

## **Minutes of the meeting of Environment and Sustainability Scrutiny Committee held at Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 21 September 2022 at 10.30 am**

**Physically Present and Voting:** Councillors: Carole Gandy, Jennie Hewitt, Trish Marsh (Vice-chairperson), Louis Stark (Chairperson), David Summers, Elissa Swinglehurst and William Wilding

**In Attendance:** Councillors: John Harrington (Cabinet Member Infrastructure and Transport) and David Hitchiner (Leader of the Council)

**Remote Attendance:** Councillor Ellie Chowns (Cabinet Member for Economy and Environment)

*Members attending the meeting remotely, e.g. through video conferencing facilities, may not vote on any decisions taken.*

**Officers:** Neighbourhood Planning Service Manager, Service Manager – Built and Natural Environment, Interim Delivery Director – Waste Transformation & Wetland Project, Statutory Scrutiny Officer

### **10. APOLOGIES FOR ABSENCE**

Apologies were received from Cllr Yolande Watson.

### **11. NAMED SUBSTITUTES**

Cllr David Summers substituted for Cllr Yolande Watson.

### **12. DECLARATIONS OF INTEREST**

Cllr Elissa Swinglehurst declared a non-pecuniary interest in respect of agenda item 8, as current Chairperson of the Wye Catchment Nutrient Management Board.

### **13. MINUTES**

The minutes of the meeting held on 26 July 2022 were agreed as a correct record and signed by the Chair.

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

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

### **15. QUESTIONS FROM MEMBERS OF THE COUNCIL**

There were no questions received from Councillors.

### **16. THE HEREFORDSHIRE LOCAL PLAN: ENVIRONMENT AND SUSTAINABILITY**

The Committee gave consideration to the report as set out on pages 13-24 of the agenda, which provided information regarding how the preparation of the Herefordshire Local Plan will look to deliver the objectives for Environment and Sustainability outlined in the County Plan 2020-2024, Herefordshire Climate Change Emergency resolutions and Executive Response, and other relevant Council strategies and policies.

The Committee sought clarity regarding how the nine spatial options (comprising five strategic options and four rural options) set out at Sections 3 and 4 of the Spatial Options Consultation document from January 2022 were produced, and what meetings and/or workshops took place between Executive members and officers to inform the options selected for inclusion in the consultation. It was confirmed that, in compliance with the regulations setting out the Local Plan process, Herefordshire Council had a Local Plan Cabinet working group (comprised of Councillors Chowns, Harrington, Harvey and Tyler), which met a number of times to receive briefings whilst the options were formulated for the spatial options consultation, taking into account the assessed need for the County.

The Committee recalled that during the first phase of consultation around the new Local Plan, ideas were put forward for a spatial option focussed on existing rail infrastructure in the County, as well as an option for a new eco-settlement, but noted that the nine proposed spatial options in place at the beginning of the consultation remained materially unchanged. A query was therefore raised regarding whether these alternative ideas had been dismissed following meetings of the cabinet working group. The Cabinet member for Infrastructure and Transport confirmed that meetings took place during which preferred options were discussed, however, options were not excluded from the consultation based on Cabinet member preferences and the fact that there had been little material change in the options may simply have been reflective of the responses received to date. The Neighbourhood Planning Service Manager further advised that whilst there were an infinite number of options that could be consulted upon, the Council had to show that it had consulted upon reasonable and different alternatives, and that these were sufficiently scoped to enable the public to understand how they differed.

The Committee also recalled that an initial idea for a new market town appeared to be absent from the emerging proposals, although the Neighbourhood Planning Service Manager advised that this was considered as part of consultation option 5 and included a 'call for sites'; however, only a small number of potential sites had come forward and these were being assessed for their environmental impact. It was explained that new settlements take on average 15-20 years to come to fruition and this would need to be demonstrated as deliverable within the lifetime of the new Plan.

