (SCI)**

Council considered a report by the cabinet member finance, corporate services and planning to approve the adoption of Herefordshire Council's revised statement of community involvement (SCI). The cabinet member finance, corporate services and planning introduced the report and proposed the recommendation in the report. She outlined a proposal that scrutiny undertake a review of public engagement in respect of the policy update associated with the SCI and whether any improvements to consultation with the local community could be utilised more widely across the council for other consultation exercises.

The cabinet member infrastructure and transport seconded the recommendation in the report.

Council debated the report and the following action was raised during the debate:

- Further scrutiny of the SCI would be considered during work programming of the General Scrutiny Committee.

The recommendation in the report was put to the vote and was carried.

**RESOLVED: That:**

- (a) The revised Herefordshire Council Statement of Community Involvement (at appendix 1), be approved.**

**29. RETENDER OF EXTERNAL AUDIT CONTRACTS**

Council considered a report by the chairperson of the audit and governance committee to approve the retender of the external audit contract as recommended to Council by the audit and governance committee. The chairperson of the audit and governance committee introduced the report and proposed the recommendations in the report.

The vice chairperson of the audit and governance committee seconded the recommendations in the report.

Council debated the report and the following action was raised:

- A written note would be provided to all members concerning the role and purpose of the external audit function.

The recommendations were put to the vote and were carried unanimously.

**RESOLVED: That:**

- a) Council approves the preferred method for re-procuring external audit services; and
- b) Elects to join the Public Sector Audit Appointments body.

**30. LEADER'S REPORT**

Council received and noted the Leader's Report which provided an update on the work of the cabinet since the previous ordinary meeting of Council in October 2021. The Leader presented his report to Council.

Council questioned the Leader and the following actions were raised:

- To produce a letter to all head teachers from the Leader of the Council and the Chief Executive to thank them for the work they have undertaken during the pandemic.
- To discuss with the Chair and Vice Chair of Children's Scrutiny the process in place for the conduct of exit interviews with social workers.
- To investigate if the new household grant can be awarded retrospectively to households no longer covered by the Gigaclear programme.
- To include detail of the planning requirements for the installation of telegraph poles (to support fibre broadband infrastructure) in the next version of the Leader's Newsletter.
- To raise a query of the planning department if notification had been received of the intention to erect telegraph poles in Ross-on-Wye.
- To provide a written response to the question as to whether a report would be provided of the financial implications of decapitalisation as a consequence of the cancellation of the West Bypass scheme.

**31. NOTICES OF MOTION UNDER STANDING ORDERS**

**Motion – Water Protection Zone for River Wye System**

Councillor Louis Stark proposed the motion.

Councillor Toni Fagan seconded the motion.

Council debated the motion. In summary there was significant concern expressed for the risk posed to the river Wye system from pollutants and support for the engagement and consultation proposed in the motion to press for a water protection zone of the river Wye system.

An alteration to the motion was proposed to amend the term *re-engage* to *press* in the recommendation, as follows: *So this Council urges the executive to press both the EA and NRW.* The alteration was accepted by the proposer and seconder of the motion.

The motion, subject to the alteration above, was put to the vote and carried.

**RESOLVED: That:**

**Our rivers are under attack:**

- **45000 fish dead from a pollution incident in the River Llynfi – a Wye tributary – and NRW unable to bring a prosecution against those responsible;**

- Raw sewage continues to pour in to our rivers unchecked with the Government failing to provide strong and consistent leadership on it;
- Intense agricultural practices continue to expand with the impact of excessive phosphates and nitrates leaching through the soil in to our rivers;
- The EA remains thinly spread and unable to cope with the challenge it faces here;

**What should the Council do:**

- Put polluters on notice that we are serious about enabling effective action to be taken against their practices;
- Build on our previous Council motion to investigate bathing status for our rivers – a good start but not a complete answer;
- Push for a comprehensive regulatory framework for the medium term that would envelop our river systems in a protective cloak and give the EA and NRW real teeth to enforce it;

**So this Council urges the executive to press both the EA and NRW, consulting Powys and Monmouthshire CCs and other interested parties as necessary, to press for nothing less than a Water Protection Zone (WPZ\*) for the whole of the River Wye system.**

**This should include pushing both Agencies for work to start asap on detailed modelling to demonstrate the need for a WPZ, in order to put a business case to DEFRA; Also for funding for this work to go ahead; And for the Executive to provide regular reports to Council on progress.**

### **Motion – Fireworks and Animal Welfare**

Councillor William Wilding moved the motion.