The Committee expressed some concern at the prospect of development being focussed around market towns in the County, given that three of the towns have no railway stations and therefore the expectation would be further reliance on car use and pressure on existing road infrastructure, thereby increasing pollution and threatening achievement of the Council's identified active travel and climate change ambitions set out in the County Plan. The Cabinet member for transport and infrastructure confirmed that the objectives of the County Plan were fully considered as part of the formulation of options, and whilst it was acknowledged that rail infrastructure in the County was limited, the market towns did benefit from other forms of transport infrastructure to a greater extent than the rural settlements in the County, which made them better equipped to accommodate growth. Pressed to offer a guarantee that the emerging place shaping option from the third consultative stage would lead to reduce car usage, the Cabinet Member for Infrastructure and Transport said that it was hoped this would be the outcome, however the Committee expressed continued reservations. The Committee also asked whether the option for development focussed around the existing railway line at Pontrilas had been abandoned. The Cabinet Member for Transport and Infrastructure confirmed that the option had not been completely removed from the table, however, the

Local Plan needed to demonstrate its deliverability up to 2041, and there were currently too many uncertainties around the deliverability of such a project to make it viable for inclusion as a leading option.

It was suggested that the Local Plan process itself seemed somewhat illogical insofar as the consultation process was being conducted before a number of the commissioned evidence based reports had been received, and a query was raised regarding whether the evidence reports should have been commissioned at an earlier stage, given the Council would have been aware of the need to refresh its Local Plan. The Neighbourhood Planning Service Manager confirmed that a number of evidence based reports were in production which would help to frame the strategy, but it was a requirement to consult upon options and alternatives in tandem with the commissioning of reports, and it was important that the reports were as up-to-date as possible at the time the Local Plan goes to examination; commissioning reports too early carried an element of risk, whereby, if the process becomes delayed for any reason, then they may need to be recommissioned and further updated before examination could take place. It was reiterated that there would be further rounds of consultation still to follow, including a further engagement on preferred options and ranking settlements to be undertaken with parish councils and the local community in the autumn of 2022, which would incorporate previously omitted scoring for roads, public transport and flooding, thus taking much greater account of sustainability issues.

Some members of the Committee raised concern that when the Council previously debated and subsequently decided against a bypass for Hereford, there was an undertaking from the administration that money would instead be spent on transport improvements in rural areas, but it was suggested that this had not materialised, whilst at the same time budget pressures were leading to cuts in rural bus services which were already in short supply. This again raised the concern that developments in rural areas would lead to increased car usage as residents did not have access to reliable alternatives. The Neighbourhood Planning Service Manager advised that around 120 villages were earmarked for being taken out from the current Core Strategy when the new Local Plan emerged, as it was recognised that many were unsustainable from a transport perspective. The villages that would remain on the table were those with improved access to local services and facilities, particularly schools, shops and transport.

The Committee noted that there was a steep drop in the number of responses from the initial spatial options consultation (1,200) to the later policy options consultation (250), and queried whether this was an indication that residents were unaware of the staged approach to consultation and considered that having responded to the first exercise there was potentially no purpose to comment further. It was also noted that of the 3,700 visitors to the Commonplace website during the place based consultation, only around one third (1,100) submitted a response; the Committee suggested it would be of interest to learn what deterred the two thirds of visitors who did not respond.

The Committee noted that there was an ongoing risk of changes to planning policy at a national level, and the Neighbourhood Planning Service Manager confirmed that a number of local authorities have currently paused development of their Local Plans due to the continued uncertainty, however the ambition was to continue the process in Herefordshire as it was recognised that a new Plan was both wanted and needed. It was acknowledged that there was a delicate balance to be negotiated between pursuing the Council's environmental and sustainability objectives, whilst at the same time delivering upon assessed needs. The detail setting out how this balance would be achieved would be contained within the wording of the relevant policy documents to follow, rather than within the high level options presented at consultation stage.

Given the varied nature of the debate undertaken during the meeting, the Committee decided that in order to accurately articulate its feedback to the Executive it would be useful to document its findings and any recommendations in a summary report to be drafted following the meeting, for approval at the next meeting of the Committee on Friday 18 November 2022.