Councillor John Harrington seconded motion.

An alteration to the motion was proposed to replace all mentions of *silent* fireworks to *low noise* fireworks in the motion. The alteration was agreed by the proposer and seconder of the motion.

Councillor Peter Jinman declared an other interest in the *fireworks and animal welfare motion* at agenda item no 10; as a member of the British Veterinary Association and a practicing vet.

Council debated the motion and there was division in the membership of Council. Support for the motion was expressed to limit the harmful impacts of fireworks on livestock and domestic pets. Opposition to the motion was expressed citing a lack of evidence to establish the severity of the impact of fireworks on animals.

An alteration to the motion was proposed to revise clause 5 of the motion to; *Ask the Executive to investigate the feasibility of implementing a formal consent regime for the use of fireworks on sites in Council ownership.* The alteration was agreed by the proposer and seconder of the motion.

The motion, subject to the alterations above, was put to the vote and was carried.

**RESOLVED: That:**

**This Council therefore resolves to ask the executive to:**

- 1. Encourage organisers of public firework displays to use 'low noise' fireworks, and where large displays are planned, to notify Herefordshire Council's Safety Advisory Group at least two months in advance to allow for advertisement in the interest of public protection and animal welfare;**
- 2. Actively promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people – including the precautions that can be taken to mitigate risks;**
- 3. Write to the UK Government urging them to introduce legislation to limit the maximum noise level of fireworks to 90dB for those sold to the public for private displays and for fireworks to specify noise levels on their labelling;**
- 4. Encourage local suppliers of fireworks to stock 'low noise' fireworks for public display;**
- 5. Ask the Executive to investigate the feasibility of implementing a formal consent regime for the use of fireworks on sites in Council ownership.**

The meeting ended at 1.44 pm

**Chairperson**



Agenda item no. 5 - Questions from members of the public

Question Number	Questioner	Question	Question to
PQ 1	Mr McKay, Leominster	Is good that you are seeking a deferral or cancellation of the 2026 deadline. An Evidence Base could be expected to reveal that 1950's Government guidance requiring Parishes to provide the information did not cover procedures to be followed when anomalies occurred on parish boundaries, for "Public Carriage Road or Cart Road or Green Lane mainly used as Footpath - CRF, or Bridleway - CRB." but did not provide any guidance on how these non-statutory terms should be shown, and left a gap in the records as did not include lanes other than those mainly used as footpath or bridleway, nor do Parishes who provided the information appear to be aware of the 2026 deadline. So may I suggest your discussions with the Minister seek a deferral or cancellation based upon Evidence that records are complete and not time alone?	Cabinet member infrastructure and transport
<p><b>Response:</b> Thank you for your question Mr McKay, I share your concerns regarding the Definitive map 2026 'cut-off date' I will continue to lobby central government to try and find pragmatic and sensible solution to ensure Herefordshire communities are not disadvantaged by this arbitrary date, and will take your suggestions on board. Officers will also be raising this matter through their regional and national networks.</p>			
PQ 2	Mr Gillam, Peterchurch	The recent report from the House of Commons Environmental Audit Committee recommends that "New poultry farms should not be granted planning permission in catchments exceeding their nutrient budgets." They also highlighted what we all know, namely that "Intensive livestock and poultry farming is putting enormous pressure on . . . the River Wye." Will the council therefore immediately announce a clear policy of a moratorium on building or enlarging IPU's in the Wye catchment? If not, why not?	Cabinet member finance, corporate services and planning
<p><b>Response:</b> I thank Mr Gillam for his question, I welcome the Environment Audit Committees fourth report on River Quality which made important recommendations for the Wye. I want to clarify, one of the report's recommendations to which Mr Gillam helpfully draws attention. The report recommended that councils consider "<i>refusing planning permission for new intensive poultry units where the proposed development would exceed the catchment's nutrient budget, unless evidence is presented of robust mitigation plans in place that are demonstrably effective in reducing the accumulation of phosphate and nitrate loads in soils and river sediments within sensitive areas in the catchment.</i>" I agree the cumulative impact of all agricultural development should be considered carefully through the planning process. However, I do not believe it would be lawful or wise to introduce a blanket moratorium because we are required to consider each planning application on its individual merits.</p> <p>I will ask officers to consider whether a nutrient budget could be developed for the catchment, and if so over what areas of the county that budget could be applied and, for areas where it should not be applied, what forms of robust mitigation would alternatively be appropriate and acceptable. Before bringing forward any recommendations, I would also want to consult with stakeholders.</p>			