**It was resolved that:**

**A summary scrutiny report be drafted for approval by the Committee at its next meeting, setting out the evidence considered, key observations and any recommendations to the Cabinet.**

## **17. RESTORATION OF THE RIVER WYE – OPTIONS FOR PUBLIC INQUIRY AND POLICY REVIEW**

The Committee gave consideration to the report as set out on pages 3-12 of the agenda supplement, which provided an update on the establishment of a Cabinet Phosphates Commission to address systemic and strategic issues regarding phosphate pollution in the River Wye, and invited the Scrutiny Committee to examine how it wished to keep the matter under review.

The Committee noted the proposed Terms of Reference for the Joint Cabinet Commission on Restoration of the River Wye and a number of initial observations were raised upon which additional assurances from the Executive were sought.

It was noted that the draft terms of reference did not contain a commitment to report back to the Environment and Sustainability Scrutiny Committee on the work of the Commission and progress achieved. It was therefore requested that regular update reports should be provided to the Committee, with a final report provided to the meeting scheduled for 10 March 2023.

It was also noted that although the Technical Advisory Group (TAG) was referred to in the report at Paragraph 12 in relation to a review of its governance arrangements, there was no mention of this in the draft terms of reference. The Delivery Director stated that the review of the Nutrient Management Board (NMB) governance arrangements set out at part 1 of the terms of reference would include the TAG and that there was ongoing engagement through officer attendance at TAG meetings which would continue, although the focus of the Commission was to look at the strategic picture rather than what practitioners could achieve through existing regulatory frameworks.

It was further noted that there was no reference to riparian buffer zones in the terms of reference as an area to be explored as part of the Commission's work. The Delivery Director acknowledged the important role that these were likely to play in the restoration effort for the River Wye and catchment network, and confirmed it was the intention that by working with the farming sector, as set out in part 2 of the terms of reference, appropriate solutions such as this could be progressed.

The Executive Response to the scrutiny recommendation made at the July meeting of the Committee was noted. It was suggested however that the Executive's stated undertaking to find ways to include expertise from across the membership of the Council in the work of the Commission was less than satisfactory and concerns were expressed that the Commission might become a remote, high level exercise led by the three Commissioners with limited opportunities for elected Members to participate in or contribute to its work. The Leader of the Council noted the concern but stressed that care also had to be taken to ensure that the Commission could conduct its work efficiently. The Committee noted the response but requested further clarification from the

Executive in relation to what actions it will now take to progress its commitment to find ways to involve members from across the Council in the Commission's work.

The Cabinet Member for Infrastructure and Transport provided an assurance to the Committee that the work of the Commission would not be duplicating the work of the NMB, but would instead be seeking to increase the level of influence exercised across the catchment area in areas of community leadership and planning and development functions, where the current regulatory framework alone was unlikely to achieve satisfactory resolutions. Whereas the NMB was considered to be constrained on political matters, it was intended that through shared political ownership between the partner authorities the Commission could apply a greater degree of political pressure upon key decision makers.

A particular concern was raised by the Committee as to whether the required authority was in place for the Commission to prepare a new strategic high level plan for the NMB and review its governance arrangements, (as stated at part 1 of the draft terms of reference of the Commission) and whether this implied that the Commission would try to direct the NMB on this matter, bearing in mind the status of both as independent, voluntary bodies. There was also a question raised over whether the NMB may have been referenced within the Council's current Core Strategy, which, it was suggested, could have implications should the NMB be reformed. The Committee therefore requested further information to clarify the proposed relationship between the Commission and the NMB and how it was intended to support the objectives of each body.

A question was raised regarding whether there would need to be mutual agreement between the three partner authorities on the Commission in order for decisions to be carried. The Delivery Director advised that whilst consensus would be sought, it would remain the case that, as "sovereign bodies", each local authority would retain the ability to put forward a minority proposal if necessary.