That said, and relevant to this issue, we are currently producing a Supplementary Planning Document that will look at Agriculture and how we implement the complicated policy framework surrounding it.

**Supplementary Question:**

Thank you for your reply. You say that it would not “be lawful or wise to introduce a blanket moratorium” on IPU’s that are the real source of the problem, yet for two years the Council have had a moratorium on housing development in place. Can you please explain this inconsistency? You also refer to a Supplementary Planning Document that the council are producing, can you provide a definite date by which that will be published? It’s been promised for two years already. We already have the evidence from Natural England and APIS data that shows that the nutrient budgets are being exceeded in the Wye, can you please explain why you then need to “ask officers to *consider* whether a nutrient budget could be developed for the Wye catchment”?

**Response from Cabinet Member Finance, Corporate Services and Planning:**

The public frustration regarding increasing pollution in rivers was acknowledged. A moratorium on new development in affected areas was currently in place with objections from Natural England to development without mitigation of pollution through the treatment of sewage. A supplementary planning document concerning IPU’s was expected to be coming forward for consideration before the end of the 21/22 financial year. A written response would be provided covering all the issues raised in the supplementary question.

PQ 3	Ms Albright, Leominster	<p><i>On behalf of The Herefordshire Construction Industry Lobby Group:</i> Would Herefordshire Council consider writing to NE, EA and NRW formally asking how they intend to incorporate the data and recommendations from the RePhokus academic study into phosphate pollution in the Wye and the Environmental Audit Committee report on River Quality which specifically addressed the Wye Catchment? It is crucial to know if the agencies have a timescale to prepare a Phosphate Action Plan with the requisite agricultural actions as directed by the Wild Justice Pre Action Protocol letter recently sent.</p> <p>The recommendations from experts are clear and leading ecologists have suggested that time is running out for us to be able to restore and protect our incredible river and soils.</p>	Cabinet member infrastructure and transport
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**Response:**

Thank you for your question. As you are aware there is regular contact between the Council and our statutory partners the Environment Agency, Natural England, Natural Resources Wales on many issues. I am happy to ask the direct question you raise, it is a valid one and extremely pertinent.

One of the recent findings in the Environment Audit Committee Report on Rivers was concerns from various sectors over the quality of the evidence base used for apportioning sources of Phosphate Pollution. Herefordshire Council and its partners are committed to an evidence based approach and wants to see widespread public engagement in improving the evidence base and action planning so that it commands widespread acceptance across all sectors. I can confirm that high level discussions have been commenced with our partner organisations to seek agreement on a shared way forward in the coming weeks and months. I will report further on this when we have reached agreement with our partners on a way forward.

**Supplementary Question:**

HCILG are surprised that your response also refers to 'concerns from various sectors' regarding the independently produced apportionment figures for the Wye.



The recently completed RePhokus study, supported by the Wye and Usk Foundation, showed that 71% of the total phosphate loss to water in the Wye Catchment comes from the agricultural sector - which is an increase on the SAGIS apportionment of 65% and on the original 50:50 apportionment used to justify the housing moratorium in 2019.

Your response seems to cast doubt over the current scientifically prepared apportionment and subsequent recommendations - but without providing robust alternative evidence. HCILG are concerned that sense of doubt inadvertently undermines, at a very late stage, the valiant efforts of dozens of passionate people, across all sectors, who are working together to create a plan that can restore The Wye as the clock runs down.