The Committee gave further consideration to the possible establishment of a Scrutiny Task and Finish Group to complement the work of the Commission, but it was felt that in order to consider if this might be appropriate, the information requests raised during the debate first needed to be received. It was therefore agreed that the River Wye - Options for Public Inquiry and Policy Review item be added to the Committee's Work Programme for the scheduled November meeting so that the potential establishment of a Task and Finish Group could be revisited.

**It was resolved that:**

- (i) The Committee is assured, subject to the clarifications sought on the Commission's terms of reference and on involving the wider membership of the Council, that Restoration of the River Wye public inquiry and review is being considered effectively through the Cabinet's Phosphates Commission - Restoring the River Wye;**
- (ii) The Executive Response and Cabinet decisions in response to the scrutiny recommendations on the Restoration of the River Wye – Options for Public Inquiry and Policy Review made at the Environment and Sustainability Scrutiny Committee on 26th July 2022 be noted; and**

**That the following information requests be made:**

- a. Clarification of the Commission's Terms of Reference with regards to the relationship between the Phosphates Commission and the Nutrient Management Board, so as to be clear as to what directives may be given to**

- the Nutrient Management Board by the Commission, including any legal implications arising from the proposed rewriting of the Board's strategy;
- b. Clarity on how the Executive will find ways to involve expertise from across the membership of the Council in the work of the Commission; and
  - c. Further reports be requested to the Committee to provide updates on the progress of the Commission, including a progress report provided to the meeting scheduled for 10 March 2023.

#### **18. PROGRESS REPORT SEPTEMBER 2022**

The Committee gave consideration to the report as set out on pages 25-34 of the agenda, which provided a brief summary update on issues previously considered.

**It was resolved that:**

**The progress report on scrutiny information requests, scrutiny reports and recommendations and other matters raised by the Committee be noted.**

#### **19. WORK PROGRAMME**

The Committee gave consideration to its Work Programme as set out on pages 35-42 of the agenda.

In respect of the Herefordshire Local Flood Risk Management Strategy item due before the Committee in November, it was suggested that key witnesses to complement those already identified could include a representative from the National Farmers Union (NFU) to address soil management strategies, and a representative from Balfour Beatty to address infrastructure damage caused by escaping floodwater.

The Committee noted the amendments to future meeting dates from Wednesday 16 November 2022 and Wednesday 8 March 2023 to Friday 18 November 2022 and Friday 10 March 2023 respectively.

**It was resolved that:**

**The Committee Work Programme be noted.**

#### **20. DATE OF THE NEXT MEETING**

The Committee noted its meeting dates for the remainder of the 2022/23 municipal year.

The meeting ended at 1.33 pm

**Chairperson**

**PUBLIC QUESTIONS TO ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE  
– 21 SEPTEMBER 2022**

**Question 1**

**From: N Winters, Llangrove**

I would like to ask the Scrutiny Committee why Herefordshire does not have a policy on promoting and preserving our Dark Skies.

Dark Skies attracts visitors and investment from tourism. This is a resource worth protecting and requires only the investment by the Council of forming a policy on preserving, promoting and ensuring new developments do not destroy this delicate feature of our landscape.

Dark Skies are also good for the ecology of the area, bats and many other species are affected by light pollution.

In a time of Climate Change and the Energy Crisis we should be encouraging everyone to reduce or stop using unnecessary lighting. A policy of not allowing the permanent illumination of building, not allowing 'Up-Lighting', the requirement that external lighting should be controlled would all help to preserve our Dark Skies.

**Response**

The existing Core Strategy adopted in 2015 does not include a specific dark skies policy and it was not an issue raised or considered during the preparation of the Plan. However, the issue has been recognised as something that could be included within the updated Herefordshire Local Plan and a specific question was included within the Council's Policy Options consultation in the Spring and a good level of support given to the inclusion of such a policy.

There are a significant number of Neighbourhood Development Plans which contain a dark skies policy and these plans form part of the current statutory development plan which is used to determine planning applications.

**Question 2**

**From: A Harvey, Kings Caple**

In view of the failure of Herefordshire Council to establish robust policies on housing mix, and its failure adequately to monitor housing mix on completions since 2015, especially those in rural developments, how was the Housing Market Needs Assessment of 2021 commissioned? Please include information about the extent to which it conforms, or otherwise, to National Planning Policy Guidance, and comment on the apparent lack of transparency regarding its adoption and the timing of its activation, the latter of which appears to alter the effect of some NDPs incorporated into the Local Plan for 2011-31 (adopted in 2015); also, on the impact it appears to have upon some options set out in the Place Shaping Options Consultation – Rural Areas (June 2022).

**Response**

Policy H3 of the adopted Core Strategy covers the issue of the range and mix of housing. All policies were subject to consultation and subject of an independent Examination in Public (EIP). No recommendation was made by the Inspector to indicate that alternative or additional policies were required.

Monitoring of the Core Strategy policies is undertaken on an annual basis and focusses on the implementation of the adopted local plan policies and their targets. Policy H3 is monitored and

reported on as part of this process in Section 2 of the Authority Monitoring Report, and is published on the Council's website at <https://www.herefordshire.gov.uk/downloads/file/23217/amr-2021-section-2-core-strategy-monitoring-policy>. However, there are no specific local plan target set out in the Core Strategy policies for housing mix in rural areas, and so it has been decided not to use Council's resources to monitor this aspect of housing development.

The Housing Market Area Needs Assessment was procured as part of a competitive process in accordance with the Council's contract procedure rules

The report is considered to have been prepared in accordance with national guidance and good practice including:

- National advice on housing and economic needs assessments Housing and economic needs assessment - GOV.UK (<https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>)
- Housing Needs of different groups Housing needs of different groups - GOV.UK (<https://www.gov.uk/guidance/housing-needs-of-different-groups>)
- Guidance for older and disabled people Housing for older and disabled people - GOV.UK (<https://www.gov.uk/guidance/housing-for-older-and-disabled-people>); and
- Self and custom built housing Self-build and custom housebuilding - GOV.UK (<https://www.gov.uk/guidance/self-build-and-custom-housebuilding>).

Section 3 sets out in full the policy context for report.

The report provides the most up-to-date evidence in respect of housing needs and requirements in Herefordshire and its use as part of the preparation of the update to the Local Plan is entirely consistent with National Planning policy and advice.

#### **Supplementary Question:**

In the light of your response to my earlier question to the above meeting, can you please provide precise details of:

- 1) The process by which this report was adopted

#### **Response**

The report is an evidence base document and these are not formally adopted. It is only planning policy that is adopted. The finalised HMANA was placed on the Council's website in July 2021.

- 2) What written records were made of this process

#### **Response**

The HMANA was presented to the members of cabinet as part of regular briefing meetings and not at formal Cabinet meetings; they took the format of a presentation by the consultants with the opportunity for questions thereafter. The Council does not publish papers or minutes of these private cabinet briefings and discussions. The first presentation on their evidence took place on 1st February 2021 and the second presentation was on 1st April 2021.

- 3) Confirm whether these are publicly available

#### **Response**

As indicated above, the HMANA is not formally adopted and presentations were to briefings not meetings that have published papers or minutes.



- 4) Why are the recommendations contained in it already being applied to applications made in respect of sites allocated in NDPs incorporated in the current local plan (predicated on the 2013 Hearn HMA), without the relevant parish councils being consulted about, or informed of them prior to their adoption?

### **Response**

Policy H3 of the Core Strategy indicates that ‘the latest Local Housing Market Assessment will provide evidence of the need for the appropriate mix and range of housing types and sizes’. Many Neighbourhood Plans have a similar policy – The Kings Capse NDP Policy H3 for example states ‘..fig 8.11 and 8.12 of the Herefordshire Local Housing Market Assessment 2014 or such other document which updates the local needs assessment’. Therefore, using evidence updates to the HMANA are already written into current planning policy.