Are Herefordshire Council saying that they do not have confidence in the apportionment and data currently provided or in the recommendations made by the EAC report and RePhokus documents, and therefore they have plans to collect and submit their own data and apportionment instead? If so a timescale for this would be useful as it will be needed urgently to inform actions going forward. Time is not on our side.

**Response from Cabinet Member Infrastructure and Transport:**

It was acknowledged that the response to the question had contained a poor choice of words. The response had intended to explain that the data from agencies had not been adequate and tribute was paid to the work of citizen scientists and the work they undertook.

PQ 4	Mr Wood, Hereford	<p>I would like assurances from Cllr Harrington that funds will be set aside in 2022/23 for improvements to Herefordshire's pavement network. I am a wheelchair user who regularly has to risk my safety when travelling around the city using the roads as my pavement due to the lack of drop curbs on some of the county's pavements.</p> <p>Please can Cllr Harrington look at this issue with matter of urgency so that the lives of wheelchair and mobility scooter users are not put at risk any longer?</p>	Cabinet member infrastructure and transport
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**Response:**

Thank you for your Question. The council does not have a specific budget for improvements to crossing points, public realm schemes are identified in advance and cover a wide range of assets including footpath and carriageway maintenance. The council will always look to improve the assets as issues are identified and as resources allow.

I have asked officers to arrange to meet with you so that you can identify any specific concerns which can be inspected, this would inform the council's Annual and Forward programme for delivery as budget and resources become available. We could also discuss developing a broader programme of how we could make our City (and towns) as friendly as possible for all users, paying special consideration to wheelchair users. It is something we should be aspiring to be better at.

**Supplementary Question:**

Following your response to my original question Please can you assure the public who use wheelchairs and mobility scooters that Herefordshire Council will consult us when creating new road and pavement networks in the future to ensure that they continue to be accessible for us?

**Response from Cabinet Member Infrastructure and Transport:**

It was explained that consultation was conducted with stakeholders and the questioner was welcome to join the group stakeholders who would be consulted. Officers of the council would be undertaking visits around the county to investigate the issues raised.



**Agenda item no. 6 - Questions from members of the Council**

Question Number	Questioner	Question	Question to
MQ 1	Councillor Nigel Shaw, Bromyard Bringsty	For some years I have been trying to expedite the developer promised pedestrian improvements that relate to the Porthouse Rise development in Bromyard. Eventually planning permission was given with the works to be complete by 21 <sup>st</sup> March 2022. Despite several requests to officers and cabinet members for assistance in chasing these works (29/07/21; 06/09/21; 26/10/21), which were to be provided by our preferred developer, Keepmoat, there has been a resounding lack of response. On 26 <sup>th</sup> October I suggested that reluctantly I would raise the matter as a question at full council if I continued to get no response. As I currently see no action being taken I now raise this question and ask what action you intend to take to ensure the delivery of the promised works by the developer so that my residents can walk and cycle safely?	Cabinet member infrastructure and transport
<p><b>Response:</b>            Thank you for your question Cllr. Shaw and I am sincerely sorry that you have had to ask it repeatedly without a satisfactory answer, that is simply not good enough – and I take responsibility for failing to follow up on the promises to provide clarity that I received at various times. This question cuts across both my area of responsibility and those of my colleague, the Cabinet Member for Finance, Corporate Services and Planning and we have discussed this matter and would let you, as the Local Member, and residents, know that the Council are pursuing the pedestrian/cycle improvements with the developer Keepmoat through Planning/Development Management processes and we are currently considering what enforcement action may be appropriate.</p> <p>If the proposed delivery doesn't come to fruition the council will work with the Local Member and Town Council to deliver through S106. The delivery will be challenging due to land ownership which is outside of the control of the council.</p> <p>The council will keep the Local Member and Town Council informed of progress - and will respond in a clear and timely manner whenever requests for updates are required. I have also asked for officers to give you a briefing on the matter.</p> <p>My apologies again Cllr. Shaw for the length of time it has taken to respond to your enquiries, I sincerely hope that will not be repeated.</p>			
<p><b>Supplementary Question:</b>            It was questioned how the matter could now be taken forward?</p>			

**Response from Cabinet Member Infrastructure and Transport:**

The member would be invited to a briefing concerning the issue.